

BEST PRACTICES IN THE BACKGROUND SCREENING INDUSTRY



AmericanChecked INC.
Background Screening Solutions®



Hiring a new employee or volunteer is an essential function of any organization. Protecting company assets while safeguarding clients, co-workers and the public are paramount. Every hiring or staffing decision is a critical investment employers must make, often with limited information.

The best practices presented in this guide are intended to outline safe, compliant industry standards that can assist in finding suitable applicants or volunteers who will make a positive contribution to your organization.

Stated briefly, responsible hiring practices should reflect practical procedures that will help employers and organizations make hiring decisions that:

- Comply with the **EEOC Guidance** and limit liability under Title VII of the Civil Rights Act and state and local anti-discrimination laws;
- Comply with the **Fair Credit Reporting Act (FCRA)**; the Driver Privacy Protection Act (DPPA), all applicable state and federal laws and
- Minimize the risk of liability from hiring an unfit employee or volunteer.

Best Practice 1: PII

Personal Identifying Information (PII) should always be protected. Industry standards suggest refraining from emailing or faxing PII due to data security issues. If the Social Security Number is printed on a report, **a minimum of 4 digits should be masked or truncated.**

Best Practice 2: Searching for Criminal Activity

The *Criminal Track Record* is considered the gold standard when conducting a criminal record search. This is the preferred method to conduct a criminal record search because we are relying on objective information found in the Address Locator Report. If the applicant has done anything he/she does not want the hiring official to know, it will most likely not be included on the resume or application. The Criminal Track Record can potentially uncover criminal activity that otherwise may have been overlooked based on applicant provided information.

- Social Security Number Verification and Address Locator Report identifies where the individual has resided in the past 7 or 10 years
- County court search is performed at every county the individual has lived during the past 7 or 10 years – regardless of where or how many counties

- All names associated with the SSN as well as any aliases provided are searched

Best Practice 3: Reviewing the Criminal Record

When reviewing the criminal record, only convictions and pending prosecutions should be considered. And, you should consider only those convictions that are relevant to the job in question and are recent enough to indicate significant risk.

Arrests that are not subject to active prosecution should only be considered with extreme care. In states that do allow consideration of any arrests whatsoever, the state law must be followed.

Best Practice 4: Evidence of Rehabilitation

When reviewing a criminal record, consider evidence of rehabilitation. Industry guidelines recommend giving every candidate the opportunity to present evidence of rehabilitation which the employer should consider carefully before making a hiring decision.

Best Practice 5: Timeliness

All criminal record information should be updated to ensure that it is current, and all charges related to a single incident should be reported as a single entry.



Best Practice 6: Database v. Live Search

Current industry guidelines recommend criminal record searches being conducted by an experienced researcher at the appropriate courthouse vs relying on a database.

If a database is used, it is recommended that it only be used as a “pointer file” or in conjunction with other live criminal searches. It should NEVER be used as a stand-alone or single component. While current multi-jurisdictional databases contain millions of records (often 950 million or more), *no single, national database* exists that contains all criminal records in the U.S. These databases include only those records from various government and law enforcement entities that have been made available for purchase, can be obtained through public access and/or are from an in-house historical database.



Best Practice 7: Database Accuracy

As noted above, online databases are not always accurate or current. All information from online databases should be confirmed with the original source to ensure maximum possible accuracy. We stress this practice because it has become one of the more problematic areas for employers.

Best Practice 8: Use of a Qualified CRA

Consumer Reporting Agencies (CRAs) are not created equally. Best practice recommends using a CRA that has been accredited by the Professional Background Screening Association and whose staff is, at minimum, FCRA certified.

Subject to the regulations of the FCRA, the CRA should be well versed on the impact that local, state and federal laws have on the hiring and employment screening process. All U.S.-based industries must abide by the FCRA, so it makes sense to use an accredited provider that offers FCRA-governed solutions. Of course, it is always recommended that employers consult



NO SINGLE, NATIONAL DATABASE EXISTS THAT CONTAINS ALL CRIMINAL RECORDS IN THE U.S.

Use of national criminal databases through third parties requires careful consideration and compliance with the FCRA, which governs the provision of information in consumer reports (commonly known as background screening reports). Information obtained from databases should be verified by researching official court records.

their legal counsel regarding local, state and federal laws and related employment matters.

Best Practice 9: Use of Disclosure and Authorization and Summary of Rights

To be in compliance with the FCRA, the employer should provide a **Disclosure and Authorization** in a stand-alone document which consists solely of the Disclosure. This document must be signed by the applicant/current employee prior to the company ordering a background screening report from a CRA. Additionally, the employer should give each individual a copy of the Summary of Rights.

Best Practice 10: Consumer Rights

To be in compliance, employers should provide applicants with a prompt and convenient method of challenging the information provided on the background screening report. The CRA should provide access to the employer of both Pre- and Post-Adverse Action Letters.

Best Practice 11: Job-Related Products

Job-related products might include MVRs or Employment Credit Reports. Important to remember is that the **EEOC Guidance** should always be kept in mind during the screening process. For instance, an Employment Credit Report should only be ordered for those positions with fiduciary responsibilities and these should be outlined in the job description. With regard to MVRs, it is recommended that this product be ordered for

those with a driving component within the job description.

Best Practice 12: Scope of Service

If international background screening services are required, the employer should know where and how the information is obtained as well as the appropriate search criteria which differ from country to country.

Best Practice 13: Verification/Reference Services

Industry guidelines include going beyond basic, past employment verification to also include professional/personal references as well as education verification. For those in



WHEN LOOKING FOR A PARTNER IN SCREENING WHO WILL BE CONDUCTING VERIFICATIONS, ALWAYS VET THEIR STANDARD PROCESS OF MAKING CONTACT WITH REFERENCES.

management, a US Wage & Earnings Report is often used in the screening process. The verification/reference process allows the employer to consider application/resume veracity as well as direct field input.

Current industry practice calls for the CRA to make a minimum of 3 attempts over 3 days

to contact the individual reference; however, there are those CRAs that double and even triple the number of attempts before closing the case.

Best Practice 14: Fast Isn't Always Best

How quickly a background screening report is delivered is contingent on many factors such as whether a live search at the courthouse is being conducted or if a database is being searched. Was a "hit" uncovered that must be further researched to "ensure maximum possible accuracy"? Was a Mercy of Court being accessed? Typically, turnaround is 24-72 hours.

Best Practice 15: No Single Tool Exists To Effectively Search Criminal Record History

A series of overlapping tools must be utilized to conduct a thorough search.

Listing of Selected Criminal Record Options

- **County Criminal Record**

A county courthouse is the best source for the most recent information on a case which includes criminal convictions involving felonies and misdemeanors.

- **Statewide Criminal Record**

This report lists criminal convictions involving felonies and misdemeanors as made available by the state. Information varies among states regarding arrests resulting from non-convictions. However, not all states offer a statewide criminal search.

- **Nationwide Criminal Database/Multi-State Sex and Violent Offenders Report**

The Nationwide Criminal Database is a powerful, high-speed, multi-jurisdictional search of state and county criminal record databases. Information includes felonies and some misdemeanor records (varies by state) from numerous sources including: Departments of Correction, court administrations, law enforcement agencies and prison files.

This search should also include the Multi-State Sex and Violent Offenders Report. This database contains currently registered violent and sex offenders with felony conviction records. The data has been compiled from violent and sex offender registries in 50 states, D.C., Guam and Puerto Rico.

Please note: This product should be used in conjunction with a county or statewide criminal record search for due diligence purposes.

- **Federal Criminal Record**

This search provides federal criminal records in any U.S. District court. For the most part, a Federal Criminal Record reports such offenses as money laundering, kidnapping, interstate drug trafficking, violation of civil rights, etc.

- **County Civil Upper and Lower**

These searches are for uncovering civil filings from an upper and/or lower court based on the city and county submitted. Results may include cause of action, disposition or current status as well as any details about the case and litigants involved.



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