AMERICORPS STATE AND NATIONAL SYMPOSIUM
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National Service Criminal History Checks 101: Training Staff

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Welcome

• What NSCHC Training challenges do you have?

• What is the most challenging subtopic of NSCHC to train on?

• What did you hope to get out of this session?
Some Challenges

What and Why?
• Legislation Breakdown
• Safety

Training Challenges
• Terminology
• Documentation
• Implementation
Statutory Requirement: NSCHC Compliance

What?
• Up to 3 different checks
• From CNCS approved sources

When?
• Timing is critical!

Document!
• Start of service/work
• Initiation and Adjudication
• Maintain documentation

The National and Community Service Act of 1990 as amended by the Serve America Act

45 CFR §2540.200-207
NSCHC Legal Framework


• Regulations: 42 USC 12645g Sec 189D. Criminal History Check: http://www.ecfr.gov/cgi-bin/text-idx?SID=f18603dfc0ed8573d5a6254c0e71eae7&mc=true&node=pt45.4.2540&rgn=div5

• Terms and Conditions

• CNCS NSCHC Resources: http://www.nationalservice.gov/resources/criminal-history-check
Safeguarding & Prevention

NSCHC is a baseline screening procedure—both in terms of screening criteria and safeguarding. Those working with vulnerable populations should institute a holistic framework for safeguarding beneficiaries of service. Safeguarding is broader than screening as it also includes additional actions you can take to ensure the health and safety of beneficiaries.

Safeguarding includes procedures that provide clear steps on what to do to mitigate the risk to beneficiaries, assigns roles and responsibilities, documents policies and procedures and complies with the process for investigating complaints.

There are six components to protection systems:
1. Screening and selecting employees and volunteers
2. Guidelines on interactions between individuals
3. Monitoring behavior
4. Ensuring safe environments
5. Responding to inappropriate behavior, breaches in policy, and allegations and suspicions of child or elder abuse
6. Training about child and elder abuse prevention.

Forms of abuse:
- Physical
- Sexual
- Psychological
- Financial or material
- By neglect
- By discrimination
Safeguarding and Protecting Communities

• NSCHC is part of safeguarding and protecting communities
  • Only $\frac{1}{2}$ of 1$^{\text{st}}$ component in a 6 component plan

• Protecting beneficiaries, members, staff, program, organization, agency from harm
  • Physical, mental and emotional safety of staff, members, and beneficiaries
  • Reputational, operational, performance and financial risk of organization
Develop a Safeguarding Culture: where abuse is discussed, addressed and prevented

- 1. Screening and selecting employees and volunteers
- 2. Guidelines on interactions between individuals
- 3. Monitoring behavior
- 4. Ensuring safe environments
- 5. Responding to inappropriate behavior, breaches in policy, and allegations and suspicions of abuse
- 6. Training about abuse prevention
## Screening Criteria: What’s Right for You?

<table>
<thead>
<tr>
<th>CNCS Criminal History Statutory Minimums</th>
<th>Office of Juvenile Justice Delinquency and Prevention Guidelines</th>
<th>National Center for Missing and Exploited Children Child Safety Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Refusing to undergo the process</td>
<td>• Crimes involving children or dependent adults</td>
<td>• All felony convictions</td>
</tr>
<tr>
<td>• False statements</td>
<td>• Crimes of violence within 10 years*</td>
<td>• Lesser crimes of force</td>
</tr>
<tr>
<td>• Murder</td>
<td>• All other crimes discretionary based on position, circumstances, recency and other factors</td>
<td>• Lesser crimes of a sexual nature</td>
</tr>
<tr>
<td>• Sex offenses requiring registration</td>
<td></td>
<td>• Controlled substances</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Cruelty to animals</td>
</tr>
</tbody>
</table>

Any screening procedures are applied in a manner consistent with state and federal civil rights laws

* If utilized by a CNCS grantee, murder would render an individual ineligible regardless of the offenses’ age, due to the statutory requirements of 42 USC 12645g.
Safeguarding & Prevention

**SCREENING**
- NSCHCs are necessary but are only one component of a protection system
- Supplement with additional screening (reference checks, abuse registry searches, etc.)

**GUIDELINES ON INTERACTIONS BETWEEN INDIVIDUALS**
- Define Abuse
- Avoid isolated, one-on-one contact
- Code of Conduct
  - Policies regarding interactions at the program site
  - Policies for ensuring safe environments - contact outside of the program – rides after hours, texting, and social media contact
  - Policies on monitoring behaviors

**TRAINING**
- Culture of Zero Tolerance
- Train on Prevention as topic generally, and your organization’s safeguards specifically
- Train staff and volunteers
- Train vulnerable individuals in abuse prevention strategies

**PLAN FOR REPORTED ABUSE**
- See something, say something
- Mandatory Reporters
- Relevant contact details for social and human services, police, and telephone hotlines should be available
- Responding to all allegations and complaints of abuse
Preventing Child Abuse:

National Sex Offender Public Website
https://www.nsopw.gov/en/Education

Centers for Disease Control and Prevention
https://www.cdc.gov/ViolencePrevention/

Rape Prevention and Education Program encourages the development of comprehensive prevention strategies through a continuum of activities that address all levels of the social ecological model.

Sexual Violence section provides general and scientific information, risk factors, protective strategies, consequences, applicable reports/studies, and featured resources.

Darkness to Light (D2L) is a nonprofit organization with the mission of reducing the incidence of child sexual abuse through public awareness and education. The D2L programs raise awareness of the prevalence and consequences of child sexual abuse by educating adults about the steps they can take to prevent, recognize, and react responsibly to the reality of child sexual abuse.

Enough Is Enough® (EIE) is a nonprofit organization focusing its efforts on confronting online pornography, child pornography, child stalking, sexual predation, and other forms of online victimization. Internet Safety 101® multimedia program

The Joyful Child Foundation is dedicated to preventing crimes against children through programs that educate, empower, and unite families and communities. A Parent’s Guide to Prevention (PDF|HTML)

CNCS does not endorse, approve, certify or control external websites.
Resources

- **National Center for Missing and Exploited Children**
  
  National Center for Missing & Exploited Children (NCMEC) is an organization that serves as the nation’s resource leader on the issues of missing and sexually exploited children. The information and resources provided are for law enforcement, parents, children, and victims.

  NCMEC [Child Safety Publications](#) offer easy-to-use safety resources to help address prevention education topics. It is most beneficial to help build children’s confidence and teach them to respond to a potentially dangerous situation, rather than teaching them to look out for a particular type of person.

- The [radKIDS®](#) life skills safety program is available for providing holistic, practical, and realistic information for children and parents. [Bring radKIDS® to You](#)

- **Stop It Now!** is an organization committed to preventing the sexual abuse of children by mobilizing adults, families, and communities to take actions that protect children before they are harmed. [Learn Everyday Actions to Keep Kids Safe](#)

- **Stop the Silence: Stop Child Sexual Abuse, Inc.** is an organization of multiethnic and state groups aimed to increase awareness and conduct programming to address the prevention and treatment of child sexual abuse.

Preventing Elder Abuse:

- **National Center on Elder Abuse:** [https://ncea.acl.gov/](https://ncea.acl.gov/)

- **Centers for Disease Control and Prevention**

CNCS does not endorse, approve, certify or control external websites.
Do you have compliance blindness?
NSCHC Terminology

- NSCHC, CHC
- Background check
- Eligibility/ Ineligibility
- Noncompliance
- Covered position
- State repository
- Channeler
- Vendor
- Departmental Order (DO)

- Alternative Search Procedure (ASP)
- Mitigation
- Break in service
- False statement
- State of residence
- State of service
- Recurring access
- Vulnerable populations

- Fingerprint based - FBI Check
- Contractor
- Service/work/hours
- Initiation
- Service to/service with
- Accompaniment
Eligibility: Who Cannot Serve or Work?

Anyone who refuses to undergo the Check is ineligible.

Anyone who makes a false statement in connection with a program’s inquiry concerning their individual’s criminal history is ineligible.

Anyone listed, or required to be listed, on a sex offender registry is ineligible. (November 23, 2007)

Anyone convicted of murder as defined and described in 18 U.S.C. § 1111 is ineligible.* (October 1, 2009)

*Although murder became an ineligibility offense in 2009, no one with this conviction can work present day even if they were hired prior to the effective date of the statute.

Report confirmed ineligible individuals to CHC@cns.gov with a cc to your PO and GO.
An individual in a covered position may be paid wholly from federal share, wholly from matching dollars, or from a mixture of federal and non-federal funds.

The source of the funds has no impact on the status of the position as covered or not covered.

The ability on more than one occasion to approach, observe, or communicate with, an individual, through physical proximity or other means, including but not limited to, electronic or telephonic communication.

Components: NSOPW + State(s) or FBI

Episodic access is access that is not a regular, scheduled, and anticipated component of an individual’s position.

Components: NSOPW + [State(s) or FBI]
Who? - Vulnerable Populations

- Individuals 60 and over
- Children 17 and under
- Individuals with disabilities
The intent of the rule was to protect the vulnerable populations that were beneficiaries of service.

Access to individuals in covered positions does not establish a need to conduct a “Recurring Access to Vulnerable Populations” Check.
All individuals in a covered position are subject to NSCHC requirements.

Fixed Amount: Any individual performing activities described in the application.

Contractors and Indirect Costs: Not covered.

Includes national service participants and grant-funded staff.
When? - Initiation

CNCS: One documented step beyond permission

YOU: Define in your policies and procedures
Break in employment/service: A person is no longer providing service through or receiving salary from a program. Temporary interruption without termination of employment or service is not a break in service.

The break in service period is **120 days**.

There is no break in service if the person comes back for a consecutive term within 120 days.
Accompaniment

What is accompaniment?
• A person is accompanied when he or she is in the physical presence of a person cleared for access to a vulnerable population.

Who can perform accompaniment?
• Covered position on NSCHC Grant: Already cleared NSCHC needed for recurring access
• Not a covered position on NSCHC Grant: Clearance for access established by placement site’s rules

Who is required to be accompanied?
• Individuals in covered positions with recurring access to vulnerable populations

When does it need to occur?
• Start: Access to vulnerable populations
• Stop: State (both state of residence and service) or FBI checks are returned and cleared

How do you document it?
• Best Practice: Time sheet
## Ineligibility vs. Noncompliance

<table>
<thead>
<tr>
<th>Ineligible to serve/work on CNCS grant</th>
<th>Eligible to serve/work</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Refuses to undergo check</td>
<td>• Convicted of crimes others than murder and sex offenses that require registration</td>
</tr>
<tr>
<td>• Makes false statement in connection with a criminal history check</td>
<td>• False statements not related to criminal history checks</td>
</tr>
<tr>
<td>• Convicted Murderer</td>
<td></td>
</tr>
<tr>
<td>• Registered or required to be registered on a sex offender list</td>
<td>Eligible and Noncompliant NSCHC:</td>
</tr>
<tr>
<td></td>
<td>• Late criminal history check component</td>
</tr>
<tr>
<td></td>
<td>• Missing criminal history check component</td>
</tr>
<tr>
<td></td>
<td>• Criminal history check from no approved source</td>
</tr>
<tr>
<td></td>
<td>• Missing documentation</td>
</tr>
<tr>
<td></td>
<td>• Missing accompaniment documentation</td>
</tr>
<tr>
<td></td>
<td>• Criminal history check not adjudicated</td>
</tr>
</tbody>
</table>

Report confirmed ineligible individuals to [CHC@cns.gov](mailto:CHC@cns.gov) with a cc to your PO and GO.
How? - Vendors

It is the grantee’s duty to ensure that their vendor complies with NSCHC requirements.

- Which CHC component will you use the vendor for?
- Will the vendor use the correct source?
- Does the vendor limit data to 7 years?
- Does the vendor maintain the results?

Vendor products may address all or some of the components of the National Service Criminal History Check. If the vendor’s product deviates from the National Service Criminal History Check procedures, the check result will not be compliant. Many vendors also offer more comprehensive searches than CNCS requires. You may use these for additional screenings at your own discretion.

http://www.nationalservice.gov/resources/criminal-history-check
Look for “Vendor Guidance”
How? - Alternatives and Exemptions

• Possible to submit Alternative Search Procedures (ASPs) and requests for exemptions.

• Pre-Approved ASPs

• Visit CNCS website for more information.

Pre-Approved ASPs as of February 2016 address the following situations:

- Organizations that receive clearance letters from partners, in lieu of actual results.
- Unreadable fingerprints
- Prohibited by State law from sharing or maintaining results
- Using a vendor for NSOPW results

Do you know how to get checks conducted in your state?
Types of Checks

National Sex Offender Public Website (NSOPW)

State Checks

FBI Checks
Is this a covered position?  
(Individual receiving an education award or a living allowance, stipend, or salary from a CNCS-funded grant, including CNCS share and match)

- No
  - No NSCHC required!

- Yes
  - Recurring access to vulnerable populations?*
    - No
    - Initiated no later than start of work/service/hours
      - NSOPW
      - FBI
      - Initiated no later than start of work/service/hours
      - OR
      - Stat
      - Initiated no later than start of work/service/hours
    - Yes
      - Completed before start of work/service/hours

*Date on grant may impact NSCHC; applies to start date on or after 4/2/11. More info here: https://www.nationalservice.gov/CHCEffectiveDates
Which Checks? - No/Episodic Access

NSOPW

State Checks

OR

FBI Checks
Which Checks? - Recurring Access

- NSOPW
- State Checks
- FBI Checks
National Sex Offender Public Website (NSOPW) Check

- Nationwide search from the U.S. D.O.J.
- Name-based check of public information.
- Must clear all “hits” on a name.
- Must obtain all states, territories, and tribes.
Results

0 records from a national search including all states, territories and Indian Country for First Name like Elizabeth Last Name like Jon. To view a list of the jurisdictions included in this search, click here.

Search performed 3/30/2017 12:36 PM EDT
### National Sex Offender Search

**Results**

578 records from a national search including all states, territories and Indian Country for First Name like John, Last Name like Doe. To view a list of the jurisdictions included in this search, click here.

Search performed 3/2/2016 10:54 AM EST

California: The jurisdiction’s service is temporarily unavailable. Please try again later.

<table>
<thead>
<tr>
<th>OFFENDER</th>
<th>AGE</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABRAN, JAIME</td>
<td>38</td>
<td>INS CUSTODY INCARCERATED, FL 00000 UNKNOWN Residential</td>
</tr>
<tr>
<td>ACRON, CLARK W</td>
<td>59</td>
<td>102 NEW BELL ROAD APT A4 Columbus, MS 39705 LOWNDIES Residential</td>
</tr>
</tbody>
</table>

Incarcerated 3/2/16 E.O.

Sex 3/2/16 E.O.
National Sex Offender Search

Results

578 records from a national search including all states, territories and Indian Country. For First Name like John, Last Name like Doe. To view a list of the jurisdictions included in this search, click here.

Search performed 2/20/2016 10:54 AM EST

California. The jurisdiction's service is temporarily unavailable. Please try again later.

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<td>ACRON, CLARK W</td>
<td>59</td>
<td>102 NEW BELL ROAD APT A4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Columbus, MS 39705 LOWNDIES Residence</td>
</tr>
</tbody>
</table>
Where? State Checks

- Checks from official CNCS-designated sources (and **only** designated sources).

- **BOTH** State of Service and State of Residence required.


- CNCS State by State Guide
Where? - FBI Checks
When? Timing of Checks

**NSOPW**
These checks must be **completed before** the start of work/service/hours.

**STATE REPOSITORY CHECK(S)**
These checks must be **initiated** no later than the start of work/service/hours.

**FBI CHECK**
Must be **initiated** no later than the start of work/service/hours.

**ACCOMPANIMENT**
Provide and document each and every day that you give access while checks are pending.

**RESULTS**
Maintain results. Document that you considered them before selecting the candidate. Cease accompaniment.

**Start of Service/Work/Hours**

**Results Returned**
Documentation is critical!

...so are supporting documents
# How? – Compliance Checklist

<table>
<thead>
<tr>
<th>Federal Compliance Requirements</th>
<th>✓</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complete NSOPW check before work begins</td>
<td></td>
</tr>
<tr>
<td>Determine how and from where (sources) the checks must be obtained</td>
<td>✓</td>
</tr>
<tr>
<td>Verify identity with government photo identification</td>
<td>✓</td>
</tr>
<tr>
<td>Pay for the checks</td>
<td>✓</td>
</tr>
<tr>
<td>Perform accompaniment while checks are pending</td>
<td>✓</td>
</tr>
<tr>
<td>Maintain the results of the checks</td>
<td>✓</td>
</tr>
<tr>
<td>Provide opportunity for review of findings</td>
<td>✓</td>
</tr>
<tr>
<td>Keep information confidential</td>
<td>✓</td>
</tr>
<tr>
<td>Maintain Documentation (see below)</td>
<td>✓</td>
</tr>
</tbody>
</table>

## Documentation: What You Must Create and Retain

- Document that you verified the individual's identity with a government-issued photo ID
- Document and obtain written authorization prior to initiating checks
- Document that the individual understands selection is subject to Check results
- Document accompaniment while checks are pending and the individual has access to vulnerable populations
- Document that you conducted the checks
- Document that you considered the results of the checks
- Maintain the results of the Check components: NSOPW, State(s), FBI
# National Service Criminal History Check (NSCHC) Documentation Checklist

1. Name of individual receiving checks: [Click here to enter text.]
2. Position: [Click here to enter text.]
3. Recurring access to vulnerable populations? [Yes] [No]
4. Start Date: [Click here to enter a date.]

5. Verification of identity
   - [ ] Photocopy/scan of government-issued ID (driver’s license or passport) attached
     
     ID type: [Click here to enter text.]  ID number: [Click here to enter text.]  Expiration: [Click here to enter a date.]

6. Written Consent
   - Scanned or attached consent form including a signed statement from the candidate agreeing to undergo checks and confirming that the candidate understands selection is coming up for a second NSCHC.

7. National Sex Offenders Public Website (www.nsopw.gov)
   - Date Completed: [Click here to enter a date.]
     - [ ] Screenshot printed or sent via email from National Sex Offenders Public Website (NSOPW) that clear your candidate.
     - [ ] If the NSOPW search returns any hits, include documentation that shows that your candidate is not one of those listed.
     - [ ] If any registries were not reported, that means your search documentation that you either searched the nonreporting registry directly or did a second NSOPW search when the registry was present.

8. Record Checks
   - [a] State Checks:
     - Status: [Click here to enter text.]
       - Date Initiated: [Click here to enter a date.]
       - Date Completed: [Click here to enter a date.]
     - State of Residence: [Click here to enter text.]
       - Date Initiated: [Click here to enter a date.]
       - Date Completed: [Click here to enter a date.]
   - [b] FBI Checks:
     - Date Initiated: [Click here to enter a date.]
     - Date Completed: [Click here to enter a date.]
Recommended File Structure:

A. NSCHC Documentation Checklist
B. Documentation of Start Date
C. Verification of Identity
D. Documentation of Consent/Understanding
E. National Sex Offender Public Website Results, documentation that results were reviewed and the results of any additional searches conducted (e.g. due to downed states)
F. State of Service Check, including documentation of date initiated, source, results, and consideration of results
G. (If applicable) State of Residence Check, including documentation of date initiated, source, results, and consideration of results
H. (If applicable) FBI Check, including documentation of date initiated, source, results, and consideration of results
I. Accompaniment – Accompanier, Start, Cease, Date(s) of Access
J. ASPs/Exemptions approvals/submissions
K. Consideration of Results
<table>
<thead>
<tr>
<th>Common Compliance Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Time</strong></td>
</tr>
<tr>
<td>• Failure to perform the search of individuals on the national sex offender public website BEFORE service begins;</td>
</tr>
<tr>
<td>• Failure to initiate State/FBI checks on time</td>
</tr>
<tr>
<td><strong>Documentation</strong></td>
</tr>
<tr>
<td>• Failure to document their own review of check results and grantee suitability considerations, as necessary.</td>
</tr>
<tr>
<td>• Failure to document the initiation of State/FBI checks;</td>
</tr>
<tr>
<td>• Failure to retain results of State/FBI checks</td>
</tr>
<tr>
<td><strong>Understanding</strong></td>
</tr>
<tr>
<td>• Failure to assess and hire vendors who can perform fully compliant checks;</td>
</tr>
<tr>
<td>• Lack of awareness that checks are required for their own staff;</td>
</tr>
<tr>
<td>• Lack of compliance with accompaniment requirements (staff who work with vulnerable populations and whose checks are pending must be accompanied by a clear individual until the check is complete);</td>
</tr>
<tr>
<td>• Inability to update grantee specific NSCHC policies to coincide with the revised CNCS regulations</td>
</tr>
</tbody>
</table>
Resources

1. CNCS Knowledge Network
   • Annually required E-course for CNCS staff and grantees
   • FAQs
   • State by State Guide and repository list
   • FBI and Fieldprint guidance
   • Enforcement Guide
   • Enforcement Guide Tools and Templates
   • Vendor Guidance
   • Checklists

2. Program Officer

http://www.nationalservice.gov/resources/criminal-history-check
Group Brainstorming