

An Employer's Introduction to Background Checks

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Background Checks 101

What is a background check?

A background check is a legal investigation into an individual's past. Due to the heavy regulations around background checks, specifically for pre-employment, employers cannot simply run a search on a candidate using public data found openly on the Internet. Instead, employers are required to abide by FCRA compliance screening processes to make sure that all safety and regulatory liabilities are addressed while at the same time, protecting candidates from privacy breaches, falsely reported data, and discrimination. Every year, on average, negligent hires have been known to cost companies over \$1 million.

The searches included in a background check are up to the HR, Operations, or Legal Teams - depending on the company's business model or use case. With a range of reports to choose from, the employer must decide which information is most valuable for their business case, while being mindful of turnaround times, cost, and quality.

Legal Compliance

Performing Legal Employment Background Checks

In order to conduct a background check on behalf of your company, there are several important legal compliance points to consider. Since the results of these checks will be used for making hiring decisions, the Fair Credit Reporting Act (FCRA) requires that all employers abide by a certain process in order to avoid discrimination, protect employees rights, and obtain only information that is relevant and accurate.

10 important points for establishing FCRA compliance:

Provide written disclosure. All candidates must understand that they will be screened and that any results within the report may be used in making decisions around hiring, promotions, or retention.

Obtain Consent. All employers must get written authorization from the candidate before screening them.

Provide Information. Candidates are entitled to request and receive information about the agency conducting the background check, along with their rights as an applicant under the FCRA.

Run the report. After the above steps have been completed, a third party agency can screen a candidate on behalf of your company.

Review the results. After the check has been completed, the employer can review the results of the check. A copy must be provided to the applicant if they have requested it prior to the check being processed.

Make a decision. If an employer deems any of the returned information as adverse and decides they will not be moving forward with that applicant, they must follow additional steps to ensure compliance. If there is no adverse information the background check process is complete and the employer has stayed in compliance with the FCRA.

Notify Adverse Action. If an employer decides that they will not be moving forward with an applicant due to an issue on their background check, the employer must follow the adverse action process. Adverse action notifies the applicant about the charges found on the background check and allows them a window of time to file disputes if anything on their check does not seem right. The employer also must provide a copy of “A Summary of Your Rights under the FCRA” and a copy of the completed report.

Allow time for review. The FCRA recommends a waiting period of 5 business days before finalizing adverse action so that applicants have time to correct any inaccuracies on their report.

Reinvestigate disputed items. If any charges on the report are disputed, the background check company will provide an updated report to both the applicant and employer.

Finalize Adverse Action. If an employer follows all steps in conducting the background check, then adverse action can be completed. A final employment decision will be made, and if adverse, the employer must send a final adverse action notice.

For more information about the obligations of an employer in performing background checks and how Checkr can help to automate many of the legal processes above, please feel free to reach out to Checkr.

Types of Searches

Criminal Records

Do past crimes affect job performance?

Technically speaking, a crime is an act or omission that constitutes an offense that is punishable by law. Within an individual's criminal record, you can find a summary of all infractions and contacts that the person has made with law enforcement agencies.

The two major classifications of crimes are **felonies** (serious crimes) and **misdemeanors** (minor crimes). One responsibility of the employer, is to define what organization values and where to draw the line when making hiring decisions.

Criminal records are generally the most important yet complicated form of background check an employer could run on an applicant. An employee's criminal history not only affects a company's safety, but also job performance. One

example would be hiring an applicant that will be entering the household of your clients - a job that requires a high level of trust, it is important to see if the individual has ever been charged with assault or theft.

Criminal records fall into two major categories: **national** and **county** records.

National Criminal Records

Some employers rely solely on the 'national' criminal records. These national databases are aggregated by data brokers and consist of both county and state records. Unfortunately, there is no legislation that requires counties to report their records up to the national database level and therefore, the database is generally incomplete.

Currently about 60% of U.S. counties report their records up to this database with varying frequencies and quality of data.

Another issue with National records is the potential for

information mismatch, especially for applicants with common names such as John Smith.

County Criminal Records

As the majority of criminal records are tried in county level courts, that is also where the most complete, up to date, and accurate criminal records exist. As a best practice, employers should run county checks for each of the locations where an applicant has lived. Performing National checks allow for a high level indication of which counties to launch searches in; however, in order to perform a truly comprehensive criminal search, county criminal searches are a must.

Additional Searches

Sex Offender Records

There are close to 750,000 registered sex offenders in the United States today and the reason for running a sex offender background check on a potential employee is obvious. In service industries where employees are entering the household of an individual or interacting with children, these checks are strongly recommended and can even be required based on state law.

Global Watchlist

The Global Watchlist is an aggregate of over 60 national and international databases including FBI Most Wanted Lists, Office of Foreign Assets Control, Interpol, Office of Inspector General, and more. In addition, there are many databases that may be specific to your industry, such as nurses abuse registry.

Motor Vehicle Check

Performing a Motor Vehicle Check is crucial for any companies that have employees driving for work or operating company vehicles. This type of report allows the employer to identify if an individual is safe to have on the road and is also a great way of confirming basic identity information such as date of birth, name, and address. Examples of results returned from a Motor Vehicle Check would be moving violations, accident history, DUI information, and more.

Implementing Background Checks

How to get started?

Now that you have a basic understanding of the background check process, it's time to get started.

Here are a few points to think about as you begin this process:

Who are the stakeholders during the interview and screening process? Depending on the size of your company and your specific business model, screening employees may require participation from several individuals including HR, Operations, Legal, and more. Assess your company's priorities and assign tasks to the appropriate hiring managers.

What report options are right for my business? To ensure legal compliance around discrimination, it is recommended to screen all employees equally and to take into account searches that are specific to their role. If you are curious to

know what types of search packages are appropriate for your business, feel free to reach out to Checkr.

What resources are available to help me get started? It is important to allocate the right amount and resources to developing a robust and thorough background check policy and process. Talk to your leadership to define what the most appropriate areas of screenings will be and which team members will play a role in this process. Finally, look for a credit reporting agency that has experience in your space and can help guide you along the way.

Want to Learn More about Checkr?

Be sure to check out the [Checkr](#) website to learn how our product can optimize your background screening process today!