

Topic: Justice Center Background Check Policy	Department: HR
Original effective date: 3/12/07	Last revision date: 5/17/24
Owner: VP for Quality and Compliance	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply): 14 NYCRR 633.22; NYS Social Services Law section 495; NYS Executive Law section 845-b	
Related documents/Links: NA	

Policy: It is the policy of The Arc of Monroe to keep people free from abuse, neglect, mistreatment and exploitation.

Additional Information: In order to best ensure the safety of people we support and our workforce, and to assess appropriateness for their jobs, staff or volunteers, students or interns (“staff”) who are likely to have regular and unsupervised or unrestricted access to people we support will be screened by the Justice Center as described below. People who only volunteer one time or parents of people we support who volunteer will not need to be checked. Lastly, Board members in regards to their role on the Board are also not subject to this policy.

We are required by regulation to conduct these checks and are permitted to receive related findings, which are used to make employment decisions (consistent with the requirements of the law).

Procedure	
Task:	Responsible party:
General Guidelines:	
1. Prospective staff are screened against the NYS Justice Center staff exclusion list. This is a list of people who cannot work for us or any agency like ours because they seriously abused someone. Applicants found to be on this list will not be hired.	HR Business Partners
2. If staff are not on the staff exclusion list, they will be subject to the Justice Center Criminal History Record Check. This is done through fingerprinting.	HR
3. Staff will be informed ahead of time that a criminal history record check will be completed and that they can get a copy of their criminal history information. They have the right to refuse the check; however if they do so, they will not be considered for employment.	HR Business Partners; Staff
4. Staff need to sign a consent before we can proceed with the check. The consent will include: *How they can get a copy of their criminal history *Why we are doing the criminal history check *That the check will be nationwide *That they agree to the check *That they provide a current address *Whether or not they have been convicted of a crime *Whether or not they have a pending charge	Staff
5. The Justice Center will inform us of any criminal history that is not sealed.	Justice Center
6. While we are waiting for their response, the person cannot work alone with people we support (they are considered “provisional”). They have to have other staff around while they work.	HR Business Partners; Management

7. They cannot work any overnight shift during this time (even if other staff are present). This is clearly stated in the regulations.	Management
8. They cannot provide personal care alone in a private location during this time. This means that they can't help someone use the bathroom, shower or bath, or get dressed or undressed alone. Another staff has to be with them.	Management
9. In some cases, the justice center will prohibit us from hiring the person. If that happens, the person will not be hired.	Justice Center; HR
10. If someone has a criminal history but the justice center has not prohibited us from hiring them, then HR will make a final decision on hiring. This is based on an internal process to ensure a consistent and fair approach. Please cross reference internal HR processes.	HR Business Partner/CHRO
11. HR business partners may share the criminal check information with others only so that they can make the right hiring decision.	HR Business Partner
12. If the person has a pending charge, they cannot be hired until the charge is resolved.	HR Business Partner
13. HR will follow its document retention schedule for criminal history information unless the Justice Center tells us to destroy certain information.	HR Business Partner and Support Staff
14. If there is something the staff person believes is incorrect or inaccurate in their criminal history, they can ask that it be fixed.	Staff
15. Per regulations, The Arc will keep the following information: *Rosters of staff and volunteers who had to have the criminal check done *Where they work *The date the person was hired *The date their status changed. For example, if someone was hired and didn't need the check but then got a job where they did *Dates people left the agency *The person's consent form *The person's results from the justice center *Whether the person was hired	HR Business Partner
16. The Arc will let the justice center know within 14 days that someone doesn't work for us anymore.	HR Business Partner
17. If someone who had a criminal check has a new arrest, The Arc will be notified. The new charge will be reviewed by HR using an internal process to ensure a consistent and fair approach. Please cross reference internal HR processes.	Justice Center
18. HR Business Partners will review the charge and decide what to do in conjunction with members of the program's management team (director and above). They will focus on making sure the people we support and other staff remain safe. They will document everything they do.	HR Business Partner
19. The person may be suspended or assigned a different job until the new charge is resolved.	HR Business Partner; Management
HR Responsibility:	
1. HR has primary responsibility for conducting, processing and responding to Justice Center background checks.	HR
2. They have a responsibility to ensure that the requirements are met and to support managers in understanding their roles during this process.	HR

Manager Responsibilities:		
1. Managers have a responsibility to act as role models and establish the tone and expectation within their programs and teams for compliance with laws, rules and regulations.		Managers
2. Managers are obligated to understand their roles and responsibilities related to compliance, and to have a solid understanding of the compliance requirements of their programs, and the procedures established to ensure such compliance and the effective operation of their programs.		Managers
3. Managers will support HR in ensuring that Justice Center background check requirements are consistently met, including effectively managing the scheduling and supervision needs of provisional staff we are waiting results for.		Managers
VP for Quality and Compliance:		
1. The VP for Quality and Compliance acts as the agency's Compliance Officer, as required in NYS law.		VP for Quality and Compliance
2. Has primary responsibility for administering the agency's compliance program, and related policies and procedures.		VP for Quality and Compliance
3. Acts as a resource for agency staff, management, leadership and the Board for issues related to corporate compliance.		VP for Quality and Compliance
4. Will provide necessary support to HR and management in regards to the requirements of this policy		VP for Quality and Compliance

Document revision record:

Revision Date	Release Date	Reason for change	Approver
4/9/07	4/9/07	Updated based on final regulations	P Dancer
6/22/11	6/22/11	Reason for changes not documented	P Dancer
5/22/12	5/22/12	Reason for changes not documented	P Dancer
6/27/13	7/1/13	Reason for changes not documented	P Dancer
7/24/13	7/24/13	Reason for changes not documented	P Dancer
8/6/13	8/6/13	Reason for changes not documented	P Dancer
7/28/15	7/28/15	Reason for changes not documented	P Dancer
4/27/17	4/27/17	Reason for changes not documented	P Dancer
9/9/19	9/9/19	Updated HR titles	P Dancer
10/21/19	10/21/19	Transitioned to new procedural format	P Dancer
5/28/21	6/8/21	Restructured content; added discrete sections for HR, managers and VPQC	ICC
5/9/22	5/9/22	Included HR discussion with program management to determination on new arrests	ICC
7/21/22	8/8/22	Added students and interns with volunteers	ICC
5/17/24	6/26/24	Qualified Justice Center with NYS; Added statement that provisional staff not able to work overnight shifts is clearly stated in regulations for emphasis	