



BACKGROUND SCREENING FAQ'S:

Information you need to know before engaging a vendor.

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“Background check.” It seems like a pretty simple term, with no hidden meanings or nuances, no complications. It seems to be simply the process of looking at someone’s past to decide whether they are a good candidate for a position of any sort. However, this term is much more than that. This term brings up sometimes complex questions: What are they? Do I need to run them? How are they done? These are important questions that are asked often and none of them can be properly answered in single phrases. We have compiled a list of questions, and more importantly their answers, to help you understand how complex and important these “simple” background screenings are.

- **What is a background check?**
- **Why should I run background screenings?**
- **What are the different types of background screenings?**
- **What is the standard background check package? Is this package appropriate for all applicants in all industries?**
- **How do I order and receive a background check?**
- **What does the applicant have to do?**
- **What is the FCRA?**
- **How long do screenings typically take and how are they done?**
- **How far into the past do screenings go?**
- **How often should background checks be run?**
- **How much control do I have over the grading process?**
- **What happens if I choose to decline an applicant based on the background check?**

What is a background check?

When most people think of a background check, also known as a background screening, they think of a simple criminal history check. In reality, a background screening is much more than that. In layman's terms, a background check legally screens a group of applicants on a number of levels to assess whether the applicants can do the job required of them and are unlikely to do harm to anyone or anything.

A background screening will help your company stay safe through the criminal history check. It will help assure that everyone can do what they claim they can through employment and education verification. It will check that the applicant is who they claim to be and is not wanted internationally. Background screenings, background checks, pre-employment screenings-call them what you will, they help protect your company, your employees and your clients through a number of processes and services.

Why should I run background screenings?

There are a few reasons to perform background screenings on your potential employees. First and foremost, some industries are legally required to run these checks. More importantly, you as an employer have a responsibility to your employees, your customers and your business.

A number of industries, especially those that require the handling of other people's personal and private information, require background screenings. These include the finance, insurance, aviation, healthcare and education industries.

For those industries that do not require background screenings, there are still crucial reasons to run them. Protection of your employees is imperative in any business. A 2005 survey found that 2.3% of all businesses experience some form of co-worker violence and that number increased significantly to 34.1% for businesses with 1,000+ employees.ⁱⁱ A 2006 survey discovered that 13% of all workplace fatalities were caused by assaults and violent acts.ⁱⁱⁱ This includes homicides which accounted for 9% of all workplace fatalities.

Another very important factor is protection of your customers. Books on hiring practices report cases where a company hired an employee without doing a background screening and the new employee then hurt a customer.ⁱ In one case, a health care provider hired a man with a criminal record and a history of mental problems to work as a home health-care provider. The man then stabbed his patient to death.

Due to negligent hiring and due diligence laws, the health-care provider mentioned previously was successfully sued by the patient's estate for \$40 million in damages in 2001.ⁱ Even aside from lawsuits, failure to complete background screenings can cost the company. According to a 2006 survey about retail security, 46.8% of all shrinkage is due to employees. This translates to about \$19 billion. Moreover, the same study found that the average employee theft was over \$1,300 whereas the average shoplifting incident was less than \$350.^{iv}

Repercussions come in non-monetary forms as well. Of all resumes submitted, 51% contain "inaccurate information" of some sort and 40% of all resumes contain material falsehoods such as false degrees.ⁱ In addition, according to available data, of all references checked in 2004, about 50% contained inaccurate information.^v This costs the company when the employee fails to perform a service they say they can. In fact, one company's stock plummeted once it was revealed that their CFO did not have the degree he had claimed.ⁱ

All of these facts point to a distinct need for background screenings. They are the only way to protect many facets of your business that need to be protected.

What are the different types of background screenings?

There are a lot to choose from. Each has its own purpose and, while some overlap a bit, keep in mind that no two services are identical.

■ CRIMINAL HISTORY

The most well-known and well used background screening, there are three main types of criminal history reports: county, state and federal. Each option is useful. County criminal history searches are most likely to yield felony or misdemeanor charge results and are carried out based on previous workplace and home addresses. State criminal history searches yield information for all counties in a state that reports to a state police department, but this does not preclude the use of county criminal history searches. There are some cases where convictions have been reported at the county level but have not yet been reported to the state. While this is the best option in some states, it is not the best option in all. Federal criminal history searches include only federally prosecuted crimes and therefore, once again, do not preclude the use of county and state criminal history searches. However, these crimes are often the most serious of offenses, including bank robbery and embezzlement. Because of federal criminal laws governing securities and finance, federal searches are particularly important for finance and high-profile positions.

▪ **NATIONAL CRIMINAL DATABASE RECORDS**

In conjunction with the criminal history searches of public records, some background screening companies use broad criminal databases to find crimes that were committed in a state or county where no public search is conducted because the applicant did not work or live there. This can include sex-offender registries and terrorist watchlists among other sources.

▪ **VERIFICATIONS AND REFERENCES**

There are multiple types of verification and references services. The primary kinds are employment verification, education verification, and personal reference verification. Background screening companies verify employment by interviewing past employers for such basic information as dates of employment and job position. Depending on the background screening company, this interview can be more comprehensive. Education verification confirms dates of attendance at the school and degrees obtained, among other things. This service also checks for “diploma mills” that sell diplomas with no schoolwork necessary. Personal reference verification is geared towards obtaining a subjective look at the applicant. This interview will address issues such as work ethic, dependability, and integrity. Some background screening companies offer other reference services as well. These can include military verification and professional license and/or certification verification. Military verification confirms the branch and dates of service of the applicant. Professional license and certification verification confirms licenses and credentials for jobs that require them such as nurses or lawyers. This confirmation includes expiration dates, any honors conferred with the license, and any disciplinary action taken with the holder of the license.

▪ **SOCIAL SECURITY NUMBER VERIFICATION/TRACE**

The main goal of this service is to detect fraud in the identity of the applicant. SSN verification simply makes sure that the SSN was not stolen, was not falsified and is not on the death registry. The trace finds names, addresses and employers associated with that SSN, which is helpful in the criminal history search service.

▪ **CREDIT REPORTS**

The credit report provides a variety of information related to credit history. This includes more mundane things such as average monthly payment, available credit percentage and highest credit extended, as well as any bankruptcies, tax liens, accounts in collections and more. The credit check also serves to verify the social security number and other services associated with the SSN trace. This service may help the employer determine the responsibility level of the applicant.

▪ **MOTOR VEHICLE RECORDS**

There are two types of motor vehicle records checks. The first is the Commercial Drivers License (CDL) check, and the second is the non-CDL check. There are some common factors to both of these reports. These include the name, state, expiration date, restrictions and any violation information. The CDL check includes factors such as clearances, issuances and CDL class. The non-CDL check includes factors such as the license status and general demographics. This can be an important check even for companies that do not utilize drivers because in some states convictions for DUI or DWI can only be found through the MVR check.

▪ **DRUG TESTING**

Some background screening companies offer drug testing at a number of times: before the hiring of an applicant, randomly throughout the year and post-accident or "Reasonable Cause." There are a number of options for these drug tests, including on-site, lab-based or instant testing. They also offer a number of ways to test the applicant including urine, hair, saliva or breath alcohol. They also generally offer expert witness testimony to coincide with this service.

▪ **FINGERPRINTING**

While this service is not available to everyone due to federal and state regulations, it is very valuable where it is available. Once the fingerprint is submitted to the background screening company, they in turn submit it to the FBI. From there, the background screening company will review any rap sheets that come up.

▪ **INTERNATIONAL SCREENING**

This service is a conglomeration of many of the other services offered. The only difference is that International Screening takes it to the global level. Depending on the company, services offered range from criminal history to motor vehicle checks.

▪ **VENDOR SCREENING**

This service exists for companies who contract work to other companies or have a number of franchises. It verifies that everyone who works under the company's name runs the same type of background check program. Vendor screening is really a package of other services.

▪ **ADVERSE ACTION**

Adverse action services are used only when an applicant fails to meet the company standards. The background screening company will issue the appropriate documents to the applicant in order to make sure that the company complies with FCRA standards.

- **BANKRUPTCY REPORTS**

Bankruptcy reports provide information associated with any bankruptcy case associated with the applicant and a specific U.S. District Court. This can include the type of bankruptcy filed and the date it was filed, among other things.

- **CIVIL RECORD CHECK**

This service uncovers whether or not the applicant has filed any civil suits or judgments or has had any filed against them. While available at both county and federal level, the type of information found at the levels varies. If a company offers the county civil record check, the search can show divorce, domestic disputes and a number of other items. These same companies generally also offer the federal civil record check, which can show things such as claims for violations of civil rights.

- **MEDIA SEARCHES**

The media search covers a number of sources, including both regular news and business information sources.

- **NATIONAL WARRANTS**

The national warrants service will identify any active and extraditable federal and state warrants for the applicant. However, not all law enforcement agencies report into the database from which this information is pulled.

- **WORKERS' COMPENSATION HISTORY**

The workers' compensation history service does a number of things. The first service it performs is to inform the potential employer of whether or not the applicant has a history of abusing workers' compensation. The second service it provides is to inform the potential employer of any previous injuries that could affect the applicant's job performance.

- **MISCELLANEOUS INDUSTRY SPECIFIC CHECKS**

There are a number of background screening services that only need to be performed on people working in specific jobs. For instance, a Drug Enforcement Administration's check is used to verify that a healthcare provider has undergone no drug-related disciplinary action. There are a number of checks in this vein, and they are sometimes included in the national criminal database check.

What is the standard background check package? Is this package appropriate for all applicants in all industries?

There is no single standard background check package because no single package is appropriate for everyone. In reality, the “standard” should depend on what position you are hiring for and what industry you are in. Any executive position should be subject to more stringent testing than a basic minimum-wage employee. Similarly, any regulated industry or any industry that has access to personal information should run more stringent tests on their employees than, for example, the food service industry.

While there is no industry standard, each company should set their own standard if for no other reason than to protect themselves. If your company were to run a battery of checks on an applicant for one position, you must run the same checks for every other applicant for that position or risk a lawsuit. The best way to avoid a messy situation is to have internal standards that will stand up under close scrutiny.

How do I order and receive a background screening?

Before a background screening can be ordered a few things need to be done. First and foremost, the applicant has to both receive a disclosure form and sign an authorization form as required by the Fair Credit Reporting Act (FCRA).^{vi} This process is explained in detail in the question “What does the applicant have to do?” The FCRA is explained in detail in the question “What is the FCRA?”

Once the necessary forms have been completed, there are typically a variety of options for submission of background report requests. Depending on your background screening provider’s capabilities, reports can usually be ordered via an online system, or faxed in for manual entry to the system by a data entry clerk. Other options include phone-based and email ordering. The submission method(s) used by your company will be dependent upon the level of technology available at each of the locations from which background reports will be ordered and your background screening provider’s capability.

Once the report is complete, you (or your requester) should be notified in the way that best suits your needs. The most typical scenario involves matching submission and results notification methods. For instance, if a requester at one of your outlying locations without Internet access orders a report utilizing the phone-based system, results are then returned back to that requester via the same phone-based system. In fact, with the level of technology available in the background screening arena today, you should have multiple combinations of ordering and delivery methods available to you.

Your background screening provider should work with you during the discovery phase of your account set up process to ensure your specific requirements are met by the protocol set up in their system to screen your applicants.

What does the applicant have to do?

The background screening process is relatively simple for the applicant. First and foremost, the applicant must receive a disclosure form that informs the applicant that a background screening will be performed. After that, the applicant must sign an authorization form that permits the background check.^{vi} The disclosure must either be on a standalone form or combined with the authorization form. The primary purpose these forms serve is to keep your company legal and in compliance with the Fair Credit Reporting Act (FCRA), as explained in detail in the question “What is the FCRA?” These forms also give the background screening company permission to do the check and may serve as verification to a former employer or school that they are allowed to give information.

It is possible that the applicant will have to perform other functions, but those are dependent upon what type of service is requested. For instance, any drug test will require some sort of effort from the applicant. Other than the exceptions for specific services, once the authorization form is signed, the applicant does not need to do anything else.

The applicant should, however, be aware of his or her rights. The applicant has the right to request that the company running the screening send him or her a copy of the report. Any fees associated with this will vary by state, but as of July 2008 will not cost over \$10.50.^{vii} In addition, if any applicant feels that the information is inaccurate and they are passed over for the job because of the inaccurate information, the applicant has the right to ask the background screening company to reinvestigate. These are all measures that an applicant should take to protect him- or herself. Any time the applicant feels that something is incorrect, there is an appropriate measure they can take, and absolutely should take, to correct the misunderstanding.

What is the FCRA?

The Fair Credit Reporting Act, better known as the FCRA, was first enacted in 1971 to answer the issue of the need “to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right

to privacy.”^{vi} In essence, the FCRA exists to protect the consumer by putting reasonable limits on what can be reported by third-party consumer reporting agencies.

However, even though it is named the Fair *Credit* Reporting Act, the FCRA applies to all consumer reports. These reports can include the consumer’s credit standing but can also extend to character, mode of living and similar information that can be used to determine a person’s eligibility for credit, insurance, or a job.^{vi} By these standards, background screening companies are absolutely a category of third-party consumer report agencies and are therefore included in this act.

Within the FCRA there are a number of exceptions and rules to what can and cannot be looked for or shared. For instance, bankruptcy cases can be no older than 10 years and all adverse information, with the sole exception of criminal convictions, can be no older than seven years. In addition, no medical information can be shared unless the report is being used for insurance purposes. However, in the case of companies running background screenings on potential employees, the rules about what information cannot be reported do not apply if the employee would be making at least \$75,000.^{vi}

In addition to protecting the consumer once the check is underway, the FCRA also requires the employer to disclose some information and obtain the consumer’s permission before the check can legally begin.^{vi} These forms do not require a lot of effort and simply serve to inform the applicant that a check will be done.

While the FCRA may seem frustrating as an employer, any potential employee should be glad for its protection.

How long do screenings typically take and how are they done?

As with anything, how long the screenings take depends on which specific service you choose and how that service is done. Many services simply require the company to enter the relevant information into a database, yielding instant results. However, some of the more often used services take longer due to the need for a physical records search. A few services require a combination of database and physical searches and some take a more unique approach.

Instant, database-driven searches include credit history, name/address history, national security lists, sex offender registry and SSN verification/trace searches, while physical field agent searches include county, state and federal criminal history. A few of the remaining services use a combination of database and physical searches. Most national criminal databases use a database first, only doing physical searches to verify a hit.

Some services require phone interviews. Those include education and employment verification as well as reference checks.

How long each of these services takes also depends on a few other factors. Which company you choose absolutely affects how long a service takes. For instance, some companies say they can get a service done in 5 days while others advertise 8 weeks. Another factor to consider is where you are requesting the information from. DMV records can be accessed instantly in many states, but can take three days in others. The most important contributing factor (aside from how the information is gathered) is the difference between hits and clears. Many companies, when running a national criminal database check, for instance, will know instantly if there is no record. However, if the database returns a hit, the accuracy of the information may need to be verified before it can be passed on.

How far into the past do screenings go?

The real question is “How far into the past *can* screenings go?” and that answer is a little convoluted. In essence, the Fair Credit Reporting Act (the FCRA) and which service you choose dictate how far into the past the screening can go. According to the most recent version of the FCRA, information about having filed for bankruptcy has a limitation of 10 years and all other adverse information, with one notable exception, has a limitation of seven years. Criminal convictions are the only source of information which has no federal limitation.^{vi}

That being said, just because the federal government has no limitation regarding criminal convictions, that does not mean that the states also do not have a limitation. Many states have enacted a more restrictive version of the FCRA that sets their criminal conviction limitation at seven years unless the applicant is expected to make more than a certain amount.ⁱ Even though not all of the states have laws prohibiting a criminal conviction search past seven years, background screening companies use seven years as the standard in order to remain legal across the board. Most background screening companies, however, would be willing to check past the seven years if specifically asked and if they are legally able to.

This, then, begs the question of “What happens if the person is in jail at the beginning of the seven years?” Rest assured, this will be reported to you. If the applicant was in jail at the beginning of the seven years, then the limitation extends to include the crime that earned the applicant the jail time.ⁱ

How often should background screenings be run?

The best option is to run a full background screening on your employees at point of hire and then a criminal history check once a year after that. This is because without the annual criminal history check, you have no way of knowing about a charge unless the employee volunteers the information. The annual rerun functions on the very valid idea that some people commit crimes after they have been working for a company for some time.

For example, take the case of Company A, a company that works primarily with children. Company A had two factors that contributed to a problem: First and foremost, they only performed background screenings on their employees when the employees were being hired. Secondly, they had an extremely good retention rate, meaning that some of the employees had not been checked for years. In March of 2008, General Information Services, Inc. (GIS) offered Company A a free batch rerun in conjunction with a new product. When GIS did the rerun, they found a variety of sex offenders, including a child molester and a number of employees with prostitution charges. This could be your company and your employees.

How much control do I have over the grading process?

The grading system is set as either pass/fail or pass/review/fail. However, you should have the option to dictate what constitutes a pass and what constitutes a fail, setting a lower (or higher) threshold for particular category of applicants that you choose. For instance, you may choose to run a package for all applicants that includes a criminal history check and you feel that a misdemeanor offense is negligible for your lowest level employee but is a large problem for someone in an executive position. In this case, as long as you inform the screening company, they can then set a different standard based on the proposed level of employment for an applicant. No matter what, in order to avoid a lawsuit, make sure that your threshold is the same for everyone applying for a given position.

What happens if I choose to decline an applicant based on the background screening?

If you ever decide to decline an applicant based on what was found in the background screening, you need to take a few steps as soon as possible.

1. **Provide the applicant with a copy of the report and a statement of consumers rights**
2. **If the applicant chooses not to contest the report, send a second notice to the applicant notifying him or her of the decision and his/her rights**

If, however, the applicant does choose to contest the report, the background check company should have a disputes department to help you get through the process unharmed. Some companies even have an “adverse action” service which takes the steps above for you.

Sources:

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GIS is a leading provider of background screening services and total workforce management solutions. These include integrated drug testing, international screening and compliance, form I-9 maintenance and storage, tax credits & incentives management, human capital management solutions and numerous other industry-specific offerings. GIS' core business has been and continues to be pre-employment background screening services. To contact GIS, please email info@geninfo.com or visit their website at www.geninfo.com.