



## Background Checks for Volunteers

Every day, millions of our vulnerable populations use the support of nonprofit organizations. Unfortunately, those nonprofits can fall prey to predators with undisclosed criminal records applying for jobs or volunteer positions, which could put our children, elderly, or disabled persons at serious risk.

### *Incidents of Broken Trust*

The day NHL hockey player Sheldon Kennedy testified that his coach sexually abused him hundreds of times when he was a boy, is the day that screening became a reality for many nonprofit organizations. Kennedy, by agreeing to testify, also signaled the end of the unspoken agreement by many victims to stay silent about abuse.

This story is not limited to sports organizations. The story of Gary Blair Walker haunts many social agencies. Walker admits to having sexually molested over 200 boys over the course of 30 years while he held a variety of positions of trust as a paid worker and as a volunteer. He was at different times a sport coach, a police officer, a Scout master, a church camp counselor, a school bus driver and a martial arts instructor.

### *Why Non-Profits Should Screen*

Although background checks have limitations, one value they have is to discourage individuals who have disqualifying criminal histories from applying for positions when organizations publicize the fact that they conduct background checks. They also identify many individuals who have been convicted of offenses and attempt to gain access to potential victims through volunteer or paid positions. Additionally, many applicants with criminal histories apply for positions in states other than where they were convicted. In a recent review of a major youth sports organization's applicants, nearly 50 percent of the 6,881 "hits" among 57,053 background screens were individuals applying outside their state of residence.

In a recently conducted audit of 1.6 million background screens performed during a three-year period between 2002 and 2005, the results revealed that more than

86,000 individuals with undisclosed criminal records applied for work or volunteered in the nonprofit sector. The audit indicated that every 43 hours, at least one convicted sex offender tries to attain a position at a nonprofit organization. A review of one large national youth-serving organization's applications revealed that of 1.03 million applicants screened, 12 percent had undisclosed criminal records; 740 had sex-related convictions; and 153 had been convicted of murder. The same audit showed the "hit rate" for nonprofit customers was 5 percent. That statistic means that, on average, of every 100 people screened, five failed to disclose a criminal record, a 2 percent increase from a 2003 audit.

In short, the risks associated with not screening paid and volunteer staff is significant. The basic legal standard that applies to screening is reasonableness under the circumstances. If a nonprofit's background screening process is challenged in court, a judge or jury will evaluate the reasonableness of the process employed; the foreseen ability of the risk (whether the organization knew or should have known of the risk of harm, including if the person had access to the victim as part of a job); and whether the screening process, or lack of it, caused or contributed to the harm at issue. An opponent may well argue that failing to conduct any screening is unreasonable.

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According to attorney and founding member of NAPBS, Larry Henry, "volunteer organizations should treat volunteers and paid staff the same. It matters not whether the perpetrator was paid for his work or he volunteered for the organization. The legal standards of care for the organization remain the same. Predators seek out their victims where their victims gather, and many times this is the population the nonprofit is serving. Therefore they will seek out these jobs. Predators hope that budgetary limitations will cause the organization not to check their background at all or only do the simplest of background checks that will not disclose their negative background from another county

or another state. Hiring just one perpetrator who victimizes a client of the nonprofit will destroy that organization not only financially but also as a provider of services. Nonprofit organizations must conduct credible background checks on their employees and volunteers.”

### ***Protecting Vulnerable Persons***

Volunteers must usually qualify to participate in an organization, which provides care or care placement services to children, the elderly, or the disabled. A criminal record check may be ordered by administrators after a volunteer has qualified to participate in the program.

In 1993, Congress passed the National Child Protection Act (NCPA), authorizing criminal background checks for individuals working with children in an employee or volunteer status. In 1994, the act was amended to include the elderly and disabled individuals. In 1998, the act was again amended, making it easier for state and national criminal history information to be obtained.

Administrators should thoroughly review volunteer background checks, to establish if there is any reason why an applicant should not be permitted to work with children, the elderly, or the disabled. If the criminal checks do not reveal any record, the assumption should not be made that an individual is not a risk to the volunteer's service. Other checks that should be considered include:

- Motor Vehicle Checks
- Social Security Verification
- Reference Checks
- Employment Verification
- Drug Testing
- I-9 Verification

### ***A Checklist for Volunteer Organizations***

The checklist below may provide helpful information to volunteer organizations needing to develop or implement a screening program well suited for their organization. Before finalizing or implementing such a program, we strongly recommend that any agency consult legal council.

**Be sure to use a provider that:**

- Operates as a CRA, Consumer Reporting Agency**
- Is FCRA (Fair Credit Reporting Act) Compliant**

- **On Site Inspections are required**
- **A signed contract is required notifying users of their obligations**
- **Requires a signed release BEFORE a search is performed**
- **Demonstrates that a Consumer Channel exists for disputes**
- Clearly prices and distinguishes the difference between Database vs. Court Retrieved Criminal Records**
- Offers current referrals**
- Is a NAPBS Member**
- Is clearly aware of state and federal laws**

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The National Association of Professional Background Screeners (NAPBS), which represents over 400 companies and serves hundreds of thousands of employers, exists to promote ethical business practices, promote compliance with the Fair Credit Reporting Act and foster awareness of issues related to consumer protection and privacy rights within the background screening industry. The Association provides relevant programs and training aimed at empowering members to better serve clients and to maintain standards of excellence in the background screening industry. The Association is active in public affairs and provides a unified voice on behalf of members to local, state and national lawmakers about issues impacting the background screening industry. For more information, please visit us at [www.napbs.com](http://www.napbs.com)