

The Verifier

The Quarterly Publication of Background Information Services Inc.

Volume I Issue III—SPRING 2004

Background Checks: You get what you pay for...!

By Jason B. Morris - jmorris@employeescreen.com

A common misconception in the HR and Security industry is that somewhere in America, a giant computer available to the public holds everyone's criminal background history. This article will explore the components of a criminal background check, including what method may (or may not be) best for your company or organization.

"WE'RE PROTECTED, RIGHT?" Many of us breathe a sigh of relief just knowing that our company performs background checks. This allows us the safe feeling that "we're protected." While sometimes true, most times this couldn't be further from the truth. Let me ask this simple question: "From exactly *what* are you being protected?" Many companies today conduct pre-employment background checks to protect themselves against negligent hiring lawsuits. This proactive stance creates a safe, secure working environment via a stronger work force.

Recently, I was asked to testify before the Pennsylvania House Committee on Housing and Tourism regarding the need to conduct background checks for the hotel industry. During my testimony, I was asked for the legal definition of a "criminal background check." You'd think I'd have a concise answer, but in reality, each industry can answer this question in a different way. For example, if you're a teacher in Ohio, the state mandates that you must undergo a criminal background check by the State Bureau of Criminal Investigation and Identification (BCII); if you've lived outside of Ohio over the past five years, an FBI check is required instead.

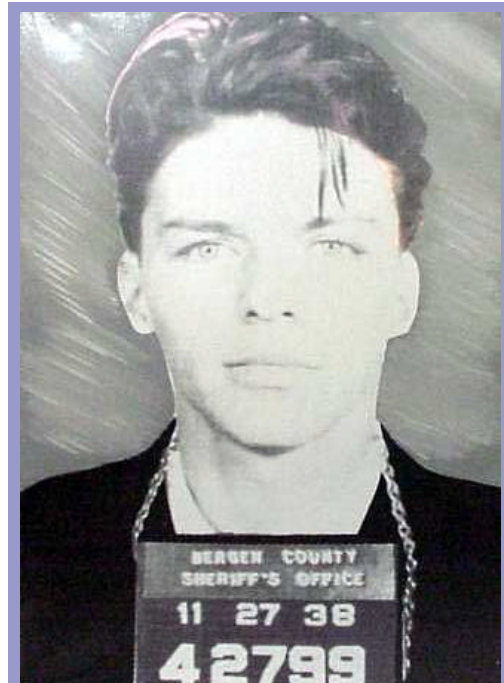
A word of caution: the state BCII is an antiquated system that holds outdated records too long and updates them infrequently. Like many states, this required system lacks consistency, important information and case follow-up.

THOROUGH SEARCHES BEGIN WITH A SOCIAL SECURITY NUMBER...

Industry experts agree that the most accurate criminal background check begins by tracing the applicant's Social Security number to financial records which identify the names he/she have used, as well as the addresses they have had. Obviously, you should first verify the Social Security number itself before even starting. Next, you should take that information to the county courts in all the states they've lived, worked or attended school in the past 7-10 years. All alias and maiden names should be searched in these counties for any felonies and/or misdemeanors associated with the name, birth date and Social Security number. Finally, a search of the Federal District courts (using the same criteria) is an economical step to complete the search.

FOUR MAJOR TYPES OF CRIMINAL BACKGROUND CHECKS There are four main types of criminal background checks. Along with the descriptions, I'll provide comments on each selected method.

Countywide Felony & Misdemeanor Search. This method can be summarized using the old cliché; "the shortest distance between two points is a straight line." In the world of background checks, if you need records on someone, you go to where they're held—the county and municipal courts. Countywide searches are usually performed manually on site. Reputable pre-employment screening companies like **Background Information Services (BIS)** actually send researchers into these courts to conduct record



Pictured here, Frank Sinatra—Charged with 'seduction' in 1938 Bergen County, NJ

searches. **BIS** has a network of over 3,500 court researchers who conduct manual searches in more than 10,000 courthouses!

Only a trained, professional researcher can conduct a thorough search that will ultimately result in a quality product. A great example is when a record comes back as a "Name Match Only." When this happens, the researcher is trained to pull the court files and study the complaint and disposition to decide if the subject is, in fact, the person he or she is searching. Court files may also be reviewed for a clearer understanding of the final disposition.

To me, this method provides the most accurate picture of someone's criminal history. I often remind clients that if the person was convicted yesterday, we'll find it. We often find "hits" posted to the court records that very week or month.

Federal Searches. Federal searches are similar to those conducted within the county and municipal court systems. Crimes that fall under federal jurisdiction are found by searching these courts. These crimes include kidnapping, embezzlement, tax fraud, and most "white collar" crimes. This search is conducted using an online tool (available to approved subscribers), that covers federal district court records. Access to the online system is regulated, so once a "hit" is found, the federal court is contacted directly. Copies of actual court files are usually ordered for more detailed information.

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Excluded Parties Search:

Don't Exclude Your Business from Federal Contracts

By Rob Thomson - rthomson@employeescreen.com

Obtaining federal government contracts can be lucrative and highly competitive. Some individuals and business entities, not content to have won a hard-fought battle for a good piece of business, may seek to unethically exploit a business relationship with the federal government. Those who have been caught with their hand in the cookie jar, so to speak, will probably wind up on what is commonly referred to as an Excluded Parties List.

Excluded Parties Lists should not be confused with lists created for the exclusive use of the law enforcement community or terrorist watch lists, such as the Specially Designated Nationals (SDN) list, published by the Office of Foreign Assets Control (OFAC). Individuals and entities appearing on the OFAC SDN list have had their assets blocked and all U.S. persons are prohibited from dealing with them in general (a Social Security number trace will reveal matches with the OFAC SDN list).

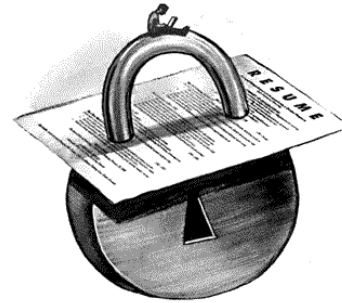
Excluded Parties Lists identify those individuals and entities who are not permitted to receive Federal contracts and certain subcontracts, or from receiving Federal financial and nonfinancial assistance and benefits. The Federal Acquisition Regulation (FAR) contains the policies and procedures for administering Excluded Parties Lists. FAR Subpart 9.402(a) states "Agencies shall solicit offers from, award contracts to, and consent to subcontracts with responsible contractors only." To qualify as a responsible contractor, an individual or entity must have "a satisfactory record of integrity and business ethics" and must possess the necessary organization, accounting and operational controls. The General Services Administration (GSA) compiles and maintains a current list of all parties debarred, suspended, proposed for debarment, or declared ineligible by government agencies or by the General Accounting Office (GAO). There are other government agencies that maintain their own Excluded Parties Lists, with evolving attempts at coordination between them.

A well-known example of activities that landed a couple of high-profile companies on the GSA Excluded Parties List is the accounting scandal at Enron Corporation, which resulted in Enron and Arthur Andersen losing their privilege to perform federal government contract work. Also resulting from this scandal were suspensions of various individual employees of these organizations. Individuals may be excluded from federal procurement and non-procurement programs, and their names will also appear on the Excluded Parties Lists.

While the Enron/Andersen scandal may seem worlds away from the daily routine of most companies, it is just one of a myriad of ways individuals and organizations may be debarred from federal work. More common examples occur, for example, in the health care industry, where federal Medicare and Medicaid payments are made to countless medical facilities and practitioners. Health care organizations that bill these or other federal programs may jeopardize their eligibility by employing a provider who is listed on the Excluded Parties List maintained by the Office of Inspector General (OIG) of the Department of Health & Human Services.

While it is relatively simple to check for a name match on an Excluded Parties Listing, the fact that the scope of these listings is worldwide means that a name-match alone may have a high probability of being a "false hit." Verifying name-matches in conjunction with other identifiers to confirm or deny the match is very important if using this information as the basis for a hiring decision.

If your business or industry is dependent on federal contracts or subsidies, Excluded Parties Listings can be a useful tool in ensuring sound hiring decisions. It is a small piece of due diligence in the hiring process, but the consequences to your business of ignoring it could be substantial.



Top Ten Resume Lies

By Nick Fishman - nickf@employeescreen.com

Increasing competition for a shrinking pool of jobs leads many job applicants to "become creative" and fudge information when posting their resume. This fact-stretching exercise could be harmless when it comes to forgetting what month you might have left a job, but becomes detrimental when *that job never existed in the first place*.

BIS reviews tens of thousands of resumes each year to weed out untruthful candidates and others who could harm a potential employer. The need to research and confirm a potential employee's background has never been greater, but it's more tempting these days to hire the first person who seems capable of doing the job. Our motto "Because Everyone Looks Good on Paper," is appropriate for our list of "Top Ten Resume Lies."

This list includes sometimes crucial pieces of misinformation commonly seen on applicant resumes:

- Incorrect Dates of Former Employment
- False and/or Inflated Salary History
- Exaggerated or False Listing of Responsibilities at former job
- Inaccurate Former Positions or Titles
- False Reason (s) for Leaving Job
- False Education Level (GPA) or Inaccurate Graduation Information
- False Information Pertaining to Special Licenses/Certifications Acquired
- Non-Existent Awards and/or Recognitions
- Phony Graduation Certificate/Diploma
- Unexplained Gaps Between Jobs

Are there inconsistencies that you continually see? Please share them with us. Email your "whoppers" to info@employeescreen.com

A Diversity of Clientele is the Hallmark of Our Success

By Nick Fishman - nickf@employeescreen.com

Identifying an appropriate search for a client's individual needs is something we excel in at Background Information Services, Inc. BIS has experience working with clients in insurance, retail, transportation, hospitality, financial services, manufacturing, food and beverage, healthcare, childcare, technology, and many other industries. Why is this important? It's important because there is "no one size fits all" approach to making effective and legally defensible hiring decisions. It is this mentality that allows us to save our customers both time and money when it comes to conducting a background check.

The basic principles of conducting a background check remain the same regardless of the applicant or industry. A countywide criminal record check has the same purpose and basic methodology whether it's being conducted in Portland, Maine, or Portland, Oregon. However, the relevant package of services in a background check for a School Bus Driver might be very different than for a Certified Public Accountant. A Motor Vehicle Record search and Sex Offender Registry check should be considered indispensable in hiring a bus driver. However, these particular searches may be considered superfluous in the case of a CPA, for whom a Credit Report, Employment Verification, and Education Verification would be considered much more relevant. However, if the CPA were using a company car to conduct tax-preparation services in the homes of customers, the MVR and Sex Offender Registry would assume a significantly higher priority. The experience and knowledge base gained from the broad and diverse industries in which our clients operate allows us to help you decide what services are appropriate for the unique needs of your organization.



BIS clowning around at the McDonald's 2004 Worldwide Convention in Orlando FL

As important as the diversity of our clientele in industry, is their diversity in location. While organizations typically hire an individual to work in a single location, the applicant pool for that job vacancy may come from anywhere across the country. BIS represents clients in each of the 50 states and is intimately familiar with the minute differences in the laws governing our practice.

For instance, the state of California mandates that each applicant receive a copy of the results of any search. The penalty for not doing so is significant. BIS is proactive in making sure that our clients remember to do so. Diversity in location also allows us to manage client expectations when it comes to the timeliness of a report. For instance, BIS advises all clients who run an MVR in the state of Washington, where results can take up to two weeks, compared with a single day or less in many other states.

We believe in providing our clients with what they need. We know that to exceed your expectations and win your business for the long term, it is crucial to provide you with the information you need to make better informed hiring decisions at the lowest possible cost. If you are not sure whether a service is relevant to your business or industry, we would be happy to discuss the

nuances of your organization and let you know why it may or may not be relevant.

Add up our body of work combined with our extensive knowledge of the pre-employment screening industry and our clients receive not only a reliable service provider, but a trusted consultant for their hiring practices.

NAPBS Update

On March 29-30 more than 225 individuals representing over 175 companies, converged on Scottsdale, AZ for the inaugural annual Conference of the National Association of Professional Background Screeners (NAPBS). BIS President and COO Jason B. Morris sits on the NAPBS board of directors and will be next year's co-chairman of the Association.

The Association's members are companies from across the country who provide pre-employment/background screening, court records research, and tenant screening services. Employers can be assured they are dealing with a screening firm that subscribes to the organization's goals and standards if the NAPBS logo appears in the screening firm's collateral or on their website.

Among its many missions, NAPBS will help develop and coordinate training and other relevant programs to enable its members to better serve their clients, to promote and maintain the highest standards of excellence and ethics in the background screening industry, to ensure compliance with the Fair Credit Reporting Act, and to foster awareness of issues related to consumer protection and privacy rights within the industry. For additional information concerning NAPBS, or for a list of Association members, visit the NAPBS web site at www.napbs.com, or call their offices at 1-888-686-2727.

Coming Soon:

- Come see BIS at Booth number 757-759 at this year's SHRM show in New Orleans June 27-30
- BIS will be offering Psychological Testing and Assessments via our website.
- New Drug Screening tools will be available online.
- Full XML interaction with your HR software.
- New online criminal tools will soon be available.

BIS is pleased to Announce our 2004 Charitable Contributions:

BIS has made a commitment to our community. Each year we donate a portion of our profits to some deserving organizations. This year's recipients are: The American Cancer Society, Ronald McDonald House Charities, Make a Wish Foundation®, Celiac Disease Foundation and United Way.

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Statewide Searches. Some states offer a criminal history repository, which—like the FBI repository NCIC (National Crime Information Center)—is designed as a tool to assist law enforcement pros in criminal investigations. A common misconception is that since this appears to cover the entire state—which it doesn't—it must be better. Unfortunately, this information is often outdated, incomplete or non-existent. A major disadvantage to repositories is that although some states make it available, it's not mandatory for county's to report to it. Even worse, county courts that *do* report only do so on a quarterly or annual basis. **This puts employers at a major disadvantage.**

There are other limitations. For instance, some states limit the type of records found in background searches. For example, Hawaii, Michigan, Kentucky and Missouri only report convictions. Arizona, California and Montana only list felonies. Ohio (only 66 of its 88 counties report on a limited basis) lists mostly arrest records. Minnesota lists some misdemeanors, but only convictions with limited dispositions. Fewer than 40 states have repositories which allow some employers with multiple locations to search different scenarios for different locations.

An entirely different challenge is how states legally *define* felonies. Some states classify the same crimes as felonies, while others classify them as misdemeanors.

National Criminal Record Databases. The most misunderstood national source is the FBI's National Crime Information Center (NCIC). In the past, a company's security director would have an inside bureau source "run" an individual's records as a favor. This is now a federal crime (the FBI keeps a better track of who uses the system), so it's virtually inaccessible to the outside. NCIC data is not available without federal permission and legislative authority. It also faces the same challenges as statewide repositories—county courts and states aren't required to continually update records.

That being said, there are hundreds of companies who will sell a "national background check". This check doesn't even meet the aforementioned low standards of the FBI search. The methods of searches and results can be inaccurate, incomplete and in direct violation of the FCRA (Fair Credit Reporting Act).

In conclusion, the most effective method for conducting a thorough background check begins with a Social Security trace. A countywide criminal record search should then be executed in each county revealed by the trace covering the last 7-10 years. For added insurance, an employer is encouraged to check the counties where an individual has worked or attended school. Clients are encouraged to run a Federal District Search as well. Adding a statewide repository search and national criminal search can enhance the search, *but should only be used as a supplement.* Not only does our industry embrace this method as the preferred check, it's also how most U.S. companies perform their pre-employment screening. True, this method is more expensive in the short-run, but the temporary savings realized for conducting a lesser check can be wiped out in one incident!

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Frequently Asked Questions

Why can't you tell me specifically what the "possible hit" is?

There are two main reasons why. Sometimes, when we find a match in the court's public access terminal, we need the court clerk's help to get more specific case information. Because we are now relying solely on court personnel at this stage, they may not help us for a day or two. We know there is something that requires further investigation, but we don't know what the "possible hit" is or the summary information.

In other cases, it is our desire to protect and serve our clients. There is substantial legal liability that comes with reporting false information to clients based on incomplete information. As an added security measure, our researchers in the field not reporting specifics to us on pending information allows us to protect our clients from making dangerous, illegal hiring decisions.

Why do some states require special release forms but not others?

Doing comprehensive background checks requires a working knowledge of unique, individual parameters a select group of states construct before providing information. While we cannot ascertain the reasoning behind one state requiring a separate form to release a driving record while another one does not, we strive to do the best we can providing each client with those specific state forms. These forms are available via the "Downloads" section on our website, www.employeescreen.com

What information could my applicant receive as a result of doing a background check?

Certain states mandate a copy of any background check be sent directly to them. Under the law, every applicant is entitled to receive one from BIS and only needs to contact us directly or check the box on the signed release form indicating it. They could also receive a letter from Experian telling them a credit report was run on them (if one was ordered). The consent form each applicant signs before you submit a search to us allows you to do a comprehensive background check legally.

Why does it seem difficult to do reference interviews?

Many companies prohibit their employees from commenting on specific applicants looking for a new position. Many applicants have not talked to their references in months or years and do not have current contact information. Some people simply have not been asked beforehand by the applicant if they could be used as a reference and do not want to comment. We recommend asking your applicants for two to three times as many references as you actually want to use in making a hiring decision. Asking for six references when you really only need two interviews gives you flexibility while not slowing down your completed search simply because you need that one specific person who has been out of town for a week to call back.

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Volume I Issue III—SPRING 2004

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