

<p align="center"><b>GEORGIA DEPARTMENT OF JUVENILE JUSTICE</b></p>	<p align="center">Transmittal # 18-1</p>	<p align="center">Policy # 3.52</p>
<p>Applicability:  {x} All DJJ Staff  { } Administration  { } Community Services  { } Secure Facilities (RYDC's and YDC's)</p>	<p>Related Standards &amp; References:  O.C.G.A. §45-3-11 <i>et seq.</i>, §16-5-23, §16-11-5 <i>et seq.</i>, §16-12-1, §45-23-1 <i>et seq.</i>, §42-8-60 <i>et seq.</i>, §35-3-30 <i>et seq.</i>, §16-1-1 <i>et seq.</i>, §17-3-1 <i>et seq.</i>, §16-9-90 <i>et seq.</i>, §16-4-1, 16-13-30 <i>et seq.</i>, § 35-3-34(a)(1)(A), §35-3-38, § 16-11-13 <i>et seq.</i>, §45-20-111, §45-20-8, §45-20-9  42 U.S.C. § 15601 <i>et seq.</i> Prison Rape Elimination Act of 2003  EEOC Enforcement Guidance No. 915.002, Issued 4/25/12  State Personnel Board Rule 478-1-.06  Rules of the GCIC Council; GCIC User's Manual  Criminal History Unit Manual  ACA 4-JCF-6C-05, 3-JDF-1C-13  DJJ 2.15, 3.18, 3.51, 3.55, 8.17, 14.3, 14.6, 20.22</p>	
<p>Chapter 3: PERSONNEL</p>	<p>Effective Date: 1/25/18  Scheduled Review Date: 1/25/19  Replaces: 3/15/13</p>	
<p>Subject: BACKGROUND INVESTIGATIONS</p>	<p>Office of Human Resources  APPROVED:</p>	
<p>Attachments:   A – Criminal History Unit Manual</p>	<p align="center">   _____  Avery D. Niles, Commissioner </p>	

**I. POLICY:**

The Department of Juvenile Justice shall conduct background investigations on applicants, volunteers, interns, contractors, employees, and on potential non-parental home placements or visits.

**II. DEFINITIONS:**

**Applicant:** An individual seeking employment with the Department of Juvenile Justice, including employees of other state agencies/departments as well as current and former employees of the Department of Juvenile Justice; a volunteer subject to a background investigation (DJJ 14.3, Citizen and Volunteer Involvement); interns (DJJ 14.6, Interns); contractors who provide a service to youth; and potential non-parental home placements or visits.

**Arrest:** To take or keep in custody by authority of law.

**Background Investigation:** An investigation that may include a criminal record check, sex offender registry check, driver's history, fingerprint check, credit history (as outlined in DJJ 2.15, State Credit Card Programs), child abuse registry check, internal investigations check, and military service record review.

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**Contractor:** For the purposes of this policy, a person not regularly employed by the Department, who is paid as a contractor or consultant. (For the purposes of this policy, vendors who provide a service to the physical plant and who would not have any contact with youth will not be considered contractors required to undergo background checks.)

**Criminal History Unit (CHU):** The DJJ unit responsible for reviewing and processing criminal record checks for applicants as previously defined.

**Criminal Record:**

- Conviction of a crime;
- Arrest, charge, and sentencing for a crime where:
  - a. A plea of nolo contendere was entered to the charge;
  - b. First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this subparagraph shall not apply to a violation of Chapter 13 of Title 16 of the Official Code of Georgia (OCGA), relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 of OCGA, if such violation or offense constituted only simple possession;
  - c. Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this subparagraph shall not apply to a violation of Chapter 13 of Title 16 of OCGA, relating to controlled substances, or any other offense committed in this state, would be a violation of Chapter 13 of Title 16 of OCGA if such violation or offense constituted only simple possession; or
  - d. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17 of O.C.G.A.
  - e. Serious traffic offenses include the following:
    - Reckless driving;
    - Drivers with ability impaired by alcohol, drugs, or toxic vapor;
    - Homicide by vehicle;
    - Feticide by vehicle in the first degree;
    - Serious injury by vehicle;

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- Fleeing or attempting to elude a police officer;
- Impersonation of a law enforcement officer; or
- Homicide or serious injury by interference with traffic-control device or railroad sign or signal

**Criminal Record Check:** Use of a computerized database at the state and/or federal level (GCIC and NCIC) to determine whether a person has been convicted of a crime or has pending criminal charges. An individual's name, date of birth, and social security number is the basis for identification in such system.

**Driver's History:** A history to include, but not limited to, any and all driving citations, suspensions, DUI arrests, and county ordinances from all states for a minimum of 7 years from the date of an applicant's signature on a Driver's History Consent Form.

**Fingerprint Check:** A record check using classifiable fingerprints for the purposes of identification for a criminal record check comparison of GCIC/NCIC information.

**Georgia Crime Information Center (GCIC):** A system, established within the Georgia Bureau of Investigation (GBI), for intrastate communication of vital information relating to crimes, criminals, and criminal activity. GCIC manages the Georgia Justice Information System network.

**Interstate Identification Index (III):** An automated system that provides interstate exchange of criminal history record information. The Federal Bureau of Investigations and participating state agencies provide records available through the III.

**Military Service Record Investigation:** A review of a DD214 Long Form, and any other official military related document(s) and military information provided to the Department.

**National Crime Information Center (NCIC):** A federal criminal history record information data bank maintained by the Federal Bureau of Investigation (FBI).

**Sexual Offense:** Rape, sodomy, aggravated sodomy, child molestation, aggravated child molestation, enticing a child for indecent purposes, bestiality, necrophilia, sexual battery, aggravated sexual battery, public indecency, and statutory rape.

**State of Georgia State Security Questionnaire Loyalty Oath:** A questionnaire, required by the Sedition and Subversive Activities Act of 1953 (O.C.G.A. §16-11-5), designed to establish that there are no reasonable grounds to believe that an applicant/employee is a subversive person. As required by O.C.G.A. §45-3-11, the questionnaire includes an oath stating that the applicant will support the Constitution of the United States and the Constitution of the State of Georgia.

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**Terminal Agency Coordinator (TAC):** A DJJ staff member designated by the Commissioner responsible for ensuring compliance with applicable state and federal regulations, laws and policies established by Georgia Crime Information Center (GCIC)/National Crime Information Center (NCIC)/Criminal Justice Information System (CJIS)/ National Law Enforcement Telecommunications System (NLETS).

### III. APPLICABILITY:

A. Persons subject to a background investigation will include:

- All external applicants selected for a position;
- Employees in accordance with Section VI of this policy;
- Volunteers (DJJ 14.3, Citizen and Volunteer Involvement);
- Interns (DJJ 14.6, Interns);
- Contractors, unless specifically excluded in writing by the Assistant Commissioner/Chief of Staff; and
- Non-parental home placements or visits.

### IV. GENERAL PROCEDURES:

A. All communications between the Criminal History Unit and the hiring authority regarding background investigations and documents must be via email. The Criminal History Unit email address is: [CHUManager@djj.state.ga.us](mailto:CHUManager@djj.state.ga.us).

B. Background investigations may include the investigation and/or verification of the following information:

- Criminal record check;
- Sex offender registry check;
- Child abuse registry check;
- Employment history;
- Internal investigations check;
- Education history;
- Professional credential (DJJ 3.55, Professional Credentials);

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- Credit history (DJJ 2.15, State Credit Card Programs);
  - Military service record investigation (for applicants with a prior military service);
  - Fingerprint check;
  - Driver's history; and/or
  - Any information provided on the State of Georgia Application for Employment and/or the State of Georgia State Security Questionnaire Loyalty Oath.
- C. All applicants, except independent contractors, will be required to report all convictions, including traffic violations for which a fine of more than \$35 was imposed and any violation that was pardoned or dismissed, on the State Security Questionnaire Loyalty Oath (see Criminal History Unit Manual).
- D. Applicants will not be disqualified from employment/service for pending non-serious traffic offenses. Documentation regarding the disposition of all such traffic offenses must be submitted by the employee to their local human resources representative within 3 business days of receipt of the disposition.
- E. All persons subject to a background investigation will be required to report any arrest or conviction subsequent to their initial background investigation to their immediate Department supervisor or the hiring manager. (See DJJ 3.18, Fitness for Duty.)
- F. All persons subject to a background investigation may be required to undergo a subsequent background investigation at any time, upon the discretion of the Commissioner or designee. Such investigations will only be conducted for valid business reasons and will be documented accordingly.
- G. All applicants for DJJ employment subject to a background investigation, who have served in the armed forces of the United States, must provide a copy of their DD214 Long Form. Applicants chosen for a position requiring Peace Officer Standards and Training (POST) Council certification must also provide the Member 4 Form. If the character of service was other than honorable, documentation of the circumstances of the discharge must also be attached. If so, the CHU will follow the procedure specified in the Criminal History Unit Manual. The appropriate Deputy Commissioner and/or Central Office Director/Division Head will make a final determination of suitability for employment.
- H. Written statements made by an applicant for DJJ employment on applicable State and Department forms (e.g., the State of Georgia Application for Employment, the State of Georgia State Security Questionnaire Loyalty Oath, and the Department of Juvenile Justice Authorization for the Release of Information and Penalties for Falsification Form) (see CHU Manual) will be deemed to have been made under oath, as provided for by state law. Falsification or misrepresentation of information, including criminal

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history, may result in the withdrawal of an employment offer or the separation of an employee.

- I. No applicant will be offered employment until a criminal record check, financial, and employment history check have been completed. An applicant may be appointed to a position pending completion of a fingerprint check and other background investigations, but will be released from employment if the results of the investigation(s) are not satisfactory.
  1. If discrepancies occur after the applicant has been fingerprinted, the requested dispositions must be submitted to the CHU via email within 3 business days. The Director of the Office of Human Resources will be notified via email of any discrepancies.
  2. If there is no criminal record, the results of the background investigation will be sent to the hiring authority within 3 business days from receipt of all required information.
  3. Once an applicant, employee, or volunteer has been fingerprinted by DJJ, any subsequent background investigation or criminal record check will not require the individual to be fingerprinted again.
  
- J. The Criminal History Unit will provide written notification to the hiring authority within 3 business days of receiving the completed background investigation packet when:
  - The person has a criminal record;
  - A discrepancy is discovered between the State Security Questionnaire Loyalty Oath and the criminal record name check;
  - A criminal charge against the person is pending;
  - The person has an active warrant; or
  - The person is currently serving probation.
  
- K. Previous DJJ employees will be subject to a background investigation if separated from employment for more than 1 day.
  
- L. The Criminal History Unit will process all provider background investigations within 45 days of receiving the completed packet.
  
- M. A DJJ employment applicant's background investigation clearance will be considered valid for 90 days. The background investigation results may be used for multiple positions or functions in the Department which require the same type of clearance. If

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the applicant is not hired within 90 days, the background investigation must be repeated.

- N. For placements or visits in a non-parental home, the Community Case Manager will explore with the youth and parent/guardian a potential relative or adult family friend who may be willing and able to provide a supportive living environment for the youth (see DJJ 20.22, Placement of Youth). A background investigation will be conducted on all adults residing in the home, regardless of the youth's age or legal history. Results will be submitted to the District Director for approval or disapproval of the placement or visit.
- O. Any individual contracted to provide a service to the physical plant is not required to have a background investigation. The vendor/contractor will be required to sign the Vendor Acknowledgement Statement. (See DJJ 8.17, Vendor Access to Secure Facilities.)
- P. Reference checks will be conducted in accordance with DJJ 3.51, Recruitment and Selection, and DJJ 5.9, Personnel Records, if applicable. Consistent with Federal and State law, the Department will make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

**V. CRIMINAL CHARGES, CONVICTIONS AND BACKGROUND INVESTIGATION RESULTS:**

- A. An applicant is automatically disqualified from employment if he/she:
  - 1. Has a pending criminal charge or is on probation under the First Offender Act. If so, the CHU will notify the Director of Human Resources or designee and the hiring manager, in writing, regarding pending charges or FOA status. No hiring recommendation will be made until the applicant has successfully cleared the charge or obtained a FOA discharge and provided a copy of the relevant disposition records. Similar documentation must also be provided for an individual charged with or on probation for Driving under the Influence (DUI);
  - 2. Does not have a valid driver's license, professional credential, or certification when the position requires such; or
  - 3. Has tested positive on a government agency required drug screen in the past 2 years.
- B. An applicant may be disqualified from employment if he/she has a conviction for any of the following crimes:
  - 1. Any felony, unless:

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- a. At least 10 years have elapsed since completion of the sentence and release from any supervision; or
- b. The applicant has been pardoned by the Georgia Board of Pardons and Paroles;
- 2. Any misdemeanor involving:
  - a. Physical or mental abuse of a minor;
  - b. Contributing to the delinquency of a minor;
  - c. Any misdemeanor involving a sexually-related offense, including keeping a place of prostitution, pimping, and pandering;
  - d. Any misdemeanor violation of the Georgia Controlled Substances Act (O.C.G.A. §16-20-30, et seq.), as follows:
    - i. For a 1st conviction, until at least 3 months after that conviction; or
    - ii. For a 2nd or subsequent conviction, until at least 5 years after the latest conviction;
  - e. Criminal attempt when the crime attempted is any of the crimes described in this paragraph;
  - f. Of a high and aggravated nature; or
  - g. Any offense committed in another jurisdiction which, if committed in this state, would be one of the crimes listed in this paragraph.
- C. In addition, an applicant for a position that requires POST certification must obtain and maintain their certification.
- D. As required by the Prison Rape Elimination Act (PREA), an applicant for a position that involves contact with youth confined in a secure facility is automatically disqualified from employment if he/she has any of the following:
  - 1. Any conviction for sexual abuse in a prison, jail, secure community placement, or juvenile facility;
  - 2. Any conviction for engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - 3. In the absence of a conviction, any civil or administrative finding that the applicant engaged in any activity described in sub-paragraphs (1) and (2) above.

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E. Convictions that do not automatically disqualify an applicant:

1. An applicant with a criminal conviction that does not automatically disqualify him/her from employment may be hired only upon the recommendation of the hiring authority and with the approval of both the Director of Human Resources and of the relevant Deputy Commissioner or Central Office Director/Division Head.
2. The recommendation and approval will be made on a case-by-case basis after examining:
  - a. The nature and gravity of the offense or conduct;
  - b. The time that has passed since the offense or conduct and/or completion of the sentence; and
  - c. The nature of the job held or sought.
3. The application by a person with a First Offender discharge will be handled in the same manner as for a person with a conviction that is not an automatic disqualification.

F. Criminal Record Investigation Results:

1. If information on matters with potential terrorism connections is returned on an applicant, the information will be forwarded to the local Joint Terrorism Task Force (JTTF) or another similar agency.
2. If an applicant or employee has a criminal record, the hiring authority will consult with the Deputy Commissioner or Central Office Director and the Director of Human Resources to determine if the applicant or employee will be employed or retained.
3. The Deputy Commissioner and/or Central Office Director will communicate to the Director of Human Resources and the Office of Legal Services any decision to deny employment to an applicant or dismiss an employee based upon the results of a background investigation.
4. If the results of a Criminal Record Investigation warrant the dismissal of an employee, the employee will be dismissed in accordance with applicable Department policy. A classified employee will be dismissed in accordance with applicable Department policy and State Personnel Board Rules.

**VI. PERIODIC BACKGROUND INVESTIGATIONS:**

- A. All employees and contractors will have a criminal record check completed every 5 years.

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1. The CHU will establish and maintain a schedule, by organizational unit, that will ensure that the criminal record check of every employee and contractor is checked every 5 years.
  2. All current employees selected to fill a position (e.g., promotion, demotion, transfer) shall have a criminal record check prior to being placed into the position.
  3. A criminal record check, as specified in paragraphs 1 or 2 above, will not be required if a criminal record check has been completed in the last 90 days.
  4. A check of the child abuse registry every year.
- B. All employees who became POST certified on or after January 1, 2012 must complete a POST application in the POST Gateway database every 4 years. The employee must pay for the cost of the re-certification.
- C. Driver's History.
1. Employees required to have a driver's license (e.g., Juvenile Correctional Officers, Transportation Officers, Juvenile Probation and Parole Specialists) must maintain a valid driver's license in good standing.
  2. The CHU will establish and maintain a schedule, by organizational unit, that will ensure that the driver's history of those employees required to have a driver's license is checked every 12 months.
  3. If an employee's driver's history check indicates a charge(s) or citation(s) that has occurred since the previous check, the CHU will notify the appropriate Office/Facility/Unit Director.
  4. The Office/Facility/Unit Director will:
    - a. Determine if the employee reported the charge(s) or citation(s) as specified in DJJ 3.18, Fitness for Duty, and take appropriate disciplinary action if no report was filed; and
    - b. Review the charge(s) or citation(s) and the employee's assigned duties and responsibilities to determine if any employment action is appropriate.

**VII. NOTIFICATION AND AUTHORIZATION:**

- A. All vacancy announcements/notices will include a statement advising potential applicants of the applicable background investigation requirements.

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- B. All applicants for DJJ employment, including employees from other state agencies and individuals who were previously employed by the Department, and applicants for employment with a RYDC or YDC, volunteers, interns, and contractors providing services to youth will be notified in writing with the Background Investigation Notice and Authorization to Release Information (see CHU Manual) at the time of application that a background investigation will be conducted should they be selected for the position/function. This form will also serve as the applicant's authorization to conduct the background investigation and release of applicable information.
- C. Hiring managers will:
  - a. Review the Notice to Applicants Form with the applicant;
  - b. Advise the applicant that he/she may be denied employment or dismissed based on the information obtained during the investigation(s) process;
  - c. Explain to the applicant that having been convicted of a misdemeanor does not necessarily disqualify the applicant from employment;
  - d. Stress the importance of answering all questions on the Application for Employment and the State Security Questionnaire Loyalty Oath truthfully; and
  - e. Advise the applicant that refusal to sign the Notice to Applicants Form will result in termination of the employment process.
- D. All external communications regarding the background investigation, excluding communications with POST and other law enforcement agencies, will only be between the applicant and the hiring authority. All internal communications regarding background investigations will be based on legitimate business needs.

**VIII. ACCESS TO CRIMINAL RECORD INFORMATION:**

- A. Department employees with responsibilities for the use of the GCIC and/or NCIC systems will be certified by the Georgia Bureau of Investigation prior to the use of any part of the systems. Non-employees will not be granted access to the systems.
- B. Anyone who processes or handles background investigations must complete the Security Awareness training through the Georgia Bureau of Investigation at:  
<http://firstnetcampus.com/gbi/entities/gbi/logon.htm>.
  - 1. Staff who have not completed the Security Awareness training will not process or handle background investigations.

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2. All newly hired staff must complete the Security Awareness training and sign the GCIC Awareness Statement (see CHU Manual) prior to processing any background investigation.
  3. The Security Awareness Certificate of Completion will be kept in the employee's training record.
  4. The CHU will maintain a copy of the Security Awareness Certificate of Completion.
- C. Background investigation information will be accessible only to authorized Department employees and agents who have a need to know.
  - D. Background investigation information will not be released or otherwise disclosed except to a person or agency with a legal right to inspect such information.
  - E. Unless prohibited by law, the Department's Office of Human Resources will provide information on substantiated allegations of sexual abuse or sexual harassment involving a current or former employee upon receiving a request from an institutional employer for whom such employee has applied to work.
  - F. The information contained in the Interstate Identification Index (III) will not be released to anyone or any agency outside of the Department of Juvenile Justice.
  - G. The release or unauthorized use/access of any background investigation information to unauthorized persons will be subject to disciplinary action, up to and including dismissal, and, in some cases, criminal penalties.
  - H. The Georgia Crime Information Act (O.C.G.A. §35-3-38) establishes specific criminal penalties for the unlawful access of the criminal justice system or dissemination of criminal history information.

**IX. LOCAL OPERATING PROCEDURES REQUIRED: NO**