



Volume 1: A Guide for Employment Background Checks

Enterprise Human Resources Management, Minnesota
Management & Budget

January 18, 2013

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| TABLE OF CONTENT |
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| | | |
|--------------|---|------|
| I. | INTRODUCTION | 3 |
| II. | WHY CONDUCT BACKGROUND CHECKS..... | 4 |
| APPENDIX A: | DEFINITIONS..... | i |
| APPENDIX B: | APPLICANT AUTHORIZATION FOR RELEASE OF INFORMATION | ii |
| APPENDIX C: | TELEPHONE REFERENCE CHECK | iv |
| APPENDIX D: | REFERENCE CHECK LETTER..... | v |
| APPENDIX E: | EMPLOYEE REFERENCE CHECK..... | vi |
| APPENDIX F: | CONTACT INFORMATION FOR CURRENT AND FORMER EMPLOYERS..... | vii |
| APPENDIX G1: | CRIMINAL BACKGROUND RELEASE FORM..... | viii |
| APPENDIX G2: | CRIMINAL BACKGROUND DISCLOSURE FORM..... | x |
| APPENDIX H: | USING INTERNET SEARCHES AND SOCIAL NETWORKING WEBSITES..... | xi |

Questions regarding this document can be directed to Human Resources Management Division,
Minnesota Management & Budget.

I. INTRODUCTION

This guidance document is Volume 1 in a two-part series on employment background checks. Volume 1 provides information on employment background checks, with a focus on background checks conducted in-house, and Volume 2 (<http://beta.mmb.state.mn.us/doc/hr/background/vol2.pdf>) focuses on the additional considerations that are present for vendor conducted background checks.

Human Resource and management staffs of agencies throughout the Executive Branch collaborate to perform a range of pre-employment background checks. While essential to best practice hiring, background checks must be job-related and conducted in compliance with policy and state and federal laws.

The purpose of this document is not to provide legal guidance. Instead, its goal is to provide general information on administering pre-employment background checks. Unanswered questions of employment law may be addressed with the Attorney General's office.

Agencies must conduct background checks as required by statute, MN Rule and statewide policy. In addition, agencies must ensure background check(s) are job-related and consistent with business necessity. Conducting background checks as part of the hiring process can result in better hires with fewer post-hire problems.

Background checks are strongly **recommended** when job duties involve the health, safety, or welfare of clients or the public. Job-related background checks maximize the agency's opportunity to uncover information relating to whether the applicant poses any risk to the health, safety or welfare of clients or the public.

II. WHY CONDUCT BACKGROUND CHECKS

The appointing authority is responsible for verifying all job-related information on prospective employees for civil service positions. (Minnesota Rule 3900.7500)

Background checks also assist in identifying the best qualified candidate(s) and may be conducted:

- relatively early in the hiring process to assist in identifying a smaller group of finalists, or
- at a later stage, to help select one candidate from among finalists, or
- after a final selection has been made, but before an offer of employment, as a means of verifying job-related information.

Exception: A public employer may not inquire into or consider the criminal record or criminal history of an applicant for public employment until the applicant has been selected for an interview by the employer. (M.S. 364.021(a))

Background checks are **required** in some circumstances. For example:

- Psychotherapists - Under M.S. 148A.03, an employer should inquire of former employers regarding occurrences of sexual contact between the candidate and his/her patients or former patients. Failure to do so may result in liability in an action for sexual exploitation.
- Peace Officers – Under M.S. 626.87, agencies who hire licensed peace officers must conduct background investigations that meet the Minnesota Board of Peace Officer Standards and Training (POST) standards and established security standards for access to state and national computerized record and communication systems.

License verification is **required** in some circumstances. For example:

- Licensed trades and professions - If performance of the assigned duties requires licensure, verification of the candidate's license should be obtained before an offer of employment.
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| WHO SHOULD CONDUCT BACKGROUND CHECKS |
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Staff conducting background checks should be familiar with and trained in the implementation of M.S. 13, the Minnesota Data Practices Act (MNDPA). It is recommended that human resources staff conduct background checks except where other agency personnel may have the required training and expertise to do so. Agencies who have supervisors conduct all or part of background checks should ensure that the supervisors are well trained and that their work is monitored by human resources staff.

An agency may enter into a third party contract to conduct all or a portion of the background check. Agencies must remember that criteria in their background check policy and procedures must be applied to any work being done by a contractor, including what information should be collected, who has access to the data, how the data is used, and how the data is maintained. As of August 2012, a statewide background check vendor contract, available to all state agencies, is in effect. Agencies interested in using the contract are encouraged to contact MMB – Human Resource Management Division for further information.

WHEN SHOULD BACKGROUND CHECKS BE CONDUCTED

Job-related background checks must be conducted on finalist(s) for positions when they are required by statute, Minnesota Rule, statewide and/or agency policy, and are strongly **recommended** when job duties involve the health, safety, or welfare of clients or the public.

WHAT INFORMATION MAY BE COLLECTED

You may ask any questions which are not discriminatory and are related to the job for which the applicant is being considered. As a general rule, the following information can be assumed to be job-related for all jobs:

- dates of employment
- job duties
- starting and ending salaries
- job title(s)
- job-related performance evaluations
- records of discipline

Dependent upon the job requirements, it may be desirable or necessary to collect other information, including:

- verification of licensure, including driver license*
- verification of education and training
- criminal history records**
- credit records
- information specific to the job duties, such as income tax checks

* *See the Statewide Policy on Driver License and Record Checks for requirements regarding driver license checks.*

** *Minnesota Statutes Chapter 364, Criminal Offenders Rehabilitation Act, prohibits the disqualification of candidates for public employment because of a prior criminal conviction unless the conviction relates directly to the position or employment sought. (See additional information on criminal history checks later in this section.)*

REQUESTING PERSONNEL DATA FROM AN EMPLOYER

Requesting Data from a Public Employer

Under the MNDPA, personnel data on public employees may be classified as public, private or confidential.

- Public personnel data on current and former government employees is defined in M.S. 13.43, subd. 2 and 2a. Public personnel data is accessible to anyone and, therefore, the agency does not need informed consent to access public personnel data.
- Personnel data is presumed to be **private** unless it is specifically designated as public or confidential (more information below). Private data is accessible only to the subject of the data and to anyone the subject authorizes to access the data. An agency should seek private personnel data only after receiving a signed informed consent form from the subject.
- **Confidential** personnel data is accessible only to authorized government representatives. It is not accessible to the subject or to an agency conducting an employment background check. An example of confidential personnel data is data from an active investigation where the chief attorney acting for the government entity determines that a civil legal action is pending.

Requesting Data from a Private Employer

Under M. S. 181.967, subd. 3, personnel data requests by a private employer require an informed consent when the requested data includes any of the following:

- Written employee evaluations conducted before the employee's separation from the employer and the employee's written response, if any, contained in the employee's personnel record
- Written disciplinary warnings and actions within 5 years prior to the authorization and the employee's written response, if any, contained in the employee's personnel record
- Written reasons for separation from employment

(See Authorization for Release of Information form (Appendix B) at the end of this section.)

NOTE: Regardless of where data is collected from, once the data is in agency custody, it becomes government data and the MGDPA restrictions on release of that data apply.

If the agency has unique issues related to the collection of data for purposes of conducting background checks (e.g., in the selection of law enforcement personnel), it is recommended that the agency include specific information in its background check policy and procedures to address those needs.

Legal Claims: M.S. 181.967 limits an employee's legal claim against an employer for disclosing certain employment related information about a current or former employee to a prospective employer or employment agency, provided that data is disclosed according to the provisions of the statute. In particular, subdivision 3(a)(5) of M.S. 181.967 limits legal claims when an employer discloses information about "acts of violence, theft, harassment, or illegal conduct documented in the personnel record that resulted in disciplinary action or resignation and the employee's written response, if any, contained in the employee's personnel record." Again, such disclosure must be done according to statutory provisions in M.S. 181.967.

The protection against legal claims is limited in that it does not apply to any action involving an alleged violation of the Minnesota Human Rights Act, Minnesota Chapter 363A. Further, the employee may have a legal claim against a current or former employer if s/he can prove by clear and convincing evidence that the information was false and defamatory; and the employer knew or should have known the information was false and acted with malicious intent to injure the current or former employee. (See MMB PERSL #1384)

WHAT INFORMATION MAY NOT BE COLLECTED

NEVER request information about an applicant's protected group status except as stated in the section on "Affirmative Action and Equal Opportunity." The Minnesota Human Rights Act, Chapter 363A, makes it an unfair discriminatory practice to seek or obtain from any source information that pertains to the following, unless it can be shown to be a bona fide occupational qualification or unless such information is required by law (a proper Tennessee warning notice is required when collecting such data). With the same exceptions, it is also illegal to base a hiring decision on any of these factors:

Race

Marital status

Color

Status with regard to public assistance

Creed

Membership or activity in a local commission

Religion

Disability

National origin

Age

Sex

Sexual orientation

(M.S. 363A.08, subd. 2)

NEVER collect information regarding union affiliation or activity.

NEVER collect genetic information. Under Title II of the Genetic Information Nondiscrimination Act (GINA), it is illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members. Family medical history is included in the definition of genetic information.

NEVER collect information regarding an individual's HIV infection status.

NEVER collect information you are not prepared to provide to the individual applicant. The applicant has access to any information you collect. You cannot ensure that your communication with a current or former employer will be "confidential."

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| WHAT INFORMATION MAY BE GIVEN TO BACKGROUND SOURCES |
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As a general rule, provide only data classified as public under the MNDPA that is relevant to your request for information. The guidelines for release of information are the same whether you are conducting a background check or responding to a request for information.

Private data may be provided to background sources when necessary, for example, when doing criminal history checks. When private data is provided, you must have the applicant's consent to release the data to the former employer or background source. A Tennessen warning notice is required when collecting private data from the applicant for the purpose of conducting background checks. (For more information on Tennessen warning notices, see section on "Collecting Private and Confidential Data" in *Data Practices for Personnel Records and Guidelines for Background Checks*, which can be found at <http://www.mmb.state.mn.us/doc/hr/tennessen/datapractices.pdf>.)

HOW TO CONDUCT A BACKGROUND CHECK

Background checks may be conducted by phone or in writing, depending on the nature of the information you are requesting.

Have the applicant complete the proper forms for collection of private data if necessary. Please note that no private data on the finalist may be given to employment reference contacts unless a Tennesen has been provided to the finalist informing them that private data is being used for this purpose, for example, when conducting Criminal History Checks. (See “Required Forms” below)

The name of an applicant is public once they become a finalist, therefore you may give the name to a background source at that point in time without a Tennesen.

Required Forms (forms may include):

- “Applicant Authorization for Release of Information” (Appendix B) is a form which contains informed consent language and can be used when conducting employment references checks on finalists for job vacancies where you intend to request private data. Some employers always have applicants complete an informed consent regardless of the type of data (public or private) being requested to avoid any legal risk.

Note: When conducting a background check by phone, the informed consent form (Appendix B) should be faxed to the background source prior to the telephone interview.

- A Tennesen warning notice to conduct a Criminal History check (see paragraph on Criminal History checks further on in this section).
- A Vehicle Use Agreement form to conduct a driver license check (see Statewide Policy on Driver License and Record Checks).

Additional sample reference check forms (Appendices B-E) are included at the end of this section. Keep in mind that you may want to change or add questions to the reference check forms depending on the needs of your agency; for example, you may want to request current salary information.

Use the same method for each applicant. When that is not possible or practical, make every effort to standardize the responses you collect. In either case, the following guidelines apply.

1. Identify yourself and your organization. Indicate that you are conducting a background check on a job applicant of whom the background source has knowledge or for whom they have maintained data.
2. Identify the applicant and ask that someone familiar with the applicant's work or background answer your inquiry. You may request that the applicant provide you with the name of their previous supervisor or other employment contact to be used when conducting the background check. You may also request that the applicant give you any previous names they may have used, such as maiden names or aliases (see Contact Information form [Appendix F] at the end of this section).
3. Document the identity (including name, job title, and work relationship to the applicant) of the person who responds to your questions.
4. Ask the same job-related questions for each applicant.
5. When conducting the background check by phone, document actual responses rather than your interpretation of the responses; sign and date the document.
6. Maintain a single file for all the data you collect on all applicants for the vacancy (including the appointee). This file should be separate from the employee's personnel file.

Note: At times, background sources will volunteer non-job related information or private data for which the agency does not have informed consent. You should not take notes on, nor use such information and should inform the sources that such information should not be provided.

BACKGROUND CHECK SPECIFICS

AGENCY BACKGROUND CHECK POLICY

Agencies that conduct any type of background check must have an agency background check policy that adheres to the requirements of the Statewide Background Check Policy. You can access the Agency Background Check Policy Template at <http://beta.mmb.state.mn.us/doc/hr/background/vol2.pdf> for use in agency policy development.

CRIMINAL HISTORY CHECKS

Criminal History checks may be done as part of the background check process. A criminal history check will provide information about an applicant's criminal record.

Criminal History checks require collection of private data from the applicant, so appropriate Tennessee forms must be used. Sample forms are included as Appendix G1 and G2 at the end of this section. These forms comply with M.S. 364.01-364.10. Agencies may need additional criminal history information, such as fingerprint checks, depending on the position for which they are hiring, and should make changes to the template as necessary. (For additional information, see section on "Collecting Private and Confidential Data" in *Data Practices for Personnel Records and Guidelines for Background Checks*, which can be found at <http://www.mmb.state.mn.us/doc/hr/tennessen/datapractices.pdf>.)

Depending on the level of criminal history information required, criminal history data can be obtained from the Minnesota Bureau of Criminal Apprehension (BCA). Information about the various options may be obtained on the BCA's public website at www.bca.state.mn.us at the Minnesota Justice Information System (MJIS) link or by calling the main telephone number, 651-793-7000. Predatory Offender checks and fingerprint checks are also available from the BCA. You may also use the public court information which contains information from both the criminal and civil courts in Minnesota, available at www.mncourts.gov/publicaccess.

Agencies who conduct criminal history background checks should familiarize themselves with all the provisions of M.S. 364. Some important points to keep in mind include:

- A public employer may not inquire into or consider the criminal record or criminal history of an applicant for public employment until the applicant has been selected for an interview by the employer. (Certain agencies with a statutory duty to conduct a criminal history background check, e.g., the Department of Corrections, are exempted. Additionally, this provision does not prohibit a public employer from notifying applicants that law or the employer's policy will disqualify an individual with a particular criminal history background from employment in particular positions.)
- Prohibits public employers from considering non-conviction records and expunged records.

- Prohibits public employers from not hiring someone based on their criminal record if the conviction does not directly relate to the position being sought. In determining if a conviction directly relates to the position being sought, the hiring authority shall consider 1) the nature and seriousness of the crime(s) for which the individual was convicted, 2) the relationship of the crime(s) to the purposes of regulating the position of public employment sought, and 3) the relationship of the crime(s) to the ability, capacity and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation. (M.S. 364.03)
- Prohibits a public employer from disqualifying someone for a position being sought if they can show competent evidence of sufficient rehabilitation as described in M.S. 364.03 subd. 3.
- Requires public employers who reject an applicant solely or in part because of the applicant's criminal record to follow specific notification requirements. (M.S. 364.05)
- Violation of the rights contained in M.S. 364 constitutes a violation of a person's civil rights.
- M.S. 364.09 lists several exceptions to the provisions of M.S. 364, including certain fire protection and law enforcement agencies. Consult M.S. 364.09 for a complete list of exceptions.

In 2012, the Equal Employment Opportunity Commission (EEOC) issued new enforcement guidance on the consideration of arrest and conviction records under Title VII of the Civil Rights Act. The EEOC guidance is comprehensive and discusses best practices for narrowly tailoring policies and practices on criminal background checks to avoid disparate impact on protected group members who are incarcerated at disproportionate rates to the general population. It is important that the use of criminal history data is evaluated carefully, job-related, and consistent with business necessity. Three factors the 8th circuit identifies when determining job-relatedness are: 1) the nature and gravity of the offense or conduct, 2) the time that has passed since the offense or conduct and/or completion of the sentences and 3) the nature of the job held or sought. The provisions in Minn. Stat. 364 on the public sector's use of criminal background checks include and expand upon these factors. Agencies must follow the provisions of M.S. 364 as they consider whether criminal history data does or does not disqualify a candidate from the public employment sought. Agencies should also familiarize themselves with the EEOC guidance which can be found at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

FORMER OR CURRENT STATE EMPLOYEES

Agencies should refer to PERSL #1414 for instructions on conducting background checks for former and current state employees. The PERSL instructs agencies to obtain a waiver from the applicant to make inquiries and obtain information about the applicant's prior state employment; review SEMA4 records for disciplinary history; and ask the applicant for certain details about their state employment.

CURRENT AGENCY EMPLOYEES

The background information obtained on current agency employees should not be applied to the employee's current job unless such information reveals a violation of mandatory terms and conditions of employment; e.g., the applicant's current job requires that they have a valid driver's license and the background check reveals that they do not have such a license.

CONTRACTORS, VOLUNTEERS, INTERNS, OR OTHER NON EMPLOYEES

Agencies may conduct background checks on non-employees for various reasons. For example, since these individuals often have access to buildings and electronic systems, agencies may want to conduct a basic criminal history check. Agencies may also conduct checks similar to those conducted for employees, depending on the nature and location of work to be performed by the non-employee.

Policies and procedures for background checks on non-employees should be separate from the agency employee background check policy (to avoid exposure to FLSA and Workers' Compensation coverage).

USE OF INTERNET SEARCHES AND SOCIAL NETWORKING SITES

Agencies should be aware of both the risks and benefits when performing internet searches for background information on applicants or current employees, including searches of social networking sites such as "Facebook" or "Linked In". Agencies should seek advice and exercise caution when conducting internet searches. Staff should be well-trained in using electronic sources and in the legal uses of information gained from internet searches. For example, a search may identify the protected group status of an applicant which the employer has no job-related need to know during the selection process. Knowing such information, even if not used, can lead to discrimination claims. It is advisable to have HR staff or a third party conduct such searches so that only job-related information is relayed to the hiring supervisor. Advice is available from your MMB staffing representative. Appendix H at the end of this section contains tips for conducting internet searches and using social networking sites.

NOTIFICATION TO APPLICANTS

If an applicant is removed from consideration for employment due to the results of an **agency-conducted background check**, the applicant does not need to be notified of the specific reason other than, in the case of a criminal background check, as required by M.S. 364.05 (i.e., providing the applicant notice and requesting evidence of rehabilitation). **If a vendor is used to conduct any type** of background check, however, then the Adverse Impact provisions of the Fair Credit Reporting Act apply. Further, if the basis for removing the applicant from consideration, whether in whole or part, is a criminal background check, the notice and evidence of rehabilitation provisions of M.S. 364 also apply.

Keep in mind that background check data is available to the applicant upon their request (see the following section for more information).

HOW TO MAINTAIN THE DATA

The data collected from a background check is **private** data on the applicant. That means it is accessible to the applicant and generally to no one else, except those within the agency whose jobs reasonably require access (i.e., those whose review of the data is necessary to make the hiring decision) and those applicant has authorized to access the data.

Background check data may be maintained along with other documents on the selection process for the position or in separate background check files. It should not be kept in personnel files. Under the Human Resources Records Retention schedule for the state, selection data is to be retained for four (4) years. This also applies to background check data, unless there are other statutes that apply to specific types of data you may be collecting. **Note:** data from **vendor conducted background checks** (discussed in *Volume 2: A Guide for Vendor Conducted Employment Background Checks*) should be maintained for six years to account for the five-year statute of limitations to file a claim alleging violation of the Fair Credit Reporting Act [FCRA].

Remember that the data is personnel data under M.S. 13.43, and it is accessible to the applicant upon request. You cannot guarantee to anyone who provides a reference that the information will remain confidential. The data is also accessible to anyone requesting private data on an individual with an appropriate informed consent signed by the individual. When responding to such requests you must exclude any non-public data not on the subject of the data.

APPENDIX A: DEFINITIONS

Background Check: Is a review of an applicant's background for the purpose of determining their suitability for employment. Such review may include an analysis of public and private documents; contact with former employers; verification of education and training, employment history and/or licensure; personal and professional references; criminal history checks; and other pertinent information.

Reference Check: To request verification and/or information from previous employers and other sources about an applicant's work performance, competencies and disciplinary history.

Employment Verification: Verification of an applicant's employment history.

Criminal History Check: A check of an applicant's criminal history records through law enforcement sources.

APPENDIX B: APPLICANT AUTHORIZATION FOR RELEASE OF INFORMATION FROM CURRENT AND FORMER EMPLOYERS

Name (please print): _____

Other Names Used in Prior Employment: _____

I am applying for employment with the Minnesota Department of _____ (“the Agency”). I authorize my current and former employers to orally and/or in writing make available to representatives of the Agency the following data if requested:

- Contents of my personnel file;
- Information regarding my job performance, dates of employment, salary information, job title(s) and responsibilities;
- Nature of any disciplinary action;
- Reasons for separation and eligibility for re-employment;
- Any and all other data about my employment that may be maintained by my current and former employers.

This authorization does not extend to any medical records about me that may be maintained by my current and former employers.

I understand that the purpose of permitting the Agency to obtain this information about me is to determine my suitability for employment with the Agency.

I understand that data released to the agency may be accessed by authorized personnel whose jobs reasonably require access. This may include individuals within the Agency and their representatives, Minnesota Management and Budget, and other persons or entities to the extent required by court order or authorized by state or federal law.

I understand that I may refuse to authorize the release of some or all of the data described above. However, I also understand that refusing to authorize the release of some or all of the data described above may result in the Agency no longer considering me for employment. I understand that I may discuss this further with a human resource representative at the Agency if I have any questions prior to completing this form. With the above understanding, I place the following restrictions, if any, on the information that may be released by my current and former employers:

I understand that by signing this authorization, I fully release my current and former employers from any and all liability for any damage of any kind or nature whatsoever

that may result from furnishing the information as described in this Authorization. I understand that this authorization to release data as specified above expires when the position I am applying for has been filled. I understand that I may withdraw my authorization at any time, but that if I do withdraw my authorization, it will not affect any data that was released prior to my withdrawal.

A list of my current and former employers is attached to this Authorization.

Signature: _____ Date: _____

APPENDIX C: TELEPHONE REFERENCE CHECK
TELEPHONE REFERENCE CHECK (SAMPLE)
(Send informed consent e.g. Appendix B by fax prior to telephone interview)

NAME OF APPLICANT

PERSON ANSWERING QUESTIONS BELOW

POSITION OR TITLE

COMPANY

CITY AND STATE

TELEPHONE NUMBER

PERSON CONDUCTING REFERENCE CHECK

DATE

(Applicant) has applied for a position as a *(job title)* with the Minnesota Department of _____. This applicant has indicated that he/she is/was employed with your organization. I am conducting a reference check on *(applicant)* and would appreciate your assistance by answering a few questions.

1. Dates of employment: From: _____ To: _____
2. Title and duties:
3. How well did this individual typically perform his/her job duties? Please provide copies of past performance reviews.
4. *(If relevant to the job)* How well did this individual relate with supervisors, co-workers, customers?
5. Would you categorize this individual's attendance as satisfactory or unsatisfactory? Please provide information regarding sick leave usage (non-FMLA qualifying) for the past year.
6. Was any disciplinary action taken against this employee? If so, what disciplinary action was taken and what were the reasons for the action?
7. (If a former employer) did s/he leave your employment voluntarily?
not, what was the reason?
8. Would you rehire this individual?
9. Would you recommend this individual for employment with our agency?

Do you have any additional comments?

APPENDIX D: REFERENCE CHECK LETTER

SAMPLE REFERENCE CHECK LETTER

RE: Reference Check on

(Applicant)_____

Dear _____:

(Applicant)_____ has applied to us for a position as a (*Job Title*)

_____.

The applicant has indicated that they (*are an*) (*have been an*) employee of your organization.

Please provide the information indicated and return the form to us in the enclosed envelope as soon as possible. Attached is a copy of the informed consent form signed by the applicant.

If you have any questions or wish to discuss this request, please contact me at () _____.
Thank you for your assistance.

Sincerely,

APPENDIX E: EMPLOYEE REFERENCE CHECK

EMPLOYEE REFERENCE CHECK

Name of employee _____

Job title _____ from _____ to _____
mo/yr mo/yr

Major duties _____

Did the employee typically perform these duties satisfactorily?
Yes _____ No _____ Please attach copies of past Performance Reviews

How well did this individual relate with supervisors, co-workers, customers?

Would you characterize this individual's attendance as?

Satisfactory _____ or Unsatisfactory _____? Please provide information regarding sick leave usage (non-FMLA qualifying) for the past year.

Was any disciplinary action taken against this employee? If so, what was the disciplinary action taken and what were the reasons for the action?

Did the employee leave your organization voluntarily?
Yes _____ No _____

If not, what was the reason? (e.g., layoff, discharge for cause, etc.)

Would you rehire this individual?

Would you recommend this individual for employment with our agency?

Name of person completing this form _____

Phone Number _____ Title _____

Organizational Relationship to Former Employee:

Supervisor Personnel Office Other

APPENDIX F: CONTACT INFORMATION FOR CURRENT AND FORMER EMPLOYERS

**Minnesota Department of _____
Contact Information for Current and Former Employers**

Name (including any previous names): _____

In accordance with my authorization for the Department of _____ to contact my former employers, I am providing the following contact information.

Do you object if we contact your current employer: ___ Yes ___ No

Dates of Employment: From ___/___/___ **to** ___/___/___

Employing Firm: _____ Job Title: _____

Address: _____

Supervisor: _____ Supervisor Phone: _____

Dates of Employment: From ___/___/___ **to** ___/___/___

Employing Firm: _____ Job Title: _____

Address: _____

Supervisor: _____ Supervisor Phone: _____

Dates of Employment: From ___/___/___ **to** ___/___/___

Employing Firm: _____ Job Title: _____

Address: _____

Supervisor: _____ Supervisor Phone: _____

(Please use additional sheets if necessary)

I certify the above information to be true and accurate to the best of my knowledge:

Signature

Date

APPENDIX G1: CRIMINAL BACKGROUND RELEASE FORM

Minnesota Department of _____ Criminal Background Release Form

A criminal background check is required for the position you have applied for at the Department of _____. This criminal background check is conducted as a continuation of the application process prior to hiring an individual, to determine if that individual has been convicted of any crime that directly relates to the duties of the position. Applicants being interviewed for this position are asked to provide the information requested below so that a criminal background check can be done on applicants that the Department is interested in hiring for the position. We are asking that you provide the below information and that you authorize the Department of _____ to send this information to the Minnesota Bureau of Criminal Apprehension (BCA) for use in conducting a criminal background check. Your signature on this form authorizes the Department of _____ to submit the information you provide below to the BCA if the Department is interested in hiring you and to request a search of BCA's criminal history data base for any records pertaining to you. Your signature also authorizes the BCA to send any criminal history record found on you back to the Human Resources office at the Department of _____. If you have questions about anything on this form, or if you would like more explanation, please feel free to contact _____, Human Resources Representative at the Department of _____ at _____.

You are not legally required to provide the below information or to authorize its use as described above. However, failure to provide this information (except for race/ethnicity, which is optional) or authorize its use as described above may result in the Department's not being able to do a criminal background check on you, which in turn may result in your being excluded from consideration for employment. Further, although providing your race/ethnicity is optional, it is helpful in ensuring that any criminal background records obtained are in fact yours. If you do provide the requested information, a criminal background check will be conducted if the Department decides that they are interested in hiring you. A criminal conviction will not automatically remove you from consideration for employment; however, if the Department determines that a conviction directly relates to the position and to your ability to perform the job, you may be disqualified from employment for this position. Access to the information you provide as well as to the information we receive from the BCA will be limited to individuals within the Department of _____ and their representatives whose job duties reasonably require access, to the BCA for the purpose of conducting a criminal background check, to yourself, and to any individuals for whom you provide written consent. Additionally, this information may be released without your consent Minnesota Management & Budget (Minn. Stat. Ch. 43A), if required by court order, or if authorized by state or federal law.

Please provide us with the information requested below. Please Print.

| | | |
|---------------------------|------------|-----------------------|
| _____ | _____ | _____ |
| Last Name | First Name | Middle Name |
| List previous names used: | _____ | Date of Birth: _____ |
| | _____ | Gender: _____ |
| | _____ | Race/Ethnicity: _____ |
| | | (Optional) |

I certify the above information to be true and accurate to the best of my knowledge. I understand that providing false information may subject me to the penalty provisions of M.S. §43A.39. I further authorize the Minnesota Department of _____ to release to the Minnesota Bureau of Criminal Apprehension (BCA) the above information for the purpose of performing a criminal background check on me if the Department is interested in hiring me. I also authorize the BCA to disclose all criminal history record information on me to the Department of _____ so that they may assess whether a prior conviction directly relates to the position I am applying for and to my ability to perform the job. Any authorization by me to release of the above data to the BCA and for the BCA to release criminal background records on me to the Department of _____ expires immediately following release of these data.

Signature

Date

APPENDIX G2: CRIMINAL BACKGROUND DISCLOSURE FORM

Minnesota Department of _____ Criminal Background Disclosure Form

A criminal background check is required for the position you have applied for at the Department of _____. This criminal background check is conducted as a continuation of the application process prior to hiring an individual, to determine if that individual has been convicted of any crime that directly relates to the duties of the position. In addition to conducting a criminal background check, the Department also asks applicants being interviewed for this position to complete this Criminal Background Disclosure Form to ensure that the Department obtains complete and accurate criminal history information and to verify any records received from the Minnesota Bureau of Criminal Apprehension (BCA).

You are not legally required to provide the information requested below; however, failure to disclose a criminal conviction may result in disqualifying you as a candidate for employment. Any information you disclose regarding a criminal conviction will be used solely to determine if the conviction directly relates to the position you have applied for and to your ability to perform the job. A criminal conviction will not automatically remove you from consideration for employment. However, if the Department determines that a prior conviction does impact your ability to perform the job, you may be disqualified from employment for this position. Access to the information you provide will be limited to individuals within the Department of _____ and their representatives whose job duties reasonably require access, to yourself, and to any individuals for whom you provide written consent. Additionally, this information may be released without your consent to the Department of Minnesota Management and Budget (Minn. Stat. Ch. 43A), if required by court order, or if authorized by state or federal law.

Please provide us with the information requested below. Please write legibly.

Have you been convicted of a felony, gross misdemeanor, or misdemeanors for which a jail sentence may have been imposed? (Do not include petty misdemeanors.)

Yes _____ No _____

If yes, please provide a complete chronology of your offense history. Include the type of offense, county, state, date and final disposition (i.e. jail time, fine, probation, etc.).

I certify the above information to be true and accurate to the best of my knowledge. I understand that providing false information may subject me to the penalty provisions of M.S. §43A.39.

Signature

Date

Print Name

APPENDIX H: USING INTERNET SEARCHES AND SOCIAL NETWORKING WEBSITES

Tips for using Internet Searches and Social Networking websites for background checks:

- Have a background policy/procedure in place which covers your agency procedures for reviewing applicant social networking sites.
- Determine specific job qualifications for the vacancy before you review social networking sites.
- Collect and use only information that is related to the job qualifications. It may be preferable to have a third party conduct the review and give you only the job related information to reduce your risk of any legal action.
- Ensure that staff who conduct reviews of social networking sites are well trained.
- Staff other than hiring supervisors should review the sites and give only job related information to the hiring supervisor.
- Publicize your intent to conduct a background check in the job posting and include the fact that you will be reviewing social networking sites.
- Do not look at or record information that is non-job related.
- Access only information that is available to everyone. Do not request passwords or try to circumvent privacy rules to obtain information.
- Be aware that not all information you may find is accurate. Internet searches may come up with false information for a variety of reasons, for example, identical names. Further, the applicant may not be responsible for information posted to their social networking site.
- Be aware of M.S. 181.938 Subd. 2 which states that an applicant may not be rejected for use of lawful consumable products (includes alcohol, food, tobacco) off employer premises during non-work hours.
- The Fair Credit Reporting Act does not apply when the employer itself is conducting the background check vs. having the check conducted by a third party.