



Background Checks 101

Keeping your church safe and in compliance

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A Checklist of Best Practices

1. Create a Policy

This is vital. A documented policy that you follow—without fail and without exception—can save you from charges of favoritism. This policy should be written and available to everyone to view in physical and/or online form. In it, detail which positions are screened against which databases. All childcare workers, for example, will be checked against x, y, and z databases. All drivers will be checked against x, y, and z databases. And so on. Most background check companies offer these as different packages. If anyone does not agree to be screened, you should not allow them to work.

Review the policy periodically, and update it if needed.

Perform periodic audits to make sure the policy is being followed by church staff.

2. Limit your Screeners

Keep the number of people who process and view background checks limited, and know who they are. Screen your screeners. Background checks contain private information that is legally protected.

3. Screen All Staff and Volunteers

We recommend running background checks on everyone working at your church. Childcare workers, naturally, should be screened. But the rest of your congregants are potential victims too. Criminals often target the elderly, and valuable items and even data might be stolen from anywhere in your church. Finally, having your whole staff screened sets the example that nobody is being singled out.

4. Get Educated

Make sure one or more people at your church understand how background checks and the screening industry work. By doing so, you can make good decisions about which screening packages you should choose for individual positions. Targeted checks are smart checks.

The next section, [Understanding the Background Check World](#), can help, but there are plenty of resources online.

5. Don't Forget Existing Workers

Screen staff and volunteers who held positions before your new policy went into effect. Also screen one-time volunteers, something you'll want to add to your written policy.

6. Keep Background Checks Up-to-Date

Updating checks is something else to spell out in your policy. We recommend renewing them every 1 or 2 years. A lot can change in that time.

7. Know the Laws

In addition to the [Federal Trade Commission's laws](#) for performing background checks, certain [states have their own requirements](#). There are important procedures that you must follow while conducting background checks. The subjects of the screenings must be notified in very specific ways. All applicants, for instance, must be contacted before the process and give written consent. Those who are declined must be provided certain documentation as part of "Adverse Action" requirements. Don't start before knowing these and other regulations. Again, [the next section](#) can help. And if you use a good background check service, they should provide you with all of this information along with prewritten forms to take the guesswork out of compliance.

8. Keep a Paper Trail

We recommend keeping records of everything related to each background check for at least 5 years. Of course, bone up on your local laws. Regulations vary on this topic, but a five-year archive should satisfy them.

9. Document your Decisions

Part of that paper trail should be detailed, written documentation explaining the decisions you make about hiring or declining every volunteer and staff member. No detail is too trivial to record. Don't rely on your memory alone.

Understanding the Background Check World

Should you Run Background Checks?

Until recently, churches were not required to run background checks. And the law is still a little vague on the subject. But in 2017, a court ruled, for the first time in the US, that charities had a legal responsibility to conduct background checks on youth workers. By not doing so, an organization was held liable for an act of molestation committed by one of its workers.

Consider, too, that in addition to federal law, each state has its own laws, and you'll appreciate that the legal landscape is complicated and changing quickly. The implication is clear: Any church that ignores this responsibility for protecting its kids might face potentially ruinous consequences.

So while background checks aren't free, they aren't expensive either, especially when you factor in the value and protection they provide to your church and to the smallest members of God's kingdom.

This guide was not written by a lawyer and should not substitute for legal advice. But, yes, you absolutely need to run background checks on everybody who works, or volunteers to work, with your kids, if not on all your church staff.

The Screening Company: All are Not Equal

When choosing a company to perform background checks, you should insist on some basics.

Compliance and Accreditation

Make sure your background check agency is compliant with the Fair Credit Reporting Act (FCRA). The FCRA is a federal law that governs how background checks must be conducted. If you or the agency you use don't follow the rules, you could be liable for legal action. The safest and easiest way to stay compliant is to turn the background check process over to a company that understands and abides by the regulations. Any reputable agency should note its compliance on its website.

The company should also be accredited by the National Association of Professional Background Screeners (NAPBS) which makes sure screeners are knowledgeable and up-to-date by passing periodic exams.

You can, of course, run your own background checks. But there are a number of regulations restricting how you obtain and use private information, so be sure you understand all the related federal, state, and local laws.

A good place to study the rules is here: <http://childcareaware.org>.

A Wide Offering of Databases

There is no such thing as a single database for all criminal information that's available to the civilian population. So, to conduct a thorough search, a background check must consult more than one. All background checks should at least perform both a Nationwide Criminal Search and a Social Security Number Trace. Beyond that, additional databases could be consulted depending on the job you're trying to fill (typically increasing the cost). More on that later.

Verification and Adverse Action Assistance

If you deny a worker based on information returned in a background check, the FCRA requires you notify the subject of the check and provide them with a copy of the results. The background check company you choose should offer a way to do this online. They should also be able to verify the results of the check. The adverse action procedure is discussed later in this document.

Ease of Use

The company you select should make it easy to order new background checks, online, whenever you need them. They should also provide an uncomplicated website where you can set up user accounts for your staff and view the results of completed searches.

Before you Start

Communicate with the Candidate

To make sure you stay compliant with FCRA, you must:

- Tell the candidate that you could use the results to make a decision about their employment or volunteer status at your church.
- Get their written permission to conduct the check now and, possibly recurrently during their work tenure. Additionally, in CA, MN, and OK, you must ask candidates if they want a copy of their background check. The best place to familiarize yourself with state-to-state regulations is here: <http://childcareaware.org/providers/opening-a-new-child-care-program/required-background-checks/>
- You'll also be asked to certify to the screening company that you got the candidate's permission, comply with all FCRA requirements, won't discriminate against the candidate or misuse the information, and will follow the proper procedures for any "adverse actions" (explained later).

These are detailed further on the [Federal Trade Commission's website](#).

Create a Written Policy for Background Checks that Applies to All

To help prevent discrimination or claims of it, you need to create a written document explaining the exact circumstances that will trigger all background checks. Each driver should, for instance, be screened exactly the same. Lay out the same guidelines for child care workers and volunteers, janitorial staff, etc. It's essential that nobody "gets a pass". Be as detailed as you can, and follow these rules consistently without exception.

Checking the Right Records

As mentioned earlier, there are a number of criminal record databases that can be consulted as part of a background check.

National Criminal Database: The Basic Offering

You might think this is a single database and that it's run by the federal government. But you'd be wrong on both counts. Federally-operated criminal databases are off limits for public background checks. Instead, private background check companies create their own and often call them "nationwide databases" or something similar. But each company uses a different collection of sources for its records. None can provide a total search of the almost infinite records kept by local, state, and national governments.

This doesn't mean a national criminal database search is useless. Far from it. It's usually the basic offering of most screening companies. It's good value for money. But the broader its reach, the better the search. The best and biggest offer around 500 million records searched.

Any basic check should include a search of both a nationwide criminal database and a Social Security Trace.

Social Security Number (SSN) Trace: A Vital Companion to Any Search

This is another search that's offered by any reputable screening company. It helps locate other addresses and names that might be associated with an individual. Searching on a single name might not disclose information about a person while they were using a maiden name, an AKA name, or one that has since been changed. Keep in mind, though, that Social Security Numbers can be stolen; this search doesn't prove that a number belongs to the person you're screening. A good use of the SSN trace is in pairing it with other searches.

County Criminal Search: Worth the Extra Cost

Since the county is the most fundamental level of judicial record keeping in the US, most experts consider this the best, single type of search. It will uncover more thorough and up-to-date information than a national criminal database search—which may not include a number of county records; some counties don't even report to national databases. The downside of a county search is that it's usually more expensive (some of these records are only discoverable through manual efforts). And to be truly rigorous, a search might need to be conducted in several counties if the applicant has had multiple residences, a fact that could come to light in a Social Security Number Trace.

The National Sex Offender Public Website (NSOPW): Essential for Childcare Workers

Most experts recommend a search of this database for anyone who will work with children. Also known as the Dru Sjodin NSOPW, it is the best available source for information about anybody with a history of sexual offenses. It's operated by the US Department of Justice and can be searched by anyone for free. As always, if you turn up a positive result, make sure you searched on the correct individual. This is not one you want to get wrong, and it's another good reason to combine searches with a Social Security Number Trace. Most background check companies will include a query of this database among their offerings and should assist you with any verifications. Be wary of similar-sounding substitutes for the NSOPW since that information might not be up-to-date. The Justice Department gets this data directly from the sex offender registries of individual states.

Motor Vehicle Record Check: For All your Drivers

If the position you're trying to fill requires driving, consider a motor vehicle record check. This could also turn up offenses, like DUIs, that might not appear in other checks. It's possible to order these on your own through your state driver's license agency on the web. Often, there is a fee, and most background check companies offer the service for not much more, so consider this as another option.

Adverse Action Requirements

Let's say you've chosen a background check agency and gotten the results of a check on a worker or volunteer. The outcome reveals something that causes you to deny that person a position. Do

you simply send them an email and that's the end of it? Not at all. According to the FCRA you must now follow a series of steps to remain in compliance with the law.

First (this is called "pre-adverse notification"), you must send the applicant:

- notification that their background check results are under review and they might be denied a position because of its content
- a copy of their background check along with the contact information of the background check company (if you used one). Inform them that they have a right to dispute the information with the agency
- a copy of the FCRA's [A Summary of your Rights under the Fair Credit Reporting Act](#)

Second, you must then wait at least 5 days before denying the applicant a position. This is considered a "reasonable period" of time by the Federal Trade Commission.

Finally, you must send an "adverse action notification", a written statement about your decision and what it was based on. The applicant can continue to dispute the results of the check with the background check company. They also have 60 days to request a free copy of their report from the agency.

Some things to remember about adverse actions:

- Some states and cities have additional requirements.
- If you use a third-party company to do your background checks, they will probably provide plenty of information and forms on their website to help you stay in compliance during this process.

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