

## The Ins and Outs of Background Screening for Volunteers & Churches

Churches and volunteer groups need background checks for the same reason as businesses: **1)** to discourage applicants with something to hide, **2)** to provide verification of stated work history and qualifications, **3)** to screen for undisclosed criminal records, **4)** to promote honesty on the job application. Performing background screenings is certainly not a guarantee that every bad applicant will be discovered, but it does demonstrate due diligence and provides you with a great deal of legal protection.

However, for Churches and Volunteer groups, the reason for screening goes even deeper — because they have a special relationship with children and other vulnerable people and have a special obligation to make sure the people they are helping remain safe.

Background checks are done with the signed consent of the applicant. The information provided by the applicant is then checked by researchers to see whether it is accurate and verifiable. You determine whether to verify past employment references and the educational diplomas, certificates or degrees listed. You decide whether to order checks of public records at county courthouses, state criminal databases, sex offender registry databases, and driver's license records. You're in control of how extensive you want to make the Background Screening Report – and thus you determine how much to budget.

Churches and volunteer groups may be able to take advantage of fingerprints run through a state or FBI criminal database for certain positions. However, for organizations that manage a large number of volunteers, fingerprinting can prove to be very expensive, time consuming and difficult to track and implement. As an alternative, a Church or volunteer group can utilize the services of a qualified and experienced background screening firm. Although a screening firm cannot provide access to the FBI files, a criminal search can be provided that is inexpensive, easy to implement and extremely cost-effective.

### Volunteer groups can utilize the ESR Safety 1st Database, which includes:

- ✓ **Criminal:** Search of extensive databases for criminal court records, state criminal repositories, probation, prison parole and release files. (*Not all states or jurisdictions provide complete and up-to-date information*, and this is not the same as an FBI database search, but it provides a great deal of data.)
- ✓ **Sex Offender:** These datasets are derived from the state-maintained registries, and are updated at least monthly. It is important to note that each update received consists of a full refresh and contains what each originating agency deems to be public information at that time. While some states will release its registry in its entirety, some will only release those offenders that have been deemed a public threat. On occasion states will redefine policies which can either increase or decrease the offenders that are made available. Where appropriate the datasets maintain previously supplied registries in its archive when consistent with applicable state and federal laws. Finally, each registry determines what data elements are made available, and to that end some do not release an offender's data of birth at this time. Currently, the states that redact this information are limited to **AZ, HI, IN, LA, MA, VA, WA, WI**, while **PA** and **NV** take a third approach and release the offender's year of birth only.
- ✓ **Residence addresses:** Search for the volunteer's or employee's previous residence addresses.
- ✓ **Social Security Trace:** Search that the SSN has been issued and whether other names are associated with the same SSN.

## Employment Screening Resources

These searches can be supplemented by a state specific search available in a number of states. In addition, ESR can provide criminal searches on the county level.

Critical limitation: While database searches provide access to a great deal of data, they are NOT the same as an FBI search and can return errors – incomplete, out-of-date, or inaccurate information.

ESR provides its services based upon the information and data provided by the applicant including the true name, Social Security Number and Date of Birth. Neither ESR nor LawRoom is responsible for verifying or confirming the true identity of an applicant. In addition, in the event an ESR report reveals additional names or possible aliases from the Social Security Trace, it is the Church's responsibility to determine whether additional searches are necessary and to place an order for any follow-up searches or to have ERS pre-authorized to conduct these searches.

### What happens if the report returns information that is potentially of concern?

When ESR returns a background screening report that contains possible matches to your applicant or ambiguous information, it is critical for the Church to review and decide whether any additional searches are needed. The Church or volunteer group needs to choose between pre-authorizing ESR to conduct the necessary additional searches, or ESR must send the negative report to the applicants so that they are aware of the potentially adverse public information. This can occur if:

1. The report shows other addresses in different states or counties that were not part of the original search.
2. The report shows other names or variations of the applicant's supplied name (aliases). This can happen if a woman gets married and changes her name. Or if someone uses a nickname or "family name" as a second identity.
3. The report shows a *possible* criminal hit in some other jurisdictions or in a state where the sexual offender database does not contain the date of birth for identity verification.

### What happens if an organization decides not to allow a person volunteer as a result of a background check?

Background screening reports are strictly regulated by the federal *Fair Credit Reporting Act (FCRA)* and additional laws in the individual states. Even though a volunteer is not an employee in the traditional sense, there is widespread agreement that the purpose of the FCRA is to protect all consumers from being victimized by information that is incorrect or incomplete. Clearly, the FCRA covers volunteers.

### The Church needs to understand its legal obligations when using background checks.

1. The applicant needs to receive a *Pre-Adverse Action letter and a Post Adverse Action letter*. More information about those letters is available at: <http://www.esrcheck.com/articles/article9.php>
2. If an applicant disputes the information in the report, then ESR needs to charge the Church for the cost of pulling available court files in order to determine whether the information is applicable to the applicant. If ESR discovers that the initial information does not match the applicant, ESR must correct the report and issue copies to the Church and applicant.

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