I. POLICY:

The Department of Juvenile Justice shall conduct background investigations on applicants, volunteers, interns, contractors, 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 as outlined in DJJ 1.7, Citizen and Volunteer Involvement; interns; contractors who provide a service to a 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), and military service record review.

**Contractor:** For the purposes of this policy, a person not regularly employed by the Department of Juvenile Justice, who is paid as a contractor or consultant. (For the purposes of this policy, vendors who provide a service to the physical plant will not be considered contractors.)

**Criminal History Unit (CHU):** The Department of Juvenile Justice 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; or
  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 OCGA.
  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;
    - 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.

Terminal Agency Coordinator (TAC): A Department of Juvenile Justice 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 (as outlined in DJJ 1.7, Citizen and Volunteer Involvement);
   - Interns;
   - Contractors, unless specifically excluded in writing by the Director of Human Resources; 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.

B. Background investigations may include the investigation and/or verification of the following information:
• Criminal record check;
• Sex offender registry check;
• Employment history;
• Education history;
• Professional credential (in accordance with DJJ 3.55, Professional Credentials);
• Credit history (in accordance with DJJ 2.15, State Credit Card Program);
• 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 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 persons 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 (CHU) Manual. The appropriate Deputy Commissioner and/or Central Office Director will make a final determination of suitability for employment.

H. Written statements made by an applicant 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 history, may result in the withdrawal of an employment offer or the separation of an employee.
I. A criminal record check is a preliminary clearance. No applicant will be offered employment until a criminal record check has 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, 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. Other information may be reviewed to make a hiring determination.

L. Previous DJJ employees will be subject to a background investigation if separated from employment for more than 1 day.

M. An applicant’s background investigation will be considered valid for 60 days. The background investigation results may be used for multiple positions or functions in the Department which require the same type of clearance. If the applicant is not hired within 60 days, the background investigation must be repeated.

N. If a background investigation packet is delivered incomplete, the packet will not be processed until complete.

1. The Criminal History Unit will notify the hiring authority by email pursuant to Section IV.I and Section IV.J by the next business day after receiving the incomplete packet.

2. The hiring authority’s supervisor will be copied on all emails regarding incomplete packets.
O. To have an application considered priority, the hiring authority will make the request via email through his/her chain of command to the respective Deputy Commissioner or designee. The Deputy Commissioner or designee will make the request to the Director of Human Resources.

P. 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 Committed 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.

Q. Any individual contracted to provide a service to the physical plant will not 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).

R. Reference checks will be conducted in accordance with DJJ Policy 3.51, Recruitment and Selection. 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 (FOA);

2. If an applicant has a pending criminal charge or is on probation under the First Offender Act, 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).

B. An applicant is automatically disqualified from employment if he/she:

1. Does not have a valid driver’s license, professional credential, or certification when the position requires such; or

2. Has tested positive on a government agency required drug screen in the past 2 years.
C. An applicant is automatically disqualified from employment if he/she has a conviction for any of the following crimes:

1. Any felony, unless:
   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 until completion of the sentence and release from any supervision;

3. Any misdemeanor involving:
   a. Physical or mental abuse of a minor; or
   b. Contributing to the delinquency of a minor;

4. Any misdemeanor involving a sexually-related offense, including keeping a place of prostitution, pimping, and pandering;

5. Any misdemeanor violation of the Georgia Controlled Substances Act (O.C.G.A. §16-20-30, et. seq.), as follows:
   a. For a 1\textsuperscript{st} conviction, until at least 3 months after that conviction; and
   b. For a 2\textsuperscript{nd} or subsequent conviction, until at least 5 years after the latest conviction.

6. Criminal attempt when the crime attempted is any of the crimes described in this paragraph; or

7. Any offense committed in another jurisdiction which, if committed in this state, would be one of the crimes listed in this paragraph.

D. In addition, an applicant for a position that requires P.O.S.T. certification is automatically disqualified from employment if he/she has a conviction for:

1. Any felony;

2. Three or more misdemeanors in the past 5 years. Traffic violations do not apply unless they are for Reckless Driving, DUI, or Serious Injury by Vehicle; or
3. Any misdemeanor in the past 5 years involving: assaultive behavior, obstruction of an officer, a sexual offense, theft, violation of the Georgia Controlled Substances Act, homicide by vehicle, fleeing or attempting to elude an officer, or impersonating a law enforcement officer.

E. As required by the Prison Rape Elimination Act, 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.

F. 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.

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.
G. Criminal Record Investigation Results:

1. 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.

2. The Deputy Commissioner and/or Central Office Director will communicate to the Director of Human Resources, any decision to deny employment to an applicant or dismiss an employee based upon the results of a background investigation.

3. 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.

1. The CHU will establish and maintain a schedule, by organizational unit, that will insure 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 60 days.

B. All employees who become P.O.S.T. certified on or after January 1, 2012 must complete a P.O.S.T. application in the P.O.S.T. 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 insure that the driver’s history of those employee’s 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:
   - 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
   - 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.

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 privatized 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:
   - Review the Notice to Applicants Form with the applicant;
   - Advise the applicant that he/she may be denied employment or dismissed based on the information obtained during the investigation(s) process;
   - Explain to the applicant that having been convicted of a misdemeanor does not necessarily disqualify the applicant from employment;
   - Stress the importance of answering all questions on the Application for Employment and the State Security Questionnaire Loyalty Oath truthfully; and
   - Advise the applicant that refusal to sign the Notice to Applicants Form will result in termination of the employment process.

D. All external communications, excluding communications with POST and other law enforcement agencies, regarding the background investigation 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 and Integrity training through the Georgia Bureau of Investigation at: http://firstnetcampus.com/gbi/entities/gbi/logon.htm.

1. Staff who have not completed the Security and Integrity training will not process or handle background investigations.

2. All newly hired staff must complete the Security and Integrity training and sign the GCIC Awareness Statement (see CHU Manual) prior to processing any background investigation.

3. The Security and Integrity Certificate of Completion will be kept in the employee’s training record.

4. The CHU will maintain a copy of the Security and Integrity 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. The Georgia Computer Systems Protection Act (O.C.G.A. §16-9-90 et. seq.) provides statutory protection for public and private sector computer systems, including communications links to such computer systems. Penalties for violation of the Computer Systems Protection Act include up to $50,000 in fines and/or 15 years imprisonment.

IX. LOCAL OPERATING PROCEDURES REQUIRED: NO