



MEMO

Office of the Sheriff of Erie County

TO: All Fire Chiefs
FROM: Sheriff Timothy B. Howard
SUBJECT: Arson Background Checks for Volunteer Fire Company Applicants
DATE: August 1, 2012

New York State Executive Law §837 (effective April 1, 2000) requires applicants for membership to volunteer fire departments to undergo a criminal history check through the Division of Criminal Justice Services (DCJS) to determine if they stand convicted of the crime of arson in New York State.

The law also requires that this background check be completed by the Erie County Office of the Sheriff, which provides this service at no charge to local fire departments.

This law applies to new applicants, transfers from other fire companies and reinstatements to membership. A follow-up arson background check must be completed for minors (under the age of 18) once they reach the age of 18. Fire chiefs are encouraged to get parental permission before conducting any background investigations on minors.

Enclosed is a copy of Executive Law §837 and DCJS Form 9 along with a completed sample, and general and specific directions for completing the form. It's imperative that the forms be typed or completed legibly by hand or they will be rejected, further delaying the processing.

These forms can be downloaded from the "forms and resources" page of the Erie County Fire Safety web site at: www.erie.gov/fire. It is available as a "fillable" form in Adobe Acrobat format which allows you to type the information from your PC keyboard directly on to the form and then print it out.

The fire chief can then sign the form and fax, mail, or email it to the Erie County Sheriffs Office – Attention: Fire Investigation Unit.

The normal turn-around for completed arson background checks is five (5) business days or less. The results will be mailed to the fire chief. Please allow for this lead time.

Please do not hesitate to contact Sheriffs Captain Ron Kenyon at 667-5231 or Deputy Fire Coordinator Tiger Schmittendorf in the Fire Safety Office at 681-7111 should you have any questions or require further information.

Fax, mail or email signed and completed DCJS-9 Forms to:

Erie County Sheriffs Office
ATTN: Fire Investigation Unit
One Sheriffs Drive
Orchard Park NY 14127

Phone: 667-5200
Fax: 662-8477
E-Mail: fireinvestigation@erie.gov

Article 35 Division of Criminal Justice Services

§ 837-o. Search for arson conviction records of volunteer firefighter applicants

[History] [References] [Eff April 1, 2000]

1. Any person who applies for membership in a fire company, as such term is defined in section three of the volunteer firefighters' benefit law, or who seeks to transfer as a member to another fire company, shall be required to authorize the submission of his or her name and other authorized identifying information to the division which shall search its files for records indicating whether the person stands convicted of the crime of arson. The chief of the fire company to which application is made shall provide written notice to the applicant that a search will be conducted, and if the applicant desires to proceed, he or she shall complete a search request on the form provided for this purpose by the division of criminal justice services.

2. The chief of the fire company shall send the completed search request form to either (i) the sheriff's department of the county in which the fire company is located, or (ii) the department of state, office of fire prevention and control, as follows:

(a) the sheriff's department of the county in which the fire company is located shall be responsible for receiving the search requests and processing the search requests with the division, unless the county legislative body adopts and files with the secretary of state pursuant to the municipal home rule law a local law providing that the sheriff's department shall not have such responsibility;

(b) in all other instances where a county legislative body has adopted a local law pursuant to paragraph (a) of this subdivision, the department of state, office of fire prevention and control shall be responsible for receiving search requests and forwarding the search requests to the division.

The department of state, office of fire prevention and control is hereby authorized to establish a communication network with the division for the purpose of forwarding search requests and receiving search results pursuant to paragraph (b) of this subdivision.

3. (a) All searches concerning the application for membership in a fire company shall be conducted under the provisions of subdivision six of section eight hundred thirty-seven of this article without the assessment of any fee to the applicant or fire company and shall pertain solely to ascertaining whether the applicant stands convicted of arson.

(b) The results of the search shall be communicated in writing to the chief of the fire company from which the search request originated by either the sheriff's department or the department of state, office of fire prevention and control, and shall be kept confidential by the chief, except as provided in paragraph (c) of this subdivision. The results of the search shall only state either that: (i) the applicant stands convicted of arson, or (ii) the applicant has no record of conviction for arson. The results of the search shall not divulge any other information relating to the criminal history of the applicant.

(c) At the time an applicant is advised that he or she is ineligible for membership due to a

record of conviction for arson, he or she shall also be advised of the rights to challenge and appeal the information contained in the record of conviction as provided in the rules and regulations of the division. The applicant shall continue to be barred from membership until all administrative and judicial challenges to the accuracy of such information or appeals therefrom, are ultimately resolved in his or her favor, or if such a determination is unchallenged.

HISTORY:

[Text of § 837-o] [References]

Add, L 1999, ch 423, § 2, eff April 1, 2000 (see 1999 note below)

References

[Text of § 837-o] [History]

NOTES:

Editor's Notes:

Laws 1999, ch 423, §§ 1, 6, eff April 1, 2000, provides as follows:

Section 1. Legislative intent. The efforts of volunteer firefighters in New York state embody many of the values and traditions long respected and admired by our citizens. Volunteer firefighters devote many hours acquiring necessary training and then expend their energies to protect lives and property while placing their own lives and physical well being in jeopardy. They are heroes to our children, are trusted in our hour of need and provide role models for dedication and discipline

Unfortunately, each year the public and members of the volunteer firefighting services are shocked to learn that a very few volunteers among the ranks have themselves been responsible for setting fires in their communities. These are the very individuals who have received specific training as firefighters in the arts and techniques of the arsonist. While observers may differ as to whether these fires are set by individuals who are fascinated by fire itself, or are set by those who seek to create opportunities in which they can be viewed as brave heroes by others, the results are the same: a serious erosion in public confidence in the volunteer firefighting services as a whole, and a loss of trust and morale within the volunteer companies themselves. This small number of individuals also places our communities and citizens at serious physical risk

Mindful of these consequences, the legislature enacted chapter 719 of the laws of 1985, making an arson conviction in any degree an absolute bar to membership in a fire company. This law, however, relied too heavily upon an individual's willingness to admit an arson conviction and resigning as a volunteer or in refraining from applying in the first instance. It is the intent of this law to strengthen the ability of fire companies to police their own ranks by enabling fire chiefs to require new applicants for membership as volunteer firefighters, including transfers between fire companies, to undergo an arson conviction record check prior to acceptance as members. The authority afforded will enable the early identification of persons convicted of arson who may not serve

§ 6. This act shall take effect April 1, 2000 except that the division of criminal justice services and the department of state are immediately authorized to promulgate such rules and regulations necessary to implement this act on or before such effective date

Volunteer Fire Department Application Arson Criminal History Checks

General Instructions for Volunteer Fire Departments and Processing by County Sheriff Departments or the New York State Office of Fire Prevention and Control

Effective April 1, 2000, new Executive Law §837-o requires applicants for membership to volunteer fire departments in New York State to undergo a criminal history check through the Division of Criminal Justice Service (DCJS) to determine if they stand convicted of the crime of arson in New York State.

The Division of Criminal Justice Services has designated their generic DCJS-9 form for submission of criminal history checks by fire departments. A supply of these forms and step by step instructions for completing the form are attached to these general instructions.

- The Fire Chief, or another officer of the fire department so designated by the Fire Chief, must fill out the form or witness the applicant filling out the form
 - The Fire Chief or designee is responsible for verifying the identity of the applicant
 - The applicant **MUST** show two irrefutable forms of personal identification
 - NYS Drivers License with picture, and
 - One additional verifiable form of ID
- The Fire Chief or designee then completes boxes 17, 18 and 19 on the form, removes the yellow copy and either hand carries, mails or faxes the form to the County Sheriff.
- If the County has passed legislation opting that the Sheriff not have this responsibility, then the completed form is mailed or faxed directly to OFPC.
- Both Sheriff Department and OFPC will use the New York State Police Information Network (NYSPIN) Enforcer Terminal to conduct a name search of the DCJS database. *NYSPIN is a secure computerized message system used by law enforcement and other authorized governmental agencies throughout New York State.*
 - Where no exact match of name DOB and SS number is found, the Sheriff or OFPC will note that "No Record of an Arson Conviction Was Found" in the comments section of the DCJS-9 and return the form to the fire department.
 - If an exact match of the submitted data is found, a request for a DCJS rap sheet for the individual will then be made. The rap sheet will then be searched for any conviction of arson.
 - If the rap sheet shows no convictions for the crime of arson, the Sheriff or OFPC will note that "no record of an arson conviction was found" in the comments section of the DCJS – 9 and return the form to the fire department.
 - When an arson conviction is found, the Sheriff or OFPC will note "Convicted of Arson" in the comments section of the DCJS – 9 form and return the form in an envelope marked "confidential" via 1st class mail only, directly to the Fire Chief.

Step by Step Instructions for Completing the DCJS-9 Form

For the Purpose of Conducting Arson Conviction Checks on Applicants to Volunteer Fire Departments

1. For legibility, all information on this form should be typed or clearly hand printed
2. Boxes A, B, C and D plus Fields 2 through 12 and Field 14 must be completed
3. The Fire Chief or Officer designated by Chief must complete Fields 17, 18 and 19

Field	Field Name	Entry
A	DATE	Today's Date
B	REQUEST FOR	Check "Other" box and enter "Check for arson conviction"
C	REQUESTING AGENCY	Complete fire department name, mailing address, phone # and fax # if available
D	REASON FOR REQUEST	Application to join volunteer fire department
2	NAME	Last name, first name and middle initial of applicant
3	ADDRESS	Applicant's full address
4	NICKNAME	Nickname of applicant, if any
5	ALIAS AND/OR MAIDEN NAME	Applicant's alias or maiden name, if applicable
6	SEX	Check either M or F
7	RACIAL APPEARANCE	Check box that most closely describes applicant's ethnicity
8	SKIN TONE	Check box that most closely matches applicant's skin tone
9	HEIGHT	Applicants height in feet and inches
10	DATE OF BIRTH	Month, day and year of applicants birth
11	AGE	Applicant's age
12	PLACE OF BIRTH	City, County and State where applicant was born
13	SOCIAL SECURITY NO.	Applicant's 8 digit Social Security Number
14	NAME OF REQUESTING OFFICER	Print or typed name of Fire Chief or Chief's designee
15	AUTHORIZED BY	Chief's or Chief's designee signature
16	TITLE	Title of person signing in Field 18

Make sure your Fire Department's Return Address and Fax Number, if available, is accurate and legible in box "C". All fields **MUST** be completed. The Fire Chief or Chief Designee **MUST** sign Field 18.

PLEASE TYPE ALL INFORMATION

DCJS-9 (3/99)

STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
BUREAU OF IDENTIFICATION & CRIMINAL HISTORY OPERATIONS
4 TOWER PLACE
ALBANY, NEW YORK 12203-3764
518 - 457-6051 (54)

INSTRUCTIONS:

*This form is to be used only when a fingerprint card is not possible.
Shaded boxes are required data elements.
Item D - INDICATE SPECIFIC PURPOSE FOR INQUIRY:*

CORRESPONDENCE INQUIRY

A. DATE		B. REQUEST FOR <input type="checkbox"/> Criminal Record <input type="checkbox"/> Other (Specify) <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>		C. REQUESTING AGENCY (NAME, ADDRESS & TELEPHONE NO.)		D. REASON FOR REQUEST & CASE NUMBER	
1. NYSID NO.		2. NAME (LAST, FIRST, MIDDLE)		3. ADDRESS (LAST KNOWN)			
4. NICKNAME		5. ALIAS AND/OR MAIDEN NAME		6. SEX M <input type="checkbox"/> F <input type="checkbox"/>		7. RACIAL APPEARANCE White <input type="checkbox"/> Black <input type="checkbox"/> Am. Indian <input type="checkbox"/> Japan <input type="checkbox"/> Chin <input type="checkbox"/> Other <input type="checkbox"/>	
8. SKIN TONE Light <input type="checkbox"/> Medium <input type="checkbox"/> Dark <input type="checkbox"/>		9. HEIGHT Ft. <input type="checkbox"/> In. <input type="checkbox"/>	10. DATE OF BIRTH Mo. <input type="checkbox"/> Day <input type="checkbox"/> Yr. <input type="checkbox"/>		11. AGE	12. PLACE OF BIRTH	
13. AGENCY ORI NO.			14. SOCIAL SECURITY NO.			15. FBI NO.	
16. DCJS AGENCY CODE NO.			C O N T R O L D A T A			17. NAME OF REQUESTING OFFICER	
16A. ADDITIONAL DATA (KNOWN CRIMINAL ACTIVITY, PHYSICAL ODDITIES, ETC.)						18. AUTHORIZED BY (SIGNATURE)	
						19. TITLE	

DCJS USE ONLY

RESULTS OF INQUIRY

DATE _____

NO CRIMINAL RECORD IN NEW YORK STATE

RECORD ATTACHED

1

OTHER (SEE REMARKS)

REMARKS:

¹ This response is based on other than a fingerprint identification.