

Non-Fingerprint Background Checks – Volunteer Firefighters

Effective December 2, 2014, Executive Law §837-o requires prospective volunteer firefighters, and current volunteers seeking membership in another fire company, to undergo non-fingerprint criminal history background checks, **for arson convictions and convictions which require registration as a sex offender only**, against the State's criminal history files maintained by the Division of Criminal Justice Services (DCJS). The law prohibits a fee from being charged in connection with these background checks. The law also specifies that these checks will be conducted by sheriffs' offices unless a county legislature enacts a local law prohibiting its county sheriff from having such responsibility. In such a case, the NYS Division of Homeland Security and Emergency Services, Office of Fire Prevention and Control (OFPC) is authorized to perform the background checks for the affected volunteer fire companies.

DCJS supplies the *DCJS-VFF Volunteer Firefighter Inquiry Form* to each sheriff's office in the State and to OFPC. Sheriffs' offices and OFPC shall distribute the form to volunteer fire companies seeking to perform arson and registerable sex offense background checks on prospective volunteers and fire company transferees. Fire company officials should complete sections A and B and fields 1 through 10 of the *DCJS –VFF Volunteer Firefighter Inquiry Form*. Fire company officials should use the applicant/transferee driver's license, and another form of identification, such as a birth certificate, passport or social security card, when completing the forms. **Completed forms must be returned to the sheriff's office, or to OFPC where applicable, via U.S. mail, fax or hand delivery. E-mail transmission is not permissible.** It is not an option to perform the background checks through OFPC in counties where there is no local law prohibiting the sheriff's office from conducting the checks.

Upon receiving a completed *DCJS-VFF Volunteer Firefighter Inquiry Form*, the sheriff's office will perform a name search on each applicant/transferee using the Criminal Repository Search link located under the People tab in the eJusticeNY Integrated Justice Portal using the VFF Reason Code. If a name search candidate is returned as an exact match to the input data, the sheriff's office will use the Criminal Repository Inquiry link to obtain the candidate's rapsheet from DCJS. The sheriff's office should examine the rapsheet to determine the presence of an arson and/or registerable sex offense conviction. As you may know, not all sex offense convictions require registration as a sex offender. If the name search returns no candidate, the sheriff's office should perform a separate Sex Offender Registry search using the Full Registry Search link located under the People tab in the eJusticeNY Integrated Justice Portal. The appropriate box should be checked on the bottom portion of the *DCJS-VFF Volunteer Firefighter Inquiry Form* and the form returned to the submitting fire company via U.S. mail, fax or hand delivery. In cases where the rapsheet shows an arrest for arson and/or registerable sex offense, but does not reflect a final disposition for the arrest, the sheriff's office should contact the DCJS Office of Criminal Justice Operations at (518) 457-8547 for assistance in obtaining the final disposition. If an arson and/or registerable sex offense case is pending adjudication, the requesting fire company should be informed that a decision regarding the applicant/transferee must be delayed. **Criminal history records (i.e., rapsheets) are not to be provided to fire companies under any circumstance.**

In cases where a background check results in the return of an arson and/or registerable sex offense conviction against an applicant/transferee and the individual disputes the conviction, the fire company official should immediately refer the individual to DCJS for a personal record review. If the personal record review results in the determination that the individual's record does not contain an arson conviction and/or registerable sex offense conviction, a subsequent notification will be sent to the sheriff's office, which should forward the appropriate notification to the fire company. It should be noted that while an applicant/transferee who has been convicted of arson is not eligible to be elected or appointed as a volunteer member of a fire company, a registered sex offender is not automatically disqualified from membership. If the background check reveals that the applicant/transferee is a registered sex offender, the fire company must make a determination of eligibility in accordance with the criteria established in Correction Law §§752 and 753. The fire company should be directed to contact the Sex Offender Registry at 1-800-262-3257 (option 2) to obtain more information about the conviction.