Introduction
The National Service Criminal History Check (CHC) is a screening procedure established by law to protect the beneficiaries of national service. Since November 23, 2007, the Corporation for National and Community Service (CNCS) has had regulations setting requirements for grantees to perform a National Service Criminal History Check (“Check”) on individuals with recurring access to a vulnerable population. On October 1, 2009, regulations went into effect implementing Section 189D of the National and Community Service Act of 1990, as amended by the Serve America Act, expanding the positions subject to the Check to include any individual receiving a living allowance, stipend, national service education award, or salary through a program receiving assistance under the national service laws, regardless of their level of contact with a vulnerable population.

To implement the Serve America Act, CNCS proposed amendments to its National Service Criminal History Check regulation on July 6, 2011. The final rule was published on October 5, 2012. CNCS grantees (Washington Service Corps) must conduct and document a Check that includes a fingerprint-based FBI criminal history check on individuals in covered positions who begin work, or who start service, on or after April 21, 2011, and who have recurring access to children 17 years of age or younger, to persons age 60 and older, or to individuals with disabilities. Washington Service Corps (WSC) sub-grantees must conduct: (1) a nationwide name-based check of the National Sex Offender Public Registry (NSOPR) website which consists of a web-based check of the centralized system that identifies individuals who are registered as sex offenders in States, territories, or with many federally recognized Tribes; (2) a search (by name or fingerprint) of the statewide criminal history registry for the state in which the program operates and the state in which the individual resides at the time of application; (3) a fingerprint-based FBI check through the WSC-approved Channeler (Fieldprint). “Recurring access” is defined as “the ability on more than one occasion to approach, observe, or communicate with, an individual, through physical proximity or other means, including but not limited to, electronic or telephonic communication.” (45 CFR 2510.20). The effective date of the October 5, 2012, rule is January 1, 2013.

Source of Requirement
Title 45, Code of Federal Regulations, Parts 2510, 2540, 2551, and 2552. Corporation for National and Community Service Criminal History FAQ’s. Also section 1111 of title 18, United States Code.

Responsibility
It is the responsibility and contractual obligation of all sub-grantees under the Washington Service Corps to comply with the code of federal regulations, CNCS FAQ’s and internal WSC guidance in the requirements around criminal history background check compliance.
Regulations only allow WSC to disqualify members who are listed, or required to be listed, on a sex offender registry or anyone convicted of murder as defined and described in 18 U.S.C. 1111. Anyone who refuses to undergo the Check may not serve. Anyone who makes a false statement in connection with a program’s inquiry concerning the individual’s criminal history is ineligible to serve. Sub-grantees may include its own policy or procedures to determine if additional offenses exist that may disqualify them as eligible to serve in that organization. Sub-grantees should consider the factors set forth in the EEOC’s guidance under Title VII (http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm), including the nature and gravity of the offense, the time that has passed since the conviction or completion of the sentence, and the nature of the position. Sub-Grantees must also have written policies on their disqualification criteria and be consistent in how those criteria are applied to all individuals. Policies or procedures applied must be provided to the WSC for documentation.

In addition, sub-grantees should be aware of federal reentry policy, which seeks to minimize unjustified collateral consequences on formerly incarcerated persons. Participation in national service programs funded by the Corporation (WSC) could aid the successful reentry of formerly incarcerated persons into society. Therefore, barriers to participation in national service programs for those formerly incarcerated persons who are not statutorily ineligible to serve should be minimized as much as possible without putting program beneficiaries at genuine risk.

**Covered Individuals**

All Covered individuals must have criminal history background checks on file at WSC.

Covered Individuals include:

- **Members** are considered to be covered individuals per WSC Policy #10.
- **Project Supervisor** is a covered individual because they perform an essential program role.
- **Site Supervisor**: Employees assigned to perform supervisory duties of members are also covered individuals. The **Supervisor** role includes, but is not limited to:
  - Recruitment, placement, screening, and training of members
  - Time report approval of members
  - Approval for use of time or leave by members
  - Tracking of member hours
  - Oversight of members in all elements of service
  - Ensuring accompaniment of a member by a covered position, while waiting for a background check
  - Ensuring that members are trained in and remain aware of prohibited activities and do not engage/participate in such activities
  - Oversight of members to ensure they carry out the approved position description responsibilities.

When members are placed in any sub-locations (such as schools, food banks, health centers, etc.), they remain supervised by their project supervisors. Any additional oversight by assigned staff at the location, which are not performing fundamental or required program work, are not covered individuals. Serving as an emergency contact, or someone who provides technical advice on how to do something because they are senior to the members in experience, or even provide leadership at the sub-location, does not establish that individual to hold a program role. Rather, such a position is simply someone who is present as part of the sub-location’s own functional purpose, and provides guidance and leadership to everyone present in that activity environment without a focus to serve the member in any special way. WSC refers to these individuals as “**Technical Advisors**”. In contrast, if your project site application/design placed
emphasis on these sub-site individuals to be something unique to the members (e.g., *mentors) then the advice would change to identify them as providing essential program service because that’s the program’s design and absent the service the program would not perform. In such cases they would be covered individuals.

*Mentor clarification: If your sites have a defined role to coach and mentor as if it were equal to a supervisor then it would be a covered position.

If your program model does not allow for the Project Supervisor to adequately supervise your member(s), then you will need to have additional “Site Supervisors” in place to perform these duties. These Site Supervisors would be covered staff and will need all criminal background checks on file at WSC prior to working in the program. Each organization must use one or the other for the entire program. Having site supervisors in some sites and technical advisors in others (with supervision from the project supervisor) will not be approved.

**Procedural Elements**

Criminal History Checks must be performed on all Covered Individuals prior to enrolling or beginning work in the program.

All NSOPR, WATCH and FBI check results, along with completed and signed WSC Criminal Background Check Authorization form, for each selected applicant must be received by WSC with the enrollment packets no later than the enrollment packet deadline for the desired start date, as listed in the calendar of important dates. Any requests for criminal history background check waiver form(s) must be received with the enrollment packet to document that the check is in process and results will be forwarded to WSC immediately upon receipt.

Failure to provide all of the documentation outlined in this procedure to WSC by the timelines prescribed will deem the applicant ineligible to start his/her service until the documentation is submitted and cleared by WSC, which in turn will move the applicant’s start date forward to the next scheduled WSC program start date.

**Project Supervisor responsibility prior to enrolling applicants:**

- Verify the identity by examining the applicant’s government-issued photo identification. (Copy of this document must be sent to WSC with enrollment packet)

- Use the WSC Criminal History Background Check Authorization form to obtain prior, written consent from the applicant for the criminal history background checks, and the appropriate sharing of the results of those checks with the WSC.
  - The Authorization also documents the understanding that selection into the program is contingent upon the review of the applicant’s criminal history.

- Provide reasonable opportunity for the applicant to review and challenge the factual accuracy of the result of the check before action is taken to exclude the individual from the position.
  - If an applicant is not selected based on the results of that criminal background check, provide WSC with copies of the documentation around this action. Also attach a copy of the organization’s policy and/or procedure outlining those additional disqualifying offenses.

- Provide safeguards to ensure the confidentiality of any information relating to criminal history background checks, consistent with authorization provided by the applicant.
• Ensure that an applicant, for whom the results of both a required out-of-state repository check and an FBI check (as approved by waiver with WSC) is pending, is not permitted to serve without being accompanied by an authorized program representative who has previously been cleared for such access.

• Provide the required Criminal History Background Check documentation to WSC as outlined in this procedure.

• Supervisor may keep copies and file securely and appropriately, as determined or required by project site and/or sponsoring agency policies and/or procedures.

Criminal History Background Check Authorization Form
Applicants must sign this form prior to the site running state and FBI background checks. Authorization form for members must include state of residence at time of application. This will be the primary tool used to determine the need for out-of-state checks. Applicants must disclose any criminal conviction and provide the requested information about those convictions. Covered staff must also complete the staff version of the authorization form to document permission for WSC to possess and store the records.

WSC must receive the original copy with signature in original ink.

NSOPR check
The national sex offender check must be run at www.NSOPW.gov. This is the only CNCS-approved source for this check. For details and examples of running an NSOPR check, please refer to the WSC Guide to Criminal Background Checks.

✓ If the result identifies a state, then reads: “The jurisdiction’s service is temporarily unavailable. Please try again later”, you must re-run the check later, or the next day if necessary, until all jurisdictions were checked.

✓ If results come back with one or more names on the list, Supervisor must:
  o Select and review each name to confirm it does not correspond to the applicant.
  o Make a note next to each name as to why it is not a match
  o Initial each page.

NOTE: Address or location cannot be used to rule out a name on the NSOPR. Please use name, age, date of birth, gender, or picture.

  o If any name on the list cannot be ruled out, then the applicant must provide evidence that this is not them in order to be eligible to serve. An individual listed on the National Sex Offender Registry is not eligible to serve or work in any national service program, including WSC.

✓ Provide the original (all notes and initials in ink) NSOPR to the WSC with the applicant’s enrollment paperwork.

State Criminal Registries Check – WATCH – State of Service

For specific details about the WATCH check, please see the WSC Guide to Criminal Background Checks.
To be automatically cleared, the results on this check must come back in one of two ways with the results either reading, “No Record” or “No Exact Match”, which means there is no conviction record in the WSP database that matches the search criteria.

If the record shows “No Exact Match”, but there is a “candidate list” of one or more names at the bottom, then you must check each name on the list and document how it is not the person you are checking. Name, gender, and date of birth are the most common ways to rule them out. Initial each page of the report.

- **NOTE:** If one of the individuals on the candidate list turns out to be your applicant, then you must print the record for that name and follow the instructions below for when a record is found.

If the record shows “Duplicate Match”, this is not complete and does not meet compliance requirements. Follow instructions on the printed Web Search Transcript to send additional information to WSP so they can do a more in-depth review.

If a criminal record is found for your applicant, print the complete Web Search Transcript, which will include any convictions. You must verify that the individual does not have any murder convictions or any conviction that requires them to register as a sex offender.

Send the original completed WATCH Check to the WSC with the enrollment paperwork. WSC must receive the original printout with any notes in original ink.

State Criminal Registries Check – Out-of-State Residents
In addition to the WATCH check, all covered individuals must have a check done in their state of residence. For members, this is where they lived at the moment they submitted their AmeriCorps application for this position. For covered staff, it is where they live at the time they are identified to work in the program role.

For details on running the out-of-state check, including the list of approved repositories, please refer to the WSC Guide to Criminal Background Checks.

Federal Bureau of Investigation (FBI) “Rap Sheet”
All members and covered staff of WSC programs are required to get an FBI Criminal History Record Information (CHRI) check prior to serving or working in the program.

WSC has a contract with Fieldprint (approved by CNCS) to provide this service. Project Supervisors, and anyone in your organization responsible for administering this check, should read and become familiar with the instructions in the WSC Guide to Criminal History Background Checks to avoid errors by members and staff that could require this check to be run multiple times. Sub-grantees will be billed for additional checks required as a result of not following the prescribed steps outlined by WSC in this guide.

Fieldprint requires 24 hours notice to cancel or change a fingerprinting appointment. Sub-grantees will be billed for any applicant they are processing that exceeds this 24 hour notice for cancellations or rescheduling requiring charges.

Project Supervisors are required to verify that there are no disqualifying convictions and add the original FBI results to the enrollment packet to be submitted to the WSC for that member and may securely retain a copy per your organizational requirements around background check reviews. Your organization must have clear policies and/or procedures in place in order to use the results of these checks for screening beyond the CNCS requirements.
WATCH and FBI Checks through the Office of Superintendent of Public Instruction (OSPI)
WSC has received approval of an Alternate Search Protocol to use results of OSPI-initiated WATCH and FBI checks in certain circumstances. Refer to the WSC Guide to Criminal History Background Checks for details.

Waivers and Accompaniment
If out-of-state or FBI check results cannot be obtained by the enrollment deadline, then enrollment documents must include a completed waiver form that can be obtained from the WSC. This check must be initiated prior to submitting a waiver form.

If the individual is required to have an out-of-state check, then WSC must receive the results of either that check or the FBI check prior to enrollment or beginning work in the program. WSC must also receive the waiver for the check that is still pending results. If WSC should approve any instance where both a state and FBI result are outstanding, then accompaniment will be required until WSC receives and approves either the state or the FBI check results.

Accompaniment is a higher standard than supervision that requires keeping line-of-sight contact with the member at all times. Accompaniment must be performed by someone either cleared by WSC, or cleared for access to vulnerable populations by the organization the member is serving at.

Criminal History Background Check Certification
Project sites/Sponsoring Organizations are required to complete the WSC Criminal History Background Check Certification form to document that the organization reviewed the results and considered them in selecting the applicant. This form must be completed after all checks are complete (or WSC waiver provided) and sent to WSC with enrollment documents for each member.

Returning Members and Staff
WSC members and covered staff of WSC grantees must have all new criminal history background checks if they have a break in service (or employment in the case of staff) of more than 120 days. If the break in service with WSC is 120 days or less, the WSC can use the results already on file in our central office from the prior term. Covered staff will be required to provide a certification from their organization that there has not been a break in employment of more than 120 days. WSC will also verify member(s) break in service based on our internal records of prior service.