



The Illinois Association of Chiefs of Police  
Public—Private Liaison Committee in Conjunction with **Integra-Security Alliance**  
Presents  
The Guide to Background Checks

Since September 11, 2001, the entire nation has been on an increased state of alert. Everyone understands that certain jobs require an extensive background check. No one would dispute the fact that a worker in a nuclear power plant needs background scrutiny. However, an entry-level employee at a retail establishment or a bookkeeper for a mid-size company can create financial havoc or safety problems of a more local nature.

Some employees are prone to stealing on the job, absenteeism, drug and alcohol abuse, false claims, and violence in the workplace. Employers cannot depend on self-disclosure or references admitting to these behaviors. Thorough background checks at a reasonable cost can and should be completed on every new applicant prior to an offer of employment. These checks can be provided by professional background screening companies with greater accuracy and completeness that most employers can accomplish in-house.

However, the background screening industry offers many levels of thoroughness, which varies by company and price. A chief financial officer requires a more thorough background check than a custodian—but both positions require scrutiny.

The members of the Illinois Association of Chiefs of Police are often asked by local businessmen to provide direction on pre-employment background checks. Our Public-Private Liaison Committee, which consists of police executives and private security and background screening executives, has collaborated to provide a guideline for background screening. The information the committee has provided helps employers to identify what types of background screening checks are available and some information in selecting a background screening company.

Steve A. Neubauer  
Chief of Police Elmhurst IL



## **Background Screening**

The risks and penalties associated with hiring employees who commit violent acts, theft, fraud, abuse, drugs, etc. are confronting employers like never seen before. More and more employers are beginning to realize that it costs far less to invest in a proactive employee background screening program than it does to face the consequences of failing to safeguard their work environment.

Fortunately, there are many tools now available to help employers determine which applicants are qualified and which should be weeded out. Screening tools include—employment verification, education verification, reference checks, credit checks, Social Security number checks, drug screening, motor vehicle records, theft database searches, criminal background checks and many more.

By utilizing these tools, employers minimize the likelihood of hiring troublesome employees and also reduce the risk of litigation and loss awards by exercising due diligence in their hiring process.

### **Why should your company conduct employee background screening?**

There are a number of reasons why background checks are important. Employers have a legal obligation to make reasonably sure that their workplace is safe for employees and customers. They also have a fiduciary responsibility to their shareholders to protect company assets and property. Failure of an employer to exercise due diligence through conducting employee background checks could result in danger to employees, customers and company assets; exposure to negligent hiring lawsuits and other liabilities; and a poor performing workforce.

### **What are the benefits of conducting employee background screening?**

By properly instituting a background-screening program that follows the rules set forth in the Fair Credit Reporting Act (FCRA), employers significantly reduce the likelihood of making a bad hiring decision. Consider some of the benefits that a well-executed program offers:

1. Reduced theft.
2. Reduced exposure of employees and customers to workplace violence.
3. Reduced risk of damage to property and assets.
4. Reduced problems associated with drug use such as: increased healthcare cost, workers compensation claims and absenteeism.
5. Limited liability to negligent hiring and negligent retention lawsuits by demonstration of due diligence in the hiring process.



6. Confirmation that an applicant is who they say they are, with the education, experience and qualifications necessary to perform the job requirements.
7. Qualification for discounts on liability insurance that is offered by many insurance companies.
8. Reduced turnover.
9. A safer and more productive work environment.
10. Confidence that you are hiring qualified, trustworthy employees from which to build your business.

### **What are the issues employers face when conducting employee background screening?**

There are certain challenges to conducting employee background checks and requirements in which employers should be aware. Here are a few to consider:

1. There is not a single source available for searching all criminal records.
2. The county court house is the best source for finding criminal records. However, because there are thousands of them, it may be difficult to know exactly where to look unless you hire a professional background screening company.
3. After 7 years, conviction information may not be legally available to court researchers.
4. Employers may not be able to use some of the information provided i.e. arrest records, which did not result in a conviction. Other crimes may be hidden if the individual participated in an alternative sentencing program
5. Even if an applicant has a criminal conviction on their record, an employer must legally consider the nature of the offense and determine if it would have a bearing on job performance.
6. Background screening involves time and money, which varies depending on the amount of information an employer is seeking.
7. Because of the vast information available, employers must prioritize the searches they want to run and the budget available for each screening type.
8. With the increasing number of new background-screening companies, employers should be careful to select a company with the reputation and experience to deliver the service needed.
9. Employers should have a consistent screening policy that is applied equally among all job types or other predetermined guidelines. If an employer isn't consistent and singles out certain individuals for screening, it could raise red flags for charges of discrimination.



10. It is critical to follow the federal and state laws that govern the use of consumer reports and investigative reports.

## **Legal Considerations**

The primary legal requirements for background checks are set forth in the Fair Credit Reporting Act (FCRA). The following are some of the FCRA requirements:

- a. Employers must disclose (on a separate form) their intent to conduct background screening.
- b. An applicant must give written consent to conduct the screening.
- c. The employer must provide the applicant a copy of the actual background report and a summary of the consumer rights issued by the Federal Trade Commission, prior to taking adverse action.
- d. The employer must give notice that adverse action was taken if it were the result of negative information that was provided in the background report. This will include information on how to dispute the report's findings.
- e. Employers must certify that the consumer-reporting agency (background screening company) is in compliance with the FCRA and will not misuse the information they receive.
- f. By following the FCRA, important protective immunities are granted against civil lawsuits for defamation, invasion of privacy and negligence.

## **Hire a Professional Background Screening Company**

Conducting background checks will assist employers in identifying potential troublesome individuals (before they become employees) and are extremely effective in minimizing risk. To navigate the complexities of background screening, it is critical that a company hires a professional background screening company. Doing so can insure legal compliance, address the inherent challenges with accessing background information and provide a customized plan to help you achieve your hiring goals.

- Screening company must be a licensed consumer reporting agency.
- Fully Web base capability.
- Important, a national hit rate of not less than 10%, this will directly relate to the quality of the search.
- Fast results, under 36 hours for nationwide county courts and less than 24 for Illinois county courts.
- All data/records reported in plain English.
- Demand that your sales representative have experience in the entire screening process and not just sales.



- Select a vendor who is also specializes and maintains their own trained staff for conducting court record searches and not just a re-seller of the information.
- Include a social security trace first and use these results to determine which counties to search.
- Average price range - one county search \$15, social security \$5. Vendor should also offer package pricing for multiple-county searches.

### **Maximize your Hiring with Employee Background Screening**

The damage caused by just one employee who commits a criminal act in the workplace brings pause to hiring managers everywhere. The result of countless criminal acts in workplaces has caused businesses, churches and schools to no longer take the matter of hiring lightly. The courts have awarded huge judgments against employers who failed to use a background check, which would have revealed the applicant they hired had a criminal history.

The U.S. Department of Commerce estimates that one out of every three business failures are a result of enormous losses caused by employee theft and fraud.

With these and other serious concerns such as the threat of workplace violence, employers are no longer asking “should I conduct a background check?” but rather, “how can I best utilize screening in the hiring process?”

### **Types of Searches**

When deciding to create a background check strategy, it is important to know what types of searches are available and what information they provide. Below is a summary of the most common screening tools:

#### Application

A thorough background check begins with a completed application. A well-constructed application should include: the applicant’s full legal name, other names used, Social Security number, dates and locations of prior employment, address history, self-disclosure of job related convictions and a statement of truth clause. In the statement of truth clause, the applicant acknowledges that information is truthful, without omissions, understanding that the employer has the right not to hire, or to terminate, if they find out otherwise. They should also include a separate release form, which requires a signature authorizing



a background check. (Note: there are various state laws concerning information that can be requested—consult with legal counsel).

When reviewing an application, look for red flags such as gaps in employment, mismatched address history and job locations, other missing details, and the failure to sign a release.

### Credit History

Once a signed release is obtained, the Fair Credit Reporting Act (FCRA) permits the use of credit reports for pre-employment, employee retention, promotion, and reassignment. It also identifies any judgments, liens, collections and bankruptcies.

This information can be used to cross reference address information and past employment that is found on the application. A credit report may reveal that an applicant has serious financial problems, which may raise concerns about their ability to manage your business.

### Social Security Number (SSN) Trace

The SSN verifies the applicant's name, current address and up to 10 prior addresses. A SSN Trace will indicate the counties in which you may want to conduct a more in-depth criminal history search. If your intent is to conduct any type of background check, verifying the Social Security number should be an essential part of that process.

### Criminal History

A criminal history search should be conducted on every applicant you hire—it is essential to protect your employees, customers and the general public. Applicants are not going to reveal as part of their credentials that they are an accomplished burglar, murderer, or sex offender. It's up to the employer to exercise due diligence and conduct this critical check.

The **most thorough and accurate information comes from the county courthouse** where the records are maintained. It may be obvious that a criminal history search provides the arrest and conviction records of an applicant. What may not be obvious is which court systems the employer should search to find this information.

It is estimated that eight out of ten inmates committed crimes in their resident county and that is why it is necessary to search the county where the applicant lived. More extensive criminal



searches require a multi-county search, making the address history obtained through the SSN Trace helpful in pinpointing additional county locations.

### Prior Employment

Verifying the employment history of an applicant can establish that the applicant has the experience necessary to perform the required job duties. This history will often confirm dates of employment, positions held, and reason(s) for leaving, and if the employee is eligible for rehire with that company. When comparing this information with the information on the application, it is not uncommon to uncover inconsistencies or fabrications.

### Education Verification

In any position that requires a college degree, the employer should automatically verify the highest level of education the applicant received. This will confirm that the applicant is qualified and that they have been truthful on the application.

### Reference Check

Many applicants assume that the references they provide will be polite and highlight only their strengths. However, many references will reveal weaknesses about the applicant that could impact your hiring decision.

### Motor Vehicle Driving Record (MVR's)

The MVR check verifies the applicant's name, address, SSN and description. It also reveals traffic citations, accidents, arrests and convictions for driving while intoxicated (DWI) and driving under the influence (DUI), suspensions, and cancellations.

When a driver's license does not match the state of residence, it could be a red flag. The applicant may have had his license revoked in his state of residence and subsequently received a "clean" license in another state.



## Criminal Database Searches

Some companies offer criminal database searches that contain criminal history information collected from various sources. These may be used to supplement criminal court searches at the county level, **but should not be used on a stand-alone basis**. The reason . . . while many claim to have records from all states, many states do not provide their repository of records. The ones that do typically contain **less than half of the available records**. Keep in mind, **this information is stale** and would need to be confirmed by conducting a current criminal record search. There is no substitute for conducting actual county court record searches.

## **Building a Background Check Strategy**

Once you are familiar with the screening tools that are available, you can begin developing your strategy for implementing an appropriate background-screening program that caters to your hiring process. Below are a few recommendations for building your strategy.

### Select a Professional Background Screening Company

The FCRA provides limited legal immunity to employers who hire third party investigators. This same protection is not offered to employers who conduct their own searches.

Using a professional background screening company can be the most important part of building a strategy because they can help you navigate the complexities and legalities of the process. The right company can also customize a plan that considers your unique needs.

### Determine Screening Criteria by Job Position

Not all jobs will require the same type or level of screening. For entry-level positions, which have little customer contact and no access to the cash register or finances, a minimum level of screening may be required. Managers and upper level staff should be scrutinized more carefully. As the job responsibilities and risks increase, so does the need for more extensive searches.

A professional background screening company can help guide you through selecting the right mix of tools to use while also considering your budget.



### Create a Written Screening Policy—And Apply It Consistently

A written policy should clearly indicate the screening required for each position, and include a list of offenses that will exclude an applicant from employment. By applying the policy consistently and equally, you will reduce the risk of claims of discrimination.

Some employers have a review process for employment decisions that involve applicants with a criminal record. It may be prudent to involve legal counsel to ensure EEOC compliance.

### Conform to FCRA Guidelines

The primary legal requirements for background checks are set forth in the Fair Credit Reporting Act (FCRA). The following are key FCRA requirements:

- Employers must disclose (on a separate form) their intent to conduct background screening.
- An applicant must give written consent to conduct the screening.
- Prior to taking adverse action, the employer must provide the applicant a copy of the actual background report and a summary of the consumer rights issued by the Federal Trade Commission.
- The employer must give notice that adverse action was taken if it was a result of negative information that was provided in the background report. This will include information on how to dispute the report's findings.
- Employers must certify that the consumer-reporting agency (background screening company) is in compliance with the FCRA and will not misuse the information they receive.
- By following the FCRA, important protective immunities are granted against civil lawsuits for defamation, invasion of privacy and negligence.

### Periodically Review and Audit Your Program

It is important to stay in compliance with federal and state laws by updating your program to reflect changes in those laws. Different locations and/or managers may interpret company policies in dissimilar manners. Audit the program to insure it is being applied in accordance with the written policy you have in place.

Background checks are an essential part of a good hiring program. Knowing what tools are available and developing a customized plan for implementation will help protect against the risks and costs of hiring the wrong individual.