


Category:	Human Resource Administration	INCA Community Services Personnel Policy 
Sub Category:	New Employees	
Effective Date:	10/24/1998	
Revised Date:	3/16, 7/17, 6/18, 3/19	
References: RSVP Regulations: <u>45 CFR § 2553.23(l)</u> and 45 CFR 2540.200 through 2540.207 Head Start Performance Standards: 1302.90(b)		
Forms: Consent for Criminal Records Check, Employee Payroll Information Form, Criminal Background Checklist, National Service History Check (NSCHSC) Documentation Checklist Self-Certification - CNCS, Community Services Worker Registry		
Responsible: Human Resource Director		

Criminal Records Check

Purpose/Introduction

INCA Community Services requires criminal record checks on all potential candidates for positions within the agency to protect the vulnerable population served. No candidate may begin work until all criminal records checks have been reviewed and cleared.

The extent and resources used to complete the potential candidate's criminal records check is pertinent to the position being sought. This determination will be made on the basis of the particular requirements of the job, the agency's business necessity, and applicable federal and state laws.

INCA is an equal opportunity employer and does not discriminate on the basis of race, sex, age, national origin, religion, disability, genetic information, or any other characteristic protected by federal, state, or local law.

Policy

When a criminal history record check is required, the human resource director or designated authority will request the internal or external applicant to provide written authorization for the background investigation using the agency-provided form and conduct the check. INCA will inquire only about convictions and probationary status, if any, and not about arrest, unless required by applicable law. Human Resource Director or designated authority will provide the results of the criminal history record check to the appropriate management personnel for a determination as to the candidate's qualification of the position.

No candidate may begin work until all criminal reference checks have been reviewed and cleared as required by the job being performed.

Identity Verification: All candidates must have proof of identity through a government issued identification card. A photocopy/scan is to be kept in the employee's file.

Consent: A completed consent form including a signed statement from the candidate agreeing to undergo check and the candidate understands that selection is contingent on results.

Documentation: Consent for Criminal Records Check.

Eligibility criteria: An individual shall be ineligible for employment if the individual:

Refuses to consent to a criminal history check;

Makes a false statement in connection with a criminal history check

Is registered, or is required to registered, on a state sex offender registry or the National Sex Offender Registry; or

Has been convicted of murder, as defined in 18 U.S.C. 1111

Determination of Episodic or Recurring Access to Vulnerable Populations: Job Description indicates whether position has a recurring access to a vulnerable position.

Documentation: Job Description.

Start Date: This is the date an individual begins accumulating hours to be charged to agency or grant funded program.

Documentation: Employee Payroll Information Form.

Initiation of Criminal Record Check: Date criminal checks are initiated is when the consent form is signed and dated and the check is ordered.

Criminal History Disqualifying Factors

The following factors will be considered for those applicants with a criminal history in determining whether to hire the external applicant, or to transfer or promote the internal applicant:

- The nature of the crime and its relationship to the position.
- The time since the conviction.
- The number (if more than one) of convictions.
- Whether hiring, transferring or promoting the applicant would pose an unreasonable risk to the agency, its customers, clients and vendors.

All Employees: (minimum)

- A nationwide name-based check of the **National Sex Offender Public Website (NSOPW)**, which consists of a web-based check of a centralized system which identifies individuals who are registered as sex offenders in States, territories, or with many federally recognized Tribes;
- Documentation:
 - Screenshots or print out of results which clear candidacy.
 - If the NSOPW returns any results, include documentation that shows the candidate is not one of those listed.
 - If any registries were not reporting at the time of search, documentation of searching the non-reporting registry directly or a second NSOPW search was conducted when the registry was present.
- Either a name – or fingerprint-based search of the statewide criminal history registry in the candidate's State of residence and in the State where the individual will serve or work; OR a fingerprint-based FBI check.

Documentation: Must retain results by taking a screenshot or printing the screen, including a “no hits found” result. Must save hits result on a name, along with documentation that each hit was resolved.

Head Start - Recurring access to vulnerable population - HSPS 1302.90(b)

- A nationwide name-based check of the National Sex Offender Public Website (NSOPW), which consists of a web-based check of a centralized system which identifies individuals who are registered as sex offenders in States, Territories, or with many federally recognized Tribes; and
- The Child Care Restricted Registry (Joshua's List) search. Individuals identified as registrants are prohibited from licensure, ownership, employment, and/or residence in a licensed child care facility.
- FBI Fingerprint-based criminal history check as required by the Oklahoma Department of Human Services.

JAMM Transit: Episodic access to vulnerable populations in town routes. Recurring access to vulnerable population for non-emergency medical.

- A nationwide name-based Sex Offender Records Search, which consists of a check of a centralized system which identifies individuals who are registered as sex offenders in States, territories, or with many federally recognized Tribes; and
- A nationwide name-based County Criminal Records Search;
- A nationwide name-based National Criminal Search;
- A nationwide name-based Sex Offender Records Search, which consists of a check of a centralized system which identifies individuals who are registered as sex offenders in States, territories, or with many federally recognized Tribes; and
- Oklahoma Motor Vehicle Record search.
- JAMM Transit conducts yearly renewal background checks on all transit employees who are directly responsible for the transportation of vulnerable persons.

RAVE: Recurring Access to Vulnerable Population

- A nationwide name-based Sex Offender Records Search, which consists of a check of a centralized system which identifies individuals who are registered as sex offenders in States, territories, or with many federally recognized Tribes; and
- The Child Care Restricted Registry (Joshua's List) search;
- A Community Services Work Registry (CSR) search. CSR is a registry of a final Department of Human Services investigative finding or a finding by an Administrative Law Judge of abuse, neglect, or exploitation of an individual by a community services worker;
- OSBI criminal history check as required by the Oklahoma Department of Human Services.
- Individuals working in a Child Placement Home must have FBI Fingerprint-based criminal history check as required by the Oklahoma Department of Human Services.

CNCS Program (RSVP): Episodic Access to Vulnerable Populations - All grant-funded staff (including match) must undergo an NSCHC as stipulated in RSVP Regulations: 45 CFR § 2553.23(l)

- A nationwide name-based check of the National Sex Offender Public Website (NSOPW), which consists of a web-based check of a centralized system which identifies individuals who are registered as sex offenders in States, territories, or with many federally recognized Tribes;
- Either a name - or fingerprint-based search of the statewide criminal history registry in the candidate's State of residence and in the State where the individual will serve or work. OSBI is a designated data source approved by CNCS.
- **Documentation:** National Service History Check (NSCHSC) Documentation Checklist Self-Certification that they have never been convicted of murder as defined in 18 USC 1111.
- **Documentation:** Self-Certification CNCS.
Appropriate staff will receive annual training on NSCHC compliance, as specified by CNCS.

Break in Employment - If an employee has a break in employment which does not exceed 120 days, then no additional Criminal History Check is required, as long as the original check is a compliant check for the covered position in which the employee will be working following the break in employment. If the employee has a break in employment which exceeds 120 days, but less than 180 days between employment, a new Criminal History Check is required.

Consideration of Results – Results should be completed and reviewed by the Human Resource Director and/or designated authority and used in the consideration of hiring candidates for positions and ensure candidates meet the standards of the agency and program requirements.

Documentation: Notations written on results and confirmation on Criminal Background Checklist.

Criminal Records Check Documentation

- Documentation of the sources of the checks. (see sources requirements above)
- The results of each criminal background check will be printed out and paper printout will be maintained in a lock cabinet in a Confidential Employee Folder, if not hired kept with application in a locked cabinet.

Applicants Right to Review

In accord with applicable laws, the applicant will be given an opportunity to review the criminal background check results and submit an explanation. If an applicant is found to have falsified any information regarding conviction history, the applicant will not be considered for employment. If an employee seeking a transfer or promotion to a position requiring a criminal history check is found to have falsified any information regarding conviction history, the employee may be immediately discharged.

Definitions

Episodic access: to vulnerable populations is not a regular, scheduled, and anticipated component of an individual's service activities. Episodic access is not determined by a specific number; it does not depend on the individual having less than a specific number of incidents of access. Instead it depends on whether the individual does not have regular, scheduled and anticipated access to vulnerable populations. If incidental access becomes unexpectedly regular or frequent, a grantee should re-evaluate its initial determination of episodic access and take appropriate action.

CNCS: Corporation for National and Community Services

FBI: Federal Bureau of Investigation

Government-issued photo identification cards: include, but are not limited to, state drivers' licenses, non-driver photo IDs issued by a State's Department of Motor Vehicles and federally-issued photo IDs, including official passports, and unexpired Native American Tribal ID from a federally recognized tribal government.

Initiation: The step after getting permission to conduct the checks. This could include fingerprinting, mailing requests to obtain checks to the State repository, having forms for checks filled out by candidates, etc. Documenting initiation step is required.

OSBI: Oklahoma State Bureau of Investigation

Recurring Access: is "the ability on more than one occasion to approach, observe, or communicate with a person, through physical proximity or other means, including but not limited to, electronic communication." (45 C.F.R. § 2510.20). *(When we speak of recurring access for CNCS, we specifically mean **access to beneficiaries, not volunteers or colleagues.** For example, an RSVP Program Director who works with many volunteers over the age of 60 but never works with program beneficiaries would **not** have recurring access)*

Vulnerable populations: include children age 17 or younger, persons age 60 and older, and/or individuals with disabilities. “Individuals with disabilities” has the same meaning given to the term in the Rehabilitation Act in 29 U.S.C. § 705(20)(B), and includes any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

Accompaniment: An individual whose state and FBI checks are pending cannot be in the presence of individuals in vulnerable populations without being in the physical presence of someone who has been cleared for such access.

Dissemination of Policy

The policy will be made available to all employees through the agency’s website. The agency will educate and train employees and supervisors regarding the policy and any conduct that could constitute a violation of the policy.