

	<b>JUSTICE CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES</b>	<b>REFERENCES: KAR 505 1:170</b>
<b>CHAPTER: Prison Rape Elimination Act of 2003 (PREA)</b>	<b>AUTHORITY: KRS 15A.065; 28 C.F.R 115; 28 C.F.R. 115.317; 28 C.F.R 115.376</b>	
<b>SUBJECT: Personnel Procedures</b>		
<b>POLICY NUMBER: 902</b>		
<b>TOTAL PAGES: 4</b>		
<b>EFFECTIVE DATE: 03/09/18</b>		
<b>APPROVAL: Carey D. Cockerell, COMMISSIONER</b>		

**I. POLICY**

The Department of Juvenile Justice (DJJ) shall conduct background checks for DJJ staff, applicants, volunteers, interns, and contractors and explicitly indicate the prohibitions for employment or service with DJJ in accordance with the Prison Rape Elimination Act of 2003 (PREA).

**II. APPLICABILITY**

This policy shall apply to all DJJ staff, applicants, volunteers, interns, and contractors.

**III. DEFINITIONS**

Refer to Chapter 900.

**IV. PROCEDURES**

- A. DJJ shall maintain and facilitate personnel procedures to ensure that current staff, newly hired staff, volunteers, interns, and contractors have cleared all background checks required by this policy before having contact with juveniles under the custody, care, or supervision of DJJ.
- B. DJJ shall conduct background checks on all DJJ staff, volunteers, interns, and contractors and any applicant that is being considered for employment with DJJ, including the following:
  - 1. Criminal background or National Crime Information Center (NCIC) check;
  - 2. Sexual offender registry check; and

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3. Child abuse and neglect registry check.

- C. DJJ shall conduct background checks on all DJJ staff every five (5) years. If DJJ is made aware of a criminal offense that may have been committed by a staff or any pending charges brought against a staff, a background check shall be conducted immediately. Any DJJ staff that refuses to cooperate and does not sign a release for the completion of a background check upon request, shall be subject to disciplinary sanctions up to and including termination or dismissal.
- D. DJJ staff volunteers, interns, and contractors shall be subject to random background checks during the tenure of their service. If DJJ is made aware of a criminal offense, pending charges, or child abuse or neglect investigation involving a staff member, volunteer, intern, or contractor, a background check shall be conducted immediately. Any staff, volunteer, intern, or contractor that refuses to cooperate and does not sign a release for the completion of a background check upon request, shall be suspended or subject to termination
- E. A newly hired staff, volunteer, intern, or contractor shall not interact with or have access to juveniles in the custody, care, or supervision of DJJ without the supervision of a qualified DJJ staff, until the Personnel Branch has cleared the individual to work with juveniles.
- F. DJJ shall not permit an employee, volunteer, intern, or contractor to work in a DJJ facility or office if the background check protocol yields ineligibility for employment or service with DJJ, pursuant to this section or Section H of this policy.
- G. DJJ shall not hire, promote, or transfer a person into DJJ as a staff or use a person as a volunteer, intern, or contractor who has:
  - 1. Engaged in sexual abuse or sexual harassment in a prison, jail, community confinement facility, juvenile facility, or other institution;
  - 2. Been convicted of engaging in or attempting to engage in sexual activity by force, implied threats of force, coercion, or if the victim did not consent to or was unable to consent or refuse;
  - 3. Been civilly or administratively adjudicated to have engaged in sexual activity by force, overt or implied threats of force, coercion, or if a victim did not consent or was unable to consent or refuse; or
  - 4. Been identified as the perpetrator in a sexual harassment matter and was found to have committed sexual harassment in their employment history.
- H. An applicant, volunteer, intern, or contractor considered for employment or services, after October 1, 2013 shall be automatically disqualified as an applicant for hire or service if DJJ receives a background check for that respective individual that indicates a conviction for any of the following:

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1. Any sex related offense under KRS Chapter 510;
  2. Any violent offense referenced in KRS 439.3401;
  3. Sexual exploitation of minors under KRS Chapter 531;
  4. Any crime involving the same conduct as the criminal conduct in one (1) through three (3), but for which the conviction occurred in another jurisdiction;
  5. Domestic violence;
  6. Human trafficking;
  7. Drug trafficking within the past eight (8) years;
  8. Conspiring to traffick drugs within the last eight (8) years;
  9. Drug possession within the last eight (8) years;
  10. Drug cultivation within the last eight (8) years;
  11. Drug manufacturing within the last eight (8) years;
  12. Any embezzlement related offense with in the last eight (8) years;
  13. Any offense under KRS 509;
  14. Any offense under KRS 529;
  15. Any offense under KRS 530; and
  16. Any sex crime as defined in KRS 17.500.
- I. All new hires and transfers into DJJ and all promotions within DJJ shall be subject to the background and reference check outlined within this policy. Any person with a confirmed sexual harassment finding shall submit documentation and additional information regarding the sexual harassment matter and the file shall be reviewed by the Commissioner or designee of the Commissioner, the Director of Administrative Services, an attorney from the Office of Legal Services, the Personnel Branch Manager, and the Agency PREA Compliance Officer to determine the best interest of the agency regarding the hiring or transfer of this person within DJJ.
  - J. Employment reference checks shall be conducted for individuals that are considered new hires or individuals being transferred into DJJ.
  - K. DJJ shall make a good faith effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or resignation during a pending investigation of an allegation of sexual abuse.
  - L. If a background check indicates that a current DJJ staff has committed a PREA offense that prohibits employment pursuant to this policy, the Personnel Branch Manager, the Agency PREA Compliance Officer, and the

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- Commissioner or designee shall convene a case conference to determine the appropriate disposition for that staff.
- M. Material omissions or falsifying documentation regarding any type of sexual misconduct shall be grounds for dismissal.
  - N. Staff shall be subject to disciplinary sanctions up to and including termination or dismissal for any violation of the PREA policies.

**V. STAFF TRAINING**

- A. The Agency PREA Compliance Officer or the Personnel Branch Manager shall train personnel staff to conduct background checks.
- B. The Personnel Branch Manager or designee shall train personnel branch staff on the procedures for facilitating the reference check process.

**VI. MONITORING MECHANISM**

- A. The Personnel Branch and Agency PREA Compliance Officer or designee shall verify that background checks are completed in accordance with this policy.
- B. The Agency PREA Compliance Officer or designee will conduct an annual audit to monitor compliance regarding this policy.