



Finance & Administration Committee

Information Item IV-C

October 10, 2013

Background Screenings

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

<input type="checkbox"/> Action <input checked="" type="checkbox"/> Information	MEAD Number: 200433	Resolution: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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TITLE:

Background Screenings

PRESENTATION SUMMARY:

This presentation will provide the Committee with an overview of Metro's background screening policy, processes and practices, including a comparison of Metro's past practices and the current practices of our jurisdictional partners. MetroAccess procedures are also addressed in this presentation.

PURPOSE:

To brief the Finance and Administration Committee on Metro's background screening policy, processes and practices.

DESCRIPTION:

Key Highlights:

- In 2011, a comprehensive background screening policy was established for both those applying for positions and current employees.
- Previous screening requirements varied, were inconsistently applied and not reflected in one authority-wide policy.
- The current policy was established to ensure equity and clarity for Metro's employees, and to ensure the safety and security of the public, and Metro's workforce and assets.

Background and History:

Prior to 2011, WMATA's background screening and hiring practices were not formalized in a single policy, but were governed by guidelines. Additionally, there was not a single standard screening process that applied to existing employees, contractors or those returning from leave. This earlier background screening approach was the focus of a 2011 report of the Office of Inspector General that found Metro's ability to screen candidates, as well as document and track current employee traffic violations and criminal offenses, were disjointed and inconsistently applied.

Additionally, beginning in 2008, there were a number of instances of employee arrests

and convictions of serious crimes, both on and off-duty, that prompted the Authority to review its approach. The circumstances included employees who were charged and/or convicted of assault charges against a fellow employee, sexual assaults and crimes, and in one case of negligent homicide.

Discussion:

Background Screening Standards - Previous

Prior to developing the current policy, an evaluation of our previous background screening standards and practices was conducted. The standards were based on categories of crimes: crimes against persons, property, society; sex crimes and controlled substances. Each category was divided into felonies and misdemeanors with an associated time factor of 5 or 10 years as a baseline to evaluate criminal history as indicated below:

Background Screening Standards for Public-facing Positions				
Category	Felony		Misdemeanor	
	Under 10	Over 10	Under 10	Over 10
Persons	Permanent Disqualification			
Property	Disqualified	Qualified	Max of 2	Qualified
Sex Crimes	Permanent Disqualification			
Controlled Substances	Disqualified	Qualified	Max of 2	Qualified
Societal	Permanent Disqualification			

Background Screening Standards for All Other Positions				
Category	Felony		Misdemeanor	
	Under 5	Over 5	Under 5	Over 5
Persons	Permanent Disqualification			
Property	Disqualified	Qualified	Max of 2	Qualified
Sex Crimes	Permanent Disqualification			
Controlled Substances	Disqualified	Qualified	Max of 2	Qualified
Societal	Permanent Disqualification			
Fiduciary positions require a credit check				

Analysis of these standards and practices indicated:

- Lack of specificity between the categories of crimes and defined offenses - an applicant convicted of any felony within 10 years was disqualified
- Opportunities for inconsistent application of employment eligibility standards
- Credit checks to evaluate fiduciary candidates had not been implemented

Background Screening Standards - Current

The 2011 authority-wide policy established a comprehensive, transparent set of criteria that could be consistently applied to evaluate candidates for employment, screen current employees, apply to contractors and provided a standardized mechanism for employees to report arrests and convictions.

In developing the policy, Metro reached out to the jurisdictions and peer transit agencies, researched relevant case law, and closely examined our business needs and safety obligations to the public.

To ensure consistent application of policy and standards, the criteria, category and type of crime is specifically linked to the type of position for which the candidate has applied or the employee currently holds. The timeframes associated with the convictions consider applicant rehabilitation efforts.

The standards below are classified by three business groups: public-facing positions (bus operators, station managers, transit sales clerk and janitors), fiduciary positions (e.g., purchasing agents, inventory control technicians, revenue collection technicians, accounts, contracts administrators) and all other positions (those that are not public facing or fiduciary).

BACKGROUND SCREENING STANDARDS FOR PUBLIC-FACING POSITIONS – CURRENT			
CATEGORY	CONVICTION	FELONY MISD	
PERSONS	Assault; Assault/Battery	PD*	1 in 10 YRS**
	Homicide, Manslaughter, Kidnapping	PD	PD
PROPERTY	Burglary, Robbery, Theft, Larceny	1 in 10 YRS	1 in 5 YRS
SEX CRIMES	Possession of Child Pornography	PD	PD
	Sexual Assault, Indecent Exposure, Human Trafficking, Pimping	PD	PD
CONTROLLED SUBSTANCES	Possession	PD	1 in 5 YRS
	Sale/Distribution/Manufacture	PD	PD
SOCIETAL	Weapons Possession/Use in Crime	PD	PD
	Threats and/or Acts of Terror	PD	PD
*PD refers to permanent disqualification			
**Timeframes begin at completion of sentence			

BACKGROUND SCREENING STANDARDS – FIDUCIARY POSITIONS - CURRENT			
CATEGORY	CONVICTION	FELONY MISD	
PERSONS	Assault; Assault/Battery	PD*	1 in 10 YRS**
	Homicide, Manslaughter, Kidnapping	PD	PD
PROPERTY	Burglary, Robbery, Theft, Larceny	PD	PD
	Possession of Child Pornography	PD	PD
SEX CRIMES	Sexual Assault, Indecent Exposure, Human Trafficking, Pimping	PD	PD
	Possession	PD	1 in 10 YRS
CONTROLLED SUBSTANCES	Sale/Distribution/Manufacture	PD	PD
	Weapons Possession/Use in Crime	PD	PD
SOCIETAL	Threats and/or Acts of Terror	PD	PD
	Extortion, Fraud, Gambling, Bookmaking	PD	PD
FINANCIAL	Uttering, Passing Bad Checks, Misuse of Credit Cards	PD	PD
	*PD refers to permanent disqualification		
**Timeframes begin at completion of sentence			

BACKGROUND SCREENING STANDARDS – ALL OTHER POSITIONS – CURRENT			
CATEGORY	CONVICTION	FELONY MISD	
PERSONS	Assault; Assault/Battery	1 in 10 YRS	1 in 10 YRS**
	Homicide, Manslaughter, Kidnapping	PD*	PD
PROPERTY	Burglary, Robbery, Theft, Larceny	1 in 10 YRS	1 in 5 YRS
	Possession of Child Pornography	PD	PD
SEX CRIMES	Sexual Assault, Indecent Exposure, Human Trafficking, Pimping	PD	PD
	Possession	1 in 10 YRS	1 in 5 YRS
CONTROLLED SUBSTANCES	Sale/Distribution/Manufacture	PD	1 in 10 YRS
	Weapons Possession/Use in Crime	PD	PD
SOCIETAL	Threats and/or Acts of Terror	PD	PD
	*Timeframes begin at completion of sentence		
**PD refers to permanent disqualification			

Current Employees

Employees who are under consideration for reinstatement, those who have been on extended periods of leave (90 days or longer), and those transitioning into public-facing or fiduciary positions are screened.

- Reinstatements: Along with satisfactory drug/alcohol screening, physical examination and valid licensure (if applicable), background screenings are a condition of reinstatement
- Extended periods of leave: Employees returning to work following a period of leave in excess of 90 days are screened in concert with drug and alcohol testing. Arrests and convictions are evaluated consistent with policy
 - If reported, and still eligible for employment no action is taken
 - If not reported, investigated to determine facts
 - If pending charges are a threat to safety, employees may be held off administratively until adjudicated by the court
- Transferring employees: Employees transferring into public-facing or fiduciary positions are screened consistent with standards.

Current employees are also subject to a background screening under the reasonable suspicion standard. These backgrounds require management to demonstrate probable cause and require approval by the Chief Human Resources Officer.

Employee Arrest and Conviction Reporting Process

While our operational employees have been held to a long-standing requirement to report instances of traffic violations, arrests and convictions, analysis revealed deficiencies in how the information was documented, tracked and evaluated. To impose fair and consistent standards, an adjunct policy “Disclosure and Disposition of Arrests and Convictions” was approved in concert with the Background Screenings policy in 2011 requiring all employees to disclose all arrests followed by a disposition of the charges.

MetroAccess Background Screenings

All MetroAccess contractors are required to comply with WMATA’s policy on the conduct of background screenings. In addition, contractor employees having contact with customers are required to submit fingerprints for a background check in accordance with the National Child Protection Act of 1993. Fingerprint collection and

processing is administered by Metro Transit Police and processed through the Federal Bureau of Investigation under an agreement with the District of Columbia's Metropolitan Police Department.

MetroAccess began fingerprinting contractor applicants as of January 1, 2013. Because paratransit service is provided only to customers with disabilities and sometimes out of the public view, this extra measure of scrutiny has been established to protect our most vulnerable customers.

Jurisdictional Comparisons

An analysis of Metro's background screening practices to those of our jurisdictional partners and peer transit agencies revealed that while some evaluate criminal convictions on a case-by-case basis, most consider factors similar to Metro's in determining suitability for employment. However, those who consider such factors do not have the same specificity as Metro's policy with regard to employment decisions. Metro's background screening standards are concise and transparent, and provide a predictable basis for authority-wide application.

FUNDING IMPACT:

Define current or potential funding impact, including source of reimbursable funds.	
Project Manager:	Amy-Celeste Quillen
Project Department/Office:	Department of Human Resources

TIMELINE:

Previous Actions	None
Anticipated actions after presentation	None

RECOMMENDATION:

Not Applicable



Washington Metropolitan Area Transit Authority

Background Screenings

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Purpose

To provide the Committee an overview of:

- Recent History
- Previous and current screening practices
- Screening standards
- Employee screenings
- Jurisdictional comparisons





Recent History

- 2009-2012 employee incidents
 - On and off duty
 - Crimes of violence and sex offenses
- OIG Investigation
 - Inconsistent practices
 - Reporting procedures
- No comprehensive policy



Previous v. Current Practices

Elements	Previous	Current
Applicability	<ul style="list-style-type: none">• New hires only	<ul style="list-style-type: none">• New hires• Current employees
Policy	<ul style="list-style-type: none">• Guidelines only	<ul style="list-style-type: none">• Comprehensive
Criminal history evaluation standards	<ul style="list-style-type: none">• Not specified by category/class of crime	<ul style="list-style-type: none">• Category/crime specific
Business necessity and position linkage	<ul style="list-style-type: none">• Public-facing; Other• Not linked to position	<ul style="list-style-type: none">• Public-facing; Other• Separate fiduciary with credit history criterion• Each position is categorized to screening type
Financial trust	<ul style="list-style-type: none">• Credit checks requirement not implemented	<ul style="list-style-type: none">• Credit checks with defined criteria• Civil history review
Arrest/conviction reporting	<ul style="list-style-type: none">• Not addressed	<ul style="list-style-type: none">• Adjunct policy• Standardization



Previous Standards – Public-facing Positions

CATEGORY	FELONY		MISDEMEANOR	
	UNDER 10 YRS	OVER 10 YRS	UNDER 10 YRS	OVER 10 YRS
PERSONS	PERMANENTLY DISQUALIFIED			
PROPERTY	DISQUALIFIED	QUALIFIED	MAXIMUM OF 2	QUALIFIED
SEX CRIMES	PERMANENTLY DISQUALIFIED			
CONTROLLED SUBSTANCES	DISQUALIFIED	QUALIFIED	MAXIMUM OF 2	QUALIFIED
SOCIETAL	PERMANENTLY DISQUALIFIED			



Previous Standards – All Others

	FELONY		MISDEMEANOR	
CATEGORY	UNDER 5 YRS	OVER 5 YRS	UNDER 5 YRS	OVER 5 YRS
PERSONS	PERMANENTLY DISQUALIFIED			
PROPERTY	DISQUALIFIED	QUALIFIED	MAXIMUM OF 2	QUALIFIED
SEX CRIMES	PERMANENTLY DISQUALIFIED			
CONTROLLED SUBSTANCES	DISQUALIFIED	QUALIFIED	MAXIMUM OF 2	QUALIFIED
SOCIETAL	PERMANENTLY DISQUALIFIED			
FIDUCIARY POSITIONS REQUIRE A CREDIT CHECK				



Current Public-facing Standards

Positions include Bus Operators, Janitors, & Station Managers

CATEGORY	CONVICTION	FELONY	MISD
PERSONS	Assault; Assault/Battery	PD*	1 in 10 YRS**
	Homicide, Manslaughter, Kidnapping	PD	PD
PROPERTY	Burglary, Robbery, Theft, Larceny	1 in 10 YRS	1 in 5 YRS
SEX CRIMES	Possession of Child Pornography	PD	PD
	Sexual Assault, Indecent Exposure, Human Trafficking, Pimping	PD	PD
CONTROLLED SUBSTANCES	Possession	PD	1 in 5 YRS
	Sale/Distribution/Manufacture	PD	PD
SOCIAL	Weapons Possession/Use in Crime	PD	PD
	Threats and/or Acts of Terror	PD	PD

*PD refers to permanent disqualification

** Timeframes begin at completion of sentence



Current Fiduciary Standards

Job families include revenue collection, accounting and sales

CATEGORY	CONVICTION	FELONY	MISD
PERSONS	Assault; Assault/Battery	PD*	1 in 10 YRS**
	Homicide, Manslaughter, Kidnapping	PD	PD
PROPERTY	Burglary, Robbery, Theft, Larceny	PD	PD
SEX CRIMES	Possession of Child Pornography	PD	PD
	Sexual Assault, Indecent Exposure, Human Trafficking, Pimping	PD	PD
CONTROLLED SUBSTANCES	Possession	PD	1 in 10 YRS
	Sale/Distribution/Manufacture	PD	PD
SOCIAL	Weapons Possession/Use in Crime	PD	PD
	Threats and/or Acts of Terror	PD	PD
FINANCIAL	Extortion, Fraud, Gambling, Bookmaking	PD	PD
	Uttering, Passing Bad Checks, Misuse of Credit Cards	PD	PD

*PD refers to permanent disqualification

**Timeframes begin at completion of sentence



Current Standards – All Others

Positions that are neither public-facing nor fiduciary

CATEGORY	CONVICTION	FELONY	MISD
PERSONS	Assault; Assault/Battery	1 in 10 YRS	1 in 10 YRS*
	Homicide, Manslaughter, Kidnapping	PD**	PD
PROPERTY	Burglary, Robbery, Theft, Larceny	1 in 10 YRS	1 in 5 YRS
SEX CRIMES	Possession of Child Pornography	PD	PD
	Sexual Assault, Indecent Exposure, Human Trafficking, Pimping	PD	PD
CONTROLLED SUBSTANCES	Possession	1 in 10 YRS	1 in 5 YRS
	Sale/Distribution/Manufacture	PD	1 in 10 YRS
SOCIETAL	Weapons Possession/Use in Crime	PD	PD
	Threats and/or Acts of Terror	PD	PD

*Timeframes begin at completion of sentence

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Employee Screenings

- Prior to reinstatement
 - Current standards
- Return to duty
 - Reporting arrests/convictions
 - Pending charges
 - Administrative actions
- Reasonable Suspicion
 - Probable cause
 - Require authorization



Jurisdictional Comparison

JURISDICTION	NATURE OF THE CRIME	POSITION SPECIFIC	TIME SINCE OFFENSE	AGE AT TIME OF OFFENSE	REHAB EFFORTS	FIDUCIAL
ALEXANDRIA	YES	NO	YES	NO	NO	CASE BY CASE
ARLINGTON	YES	YES	YES	NO	NO	CASE BY CASE
DISTRICT OF COLUMBIA	YES	YES	YES	YES	YES	CASE BY CASE
FAIRFAX	YES	YES	YES	YES	YES	PURCHASE CARD HOLDERS
MONTGOMERY	CASE BY CASE					
PRINCE GEORGE'S	CASE BY CASE					AT HIRE; EACH 2 YRS
WMATA	YES	YES	YES	NO	YES	ALL FIDUCIARY