



DANIEL C. O'LEARY  
CHIEF OF POLICE

## BROOKLINE POLICE DEPARTMENT

*Brookline, Massachusetts*

Special Order #2012-19

**SUBJECT: FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS**

**EFFECTIVE DATE: OCTOBER 10, 2012**

### **POLICY:**

In order to protect the health, safety, and welfare of the residents of the Town of Brookline, and as authorized by chapter 256 of the Acts of 2010, Town By-Law Article 8.30 requires new applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town to submit to fingerprinting by the Brookline Police Department, and the Police Department to conduct criminal record background checks based on such fingerprints, and the Town to consider the results of such background checks in determining whether or not to grant a license. This policy does not apply to license renewals.

Pursuant to Article 8.30, the Town of Brookline has authorized the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), as may be applicable, to conduct on the behalf of the Town of Brookline and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law and Town policy. The by-law also authorized the Police Department to receive and utilize FBI records in connection with such background checks.

Any new applicant for a license to engage in any of the following occupational activities within the Town of Brookline shall submit a full set of fingerprints taken by the Brookline Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

- Liquor Licensee
- Manager or Alternate Manager of a Liquor Licensee
- Hawker and Peddler
- Hackney Carriage (Taxi) Operator
- Solicitors and Canvassers
- Dealers in Junk, Second-Hand Articles and Antiques
- Second-Hand Motor Vehicle Dealers
- Ice Cream Truck Vendor

Implementation of Article 8.30 and the conducting of fingerprint-based criminal record background checks by the Brookline Police Department shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks. The Brookline Police Department shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Brookline Police Department shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

#### **PROCEDURES:**

1. An applicant seeking to engage in the above employment shall submit a full set of fingerprints taken by the Brookline Police Department within ten (10) days of the date of application for the license.
2. Applicants will only be fingerprinted by a member of the Department's Identification Division, Monday thru Friday, during regular business hours.
3. At the time of the fingerprinting, the applicant shall be notified that the fingerprints will be used to check the applicant's FBI criminal history records.
4. Fingerprint cards will be provided by the Department for each person being fingerprinted. The fingerprint card shall contain "Article 8.30" in the "Reason Fingerprinted" block of the fingerprint card.
5. The Identification Division will submit the fingerprint cards to the State Identification Division of the Massachusetts State Police.
6. Results of the fingerprint based criminal record background checks will be sent to a designated secure website managed by the DCJIS. This site will be only accessed by the Identification Division Sergeant and /or designee. These results will then be forwarded to the officer assigned to the background check of the applicant.

#### **FEES:**

1. The fee charged for the purpose of conducting fingerprint based criminal record background checks shall be fifty dollars (\$50.00). A portion of the fee (\$30.00), as specified in Mass. Gen. Laws Chapter 6, Section 172B ½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee (\$20.00) may be retained by the Town for costs associated with the administration of the fingerprinting system.

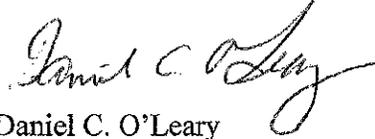
## **BACKGROUND INVESTIGATOR:**

1. All applicants undergoing a town licensing-related background check will be afforded the opportunity to meet with the Brookline Police Background Investigator.
2. All applicants undergoing a Town licensing-related criminal record background check will be provided with a copy of the results of his/her fingerprint-based criminal background check.
3. Applicants will have the opportunity to provide additional information to, or challenge the accuracy of, the information contained in the fingerprint-based criminal background check, including in the FBI identification record prior to rendering a suitability evaluation.
4. As part of the application package issued by the Selectman's office, all applicants will be supplied with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 C.F.R. Part 16.34 pertaining to FBI Identification records and DCJIS's "Information Concerning the Process in Correcting a Criminal Record."
5. In no event shall the Background Investigator render a suitability evaluation based solely on the results of the fingerprint-based criminal record background check before the investigator has:
  - A. insured that the subject has been provided with a copy of the Town's policy applicable to licensing-related criminal record background checks,
  - B. notified the subject in person, by telephone, fax, or electronic or hard copy correspondence of a potential adverse determination,
  - C. provided the subject with a copy of the results of his or her criminal record background check and with information concerning the source of the criminal history record,
  - D. identified for the subject the part of his or her CORI that appears to make him or her unsuitable,
  - E. insured that the subject has been provided with a copy of 28 C.F.R. Part 16.34 and DCJIS's "Information Concerning the Process in Correcting a Criminal Record," and
  - F. afforded the subject a reasonable time to dispute the accuracy of the CORI or otherwise present to the Town any mitigating or other circumstances bearing on the CORI.

The Background Investigator shall document all steps to comply with this section.

6. If the Background Investigator reasonably believes that the results of a criminal record background check are complete and accurate, he or she will render an evaluation of suitability based on the results. Unless otherwise provided by applicable law or regulation,<sup>1</sup> the Background Investigator shall not consider a criminal record to automatically disqualify a subject. Rather, the Background Investigator will render a suitability evaluation consistent with this policy, the Town's policy applicable to licensing-related criminal record background checks and applicable laws and regulations. Factors the Background Investigator will consider in making suitability evaluation include, but are not limited to:
  - a. relevance of the record to the position;
  - b. the nature of the work to be performed;
  - c. time since the conviction;
  - d. age of the subject at the time of the offense(s);
  - e. nature, gravity, and specific circumstances of the offense(s);
  - f. the number of offenses;
  - g. whether the subject has pending charges;
  - h. any relevant evidence of rehabilitation efforts or lack thereof; and
  - i. applicable laws and regulations setting forth criminal history disqualifiers; and
  - j. any other relevant information, including information submitted by the subject.
7. The Background Investigator shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability. The Background Investigator shall consider any information provided by the subject bearing on the accuracy or completeness of the results of the subject's criminal history record or regarding any mitigating or other circumstances identified by the subject.
8. The Background Investigator shall include a suitability evaluation of the applicant in his or her final report to the Chief of Police. This report shall indicate whether a licensing-related background check has shown that an applicant has a criminal history that bears upon his/her suitability. If an applicant does not have a criminal history, it shall be noted in the final report to the Chief of Police. The Background Investigator shall also include in his or her final report rendering a suitability evaluation based on any information provided by the applicant, bearing on the accuracy or completeness of the results of the subject's criminal history record or regarding any mitigating or other circumstances as identified by the applicant.

9. All final reports shall be submitted to the Chief of Police. No reports shall be released to other Town employees or board members without the prior approval or authorization from the Chief of Police.



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Chief of Police

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<sup>i</sup> Certain criminal offense listed on a record may automatically disqualify an applicant from certain positions by statute.



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CHIEF OF POLICE

## BROOKLINE POLICE DEPARTMENT

*Brookline, Massachusetts*

Special Order #2012-20

**SUBJECT: FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS  
- PROCEDURE**

**EFFECTIVE DATE: OCTOBER 10, 2012**

### **POLICY:**

New applicants for certain licenses issued by the Town of Brookline are required to report to the Public Safety Headquarters within 10 days of the date of application to submit to fingerprinting by the Identification Unit. Please refer to **Town of Brookline By-Law Article 8.30** and **Special Order # 2012-19, Fingerprint-Based Criminal Record Background Checks**.

New applicants for the following licenses are required to submit to fingerprinting by the Brookline Police Department:

- Liquor License
- Manager or Alternate Manager of a Liquor License
- Hawker and Peddler
- Hackney Carriage (Taxi) Operator
- Solicitors and Canvassers
- Dealers in Junk, Second-Hand Articles and Antiques
- Second-Hand Motor Vehicles Dealers
- Ice Cream Truck Vendors

### **PROCEDURES:**

**HOUSE OFFICER:** When a new applicant for one of the above licenses reports to the Public Safety Headquarters to be fingerprinted (with the exception of a Hackney License applicant), the House Officer will notify the Identification Unit.

If the new applicant is applying for a Hackney License, he/she should be referred to the Traffic Division Supervisor during the specified Hackney Licensing Hours.

**HACKNEY:** When a new applicant applies for a Hackney License, the Traffic Division Supervisor shall advise them of the requirements of **Town of Brookline By-Law Article 8.30**. The new applicant will then be provided with a packet containing a copy of the Town's Policy as well as information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 C.F.R. Part 16.34 pertaining to FBI Identification Records and DJIS's "Information Concerning the Process in Correcting a Criminal Record".

The Traffic Division Supervisor will inform the new applicant that they are required to submit to fingerprinting by the Identification Unit within ten (10) days of the date of application. They will also inform the applicant that the \$50.00 fee for the fingerprinting is in addition to the Hackney License fee. The Traffic Division Supervisor will inform the applicant that the fee for fingerprinting is required at the time of the fingerprinting and only in the form of either a check or money order made payable to the Town of Brookline.

**IDENTIFICATION UNIT:** When a new applicant reports to the Public Safety Headquarters to be fingerprinted, a member of the Identification Unit shall do the following:

- Collect the application fee and issue a receipt to the applicant
- Have the applicant complete a personal data form
- Fingerprint the applicant
- Assign a tracking number to the fingerprint card and enter the number and the applicant's information into the Civilian Fingerprint Log
- Examine the fingerprint card and check it for accuracy
- Submit the approved fingerprint card to the State Identification Division of the MA State Police
- The collected fees, in the form of either a check or money order, shall be submitted to the Public Safety Business Office
- The fees shall be submitted separately from the firearms licensing fees and shall be accompanied with a form containing all relevant applicant information

**PUBLIC SAFETY BUSINESS OFFICE:** Upon receipt of the application fees and a copy the Civilian Fingerprint Log, the PSBO shall enter the information into the account management system. The fees will be split between the portion to be retained by the Town (\$20.00) and the portion due to the State (\$30.00). The PSBO will prepare an invoice for the State's portion of the fees. The State's portion of the fees will be deposited in the Town's "Due to the State Account" dedicated solely to the State's portion of the fees received in conjunction with Fingerprint-Based Criminal Background Checks. A check for the State's portion of the fees will then be generated from this account.

This check and invoice will then be forwarded to the Crime Scene Unit Supervisor. The Crime Scene Unit Supervisor shall submit the check containing the State's portion of the fees, along with a spread sheet on Department letterhead detailing all relevant application information to the Massachusetts Department of Criminal Justice Information Services Firearms Record Bureau.

The State's portion of the fees will be deposited into the Firearms Fingerprint Identity Verification Trust Fund, in accordance with Mss. Gen. Laws Chapter 6 Section 172B ½.

**CRIME SCENE UNIT SUPERVISOR:** The MA State Police will return the results of the fingerprint based criminal record background check and the original fingerprint card to the Crime Scene Unit Supervisor.

The Crime Scene Unit Supervisor will enter the return date into the Civilian Fingerprint Log.

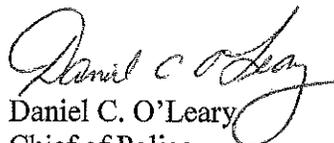
He/ she will then forward the results of the fingerprint based criminal background investigation to the background investigator assigned to the background check of the new applicant. The results will be forwarded to the following background investigators:

- **Liquor Officer:** Liquor License,  
Manager or Alternate Manager Liquor License
- **Traffic Division Supervisor:** Hackney Carriage (Taxi) Operator  
Second-Hand Motor Vehicles Dealers
- **Detective:** Dealers in Second Hand Junk, Second Hand Articles and Antiques
- **Crime Scene Unit Supervisor:** Hawker and Peddler  
Solicitors and Canvassers  
Ice Cream Truck Vendor

**BACKGROUND INVESTIGATOR/ HACKNEY OFFICER:** The background investigator will utilize the results of the fingerprint based criminal background check as part of his/ her background investigation of the new applicant. The results of the background investigation shall not be the sole basis of determining a new applicant's suitability. The background investigator will submit a completed report, including an evaluation of the new applicant's suitability, to the Chief of Police. The background investigation and final report will be conducted in accordance with **Special Order 2012-19, Fingerprint-Based Criminal Record Background Checks.**

All documents pertaining to fingerprint-based criminal background checks will be scanned and maintained within either the Licensing Module or the Hackney Module of the Department's Larimore System.

After the background check has been completed and any appeals of a denial of license have been adjudicated, the original fingerprint card will be given to the applicant. If the applicant refuses to accept the fingerprint card it shall be properly destroyed.

  
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Chief of Police