

[Volunteer Background Checks: Giving Back Without Giving Up on Privacy](#) [1]

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1. Introduction

Every day, millions of volunteers donate countless hours to good causes. Volunteers mentor to young people, read to toddlers, coach youth sports, tutor in basic math and language skills, change bedpans, prepare and deliver meals, fight fires, provide disaster assistance, and much more. Volunteers can and do perform many of the same duties as paid workers. But, instead of a regular paycheck volunteers do what they do out of a desire to give back to their community.

Retirees, parents, teens and other concerned citizens volunteer. All share the common goal of wanting to help. More often than not, volunteers help the less fortunate among us and those least able to help themselves — children, the elderly, and the disabled. Most nonprofit organizations operate on a shoestring budget, and many would have to close their doors without the help of devoted volunteers.

Still, news sources have reported many horror stories about strangers — or worse, people in trusted positions — who have harmed children or abused elderly persons. Instances have even been reported of convicted sex offenders seeking to volunteer with children's organizations.

Organizations are faced with a growing challenge — how to accomplish their mission while protecting the vulnerable population served. At the same time, organizations that rely on volunteers must perform a delicate balancing act — how to properly screen out bad actors without alienating dedicated, privacy-conscious volunteers.

This guide seeks to explore the expanding world of volunteer screening, identify relevant laws as well as fundamental privacy protections, and offer suggestions for organizations and volunteers. References and additional resources are included at the end of this guide.

2. Why Volunteers Are Screened and Why Some Volunteers Are Wary

Why are volunteers subject to background screening?

Volunteers are screened for many of the same reasons employers conduct background checks. The ultimate goal is to verify identity and weed out potential problems, especially problems that could arise from an undisclosed criminal history.

Do organizations have a choice to screen volunteers or not?

Sometimes yes and sometimes no. In the aftermath of terrorist attacks and numerous highly reported crimes against children, state and federal lawmakers have adopted new laws that either require or facilitate employee and volunteer background screening. In some cases, new laws have been passed to strengthen existing, but poorly crafted, laws.

Do laws specify what a volunteer organization must check?

Laws that require volunteer screening generally specify only that the individual undergo a criminal history check, or a criminal history check plus a check of sex offender registries in the case of workers or volunteers involved with children.

If not required by law, why do organizations screen volunteers?

Absent a strict legal requirement, many volunteer organizations find background screening prudent. Like businesses, nonprofit organizations must respond to the needs and fears of their "clients."

If you are a parent, for example, you have a legitimate right to assurance that your child is safe, whether at school or weekend soccer practice. If you are the adult child of an elderly parent, you want to know your loved one is not a target for abuse.

Failure to maintain trust can be devastating to an organization, leading to loss of community support, loss of funding, or even a lawsuit for negligent selection of a volunteer. Even when faced with an unfortunate incident involving a volunteer, an organization should fare better by having made a good faith effort to conduct a background check.

The National Consortium for Justice Information and Statistics (SEARCH) issued [*The Report of the National Task Force on the Criminal Backgrounding of America*](#) [2] which examines the growing demand for criminal background screening and lists the following reasons why employers and volunteer organizations conduct criminal background checks:

- Public safety
- Compliance with legal requirements
- Limitation of liability
- Conditions of doing business
- Protection of vulnerable populations
- Customer assurance
- Avoidance of loss of business
- Fear of business loss, or public or medical backlash over an incident caused by an individual with a past record

Technology has also fed the demand for background screening. Online access, along with the ability to store and retrieve huge amounts of data, make background screening easier and cheaper today than ever before. Much of the data collected comes from public records such as criminal record files maintained by the courts.

Why would a volunteer object to a background check?

Some volunteers are not just concerned about background checks, but angered by them. Long-time volunteers have resigned over an organization's newly instituted screening policy. New volunteer recruits may simply abandon their application rather than submit to screening. For an organization to require background screening without further explanation is almost certain to draw a negative reaction.

Privacy and security of personal information are common objections volunteers have to background screening. Volunteers may also feel screening creates an atmosphere of distrust or suspicion. Imagine veteran volunteers being suddenly asked to submit to fingerprinting, a process many people associate with accused criminals.

Why are volunteers worried about privacy?

To begin with, background screening involves gathering information about an individual. The process starts with the collection of personal data such as name, address, telephone number, present and past addresses, and Social Security number. In these days of identity theft, it is common sense to protect your personal information. Sharing your Social Security number itself defies core advice for preventing identity theft.

Questions may also arise about the amount and kinds of information covered in the background check. Does the information to be collected relate to the volunteer task? For example, should an organization routinely ask its volunteers to agree to a credit check or a Department of Motor Vehicles check when the job requires neither money handling nor driving?

Data security is another major concern, with questions often left unanswered when volunteers are asked to submit to background screening. Volunteers have a legitimate right to know that personal information will be secure, either with encryption or in locked file cabinets.

Volunteers' concerns about data privacy and security can often be allayed if an organization provides a good written policy addressing privacy and data security issues. For more on privacy fundamentals and tips for organizations and volunteers, see Parts 6, 7, and 8 of this guide.

3. Volunteers and the Law

Does the law require that volunteers be screened?

There is no one law -- federal or state -- that says all volunteers must be checked. Rather, the rules that apply to volunteers, much like employees, are as varied as the duties volunteers perform and the organizations they serve. Whether a volunteer is required by *law* to submit to a background check depends on many things, but primarily the kind of organization for which the volunteer work is performed.

For example, states may have laws that *require* background checks for employees and volunteers for activities the state regulates, such as schools and nursing homes. Quite likely, each state will require some sort of screening for all volunteers who work for a state agency or state-funded facility, especially agencies that serve children, the elderly, or the disabled.

Are nonprofit organizations covered by laws that require background screening?

Nonprofit organizations are major users of volunteer hours. Rather than being required by law to conduct background checks, nonprofit organizations are more likely to have adopted an organization policy of screening volunteers. Organizations that operate under the umbrella of a national organization, such as Little League, Boys and Girls Club of America, or the American Red Cross follow policies set by the national organization. Local organizations may be free to institute policies in addition to the minimum background screening set by the national organization.

What laws require or influence background screening for volunteers?

A multitude of state and federal laws regulate health and public safety, some of which would require screening for employees and volunteers alike. In addition, there are other laws that provide protection to at-risk populations, particularly children.

Included among the child protection laws are, for example, state and federal laws that give the public access to information about convicted sex offenders. Such laws are generally prompted by and named after child victims, such as the Jacob Wetterling Act, Megan's Law, and the Pam Lychner Act.

State and federal employment and discrimination laws may also come into play. In some situations volunteers may be viewed as employees. This may, for example, require that decisions based on derogatory information relate to the job at hand. Societal interests in forgiveness and giving offenders a second chance are usually at the heart of legal restrictions.

State or federal law may also limit the amount of time derogatory information may be reported. One example of this is background screening conducted by a consumer reporting agency under the Fair Credit Reporting Act (FCRA). The FCRA restricts reporting of an arrest that did not result in a conviction to seven years.

For purposes of this guide, we focus only on laws that facilitate an organization's ability to screen volunteers.

- [National Child Protection Act of 1993](#) [3] (**NCPA**), 42 USC § 5119(a), often called Oprah's Law, opened access to the Federal Bureau of Investigation's (FBI) national criminal records files to schools, day care facilities, and youth-serving organizations. National criminal files, searchable by fingerprints, opened a potentially new avenue for screening out child molesters or other conduct that might pose a risk to the organization. However, access to the FBI's files under the NCPA was contingent on state laws that granted access – and not every state has a law on the books allowing nonprofit organizations access to the FBI files.
- [Volunteers for Children Act of 1998](#) [3] (**VCA**), (Public Law 105-251), amended the National Child Protection Act to allow volunteer organizations access to federal criminal record files, whether or not there was a state law. The VCA does not, however, allow direct access to the FBI's criminal files. Rather, an organization's request for access under the VCA must be made through a state agency. The state agency then forwards the request to the FBI if the agency determines the

organization is a “qualified entity.” In addition to covering organizations whose volunteers work with children, this law covers businesses or organizations that provide care, treatment, education, training, instruction, supervision or recreation for the elderly and individuals with disabilities.

- **Fair Credit Reporting Act** [4] (**FCRA**), 15 USC §1681, applies to reports about an individual’s “credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.” Although often associated with credit reports and financial fitness, the FCRA also applies to employment reports, that is, reports used by employers to decide who gets hired, who gets promoted, or who is kept on the rolls. A background check for volunteers may be covered by the FCRA as well. To fall under the FCRA, a volunteer background check must be conducted by a third-party screening company. For more information, read our [general guide on background checks](#) [5].

In addition to these federal statutes, laws in a number of states require background checks for volunteers who work with children. The American Camp Association provides a [state-by-state guide](#) [6] to state laws and regulations covering camps for children, including the requirement for criminal background checks. The [Little League’s website](#) [7] provides information about such laws in nine states for “community youth athletic programs.”

Note: Some organizations as well as some background check services themselves warn against relying *solely* on background checks to identify and weed out individuals with criminal records involving children. They advise a more comprehensive strategy for screening volunteers. It is beyond the scope of this guide to discuss such broader strategies

4. How Are Volunteers Screened?

There is no foolproof, 100% guarantee that any background screening will weed out bad actors. Indeed, some would argue that screening is unnecessary and creates a false sense of security. The argument goes that most people who commit a crime against a child, for example, are first time-offenders who could easily have cleared a prior background check. Still, volunteer screening, particularly for work with vulnerable populations, is firmly entrenched as a best practice.

The primary methods for screening volunteers are checks through state and federal criminal records repositories and commercial background screening. Either method, as discussed below, has both advantages and shortcomings.

How do nonprofit organizations screen volunteers?

There are several options. The choices depend largely on the volunteer job involved and the organization’s policy as to what information is necessary to “clear” the candidate. Almost certainly, a volunteer background check will include a criminal history check.

To find out whether an applicant or volunteer has a criminal past, a nonprofit organization may have access to state and federal criminal history repositories. Organizations may also employ professional background screening companies. Many commercial companies that perform employee screening have established programs specifically for nonprofit organizations seeking to check volunteers.

There is, in addition, a great deal of personal information available through the Internet. Sex offender registries, for example, are readily available online. And an increasing number of jurisdictions make criminal and civil court records available through the court’s website.

a. Criminal records repositories

Every state has an agency that is the official state repository for criminal records. The responsible agency, as designated by state law, receives and maintains records of arrests and criminal convictions from local jurisdictions throughout the state. State repositories in turn feed criminal history records to a federal database maintained by the FBI called the [National Crime Information Center](#) [8] (NCIC).

The NCIC database includes records of federal crimes as well as criminal record information submitted by participating states. This database is available for non-law enforcement purposes if access is granted by a state or federal law. Non-law enforcement purposes generally relate to standards for background screening for certain jobs or licenses.

In addition, the National Child Protection Act, amended by the Volunteers for Children’s Act (NCPA/VCA), allows state agencies to gain access to the FBI database for purposes of screening volunteers.

As a prospective volunteer, may I request my own records from state or federal criminal records repositories?

States allow you to obtain copies of your own records. Procedures vary from state to state. Some states may require that you submit fingerprints along with your request.

The FBI has its own procedures for access. [Visit its website](#) [9] to learn about your right to access your own FBI records.

However, FBI records you order on your own may be of limited value if you plan to submit the results to your volunteer organization. The FBI's policy is not to provide an apostille, or separate document, authenticating search results.

b. Commercial Background Screening

Nonprofit organizations may also turn to commercial background screening companies. Organizations may seek out commercial vendors, especially when screening beyond a criminal history check is required. Commercial background screeners may run credit checks, Social Security number checks, DMV checks, and much more. These companies generally have a variety of other data sources not available through government websites.

Organizations may also find that commercial screeners are faster and cheaper than screening through state repositories and the FBI. Some commercial vendors offer bulk rates or reduced fees for volunteer screening.

Many professional screening companies long involved in screening employees have established separate programs for screening volunteers. Some commercial screeners even specialize in background screening for certain kinds of nonprofits such as ministries.

Do commercial screening companies have access to the FBI's data?

Generally no, unless a specific statute allows access.

Where do commercial screening companies get their criminal history records?

A number of companies, called aggregators, assemble criminal records information from courts and other publicly available data sources. By collecting and combining these data sources, commercial screening companies have amassed databases consisting of millions of criminal records files. The PRC provides a list of the [major aggregators of criminal records information](#) [10], although this is not a complete list.

How do FBI and commercial screenings differ?

Identification methods. An FBI check is a fingerprint-based check, while commercial vendors conduct name-based checks. Reputable vendors rely on identifiers in addition to name, such as date of birth, present and past addresses, and Social Security number.

A fingerprint-based check eliminates the possibility of a "false positive" that may occur as a result of a mix-up of common names. A false positive may also result from a name-based check if a subject is the victim of criminal identity theft.

A fingerprint-based check may reveal, for example, that the subject has used more than one name, while known "aliases" may or may not be found in court records obtained commercially. Commercial vendors are also facing increasing challenges to verifying points of identity. Some courts and other public records sources, for privacy reasons, have excluded the SSN or date of birth from general access.

Data quality and completeness. Inconsistencies and lack of uniformity in state criminal records repositories mean FBI files may not give a clear, complete picture of a criminal history. The FBI's data file relies on input from state repositories, which in turn rely on input from county courts and law enforcement agencies.

Offenses reported may vary widely from state to state. Information about the outcome of a case may also be missing from the FBI data files. Some arrest records included in the FBI database are missing dispositions. A reputable commercial vendor that regularly updates its criminal history databases *may* provide a more reliable source for disposition data.

Why don't organizations simply do their own online screening?

Certainly, there is a great deal of information to be found on the Internet. Information can often be had just by "Googling" a person's name. Some county courts make information available online through a name-based search. A look at social networking sites such as Facebook may also reveal information about a person's character and personal habits. And national

and state sex offender registries are available online.

There are, in addition, many sites offering to do “background checks” on anyone, no questions asked. Some sites sell criminal history records with little regard to the privacy protections included in the FCRA and adhered to by reputable background screeners. Data quality, accuracy, and completeness of information gleaned from such unregulated sources may vary widely. Generic “background screening” websites may even prove more costly in the end than a professional screener as charges mount up for each jurisdiction searched.

Above all, “do-it-yourself” online searches often violate the first rule of privacy — lack of notice and consent. Prospective volunteers are right to consider such methods more akin to snooping than legitimate screening.

5. What Do Organizations Want or Need to Know?

What kind of information is gathered for screening volunteers?

As a minimum, most organizations want to screen volunteers for a criminal history. As discussed in Part 4 of this guide, the Volunteers for Children’s Act allows criminal history screening through official state repositories and the FBI’s database. To be eligible for a background check under the VCA, an organization must be designated a “qualified entity” by the state.

Criminal history screening is also available through commercial screening companies. As discussed above, there are advantages and shortcomings to each screening method. The most comprehensive screening would be a combination of both “official” and commercial records sources.

Besides criminal records, what information is available?

In addition to criminal records screening, commercial screening companies offer a variety of other data sources. It is up to each organization to honestly assess the need to gather information beyond a minimum criminal history check. The main consideration should always be the volunteer position to be filled and the background information need for the organization to make a risk-based decision that the volunteer is an appropriate candidate.

Following are just some examples of additional data sources:

- Employment history
- Department of Motor Vehicles check
- Reference check
- Credit history
- Civil court actions
- “Deadbeat parent” registries
- Various abuse registries
- Professional license check
- Military history
- Drug and alcohol test results
- Social media posts
- Immigration records

Isn’t more information better?

No. The fact that information is readily available does not make it necessary. The first step is to identify the volunteer’s responsibilities and evaluate the risk associated with those duties.

Certainly, an organization is justified in checking the driving record of a volunteer who transports children to off-site activities. Some organizations may find a credit check desirable for a volunteer who handles the organization’s funds. Although there is debate about whether a person’s personal credit problems equate to an increased risk, some organizations may find a credit checks justified. Of more limited value is use of a credit check as a character-assessment tool for jobs that do not involve handling money.

The most basic rule should always be collection of the minimum amount of information necessary to accomplish the purpose. Asking a volunteer to agree to an open-ended background check invites a negative reaction.

In the end, there is no “one-size-fits-all” background check. Parts 7 and 9 of this guide include additional resources for helping

organizations establish effective screening policies.

6. Privacy Fundamentals – the Minimum You Should Expect

Notice and consent are the cornerstones of privacy protection. Proper notice should include more than vague, all-inclusive statements about what the organization *may* collect. Instead adequate notice should include a statement telling you, the volunteer:

- Precisely what information will be collected for the background check.
- How the information will be collected, for example, through official government sources or commercial screening vendor.
- The name and contact information of the commercial screening vendor.
- Sources consulted for the screening, such as state motor vehicle and state correction agencies.
- Period of time encompassed by the screening.
- Whether screening will be conducted once, annually, or on a continuing basis.
- A statement of the consequences of declining to authorize screening.
- A notice of additional rights.

Volunteers should also have:

- The first opportunity to review information, especially negative data.
- The right to appeal or dispute inaccurate information.
- Assurance that personal data and information collected from the background screening will not be used for other purposes.
- Assurance that personal information will be securely stored, and access available to only to those who have a need to know.

7. Tips for Organizations

Organizations should first adopt written policies for screening volunteers as well as written privacy and data security policies. Local organizations affiliated with a national organization generally have guidance from the national organization.

After determining the scope of background check suitable for each volunteer position, organizations should contact the state criminal history repository to find out whether the organization is a “qualified entity” eligible for access under the Volunteers for Children’s Act. Then, if appropriate, the organization may select a commercial screening company instead of or to supplement a criminal history check conducted through official channels.

a. Adopt a volunteer screening policy

As a minimum, a volunteer screening policy should:

- Clearly state the organization’s position and practice for screening volunteers.
- Identify the volunteer positions that require screening.
- Identify the screening required for each volunteer position.
- Identify the scope and sources for conducting background check.
- Identify the offenses or findings that would disqualify an applicant or current volunteer.
- State the fees involved in screening and the responsibility of the volunteer for all or any portion of the fees.
- Identify the frequency of background screening.

Policies should be posted on the organization’s website or otherwise made easily available to all current and prospective volunteers.

b. Adopt a privacy and data security policy

Privacy principles that should be included in an organization’s policy are:

- Openness
- Purpose specification
- Collection limitation
- Use limitation

- Quality (accuracy)
- Security safeguards
- Accountability (a person of authority to contact within the organization if there are questions)

c. Contact state criminal history repositories

Access to state criminal history files with subsequent search of the FBI's data files requires that a state designate an organization a "qualified entity." A state's criminal history files may be housed with the state attorney general, the state police, or the state's department of public safety.

Fees and procedures vary from state to state. Many state websites have downloadable forms, and some state websites allow a search with a credit card payment.

d. Consider a commercial background screening company

Organizations may find a need to screen volunteers either as a supplement to or instead of state and FBI criminal history checks. If so, organizations may consider a commercial screening company. The first step in selecting a commercial vendor should always be whether the company follows the FCRA.

A reputable screening company should:

- Provide necessary forms — either electronically or in paper format — for notice and consent as required by the FCRA.
- Be well versed in various state laws and be able to guide an organization through the screening process without running afoul of state employment, consumer protection or discrimination laws.

Companies that follow the FCRA also can help an organization navigate an "appeal" process in the case of inaccurate information.

Organizations should be aware, however, that notice and consent forms designed to comply with the FCRA may include language directly from the statute. To explain, the FCRA covers reports that have a bearing on a consumer's "credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living...". Open-ended agreements are sure to draw a negative reaction from potential volunteers. Organizations faced with a broadly worded consent form should work with vendors to develop a checklist that accurately identifies the information that will be obtained.

How do organizations find a reputable screening company?

Professional screening companies may be found through recommendations from other local nonprofit organizations. National organizations may contract with one vendor that performs screening for affiliates. In addition, the National Association of Professional Background Screeners (NAPBS) [website](#) [11] provides a directory of regional as well as national member companies.

8. Tips for Volunteers

First of all, keep in mind that times have changed. Gone are the days when you simply showed up at an organization's door, offering your free time for a cause close to your heart. Like it or not, background screening is here to stay.

Still, privacy and security of your personal information are legitimate concerns. Identity theft is a real threat. Personal information collected about you for the screening process may be all an identity thief needs. In addition, background screening reports can include personal details about your life that you would not normally share with others.

The following are some things you can do for peace of mind:

1. Review the organization's policies, both on background screening and privacy. If policies are not clear, ask questions.
2. Visit the organization's website. In addition to policies, some organization websites include information about volunteer screening under the Volunteers for Children's Act.
3. If a commercial screening vendor is used, be sure to get the name and contact for the vendor.
4. Object to signing open-ended notice and consent forms.
5. Visit the organization's administrative office. Satisfy yourself that papers containing personal information are securely stored.

6. Ensure that personal information required for online background checks is encrypted.
7. Take the opportunity to check information on yourself. Have you ordered your annual free credit report? If not, visit [the FTC's website](#) [12] for more information. In addition, the FCRA gives you access to several "specialty" reports. Read [our guide to learn more about specialty reports](#) [13].
8. Check for your own criminal records through the FBI as well as your state's criminal history repository.

9. References and Additional Resources

Agencies and Organizations

[Federal Trade Commission](#) [14], enforces the Fair Credit Reporting Act

Federal Bureau of Investigation (FBI), [individual's request for FBI records](#) [9]

[National Association of Professional Background Screeners](#) [15] (NAPBS)

National Center for State Courts, ["Privacy/Public Access to Court Records: State Links"](#) [16]

Websites

[State sex offender registry websites](#) [17], FBI

[National sex offender registry](#) [18], U.S. Dept. of Justice

Publications

U.S. Bureau of Labor Statistics, [Volunteering in the United States 2015](#) [19]

[Report of the National Task Force on the Commercial Sale of Criminal Justice Record Information](#) [20] (SEARCH, 2005)

[The Report of the National Task Force on the Criminal Backgrounding of America](#) [2] (SEARCH, 2005)

U.S. Equal Employment Opportunity Commission, ["Background Checks: What Job Applicants and Employees Should Know"](#) [21]

U.S. Equal Employment Opportunity Commission, ["Background Checks: What Employers Need to Know"](#) [22]

Privacy Rights Clearinghouse Publications

[Employment Background Checks: A Jobseeker's Guide](#) [5]

[Employment Background Checks in California: A Focus on Accuracy](#) [23]

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- [3] <https://www.law.cornell.edu/uscode/text/42/5119a>
- [4] <https://www.consumer.ftc.gov/sites/default/files/articles/pdf/pdf-0111-fair-credit-reporting-act.pdf>
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- [7] <http://www.littleleague.org/learn/programs/childprotection/state-laws-bg-checks.htm>
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- [12] <https://www.consumer.ftc.gov/articles/0155-free-credit-reports>
- [13] <https://www.privacyrights.org/other-consumer-reports-what-you-should-know-about-specialty-reports>

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- [17] <https://www.fbi.gov/scams-and-safety/sex-offender-registry>
- [18] <http://www.nsopr.gov/>
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