

All You Need to Know
To Hire Quickly & Effectively



Background Check Essentials

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Two Screening Beyond the Criminal Record

Recently, a client of ours sent me an alarming email. They have a reasonably thorough background check process that includes a number of our products. Despite their thoroughness, a person with a very serious criminal record nearly made it through the cracks. The applicant had made it through all the standard recommended checks with a clean record. Luckily, someone in HR at the company discovered, by chance, that this wasn't the whole story. The applicant had a record in another state. And it was quite a record—including a long history of convictions for violent crimes.

Hearing this, I went into panic mode. How did we miss this?

The truth is, it was no one's fault. In addition to the multi-state criminal background check, this company based in Kentucky had chosen only to run state-level background checks for that state. After all, most people who had applied

for positions had been living in Kentucky for years. They assumed any other records would be caught using the multi-state background check.

Normally, they would be right. But the area of Illinois where the applicant committed all his crimes happens to be one of the few areas that doesn't report much information to the national database. It was a blind spot—one that could have been covered if the company had also run a Social Security trace, but HR hadn't thought that was necessary at the time.

In the end, no harm was done, but it was a valuable lesson. If you don't understand the checks you're running—whether it's a multi-state, a county search, a drug screening, or a job-specific check—you leave yourself open to serious risk.

Moving beyond Criminal Records

Because of stories like the one above, employers are always concerned about missing important information. Ask an employer what they'd like to know about an applicant, and they're likely to tell you "everything." But what does that "everything" really include? We covered a huge chunk of it in the last chapter with the options available for criminal background checks, but that's far from the full extent of background information available to an employer. In fact, the screenings available to you are far more varied than you might think, and they can cover everything from drug use to social media behavior.

Of course, not every applicant requires these screens and checks. But the more you know about your options, the

better prepared you are to make those choices when considering your new applicants. So let's find out what tools are available beyond criminal history.

Drug Testing

After criminal history, drug testing is probably the second most well-known check, and for good reason—it is often a requirement when hiring for many job roles. For instance, if your company is hiring a driver, the Department of Transportation (DOT) may require that you do drug and alcohol testing. Whether the position is for a bus driver, truck driver, or a pilot, you have to test for drugs and alcohol up front—and periodically afterward. According to the DOT, there is a minimum random drug-testing requirement of at least "50 percent of the average number of driver positions and a minimum of 10 percent for random alcohol testing per calendar year." So if you are in transportation or logistics, this is probably a test you are very familiar with.

There are similar legal requirements in manufacturing and nuclear energy, as well as most government jobs. This screening is also an extremely common part of the health-care hiring process. And it isn't a terrible idea to run it in other industries either. In any position where a person's judgment can affect the health and safety of others, it's good to know whether their judgment is being impaired by drug use. It's important to note that many states place strict restrictions on how and when an employer can test for drugs.

Although there are different methods of testing for drug abuse, the most common one is the urine specimen test. Since this test is so prominent in major industries, it has

been at risk of fraud and has had to evolve over time. In order to ensure the integrity of the results and avoid those unfortunately accurate situations that you see in the movies—such as people using someone else’s urine to avoid detection—the process generally requires the person being tested to go to a secure location to provide a urine specimen. The specimen can then go through a temperature check to make sure it isn’t an older sample or from another person. In addition, the samples are tested to make certain they are not diluted with an outside substance.

By law, if a sample tests positive, it must be reviewed by a Medical Review Officer (MRO). The MRO will generally reach out to the applicant to make sure they are not taking a legal prescription medication that could have skewed the results. In other words, the MRO checks whether the applicant has a legitimate legal need to use the drug they tested positive for.

Be sure to check whether your background check company is using these sorts of sophisticated systems so you can be confident your results have not been tampered with.

Results of tests using these techniques provide an accurate assessment of the drugs in an individual’s system. Most drug tests cover all the most commonly used drugs, including marijuana, cocaine, amphetamines, opioids, barbiturates—although, as we will discuss in chapter 5, the rules may change for marijuana.

Job-Specific Checks

Unlike drug testing, which can be used for nearly any position, some checks have to be related to the job you’re offering.

Surprisingly, this includes some of the most popular checks, such as driving history. We’ll discuss why this is job-specific in the next chapter. For now, it’s simply important to recognize that anyone who will be driving on behalf of your company should be checked using a Department of Motor Vehicles (DMV) license search. For legal reasons, restrict DMV license searches only to those employees who will be working in that capacity. In the transportation and logistics world, this is heavily regulated by the DOT, but even if you’re hiring a delivery driver, this is an important check to run.

However, it’s important to note that this check is not uniform across the country. Like the national criminal database, each state determines what and how much information it will provide to employers. Some states only provide driving history going back three years; others may offer information going back five or seven years. In addition, the state determines how long various offenses remain on a driving record.

Aside from the different limitations on driving history, though, the information you receive is similar, if not uniform. A driving history check will tell you about any DUIs, fines, tickets, suspended licenses, accidents, and points on a license that a driver has over that period of time.

Similar—but separate—a Preemployment Screening Program (PSP) crash and inspection history can be run on a commercial driver’s license as well. A further check for commercial drivers can look into whether their commercial license is valid.

The government also requires businesses in the health-care industry to run certain background checks. In particular, the Department of Health and Human Services maintains

a database of individuals who are excluded from working in the health-care space; it is called the List of Excluded Individuals/Entities (LEIE). There are additional government and state lists that should be checked as well. The reasons that individuals end up on these lists can vary widely, covering everything from fraud to drug abuse.

Now technically, you can still hire this person. However, if you do so, government programs such as Medicare and Medicaid won't work with your organization. Furthermore, if you are accepting federal funds and your company is found to have an employee who is currently on one of these lists, get ready for some heavy fines and the possibility of losing future government money. Since government money makes up a substantial amount of income for almost all medical organizations, this is a pretty effective cudgel.

Outside those fields, there's a bigger need for education verification. Perhaps you have an excellent candidate for an elite position. They say they graduated with a master's degree from Harvard with a 4.0 GPA in the exact specialization you require. A perfect fit, right? The only question is whether that claim of academic excellence holds up.

This is where education verification comes in. Through this process, you can make sure that any claims of educational achievement are true. Education verification reviews the academic credentials of any applicant, including not just whether they graduated but how they did in their classes.

Equally important is the employment verification process to check an applicant's work history to make sure they not only did work at a particular company but that they held

the position they claim with the reported responsibilities and that they left on good terms.

And then there's the credit report. This report is a common request from employers, although it doesn't necessarily provide the information they think it does. To be clear, a credit report for the purpose of employment is different from the Fair Isaac Company (FICO) score that financial institutions use when offering a loan or a mortgage. In fact, that score doesn't show up on a credit report for employment at all because, according to the government, it shouldn't have an effect on a decision to hire someone. Instead, the credit report will provide a list of debts and information on which of those debts are in default (if any). It will also show instances of bankruptcy.

Companies often run a credit report when hiring for positions that include responsibilities directly tied to money and those that will have a high level of authority, such as managers and C-level employees. For those positions, a credit report can let you know how well a potential employee has managed their own money. When that person will hold significant responsibility for financial decisions within your company, it can be reassuring to know their personal history in this area. However, as you'll see in chapter 3, there are limits placed on which applicants can have this search run on them. In particular, many states only allow running a credit report in very limited situations.

Newer Searches



We've covered a lot of ground on background checks, and amazingly, we're still not done. In fact, there are new background checks coming out all the time. For instance, in recent years, we've developed a social media background screening. This screening can be valuable for a number of reasons. To begin with, you absolutely want to know if someone you are considering hiring has made violent, extremist, racist, or sexist remarks online, because they could be a threat to your work environment in one way or another. Whether it's possible violence or a toxic culture, you want to avoid bringing in people who can cause any harm in your workplace.

However, that isn't the limit of the usefulness of this search. As the country has drifted into a very politically charged climate, it's important that you know the people who represent your company are not making comments online that could cause trouble for your organization. It isn't just politics either. You want to know if your employees are posting terrorist threats or anecdotes about getting drunk or using drugs.

This is no longer a niche consideration. Up to 90 percent of employers are now reviewing social media profiles

before hiring. Usually, these employers simply look at social media profiles themselves, but cutting out a background check company here can put you at serious risk of a lawsuit. As I will detail in the next chapter, there are legal issues you need to consider when checking someone's social media. So it's far better to let another party do the review and give you the crucial information.

Tenant Background Checks

Before we finish, it would be wrong of me not to mention tenant background checks. These aren't particularly related to employee-focused checks, but they are widely popular for anyone in the rental industry, and many background check companies get their start doing tenant checks—for better and for worse.

Most landlords these days will run a tenant credit report that provides the FICO score. Additionally, they may use an employment verification to make sure the person holds the position they claim to and has money coming in regularly to cover rent.

Increasingly, many will also run the multi-state criminal database and check the national sex offender registry. These checks have the benefit of being affordable and fast, which landlords need because they have to make decisions quickly. If they take too long, many of the best potential tenants will sign up for another property. The important thing is to make sure the applicant is not a hardcore criminal, that they have money coming in, and that they have proven themselves financially responsible in the past.

For those landlords who are inclined to go further, there are also products that allow them to find out what previous

landlords have to say about the tenant as well as a housing records search that lets the landlord know whether the potential tenant has had any eviction notices filed against them.

As with other background checks, it's important to find a balance with these products. Use too many, and the costs may become untenable. Skimp too much, and you can run into trouble when someone sneaks through the system. Each landlord has to decide how much they can afford and how much risk they are willing to take.

One of my clients, Eric, owns an apartment complex. He came to me after a very unfortunate situation in which one of his tenants discovered that her neighbor down the hall was on the sex offender registry. (Eric hadn't run a criminal search with us but, instead, had only done a credit report and a search of landlord tenant records.) If he had turned down the application before offering the apartment, he would have been fine. Once that person was a tenant, though, Eric had few legal options to remove them.

When he asked my advice on how to resolve the situation, I told him to simply offer the guy \$5,000 and pay for his move.

"You know," he responded, "that's exactly what my lawyer said."

"Of course it was," I said. "That's really the only legal option you have left."

You certainly don't want to end up in that position, whether you're looking for tenants or employees.

Why Not Run Everything?

If you want to avoid Eric's nightmare happening to your business, the obvious solution is to simply run every check

you possibly can and go as far back as you can. Unfortunately, that's not very realistic.

To begin with, the checks and screenings I've covered here are only the essentials—you can see a complete list of available background checks in Appendix 2 if you are curious. This is not an exhaustive list. There are many more background check products out there, some of which you'll learn about in the next few chapters but many that haven't been included at all because they are too niche, too expensive, or too complicated for a book on essentials.

Also, you have to consider the time and expense involved in running these checks. To use every background check product, you'd spend a decent amount for every candidate. You would also have to delay your decision on a potential hire for what could seem like an uncomfortable amount of time. And even then, there would still be some risk (less but still some) that a record would be missed.

Further, you could end up with more information than you need. Sometimes, it's possible to have too much data because the information you really should focus on can get lost in the pile. Running every check and screening may mean you miss a critical detail hiding in the middle of the multi-state background check.

Finally, the main reason you shouldn't run all of these background checks is because you usually can't—legally. While you might want to know everything about a potential hire, the government has been very clear that you are not allowed to know some things. And if you push to find that information out anyway or use anything you discover without following strict legal processes, you risk exposing your whole organization to costly lawsuits.

It's great that you now know your essential background check options, but remember, you can't simply head to a background check company and ask for everything. The next thing that is essential to know is how to make sure you're always on the right side of the law. And that is trickier than you may think.

