

Missouri State Highway Patrol
Criminal Justice Information Services Division



MoVECHS USER AGREEMENT
SERVE AMERICA ACT - NCPA / VCA

Missouri Volunteer and Employee Criminal History Service (MoVECHS)

For Criminal History Record Checks by a Qualified Entity
(For the Safety and Well-being of Children, the Elderly or
Individuals With Disabilities)

I. Parties to Agreement

This Agreement, entered into by the Missouri State Highway Patrol (hereinafter referred to as MSHP), an agency of the State of Missouri, with headquarters in Jefferson City, Missouri, and _____, _____ (hereinafter referred to as Qualified Entity (QE), located at _____

_____, is intended to set forth the terms and conditions under which criminal history background checks authorized by The Edward M. Kennedy Serve America Act, Public Law 111-13 (Serve America Act) and under the conditions of the National Child Protection Act of 1993 (NCPA), as amended by the Volunteers for Children Act (VCA), hereafter referred to as NCPA/VCA, shall be conducted.

- A. MSHP has established and maintains intrastate systems for the collection, compilation, and dissemination of state criminal history records and information in accordance with Chapter 43, Section 43.532 RSMo, and additionally, is authorized and does participate in similar multi-state and federal criminal history records systems.
- B. MSHP and its qualified entities are subject to and must comply with pertinent state and federal regulations relating to the receipt, use, and dissemination of records and record information derived from the systems of MSHP and the United States Department of Justice (Chapter 43, Section 43.532 RSMo, and 28 C.F.R. Part 20);
- C. The Qualified Entity (QE) is a public, private, for profit, or not-for-profit entity operating within the State of Missouri and is authorized to submit fingerprints cards and review resultant criminal history records as part of the screening process for its current and/or prospective applicants, employees and volunteers (which classes of persons shall be understood for purposes of this Agreement to include contractors and vendors) who have or may have unsupervised access to the children, disabled, or elderly persons for whom QE provides care, pursuant to the Serve America Act and NCPA/VCA, and forms the legal basis for the QE access to criminal history record information derived from the systems of the U.S. Department of Justice; and



- D. QE is desirous of obtaining and MSHP is willing to provide such services so long as proper reimbursement is made and all applicable federal and state laws, rules, and regulations are strictly complied with.

Now, therefore, in light of the foregoing representations and the promises, conditions, terms, and other valuable considerations more fully set forth hereinafter or incorporated by reference and made a part hereof, MSHP and QE agree as follows:

II. Service, Compliance, Processing

A. MSHP agrees to:

1. Provide QE with such state criminal history records and information as reported to, processed, and contained in its systems and legally available to the QE; and
2. Act as an intermediary between QE and the United States Department of Justice, securing for the use and benefit of QE such federal and multi-state criminal history records or information as may be available to QE under federal laws and regulations.

B. Qualified Entity (QE) agrees to:

1. Submit requests to MSHP for criminal history background checks pursuant to this agreement only for QE's current or prospective Missouri applicants, employees and volunteers, for whom QE is not already required to obtain state and federal criminal history background checks under any other state or federal statutory provision. QE shall continue to comply with all other such statutory provisions for all applicable persons.
2. Determine whether the current or prospective applicants, employee or volunteer has been convicted of, or is under pending indictment for, a crime that bears upon his or her fitness to have access to or contact with children, the elderly, or individuals with disabilities;
3. Obtain a completed and signed Waiver Agreement and Statement form (provided by MSHP) from every current or prospective applicant, employee and volunteer, for whom QE submits a



request for a criminal history background check to MSHP. (The signed Waiver Agreement and Statement allows the release of state and federal criminal history record information to the qualified entity.) The Waiver Agreement and Statement must include the following: (a) the person's name, address, and date of birth that appear on a valid identification document (as defined at 18 U.S.C. Section 1028); (b) an indication of whether the person has or has not been convicted of a crime, and, if convicted, a description of the crime and the particulars of the conviction; (c) a notification to the person that QE may request a criminal history background check on the person as authorized by Serve America Act and NCPA/VCA; (d) a notification to the person of his or her rights as explained in paragraph 9 below; and (e) a notification to the person that, prior to the completion of the background check, QE may choose to deny him or her unsupervised access to a person to whom QE provides care. QE shall retain the original of every Waiver Agreement and Statement.

4. Use only fingerprint cards provided by MSHP and/or FBI specifically designed for use with requests for criminal history record checks under the Serve America Act NCPA/VCA; provide MSHP with a properly completed and executed fingerprint card for each current or prospective applicant, employee and volunteer for whom QE requests a criminal history record check pursuant to this agreement; and indicate either Serve America Act Employee or Serve America Act Volunteer in the "reason fingerprinted" block of each fingerprint card submitted;
5. Keep all records necessary to facilitate a security audit by MSHP and to cooperate in such audit as MSHP or other authorities may deem necessary. Examples of records that may be subject to audit are criminal history records; notification that an individual has no criminal history; internal policies and procedures articulating the provisions for physical security; records of all disseminations of criminal history information; and a current, executed User Agreement with the MSHP;
6. If set up on a billing account with the MSHP for services requested pursuant to this agreement, reimburse the MSHP, in a timely manner, in accordance with (statute or agreement), upon proper presentation of billing for state services rendered and



reimburse the FBI, in a timely manner via the MSHP, upon proper presentation of billing for federal services rendered. If not on a billing account, QE shall pay for services provided by MSHP and the FBI in accordance with State Statute (Chapter 43, Section 43.530 RSMo) with the submission of fingerprint cards and requests for criminal history background checks;

7. Insure that the appropriate personnel know to keep the information obtained under this agreement in a secure place and to use it only for the screening as outlined in this agreement;
8. Promptly advise MSHP of any violations of this agreement;
9. Notify the current or prospective applicant, employee or volunteer of his or her right to obtain a copy of the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report, and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. (Information on these rights may be obtained by contacting MSHP, regarding Missouri criminal records, at MSHP, Attn: Criminal Justice Information Services Division, P. O. Box 9500, Jefferson City, MO 65102-9500, (573) 526-6153, or by contacting the FBI, regarding federal records, at FBI, Criminal Justice Information Services Division, Attn: SCU, MOD D-2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, (304) 625-3878.) A qualified entity that is required by law to apply screening criteria, notwithstanding any right to contest or request an exemption from disqualification, shall apply such screening criteria to the state and federal criminal history record information received from the department.
10. Share criminal history information with other qualified entities only after confirming with MSHP that the requesting entity has been designated a qualified entity and has signed a User Agreement and/or is authorized by state and federal law and only after verifying that the current prospective applicant, employee or volunteer has authorized the release of his or her criminal history records, if any, to other qualified entities by a statement on his or her signed waiver. QE will respond that it is unable to provide any information to the requesting entity if the current or



prospective applicant, employee or volunteer has requested that his or her criminal history record(s) not be released to any other qualified entity.

III. Privacy and Security

- A. QE shall use criminal history record information acquired hereunder only to screen the QE's Missouri current and/or prospective applicant, employees and/or volunteers, and only for purpose(s) of employment and/or determination of suitability for access to children, elderly, or disabled persons pursuant to the terms of the Serve America Act and NCPA/VCA.
- B. QE shall not duplicate and/or disseminate criminal history records acquired hereunder for use outside of the QE except as authorized by state and federal law. Sharing of criminal history records with other Missouri qualified entities is permitted by the FBI provided that:
 - Such other entity is authorized to receive criminal history record information derived from the systems of the United States Department of Justice in the manner specified herein and QE has verified the other entity's qualifying status as required herein; and
 - QE maintains a dissemination log at the time of authorized dissemination;
 - QE properly listed Serve America Act Employee or Serve America Act Volunteer in the "reason fingerprinted" block of the fingerprint card QE submitted to the MSHP for the applicable current or prospective applicant, employee or volunteer; and
- C. QE has been approved to receive criminal history record information pursuant to specific statutory authority and shall not use criminal history record information acquired pursuant to such approval for any other purpose;
- D. QE shall not use or rely upon a criminal history record or information which is or is likely to be out-of-date and, in any event, if criminal activity is pertinent to and considered at the time of an applicant, employee or volunteer's service, a current computerized criminal history must be requested and relied upon;
- E. QE may destroy criminal history records at which time the record information is no longer needed. Dissemination log(s) and the original Waiver Agreement and Statement form must be maintained until after the



QE has received a successful Policy Compliance Review by MSHP. Destruction of records and forms must be accomplished in a way so that the information cannot be retrieved; for example, the records and forms may be shredded.

- F. QE shall keep criminal history records acquired hereunder in a secure file, safe, or other security device, such as locked file cabinet in an access-controlled area, and shall take such further steps as are necessary to ensure that the records are accessible only to those of its employees who have been trained in their proper use and handling and have a need to examine such records; and
- G. The QE shall not disseminate any information associated with a request for criminal records. Any request for criminal record information received by the QE will be referred to and processed through the Custodian of Records at the Missouri State Highway Patrol.
- H. Either MSHP or QE may suspend the performance of services under this agreement when, in the reasonable estimation of MSHP or QE, the other party has breached any material term of the agreement. Furthermore, upon MSHP becoming aware of a violation of this agreement, which might jeopardize Missouri's access to federal criminal history information, MSHP shall have the option of suspending services under this agreement, pending resolution of the problem. The violation of any material term of this agreement or of any substantive requirement or limitation imposed by the federal or state statutes, regulations, or rules referred to in this agreement shall be deemed a breach of a material term of the agreement.
- I. Pursuant to Chapter 43, Section 43.532 RSMo, "Criminal history and identification records obtained from the central repository shall be used solely for the purpose for which they were obtained. The subject of the record shall be afforded the opportunity to challenge the correctness, accuracy or completeness of a criminal history record. Any person obtaining criminal history record information from the central repository under false pretense or who advertises or engages in the practice of collecting, assembling and disseminating as a business enterprise, other than for the purpose of furnishing criminal history information to the authorized requester for its intended purpose, is guilty of a class A misdemeanor."

IV. Miscellaneous



- A. QE agrees that:
1. QE is currently operating a lawful business or other entity within the State of Missouri, with a physical address in Missouri;
 2. QE is legally authorized to operate its business or other entity within the State of Missouri;
 3. QE has complied with and will continue to comply with all requirements to properly operate its business or other entity within the State of Missouri; and
 4. QE shall promptly notify MSHP upon any change to the above, including but not limited to name, address, and status as a business or other entity operating in Missouri.
- B. This agreement may be amended by MSHP as needed, to comply with state or federal laws or regulations, or administrative needs of MSHP; and
- C. This agreement is binding upon all QE employees, agents, officers, representatives, volunteers, contractors, vendors, successors in interest, beneficiaries, subsidiaries, and assigns.

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed by the proper officials and officials.

NAME OF QUALIFIED ENTITY _____

QUALIFIED ENTITY HEAD _____ TITLE _____

QUALIFIED ENTITY HEAD SIGNATURE _____

DATE _____

MISSOURI STATE HIGHWAY PATROL (MSHP)

On Behalf of, COLONEL RONALD K. REPLOGLE TITLE SUPERINTENDENT

BY CAPTAIN TIMOTHY P. McGRAIL TITLE DIRECTOR

SIGNATURE _____ DATE _____

