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## **Background Check Procedures**

### **Purpose:**

These procedures set out the background check search components and the process for conducting background checks, interpreting background check results, communicating with individuals regarding their background check results, and reporting to the USA Breakin' (USAB) all background check results.

*NOTE: Due to reporting and other limitations, information from a background check should not be relied upon as the sole basis for selection, but rather an important indicator in the overall selection process.*

### **Statement of Procedure:**

#### **I. Authorized Background Check Organization**

- A. The National Center for Safety Initiatives (NCSI) shall conduct all background checks for the USAB. NCSI is a full-service screening organization that works in accordance with the *Recommended Guidelines*© established by the National Council of Youth Sports ("NCYS").
- B. In addition to conducting background checks, NCSI is responsible for evaluating background check results, communicating with individuals regarding their background check results, and reporting to USAB all background check results. NCSI will also be responsible for complying with the Fair Credit Reporting Act ("FCRA"), storage of background check records, and maintaining the confidentiality of information obtained in the background check process.<sup>1</sup>
- C. USAB has entered into a contract with NCSI to allow use of the NCSI website and will conduct a bi-annual review of NCSI to ensure its needs and the needs of all its constituents are being met.

#### **II. Individual Self-Registration Procedure**

- A. NCSI will provide USAB with a link to the NCSI website, so that the USAB can effectively direct individuals to the website to complete the registration for the individuals' background checks. As part of their online registration at NCSI's secure website, each individual must complete a background check Consent & Authorization form.
- B. From the time an individual self-registers for their background check, through the conclusion of their association with USAB, they have the affirmative duty to disclose their criminal history to USAB. Failing to disclose or intentionally misrepresenting an arrest, plea, or conviction is grounds for disciplinary action,

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<sup>1</sup> NCSI does not participate in or make decisions regarding an individual's eligibility for participation. Any and all decisions relating to participation shall be determined at the discretion of USAB.



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regardless of when the offense is discovered or occurred. An individual also has an affirmative duty to disclose a pending outcome, confirmed violation, or suspension stemming from any SafeSport-related matter with another sport organization or the U.S. Center for SafeSport. In such an event, the individual must notify USAB, in writing and within 24 hours.

- C. USAB shall be responsible for ensuring that background checks are conducted on the individuals outlined in the Application Section of the Background Check Policy (Section I).

### **III. Background Check Search Components**

- A. **Full Background Checks.** All full background check screens will include at least the following search components:

1. Social Security Number validation or other alternative identification verification as determined by the background check vendor;
2. Name and address history records;
3. Two independent Multi-Jurisdictional Criminal Database searches covering 50 states plus DC, Guam, and Puerto Rico;
4. Federal District Courts search for each name used and district where the individual currently lives or has lived during the past seven years, going back the length of time records are available and reportable;
5. County Criminal Records for each name used and county where the individual currently lives or has lived during the past seven years, going back the length of time records are available and reportable for each county searched;
6. National Sex Offender Registry database search of all available states, plus DC, Guam, and Puerto Rico;
7. Multiple National Watch Lists;
8. Search of the U.S. Center for SafeSport website SafeSport Disciplinary Records;
9. Comprehensive International Records search for individuals who have lived outside of the United States for six consecutive months in any one country, during the past seven years (provided by background check vendor);



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10. Motor Vehicle Records of at least a 3-year history in the state of licensure; (if driving is required for position);
11. Education Verification and final degree received (one time only, on initial screening if required for position);
12. Credit History Check (for USAB Executive Team members and USAB employees who work in Finance or Audit); and
13. Professional License/Certification Verification for medical roles including: Medical Doctor (MD) and Certified Athletic Trainer.

**B. Supplemental Background Checks.** All supplemental off-year background check screens will be conducted using at least the following search components:

1. Multi-Jurisdictional criminal database covering 50 states plus DC, Guam, and Puerto Rico;
2. Sex Offender Registry database searches of all available states, plus DC, Guam, and Puerto Rico; and
3. SafeSport Disciplinary Records.

**C. Background Checks for Media, Third-Party Vendors/Contractor, and Partner Programs.** For background checks the USOPC conducts on media personnel, as well as for those that must be conducted by third-party vendors/contractors and community organizations, all such searches will be conducted using a name-based or fingerprint-based record search in any combination that shall, at a minimum:

1. Social Security Number validation or other alternative identification verification as determined by the background check vendor;
2. Multi-Jurisdictional Criminal Database search covering 50 states plus DC, Guam, and Puerto Rico;
3. Federal District Courts search for each name used and district where the individual currently lives or has lived during the past seven years, going back the length of time records are available and reportable;
4. County Criminal Records for each name used and county where the individual currently or has lived during the past seven years,



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going back the length of time records are available and reportable for each county searched;

5. Sex Offender Registry database searches of all available states, plus DC, Guam, and Puerto Rico; and
6. SafeSport Disciplinary Records.

#### **IV. Background Check Screening**

- A. NCSI will provide a “Red Light/Green Light” determination for each background check to USAB. A “Green Light” indicates that no reportable criteria-related convictions or pending dispositions were found in the screening process and information needed to complete the background check was received. A “Red Light” means one or both of the following: 1) information is required to complete the screening process (“RL-I”) and/or 2) criteria-related convictions or pending convictions were found and verified in the screening process (“RL-Review”). If a question arises concerning a background check, the individual will be contacted directly by NCSI and given the opportunity to correct potential discrepancies in the individual’s records or to provide additional information prior to NCSI issuing a Red Light determination. In “RL-I” situations the USAB may also be contacted.
- B. A reportable record or disclosure that contains a disposition or resolution of a criminal proceeding, other than an adjudication of not guilty<sup>2</sup>, or the existence of pending charges, for any of the below criminal offenses will be flagged as a Red Light Review, meaning it does not meet the initial screening criteria and the individual will be subject to the USAB’s policies and procedures to determine the individual’s level of access and involvement with regard to athlete interactions, USAB facilities and Delegation Events (as defined below):
  1. Any felony<sup>3</sup>; and
  2. Any misdemeanor involving:

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<sup>2</sup> For purposes of these procedures, a “disposition or resolution of a criminal proceeding, other than an adjudication of not guilty” shall include, but is not limited to: an adjudication of guilt or admission to a criminal violation, a plea to the charge or a lesser included offense, a plea of no contest, any plea analogous to an *Alford* or *Kennedy* plea, the disposition of the proceeding through a diversionary program, deferred adjudication, deferred prosecution, disposition of supervision, conditional dismissal, juvenile delinquency adjudication, or similar arrangement, or the existence of an ongoing criminal investigation, a warrant for arrest, or any pending charges.

<sup>3</sup> For purposes of these procedures, the term “felony” shall refer to any criminal offense punishable by imprisonment for more than one year.



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- a) All sexual crimes, criminal offenses of a sexual nature to include but not limited to; rape, child molestation, sexual battery, lewd conduct, possession and distribution of child pornography, possession and distribution of obscene material, prostitution, indecent exposure, public indecency, and any sex offender registrant;<sup>4</sup>
- b) Any drug related offenses;
- c) Harm to a minor or vulnerable person, including, but not limited to, offenses such as child abandonment, child endangerment/neglect/abuse, contributing to the delinquency of a minor, and DUI with a minor;
- d) Violence against a person, force, or threat of force (including crimes involving deadly weapons and domestic violence);
- e) Stalking, harassment, blackmail, violation of a protection order, and/or threats;
- f) Destruction of property, including arson, vandalism, and criminal mischief; and
- g) Animal abuse, cruelty, or neglect.

## **V. Driving Privileges**

- A. For purposes of being authorized to transport people in any motor vehicle for business purposes, a record that contains the following information will be flagged as a Red Light Review and subject to review in accordance with the USAB's policies and procedures:
  - 1. No valid driver's license (expired or lack of license);
  - 2. Suspended or revoked driver's license;
  - 3. More than two moving violations and/or accidents in the prior two years;
  - 4. A conviction for a major moving violation within the prior two years, including, but not limited to: DUI/DWI, possession of an open container, any drug-related motor vehicle incident, leaving the

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<sup>4</sup> Any covered individual that has been convicted of, received an imposition of a deferred sentence for, or any plea of guilty or no contest for any sexual crime, criminal offense of a sexual nature, and/or is a sex offender registrant must be reported to the U.S. Center for SafeSport.



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scene of an accident, assault (in any form) by use of a motor vehicle, and reckless driving (willful or wanton disregard for safety of persons or property in any form);

5. Pending traffic offenses; and
  6. An individual being under 21 years of age.
- B. If following USAB review, the determination is that the individual is not approved for driving privileges, then the individual is not authorized to drive or operate any vehicle to transport athletes, Delegation members, volunteers, or members of an event organizing committee.

#### **VI. Appeal to Criminal Background Check Vendor**

Any individual has the right to dispute what they consider to be erroneous findings of the criminal background check directly with the criminal background check vendor. USAB is required by the Background Check Policy to accept the findings of the criminal background check provider as to the accuracy of the records. However, USAB Background Check Review Panel shall exercise their discretion and may take all relevant information into consideration to determine the eligibility status of individuals with Red Light findings.

#### **VII. Background Check Procedures**

- A. USAB will be notified of Green Light and Red Light status. Individuals will receive two separate Green Light/Red Light notifications: one for their criminal check and one for their driving history check. In the event of a Red Light, NCSI will contact USAB to request authorization to send an adverse action letter on behalf of the USAB, and if authorized, will send an adverse action letter to the individual. On request, NCSI will provide additional information to support the USAB's review and decision process.
- B. After receiving notification of a Red Light Review, the USAB Review Panel will determine if and to what degree the individual will be: (a) affiliated with USAB, (b) permitted to participate in USAB sanctioned events, or (c) granted driving privileges in accordance with the Background Check Policy and these procedures.



## **VIII. Background Check Review Panel**

- A. USAB Background Check Review Panel shall consist of the following people<sup>5</sup> and adhere to at least the 33.3% athlete representation requirement.
1. USAB DanceSport Vice President or their designee (all event and training matters);
  2. Representative from the USAB Legal Division (all event and training matters);
  3. USAB Professional Vice President or their designee (all event and training matters); and
  4. Two Athlete Representatives designated by the Athlete Council.
- B. The USAB Review Panel will conduct a hearing. The individual will be notified of a specific date and time so that they may participate if they wish. Unless the Review Panel requires the individual to attend the hearing in person, the individual may appear by telephone conference call. The individual has the right to be represented by legal counsel at the hearing.

At the hearing the individual will be allowed to present any evidence or argument that he or she wishes the Review Panel to consider. The Review Panel may require that documentary evidence be presented prior to the hearing and that the names of any witnesses be disclosed prior to the hearing.

A determination will be made based on a majority vote of the Review Panel. Prior to the Review Panel's final determination, interim measures may be imposed, as necessary, to ensure the safety and wellbeing of others at USAB events.

- C. The Review Panel has the discretion to deny any individual covered by the USAB Background Check Policy from participation in USAB events if it finds, in good faith, that permitting an individual with a Red Light Review to participate is inconsistent with the stated purpose of the USAB's Background Check Policy. In rendering its finding, the Review Panel shall consider the following:

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<sup>5</sup> Medical licensing and credential reviews will be conducted by a panel with internal and/or external medical expertise.





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1. The legitimate interest of the USAB in providing a safe environment for athletes and other individuals who participate in USAB events;
  2. The seriousness of the criminal offense or act;
  3. The time which has elapsed since the occurrence of the criminal offense or act;
  4. The age of the person at the time of occurrence of the criminal offense or act;
  5. The bearing, if any, the criminal offense or act has on the individual's ability to perform the necessary functions of their role or otherwise be a representative of the U.S. Olympic and Paralympic Movement;
  6. Any information produced by the individual, or produced on behalf of the individual with respect to the individual's rehabilitation and good conduct;
  7. Any voluntary restrictions on access proposed by the individual;
  8. Any recommendation or information provided by the individual's organization; and
  9. Any other information, which in the determination of the Review Panel, would bear on whether or not the individual should represent USAB and the U.S. Olympic and Paralympic Movement.
- D. The Review Panel will communicate its finding to the individual. If the individual disagrees with the finding of the Review Panel, they may appeal the decision by filing a demand for arbitration with the American Arbitration Association ("AAA") within thirty (30) days of the Review Panel's decision. A decision rendered by the AAA shall be final and binding on all parties.

#### **IX. Payment Information**

- A. In cases where USAB directly assigns or nominates an individual to serve in a Games role or to be a member of the official Games Delegation, payment for the background check will be the responsibility of the USAB. In all other instances, payment for the background check will be the responsibility of the individual.

**Approved By:** USA Breakin' Board of Directors

**Effective Date:** April 5, 2021

**Next Review Date:** January 1, 2022

**Contact Person or Position:** USA Breakin' Investigative and Ethics Committee Chair