

Liability

Guidelines for the Screening of Persons Working With Children and Vulnerable Adults

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Abstract

Children, the elderly, and individuals with disabilities are subject to abuse by care providers. In response, the federal government has issued guidelines to help organizations serving children and vulnerable adults establish a policy that provides an appropriate level of screening for employees and volunteers. This report reviews the purpose of the federal guidelines, discusses types of screening practices and the legal framework for these practices, and presents a decision-making model to guide the screening decisions of individuals and organizations who hire employees or recruit volunteers to work with and provide care to children, the elderly, or the disabled.

Introduction

More than 87 million children are involved in activities provided by child and youth service organizations and agencies each year. Millions more adults, both the elderly and individuals with disabilities who are in need of support, are served by many more organizations and agencies. These encounters run the gamut from relatively brief interactions with healthcare or recreation providers, to surrogate family relationships in foster care, to intensive dependent adult care services in or out of the home. The vast majority of these encounters are not harmful or abusive, but instead result in the provision of much needed services -- sometimes by volunteers, often by persons who are not among society's better paid employees.

Abuses do, however, occur. Although studies are sketchy and do not provide a complete picture, one study indicated that 12.8 percent of the estimated 2 million incidents of elder abuse occurring in the home were perpetrated by service providers. A survey of 600 nursing home staff members suggested that elder abuse is a fact of institutional life: of the staff surveyed, 10 percent admitted to physically abusing patients and 40 percent admitted to personally committing at least one psychologically abusive act in the preceding year. As for children, estimates of the incidence of child sexual abuse in daycare centers, foster care homes, and schools range from 1 to 7 percent. Although the incidence of abuse may be relatively small, abuse traumatizes the victims and shakes public trust in care providers and organizations serving these vulnerable populations.

Congress has acted to address concerns about this type of abuse. In 1993, the National Child Protection Act, Pub. L. No. 103-209, was passed. Section 3 of the Act set forth a framework through which States could authorize criminal record checks of childcare providers by the Federal Bureau of Investigation (FBI). In 1994, the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-222, amended the 1993 act so that States could also authorize FBI criminal record checks of those working with individuals with disabilities or the elderly. In addition, the Attorney General was directed to "develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse." The Attorney General was further directed to "address the availability, cost, timeliness, and effectiveness of criminal history background checks and recommend measures to ensure that fees for background checks do not discourage volunteers from participating in care programs."

As required by the Act, the federal government has issued guidelines to help organizations that serve children, the elderly and the disabled avoid hiring staff who might prey on them. Titled, "Guidelines for the Screening of Persons Working with Children, the Elderly, and Individuals in Need of Support," the guidelines present advice on establishing a policy that provides an appropriate level of screening based upon specific situations. The guidelines also offer a model to help organizations determine when applicants merit more extensive screening.

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Overview

"Guidelines for the Screening of Persons Working with Children, the Elderly, and Individuals in Need of Support" is intended to assist those faced with screening decisions by suggesting a decision-making model to use for an analysis of screening issues. The guidelines' main virtue lies in presenting a framework for making decisions about whom to screen and how.

The decision-making model begins with factors that trigger the need for screening, such as the level of direct worker-consumer contact, the characteristics of the consumer served, and the amount of worker supervision present. These triggering factors set the stage for determining the type(s) and extent of screening to perform. The next step is to consider the intervening factors that may limit the ability to perform certain kinds of screening, including cost, access, and time constraints. In providing an opportunity to consider intervening factors, the model recognizes that the most optimal screening approaches may not, in fact, be realistic options for all settings. By considering both triggering and intervening factors, the best possible screening approach can be selected.

The model assumes that all organizations undertake at least basic screening (interview, verified application, reference checks), even in those situations requiring the most cursory review. Thus, although some might suggest that no screening is necessary for situations in which the prospective volunteer or employee is known to the organization or agency, such an informal approach to screening is not advisable. A formal review and reference process, such as that recommended with the basic screening practices, should be undertaken. Further, with respect to basic screening, organizations and professional associations are encouraged to develop model screening procedures and interview questions as part of their hiring or volunteer placement procedures (see Appendix A for sample screening forms).

The guidelines offer two caveats. First, although screening to weed out potentially abusive individuals is important, it should supplement, not substitute for, an evaluation of skill development or competency. Second, all screening practices have limitations. Their use cannot guarantee that individuals who pass through the screening will not be abusive. Thus, continuing to protect against abuse using posthiring screening and prevention procedures is warranted.

The guidelines also caution that organizations should understand the purpose of screening and the scope of specific practices that can be used to screen individuals. In addition, because some practices include access to information held by the government (e.g., criminal records), an understanding of the legal framework is necessary.

Purpose: Protection of Children, the Elderly, and Individuals with Disabilities

The underlying reason for screening prospective workers who may come into contact with children, the elderly, or individuals with disabilities in need of support is the same -- to identify potentially abusive individuals. When an individual entrusted with the care of someone abuses that person and then is found to have abused others previously, questions arise. How could such a person be in a position of caring for children or other vulnerable individuals? How can this be prevented from happening again?

Efforts by organizations to answer these questions have led to a number of additional inquiries: How much screening should be done and who should decide? Should all who may or do come into contact with these vulnerable populations be screened? Volunteers versus employees? Individual service providers or group and institutional providers? What kind of screening should be done? Federal and State criminal checks? State central child abuse registry checks? In which States? Who should have access to these information data bases? What kinds of limitations should be placed on access to this information? Should these decisions be made at the Federal, State, or local level? What determinations should be left to individual organizations? Should a worker be "on the job" in a paid or volunteer capacity pending the results of screening? Who should bear the cost of the various screening practices?

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Attempts to determine who should be screened rapidly reveal the multitude of settings in which abuse might be perpetrated. A partial list of settings in which individuals come into contact with children, the elderly, and individuals with disabilities gives a sense of the enormity of the contact points:

- **Daycare:** Childcare, senior citizen centers, and community day programs for adults.
- **Health/mental health care:** Hospitals, nursing homes/facilities, intermediate care, congregate care, board and care, group homes, psychiatric hospitals, residential treatment facilities, and "in-home" healthcare.
- **Foster care:** Placements for adults in need of support services or for children under the care of the State as a result of abuse or neglect or as a consequence of delinquency.
- **Other out-of-home settings:** Assisted living units/community living programs and semi-independent and independent living programs.
- **Schools:** Public and private, including preschool and nursery school.
- **Shelters:** Homeless or domestic violence shelters.
- **Youth development:** Community or volunteer organizations serving youth (e.g., Court Appointed Special Advocates (CASA), Boy Scouts of America, Girl Scouts USA, Big Brothers Big Sisters).
- **Volunteer programs (for the elderly or individuals with disabilities):** Social Security representative payee, American Association of Retired Persons bill payer and representative payee money management, Meals on Wheels, and other community/volunteer programs.

Considering that these and other settings can encompass services provided in or out of the home by volunteers or employees, the number of instances in which screening may be considered is extensive.

Screening Practices

Typically, when background "screening" is discussed, the focus is on the use of information from criminal history records (e.g., FBI fingerprint checks). It is important to recognize, however, that many other practices (see Table 1) can weed out potentially abusive workers and volunteers. These range from standard interviewing and reference checking to more complex and controversial procedures such as screening against child abuse, reviewing dependent adult abuse and sex offender registries, psychological testing, drug testing, and home visits. (Not all of these practices can be undertaken in all States, however. The discussion of the legal framework below provides additional information on these practices.)

Table 1. Types of Background Screening Mechanisms

- Employment reference checks.
- Personal reference checks.
- Personal interviews.
- Confirmation of education.
- Written application.
- On-the-job observation.
- Local criminal record check.
- State criminal record check.

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- State central child/dependent adult abuse registry check.
- State sex offender registry check.
- Nurse's aide registry record check.
- Motor vehicle record check.
- Professional disciplinary board background check.
- Alcohol/drug testing.
- Psychological testing.
- Mental illness/psychiatric history check.
- Home visits.

The Legal Framework

State social welfare and licensing agencies have increasingly required that certain practices be used to screen at least some types of prospective employees, and in a number of States, statutes require that certain screening practices be used for some types of workers. Some of the screening methods involve the use of information that is held by government entities and that may require legislative or administrative action before it can be accessed. Specifically, checks of criminal records and State central abuse registries (which maintain information on "founded" or "substantiated" reports of abuse or neglect) involve such governmental compilations of information. Similarly, sex offender registries (stemming from statutes requiring convicted sex offenders to register with law enforcement agencies where they reside, e.g., Megan's Law) often require legislative or administrative action to authorize their use for screening.

With a few rare exceptions, the information systems mentioned above were originally established for purposes other than the screening of workers. Criminal record keeping was developed to assist law enforcement or criminal justice entities in tracking crime and criminals; central child abuse registries were established to assist State agencies responsible for child welfare in tracking children about whom allegations of child abuse or neglect may have been made; and sex offender registration requirements were designed to aid law enforcement in investigating sex crimes by tracking persons convicted of sexual offenses.

As a result of the different purposes for which these information sources were developed, their use to identify potentially abusive individuals has raised questions, spawning the development of procedures that attempt to provide information in a fair manner. Moreover, developing legislation on the appropriate uses of these information compilations raises sometimes conflicting public policies -- the protection of children, the elderly, and individuals with disabilities from potentially abusive individuals, the rehabilitation of offenders, "due process" issues, and privacy interests. Given these conflicting policy goals, it is no surprise that State laws and regulations vary widely in the type and scope of screening required.

Federal Laws

Screening, at least with respect to childcare workers, has been a topic of Federal legislation for some time. Recent Federal action has focused on criminal records and sex offender registration. The National Child Protection Act of 1993, which was amended by the Violent Crime Control and Law Enforcement Act of 1994, addressed national criminal record checks. The National Child Protection Act, as amended, enhanced the existing national criminal check process through which States may authorize national criminal checks on persons providing care to children, the elderly, or individuals with disabilities. This act, as amended, did not itself permit or require that any such checks be done, but maintained respect for State policy making in this area while encouraging States to consider screening legislation. Whether national checks are required or permitted continues to depend on whether there is a State statute, approved by the Attorney General, that specifically authorizes national (fingerprint) checks.

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Sex offender registration was the focus of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, passed as part of the Violent Crime Control and Law Enforcement Act of 1994. This act mandated that the Attorney General establish guidelines for State programs requiring registration of sex offenders. Among other requirements, offender registration information is to be forwarded to a designated State law enforcement agency, which in turn is to transmit the conviction data and fingerprints to the FBI. The information collected is to be treated as private data but can be disclosed to government agencies conducting confidential background checks.

In addition, criminal checks for home health aides were recently added to the Medicare requirements for home health agencies.

State Laws

Legislation regarding the screening of persons working with children, the elderly, and individuals with disabilities has not been passed in all States. To the extent they exist, State screening laws may be found in licensing laws, laws governing State social welfare agencies, and laws regarding specific information systems (e.g., criminal record repositories, child or elder abuse registries, or sex offender registries).

Screening laws vary in the types of workers covered and the types of checks required. Licensing laws are obviously limited to the individuals or entities licensed. States have made differing determinations as to whom to license. Statutes that charge the human services department (or similar State agencies) with child welfare and protection responsibilities often only reach those who participate in the child protection system or serve residential and health organizations. Typically, they may include licensed social workers, foster or adoptive parents, and persons who may work with or care for children, the elderly, or individuals with disabilities in other settings such as group homes or residential institutions.

Among the licensing and social welfare laws in effect, there is considerable variety in the type of check to be conducted. For example, some States require checks of the State central abuse and neglect registry or criminal history records. A few licensing statutes may be more detailed and require licensees to contact previous employers.

State laws also vary in specifying the types of workers to be screened. Some laws requiring criminal checks of home health aides and attendants only cover employees. Other laws may include those providing direct care and substitute caregivers. In addition, mandated settings vary. For example, many States require criminal record checks for daycare centers, some cover schools, some include licensed home healthcare facilities, and some cover any setting in which people have supervisory or disciplinary authority over a child. Specific exceptions, however, often exist. With respect to services for children, exceptions have included:

- School-based childcare.
- Youth recreation groups such as Scouting or camping organizations.
- Childcare affiliated with a religious group. Youth programs operated in adult facilities.
- Babysitting arrangements.
- Single-family "nanny" situations.
- Daycare situations in which fewer than a specified number of children -- often three, four, or five -- are cared for.

Because licensing may not always be an appropriate mechanism to encourage screening, a number of States have passed separate statutes authorizing certain screening practices. These generally include checks of State criminal records or the central child abuse and neglect registry. Most States do not maintain registries of persons who are being investigated for or who have committed abuse against the elderly or dependent adults.

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More than half the States have laws authorizing national criminal history checks for some type of person working with children, the elderly, or individuals with disabilities. A number of States also authorize State criminal history checks (either in lieu of or in addition to the national check). At least 12 States have enacted statutes mandating criminal background checks of nurse's aides; several additional States have proposed legislation. The statutes do vary in that several require a more comprehensive background check than others. Some States set forth a more expansive listing of crimes prohibiting employment, while others broaden their scope beyond the hiring of nurse's aides to all staff who have access to children and adults in need of supportive services -- including, in certain circumstances, volunteers.

Guidelines for Organizations Developing Screening Policies

Organizations providing care or services to children, the elderly, and individuals with disabilities should adopt a screening policy. The three-part decision-making model discussed later is a useful guide for organizations in developing such a policy.

Levels of Screening

Issues appropriate for a screening policy include:

- Statements on minimum required screening standards.
- Guidelines on when more extensive screening practices should be used.
- Provisional hiring policies.
- Guidelines on how to assess background screening information once it is received.
- Maintenance and dissemination of background screening records.
- Standards for working with vulnerable populations.

Applicants should be advised of the organization's screening policy. Reviewing this policy annually -- and as new information on available mechanisms arises -- is also appropriate.

All applicants who are seeking a position to work or volunteer with children, the elderly, or individuals with disabilities should be screened at a basic level. Basic screening includes:

- A comprehensive application form with a signed statement.
- A thorough personal interview that examines an applicant's past employment or volunteer experience and explores other indicators of potential problem behavior.
- Reference checks with past employers (or appropriate reference checks for volunteers and young adults) and personal contacts.

Each applicant's references should be checked completely. In addition, a confirmation of education status may be appropriate.

Additional screening practices may also be warranted. Thorough consideration of all relevant factors will assist an organization in determining whether additional screening is warranted for some or all of its workers. The decision-making model can guide organizations in making this determination. Organizations using additional screening mechanisms (e.g., personality or psychological testing, criminal records checks) are advised to do so in conjunction with basic screening practices and with a full understanding of the limitations of each of the screening practices used.

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Results of Screening

Once screening information is received, it is important to have strategies for dealing with the information, especially when the screening process has yielded questions about the applicant. An organization's strategies for dealing with screening results should be set forth clearly in written policies.

To the extent possible, the hiring or placement of an applicant should be delayed until the screening process is completed. If this is not possible, the applicant, pending completion of the screening process, should be restricted to supervised situations or situations in which one other worker is present. The applicant should never be alone with vulnerable individuals. In addition, the organization is advised to retain the right to terminate the worker or volunteer if the screening yields adverse information or reveals that incorrect information was provided by the applicant. As a minimum standard, automatic disqualification of a potential worker or volunteer is appropriate when the screening results indicate that the individual, as an adult, perpetrated any crime involving a child or a dependent adult, regardless of how long ago the incident occurred, or any violent crime within the past 10 years.

It is recommended that disqualification for all other crimes and/or questionable behavior be discretionary, with incidents evaluated on the basis of consultation with appropriate professionals and the following factors:

- The relationship between the incident and the type of employment or service that the applicant will provide.
- The applicant's employment or volunteer history before and after the incident.
- The applicant's efforts and success at rehabilitation.
- The likelihood that the incident would prevent the applicant from performing his or her responsibilities in a manner consistent with the safety and welfare of the consumers served by the agency.
- The circumstances and/or factors indicating the incident is likely to be repeated.
- The nature, severity, number, and consequences of the incidents disclosed.
- The circumstances surrounding each incident, including contributing societal or environmental conditions.
- The age of the individual at the time of the incident. The amount of time elapsed since the incident occurred.

Decision-Making Model

The number of persons who may have contact with children and vulnerable adults is extensive. Countless different professions and types of organizations serve these populations. Given the need to protect children and vulnerable adults from abuse in a variety of settings and the significant differences in organizational purpose, staffing needs, and available resources, these guidelines present a decision-making model rather than a list of screening practices to be used in every circumstance. The model poses questions to ask when deciding which background screening practices to utilize. The model assumes that screening for any position will include at least a written application with a signed statement, professional and personal reference checks, and an interview. Supplemental screening measures may also be warranted.

The decision-making model provides a framework for analyzing when to conduct supplemental screening practices. It is designed to facilitate a serious, careful examination focusing on opportunities for harm. This model is not the only set of steps that could be developed. Organizations are encouraged to develop screening practices for use in particular settings. Screening for specific settings and types of workers (employees or volunteers) could also incorporate evaluations of competence for particular tasks; however, this model does not directly address competence goals.

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Further, screening must be placed in context. It is one tool aimed at preventing harm. Others include education (of staff and volunteers, parents and guardians, children and vulnerable adults) and abuse prevention policies (discouraging opportunities for abuse and encouraging children and vulnerable adults to voice concerns about inappropriate behavior). See also the "Decision-Making Model in Continuum Form" section of this report.

Preparation Steps Before Using the Model

- Review tasks and positions. Reviewing the types of positions in the organization and the general tasks and characteristics of each is useful before beginning to assess the screening required for a particular type of position. Screening to prevent harm should supplement selection procedures aimed at evaluating the qualifications of an applicant for a particular task or job. This decision-making model focuses on the former.
- Review harms. Before beginning to use the model, it is also useful to ask: What are the harms that are being screened against? Physical, sexual, and emotional abuse? Theft and other property offenses? Arson, assault, or murder? A clear understanding of the specific potential for harm associated with particular positions will help to focus the discussion of screening issues. For example, concerns about theft may be especially important for certain programs serving the elderly.

The Model

The screening decision-making model includes three major steps.

Step 1: Assessment of Triggers

The first step requires an assessment of the presence and degree of screening "triggers." These triggers can be divided into three categories -- those involving the setting, those pertaining to the worker's contact with the adult or child, and special considerations.

Setting considerations:

- Will others (adults or children) be present during the contact (the opportunity for abuse is increased if no one else is present)?
- Who are those other people (the opportunity for abuse may still be exceptionally high if young children or certain vulnerable adults are the only others present)?
- Will the worker be closely monitored and supervised?
- What is the precise nature of the worker's involvement with the organization and with the client population (whether the worker is an employee or volunteer may be part of this assessment)?
- What is the physical location of the contact (e.g., in a classroom, a camp, anywhere -- care should be taken in considering all activities and their different physical locations, including transportation to and from events)?

Contact considerations:

- The duration of the contact (how much time is spent with the client per occasion).
- The frequency of the contact and the length of the relationship (e.g., one-time only, once a week for a year).
- The type of contact (e.g., does the worker have direct contact with children or vulnerable adults or does he or she have administrative or other duties that support the activities of the organization? With the latter, is there in fact one-on-one contact?).

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Special considerations:

- Are there special circumstances that should be factored into the screening decision? At this point, an examination of the vulnerability of the individuals served is important. Those whose ability to communicate is impaired because of age, infirmity, life history, or other reasons may be exceptionally vulnerable to abuse. For example, children with certain learning disabilities or those with a history of abuse or neglect may fall into this category.
- There may also be State laws or regulations that require certain screening practices to be used, triggering the use of a certain screening method. For example, States may require that State or Federal criminal record checks be done. If a State license or certification is required, statutory or regulatory requirements may also be in place.

Step 2: Evaluation of Intervenors to Decision Making

With the triggers in mind, consideration moves to the second step of evaluating "intervenors," or items that may limit or affect the screening decision:

- Unavailable or inaccessible information. Certain screening mechanisms may not be available. For example, a number of States simply do not authorize criminal record checks for a number of types of persons serving children, the elderly, or individuals with disabilities.
- Unexpected absences or departures. An immediate need for staff may also "intervene" in the screening decision-making process.
- Liability concerns. The risk of liability may affect screening decisions. Federal, State, or local laws may give applicants and employees certain legal rights. For example, certain questions may not be asked during an interview/application process, and generally all inquiries must be relevant to the task or positional hand. Liability concerns could also stem from negligent hiring torts; organizations have been sued when a client was injured by an employee or volunteer they selected.
- Presence of other risk-reduction measures. A consideration of other risk-reduction measures in place is helpful in evaluating the need for specific screening practices. However, risk-reduction measures as intervenors do not necessarily obviate the need for supplemental screening. Rather, their presence is a pragmatic consideration in evaluating the screening practices used. Risk-reduction measures may include training programs or levels of supervision.
- Financial or human resources. The practical impact that financial and human resources may have on screening is also a factor to be considered.

Step 3: Analysis and Selection of Screening Practices

The third step puts information gleaned from steps 1 and 2 together with various screening options. The model assumes that, based on this information, supplemental screening practices may be warranted. The advantages and disadvantages of each screening practice should be reviewed at this time.

As the extent and number of triggers increase, supplemental screening measures are appropriate. For example, circumstances in which repeated one-on-one contact occurs between one worker and one child or dependent adult, often in very private surroundings, will merit supplemental screening practices. Supplemental screening practices might include the following:

- Confirmation of a person's educational status (this may be particularly appropriate for young workers for whom a professional reference may not be available or for situations in which the educational degree is relevant to the task to be performed by the applicant).
- Motor vehicle record check.

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- Local, State, or FBI criminal record check.
- Check of the central child or dependent adult abuse registries.
- Sex offender registry check.
- Home visits.
- Psychological testing.
- Alcohol or drug testing.
- Psychiatric history check.

Decision-Making Model in Continuum Form

Step 1: Assess Presence and Degree of Screening Triggers

Setting:

- Worker/Consumer Contact.
- Special Considerations.

Screening Triggers:

- Supervision.
- Number of people present.
- Staff turnover (employee/volunteer.)
- Duration.
- Frequency.
- Contact type.
- Consumer vulnerabilities.
- Age, mental, or developmental disability.
- State requirements.
- Other screening agencies (State licensing/certification.)

Step 2: Evaluate Impact of Intervenors

Intervenors to Decision Making:

- Availability/accessibility of information.
- Financial/human resources.
- Immediate need for staff (timing).
- Liability concerns.

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- Work characteristics (e.g., residency status, prior experience, number of moves).
- Prior incidents of abuse perpetrated by staff.
- Presence of other risk-reduction measures (e.g., written policies, periodic evaluation, degree of supervision).

Step 3: Select Screening To Be Used

Basic Screening (Required Minimum Standard)

Screening Options:

- Written application with signed statement.
- Reference checks with telephone contact.
- Comprehensive personal interviews.

Supplemental Measures To be Used as Needed: [Footnote¹](#)

- Confirm educational status.
- Confirm licensing/certification status.
- Check motor vehicle records.

Check Criminal Records:

- Local.
- State.
- FBI.

Conduct Observations:

- On-the-job supervision.
- Probation.
- Home visits.
- Initial and periodic training.
- Advocate access to consumer.

Check Other Registries:

- Central child abuse.
- Adult/elder abuse.
- Nurse and home health aide.
- Sex offender.
- Professional disciplinary board.

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- Other specialized checks.

Other:

- Psychiatric history check.
- Alcohol/drug testing.
- Psychological testing.

An Example Using the Decision-Making Model

A mentoring program in which mentors are matched with children offers a good illustration of the use of the decision-making model. The goal is to foster one-on-one relationships between children and supportive nonfamilial persons to build the children's self-esteem and expand their view of the world. This example assumes that the mentoring program is an offshoot of another organization and is limited to one city in one State. The program has an extremely limited budget with very few paid staff (mostly a percentage of the time of three individuals who have other duties as well). All of the mentors are volunteers.

Step 1: Assessment of Triggers

Setting considerations:

- Will others be present during the contacts? Although mentor programs vary widely, assume that in this case, the contacts are set up directly by the mentor and child -- perhaps the first Saturday afternoon of the month for outings. Although the organization encourages educational or sports activities (e.g., visits to the library, museum, bowling) in which other adults or children are generally present, these "public" activities needn't take place. The mentor and child might choose to go hiking or sit in a park and play cards.
- Who else might be present? Under this scenario, it could be anyone or no one.
- Will the mentor be closely monitored and supervised? In this case, assume that the initial meeting between a mentor and child takes place with someone from the sponsoring organization. After that, the mentor will check in with someone at the organization, at least by telephone, to report on how the visits with the child are going. Every few months, the mentor meets with this "monitor." In addition, the mentor and child attend group events that may be sponsored by the organization. For example, a picnic takes place during the summer. These events occur once or twice a year. Further, the mentor picks the child up for each visit and drops the child off afterward and may briefly see the child's guardian at those pickup and drop off times. More often at first, and then every few months, someone at the sponsoring organization calls the child and his or her parent or guardian to see how the visits are going.
- How will the mentor be involved with the organization? In this case, the mentor will be a volunteer who spends at least several hours once a month with a child. Some additional time will be spent conversing with staff at the sponsoring organization about how the visits are going and how best to work with a child of that age.
- Where will the visits take place? Because the mentor picks up and drops off the child, the visits will include several different physical locations: the child's residence; the mentor's vehicle (or a bus or cab); and a variety of other locations, such as a restaurant, sports facility, park, hiking trail, zoo, museum, or movie theater. The visits could, in fact, take place at the mentor's home (for example, the mentor and child decide they want to learn to make pizza).

Contact considerations:

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- How much time will the mentor spend with the child on each visitor outing? Under this scenario, anywhere from 1 to 6 hours.
- What will the scope and frequency of the contacts be? At least once a month for a period of a year.
- What type of contact will the mentor have? Each mentor will have direct, one-on-one contact with a single child.

Special considerations:

In this scenario, the children are preteen youth. Generally, they have experienced some neglect or abuse and have been referred to the sponsoring organization for matching with an adult through social service workers, foster parents, and school counselors. Their personal histories may make them particularly vulnerable to abuse.

Summary of Step 1: Assessing the Presence and Degree of Screening Triggers.

In reviewing the answers to the series of questions that constitute the first step, it becomes clear that in this case, several factors would trigger supplemental screening practices: repeated, direct, one-on-one contact over a period of a year; limited ability of the organization to monitor the visits; and children who may be particularly vulnerable to abuse.

Step 2: Evaluation of Intervenors

The second step is to examine the factors that may "intervene" and affect the ability to screen. This scenario assumes that certain information -- State central child abuse registry and sex offender registry information -- is not available. Likewise, it assumes that State criminal record checks (done by name, not fingerprint) are not required but are available for a fee of \$5 per name. In this example, Federal (fingerprint) checks are not authorized by State statute.

Step 3: Analysis and Selection of Screening Practices

The basic screening practices should be utilized. In addition, under the scenario outlined above, supplemental screening is warranted. The repeated one-on-one contact, which may take place anywhere at various times of the day, presents risks. Because there is limited ability to monitor the mentor and the fee assessed for a State criminal check is relatively modest, use of this check would appear to be warranted. A check with the Department of Motor Vehicles (if the information is available in the State) may also be appropriate.

A different set of facts might lead to a different decision. For example, if the applicants were high school students (generally age 15 to 17 at the time they applied), some evaluators might find that criminal checks were not warranted. Others would view the cost as being minimal (and able to be passed on to the applicant without causing the loss of volunteers) and would proceed with the criminal check.

Implementing Screening in an Organization

Although it may seem simple to endorse the concept of performing careful worker screening prior to hiring the worker, in practice there are many details to consider. The following sets forth a series of steps for an organization to consider in implementing screening practices.

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- 1. Designate a person(s) within the organization who is responsible for receiving, reviewing, and acting on background screening information. Typically, an individual in the human resources or personnel department has responsibility for receipt and review of background screening information. This person should thoroughly understand all staff positions and roles so as to adequately assess the relevance of background information obtained. This person would also be responsible for developing and adhering to a screening/hiring policy. Making one person responsible for overseeing the process ensures that a consistent approach is taken, the screening policy is used appropriately, and the confidentiality of employee/volunteer records is maintained. In smaller settings, the director or assistant director should assume the centralized role of "keeper" of confidential worker information.
- 2. Develop a comprehensive written application form that informs applicants of the organization's screening policies and facilitates the ensuing background screening process. Matters to consider in the initial application process include:

An explanation of the hiring/selection process, including a written release giving consent to verify the information provided on the application (signed by the applicant) and to search criminal history and registry records (and conduct other checks), if appropriate. (See Appendix A for an example of an "Authorization to Release Information" form.)

An application form that includes a signed statement verifying the applicant's understanding that falsifying information is grounds for dismissal and/or other action. (See Appendix A for an example of an "Applicant Disclosure Affidavit" form.)

- 3. Conduct personal interviews that probe for more in-depth information that may not be available through other screening mechanisms. Interview questions should be tailored to the needs of the setting and the role of the worker or volunteer.

A standardized interview process would promote consistency among applicant interviews and help eliminate subjectivity associated with using multiple interviewers. Training on effective interview techniques, especially when delving into sensitive topic areas, would be of assistance. If possible, use of a team approach would increase objectivity, obtain different perspectives, and promote adequate documentation. Follow up interviews may be needed as information surfaces through other background screening practices.

- 4. Conduct reference checks (and, if appropriate, educational status checks).

When asking applicants for references, a verbal or written statement that references will be checked may deter unsuitable applicants and reduce fabrication.

Centralizing the reference-checking process and providing training would permit responsible staff to become persistent and deft in their inquiries. Fear of defamation or other lawsuits may limit the amount or detail of information a reference is initially willing to supply. Obtaining an applicant's written consent allowing for the release of information by previous employers may make for more effective reference checks. Some agencies ask references whether they know of any reason why the person should not be hired to work with the particular consumer population. (See Appendix A for examples of "Request for Information" and "Employer Disclosure Affidavit" forms.)

- 5. Draft organizational policies on the appropriate use of criminal history information or other registry information to the extent this information is available, and develop specific criteria for using this information for screening purposes.

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Posthiring Practices

Preemployment screening is only one aspect of identifying unsuitable workers and protecting vulnerable populations. Some individuals, such as first-time offenders, may not have a history of abuse. Effective child abuse prevention should also include ongoing prevention practices and continued screening efforts after the worker is hired. Some posthiring practices to consider include the following:

- Best practices and management guides for each organization based on organizational needs or on policies developed for similar groups. These guides may take the form of written policies that include (1) a code of conduct for staff relating to their behavior with the vulnerable client population(s); (2) policies on reporting suspected abuse; (3) policies on investigating staff or applicants concerning abuse; and (4) policies on hiring staff previously accused of or found guilty of abuse.
- Written organizational policies regarding abuse by staff. These policies would require employees and volunteers to attend an orientation and sign a statement that they have read and understood the agency's written policies regarding appropriate treatment of the vulnerable clients served (e.g., management of difficult behavior) and the State's reporting laws. A clear and concise policy that sets the parameters for provision of care should be included in the organizational guides. It should also inform employees and volunteers that the agency will cooperate with local officials (child protective services, adult protective services, and law enforcement) in investigation of cases.
- Staff (or volunteer) training. Risk-reduction strategies engender confidence among individuals who use and depend on the services to children and vulnerable adults. These strategies include staff education and training. Ongoing personnel training topics might include the facility's crisis management techniques, identification and reporting of suspected abuse by employees and volunteers, effective communication techniques, and diversity issues. In addition, education and training on specific issues associated with working with a particular client population may be appropriate.
- For those providing services to the elderly and individuals with disabilities, educational programs may encompass information on the nature of the illness or disability, so that the care provider is better able to respond to the individual's needs.
- On-the-job supervision and monitoring. Ongoing staff supervision should be implemented to supplement preemployment background screening.
- Procedures for periodic updating and review of workers. Abuse and other relevant information revealed through screening should be updated with periodic checks for new information. This information can be obtained through traditional registries (e.g., child abuse and neglect and criminal record registries) and, if available, alternative (occupation-specific) registries. In the future, this information may be available through flagging systems.
- Efforts to increase parental, relative, and advocate involvement and communication. For example, some organizations may adopt an open-door policy for these individuals to make unannounced visits to the facility at any time.

Conclusion

Screening those who work with children, the elderly, and individuals with disabilities is an important component in the prevention of abuse. Such practices, from basic screening methods (written applications, interviews, and reference checks) to other, more extensive or specialized practices (checks of criminal records, abuse registries, or sex offender registries), send a clear message that society values children, the elderly, and individuals with disabilities and will not tolerate their abuse.

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These guidelines highlight the importance of screening practices and, through the decision-making model, provide a useful tool that organizations and others can use when developing their own screening policies and practices. Because screening is not a guarantee that abuse will not occur, it is critical for all concerned to incorporate screening as a part of broader abuse prevention policies and practices.

Appendix A: Sample Forms

These forms are based on those developed by the Missing and Exploited Children Comprehensive Action Program and the National School Safety Center under a grant from the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice.

Form 1

[agency name, logo, address]

Authorization to Release Information Regarding: [_____]

Applicant's name: [_____]

Applicant's current address: [_____]

Applicant's social security number: [_____]

Agency contact person: [_____]

Authorization expiration date: [_____]

I, the undersigned, authorized and consent to any person, firm, organization, or corporation provided a copy (including photocopy or facsimile copy) of this Authorization to Release Information by the above-stated agency to release and disclose to such agency any and all information or records requested regarding me, including, but not necessarily limited to, my employment records, volunteer experience, military records, criminal information records (if any), and background. I have authorized this information to be released, either in writing or via telephone, in connection with my application for employment or to be a volunteer at the agency.

Any person, firm, organization, or corporation providing information or records in accordance with this authorization is released from any and all claims or liability for compliance. Such information will be held in confidence in accordance with agency guidelines.

This authorization expires on the date stated above.

Signature of Prospective Employee: [_____]

Date: [_____]

Witness to Signature: [_____]

Date: [_____]

Form 2

[agency name, logo, address]

Applicant Disclosure Affidavit (Please read carefully)

Our agency screens prospective employees and volunteers to evaluate whether an applicant poses a risk of harm to the children and youth it serves. Information obtained is not an automatic bar to employment or volunteer work, but is considered in view of all relevant circumstances. This disclosure is required to be completed by applicants for positions in order to be considered. Any falsification, misrepresentation, or incompleteness in this disclosure alone is grounds for disqualification or termination.

Applicant: [_____]

Please print complete name and social security number.

The undersigned applicant affirms that *I have not at any time* (whether as an adult or juvenile):

Initial each answer with "yes" or "no" and provide a brief explanation for each "yes" answer.

Guidelines for the Screening of Persons Working With Children and Vulnerable Adults

- Been convicted of;
- Pleaded guilty to (whether or not resulting in a conviction);
- Pleaded nolo contendere or no contest to;
- Admitted;
- Had any judgment or order rendered against me (whether by default or otherwise);
- Entered into any settlement of an action or claim of;
- Had any license, certificate, or employment suspended, revoked, terminated, or adversely affected because of;
- Been diagnosed as having or been treated for any mental or emotional condition arising from; or
- Resigned under threat of termination of employment or volunteer work for;

Any allegation, any conduct, matter, or thing (irrespective of the formal name thereof) constituting or involving (whether under criminal or civil law of any jurisdiction):

Initial each answer with "yes" or "no" and provide a brief explanation for each "yes" answer.

- Any felony.
- Rape or other sexual assault.
- Drug- or alcohol-related offenses.
- Abuse of a minor or child, whether physical or sexual.
- Incest.
- Kidnaping, false imprisonment, or abduction.
- Sexual harassment.
- Sexual exploitation of a minor.
- Sexual conduct with a minor.
- Annoying/molesting a child.
- Lewdness and/or indecent exposure.
- Lewd and lascivious behavior.
- Obscene literature.
- Assault, battery, or other offense involving a minor.
- Endangerment of a child.
- Any misdemeanor or other offense classification involving a minor or to which a minor was a witness.
- Unfitness as a parent or custodian.

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- Removing children from a State or concealing children in violation of a law or court order.
- Restrictions or limitations on contact or visitation with children or minors.
- Similar or related conduct, matters, or things.
- Accusation of any of the above.

Explanations

If you answered "yes" to any of the above, please explain. If none, write "none."

Description: [_____]

Dates: [_____]

The above statements are true and complete to the best of my knowledge.

Applicant's signature: [_____]

Date: [_____]

Witness to signature: [_____]

Date: [_____]

Form 3

[agency name, logo, address]

Request For Information

To: [_____]

Applicant: [_____]

Name: [_____]

Social Security Number: [_____]

Dates of Employment: [_____]

Immediate Supervisor: [_____]

Our agency [agency name], is requesting information regarding the above-mentioned applicant who is seeking a position. This agency serves children and youth and, accordingly, undertakes background investigations to determine whether the individual poses a risk of harm to those who would be served.

We are interested in receiving any information or records that would reflect on the applicant's fitness to work with children and youth. Please complete the attached EMPLOYER DISCLOSURE AFFIDAVIT and return it to our agency at your earliest convenience. Although any information you wish to provide is welcome, we are especially interested in any conduct, matter, or things that involve an established or reasonable basis for suspecting physical, psychological, or sexual misconduct with respect to children or youth.

You may receive a separate written or telephone request from our agency for an employment reference regarding the applicant. Please respond to each request independently.

With this request is an authorization executed by the applicant. This releases you from any liability for your reply, either in writing or via telephone.

Thank you for your assistance.

Very truly yours,

Failure by your agency or organization to provide information requested may result in automatic disqualification of the applicant.

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Form 4

[agency name, logo, address]

Employer Disclosure Affidavit (Please read carefully)

Our agency screens prospective employees and volunteers to evaluate whether an applicant poses a risk of harm to the children and youth it serves. Information obtained is not an automatic bar to employment or volunteer work, but is considered in view of all relevant circumstances. This disclosure is required to be completed by former employers in order for the applicant to be considered.

Applicant: [_____]

Please print complete name and social security number.

As an agent of the former employer of the undersigned applicant, I affirm to the best of my knowledge that the undersigned applicant Has Not at Any Time:

Initial each answer with "yes" or "no" and provide a brief explanation for each "yes" answer.

- Been convicted of;
- Pleaded guilty to (whether or not resulting in a conviction);
- Pleaded nolo contendere or no contest to;
- Admitted;
- Had any judgment or order rendered against him or her (whether by default or otherwise);
- Entered into any settlement of an action or claim of;
- Had any license, certificate, or employment suspended, revoked, terminated, or adversely affected because of;
- Been diagnosed as having or been treated for any mental or emotional condition arising from; or
- Resigned under threat of termination of employment or volunteer work for;

Any allegation, any conduct, matter, or thing (irrespective of the formal name thereof) constituting or involving (whether under criminal or civil law of any jurisdiction):

Initial each answer with "yes" or "no" and provide a brief explanation for each "yes" answer.

- Any felony.
- Rape or other sexual assault.
- Drug- or alcohol-related offenses.
- Abuse of a minor or child, whether physical or sexual.
- Incest.
- Kidnaping, false imprisonment, or abduction.
- Sexual harassment.
- Sexual exploitation of a minor.

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- Sexual conduct with a minor.
- Annoying/molesting a child.
- Lewdness and/or indecent exposure.
- Lewd and lascivious behavior.
- Obscene literature.
- Assault, battery, or other offense involving a minor.
- Endangerment of a child.
- Any misdemeanor or other offense classification involving a minor or to which a minor was a witness.
- Unfitness as a parent or custodian.
- Removing children from a State or concealing children in violation of a law or court order.
- Restrictions or limitations on contact or visitation with children or minors.
- Similar or related conduct, matters, or things.
- Accusation of any of the above.

Explanations

If you answered "yes" to any of the above, please explain. If none, write "none."

Description: [_____]

Dates: [_____]

The above statements are true and complete to the best of my knowledge.

Date: [_____]

Applicant's signature: [_____]

Name: [_____]

Title: [_____]

Company: [_____]

Address: [_____]

City/State/Zip: [_____]

Phone: [_____]

References

- 1. Department of Justice. Office of Juvenile Justice and Delinquency Prevention. *Guidelines for the Screening of Persons Working With Children, the Elderly, and Individuals With Disabilities in Need of Support*. Washington, DC: 1998.

Footnotes

- Footnote¹ Section of supplemental screening will vary according to circumstances and presence of triggers and intervenors.

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