



# **Criminal Background Check Best Practices**

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# Overview of Criminal Background Screening

- In recent years, criminal background checks have become a vital part of the employment process, both as a means to help screen out undesirable or dangerous employees and job applicants, as well as to assist in hiring the best possible candidate.
- The ideal background check is **accurate, comprehensive, consistent, timely** and, of course, **legal**.
- Coordinating these factors is expensive and time-consuming, and the work involved differs depending on the location of the employee and where he or she has lived in the past.
- Getting the “best” background check possible is too important to the employment process to let budgetary or time constraints put limits on the process.
- Because the background screening process is not regulated, employers that do not know how to evaluate a proper screening process may end up with a report that is either inaccurate, incomplete, or both.
- Choosing a qualified partner with compliance expertise like **Coeus Global** is the single most important factor to implementation of a quality screening process.
  - **Membership in industry organizations such as NAPBS and Concerned CRA's is crucial.**



# What is a Background Check?

- A background “investigation” or “check” is, in very broad terms, an inquiry into an individual’s character, general reputation, personal characteristics, and/or mode of living.
- It may be as simple as a criminal history search or, for persons in more sensitive, high-level positions, or persons dealing with vulnerable populations, it may involve not only a check of criminal records, but also a thorough investigation of civil records, asset and bankruptcy records, credit reports, and driving records.
- Background checks also usually include the verification of professional licenses held, educational achievements, employment history, and information provided by personal and professional references.
- Finally, background checks may also include drug testing, a physical, and even psychological evaluations or assessments.
- Background check searches normally involve looking back seven years in these areas:
  - **Address History**
  - **Criminal History**
  - **Employment History**
  - **Education History**
  - **Other areas such as Motor Vehicle, Sex Offender, Anti-terrorist, Drug Screening, Professional Licensure, Federal Criminal and Civil record searches.**

# What is Included in a Criminal Background Check?

- Criminal background screening ideally encompasses all information about a person's interactions with the law that a company is entitled to consider in making employment decisions. Given limitations on record maintenance and retrieval, however, this goal is unrealistic and impractical.
- The first thing an employer must understand is that there is a significant difference between what a CRA can report versus what an employer legally can use when making employment decisions.
- CRAs can report most varieties of adverse information (including, for example, arrest records) going back seven (7) years under the FCRA, and there are no time restrictions on a CRA's reporting of criminal convictions (certain state exceptions apply).
- The restrictions on an employer considering criminal histories for employment purposes are driven primarily by state law and are much more limiting.
  - **approximately twelve states have enacted laws that specifically prohibit an employer from using an applicant's arrest record in making an employment decision.**
  - **The state law restrictions on the use of criminal history information for employment purposes are as diverse as the number of states in the Union.**
  - **As a result of these and other various restrictions, employers must endeavor to understand what information they legally can receive from a CRA and use in the states in which they operate or conduct business.**



# Why Conduct Background Checks?

- The need to hire the most qualified candidate, and the inherent risk in hiring the wrong candidate, has never been greater.
  - **Workplace crime, unethical business practices, and misleading résumés are on the rise.**
  - **The costs of fraud, embezzlement, theft and violence are a multi-billion dollar drain on our economy, bleeding organizations both large and small.**
- Negative publicity associated with negligent hiring—especially as the result of a less than thorough background check—can devastate the very foundation of a trusted organization.
- The background screening industry serves several critical functions, including:
  - **Protecting the rights of consumers.**
  - **Helping employers comply with hiring standards set by state and federal law.**
  - **Helping public and private employers avoid legal exposure for negligent hiring.**
  - **Helping ensure a safe workplace and avoid the nightmares associated with workplace violence, theft, hiring based upon fraudulent credentials, or hiring terrorists.**
    - **Playing a critical part in the homeland security effort and working on behalf of the American economy.**
  - **Helping improve both the profitability and productivity of American business by helping employers make better hiring decisions, and lowering the high cost of turnover.**



# Why Conduct Background Checks? (cont.)

Some of the most compelling reasons organizations now conduct background checks:

- Making background checking a part of an organization's culture can not only enhance its effectiveness (e.g., through greater productivity and retention), but also its reputation.
- Background checking can supplant an organization's loss prevention efforts by helping provide a safer environment for employees, volunteers, and others.
- The most common reason among employers for not conducting background checks is cost. However, the cost of background checks represents a fraction of the cost of:
  - **terminating an individual; re-recruiting, re-hiring, and re-training his or her replacement; and defending a lawsuit brought by a victim of a dishonest or violent individual's actions (which can range in the multi-millions of dollars).**
  - **Additionally, background checks may:**
    - **uncover a history of fraud or theft, and many organizations—especially retail companies—experience very high levels of employee theft.**
    - **The cost of conducting background checks is a fraction of the amount lost to employee theft.**
      - **While these costs and damages may be recovered through an organization's insurance, the cost of a lost reputation is irreplaceable.**
- A background check may uncover deception. It can affirm an individual's professional or personal integrity by confirming that an individual told the truth on his/her résumé or application regarding criminal, employment and education history.
- In some organizations and industries some form of background checking is often required—whether because it is mandated by law, or because an insurance company demands it.



# Obstacles to the Screening Process

- Thorough screening cannot be done without reliable and timely access to public records—particularly records containing criminal history information.
- There are many restrictions on the collection and confirmation of information that deter employers from performing their due diligence, and delay the employment process—hurting both employers and consumers.
- Restrictions have included such practices as:
  - **Deleting dates of birth and SSN numbers from files and public indices.**
    - **Dates of birth and SSN numbers are the primary identification used to confirm that a record belongs to a particular individual.**
    - **Masking a date of birth does not promote privacy or consumer protection, but it does delay employment decisions.**
    - **Other government restrictions and impediments that serve to hurt employers and candidates are delays in providing access to public records, or excessive court fees.**
- It is critical for employers, legislators, the courts, and public officials to understand that background screening companies are not in the same category as data miners and other entities that are “data profiteers.”
- The bottom line is that unreasonable restrictions on the ability of screening firms to access public records on behalf of employers only benefit criminals, terrorists and cheaters. The restrictions are detrimental to employers, employees, and honest candidates.

# Legal Issues: Negligent Hiring and the The Fair Credit Reporting Act (FCRA)

- The rise in the screening industry, and particularly the use of criminal background checks to pre-screen job candidates, tenants, vendors and volunteers, stems in large part from the growth of claims alleging that an employer, organization or association can be negligent for hiring or retaining an individual who subsequently engages in violence.
- The advent of the theory of negligent hiring (and negligent retention) greatly increased an organization's exposure for large damage awards, making the use of background checks not only a means to prevent violence, but also a defense to liability should violence occur.
- Reacting to a proliferation of background information requests, Congress enacted the Fair Credit Reporting Act (FCRA). Its provisions protect the privacy rights of individuals (referred to as "consumers") who were the subjects of background checks (referred to as "consumer reports") supplied by third party businesses that compile such information (referred as "consumer reporting agencies" or "CRAs").
  - **The FCRA sets the standards of privacy and consumer protection, and thus controls many of the operations of background screening firms.**
  - **The FCRA also requires that information from CRAs be provided only for a permissible purpose to users who will respect the private and confidential nature of such information.**



# Legal Issues: Negligent Hiring and the Fair Credit Reporting Act (FCRA) (cont.)

- The FCRA recognizes two different types of reports—“consumer reports” and “investigative consumer reports”
  - **Consumer reports are communications from a CRA that bear upon a consumer’s credit worthiness, character, general reputation, personal characteristics, or mode of living.**
  - **Investigative consumer reports go one step further than consumer reports, in that they include personal interviews with such as neighbors, friends or associates of the person being investigated.**
- The FCRA requires that employers who use CRAs to gather background information to first notify the individual that a consumer report may be obtained, and get the individual’s permission to obtain the report.
- If any adverse action is taken based in whole or in part upon the report (e.g., to not hire, or not promote), the employer has to comply with a two-step process of:
  - **Pre-adverse Action Notification**
  - **Adverse Action Notification**
- The FCRA also imposes significant accuracy and reinvestigation requirements on CRAs to ensure that the information provided is as accurate as possible.
- The FCRA also requires that information from CRAs be provided only for a permissible purpose to users who will respect the private and confidential nature of such information.



# How to Access Criminal Background Information Under the FCRA

- Criminal background information reported by a Consumer Reporting Agency (CRA) is a consumer report governed by the FCRA.
  - **each consumer reporting agency is required to maintain “reasonable procedures” to assure “maximum possible accuracy” of the information contained in consumer reports.**
- Employers utilizing consumer reports for employment purposes such as background checks must adhere to a number of legal requirements before they can obtain or use a criminal background check on an employee or job applicant.
- The first steps concern giving notice and getting authorization to obtain the report.
- Prior to obtaining a consumer report, the employer must make a clear and conspicuous written disclosure to the applicant or employee that a consumer report may be obtained.
- This disclosure must consist of a separate document (*e.g., the disclosure cannot be incorporated into an employment application*).
- If any adverse action will be taken based in whole or in part upon the consumer report, the employer must comply with a two-step process notifying the applicant/employee of the adverse action.

# Adverse Action

- An “**adverse action**” is defined as a denial of employment or any other decision that adversely impacts any current or prospective employee (*e.g., termination, denial of promotion, failure to hire, etc.*).
- Before an employer takes any adverse action, it must provide the applicant or employee with a copy of the consumer report obtained from the CRA, and a summary of the consumer’s rights under the Act (Pre-adverse action).
- After providing these documents, the employer must wait before providing the actual notice of the adverse action (5 day period recommended by the FTC).
- After the waiting period and upon taking the adverse action, the employer must provide to the applicant or employee the following notices:
  - **notice of the adverse action taken;**
  - **the name, address, and toll-free telephone number of the consumer reporting agency that furnished the consumer report;**
  - **a statement that the CRA did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken;**
  - **notice of the consumer’s right to obtain a free copy of the consumer report from the CRA within 60 days; and notice of the consumer’s right to dispute the accuracy or completeness of any information in the consumer report furnished by the CRA.**



# Identifiers and Sources of Criminal History Information

- A comprehensive criminal history check involves accessing numerous sources of information.
- A search for criminal records contains several distinct parts:
  - **source(s) of the records**
  - **types of records available**
  - **method of retrieval**
  - **identifiers used to locate a subject.**
    - **Social Security Number (SSN)**
    - **Date of Birth (DOB)**
    - **Drivers License Number (MVR)**
    - **Address history (current included)**
    - **Full , Maiden and Aliases of subject (including middle name)**
- The types of records available and method of retrieving data varies depending on the source of the criminal records
  - **County Courthouse “Hands-on” record searches**
  - **National Database repositories**
  - **Statewide Database repositories**



# Strategies for Searching

- There are a couple of strategies that end users should employ to insure that the criminal background checks they order and purchase are as complete, accurate and thorough as possible.
  - **Notice: Employers must give notice to and obtain authorization from the individual as required by the FCRA and state laws.**
  - **Where to Search: A comprehensive background search will include a search for records in several different locations, as described on the previous slide.**
    - **State repositories and several large proprietary databases can be used as pointers for the more specific and complete local searches.**
  - **How to Handle Incomplete Records: Due to the limitations inherent in the system, it is possible or even likely that some of the records received from various sources will be incomplete and/or inaccurate.**
    - **Under the federal law as construed by the FTC, an employer intending to take adverse action on the basis of a consumer report must give the individual an opportunity to come forward with additional information about the report including, potentially, that it is incomplete or inaccurate.**
    - **This is where the concept of Adverse Action comes into play allowing for the pre-adverse component to offer a chance for the applicant to file a dispute directly with the CRA.**



# About



Coeus Global is a national background screening firm that prides itself on unparalleled service and performance. We are committed to providing unbiased advice and prudent strategies that will streamline your screening process.

Our services are always tailored to your unique needs. We provide secure, cost effective, web based solutions utilizing the latest in screening technologies. Our client focused approach allows us to serve you without compromise.

We work closely with each client to provide best in industry solutions custom designed to provide you with a best in class screening process.

**Common sense solutions to complex needs is our promise.....  
.....our reward is satisfied clients!**

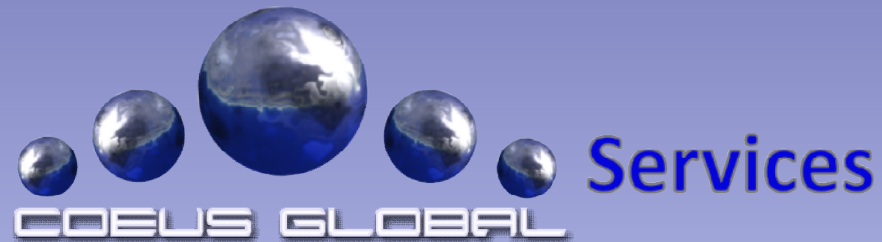


# Why Choose



- **NATIONWIDE DATA AVAILABILITY**
- **FASTEST TURN AROUND TIME**
- **NATIONAL DISCOUNT PRICING**
- **UNSURPASSED SECURITY MODEL**
- **INDUSTRY EXPERTISE**
- **UNPARRALLELED ACCURACY**
- **CUSTOMIZED SCREENING SOLUTIONS**
- **OPTIMIZED SCREENING TECHNOLOGY**
- **COMPLIANCE EXPERTISE**
- **ENHANCED RISK MANAGEMENT FEATURES**





### **Background Screening Search Types**

- County Criminal Searches
- National Criminal History Database
- Statewide Criminal Searches
- National Sex Offender Search
- Federal Criminal Search
- Social Security Trace Search
- Motor Vehicle Searches
- OIG/GSA Searches
- Patriot Act PRO Search
- Employment Verification
- Education Verification
- Personal Reference Verification
- Professional Reference Verification
- I-9 Verification
- Court Document Retrieval

### **Occupational Health Services**

#### **Drug Screening**

- Nationwide Collection Network
- Paperless Chain of Custody (C.O.C.)
- Urine Based 5 & 10 Panel Drug Screening
- Oral Fluid Based Drug Screening
- Medical Review Officer (MRO) Services
- Random testing and D.O.T. Programs


#### **Nationwide Workplace Physicals**

- Scheduled Event Tracking
- Thousands of Nationwide Providers
- Consolidated Physical and Drug Test Results
- Web-based 24/7 Access
- Secure Confidential Results

#### **Corporate Tax Incentives**

- Enterprise Zone, Work Opportunity, Federal Zone





# Industries

## Industries we specialize in

<b>Employment Screening</b>	<p>Improve recruiting efforts            Reduce negligent hiring  <u>Fully FCRA compliant</u>            Low cost &amp; fast turnaround</p>
<b>College Clinical Placement Screening</b>	<p>Student, School or Hospital Pay Options            Meets all Joint Commission requirements            Flexible package options            In depth admin functions</p>
<b>Healthcare Screening</b>	<p>Joint Commission/HFPA Compliant            Full licensure verification  <u>Fully FCRA compliant</u>            Unmatched accuracy and ROI</p>
<b>Volunteer &amp; Nonprofit Screening</b>	<p>Enhanced risk management features            Organization or volunteer pay options            Protect vulnerable populations  <u>Ten Step Volunteer Screening Process</u></p>
<b>Wholesale Data Division</b>	<p>If you are a screening firm or software provider looking for the lowest cost data with the fastest turnaround time contact us to discuss available options</p>



# Conclusion

- Criminal background screening for employment purposes should not be undertaken lightly.
- As valuable as it has proven to be, background screening is a process that implicates a broad variety of privacy and safety concerns that people hold very dear.
- Employers who seek criminal history information want to be able to make informed decisions about whether an individual will contribute to a safe and productive workplace or potentially will cause some harm to person or property if employed.
- This decision cannot be fully informed until employers appreciate the scope of what it means to conduct a criminal background check.
  - including understanding how to do so legally,
  - what sources of information are reliable,
  - and what to do when the accuracy and/or completeness of information is called into question.

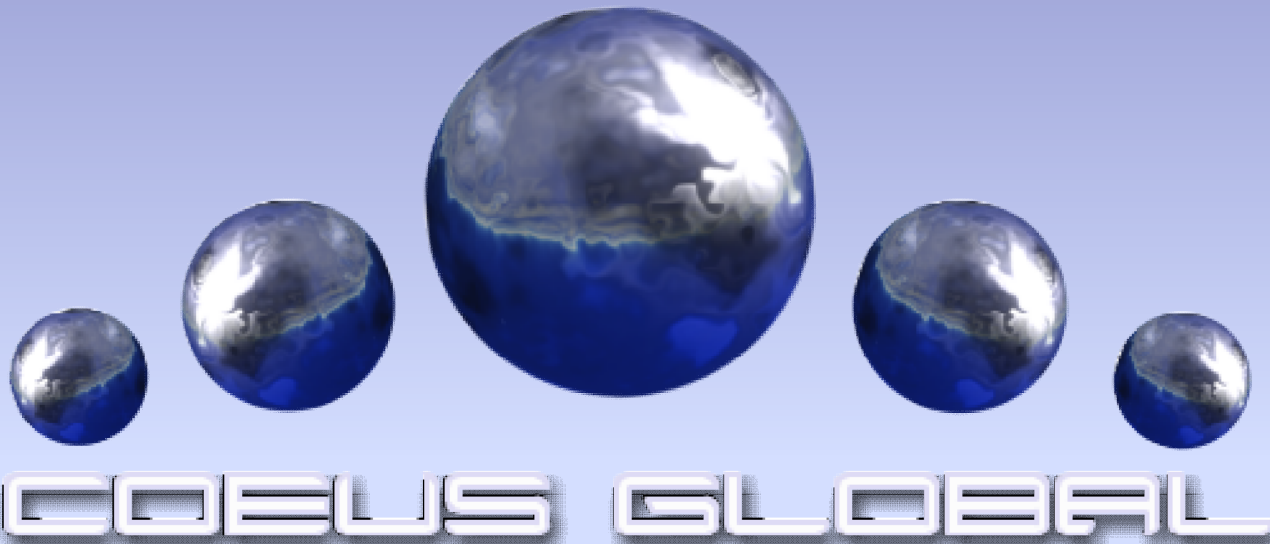
**Coeus Global** has the expertise, experience and resources to help reduce your exposure to negligent hiring and discrimination suits and can assist you in implementing a “Best in Class” background screening solution.

**We've worked with a diverse customer base.**

**How can we help you?**



# Thank You!



Your Titan of Screening Intelligence

## We look forward to partnering with you.

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