



ARRL The national association for
AMATEUR RADIO

Office of the President
225 Main St.
Newington, CT 06111

April 2, 2009

Via e-mail and U.S. Mail
MascelliA@usa.redcross.org

Mr. Armond T. Mascelli
Vice President, Domestic Disaster Response
American Red Cross
Programs and Services
2025 E Street, N.W.
Washington, D.C. 20006

Re: Memorandum of Understanding, American Radio
Relay League, Incorporated and American Red Cross

Dear Mr. Mascelli:

On behalf of ARRL, the National Association for Amateur Radio, I was pleased to review what I understand is the final draft of the Memorandum of Understanding (MOU) between ARRL and the Red Cross that was prepared cooperatively between Mr. Keith Robertory of your Disaster Technology staff and Dennis Dura, ARRL's Manager of Emergency Preparedness and Response. In this connection, and before proceeding further, I want to thank you for the good work and dedication, and the devotion of a good deal of time and effort by Mr. Robertory on this matter.

I am pleased to note at this juncture that ARRL is satisfied with the draft MOU in the form in which our Executive Committee reviewed it on March 14, 2009, a copy of which is attached, together with Attachments A, B, C and D. Taken together, this provides an excellent framework for continuation of the cooperative efforts in disaster relief and emergency response that has characterized the partnership of our organizations in the past, over many years.

It is necessary to note that this MOU provides (in Item IV, at the 4th bullet point, last sentence) that "[t]he Red Cross agrees that ARRL volunteers shall not be asked or required to consent to credit checks, mode of living investigations, or investigative consumer reports in order to provide a communications function." Because the Red Cross' background check policy has been a difficult matter to resolve between our organizations, and so there is no chance that the intention of either party is

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misunderstood at the outset of this new MOU, I want to take this opportunity to explain to you how ARRL interprets this very important provision of the MOU, and what we believe it will require on an affirmative basis by the Red Cross in order to comply with it.

As I have told you in prior correspondence, there has been, and there now still is a great deal of concern and confusion among ARRL members as to the background check policy of the Red Cross, despite good faith efforts of both organizations to clarify it. This confusion has had a chilling effect on the willingness of more than a few Amateur Radio operators to volunteer to provide communications for the Red Cross. We recognize that some changes have been made in the consent form applicable to volunteers from partner organizations such as ARRL who wish to provide volunteer services to ARC for periods beyond seven consecutive days. We appreciate these efforts. But the consent form used by your contractor is still, in our view, not sufficient.

Specifically, the *Disclosure Regarding Background Investigation* still contains some equivocal and broad language which, because of its ambiguity, will inevitably discourage substantial numbers of radio amateurs from participating in the background check process. For example, the current iteration of the disclosure portion of the form lists information to be obtained pursuant to the consent, but there is no indication that the list (including social security number verification, criminal history and records checks, sex offender registry checks, and public court records checks) is exhaustive. Two paragraphs later, the scope of the authorization is defined as permitting the Red Cross to obtain “from any outside organization” the above-described information during the duration of the course of volunteer or partner service. Two paragraphs after that, the disclosure is made that the background check to which the volunteer consents is a “consumer report which is covered under the federal Fair Credit Reporting Act...” The problem is a consumer report as defined in that legislation includes far more than criminal background checks. According to the United States Code, 15 U.S.C. § 1681(a) dealing with credit reporting agencies, the term “consumer report” means any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for [credit or insurance, employment purposes, or any other purpose authorized by 15 U.S.C. § 1681b].

Furthermore, in the *Authorization for Background Investigation* portion of the consent form, the signer agrees that information obtained “before, during or after” a volunteer’s tenure may be used in the process of obtaining background check reports (plural). This would permit repeated background checks to be made for the rest of a

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volunteer's lifetime if the contractor that the ARC uses wishes to continue to investigate the volunteer for whatever reason. As well, the information that is collected for the report can be collected from "any and all third parties" and not just governmental authorities, without limitation on the subject matter. This is not sufficiently circumscribed to permit a volunteer to confidently proceed with the background check without fear that (1) the confidential information collected will, now or in the future, be abused; (2) more than narrowly circumscribed criminal background checks will be performed; or (3) the exposure of the volunteer to continued intrusions on his or her privacy will result from signing the form.

Finally, the Authorization portion of the form authorizes the "disclosure and release to MBC (mybackgroundcheck.com) or any agent of MBC information concerning my criminal history, and all other information deemed relevant by MBC to MBC or any agent of MBC by government agencies; law enforcement agencies; federal, state and local courts; the military; and, motor vehicle records agencies. This authorization is quite obviously broader than what Red Cross volunteers are being told will be done if the consent form is signed.

Where this matter stands now is that ARRL would strongly recommend that a specific consent form for a background check be developed for ARRL volunteers who are not also Red Cross volunteers. We would be pleased to cooperate with you in developing one. This, to us, seems the simplest way to resolve this matter. We are ready and willing to sign the MOU in its present form. However, at this moment, given the way the background check consent form reads, ARRL is of the view that the Red Cross cannot make the affirmative representation in Section IV of the MOU. We need to have this matter resolved within a very short time in order to execute the MOU. I welcome your view on our suggestion of a unique background check consent form applicable to Amateur Radio volunteers.

We will make our staff available to address this one outstanding issue, and I am looking forward to executing this new MOU on ARRL's behalf in the very near future.

Kind regards,

Joel Harrison
President

Cc: Dennis Dura

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