

## **Appendix 6. Background Screening Requirement for Staff Working with Children (including Site Directors)**

**A background check is required for all Weed and Seed Site Directors. In addition, the U.S. Attorney must give approval of a candidate for the site director position before he/she may be hired. A list of final candidates for the Director position must be delivered to the U.S. Attorney 15 days before the hiring decision is made.**

Screening of people working with children is an important element of managing a Safe Haven and other youth-focused activities and is required by a special condition of the Weed and Seed grant. Weed and Seed Communities must develop written protocols to screen all staff that work with children, including the site coordinator.

### **Guidelines for the Evaluation of Information Obtained in State and National Criminal Background Checks on Potential Employees and Volunteers Who May Have Access to Children, the Elderly, and Individuals with Disabilities at Weed and Seed Communities**

Background: When a person entrusted with the care of particularly vulnerable individuals (i.e., children, the elderly, or the disabled) abuses those individuals and then is found to have previously abused others or have a criminal background—questions and potential liabilities arise. To address this compelling public interest, the federal government and most states have enacted legislation that authorizes criminal record checks, including FBI fingerprint criminal record checks, on various persons who work with these vulnerable individuals (the protocols for these checks were addressed in previous memorandum dated November 5, 2002). The primary purpose of this legislation (including the National Child Protection Act [NCPA], Pub. L. No. 103-209, and the Violent Crime Control and Law Enforcement Act of 1994 [VCCLEA], Pub. L. No. 103-222) is to identify the potentially abusive persons and protect vulnerable individuals.

The Community Capacity Development Office has required background screening for several years. Once that screening is done and criminal records information is received, it is important to have consistent standards for the evaluation of this information. Therefore, uniform guidelines for the evaluation of this information need to be established. Also, to the extent possible, the hiring of the employee or the placement of the volunteer should be delayed until the entire screening process, including the evaluation of any criminal history is completed. At a minimum, the potential employee or volunteer must be restricted to supervised situations or situations in which another worker is present when dealing with vulnerable individuals until the screening process is complete. This is consistent with the suggestions provided by an Office of Juvenile Justice and Delinquency Prevention (OJJDP) publication entitled *Guidelines for the Screening of Persons Working with Children, the Elderly, and Individuals with Disabilities in Need of Support*, NCJ 167248. The publication gives the following factors to consider:

1. The relationship between the incident and the type of employee or service that the applicant will provide.
2. The applicant's employment or volunteer history before and after the incident.
3. The applicant's efforts and success at rehabilitation.
4. The likelihood that the incident would prevent the applicant from his or her responsibilities in a manner consistent with the safety and welfare of the consumers served by the agency.

5. The circumstances and/or factors indicating that the incident is likely to be repeated.
6. The nature, severity, number, and consequences of the incidents disclosed.
7. The circumstances surrounding each incident, including contributing societal or environmental conditions.
8. The age of the individual at the time of the incident.
9. The amount of time lapsed since the incident occurred.

Given the gravity of the compelling public interest involved, the factors delineated above should be interpreted in a manner that provides the greatest protection to the vulnerable individuals. Therefore, the following guidelines are to be used when evaluating criminal history information concerning applicants (which term is to be understood to include persons who have already begun work at the site):

- The applicant must not have felony convictions of any type or any misdemeanor convictions involving violence, fraud, or criminal sexual misconduct.
- The applicant must not have any conviction for an offense against a child or dependent adult.
- The applicant must not have any misdemeanor convictions involving a breach of the peace or drug related offenses within the past 5 years proceeding the date of the background check.
- Applicants with previous military employment must not have been convicted of any court martial higher than a summary court martial.

These guidelines will help further the primary purpose—identifying the potentially abusive persons and protecting the vulnerable individuals of the NCPA while, at the same time, staying within the spirit of the recommendations in OJJDP publication, NCJ 167248. For further information or elaboration on these guidelines, contact the Community Capacity Development Office at (202) 616–1152.

**Any waiver from this policy must be requested in writing by memorandum from the U.S. Attorney to the Community Capacity Development Office, along with accompanying documentation.**