

## SEARCH Resolution 03-38

Of the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics

January 2003

### **National Child Protection Act Amendments**

**WHEREAS**, in 1993 the National Child Protection Act (NCPA) became law;

**WHEREAS**, in 1998 the Volunteers for Children Act amended the NCPA;

**WHEREAS**, on August 1, 1999, the SEARCH Membership Group unanimously adopted a Resolution calling for further amendments to the NCPA;

**WHEREAS**, in the period since August 1, 1999, numerous bills have been introduced in the Congress to further amend the NCPA; and

**WHEREAS**, it is widely recognized that the NCPA should be amended to assure that background checks for volunteers and employees providing services to children, the elderly and the handicapped are comprehensive, reliable, inexpensive and processed in a brief time frame.

**NOW, THEREFORE, BE IT RESOLVED**, by the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics, that any legislation to amend the NCPA should be consistent with the following:

- NCPA checks must be based on positive identification by fingerprint comparison;
- The highest quality checks embody an initial state check followed by a national check if the state check does not reveal a record that disqualifies the volunteer or employee. Accordingly, all NCPA checks, whenever possible, should be initiated through the state central criminal history record repositories;
- In states which fail to establish programs to process appropriate requests from legitimate Qualified Entities, the Qualified Entities should be authorized to go directly to the FBI for the processing of NCPA checks;
- States may (but should not be required to) return the entire criminal history record to the requesting Qualified Entity and, in order to be in compliance with the NCPA, states need not designate an authorized agency to process NCPA checks or to make fitness determinations under the NCPA;
- States (and the FBI, if a national check is conducted) must make a reasonable effort to meet a total response time of 20 business days from the date that the request, along with readable prints, is received by the state central repository;

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- The amount of fees charged by the states and by the FBI for volunteer processing must be at the lowest reasonable cost, so as not to discourage Qualified Entities from requiring volunteers to submit to background checks and fees for employees of Qualified Entities must be at cost;
- NCPA background screening is for a non-criminal justice purpose and, thus, this screening is subject to the National Crime Prevention and Privacy Compact (Compact) and § 215(b) of the Crime Identification Technology Act should be interpreted to be consistent with this;
- At the national level, no new agency, organization or entity should be created or authorized to process or facilitate NCPA checks or to set standards for such checks;
- States which opt, wholly or partly, not to process NCPA checks from legitimate Qualified Entities should not suffer any diminishment in federal justice assistance or other funding or suffer any other type of penalty;
- The amended NCPA should create a grant program for the states to support the introduction and use of live-scan fingerprint technology; to offset the states' costs of researching missing dispositions or correcting other criminal history record deficiencies; and to offset the costs of capturing prints by local police departments or others;
- The amended NCPA should include language that requires Qualified Entities to obtain the written consent or authorization of applicants, employees or volunteers before conducting a background check;
- The amended NCPA should require that Qualified Entities receiving all or part of a criminal history record provide, upon request, a copy of the criminal history information to the applicant, employee or volunteer for review or dispute prior to making a final decision regarding the status of the individual;
- The amended NCPA should require that Qualified Entities obtaining all or part of a criminal history record under the NCPA adhere to the same privacy, security and other safeguards as governmental entities in that state adhere to when they handle or process information obtained from national criminal history record checks; and
- To the extent possible, States will make reasonable effort to retrieve missing dispositions given the limits of available resources.