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But What Does It Mean? Interpreting Criminal Background Records



Here's Our Plan

- Policy 3.45
 - ✓ All volunteers in a position of trust
 - ✓ Set of acceptance criteria
 - ✓ Protocol

- What we're going to cover:
 - ✓ Criminal records interpretation
 - ✓ We lied about reference checks



Some background data of interest:

- 1 in 4 adults in US have some sort of criminal record
- 1 in 3 young adults have been arrested by age 23



TLC2 2010 data on background checks of volunteer applicants

- # of background checks: 19,495
- # of criminal records found: 2,960 (15.2%)
- # of disqualifying offenses:
 - ✓ 28 – sex offenses
 - ✓ 264 – felony offenses
 - ✓ 455 – misdemeanor violence, drug or alcohol abuse, etc. during past five years



2012 Lexis/Nexis Nonprofit Screening Review

- Hit rates dropped from 7% in 2007 to 5.3% in 2011
- Of 5.4 million background checks from 2007 to 2011 22% of hits were serious offenses



Warm-up: Abbreviations

- A & B
- Assault and battery
- DWI
- Driving while impaired
- MISD
- Misdemeanor



Abbreviations

- C to D of M
- Contributing to delinquency of a minor
- CCW
- Carrying a concealed weapon
- NGRI
- Not guilty by reason of insanity



Abbreviations

- KHIF
- Keeping a house of ill fame
- NADG
- Non-adjudication of guilt (agreed plea)
- IWFC
- Interference with flight crew



Quick Overview of CRB Reports

- What you see/don't see
- Where to get help
- Difficulties



1. Nomenclature

- NWN, UIBC, WC, BC, DRW CHK w/o FDS, FALSE, FUUSTC, INSF, IWC, PASS BAD CHKS, PASS WRTHLS CHKS, SWWC, TBC, UDFC, UIBC
- Bad check



2. Wrong Identities

- “Over 1% of the 45 million individuals in the FBI criminal database have used over 100 aliases and false Social Security numbers.”



3. Overlap/multiple listing of same offense



4. Missing/incomplete and wrong information



- “States submit the records of crimes committed in their jurisdictions to the FBI. However, **the FBI does not require states to submit low-level misdemeanors** (i.e., bouncing a check, a DUI which does not result in injury or property damage, etc.) to the FBI master criminal database. This means that some low-level crimes may not be found by doing just an FBI criminal background check.”

- “**...approximately 50% of the records in IAFIS do not contain a disposition.** A disposition tells you the results of an arrest, such as: the prosecutor dropped all charges, the individual was found not guilty, the individual was convicted and sentenced to jail time, etc. Without a disposition, you know only that the individual was arrested, but not whether that arrest resulted in a conviction.”




National Association of Professional Background Screeners, 2005 Study

- “In a significant percentage of searches, the FBI data base returned erroneous or incomplete information...larger number of missed records and false positives generated.”




- “Florida: the database missed 11.7% of the criminal records it should have identified. Even worse – of the more than 10,000 criminal records found, 5.5% of them were falsely attributed to those who were not convicted of a crime.”



If you only look at data within your state:

- A study by LexisNexis of all criminal convictions for individuals applying to work or volunteer with nonprofits from 2005 to 2007 found that a high percentage of 'hits' occurred outside the applicant's current state of residence.

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- ✓ Florida: 55.2%
 - ✓ Georgia: 63.8%
 - ✓ California: 64.8%
 - ✓ New York: 92.1%
 - TLC2 2010 data: 13% of those disqualified had committed their offense outside their current state of residence



None of this matters:

- You have to do it.
- It does work some of the time and it may be a deterrent all of the time.
- It's the best we've got.
- It's better than it was 10 years ago.



Acceptance Criteria

- How do I decide
who is **in** and
who is **out**?



Discussion

- Form groups of 3-5 people
- Get ready to quickly exchange some information



Question 1

- What offenses do you think should totally bar a person from being an SMP volunteer? (i.e, what are you rejecting applicants for now?)





Question 2

- What mitigating factors might influence that decision?



Mitigating Factors

- Whether crime is a misdemeanor or a felony
- The degree of the offense (first, second or third degree felony)
- The degree of participation in the offense
- The nature of the crime (assault, property crime, fraud, drug, etc.)



Mitigating Factors #2

- Age and ability of the victim
- Extent and nature of person's past criminal activity (quantity, variety)
- Age of person when crime was committed
- Amount of time elapsed since last criminal activity
- Whether any criminal actions are now pending
- Conduct and work activity of the person before and after criminal activity



Mitigating Factors #3

- Whether offenses were disclosed on application
- Degree of unsupervised contact available via volunteer role
- Opportunity to place volunteer in alternate role
- Relationship between the crime and the proposed volunteer role
- Applicant's current standard of living versus when crime was committed



National Recreation and Park Association

1. All sex offenses, regardless of amount of time since offense
2. All felony violence, regardless of amount of time since offense
3. All felony offenses other than violence or sex within past ten years
4. All misdemeanor violent offenses within past seven years
5. All misdemeanor drug and alcohol offenses within the past 5 years, or multiple offenses in the past 10 years
6. Any other misdemeanor within the past 5 years that could be considered dangerous to children or is directly related to the functions of the volunteer

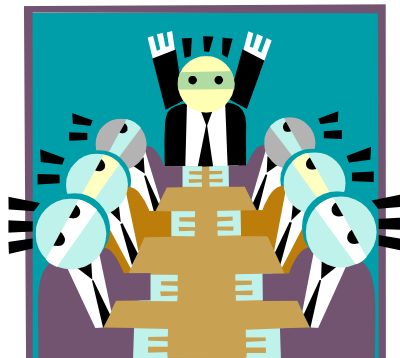


State licensing standards as a possible model

- Refer to occupational licensing laws in your state for Nursing, Nurse Aides, Clinical Social Work as guidance
- Is the criminal offense “substantially related” to the work?
- Disqualifying offenses include, e.g., murder, aggravated sexual assault, armed robbery.

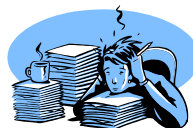


Quick Group Responses



Question One

- What's your process for reviewing records? I.e., who does it?





Question Two

- How do you handle incomplete records?



Question Three

- What is your appeals process?



One last factoid:

- In the UK, a 2007 survey found that 97% of volunteers didn't mind giving references, 96% didn't mind being asked for details of any criminal convictions, and 97% didn't mind being subjected to a criminal records background check.

Questions?

