



*Improving Background
Check Systems to
Protect Vulnerable
Populations*

April 27, 2010
1:30-2:30 EST



WEB CONFERENCE FACULTY

Lori Post
Yale School of Medicine

Anne Montgomery
Senate Select Committee
on Aging

Naomi Karp
AARP

Emily Rosenoff
ASPE, DHHS

Moderator
Jim Kupel - YNHHS CHS



Agenda

- ◆ Welcome - Jim Kupel, YNHHS CHS
- ◆ BGC Systems and Preventing Abuse, Neglect and Exploitation
 - Lori Post, Yale School of Medicine
- ◆ National Legislative Update
 - Anne Montgomery, Senate Select Committee on Aging
- ◆ Setting Realistic Expectations For BGC Systems
 - Naomi Karp, AARP
- ◆ Ensuring a Qualified Long-Term Care Workforce:
From Pre-Employment Screens to On-the-Job Monitoring
 - Emily Rosenoff, ASPE, DHHS
- ◆ Questions

Using the Chat Panel



Chat Panel



Chat Panel

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BGC Systems and Preventing Abuse, Neglect and Exploitation Lori Post

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Statement of Problem

- ◆ A significant portion of the population is aging and will require long-term care – doubling by 2025
- ◆ Increase in unhealthy persons with disabilities – obesity and longer life expectancies
- ◆ Persons living in long-term care are especially vulnerable
- ◆ High levels of abuse, neglect and exploitation



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BGC Challenges

- ◆ No communication between and within agencies
- ◆ No sharing of information between licensing units
- ◆ Non-standardized across agencies
- ◆ Fingerprints not required in most long-term care (LTC)

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Partial Solution

- ◆ Information communication technology
 - Standardized system with higher bar
 - Less chance for data entry error
 - Biometrics required
 - The system can not be tricked
 - Expeditious checks put patients at lower risk when conditional hires are made



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Case Study of System Exploitation

- ◆ **Charles Cullen killed as many as 45 patients** over 16 years in NJ and PA
- ◆ At the time he committed his first murder in 1988, he already had a significant criminal record, multiple suicide attempts, a dishonorable discharge from the military, mental health commitment, cruelty to animals
- ◆ Killed 11 patients in Livingston, NJ and was being investigated when he quit and took a new job only 56 miles away
- ◆ Began job skipping
- ◆ Charged with domestic assault of his wife
- ◆ Charged with stalking and breaking and entering towards another woman



Charles Cullen

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Case Study of System Exploitation

- ◆ Was an active alcoholic
- ◆ Was fired for poor performance and neglect
- ◆ Was fired for administering unauthorized drugs
- ◆ Was fired for suspicion of murder
- ◆ Continued to work for 6 months while he was under investigation for murdering patients in the very facility he committed the crimes
- ◆ Continued to murder and job skip



Charles Cullen

Economic Analysis of Abuse, Neglect and Exploitation

- ◆ Abuse, neglect and exploitation of individuals in long-term care impose substantial costs to the victim, their family and society as a whole
- ◆ Tangible and intangible costs

Costs not assessed

- ◆ Pain and suffering
- ◆ Fear and humiliation
- ◆ Mental anguish
- ◆ Trust of agencies and government



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Estimating costs of single incidents

- ◆ Establish incidence
- ◆ Crime cost estimates
- ◆ Inflation and regional adjustments
- ◆ Probability of recidivating

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Michigan Pilot – 16 Month Study Period

- ◆ 214,167 persons were given bona fide job offers in Michigan nursing homes, adult foster, hospice, homes for the aged, Intermediate Care Facilities for the Intellectually Disabled, long-term care units, home health agencies
- ◆ Background checks were initiated on these individuals



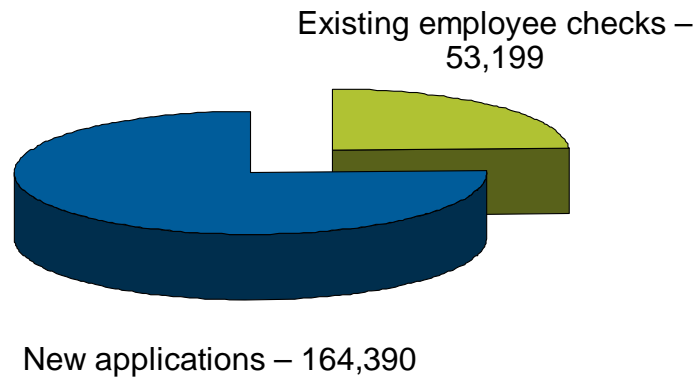
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Michigan background checks include:

- ◆ United States Health and Human Services Medicare/Medicaid Office of Inspector General Exclusion List (OIG)
- ◆ Nurse Aid Registry (NAR)
- ◆ Public Sex Offender Registry (PSOR)
- ◆ Offender Tracking Internet System (OTIS)
- ◆ Michigan State Police Internet Criminal History Access Tool (ICHAT)
- ◆ Michigan State Police (MSP)
- ◆ Federal Bureau of Investigation (FBI)

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Registry Checks



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Total Number Excluded by Registries

OIG	459
NAR	379
PSOR	340
OTIS	1,005
ICHAT	4,022
Total registry exclusions	4,425

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Fingerprints Exclusions



Total MSP Fingerprint Exclusions	515
Total FBI Fingerprint Exclusions	231
Total FBI AND State BOTH Fingerprint Exclusions	291
Total exclusions	1,037

Estimating crime costs

- ◆ Literature review of crime cost studies - Brand and Price, 2005; McCollister, 2004; Cohen, 2000; Miller, Cohen, and Wiersema's (1996); Miller, Cohen, and Rossman, 1993; and Cohen, 1988.
 - Victim costs (i.e., productivity, medical care, property loss and quality of life)
 - Community service costs (police, fire, social services, and lost output); justice costs (judicial system, legal interpretations and victim advocates)
 - Institutional costs (background checks, trainings, maltreatment protocol, suspension and dismissals, labor grievances, boards and steering committees)
 - Precautionary crime costs (security expenditures and insurance administration)
 - Education and research costs (education materials, agency/departmental trainings and policy development)

*Crime Cost Estimates
(2007 inflation and regional adjustments)*

Type of Crime	Cost Per Incident
Homicide	\$1,431,700
Rape	\$125,795
Assault	\$13,592
Larceny	\$32,599
Fraud	\$3,037

Number of Exclusions

Crime Category	Exclusion Count (1 year)
Homicide	16
Rape	44
Assault	385
Larceny	778
Fraud	927
<i>Total Crimes Cost</i>	2,150
<i>Uncosted Crimes</i>	2,909
<i>Total Exclusions</i>	5,059

Cost Savings of Crime Prevention for 1 Year

Crime Category	Exclusion Count	Crime Costs	Rate Recidivism	Crime Costs
Homicide	16	\$1,431,700	41%	\$9,323,230
Rape	44	\$125,795	46%	\$2,546,091
Assault	385	\$13,592	62%	\$3,228,712
Larceny	778	\$32,599	79%	\$19,985,273
Fraud	927	\$3,037	70%	\$1,976,340
Total Crimes Cost	2,150			\$37,059,646
Uncosted Crimes	2,909			
Total Exclusions by Crime	5,059			

Cost savings from hierarchical system

- ◆ Total exclusions by registries – 4,425
- ◆ $4,425 \times \$70 = \$309,570$
- ◆ Not included – personnel, hiring, \$10 ICHAT for some registry checks
- ◆ Eliminates temporary hires



Cost savings from training rehires

Job Groups	Count	Training Costs	Total
Executive, Administrative, Managerial	111	\$3,000.00	\$333,000
Professional/Licensed Health Care	889	\$3,000.00	\$2,667,000
Technical, Unlicensed Health Care	3351	\$1,000.00	\$3,351,000
Laboratory and Radiology Services	7	\$3,000.00	\$21,000
Food Services	555	\$1,000.00	\$555,000
Housekeeping Services	378	\$1,000.00	\$378,000
Other (barber, manicurist, beautician)	1045	\$1,000.00	\$651,000
Total	6336		\$7,956,000

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Cost savings for records maintenance

- ◆ Many applicants apply for multiple jobs. Before our system was developed, application records were not saved. That means, if one person goes to 19 agencies and applies for a job, we have to pay for 19 background checks. We are saving considerable money by saving the record and sharing the findings with providers who request new checks.
- ◆ 3,893 repeat applicants x \$70.00 FBI check (includes fingerprinting charges) + \$10.00 Michigan State Police check
- ◆ Total cost savings = **\$311,440.00**

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Cost of Program

- ◆ Cost for developing, maintaining, staffing the Michigan Program for Background Checks = \$9,568,707



Pilot Cost Benefit

Crime Prevention	\$ 37,059,646.00
Training Prevention	\$ 7,956,000.00
Hierarchical System	\$ 309,570.00
System record retention	\$ 311,440.00
Total Savings	\$ 45,636,656.00
Cost of Program	\$ 9,568,707 (MI pays for system and staffing)
Cost Benefit	\$ 36,067,949.00

Future Research?

- ◆ Recidivism rates are based on non-LTC populations.
- ◆ Profile of LTC provider different than GP. 14% hits 5% disqualifying.
- ◆ Cost < half of crimes – Under-estimating savings
- ◆ Unemployment costs
- ◆ Criminal Dumping – Where do they go?
- ◆ No appeal process - implications
- ◆ Opportunity vs. Displacement
- ◆ Generalists vs. Specialists
- ◆ System deterrence impact

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**US Senate
Select Committee on Aging
Anne Montgomery**

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Patient Protection and Affordable Care Act

- ◆ The Patient Safety and Abuse Prevention Act was enacted as part of the Patient Protection and Affordable Care Act
- ◆ Signed into law by President Obama on March 23, 2010
- ◆ Up to \$3 million in funding is available for states to develop background check pilot programs through CMS
- ◆ States that participated in a previous CMS pilot project will be able to apply for funds to expand their programs.

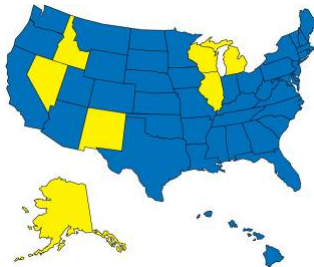


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Patient Safety and Abuse Prevention Act

- ◆ The original CMS pilot program for national and state background checks on direct patient access employees of long-term care providers took place in:

- Alaska
- Idaho
- Illinois
- Michigan
- Nevada
- New Mexico
- Wisconsin



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Patient Safety and Abuse Prevention Act

- ◆ New pilot program providers can include:
 - Skilled nursing facilities
 - Nursing facilities
 - Home health agencies
 - Hospice care providers
 - Long-term care hospitals
 - Personal care service providers
 - Adult day care providers
 - Assisted living providers
 - Intermediate care facilities for the intellectually disabled
 - Residential care providers that arrange for, or directly provide long-term care services



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Patient Safety and Abuse Prevention Act

Pilot program

- ◆ States would establish procedures designed to:
 - Give notice to prospective employees about the background check requirement
 - Require the employee to produce a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse
 - Require the employee to authorize a criminal background check in writing
 - Require the employee to submit to being fingerprinted
 - Require the employee to provide any other identification information specified by the state
 - Permit the provider to obtain criminal histories on prospective employees using a 10-fingerprint check from state criminal records and the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation

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Questions and Anticipated Time Lines

- ◆ What does the Federal government hope to achieve with this legislation?
- ◆ Does this mandate States to perform background checks?
- ◆ It is likely that CMS will have grant information out by July 2010 and that funds can begin flowing in FY2010.
- ◆ The expansion timing still appears to be a minimum of three years, maybe longer.

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AARP
Naomi Karp

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AARP Research: Policy & Practice Concerns

- ◆ Are we in danger of **unnecessarily limiting** the pool of workers in a tight market?
- ◆ How can we **tailor disqualifications** to those who truly present a risk?
- ◆ How can we **increase the speed, accuracy and cost-effectiveness** of background checks?
- ◆ What should we do to **complement** background checks?
- ◆ **What else** do we need to know?

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Labor Market Realities vs. Need for Protection

- ◆ Labor force projections: known shortages.
 - From 2008-2018, demand for “home health aides” expected to increase 50% and for “personal and home care aides”, 46% (3rd and 4th fastest growing jobs according to BLS)
- ◆ At same time, older population grows exponentially
- ◆ Little discussion of workforce concerns in background check literature
- ◆ Are current disqualification requirements a blunt instrument?

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Disqualifying Offenses

- ◆ Scant literature on **which crimes should disqualify** applicant
- ◆ **Suggested disqualifiers**: crimes against vulnerable adults; criminal versatility; age at first arrest; number of convictions; substance abuse
- ◆ Some state laws seem **overbroad**
- ◆ *Wish list*: **crime switch matrix**

Length of Disqualification

- ◆ Some statutes have “**look-back**” periods
- ◆ Blumstein/Nakamura research: **Probability of recidivism declines with “time clean”**
- ◆ Scientific determination of “**redemption**” point vs. **arbitrary legislative cut-off**
- ◆ *Wish list*: **algorithms** as basis of policy

Promising Practices to Improve Background Check Systems

- ◆ CMS 7-state pilot yielded good ideas:
 - Integrate data sources
 - Share information among state agencies
 - Electronic fingerprint capture
 - Tiered system, checking low-cost state records before FBI checks
 - Rap-back

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Necessary But Not Sufficient: Complements to Background Checks

- ◆ Reference checks
- ◆ Thorough interviews
- ◆ Credit checks
- ◆ Drug and alcohol screening



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Need for Additional Research

- ◆ Assess **efficacy of background check screening** to reduce risk for vulnerable populations
- ◆ Investigate **deterrent effect** of background check requirements on potential applicants
- ◆ Develop evidence for identifying **disqualifying offenses and length of disqualification**
- ◆ Determine whether background check screening **improves retention** of workers

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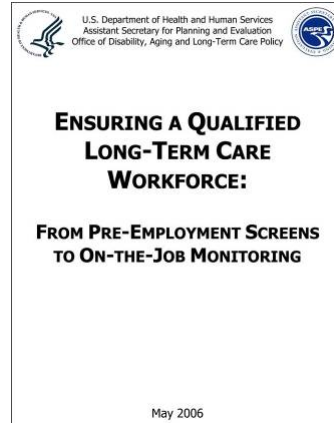
**US Department of Health and Human Services
Office of the Assistant Secretary for
Planning and Evaluation
Emily Rosenoff**

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2006 ASPE Report

Examined state CNA background check processes in nursing homes, and CNA registries to look at patterns of abuse and prior criminal activity

<http://aspe.hhs.gov/daltcp/reports/2006/LTCWqual.pdf>



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Key Findings

- ◆ Criminal background checks are a valuable tool for employers during the hiring process and their use does not limit the pool of potential job applicants
- ◆ Based on data in two states, a modest correlation exists between criminal history and incidences of abuse
- ◆ Most abuse from staff perpetrated by individuals with no history of abuse

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Key Findings (continued)

- ◆ Criminal background checks are only one component of preventing abuse
- ◆ There are fewer post-employment strategies to ensure a qualified workforce
- ◆ Training likely key component to any abuse-prevention strategy

Additional thoughts

- ◆ This report only examined CNAs in nursing homes. There are additional considerations for other settings and types of workers
- ◆ Majority of abuse committed by relatives or friends
- ◆ Additionally, abuse is often committed by residents—especially individuals with dementia or severe mental illness

Safe at Home? Developing Effective Criminal Background Checks and Other Screening Policies for Home Care Workers

- ◆ Summary document and additional detailed information on state background check policies <http://www.aarp.org/research/ppi/ltc/care/articles/2009-12.html>



Discussion and Questions



About YNHHS-CHS

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Yale New Haven Health System



- ◆ Largest, most integrated healthcare system in Connecticut
- ◆ 12,000 employees and 3,500 physicians
- ◆ 78,000 patient discharges and 1,300,000 outpatient visits
- ◆ 3 acute care hospitals, a children's hospital and a psychiatric hospital
 - A Level 1 Burn Center and a Level 1 Trauma Center
- ◆ \$1.7 billion in revenues and \$2.0 billion in assets
- ◆ Primary teaching hospital of the Yale University School of Medicine

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National and International Partner Organizations

Through partnerships with national leaders, influencers and stakeholders from organizations such as those listed below, YNHHS has successfully developed and implemented national and international programs to prepare healthcare workers:



- ◆ American Hospital Association
- ◆ American Medical Association
- ◆ The Joint Commission (national healthcare accrediting organization)
- ◆ Centers for Disease Control and Prevention
- ◆ National Library of Medicine
- ◆ Occupational Safety and Health Administration
- ◆ Office of the Assistant Secretary for Preparedness and Response - HHS
- ◆ Department of Defense - USNORTHCOM
- ◆ Department of Homeland Security - FEMA
- ◆ American Red Cross
- ◆ Pan American Health Organization/World Health Organization
- ◆ International Association of Emergency Managers



Coordinating Civilian and Military Medical Response to Domestic Disasters

In partnership with USNORTHCOM, YNH-CEPDR has established the *National Center for Integrated Civilian-Military Domestic Disaster Medical Response (ICMDDMR)*



- ◆ ICMDDMR is the only funded program in the United States developing integrated civilian-military-private sector medical approaches to large-scale disaster preparedness and response to maximize coordination, efficiency and effectiveness of a medical response
- ◆ Programs focus on:
 - Assessments of medical and public health response capacity and capability
 - Education and training for the healthcare delivery and public health workforces
 - Exercises and program evaluation to identify activities that are successful
 - Dissemination of program deliverables and results to civilian, military and private sector medical response stakeholders



Background Check Programs

- ◆ YNHH is working with Dr. Post from Yale School of Medicine and Dr. Swierenga from Michigan State University
- ◆ Collaboration focuses on improving systems design, methodology, best practices, and the use of communication information technology



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