

# The Navy League of Canada



## Screening Coordinator's Handbook

*Step-by-step instructions to assist with Volunteer Selection*



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## Introduction

Volunteer screening serves two main purposes:

- to create and maintain a safe environment for our Cadets and Volunteers
- to ensure an appropriate match between each volunteer and their duties

## Authority

This publication is produced under the authority of the National Board of Directors of The Navy League of Canada as approved at the 2002 Annual General Meeting in Ottawa.

## Background

For many years, The Navy League of Canada (NLOC) had screened volunteers using the Canadian Police Identification Check (CPIC). Growing concern over the effectiveness of the CPIC system as a reliable means of screening volunteers led the National Board of Directors to launch a comprehensive review of our screening process beginning in 1998.

At the 1999 Annual General Meeting, the Advisory Council tabled a proposal for a nationalized Volunteer Screening Program. Their proposal was approved for immediate implementation. Key improvements of the previous screening program included:

- **A central repository for tracking volunteers working with cadets**
- **Local Background Checks to supplement the CPIC system**
- **An Identification Verification System and Safety Guidelines for Volunteer Drivers**
- **A comprehensive Harassment and Abuse Policy**
- **The ability to share information with other youth organizations**
- **The requirement to be re-screened every 3 years**

These new initiatives enabled the NLOC to protect its cadets to a much greater level.

Although the National Volunteer Screening Program showed success from the start, the NLOC has an ongoing commitment to develop and improve this system. The legal term for this is '*due diligence*'. Beyond the legal requirement to display due diligence, the NLOC has accepted a higher moral obligation to take every reasonable step to protect the youth of our cadet programs.

To this end, this manual was created as a means of assisting Branch and Divisional Screening Coordinators with the execution of their duties. The League has also integrated Harassment and Abuse Prevention Training into both Sea Cadets (in conjunction with DND) and Navy League Cadets. In addition, the National Board of directors has collected comments on the initial Screening Program and made several improvements which have also been integrated into this document.

The combination of effective Volunteer Screening and Training programs serves as a strong deterrent to potential predators. The further addition of a Safety Policy (which prohibits one-on-one contact between adult volunteers except in specific circumstances) ensures we are taking every possible step to protect our cadets.

## **About this Manual**

This manual is intended to be a guide for Volunteer Screening coordinators. It is not intended for circulation amongst the general membership of the NLOC or the public at large. Cadet officers and volunteers are to be made aware of their obligations to the screening process through separate publications:

- **Sea Cadet Volunteers: CATOs (23-01 and 23-07)**
- **Navy League Cadet Volunteers: NL(8)E Navy League Cadet Regulations**

As this manual contains information as to what to look for in an applicant and what to ask during an interview, minimizing the circulation of this document will minimize the opportunities for an undesirable applicant to 'slip through the cracks'.

## **Terms and Definitions**

**Branch** – A local unit of The Navy League of Canada.

**Canadian Police Identification Check (CPIC)** – A process whereby Canadian Law Enforcement agencies may determine if an individual has a Criminal Record.

**CATOs** – Cadet Administrative and Training Orders, the principle document for the regulations governing the Sea, Army and Air Cadet Programs.

**CIC** – Cadet Instructors Cadre, Canadian Forces Reserve Officers who work or volunteer with Sea Cadet Corps.

**CPIC** - see Canadian Police Identification Check

**Direct Liability** – liability dealing specifically with the issue of fault.

**Division** – The regional governing body of The Navy League of Canada.

**DND** – Department of National Defence

**Duty of Care** – The concept of duty of care identifies the relationship that exists between two persons (e.g. two individuals, an individual and an organization) and establishes the obligations that one owes the other, in particular the obligation to exercise reasonable care with respect to the interests of the other, including protection from harm. The duty of care arises from the common law, as well as municipal, provincial, federal and international statutes.

**Liability** – Liability refers to the duties, obligations or responsibilities imposed on a person by common law or by statute. As it is commonly used, we speak of a person or organization being held legally liable for something, i.e., through a legal action, the individual or organization has been found legally responsible for an action or inaction in a particular set of circumstances and is required to pay damages to someone harmed as a result. (see also, Occupiers' Liability, Direct Liability, Vicarious Liability)

**Occupiers' Liability** – requires that the person (an individual, an organization) in possession of premises owes a duty of care to those who come on the premises and must take reasonable care to protect them from harm that might come through their programs, on their premises or at the hands of a third party on the premises.

**Police Records Check** – The process of securing information from the police about individuals, as well as to describe the form or report in which information is provided. It may include a check of national or local and regional police records. At the end of the process, a report is issued. The report may simply identify whether or not someone has a criminal record, or it may provide details of actual offences. Just as the process varies among police agencies, so too do the report forms.

**Position of Trust** – A position of trust identifies a setting in which someone is placed in a position of authority over another person in an ongoing relationship. A position of trust implies that someone has some degree of power over another, that the relationship is unequal. Individuals in positions of trust may be family members, friends, caregivers, volunteers, or employees. The question of whether a position of trust exists depends on the relationship and on the degree of authority, reliance and dependence in it, and not on the question of payment or salary. People may also assume positions of trust with respect to finances, rather than individuals.

**Standard of Care** - The standard of care refers to the degree or level of service, attention, care, and protection that one person owes another according to the law, usually the law of negligence. The required standard varies according to the circumstances of each situation, and determining the appropriate standard is often not a simple matter.

**Vicarious Liability** – is the liability an organization takes on for the actions of those who function on its behalf.

**Volunteer** – A volunteer is an individual:

- Who chooses to undertake a service or activity; someone who is not coerced or compelled to do this activity
- Who does this activity in service to an individual or an organization, or to assist the community-at-large
- Who does not receive a salary or wage for this service or activity.
- For the purposes of this document, volunteer refers to any member of the NLOC, including CIC officers who may or may not be paid for some of their service.

**Vulnerable Person** – This term is used to denote individuals who have difficulty protecting themselves and are therefore at greater risk of harm. People may be vulnerable because of age, disability or handicap, or circumstances. Vulnerability may be a temporary or a permanent condition. This is purposely a broad definition, one that can include children, youth, senior citizens, people with physical, developmental, social, emotional, or other disabilities, as well as people who are victims of crime or harm. Vulnerable person will also include people who have been victims or crime or accident, or are otherwise left with little defence against those who would harm them.

## Who needs to be Screened?

Volunteers within the NLOC can be divided into the following four categories:

- **Navy League Volunteers** – Members of the NLOC that may work with either Sea Cadets or Navy League Cadets, but are not part of a corps' staff.
- **Navy League Cadet Volunteers** – Uniformed and non-uniformed volunteers that work within the Navy League Cadet program.
- **Sea Cadet Volunteers** – Civilian or military members that work within the Sea Cadet program.
- **Casual Volunteers** – Friends of the Navy League, or parents of cadets that volunteer on an infrequent basis, usually as Drivers for fund raising activities.

**Casual Volunteers do not need to be screened.** While serving as drivers, they must follow the procedures outline in the NL(102)E Driver's Log. On activities where they are not driving (i.e. a Cadet Dinner), they must be supervised continuously for the duration of the activity.

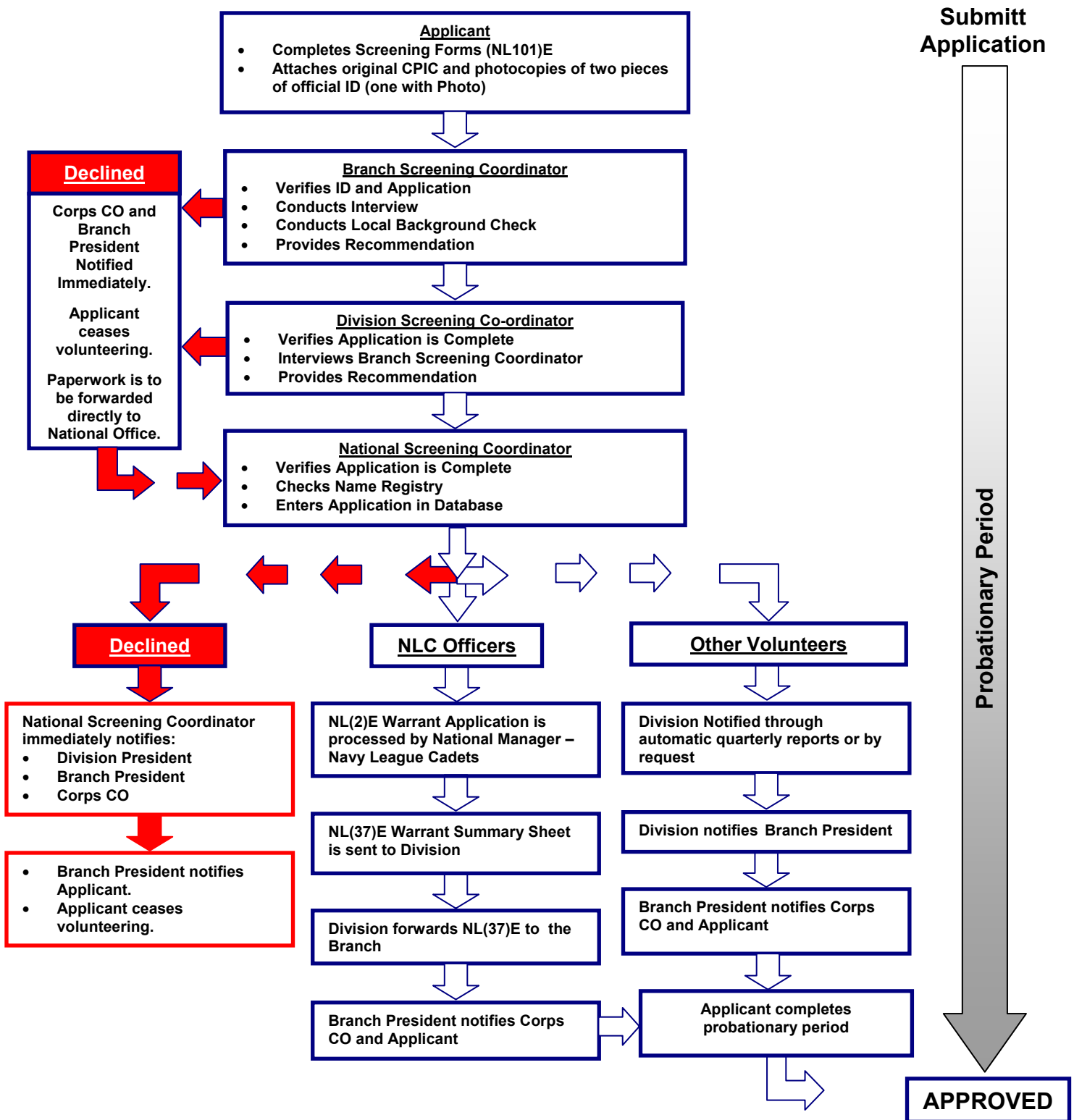
**Sea Cadet Volunteers are not screened by the NLOC.** DND has accepted the responsibility of screening these volunteers through an Enhanced Reliability Check.

**Any other volunteer that may expect to find themselves working with cadets in an unsupervised capacity must be screened.**

If you are unsure whether or not a person must be screened, remember that it is always better to be safe than sorry. If a volunteer seems to be between two categories, than it is better to screen the individual. You may also contact the National Screening Coordinator by phone (1-800-375-6289) or e-mail (national@navyleague.ca) for guidance on this issue.

Remember, it is the Screening Coordinator's responsibility to conduct the screening of volunteers, however it is the Corps CO and Branch President's responsibility to ensure volunteers are screened, or supervised (see Casual Volunteers above).

# The Volunteer Screening Process



The Volunteer Screening Process will be completed within the 6-month probationary period. However the applicant must still be monitored during this period to determine their suitability for working with youth. At any time during this period, the Branch may release the volunteer without recourse. **National Office must be notified prior to the release of any volunteer.**

## **Step One - The Application**

Identifying and recruiting volunteers is primarily the responsibility of the Branch, however the involvement of Corps Commanding Officers (CO) is essential to an effective recruiting program.

Prospective volunteers should be introduced to either the Corps CO or the Branch President, or both. As the Branch President is responsible for the activities of the Branch and its volunteers, it is the responsibility of the Branch President to conduct an initial interview. If a Branch President wishes, they may delegate this authority to someone else, such as the Corps CO, or the Screening Coordinator.

During this initial meeting, the following information must be passed on to the applicant:

- NL(101)E Volunteer Screening Form
- Harassment Policy Statement
- Safety Policy
- Drug and Alcohol Policy
- A description of the different volunteer opportunities within the Branch and Corps
- Contact information for the Branch Screening Coordinator

The following information needs to be collected from the applicant:

- Name and Contact Information (Phone Numbers and/or e-mail)
- How the applicant discovered the program

The goal of the first meeting is to convince the applicant that volunteering with the NLOC can be a both an enjoyable and rewarding experience, so it is important not to overwhelm them with all of the paperwork and policies outlined above. The best approach is offer them a pre-made enrolment package. This should consist of an envelope which includes the application form, policies, recruiting material and contact information. This will provide them with the required information in one simple transaction. This should be done at towards end of the meeting. The interviewer can hand them the package and offer a simple explanation such as:

***“I’m sure you’re an upstanding person, but I have to pass on this information on to you. The Navy League of Canada requires background checks for our volunteers. Please review this information and call [the Screening Coordinator’s name] if you have any questions. They will set it all up so you can start volunteering.”***

The forms and policies are straightforward and pretty much self-explanatory. Giving these to the applicant to review later allows the interviewer to focus on building the eagerness and enthusiasm of the applicant. Reputable volunteers will understand the need for screening and safety policies. By presenting a professional package you will assure these individuals that the NLOC is worthy of their volunteer efforts and will deter disreputable individuals looking for an easy target.

After the first meeting, the name of the applicant should be forwarded to the Branch Screening Coordinator for follow-up. The Branch Screening Coordinator should contact the volunteer within the next week to answer questions and encourage the applicant to complete and return the forms.

## Checking the Application

When the applicant submits their paperwork, there are several things that need to be verified:

- √ **NL(101)E** – each section is complete and legible  
– contact information matches Identification
- √ **Identification** – verify originals to ensure they match the photocopies provided
- √ **CPIC** – it is an original, name and birth date match the ID provided

If these are all in order, the screening process can proceed.

**Remember:** At any stage of the screening process, the Branch Screening Coordinator may decline the volunteer. (See Step 5 – The Branch Recommendation)

## Step Two – Establishing the Probationary Period

Once the complete application has been received, the Branch Screening Coordinator must establish a probationary period for new applicants. Volunteers that are having their screening renewed do not have to undergo a probationary period unless they have been inactive for more than 12 consecutive months.

The probationary period begins once the forms have been received and lasts for six (6) months. The purpose of the probationary period is two fold:

1. It allows time for the screening forms to be processed.
2. It affords the Branch and Corps time to evaluate the skills and attributes of the volunteer to determine if they are indeed suitable, and in what capacity they can best serve the needs of the local Branch.

During the probationary period, ***the applicant must be supervised at all times during interaction with cadets.*** It is the responsibility of the Corps CO to ensure that the applicant is supervised and does not have the opportunity for unsupervised interaction with cadets.

The Volunteer Screening Coordinator must speak with the Corps CO on a monthly basis to track the progress of the applicant. The Screening Coordinator should also seek opportunities to observe the applicant when working with cadets.

The screening coordinator must keep a log of each interview/observation. It is important that this log is kept secure, and confidential (not read by anyone). A sample of an NL(103)E Screening Coordinator's Log can be found in Annex G.

At the end of the probationary period, the Log Sheet must be sent to the National Screening Coordinator (along with any information collected), where it will be stored in accordance with the Federal Privacy Act and the Personal Information Protection and Electronic Documents Act.

## **Step Three – Local Reference Check**

After the completed application has been received, the Screening Coordinator must contact each of the references **prior** to interviewing the applicant.

In addition to contacting the references provided in Section 6 of the Screening Form, the Screening Coordinator should also contact the employers listed in Section 3 and any organization listed under Section 5.

The purpose of contacting these references is twofold:

1. To verify the information provided from the applicant is accurate.
2. To seek further information about the suitability of the applicant to work with youth.

When a Screening Coordinator contacts a reference, they should identify themselves and why they are calling:

*“Hello, I’m Barb Bloggins from The Navy League of Canada, and I’m calling about a reference check for John Doe. The Navy League is a Charity Organization that runs youth programs and John has offered to volunteer with us. Do you think you would be able to answer a few questions to help us?”*

Ask references about:

- How long they have known the applicant
- Their relationship with the applicant
- Have they seen the applicant interact with children

Ask employers for confirmation about:

- How long the applicant worked there
- Why they left
- How the applicant related with co-workers
- Do they recommend the applicant to volunteer with the NLOC

### **Finding References**

**The Canada411 website is an excellent way to seek out references and previous employers.**

[www.canada411.com](http://www.canada411.com)

There is no set list of questions that will meet with every scenario a Screening Coordinator will encounter. Each Coordinator will have to rely on their best judgement when interviewing each reference.

Screening Coordinators **may not** ask questions about:

**Sex**  
**Age**  
**Race**  
**National/Ethnic Origin**  
**Colour**

**Religion**  
**Disability** \* See Note 1  
**Family Status**  
**Marital Status**  
**Pardoned Convictions** \* See Note 2

These subjects are protected under the Charter of Rights and Freedoms and may not be used in determining the suitability of an applicant.

## Sample Questions for a Reference Check

- How long have you known the applicant?
- In what capacity do you know him/her?
- How well do you know the applicant?
- How would you describe your experience with the applicant?
- How would you describe their personality and temperament?
- Can you please tell me what you remember most about the applicant?
- Do you have any reservations about this applicant working with youth?
- Please comment on the following traits:
  - Dependability/Responsability
  - Enthusiasm
  - Honesty/Integrity
  - Self-Confidence
  - Social/Communication Skills
  - Initiative
  - Assertiveness
  - Perseverance
  - Patience/Compassion
  - Approach to Discipline
  - Respect for others
  - Ability to lead and serve as a role model for youth
  - Tolerance of Differences

## Important Notes

Balancing the rights of the applicant against the need to protect Cadets can sometimes be difficult. However it is the position of the Navy League that the welfare of Cadets takes precedence. Please review Annex A – Federal Law and Social Policy for further details, with particular attention to the section on the Canadian Charter of Rights and Freedoms.

- Notes**
1. **While The League cannot discriminate against a person with a disability, the Navy League can present a bona fide case for the need to protect our cadets. The best way to approach this is to provide the applicant with a description of their duties (as per Step One) and ask “Do you know of any limitations, physical, mental or otherwise, that will impede your ability to carry out the duties of a Navy League volunteer as they have been described to you?” Do not ask this question to references, it must only be asked to the applicant. See Step 4 – The Interview.**
  2. **Given the close involvement that the applicant will have with vulnerable persons, The Navy League has a legitimate requirement to determine if the individual represents a risk. As such, you may ask: “To your knowledge, has the applicant ever committed a criminal offence?”**

## **Step Four – The Interview**

After all of the references and employers have been checked, it is time to conduct a formal interview with the applicant.

The formal interview should be conducted by The Screening Coordinator, and one or two other volunteers, preferably the Branch President and Corps CO. The different prospective brought by each individual will help determine if the candidate is suitable. The Branch Screening Coordinator is responsible for establishing an Interview Committee and will be in charge of conducting the interview.

### **Before the Interview**

Before meeting the applicant, the Branch Screening Coordinator must brief the other interviewers as to how the interview will be conducted. This includes reviewing the list of questions and outlining prohibited areas of questioning:

**Sex**  
**Age**  
**Race**  
**National/Ethnic Origin**  
**Colour**

**Religion**  
**Disability** \* See Note 1  
**Family Status**  
**Marital Status**  
**Pardoned Convictions** \* See Note 2

### **What to Ask**

The following questions are simply a guideline. Feel free to ask any questions that are not prohibited by any of the ten factors listed above.

#### *Volunteer Interest*

- Did you review the documents we provided and do you have any questions about them?
- Did you review the Harassment and Abuse, Drug and Alcohol and Safety Policies?
  - As a volunteer, do you agree to abide by these policies?
- Why did you decide you would like to volunteer with us?
- What are your personal goals for involvement within the Navy League?
- What activities are you interested in assisting with?

#### *Background*

- How long have you lived here? If applicable, follow with:
  - Where have you lived before?
  - Why did you move?
  - Why have you moved so often?
- Have you worked with youth before? If applicable, follow with:
  - What organizations did you work with?
  - What were your duties?
  - How long did you volunteer for?
  - Why did you leave?
- What are your hobbies and interests?
- What skills do you possess that relate to a volunteer position with the Navy League?
- Ask any questions relating to the reference check.

### *Suitability*

- Have you ever committed a criminal offence? \* see Note 1
- Do you know of any limitations, physical, mental or otherwise, that will impede your ability to carry out the duties of a Navy League volunteer as they have been described to you? \* see Note 1
- What do you consider your greatest strength?
- What do you consider your greatest weakness? Follow with:
  - How do you work to overcome this weakness?
- Are you comfortable working in a multi-cultural environment?
- Are there any groups or individuals you would prefer not to work with?
- How would you motivate cadets to follow your direction?
- How do you think youth should be disciplined?
- Can you think of a situation, involving youth, that you handled poorly? Follow with:
  - What did you learn from it?
  - How would you handle it differently?
- Ask former cadets if they understand the differences between cadets and volunteer staff, and how they will manage the professional separation required between themselves and cadets.

### **Scenarios**

The use of hypothetical scenarios is a good way of determining how an individual will act in their leadership role. Ask the individual to comment on how they would handle one or two different scenarios. This will create a dialogue that will open any number of questions:

- How would you handle this?
- Why would you handle it this way?
- Are there any other ways to handle it?
- What is the most important aspect of this problem?
- How could this problem be avoided?

Examples:

1. Some of your cadets are not following direction, and are a disruptive influence on the other cadets. Their continued disobedience has made you angry and frustrated.
2. One of your cadets is a loner. They don't interact well with the other cadets and are very shy towards the staff.
3. Another staff member is yelling at their cadets for no apparent reason.

At the conclusion of questioning, the applicant should have another opportunity to ask any questions.

## What to Look For

How the applicant answers a question can be more important than the answer itself.

| <b>Watch out for:</b>    | <b>How to handle it:</b>   |
|--------------------------|--|
| Simple Yes or No answers | Ask for details if you feel something is being left out.   |
| Evasive answers          | These are responses that do not really answer the question or steer the interview in a different direction. Ensure you keep on topic. If necessary, ask the question again.  |
| Inconsistencies          | The answer given does not match previous answers or information you have gathered. Ask the question again later, phrased differently, to see if you get a consistent answer. Ask the applicant about any inconsistencies you have noted. |
| Body language            | Does the applicant make eye contact?<br>Do they appear uncomfortable or fidgety? Note how their behaviour is different from the initial interview.   |

## Confirmation

After the interview is over, the members of the Interview Committee should discuss the applicant. The Branch Screening Coordinator may need to follow up on points raised during the interview, or conduct further checks before making a recommendation. If necessary, they can call a second interview to clarify any unresolved concerns.

## Documentation

The NL(103)E Screening Co-ordinator's Log provides a simple means of tracking volunteers as they move through the screening process. In addition to completing this log, Branch Screening Co-ordinators will find it useful to take notes while interviewing the applicant and their references. This information must be kept confidential. Once the screening process is complete, the NL(103)E and any notes that have been made must be forwarded to the National Office for Secure Storage.

## Important Notes

1. As previously stated, Branch Screening Co-ordinator's may ask "Do you know of any limitations, physical, mental or otherwise, that will impede your ability to carry out the duties of a Navy League volunteer as they have been described to you?" without violating the Charter of Rights and Freedoms.
2. You may ask: "Have you ever committed a criminal offence?" If the response is yes, you may ask for the circumstances of the offence (what, when, punishment/rehabilitation issued) to determine if the applicant represents a risk.

## **Step Five – The Branch Recommendation**

Once the Screening Coordinator has collected all the request paperwork, established the probationary period and conducted an interview, it is time to make a recommendation.

Selecting volunteers is always a judgment call. Screening Coordinators have a major responsibility in determining whether or not an applicant is a suitable volunteer. Even if there is no clear evidence that an applicant will cause problems as a volunteer, the Screening Coordinator can still use their '*Gut Instinct*' to make a determination.

The only reasons that may not be used to make a determination are:

|                               |   |
|-------------------------------|---|
| <b>Sex</b>                    | <b>Religion</b>                               |
| <b>Age</b>                    | <b>Disability</b> * Except as noted           |
| <b>Race</b>                   | <b>Family Status</b>                          |
| <b>National/Ethnic Origin</b> | <b>Marital Status</b>                         |
| <b>Colour</b>                 | <b>Pardoned Convictions</b> * Except as noted |

As defined in the Canadian Charter of Rights and Freedoms.

As the well-being and safety of cadets is the first priority of our youth programs, it has clear precedence over the wishes of any prospective volunteer. As such, The Navy League of Canada maintains the right to select its volunteers and will stand by the recommendation of its Branch Screening Coordinators.

Branch Screening Coordinator's that have questions or concerns about an applicant may phone their Division Screening Coordinator or the National Screening Coordinator to discuss their recommendation.

### **Positive Recommendation**

Once the Branch Screening Coordinator has made a positive recommendation, they must package up all of the information and send it to the Division Screening Coordinator. The preferred method for sending this information is Xpress Post or registered mail, although regular mail is acceptable.

Branch Screening Coordinators may keep a copy of **Page 1 of the NL(101)E only**. All other information on the form is confidential and must not be copied or shared with any other party. The completed package will be stored in the National Office for 3 years.

### **Negative Recommendation**

If the Branch Screening Coordinator does not recommend the acceptance of a volunteer, they must package up all of the information and send it to the National Screening Coordinator by Xpress Post or courier.

## **Step Six – The Division Recommendation**

The Division Screening Coordinator serves as an oversight function in the Screening Process. They review the completed forms to ensure that they are completed correctly:

- √ **NL(101)E** – each section is complete and legible  
– contact information matches Identification
- √ **CPIC** – it is an original, name and birth date match the ID provided

Division Screening Coordinators should also liaise with the Provincial bodies of the Army and Air Cadet Leagues to determine if the applicant is known to either organization. This step further reduces the risk of accepting the applicant and prevents individuals who have been removed from one organization from moving on to another.

After the completion of their check, Division Screening Coordinator's will contact the Branch Coordinator to advise them of their recommendation, or to seek further information. Once the recommendation has been made, it shall be forwarded to the National Screening Coordinator in Ottawa. Courier is the preferred method for sending this information, as it is more secure than regular mail and easily traceable.

## **Step Seven – National Approval**

Once the screening application arrives in Ottawa, the National Screening Coordinator will process the application within two weeks. This process includes:

1. Verifying that the application has been completed correctly;
2. Checking the information provided against our National Volunteer Database;
3. Entering the information provided into the Database.
4. Approving/Declining the application.

### **Approved Applications**

A Volunteer Screening Report will be sent to Divisions and Branches on a Quarterly Basis, or can be provided upon request. Persons serving as Navy League Cadet Officers will also receive an Identification Card which includes their Volunteer Screening Number and Expiry Date.

### **Declined Applications**

If an application is declined, both the Division and Branch Screening Coordinators will be notified immediately. The applicant and Corps CO are to be notified by the Branch Screening Coordinator and the applicant will immediately cease their involvement with the NLOC.

The National Screening Coordinator may share information on Declined Applicants with other like-minded organizations to assist with their Screening Programs.

All information gathered during the screening process will be kept on file for a period of three (3) years. After this time, volunteers must be re-screened, but do not require a probationary period.

## **Step Eight – End of the Probationary Period**

By the end of a new applicant's probationary period, the Branch Screening Coordinator will have received a Screening Report from the National Screening Coordinator. They will also have also had the opportunity to observe the applicant and to discuss their performance with the Corps CO and Branch President.

### **Approved Applicants**

If all parties are satisfied with the performance of the applicant, they may assume regular volunteer duties and will not require the constant supervision of another Screened Volunteer. They will have to be screened again in three years, but will not be required to undergo another probationary period. (See Step 2 – Establishing the Probationary Period)

To complete the Screening process, the Branch Screening Coordinator must send the NL(103)E Screening Coordinator's Log to the National Screening Coordinator.

### **Declined Applicants**

If, during the probationary period, the applicant is deemed to be unsuitable, than the National Screening Coordinator must be notified immediately. The applicant will immediately cease all duties with the NLOC. Any relevant documentation must be forwarded to the National Office immediately.

## The Driver's Log

### When it is used

The NL(102)E Driver's Log is used to manage unscreened volunteers that assist as drivers for activities when carpooling is required. (Tag Days, for example)

As screening volunteers for single events is clearly impractical, the Driver's Log was adopted as an alternate means of protecting cadets during these activities. Proper use of the Driver's Log ensures:

- Branches have a record of each driver and the cadets they are transporting.
- All drivers have their own insurance.
- No cadet is left alone. They are always paired with another cadet.
- Cadets are aware of their rights and the appropriate safety precautions.
- Drivers are aware of their responsibilities towards cadet safety.

### How it is used


The instructions for using the Driver's Log are include are included on each page.

As each driver arrives, they must fill out a Driver's Slip. They keep the white copy, and the Yellow Copy stays in the Book. Due to insurance requirements, completed Driver's Logs must be retained by the Branch.

In addition to the Driver's Log, the Branch must provide all cadets with some basic information:

- Emergency Contact Information
- That they must stay in groups of two or more at **all** times
- Start/Stop times for the activity
- A statement about what they are doing and why, so that they can effectively communicate with the public.

### **Example:**

|   |   |                                      |
|---|---|--------------------------------------|
|    | 400 NLCC Somewhere<br>1 Cadet Street                            | Contact #: 555-4000<br>Emerg. #: 911 |
|   | <b>Remember: You must always stay in groups of two or more.</b> |                                      |
| <b>What to say:</b><br>"Good Morning, Sir/Ma'am. Would you like to make a donation to support youth in your community?"<br><br>"Thank you for your support. Have a nice day." |   |                                      |
| <b>Remember to Smile☺</b>   |   |                                      |

## Attachments

### **Annex A Federal Law and Social Policy (as adapted for the NLOC)**

#### ***Disclaimer***

**This information is not legal advice, nor does it represent the views of the NLOC, Government of Canada or its representatives. This information is a brief summary of current federal legislation and common law relevant to screening in Canada, as provided by Volunteer Canada and adapted by the NLOC. For complete and up-to-date information, readers should check with appropriate authorities. Navy League members seeking legal advice should consult with the National Office of The Navy League of Canada.**

#### **Overview**

There is no single source of law in Canada that governs screening. Criminal, civil, constitutional and administrative statutes are all relevant to those organizations and individuals who carry out screening. As well, the common law has clearly established that organizations providing programs and services to people in the community have a legal duty to ensure the safety and well-being of those persons whom they serve. This duty to provide a safe environment is critical to screening, and is largely what motivates the efforts of community agencies and organizations to screen volunteers and employees who seek to occupy positions of trust with respect to children, youth and other vulnerable persons.

It should be noted that while the major impetus for screening efforts has been the promotion of safe environments, screening can also be used to promote financial stability, the security of property and assets and good business practices. Through proper screening, organizations can ensure that the appropriate people are in appropriate positions and that their performance, whether as volunteers or employees, is properly supervised and monitored. Much of the information in this document is based on screening to prevent physical or sexual abuse, because this is the focus of the government's commitment to screening and the rationale for many screening initiatives. However, readers are reminded that screening can be used to prevent many other types of harm and to promote sound human resource and volunteer management practices.

This document provides a basic overview of federal legislation relevant to screening and describes principles of common law that are important for screening. However, federal law and policy do not represent the total picture -- there is considerable overlapping between federal and provincial/territorial jurisdictions on issues relevant to screening. Key federal laws such as the Canadian Charter of Rights and Freedoms, the Criminal Code and the Criminal Records Act afford important protection to children and other vulnerable persons. There are also laws in the provinces and territories that relate to human rights, child welfare and protection, licensing of social service providers, protection of privacy and employment standards – and these are also important to the subject of screening.

Taken together, these overlapping federal and provincial laws form a complicated regulatory regime relevant to the screening of volunteers and employees by non-profit organizations, government agencies and private companies.

Organizations involved in screening must be aware of both federal and provincial laws and policies. National organizations having branches in more than one province or territory must be aware that their different branches may be subject to slightly difference laws and procedures.

The subject of volunteer screening has become an important priority for the federal government and reflects a broader societal concern about the need to protect vulnerable persons from harm. In 1994 the federal government announced its commitment to combating violence against women and children. A consistent theme emerging from the government's consultations around this topic was that applicants seeking positions of trust with respect to children and vulnerable persons must be screened. Furthermore, it was determined that police information systems could be used to assist in such screening efforts. In 1994, the federal government created a national screening system using its national computer databases to help organizations identify among potential employees and volunteers those individuals who were known sex offenders or who had other relevant criminal records.

In 1995, the federal government launched the second phase of its Volunteer Screening Initiative – the development of a national education and training campaign on volunteer screening. This campaign was a great success, enabling thousands of non-profit agencies to undergo training on screening techniques. It also provided a critical momentum that has stimulated related provincial screening initiatives.

Most recently, the federal government announced its plans to invest \$115 million over four years to update the technology and improve the effectiveness of its national database, the Canadian Police Information Centre, or CPIC. The CPIC is used by Canadian law enforcement agencies to share information on offenders, missing persons, stolen property, registered firearms, crime scene evidence and stolen vehicles. Additional databases are used to identify persons with criminal records. The "CPIC Renewal" project will improve all of these systems and will also improve the ability of organizations to screen convicted sex offenders.

Legislative changes have also been proposed that will allow the disclosure of the criminal records of pardoned sex offenders that to this point, have not been available for screening purposes.

## **Sources of Law**

There are several ways to categorize laws governing the interactions between individuals and organizations in Canada.

The two main sources of law are common law and statutes. Common law is the body of law that has evolved over centuries of judicial decision-making. Also known as "judge-made" law, the common law differs from statutes which are specific laws passed by legislative bodies. Often statutes simply codify principles of the common law. Examples of this include statutes on occupier's liability that codify common law principles of negligence, and statutes on libel and slander that codify common law principles of defamation. Statutes may also be created to deal with new topic areas or to reflect changing societal values. Examples of the latter category of statutes would include laws dealing with intellectual property, human rights and privacy.

Canadian law can also be divided into public law and private law. Public laws are those that govern the relationships between members of the public and the government. Areas of public law include criminal law, constitutional law and administrative law. Private law, also called civil law, encompasses those laws that govern relationships between private individuals and public and private corporations. Areas of private law include contract law, tort (also known as the "law of negligence") and in some instances, administrative law.

A large majority of screening activities are carried out by private organizations. For example, most organizations in the social services, faith, recreation and sport sectors are incorporated under provincial or federal legislation relating to non-profit societies or corporations. With the exception of perhaps schools and hospitals, these organizations are independent from government. From this perspective, a third distinction in types of law can be made between laws that are external to an organization and “laws”, or rules, that are internal to it.

The external laws that govern private organizations include criminal law, common law, administrative law, tort and human rights. Internally, organizations create rules by which they govern themselves. These rules are expressed through the organization’s constitution, bylaws, policies, procedures and regulations and create a form of “contract” between the organization and its members (including volunteers). This contract provides the organization with the legal authority to establish the rights, privileges and obligations of membership. These internal rules are significant to screening because many screening measures are carried out by private organizations according to their own internal policies and procedures.

### **Federal Law and statutes relevant to screening**

Areas of common law that are relevant to screening include:

- Negligence and liability
- Defamation
- Administrative law

**Federal statutes that are applicable to screening include:**

- Canadian Charter of Rights and Freedoms
- Criminal Code and Criminal Records Act
- Young Offenders Act
- Privacy laws (including the Privacy Act and the Personal Information Protection and Electronic Documents Act)
- Canada Corporations Act

### **Negligence and Liability**

The common law of negligence is probably the single most important area of law for screening.

The term negligence refers to the responsibility or duty to ensure the safety of those persons who may be affected by our actions. In our daily lives we are expected to act in a reasonably diligent and safety-conscious manner so that others affected by our actions will not face an unreasonable risk of harm. “Standard of care” is by necessity a flexible standard, determined by speculating on what an average and reasonable person would do, or not do, in the same circumstances. It is also an objective standard, as the law credits all adults with similar intelligence and common sense. Thus, the law expects all adults to perceive the potential dangers or harm in a situation and to exercise the same degree of reasonable prudence and caution as any other adult would in the same circumstances.

Conduct that does not meet this objective standard of care may be negligent. Legally, conduct is negligent only when all four of the following elements are present:

- A duty of care owed;
- The standard of care imposed by this duty is not met;

- Harm is suffered as a result; and
- The failure to meet the standard causes, or substantially contributes to, the harm.

The most important element of this equation is perhaps the standard of care. This is the least well-defined element, and the one on which most cases of negligence will turn. Determining whether there existed a duty of care is relatively straightforward and similarly, there is rarely dispute about whether harm was suffered. The fourth element, causation, is highly technical and would likely only be argued by skilled lawyers in a court setting.

When all four of these elements are present, the conduct is negligent and the negligent individual may be liable. While the term negligence refers to the actual behaviour that resulted in harm to someone, the term liability refers to responsibility for that harm. Even if all four of the elements of negligence are proven and the individual's conduct is deemed to be negligent, liability does not automatically follow. Many factors can reduce liability or eliminate it completely, including insurance, a valid contract waiving liability, contributory negligence on the part of the harmed person, or vicarious liability on the part of the organization who assumes responsibility for the negligent acts of its volunteers or employees.

From the perspective of screening and protecting vulnerable persons, several of these legal concepts are important and warrant further discussion.

### **Duty of care**

The circumstances that give rise to a duty of care stem from the existence of a certain relationship between persons, or between a person and an organization. This relationship might be very general one – for example, each of us owes a duty of care to those other persons that we can foresee might be affected by our actions, whether or not we have a close relationship with them.

The relationship that gives rise to a duty of care might also be a special relationship of trust and authority, such as that which exists between parent and child, teacher and student, pastor and parishioner, doctor and patient, driver and passenger, coach and athlete, program leader and participant, professional and client. A duty of care also exists between a service organization and the client group that it serves.

### **Standard of care**

The existence of a duty of care gives rise to a corresponding, objective standard of care. Standard of care refers to the level of care and attention that one person owes to another. Standard of care is determined by a combination of written standards, unwritten or industry standards and common sense. The behaviour required to meet the standard of care will vary with the circumstances including the nature of the relationship between the parties, the nature of the activities being undertaken, the degree of supervision of the activity, the setting in which the activity occurs and the inherent risk in the activity.

The standard of care is a threshold that lies somewhere between taking virtually every precaution possible and eliminating all risk, and taking no precautions whatsoever and ignoring all risks. The legal concept of standard of care is fixed – it is what is reasonable in the circumstances -- but the conduct required to meet the standard will vary from one set of circumstances to another.

For example, the standard of care in the provision of ordinary services to adults may be relatively low. As the activities undertaken by these adults become riskier or more complex this standard may increase. Conversely, the standard of care may be relatively high in situations that involve providing services to youth and other vulnerable persons, who unlike ordinary adults are not as capable of perceiving potential harm, protecting themselves and making sound decisions.

Although the law does not define a “vulnerable person”, in the context of screening vulnerable persons have been defined as “those persons who have difficulty protecting themselves from harm and are at risk due to age, disability, handicap or other circumstances”. Vulnerable persons can include children, youth, the elderly and people with physical, mental, developmental, emotional, social or other disabilities. Vulnerable persons might also include people dealing with addiction, people experiencing short-term trauma or people coping with loss or bereavement.

The standard of care may also be higher in situations where the relationship between two individuals is one of authority, power or trust. Typically, these relationships create a category of persons who are vulnerable. A relationship of trust is said to exist where:

- Someone has a degree of authority and power over another, such as a teacher or coach would have;
- Someone has unsupervised access to another person, such as a nurse or doctor;
- The activity specifically requires a close, personal and trusting relationship, such as a mentoring or matching program; or
- The service being provided renders the client vulnerable, as in a care-giver relationship.

All of these relationships and situations create a higher standard of care. When this standard goes unmet, the second and perhaps most critical element of negligence may be met.

It is the existence of relationships of trust and the resulting duty of care that gives rise to the responsibility to screen employees and volunteers. How one actually goes about conducting the screening, and how one uses screening information to make decisions about the suitability of a prospective volunteer or employee, become components of the corresponding standard of care. These components will vary with the nature of the organization, the type of program, the characteristics of the client group and other circumstances.

### **Vicarious liability**

Also referred to as “no-fault” liability, vicarious liability refers to situations where a person or entity can be held liable for the acts of someone else, not because of anything either of the parties did or failed to do, but because of a special relationship that exists between the two parties. The most common types of vicarious liability involve employment situations – where employers may be held vicariously liable for the actions of their employees. Similarly, non-profit organizations may be held vicariously liable for the actions of their volunteers.

Vicarious liability may be imposed on an organization not because it acted harmfully or promoted harmful actions, but rather simply because it was responsible for the conditions under which the harm occurred. These conditions include the measures that the organization takes in the recruitment, placement and supervision of employees and volunteers.

In recent years there has been a trend in the courts to hold organizations increasingly accountable for the harm suffered by clients at the hands of their staff or volunteers. The Supreme Court of Canada

recently issued two judgments (Bazley v. Curry and Jacobi v. Griffiths) relating directly to the question of whether an organization should be held responsible for the actions of an employee or volunteer who harms children, even where the organization has not itself been negligent.

In these two cases, the Supreme Court revisited the previous test for determining vicarious liability, which was to ask whether the wrongful acts of the employee or volunteer were authorized by the employer or were closely connected to authorized acts. If there was a close connection, then vicarious liability could be found. These two judgments have established a modified test that looks at whether the circumstances of a program or activity enhance the risk of harm to participants. The following factors, among others, may influence whether the risk of harm is increased:

- The opportunity for the employee/volunteer to abuse his or her power;
- The extent of power and authority the organization grants to the employee/volunteer;
- The vulnerability of the participant;
- The nature of the activity or program; and
- The degree of physical contact required in the relationship between the employee/volunteer and the participant.

The essence of these two decisions is that if an organization makes program staffing decisions that enhance the risk of harm, the organization may be vicariously liable should harm occur. For example, programs can be more or less risky depending on the qualifications of the employee/volunteer, the degree of supervision, or the nature of the setting in which the work is performed or the service provided. The greater the risk the more careful the organization is required to be.

The onus is on the organization to manage their risks by consciously and systematically making decisions about the nature of their programs and activities, and the risks that each decision entails. Clearly, screening comes into play as the organization has an obligation to institute reasonable risk management measures in the areas of recruitment, screening, placement and supervision of employees and volunteers so as to minimize the risk of harm in their programs and activities.

### **Occupier's liability**

Occupier's liability is an area of negligence dealing with the duties and responsibilities of those who own, operate or control premises. Occupier's liability applies to all individuals and all types of organizations, both public and private, and all types of premises including land, buildings and other structures. In all provinces, the common law duty of an occupier is codified in statute.

To understand the relevance of occupier's liability to screening, it is necessary to understand the definition of an "occupier" and to know specifically what the law says about the duty of an occupier.

An occupier is defined as a person who is in physical possession of a premises, a person who has responsibility for and control over the condition of a premises or the activities carried out on a premises, or a person who has control over persons allowed to enter a premises. At any given time there can be more than one occupier of a single premises. Premises are defined as land, buildings and other structures erected on land. Occupiers can thus include owners or renters of land or buildings as well as occasional or one-time users of land or buildings, such as public facilities or public parks.

Occupiers have an affirmative duty to take reasonable care to ensure the safety of those persons who use their premises. This duty applies to the condition of a premises, the activities being carried out there, and most importantly from the perspective of screening, the actions of persons on the premises, whether employees, volunteers, participants or other third parties.

The law of occupier's liability has very broad application for screening. It imposes on occupiers the overall duty to ensure a safe environment through measures to manage risks, including measures to appropriately screen, select and supervise personnel, whether employees or volunteers.

## **Defamation**

Like negligence, defamation is a matter largely addressed by common law. The law of defamation has great significance to screening. A major disincentive to an organization disclosing or publicizing negative information obtained through a screening process is the fear of a lawsuit for defamation. This concern also underlies the reluctance of many organizations to provide detailed reasons for the dismissal of an employee or volunteer, or to provide truthful references when requested by other prospective employers.

Individuals within organizations who have responsibility for carrying out screening activities need to be aware of the law of defamation as it exists in common law as well as in various provincial statutes. In particular, two out of a possible four main defences to a claim of defamation are relevant to screening. These two defences are justification and qualified privilege.

The Defense of justification occurs when the otherwise defamatory information about an individual can be proved to be true. A suspicion or a belief that the information reflects the truth is not sufficient - the substance of the information must be proved true and accurate. It should be noted that "knowing" that something is true is quite different from "proving" that something is true. A person relying upon this Defense must be confident that they have full, factual and well-documented information.

The Defense of qualified privilege occurs when the person furnishing the information about an individual has a legal, social or moral duty or interest to do so, and the person to whom this information is furnished has a corresponding duty or interest in receiving it. There is no absolute test for what is privileged and what is not – it depends on the circumstances under which the information is provided. The circumstances must be such that the threat to one person's reputation gives way to a greater public interest or concern. The important public policy objectives of protecting youth and vulnerable persons from harm through screening will often support a Defense based upon qualified privilege.

## **Administrative Law**

Most screening activity is carried out by private, non-profit organizations. In addition to being subject to external federal and provincial statutes and common law, these organizations are self-governing through their own internal rules. The vast majority of Canadian non-profit organizations are "private tribunals" – that is, they are autonomous, self-governing, private organizations that have the power to establish policies, write rules, make decisions and take actions that affect their members, participants, clients and constituents. A body of law called administrative law prescribes the rules by which tribunals, both public and private, must operate.

There are two important principles of administrative law that apply to private tribunals. The first is contract and the second is natural justice, now almost synonymous in Canada with procedural fairness. Both of these are described below.

Private tribunals derive their authority through their constitution, bylaws, policies and rules. Taken together, these are the organization's "governing documents" and they form a "contract" between the organization and its members. This contract works to the benefit of all parties by establishing and clarifying their respective rights and obligations. Occasionally, however, the contract may work to the detriment of the parties, if the policies that make up the contract are poorly designed, vague, contradictory or ill-suited to the needs of the organization.

Private tribunals have a second legal obligation, which is to interpret and implement their governing documents according to the rules of procedural fairness. Basically, there are three rules of procedural fairness:

- Decisions must be made by those having proper authority;
- Persons affected by a decision must have the right to present their case; and
- Decision-makers must not make a decision influenced by bias.

How do these principles of administrative law relate to screening? Most screening of volunteers is carried out by private organizations according to internal policies pertaining to risk management and volunteer management. These policies must be prepared and implemented in a manner that respects the administrative law principles described here.

As well, most volunteers are "members" of the organizations for whom they volunteer, and volunteering opportunities are widely recognized as a benefit or privilege of membership. The development and implementation of these policies and screening measures must not only comply with statutes and common law, they must also be incorporated properly into the organization's governing documents, and in their implementation must respect the principles of procedural fairness.

## **CANADIAN CHARTER OF RIGHTS AND FREEDOMS**

### **Purpose**

The Canadian Charter of Rights and Freedoms is entrenched in the Canadian Constitution and takes precedence over all other laws in Canada. The Charter guarantees to all individuals certain fundamental rights including language, mobility, democratic, procedural and equality rights. These rights are open-ended which means that the Charter's rights and entitlements are continually defined, interpreted and clarified through judicial decision-making.

Like other pieces of human rights legislation, the Charter strives to find a balance between doing what is best for the collective community while ensuring that individual rights are respected. From the perspective of screening, the Charter seeks a balance between the public's right to be safe from known criminals and the criminal's rights as an individual in a democratic society. This balance is continually tested by Charter-based court cases.

### **Implications for screening**

The Canadian Charter of Rights and Freedoms applies to governments, government institutions and government action. It does not apply to private organizations. As noted previously, much screening activity is carried out by private, non-profit organizations whose activities do not constitute government action and are not subject to the Charter. Thus, the direct impact of the Charter on screening is limited.

However, a great many private organizations are subject to federal, provincial and territorial human rights laws that prohibit discrimination in the provision of goods, services, facilities and accommodation. To a certain extent these laws mirror the discrimination provisions of the Charter.

Organizations providing services and facilities to the public cannot discriminate on the basis of certain grounds including race, nationality, ethnicity, colour, religion, sex, age or mental or physical handicap. These laws also govern discrimination in employment on prohibited grounds, including prior criminal record. As a result, organizations and employers cannot discriminate against a prospective employee if he or she has received a pardon for a criminal offence.

However, there is an important exception to this prohibition. Where an employer can demonstrate a bona fide occupational requirement – in other words a good faith, legitimate requirement that an employee does not have a record of offences, or does not have a record for certain types of offences – the employer may deny opportunities to prospective employees. In other words, the employer may discriminate.

Human rights laws tend not to reference volunteers explicitly, nor do they define employees. Therefore, it is not entirely clear whether volunteers are included in this prohibition of discrimination on the basis of criminal record.

## **Criminal Code and Criminal Records Act**

### **Purpose**

The Criminal Code of Canada regulates offences by individuals against the state, against property and against other persons. The Criminal Code is a federal statute over which the federal government has jurisdiction. Actual implementation of the Criminal Code through the justice system including the courts, policing, and corrections and parole systems is a shared responsibility of the federal government and the provinces.

### **Implications for screening**

From the perspective of an organization that carries out screening, a history of any criminal activity may represent a legitimate concern about the suitability of a prospective volunteer or employee for a position within an organization. Depending on the position, offences that are relevant to screening may include:

- offences against persons such as assault, sexual assault and other sexual offences (where the position involves contact with, or caring for, vulnerable persons);
- offences against property such as theft, embezzlement or fraud (where the position involves handling money or caring for the assets of an organization); and
- offences related to substance abuse, including abusive use of alcohol (where the position involves driving motor vehicles, operating machinery or being entrusted with other similar, significant responsibilities).

In the last decade there have been a number of amendments to the Criminal Code to clarify, and in many cases, broaden the scope of offences against persons. For example, criminal harassment, also known as stalking, is a relatively new offence under the Criminal Code. This relevant section of the Code makes it an offence to cause someone to fear for his or her own safety by repeatedly watching, following, communicating with or threatening him or her.

Recent amendments to the Criminal Code also include the identification of a number of sexual offences other than sexual assault. These include:

- Sexual interference – it is an offence to touch, either directly or indirectly, with the body or an object, a person under 14 years of age, for a sexual purpose;
- Invitation to sexual touching – it is an offence to invite, counsel or incite a person under 14 years of age to touch the body of another person, including the body of the person who has invited such touching;
- Sexual exploitation – it is an offence for a person in a position of trust or authority to commit either of the above two offences against a person who is 14 years old or older, but under 18.

One Defense against a charge of assault or sexual assault is that the victim consented. However, the Criminal Code describes situations in which consent cannot be obtained – these include situations where force is applied or threatened; where the victim is incapable of consenting (for example, due to mental incapacity); where the victim expresses a lack of consent; where the victim, having initially consented, expresses a change of mind; and lastly and perhaps most importantly from the perspective of screening, where the accused is in a position of trust, power or authority over the victim. It is only in the last ten years that the Criminal Code has made the principle of consent clearer, particularly in situations where there exists a trust or authority relationship and that trust is abused.

The Criminal Code does not define “position of trust” but leaves this to the courts to determine on a case-by-case basis, depending on the specific circumstances of each case. Case law in the last decade has expanded the types of relationships that create a position of trust beyond family relationships to include teachers, coaches, baby-sitters, health care practitioners, care-givers, youth workers, social workers, recreation leaders and individuals representing employers, community organizations, churches and other public and private institutions.

The Criminal Code does not identify “sexual abuse” as an offence. In its common usage, sexual abuse refers to a pattern of behaviour that would include one or more of the sexual offences referred to previously. Typically, the term sexual abuse is used to describe a pattern of criminal behaviour over a period of time, as opposed to a single incident which can be described more properly as one of the above-noted sexual offences.

Those persons who play a role in screening volunteers and employees on behalf of organizations should be aware that offences under the Criminal Code have varying degrees of severity, and as a result are dealt with in a number of ways within the criminal justice system.

- Summary conviction offences are typically considered minor and would include offences such as public indecency and exposing oneself to a child. Convictions for these offences are not usually registered in the criminal records database.
- Indictable offences are typically considered more serious and would include assault with a weapon and aggravated sexual assault. These offences will be registered in the criminal records database.
- In between these two categories of offences is a third category known as hybrid offences. In prosecuting hybrid offences, the Crown may prosecute by summary conviction or indictment, depending on the circumstances of the case. These offences include sexual assault, sexual interference, invitation to sexual touching and sexual exploitation. Depending on how the prosecution chooses to handle a case, these records may or may not be registered in the criminal records database.

Individuals responsible for screening should also understand the meaning of the terms "convicted", "found guilty" and "pardoned" when examining criminal records information, and the types of questions that can be posed to prospective employees or volunteers on a screening form or in an interview. For example, not all persons who are found guilty of a crime receive a conviction, as lesser offences or mitigating circumstances may result in an absolute or conditional discharge. Thus, persons who have been "found guilty" of an offence may receive a discharge and thus have no "conviction" or criminal record. As well, persons who have been convicted of criminal offences and have served their sentences may apply to have them pardoned, in which case the criminal record is removed from the criminal records database. These differences mean that a police records check may, or may not, reveal a potential volunteer or employee's criminal past.

The problem of identifying persons who may have been found guilty of a relevant criminal offence but have since received a pardon is being addressed in forthcoming amendments to the Criminal Records Act. Among these amendments is one that will allow criminal records of pardoned sex offenders to be made available for screening purposes when the pardoned offender seeks a position of trust in relation to young or other vulnerable persons. It is anticipated that these amendments will be passed into law sometime in 2001.

## **Young Offenders Act**

### **Purpose**

The Young Offenders Act parallels the Criminal Code but applies specifically to young persons aged 12 to 17. The main feature of this Act is that, with some exceptions, young persons are not held responsible for crimes in the same manner or to the same extent as adults. By and large, youths convicted of crimes are treated differently from individuals tried as adults because the focus of youth criminal sentencing is rehabilitation as opposed to deterrence or punishment. The retention, destruction and disclosure of their criminal records is very strictly controlled. Furthermore, these records become virtually inaccessible five years after the offender has reached his or her 18th birthday. The result is that very little information about a young offender can be obtained through police databases.

### **Implications for screening**

In recent years there has been much discussion and debate surrounding amendments to the Young Offenders Act – however, few amendments have been passed into law and none have been passed that affect screening responsibilities or procedures.

## **Privacy Act and Personal Information Protection and Electronic Documents Act**

### **Purpose**

These two statutes relate to the management and disclosure of personal information held by federal government departments and federal institutions. Like parallel legislation in the provinces, these statutes seek to balance the legitimate need of federal public institutions to gather information about individuals and the rights of individuals to keep such personal information private and confidential. This balance is achieved through a complex set of rules regarding the collection, retention, use, disclosure and disposal of personal information held by public institutions.

## **Implications for screening**

Under this legislation, personal records may be disclosed if the individual who is the subject of the records consents to such disclosure. Individuals may also obtain access to their own personal records for their own use. These two aspects of privacy legislation are relevant to screening in that the majority of screening programs and measures are based on the principle of "voluntary consent" – in other words, the individual who is being screened for a volunteer or employment position is asked to give their consent to the release of personal information relevant to screening.

The Personal Information Protection and Electronic Documents Act is new legislation enacted in January 2001. This statute is a component of the federal government's electronic commerce strategy and is a response to the perceived need to protect consumers engaged in e-commerce transactions. This legislation extends the protection of privacy laws to the federally-regulated private sector (transportation, telecommunications, inter-provincial commerce etc.) and in another three years will extend privacy laws to all sectors, both public and private.

When this occurs, these statutory measures will have a significant impact on screening as they will mean that all private organizations, including businesses, will have to meet the same checks and balances that the government must presently meet in gathering, storing, using and disclosing personal information about individuals. This statutory framework will also lead to regulations and rules about how private organizations manage personal information, including information gained through the screening process. The existence of such regulations and rules will likely represent a positive development as many private organizations are presently uncomfortable dealing with the confidential information that they obtain through the screening process.

## **Canada Corporations Act**

### **Purpose**

The Canada Corporations Act is the statute under which many national non-profit organizations and charities are incorporated. This statute and its counterparts in all provinces and territories are similar in terms of setting out the requirements for corporate governance and specifying the obligations and entitlements of members, directors and officers of corporations.

### **Implications for screening**

There are two important aspects of incorporation that are relevant to screening. The first is that the personal liability of members and directors of incorporated organizations is limited: in other words, should an incorporated organization be found liable for negligent hiring, screening or supervision, or be found vicariously liable for the harmful actions of an employee or volunteer, the individual directors, officers and members of the organization will not be personally liable for the consequences. The same cannot be said of unincorporated groups such as small community organizations. The advantages and protection of this "corporate veil" are well worth the modest effort and expense to obtain and maintain incorporated status.

The second aspect of incorporation relevant to screening is that directors of non-profit organizations assume significant legal obligations by virtue of their fiduciary relationship with members. These obligations are no different than the legal obligations that directors of for-profit corporations owe to their shareholders.

The basic responsibility of a director is to represent the interests of the membership in directing the business and affairs of the organization, and to do so within the parameters of the law. The legal duties of directors are divided into three parts:

- To act reasonably, prudently, in good faith and with a view to the best interests of the organization;
- To not use one's position as a director to further private interests;
- To act within the governing bylaws of the organization and within the laws and rules that apply to the organization.

It is this third area of fiduciary responsibility that is most relevant to screening – or more appropriately, to the failure to screen. All organizations have a duty to provide a safe environment for their clients, members, participants and staff. Directors of organizations who fail to ensure that the organization complies with statutory and common law obligations to fulfill this duty by appropriately screening employees and volunteers may be deemed to have failed to fulfill their fiduciary responsibilities under the Canada Corporations Act.

Volunteer Canada  
430 Gilmour Street  
Ottawa, ON K2P 0R8  
1 800 670-0401  
[www.volunteer.ca](http://www.volunteer.ca)

Financial support of the Safe Steps Volunteer Screening Program is provided by the Solicitor General Canada and the Department of Justice.

## **Annex B     Navy League Harassment Policy Statement**

The Navy League of Canada is committed to providing a learning and working environment for all persons that is free from harassment.

The Navy League of Canada requires employees, officers, cadets, parents, volunteers and all other visitors to conduct themselves in a manner, which promotes and protects the best interests and well being of cadets, staff and volunteers.

**All prospective employees, members and volunteers of the Navy League of Canada, who will have direct contact with Royal Canadian Sea Cadets or Navy League Cadets, will undergo a screening process determined by the National Council of the Navy League. These prospective individuals will not have unsupervised contact with any cadets until the screening process is completed and approved by National Office.**

An employee, volunteer or cadet who subjects a cadet, staff member, parent, volunteer or other member of the public to ***discrimination or harassment in any form*** may be subject to disciplinary action as is deemed to be appropriate, including dismissal from employment or expulsion from the Navy League of Canada.

The Navy League may take appropriate action against others whose conduct has resulted in harassment of Navy League of Canada cadets, employees or volunteers.

Depending upon the circumstances, incidents involving individuals ***associated with or through*** the Navy League may be considered harassment even if they occur outside of Navy League activities.

**Child abuse or suspected child abuse must be reported to the appropriate Provincial Authority** (see the front of most telephone books for number). The Child and Family Service Act .68(3) states:

**“A person, who in the course of his or her duties, has reasonable grounds to suspect that a child is or may be suffering or may have suffered abuse shall forthwith report the suspicion and the information on which it is based to a society”.**

You are not responsible for proving that child abuse took place; you **ARE** responsible for identifying and reporting suspected child abuse as soon as possible.

## **Annex C    Cadet Safety Policy**

1.     The well-being and safety of cadets is the first priority of the Navy League Cadet and Sea Cadet Programs.
2.     Safety Briefings shall be included in all activities where there is a risk to the cadet.
3.     Cadets shall be encouraged to work in pairs and groups wherever possible.
4.     Cadets should never be placed in a situation of one-on-one contact with officers or volunteers, except where such contact is unavoidable (i.e. A cadet wishes to make a revelation).

## **Annex D Drug and Alcohol Policy**

### **1. Policy Statement**

The following policy applies to all levels of Cadet activity:

- a) Cadets who violate these policies shall be suspended from training, counselled and considered for release.
- b) Navy League Members, Cadet Officers and Instructors who violate alcohol policies shall be suspended from their duties pending consideration for release.

### **2. Alcohol**

- a) Regardless of age or provincial legislation, cadets are prohibited from purchasing, consuming or having alcohol in their possession while engaging in cadet activities.
- b) Cadet Officers and Instructors shall not drink alcoholic beverages nor be under the influence of alcohol when they expect to be, or are, in direct supervision or training of cadets.
- c) Organizers of social events for adults, to which cadets are invited, shall ensure that Cadets have access to non-alcoholic drinks and that the policy of no drinking by cadets is understood by the hosts and cadets.
- d) There will be no consumption of alcoholic beverages at social events specifically organized for cadets.
- e) The Canadian Forces Cadet Alcohol Policy is found in CATO 13-23.

### **3. Smoking**

- a) Cadets are not permitted to smoke during any cadet activity.
- b) Officers, Instructors and other volunteers shall refrain from smoking in the presence of cadets.
- c) The CF Policy on Smoking is found in CATO 13-22.

### **4. Drugs**

The Navy League of Canada and the Canadian Forces have both adopted a zero tolerance approach to any unauthorized use of drugs:

- a) The unauthorized use of any drug or prohibited substance is prohibited.
- b) The possession, trafficking, importing or exporting of a narcotic or a substance represented as a narcotic are offences under the Narcotic Control Act (NCA); the same actions with respect to restricted and controlled drugs are offences under the Food and Drugs Act (F&DA).
- c) The possession, delivery or control of drug related paraphernalia with the intent that it be used in connection with an offence under the NCA or F&DA is prohibited.
- d) Canadian Forces Cadet Drug Policy is found in CATO 13-23.



The Navy League of Canada

## Volunteer Registration Form

*In the interest of protecting our Cadets, the Navy League of Canada has established a Volunteer Screening Program, in conjunction with our partner, the Canadian Forces. All information collected for this program will be kept confidential. If you have any questions about our Volunteer Screening Program, please call the National Office at: 1-800-375-6289.*

**Who has to fill out this form?** Any person who may find themselves working with Navy League Cadets or Sea Cadets without the direct supervision of another screened volunteer. There are two exceptions:

1. Active members of the Cadet Instructors Cadre or persons screened by the Department of National Defence are exempted.
2. Volunteers who occasionally drive cadets to and from organized activities do not need to be screened. The Navy League has incorporated a Driver's Log that records basic information and provides specific safety instructions for Drivers and Cadets.

**What supporting documents do you require?** To complete your application, we will require a Canadian Police Identification Check (CPIC), and photocopies of two pieces of official identification, one of which must include a photo.

**What happens to this information?** Branches and Divisions may keep a copy of the first page only. The completed application will be archived at the National Office for three years. After this time you will be required to be re-screened. Basic tracking information is recorded on our secure Volunteer Screening Database. Your name may be shared with other youth organizations, but only for the purpose of volunteer screening. Your name and address will not be sold to any third party.

**Section 1 – Contact Information (To be completed by the applicant)**

|                               |                |                             |
|-------------------------------|----------------|-----------------------------|
| Surname<br>Boggins            | First<br>Kay   | Middle<br>Dett              |
| Address<br>101 Huntley Street |                |                             |
| City<br>Springfield           | Province<br>YK | Postal Code<br>A1A 1A1      |
| Phone Number<br>613-555-4200  | Fax            | E-mail<br>boggins@email.com |

## Section 2 – Historic Information

|  |  |  |                        |
|--|--|--|------------------------|
| Date of Birth (dd/mmm/yy)<br>05 Nov 1901                         |  | Place of Birth (City, Province/State, Country)<br>Springfield, YK - Canada |                        |
| Maiden or Former Names (Enclose proof of Name Change)<br>Doe     |  |  |                        |
| Previous Address (if less than one year at your current address) |  |  |                        |
| Street Address<br>24 Sussex Drive                                |  |  |                        |
| City<br>Ottawa   |  | Province<br>ON   | Postal Code<br>K1A 0K1 |
| Previous Address (if less than one year at the address above)    |  |  |                        |
| Street   |  |  |                        |
| City   |  | Province   | Postal Code            |

## Section 3 – Employment Information

|   |  |                                  |                                      |
|---|--|----------------------------------|--------------------------------------|
| Occupation<br>Brain Surgeon   |  | Employer<br>Springville Hospital |                                      |
| Address<br>5 Health Court   |  |                                  |                                      |
| City<br>Springville   |  | Province<br>YK                   | Postal Code<br>A1A Z9Z               |
| Phone Number<br>613-555-9111  |  | Fax<br>613-555-1911              | E-mail<br>hrc@springfieldhospital.ca |
| Previous Employment (if less than two years at your current Employer) |  |                                  |                                      |
| Occupation  |  | Employer                         |                                      |
| Address   |  |                                  |                                      |
| City  |  | Province                         | Postal Code                          |
| Phone Number  |  | Fax                              | E-mail                               |

## Section 4 – Education / Qualifications

| Year Attained | Certificate/Diploma | School/Institution        |
|---------------|---------------------|---------------------------|
| 1920          | High School Diploma | Springfield High          |
| 1954          | B.Sc (Biology)      | University of Springfield |
| 1961          | M.D.                | University of Springfield |
|               |                     |                           |
|               |                     |                           |
|               |                     |                           |

## Section 5 – Hobbies and Interests

How did you hear about our program? My daughter joined with her friend

Do you have any experience working with youth? (include Cadet experience)  Yes  No

If you answered 'Yes' above, please detail your experience here:

|                    |              |           |
|--------------------|--------------|-----------|
| Years (i.e. 90-95) | Organization | Age Group |
| Years              | Organization | Age Group |
| Years              | Organization | Age Group |

Do you have experience working with Volunteer organizations?  Yes  No

If you answered 'Yes' above, please detail your experience here:

|                    |                                    |                  |
|--------------------|------------------------------------|------------------|
| Years (i.e. 90-95) | Organization                       | Position         |
| 1980-1992          | Society for Preservation of Things | Branch President |
| Years              | Organization                       | Position         |
| Years              | Organization                       | Position         |

Have you ever been in the military?  Yes (Currently Serving)  Yes (inactive)  No

If you answered 'Yes' above, please detail your experience here:

|                    |                                       |      |
|--------------------|---------------------------------------|------|
| Years (i.e. 90-95) | Branch / Trade (i.e. Navy, Boatswain) | Rank |
| 1965-1995          | Navy / Doctor                         | LCdr |
| Years              | Branch / Trade                        | Rank |
| Years              | Branch / Trade                        | Rank |

Please list any hobbies, leisure activities, or other information you feel may be helpful in assessing your application.

|   |
|---|
| I am an avid sailor (CYA Black Instructor), level 5 Flute player, and enjoy camping, hiking and other outdoor activities. I work on call, so I may have to leave for emergencies, but that doesn't happen very often. I'm looking forward to working with the cadets. |
|   |
|   |
|   |
|   |

**Section 6 – References**

|                                      |                            |                                  |
|--------------------------------------|----------------------------|----------------------------------|
| Name<br>John Doe                     |                            | Relationship to You<br>Co-worker |
| Phone Number<br>905-555-2200         | E-Mail                     |                                  |
| <b>Second Reference</b>              |                            |                                  |
| Name<br>Joe Guy                      |                            | Relationship to You<br>Friend    |
| Phone<br>416-555-8520                | E-mail<br>joeguy@email.com |                                  |
| <b>Third Reference</b>               |                            |                                  |
| Name<br>Const. Jane Constable (RCMP) |                            | Relationship to You<br>Neighbour |
| Phone<br>987-555-3210                | E-Mail                     |                                  |

**Section 7 – Personal Declaration**

I, the undersigned, agree that all information contained within this application is factual and been completed to the best of my ability. I permit The Navy League of Canada, or its agents, to interview any of the contacts listed in my application. I also understand that The Navy League of Canada reserves the right to accept or decline my services for any reason, except for those prohibited by the Canadian Charter of Rights and Freedoms. If accepted as a Navy League Volunteer, I recognize the safety and well being of cadets as my foremost responsibility.

*Kay Bloggins*  
Signature

10 Jan 02  
Date

| Branch Recommendation<br>(To be completed by Branch Screening Coordinator)   | Division Recommendation<br>(To be completed by Division Screening Coordinator)   |
|--|--|
| <input checked="" type="checkbox"/> Identification Check (photocopies enclosed)<br><input checked="" type="checkbox"/> CPIC/Criminal Check Verified<br><input checked="" type="checkbox"/> Personal Interview<br><input checked="" type="checkbox"/> Reference Checks<br><input checked="" type="checkbox"/> Recommended ___ Not Recommended | <input checked="" type="checkbox"/> Application Complete<br>Interview with Branch Screening<br>Coordinator<br><input checked="" type="checkbox"/> Other Cadet Leagues Confirmed<br><input checked="" type="checkbox"/> Recommended ___ Not Recommended |
| Comments   | Comments   |
|  |  |
|  |  |
| Print Name<br>John Branch  | Print Name   |
| Signature<br><i>John Branch</i>  | Signature  |

**Annex F Sample of Completed NL(102)E Drivers Log**

Please Note: The Actual driver's Log is a book containing Carbonless Copy Paper. A white copy is given to the Driver, and the yellow copy stays in the book as part of the Branch Records.

**INSTRUCTIONS**

- Provide cadet with a contact phone number. This should be the corps number and the driver's home or mobile phone number.
- Drivers should supervise the cadets under their charge.
- The driver should make contact with the adult in charge of the location being used for fund-raising. (If fund-raising)
- Cadets should be instructed clearly on why they are fund-raising and can even be given introductory lines the cadets can use when communicating with the public. (should this be a fund-raising event the parent/volunteer/guardian is volunteering for)
- Have parent/volunteer/guardian show Driver's license.

-----

DESTINATION:           The Store          

DATE:           01 Jan 02           CORPS TEL:           555-1111          

NAME OF DRIVER:           Kay Bloggins          

DRIVER'S TEL:           555-4200          

EVENT:           Tag Days          

NAME OF CADETS

|   |  |
|---|--|
| <u>          AC Gunner, M          </u> | <u>          LC Bosun, B          </u> |
| <u>          LC Sailor, D          </u> | <u>          OC Bandsman          </u> |

I hereby certify that I am a licensed and insured driver entrusted with the care and control of the CADETS assigned to me. I understand the Navy League's policy states that cadets must at all times travel and work in pairs or groups.

DRIVER'S SIGNATURE:           **K Bloggins**          

**DRIVER (WHITE) BRANCH (YELLOW)**

\_\_\_\_\_

## Annex G – Sample NL(103)E Screening Coordinator’s Log

### Applicant Information

|                                     |                                   |                                     |
|-------------------------------------|-----------------------------------|-------------------------------------|
| Surname<br><b>Bloggins</b>          | First<br><b>Kay</b>               | Middle<br><b>Det</b>                |
| Phone Number<br><b>613-555-4200</b> | Fax                               | E-mail<br><b>bloggins@email.com</b> |
| Branch<br><b>Springfield Branch</b> | Division<br><b>Yukon Division</b> |                                     |

|                          |                 |           |
|--------------------------|-----------------|-----------|
| Step 1 – Initial Meeting | Date Completed: | 01 Jan 02 |
|--------------------------|-----------------|-----------|

Applicant has received:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Screening Form              | <input checked="" type="checkbox"/> Drug and Alcohol Policy                       |
| <input checked="" type="checkbox"/> Harassment Policy Statement | <input checked="" type="checkbox"/> Contact Information for Screening Coordinator |
| <input checked="" type="checkbox"/> Safety Policy               | <input checked="" type="checkbox"/> Description of Volunteer Duties               |

Applicant has provided:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Contact Information | <input checked="" type="checkbox"/> Completed NL(101)E |
|---|--|

|                              |                   |           |
|------------------------------|-------------------|-----------|
| Step 2 – Probationary Period | Date Established: | 15 Jan 02 |
|------------------------------|-------------------|-----------|

|                                |                 |           |
|--------------------------------|-----------------|-----------|
| Step 3 – Local Reference Check | Date Completed: | 28 Jan 02 |
|--------------------------------|-----------------|-----------|

- All provided references and employers have been contacted and have provided positive recommendations.
- Information has been collected which may lead to a negative recommendation.  
(Attach Relevant Details)

|                        |                 |           |
|------------------------|-----------------|-----------|
| Step 4 – The Interview | Date Completed: | 30 Jan 02 |
|------------------------|-----------------|-----------|

John Branch

Interviewer 1

Jane Core

Interviewer 2

Bob Bosun

Interviewer 3

- All interviewers are satisfied with the information provided by the applicant.
- Information has been collected which may lead to a negative recommendation.  
(Attach Relevant Details)

|                                |                   |           |
|--------------------------------|-------------------|-----------|
| Step 5 – Branch Recommendation | Sent to Division: | 01 Feb 02 |
|--------------------------------|-------------------|-----------|

|                                  |                        |           |
|----------------------------------|------------------------|-----------|
| Step 6 – Division Recommendation | Confirmation Received: | 01 Mar 02 |
|----------------------------------|------------------------|-----------|

|                            |                        |           |
|----------------------------|------------------------|-----------|
| Step 7 – National Approval | Confirmation Received: | 01 Apr 02 |
|----------------------------|------------------------|-----------|

|                                     |            |           |
|-------------------------------------|------------|-----------|
| Step 8 – End of Probationary Period | Completed: | 15 Jun 02 |
|-------------------------------------|------------|-----------|

Interview with CO    1    2    3    4    5    6

Observation of Applicant    1    2

Completed Successfully:

Applicant Declined:

Note: Once completed, this form (along with any supporting documentation) must be sent to:

National Screening Coordinator  
The Navy League of Canada  
305 Rideau Street,  
Ottawa, ON    K1N 9E5