

**FREQUENTLY ASKED QUESTIONS RELATED TO THE JUSTICE CENTER CODE
OF CONDUCT AND NOTICE TO MANDATED REPORTERS – JUNE 17, 2013**

- Q.1. The Code of Conduct requires an attestation, but is the Justice Center's expectation that the Notice to Mandated Reporters also be signed?**
- A.1. No. Only the Code of Conduct needs to be signed.
- Q.2. In regard to the attestation for the Justice Center Code of Conduct, are electronic signatures acceptable?**
- A.2. Yes, electronic signatures are acceptable.
- Q.3. What is the Justice Center's expectation regarding where the Code of Conduct should be stored once signed?**
- A.3. This is a clarification to the June 14, 2013 FAQ. The Code of Conduct should be filed in the personnel record of the individual who signed it, and/or other human resources or training record or equivalent database. It must be maintained for presentation upon demand.
- Q.4. Do programs such as Community Habilitation, Medicaid Service Coordination, Respite and Family Support Services require their staff, volunteers, etc., sign the Justice Center Code of Conduct?**
- A.4. Facilities or programs in which services are provided and which are operated, licensed or certified by the Office of Mental Health (OMH), Office for People With Developmental Disabilities (OPWDD), Office of Alcoholism and Substance Abuse Services (OASAS), Office of Children and Family Services (OCFS), Department of Health (DOH) and State Education Department (SED) are expected to have custodians sign the Code of Conduct. For full description of Facility or Provider Agency, see §488(1)(4) of the Social Services Law.
- Q.5. Do early intervention agencies and SED-approved preschools (4410) need to report to the Justice Center?**
- A.5. Early intervention and approved 4410 providers (pre-school education) are not covered under the definition of facility or provider under the Protection of People with Special Needs Act and therefore the reporting requirements do not apply. However, they are required to conduct a Staff Exclusion List (SEL) check under Social Services Law §424-a.
- Q.6. Is Kirby Forensic Psychiatric Center, a maximum security facility, operated by OMH required to report to the Justice Center under the law?**

- A.6. As Kirby Forensic Psychiatric Center is a psychiatric hospital operated by OMH, its employees are deemed to be Custodians who, under the Justice Center legislation, are also Mandated Reporters.
- Q.7. In the Notice to Mandated Reporters, under the section "What Constitutes a Significant Incident?" Would this include peer-to-peer altercations?**
- A.7. Yes. See also §488(1)(i) of the Social Services Law.
- Q.8. Section §488 of the Social Services Law provides that incidents involving possible psychological abuse should be reported where there is a "substantial diminution of a service recipient's emotional, social or behavioral development or condition, supported by a clinical assessment". Does this require a clinical assessment of the individual prior to reporting?**
- A.8. No. For purposes of reporting, no clinical assessment of diminution is required.
- Q.9. Does every Mandated Reporter who is a witness to an incident have to report it to the Justice Center? At what level up the chain-of-command does the reporting requirement end?**
- A.9. Consistent with the Mandated Reporter Guidance Document, all direct witnesses must report to the Justice Center. In addition, first line supervisors who witness or are notified of an incident must also independently report to the Justice Center. In cases where the incident is very serious in nature or involves criminal activity, administrators may also want to report to insure that the Justice Center is fully aware of the situation.
- Q.10. What are the consequences of a mandated reporter failing to report?**
- A.10. Under the law, failure to report could result in penalties up to and including a misdemeanor.
- Q.11. In the Notice to Mandated Reporters, under the section What Are Mandated Reporters Required to Report, it states that "Certain Mandated Reporters may also submit reports by completing a form available on the Justice Center website." (a) Please define "Certain Mandated Reporters." (b) Will the form be released to providers with directions on completion? (c) Will the form be a requirement for all Justice Center calls?**
- A.11. Due to the specific information required to complete the web form, only custodians have the option to submit reports to the Justice Center electronically via the internet, rather than the hotline. The web form and instructions on how to complete the form will be accessible from the Justice Center's public website (www.justicecenter.ny.gov). The web form cannot be downloaded and submitted by email or fax; it must be completed and submitted online. If a web

form is submitted that is not complete, the Justice Center will contact the mandated reporter directly to obtain the missing information. *[See also the section "Who Are Mandated Reporters" in the Justice Center's guidance Notice to Mandated Reporters].*

Q.12. In the Notice to Mandated Reporters, under the section "What Are Mandated Reporters Required to Report" it states that incidents should also be reported for "a child receiving residential services in a facility or provider." Is this an additional notification beyond calling Child Protective Services? Or does notification to the Justice Center suffice?

A.12. Reasonable cause to suspect abuse or neglect of a child receiving residential services in a listed facility or provider must be reported to the Justice Center, and need not be reported to the Statewide Central Register of Child Abuse and Maltreatment (SCR). Suspicion of child abuse or neglect in a day care setting, foster family boarding homes, or within a family home must continue to be reported to the SCR.