

BY ORDER OF THE
COMMANDER

HEADQUARTERS, UNITED STATES FORCES, JAPAN
USFJ INSTRUCTION 36-1402



1 November 2013

Personnel

CRIMINAL HISTORY BACKGROUND CHECKS

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

OPR: USFJ/J14 (Mr. Randy Manese)

Certified by: USFJ/J1 (COL Christopher Crate)

Pages: 6

Distribution: All USFJ Staff & Components

PURPOSE: To establish policy, procedures, and responsibilities for obtaining criminal history background checks in compliance with Department of Defense Instruction 1402.5, Criminal History Background Checks on Individuals in Child Care Services.

SUMMARY OF CHANGES: This is a new USFJ Instruction.

1. References:

- 1.1. DoD Instruction 1402.5, January 19, 1993, Criminal History Background Checks on Individuals in Child Care Services
- 1.2. Master Labor Contract (MLC)
- 1.3. Indirect Hire Agreement (IHA)
- 1.4. Public Law 101-647, Section 231
- 1.5. Public Law 102-190, Section 1094

2. Scope. This instruction is applicable to all MLC and IHA employees at all service components of the United States Forces in Japan who provide or are involved in child care services and have regular contact with children under the age of 18.

3. General:

- 3.1. In accordance with reference 1.1, all employees working in child care service positions must undergo a criminal history background check at initial hire and every five years at a minimum.
- 3.2. Prospective new employees and/or current employees will not be eligible for employment in child care services if they do not consent to having the criminal history background checks done at initial hire and/or every five years after that.

4. Definitions:

- 4.1. Terms used in this instruction are defined in enclosure 2 of reference 1.1.
- 4.2. Disqualification. Determination made by the command adjudicating official that the employee is not qualified to be in a child care services position.

5. Responsibilities:

5.1. COMUSJAPAN will provide program oversight on compliance and coordinate with the Government of Japan to ensure the smooth processing of the criminal history background checks.

5.2. Service Commanders will:

5.2.1. Identify positions having "regular contact with children" in accordance with reference 1.4.

5.2.2. Ensure compliance with the procedures set forth in paragraph 6 below.

5.2.3. Adjudicate or designate a representative to adjudicate adverse information on criminal history background checks in accordance with enclosure 7 of reference 1.1.

5.3. Managers/Supervisors/Activity will:

5.3.1. Provide line of sight supervision in accordance with reference 1.5.

5.3.2. Track and monitor when record re-verifications are due for the employees.

5.3.3. Prepare a letter of employment requesting criminal history background checks from the Headquarters Prefectural/Metropolitan police agency for those employees needing record re-verification, at least 90 days prior to the end of the five year point (see attachment 1 for example letter).

5.3.4. Maintain a record of the criminal history background checks in a file.

5.4. Servicing Human Resource Office/Civilian Personnel Office (HRO/CPO) will:

5.4.1. Ensure the employee completes a Position of Trust Agreement prior to the appointment (see attachment 2).

5.4.2. Maintain the police certificates resulting from the criminal history background checks and the signed Position of Trust Agreement, ensuring the information is secure.

5.4.3. Maintain the background check records of all individuals employed in positions that involve child care services for two years following termination of their employment.

5.4.4. Provide cognizant child care service organizations with a report of the initiation and completion dates.

5.4.5. Advise the manager if the police certificate contains derogatory information and forward the derogatory information to the service commander or designee authorized to adjudicate the issue.

5.4.6. Annotate employee's task list with the statement, "This position is subject to a background check in accordance with DoD Instruction 1402.5, Criminal History Background Checks on Individuals in Child Care Services".

5.5. Employees will:

5.5.1. Sign the Position of Trust Agreement to indicate they understand and agree to the conditions of employment (see attachment 2).

5.5.2. Cooperate fully with the servicing HRO/CPO and other authorities in the accomplishment of the required criminal history background checks.

6. Policy:

6.1. Recruitment and Selection.

6.1.1. If announcements are used, include the following statement in the announcement: "As a condition of employment, a criminal history background check will be conducted initially for an individual selected for the position. A record re-verification will be conducted every five years after the initial investigation. Applicants are required to sign a Position of Trust Agreement and must maintain a favorable record to remain in the position."

6.1.2. Applicants will be advised of the condition of employment and will be required to sign a Position of Trust Agreement prior to the appointment.

6.1.3. All interviewees shall be asked the following questions:

6.1.3.1. Have you ever been convicted of a crime involving a child?

6.1.3.2. Have you ever been asked to resign because of or been decertified for a sexual offense?

6.1.3.3. If so, provide a description of the case disposition.

6.2. Newly Hired/Former USFJ Employees.

6.2.1. All newly hired/former USFJ employees who have not completed the background check will be placed under line of sight supervision pending receipt of results.

6.2.2. If there is a criminal history falling under mandatory disqualifying criteria in enclosure 7 of reference 1.1. or discretionary criteria deemed as disqualifying by the adjudicating official, a disqualification action will be initiated for failing to meet the requirements of the job.

6.3. Current Employees Transferring to a Child Care Services Position.

6.3.1. Current employees who are selected for a child care services position are subject to the DOD requirement for a criminal history background check.

6.3.2. Current employees who have worked less than five years before transferring to a child care services position shall sign a Position of Trust Agreement as specified in paragraph 5.5.1., and must have a favorable criminal history background check before transferring to a child care services position.

6.3.3. Current employees who have worked more than five years before transferring to a child care services position shall sign a Position of Trust Agreement as specified in paragraph 5.5.1., and must present a newly obtained favorable criminal history background check before transferring to a child care services position.

6.3.4. An initial criminal history background check, obtained at initial hire, is valid for five years from the completion of the investigation.

6.3.5. A record re-verification must be completed prior to the end of the five year point from the date of initial background check, even though the employee may not have worked under a child care services position for five years.

6.3.6. Current employees, regardless of the type of appointment held just prior to the transfer, who did not have a criminal history background check at initial hire (for example, certain limited term employees) shall be treated as newly hired employees for the purpose of obtaining criminal history

background checks as specified in paragraph 6.2.

6.3.7. When transferring between Service Components, upon receipt of a written request, the record of the background check will be provided to the gaining component's HRO/CPO.

6.4. Current Employees in Child Care Service Positions.

6.4.1. Current employees in child care service positions shall sign a Position of Trust Agreement as specified in paragraph 5.5.1., and are subject to a record re-verification every five years. The record re-verification must be successfully completed prior to the five year point.

6.4.2. Current employees who refuse to sign a Position of Trust Agreement shall be immediately removed from the child care service position and may be subject to personnel action up to and including termination in accordance with paragraph 6.5.

6.4.3. Current employees who are found to be disqualified by the adjudicating official shall be immediately removed from the child care service position, and may be subject to personnel action up to and including termination in accordance with paragraph 6.5.

6.4.4. Current employees who were placed into child care service positions as a result of an administrative error or oversight due to derogatory or adverse information and were later discovered shall be immediately removed from the child care service position and may be placed in another qualifying position.

6.5. Removal.

6.5.1. When derogatory or adverse information is found during the police agency check, the information must be evaluated by the Service Commander or authorized adjudicating official who will then make the final suitability decision in accordance with enclosure 7 of reference 1.1.

6.5.2. When an employee is determined disqualified, the authorized adjudicating official will advise the manager and HRO/CPO of the decision.

6.5.3. HRO/CPO will process the disqualifying termination/separation personnel action in accordance with paragraph 4a, Chapter 10, MLC or paragraph 1, Section D, Supplement #18, IHA.

7. Records Maintenance: HRO/CPO shall maintain the initial and subsequent police certificates and the signed Position of Trust Agreement, ensuring the information is secure. Police certificates and Position of Trust Agreement for individuals shall be retained no less than two years after the employee's separation from employment, see paragraph 5.4.3.



ANDREW W. O'DONNELL, JR.
Major General, U.S. Marine Corps
Deputy Commander

Attachments:

1. Sample Letter of Employment
2. Position of Trust Agreement

ATTACHMENT 1



(Letterhead)

(Date)

XXXX 年 XX 月 XX 日

Memorandum for Chief of Headquarters, XXXXX Police Department

To ensure compliance with the laws and regulations of the United States, including Department of Defense Instruction 1402.5 (Subj: Criminal History Background Checks on Individuals In Child Care Services), which are enacted to protect minor children, each employee is required to have background checks completed in order to work independently with children under age 18. We request that you provide us with a police certificate of criminal record for Mr./Ms. (name of employee) as he/she is currently employed by (name of organization) at (name of USFJ installation). Mr./Ms. (name of employee) has consented to this request.

If you have any questions, please contact me at XXXX-XX-XXXX ext. XXX-XXXX.

XXXX 県警察本部長殿

国防総省指令1402.5（件名：チャイルド・ケア・サービスに携わる者の犯罪歴調査について）を含む未成年者の保護を目的に制定された米国の法律及び規則を遵守するため、18歳未満の子供たちと単独で接する各従業員は、バックグラウンド・チェックを完了することが必要です。現在 (施設名) の (部隊名) で雇用されている (従業員名) の、警察による犯罪経歴証明書を提供していただけますようお願い申し上げます。

なお、(従業員名) は本件請求について承諾しております。

ご不明な点がございましたら、下記まで (電話番号) お問い合わせください。

(署 名) // Signature //

氏 名 Name _____
 役職名 Title (契約担当官代理者又は部隊長)

ATTACHMENT 2

ATTACHMENT 2 POSITION OF TRUST AGREEMENT FOR CHILD CARE SERVICES POSITION (PA)
(THIS FORM IS SUBJECT TO THE PRIVACY ACT OF 1974)

職位 信任 義務 同意 書

PRIVACY ACT STATEMENT

AUTHORITY: 5 U.S.C. 552a, 42 U.S.C. 13041, E.O. 9397, DoDI 1402.5, DoD 5400.11-R, and Japanese Act No. 57

PRINCIPAL PURPOSE: To identify anyone working in child care positions who may have instances of reported misconduct involving children, assaultive behavior, substance abuse, larceny, or other misconduct which would be inconsistent with such employment.

ROUTINE USES: Used to complete the initial and periodic background checks (every 5 years).

DISCLOSURE: Voluntary; failure to give consent would not allow an employee to be employed or continue employment in a child care position.

この情報は、1974年制定の米国連邦プライバシー法と日本国個人情報保護に関する法律(平成15年5月30日法律第57号)の対象となります。

この様式の情報は、国防総省規定と日本国個人情報保護に関する法律第57号に準拠して保護され、利用は公用に限ります。

(1) I understand that DODI 1402.5, Criminal History Background Checks on Individuals in Child Care Services, requires completion of the initial (pre-employment) and periodic background checks (every 5 years) and that without favorable completion of these checks, I may NOT be employed in any position involving the care of children.

国防総省指令 1402.5 に従い、児童育成に携わる個人の犯罪歴調査が必須であり、初回(雇用前)及び定期的な再調査(5年毎)を受けなければならないこと、並びに好ましい結果でない場合は、児童育成に携わる職位に雇用されない可能性があることを理解します。

(2) The following background checks are required: 以下の犯罪歴調査が必須である

a. Criminal History Checks (Certificate of Criminal Record issued by Japanese Police)

犯罪歴調査(警察によって発行された犯罪経歴証明書)

Sponsor's Name SOFA スポンサー氏名:

b. Installation Record Checks (ONLY for applicants with Status of Forces Agreement (SOFA) dependent status)

Sponsor's SSN SOFA スポンサーの社会保障番号:

軍事施設記録調査(軍人、軍属の扶養家族のみ)

- 1. Criminal Records 犯罪記録
- 2. Military Police Records 軍警察記録
- 3. Family Advocacy Central Registry 家族擁護中央登録簿
- 4. Drug and Alcohol Abuse Records 薬物・アルコール中毒(乱用)記録

Sponsor's Signature and Date SOFA スポンサーの署名及び日付
I consent to have my SSN used for this form's purpose.

(3) I further understand that the purpose of these checks is to identify anyone to be working in child care positions who may have had instances of reported misconduct involving children, assaultive behavior, substance abuse, larceny, or other misconduct which would be unsuitable for such employment. 犯罪歴調査の目的は、児童育成に携わる職位に応募する者のなかで、児童に関わる違法行為が報告されている者、攻撃的行為、薬物乱用、窃盗、並びにその他の違法行為があり、その職に適していないとみなされる応募者を特定することであることを理解します。

(4) I agree that the Human Resources Office or the local servicing office may receive and maintain the results of the checks as required by the above directives so that I may be employed in a child care position. 児童育成に携わる職位に雇用されるため、上記の指令に基づき、犯罪歴調査の結果が人事課もしくは担当部署へ通知され同課に保管されることに同意します。

EMPLOYEE/APPLICANT INFORMATION 従業員/応募者情報

1. LAST NAME 姓	2. FIRST NAME 名	3. MIDDLE NAME ミドルネーム
4. MAIDEN NAME 旧姓	5. OTHER NAMES USED 使用したことのある別名	
6. COUNTRY OF CITIZENSHIP 国籍	7. DATE OF BIRTH 生年月日	8. PLACE OF BIRTH 出生地
9. POSITION TITLE AND GRADE 職種名及び等級	10. ORGANIZATION 所属部署	

ACCEPTANCE 同意

11. I have read the employment conditions and requirements above, and I hereby give my consent to have the initial and every 5-year record re-verifications conducted. 上記雇用及び必要条件を理解し、雇用前調査及び5年毎の再調査に同意します。

Signature and Date 署名及び日付

DECLINATION 同意しない

12. I have read the employment conditions and requirements above, and I hereby decline to participate in the required background process. I fully understand that declination to give this consent will not allow me to be employed or continue employment in a child care position. 上記雇用及び必要条件を理解し、雇用前調査及び5年毎の再調査に同意しません。それにより児童育成施設に携わる職に採用又は継続的に雇用されない事を理解します。

Signature and Date 署名及び日付