



# Did a Little Deeper

In recent months, newspapers have printed some disturbing articles about church employees:

- A church janitor is accused of making methamphetamine in the basement.
- A church secretary is charged with stealing more than \$70,000.
- A church employee is accused of soliciting sex from teenage boys.

Now, picture yourself serving on a jury for one of these cases. Which church would you view more favorably: one that did nothing to research job applicants' backgrounds, or one that conducted interviews, checked references and performed criminal record checks on all its staff members?

Of course you'd favor the second church — What reasonable jury wouldn't? That's why it's important to review your ministry's background screening policy and consider adding criminal record checks, if you haven't already.

## Why It Matters So Much

While a comprehensive screening program can't eliminate the possibility of employee misconduct, it can reduce its probability. Additionally, it can demonstrate to a jury that you care so much about the safety of your church members that you try to hire only the most trustworthy candidates.

"Even if you don't find anything, it's important that you have a background screening program in place," says Ron Troyer, a litigation specialist for Brotherhood Mutual Insurance Company. "If an allegation were to go to court, a plaintiff's attorneys would point out everything the church could have done to make it a safer place, even if it wouldn't have mattered in that instance."

Christian publications have stressed the importance of background screening for years, but questions still persist about the practice, especially when it involves criminal records.

The most common questions about background screening:

**Who should be screened?** You should screen all job applicants, from the janitor to the pastor. You should also screen all volunteers applying to work with minors or people with disabilities. If you're implementing a new screening program, all current employees should be screened, along with all volunteers currently working with minors or the disabled. No one should be exempt from screening because of age, seniority, position or marital status.

**What does screening entail?** Most screening programs involve an application, reference checks and a personal interview. Many also include a criminal records check, also known as a criminal history or a criminal background check. Employers might consider reviewing a person's credit history, driving record, employment history, educational record, professional credentials and other factors as well.

**Do I need a written policy before screening employees?** It's a recommended best practice. Your church should do all it can to screen job applicants legally, consistently and fairly. By creating a process that complies with state and federal laws, you can protect your ministry and the people within it. You also minimize the risk of events that could harm your ministry's reputation.

Your policy might outline which positions will be screened and the types of background checks you will perform on all applicants for those positions. (For example, you might require a personal credit history for positions involving financial responsibility.)

**Should we perform criminal record checks?** Criminal record checks are strongly

## How Background Checks Can Help Protect Your Ministry

By Laura J. Brown

recommended for all church employees and for volunteers who work with minors. In some cases, they're mandatory. If your ministry runs a child care program licensed by the state, you might be required to perform periodic criminal record checks on the program's staff. Additionally, your insurance company might require you to check criminal records to qualify for sexual acts coverage.

**How do I obtain someone's criminal record?** You can research local, state and federal court records yourself, ask local law enforcement officials to perform a search for you, or use a background screening service. Scores of screening providers — including ADP Screening and Selection Services — offer online criminal record checks at affordable prices.

If you hire a screening service, choose a reputable provider that can provide accurate and up-to-date information. Good companies will also help you comply with state and federal laws that govern the use of background screening reports during the hiring process.

**Not all criminal record searches the same.** The quality of your criminal records check will depend on the scope of your search, the type of records you review, and the accuracy of your data source.

For instance, an inspection of county court records will alert you to any arrests or convictions in your county, but not in other states or counties in which a person might have lived. A "nationwide criminal records database search" — while it sounds impressive — might rely on an outdated or incomplete database.

All record searches can produce false "hits" or accidental omissions. Name-based searches can pull up incorrect records for people with common names. They're also easy to defeat by someone who gives false identifying information.



Private vendors typically use a combination of name, birth date and Social Security information to eliminate as many false hits as possible. While not perfect, they can reduce the chances of your church accusing the wrong John Smith of wrongdoing.

#### **What criminal records should I search?**

Although law-enforcement officers have access to a comprehensive criminal computer database, the general public can't obtain information from the National Crime Information Center. That leaves employers with no single place to find a person's criminal records.

There are three main sources of criminal history information:

**County court records** — Counties typically maintain the most accurate and up-to-date criminal records. The records are public, and they can be quickly searched, at little or no cost. In addition, court employees can answer questions and clarify details.

**Federal court records** — Federal crimes are different from state and county ones. As a result, a search of county records won't reveal any federal offense, and vice versa. Some examples of federal crimes include drug trafficking, bank robbery, embezzlement and kidnapping. These records are also public. Courts typically charge a small fee to photocopy records.

**Databases** — Databases are a fast, efficient way to gather criminal background information, but their quality hinges on who manages them and how often the records are updated. The best database searches originate from government sources that update their files frequently and allow ongoing access to the information.

Sex offender registries are one example of a criminal record database. In many cases, these registries are available for free public viewing on the Internet.

**I've checked my state's sex offender registry. Is that enough?** No. Sex offender registries are better than nothing at all, but they don't provide a complete picture of someone's criminal history. They can supplement — but not replace — state records checks or national database searches.

**What if I find an arrest or conviction? Does that immediately disqualify my candidate?** No. Federal law bars employers from disqualifying job applicants based on criminal records alone. Employers should also consider an applicant's education, experience, interview performance and qualifications for the position being sought. If you have any concerns about a candidate, consult your attorney.

**What if we decide not to hire someone, based on what we found?** If you decide not to hire someone based on a vendor's background screening report, you must follow the notification requirements outlined in the Fair Credit Reporting Act, or FCRA. These include a pre-adverse-action

letter, an adverse-action letter, and a summary of the person's rights under the FCRA.

To learn more about the act's requirements, download *Using Consumer Reports: What Employers Need to Know* from the Federal Trade Commission's website at [www.ftc.gov/credit](http://www.ftc.gov/credit). (Click "Consumer Reports.") If you didn't use an outside vendor, those notification requirements don't apply.

#### **Should we get a person's permission before performing a criminal record check?**

Yes. If you use a background screening vendor to obtain someone's criminal history, the federal FCRA applies to you.

The act requires you to get a person's written permission before obtaining any type of consumer report about them. The FCRA doesn't govern checks you perform on criminal records maintained by federal, state or local agencies, but other laws might. As a result, you're on safer legal ground if you notify job applicants and obtain their written permission before conducting a criminal record check.

**What does the FCRA have to do with criminal records?** The FCRA promotes the accuracy, fairness and privacy of information in files of consumer-reporting agencies, including background-screening vendors. The act gives employers specific notification requirements.

In addition to getting written permission before obtaining a background-screening report, employers must notify screening subjects if information contained in a report results in an "adverse action," such as termination or non-consideration for a job. For more information about applicants' rights under the act, visit the Federal Trade Commission's website at [www.ftc.gov/credit](http://www.ftc.gov/credit).

**Who should have access to criminal history information?** Only those who have a legitimate need to know criminal history information should know about it. Criminal records should be treated with confidentiality and be stored in a secure location.

**What should I do first?** Get started. When beginning something new, it's easy to get overwhelmed by the details. The sooner you implement a screening program, the better off your ministry will be.

Not only will you be prepared to withstand a jury's scrutiny, but you demonstrate how much you care about the safety of your employees, your ministry and the people you serve.

Laura J. Brown is a writer and communications specialist with Brotherhood Mutual Insurance Company, one of the nation's leading insurers of churches and related ministries. Brotherhood Mutual offers property and liability insurance that allows ministries to meet today's complex demands. For more information and risk-management resources, visit [www.brotherhoodmutual.com](http://www.brotherhoodmutual.com) or call 800.333.3735.



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