

---

american *CAMP* association™

# **Criminal Background Checks Strategic Plan**

Rev. 1/25/2006

---

## **Criminal Background Checks Strategic Plan**

### **I. Executive Summary**

The American Camp Association (ACA) believes that biometric-based criminal background checks are an important aspect of a camp's staff and volunteer screening process. However, a reliable, complete, affordable federal system for securing biometric-based checks is not currently available.

There is much confusion about what a criminal background check really is, and what is available in each state at this time. This strategic plan includes four main focuses: federal advocacy, state advocacy, ACA member education, and building coalitions with other youth serving organizations.

The ultimate goal of this plan is the establishment of a federal program that provides affordable, timely, accurate biometric-based criminal background checks (according to pre-determined indicators of potentially harmful behavior) with uniform access to all organizations who use staff and volunteers to serve children, youth, and vulnerable adults.

### **II. Mission and Vision Statements**

A. **Mission:** The Mission of the American Camp Association is enriching the lives of children, youth, and adults through the camp experience.

B. **Vision:** Enriching Lives, Changing the World

C. **Values:** People, the World, and Contribution

D. **Public Policy Position Statement relevant to this plan:**

#### **1) Criminal Background Checks**

*The American Camp Association (ACA) is committed to the physical and emotional safety of children and youth. This commitment is reflected in the education, training, publications, and camp standards that ACA provides. ACA believes that camps should utilize multifaceted screening and hiring programs and support practices appropriate to the clientele, staffing, supervision and program consideration of each camp.*

*An important aspect of any screening program is biometric-based\* criminal background checks for all staff and volunteers with access to children, youth or vulnerable adults. In order for camps to implement effective biometric-based criminal background checks, a reliable federal program must be in place. ACA supports the establishment of a comprehensive federal biometric-based criminal background checking system that is reasonable in cost, timely in response, uniform in availability to camps across the country regardless of sponsorship,*

*and consistent in the information provided according to identical pre-determined indicators of potentially harmful behavior.*

*In order for a federal program to be viable, ACA believes that states must mandate timely reporting to the state of information held at the county level, provide both county and state data to the federal program in a timely manner, mandate that checks be done for all staff and volunteers with access to children, youth, and vulnerable adults, and provide assistance to camps in accessing the system in a timely and affordable manner.*

*Furthermore, ACA advocates for the establishment of a coalition of agencies and associations with similar interests and concerns in order to promote a national response to this critical issue.*

*\* Data gathered from a biological source unique to an individual – possible examples include fingerprints and retinal scans.*

### **III. History of ACA Work Relevant to the CBC issue**

#### **A. ACA Efforts:**

The ACA Council of Delegates adopted a public policy position on criminal background checks in 2001. At that time, ACA was trying to support a bill introduced in the Senate that proposed a name based federal check system that allowed access, was affordable, and produced relevant information in a reasonable time. The National Child Protection Act (signed into law in 1993) already mandated that states establish a system but it was an unfunded mandate therefore many states had not responded. Camps were faced with the lack of a comprehensive federal database. ACA saw this name based system as an interim step until a more complete (that is, a fingerprint based system) one was available and viable. (See section IIIB below for details.)

The ACA National Public Policy Committee worked with federal legislators on a name-based system over three congressional sessions. We have completed an initial inventory of states to determine which ones mandate checks and how they are done. We have also provided advice and support to ACA Sections working with state initiatives.

The ACA Council of Delegates met again in 2005 to reassess our position on the issue of criminal background checks – with an eye toward looking at our responsibilities to our camps and to the public, reexamining our position statement and developing a future plan of action. The position statement listed in IID2 above was the result of that effort.

#### **B. Federal Legislative History:**

The current system of background checks has been shaped by the National Child Protection Act of 1993 (NCPA), the Violent Crime Control Act of 1994, and the Volunteers for Children Act (part of the Crime Identification Act of 1998). Prior to 1993, youth-serving organizations in most states were not legally allowed to obtain national criminal background checks.

The 1993 NCPA encouraged states to adopt legislation that would allow youth-serving organizations to perform criminal background checks on volunteers or employees. The

Violent Crime Control Act expanded the scope of this to include organizations serving the elderly and individuals with disabilities. However, most states did not choose to enact the authorizing legislation suggested by NCPA, so again youth-serving organizations in many states were left without the ability to obtain national criminal background checks.

The Volunteers for Children Act of 1998 provided hope for change. Due to the Volunteers for Children Act, organizations serving children, the elderly, and individuals with disabilities are now allowed to request background checks regardless of whether or not the state has passed authorizing legislation. However, it is left to each state's discretion to determine which types of human service organizations should be designated as "qualified entities" able to apply for national background checks through the state agencies. Again, this means that in many states across the country, various human service organizations are unable to obtain national criminal record checks.

In the 107th Congress, Senator Biden introduced legislation to improve the criminal background check system (S. 1868). On May 23, 2002, the Senate Judiciary Committee considered S. 1868, and passed an amended version unanimously. Then, H.R. 5556 was introduced into the House of Representatives on October 7, 2002. The co-sponsors of the House bill and the co-sponsors of the Senate bill reached agreement on some changes to the original bill. The full Senate then passed an amended bill on October 17, 2002. Unfortunately, the House adjourned for the year before passing its version of the bill.

These bills would have ensured that every youth-serving organization, no matter what state they are located in, would have access to nationwide criminal record checks. Under current law, youth-serving organizations in 37 states are prevented from getting nationwide criminal record checks, leaving them the only option of conducting the less complete and less reliable state and local checks. The legislation would have also reduced the cost for nationwide checks (which currently ranges from \$36 to \$70 per check), and would have ensured that results would be returned in 20 business days or less (current wait times can stretch into 6 to 8 weeks or more).

The work on S. 1868 and H.R. 5556 laid the groundwork for passage of the SafetyNET pilot project. Congress decided to create a pilot program to test out the best approach for youth-serving organizations to access FBI checks before passing permanent legislation. Created through the PROTECT Act (S. 151) under the leadership of Sen. Biden (DE), Sen. Hatch (UT) and Rep. Sensenbrenner (WI), the pilot program was signed into law on April 30, 2003.

Through the pilot, originally scheduled to last 18 months, affiliates of MENTOR, Boys & Girls Clubs of America, and the National Council of Youth Sports are able to access FBI fingerprint background checks on their volunteers (only volunteers at this time). Each organization is testing out a different method of submitting background checks. The PROTECT Act also includes a study that will assess the nationwide and state criminal background check system, and make recommendations on how to ensure that human service organizations can promptly and affordably conduct these important checks. Based on the initial success of the pilot, Congress extended it an additional year, until January 2006.

In addition, with the advancement of America's Homeland Security initiatives, there has been an increased functionality and practice with electronic biometric screening of non-

Americans entering the US. The lessons being learned will inform the criminal background check issue and initiatives.

*In the appendix of this plan are the following references:*

- *Chronological history of ACA's work on the CBC issue*
- *Overview of state requirements*

#### **IV. Strategic Issues and Core Objectives**

##### **A. What is a Criminal Background Check?** *(adapted from materials originally published by the National Mentoring Partnership)*

Currently, each state is the "gatekeeper" for background checks – they decide who can access background checks and for what purpose. Each state sets its own laws on background checks, thus, there is no consistency from state to state on eligibility, process, cost, and turnaround time. In many states, the most thorough types of background checks may not be accessible at all to camps. Because of these limits, private vendors have sprung up to provide access to background checks as well.

There are several different kinds of criminal background checks available today, each with its strengths and weaknesses. There is no single criminal database in this country that includes every criminal record, so there is no one "perfect" background check.

##### **1. Fingerprint-based vs. name-based:**

A name-based check uses a person's name and Social Security number to match any possible criminal records. There are several weaknesses with a name-based check:

- The individual could provide a false name and Social Security number. In fact, over 1% of the 45 million individuals in the FBI criminal database have used over 100 aliases and false Social Security numbers.
- Females may have two or more different last names if they have been married one or more times.
- Criminal databases can have mistakes in the spelling of an individual's name and other relevant information. A name-based check might miss a criminal record if the record itself has mistakes.
- Due to common names, "false positives" may arise – in other words, your check comes back with criminal records, but they actually belong to another individual with the same or similar name.

A fingerprint-based\*\* check is the only way to verify a person's identity, and to ensure that the criminal records found are for the right person. However, camps may not be able to access a fingerprint-based check, depending on their state's background check laws.

*(\*\* Fingerprints are one form of check that is based on biometric data from an individual. Other biometric based checks might include retinal scans and DNA testing. Currently, fingerprint-based check technology is more advanced than any other biometric-based technology.)*

##### **2. FBI Checks:**

The FBI maintains the most complete criminal database in the United States. It contains over 200 million arrest and conviction records concerning over 45 million individuals. All

records are fingerprint-based. The database is made up of all federal crimes plus approximately 70-90% of each state's criminal databases. Low-level misdemeanors and citations make up the portion of state records that are generally not present in the FBI database. Because of this, camps that use an FBI check may supplement it with a driver's license check to find any DUIs or driving citations that wouldn't be present in the FBI database.

An FBI check is the best background check available, but it is not always accessible or feasible for camps. An FBI check must be obtained through your state background check agency. But, many states have strict eligibility requirements for FBI checks, and camps often don't qualify. When FBI checks are accessible, they may be very costly or have a lengthy turnaround time.

### **3. Convictions vs. Arrests:**

One of the imperfections with criminal databases is that, often, an arrest will be recorded, but the courts or police do not update that arrest record with the ultimate result. Without that update, it is not known if the individual was convicted, had the charges dropped, or was found not guilty. These incomplete records are often called "open arrests." Some types of background checks only access convictions. When that happens, the check misses any of those open arrests.

### **4. County/Local Checks:**

Background checks of a county or local jurisdiction can be obtained through the local police department. These checks include *only* the crimes committed within that jurisdiction.

### **5. State Background Checks:**

These background checks are obtained through a state agency (which agency it is varies from state to state). These checks include only the crimes committed within that state, so the same limitations in a county check also apply to a state check. The costs and response times vary widely from state to state. Some states do allow fingerprint-based checks, some only allow name-based checks, and some offer both types for different fees. Most state checks also include arrests, but a few include only convictions. A list of state agencies that perform background checks is in the appendix.

### **6. Private Vendor Checks:**

There are dozens of private vendors that advertise their ability to conduct criminal background checks. The costs, response times, and quality of these checks vary widely from company to company. Private background checks are generally name-based and often only access convictions, not arrests. There are two basic methods that these private vendors use for providing background checks.

- Some vendors search county record repositories for the county of residence for the past 3-5 years. This has the same drawbacks as a county search.
- Other vendors maintain databases of criminal records, often searchable online. Some of these vendors advertise their background checks as national in scope. But, these databases are actually only really "multi-state." These vendors buy their criminal data from the states. But, many states have strong privacy laws, so they do not sell any criminal data. Other states only sell a portion of their data (for example, parole records – but not the full conviction or arrest files). This means

that when you run a search through a company like this, you are accessing complete records from a few states, partial records from many states, and no records from many states.

## **7. Other Background Check Options:**

Many youth-serving organizations conduct other types of checks to supplement their criminal background checks. Examples include:

*Driver's license check:* This would catch any tickets, citations, or convictions related to poor driving, including DUIs.

*State sex offender registries:* Most states now have sex offender registries available online, which means it is fairly easy to search several states for an individual. Any crimes that would cause an individual to be on a sex offender registry should show up in a state or FBI criminal background check, but this is a good "double check." A list of state sex offender registries is available at <http://www.fbi.gov/hq/cid/cac/states.htm>.

*National sex offender registry:* The United States Department of Justice launched an on-line database in 2005. It contains the sex offender registries from the states (currently it includes all but 3 of the states – it is anticipated that all will be included soon.) This database can be accessed at [www.nsopr.gov](http://www.nsopr.gov).

*Child abuse registries:* A few states will allow organizations that work with children to check an individual against the child abuse registry. These databases often include complaints of abuse that never result in arrest or prosecution and so would not be in a criminal database.

*Education Records/Academic Degree Verification:* These types of checks would be done directly through the educational institution.

*Work History Verification:* These types of checks would be done directly through former employers.

*Reference Checks:* Most organizations perform checks of the references provided by an applicant.

## **B. Strategic Challenges:**

- 1) The system envisioned in the creation of the National Child Protection Act of 1993 and its amendments in 1995 (Oprah's Bill) did not occur.
- 2) States are not complying with the spirit of Oprah's Bill. That is they are not providing complete, timely, accurate information to the CBC systems that are available.
- 3) The criminal background checks systems that are available are not complete, accessible to all youth serving organizations, timely, nor affordable.
- 4) The CBC systems that are available are used inconsistently across the states. For example, some states have set the criteria that will be used to determine what prior offenses will be okayed for potential hires while others provide raw data on their own predetermined criteria – or all criteria.

- 5) There is a need to integrate our public policy efforts with other programs within ACA – specifically standards, the accreditation process, and education for camp professionals.
- 6) We need to define the unique characteristics of our industry that makes us different from other industries.
- 7) We have a significant number of international staff.
- 8) The public already believes that “someone” is overseeing camps and licensing them to operate.
- 9) The Federal fiscal and political climate is focused on other priorities.

### **C. Critical Issues/Questions for the ACA and the Camp Industry**

ACA has considered the following issues and questions:

- 1) Criminal background checks should be ONLY one part of a comprehensive staff screening and hiring policy. How would we define that comprehensive system and promote this concept?
- 2) There is a discrepancy caused by the lack of state response to the spirit and conditions of the National Child Protection Act and its amendments. Do we have a role in eliminating this discrepancy?
- 3) Criminal background checks can be name based, social security number based and biometric based. How would we define the type of check that should be done and how often should it be performed on each staff member? Should we advocate for a “pull” program that is similar to those used for driver’s license checks?
- 4) There is a need to determine which staff to check. What guidelines would we develop and should they be based on those of other child-oriented professions? What constitutes access to a camper? How does this decision affect our credibility with the public and impact our ability to form strategic alliances?
- 5) The following key components have been identified as essential for a federal database: thoroughness and clarity of the information, application of filters that relate to the type of work we require, timely response, reasonable cost, privacy of the information, ease of access, equal access for all types of camps? What is missing? Should there be a federal standard rather than state-to-state interpretation?
- 6) We need to strengthen our ACA positions in standards, education, and public policy? What is defensible and what should we require? Should we become more assertive in our advocacy positions and in seeking new partnerships?
- 7) Juveniles, camp volunteers, and camp directors are currently often overlooked. Should ACA become assertive advocates for the elimination of these loopholes?
- 8) International staff are often overlooked. We need to know what checks are available in other countries. If checks are not comparable to us checks in some countries, we need to work with international placement agencies to ensure the best information available is gathered and decisions about placements from those countries are made in an informed way.

### **D. Core Objectives**

After consideration of many of the strategic issues and questions involved in this issue, the ACA Public Policy Committee was given the charge to:

- 1) Condition the internal environment to understand the breadth and intricacies of the background check issues.
- 2) Be proactive in our approach to the strategic issues identified – considering four components: federal level, state level, coalitions with other youth serving organizations, and ACA members.
- 3) Be aggressive in our approach to align with others like-minded on these issues.
- 4) Continue to educate and promote the concept that criminal background checks are only one step in the staff screening process.
- 5) Take interim steps to ensure we are making progress toward biometric-based criminal background checks.
- 6) Pursue biometric-based CBC's as the ultimate goal.

## **V. Goals and Objectives**

### **A. Long Term Goals (5-10 years)**

- 1) Establishment and implementation of a comprehensive federal biometric-based criminal background checking system that is:
  - reasonable in cost,
  - timely in response,
  - uniform in availability to camps across the country regardless of sponsorship, and
  - consistent in the information provided according to identical pre-determined indicators of potentially harmful behavior.
- 2) Development and use of consistent minimum review criteria for camps that will be used by all states in their screening search and reports.

### **B. Long Term Objectives (5-10 years)**

- 1) Pro-actively participate in a coalition of varying interests including parents, other youth serving agencies, insurance companies, commercial background check firms, lawmakers, etc.
- 2) Partner with others to provide camps access to discounted criminal background checks.
- 3) Partner with others to develop the criteria that will be used to determine "hireability" of workers at camps with access to children and vulnerable adults.
- 4) Develop and utilize education and training materials for camps that includes: how to use the background information they receive, how to develop a multi-faceted staff screening program, etc.

### **C. Intermediate Term Goals (2-4 years)**

- 1) Build an infrastructure of action, including achieving full integration with the ACA National Standards Commission, National Education Committee, and Insurance Committee.
- 2) Evaluate the establishment of relevant business partnerships.
- 3) Develop strategic partnerships with other youth serving organizations.

- 4) Develop relationships with federal and state legislators.

#### **D. Intermediate Term Objectives (2-4 years)**

- 1) Develop relationships with key groups, including the NSC, NEC, and IC.
- 2) Discuss the potential of strategic partnerships with Protect Act participating organizations and the Center for Missing and Exploited Children.
- 3) Develop and utilize education and training materials for camps that includes: how to use the background information they receive, how to develop a multi-faceted staff screening program, etc.
- 4) State and federal conditioning of the environment.

#### **E. Short Term Goals (1-2 years)**

- 1) Condition the environment to develop understanding of and support for the need to reach the long term goals.
- 2) Create on-going ACA member interest in and understanding of staff screening issues, including criminal background checks.
- 3) Develop relationships with other youth-serving organizations.
- 4) Establish business partnerships with criminal background checking firms

#### **F. Short Term Objectives (1-2 years)**

- 1) Federal Arena
  - a. Discover the appetite at the federal level for movement on this issue.
  - b. Develop key messages to present.
  - c. Develop a case study that is unique to our challenges and helps to tell our story.
  - d. Develop briefing information.
  - e. Discover why barriers have existed at the federal level to comprehensive national criminal database.
  - f. Build on info from the Protect Act first and second year results.
  - g. Develop contacts with individuals in the federal arena.
- 2) State Arena
  - a. Develop key messages to present.
  - b. Develop a case study that is unique to our challenges and helps to tell our story.
  - c. Develop briefing information.
  - d. Investigate building relationships with organizations and individuals who may be able to influence state-level efforts, such as the National Association of State Attorneys General.
  - e. Investigate the viability of using the consumer protection angle caused by the security/privacy issues with databases and the impending legislation.
  - f. Identify individual states that are leading the way with criminal background check issues.
- 3) ACA Members
  - a. Develop the position paper to support the approved position statement on criminal background checks.

- b. Build critical mass with national and section leaders.
- c. Develop a program to host focus groups at regional, national, and section conferences
- d. Develop a criminal background checks issue group
- e. Establish partnerships with at least 3 commercial background check firms that will offer discounts to ACA camps.

4) Coalition Building

- a. Cultivate and solidify relationships with the organizations involved in the Protect Act pilot program.
- b. Cultivate and solidify relationships with other youth serving organizations – including those that have ACA camps (e.g., Camp Fire USA, Girl Scouts, YMCA, etc.)
- c. Research and monitor the pilot program with the FBI.

**VI. Action Plans (including resources needed)**

TBD

**VII. Controls, Benchmarks and Evaluation**

TBD

**VIII. Appendices**

- A. Chronological Review of ACA work on the CBC issue
- B. State requirement data

*A WORK IN PROGRESS....*