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Source: U.S. Department of Labor.

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Publications: (all publications can be downloaded from Preeploymentdirectory.com)

- The Background Buzz (the leading online news source for professional background screeners)
- The Global Background Screener (the international news source for professional background screeners.)
- Background Screening Best Practices: Insights from Accredited Background Screening Firms
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## BEST PRACTICES FOR SELECTING THE RIGHT BACKGROUND SCREENING PROVIDER FOR YOUR COMPANY

The background checking issues that are getting the most press at this time are class action law suits related to FCRA violations, Ban-the-Box laws and legalized marijuana. Interesting enough while these subjects may be the darlings of the media, the consumers of background checks are saying that the important issues to them are a bit different:

We recently completed a survey of employer’s background screening practices and preferences at the SHRM Talent Management Conference and our first question was – What are the leading challenges that you are experiencing with your current background screening service provider that you would like to see corrected or changed? The number one response to this question was ‘timeliness of service.’

Two other surveys corroborate the results reported in our survey.

SterlingBackcheck’s 2016 Trends and Best Practices Survey showed that users of background checks were most concerned about, turnaround time. The majority of employers (51%) believe background checks take too long. Consistent with their focus on reducing time-to-hire, they are all about getting new hires in the door quickly without compromising quality or diligence.

HireRights’ 2016 Employment Screening Benchmark Report listed the following as the top challenges:

- Reducing time-to-hire
- Improving screening efficiency
- Ensuring a better candidate experience

Given that background screening has become an integral part of the selection process for most organizations the focus on ‘reducing time-to-hire’ will put pressure on background screening providers to shorten the timeframe for conducting background checks. The need for speed may be the new frontier for advances in background screening. The result of our survey support this with innovations they are seeking of background screening as well as increasing the use of expedite processing time and

**“The need for speed may be the new frontier for advances in background screening.”**

respondents stating that the deal with better integration processes with HRIS and ATS mobile devices (which will help communications).



One of the champions of having an efficient and quick hiring process is John Sullivan, a widely recognized HR guru and employment expert who has written extensively about establishing “one day hiring” for high demand, low supply candidates. He discusses the process for setting up a ‘one day hiring’ program, cites examples of companies that have used this type process and emphasizes that the process maintains a high standard for conducting due diligence on candidates. Much of this is accomplished by flipping the traditional process and doing the vetting of the candidate prior to the interview. While this is far from the norm, I believe it is foretelling of things to come and that more employers are going to be streamlining their hiring process to make quick hires, and will be expecting background screening firms to not be a bottleneck in the process.

So what does all of this have to do with selecting a background screening provider?

I believe the message is clear. The selectors of background screening firms need to focus their attention on providers that have highly efficient and quality assured processes in place since these are the backbone for providing fast delivery. Integral to these processes is having the right information technology tools.

The background screening industry may be at the precipice of moving from being viewed as a commodity where the cheapest price is the driver of selection to now where the fastest deliverer of service is viewed as the prize.

Even with speed becoming a critical item employers must remember that the landscape for background screening continues to evolve which means the importance of selecting a forwarding thinking, technology savvy, compliance driven and agile background screening partner is essential.

**“The background screening industry may be at the precipice of moving from being viewed as a commodity where the cheapest price is the driver of selection to now where the fastest deliverer of service is viewed as the prize.”**

The purpose of this article is to increase your knowledge about the selection criteria that you should use to choose a background screening firm to partner with you in your quest to select the best talent and to avoid making bad hires. Our focus is to help organizations select providers that have the appropriate processes, practices and procedures in place to ensure that the accuracy of information provided is as high as possible and delivered fast.

In general, this means service providers that are:

- Complying with applicable governing laws at the federal, state and local level;
- Using business practices based on industry standards (many of these are depicted in the accreditation standards established by the National Association of Professional Background Screeners (NAPBS®);
- Demonstrating excellence in protecting consumer personal data based on industry ‘best practices’
- Using certified quality processes

The following are the best practices that we have identified which will help you to select a top notch background screening firm to help you meet your hiring needs.

I. Identify the Services that you need and match this against the Providers Demonstrated Service Capabilities:

1. Does the vendor provide ‘Full Service’ background screening services that will meet your business and hiring needs and include the following?
  - Identity verification, social security trace, fingerprint, etc.;
  - Federal, state, county and multi-jurisdictions (national) criminal and civil background checks, including misdemeanors, warrants and felonies, when permitted.



(Currently no one database exists that stores complete up-to-date records for all federal, county, state and local criminal records including the FBI's Interstate Identification System);

- Education, professional license and credential verifications;
- Motor vehicle records;
- Employment verifications and reference checks;
- Sexual offender searches;
- Terrorist watch lists;
- Credit history, within legal guidelines;
- Electronic form I-9 services; and
- Federal and state litigation history.

2. Does the vendor have the capability to collect information directly from courthouses in jurisdictions appropriate to meet your needs?
3. Can the vendor meet your required turnaround time for each type of background check you require? What is their average turnaround time? How is turnaround time measured?
4. Does the vendor use a variety of methods for meeting your request and reporting needs, including Internet based tools with 24/7 access from a computer and any mobile device at anytime from anywhere as well as fax, e-mail, interactive voice response, and a secure electronic file transfer?
5. When providing an educational verification, does the vendor verify the legitimacy of the institution as a degree granting entity, that the institution is accredited by a legitimate accreditation organization and for foreign institutions provide equivalency information to U.S. institutions?
6. Verify that the vendor is certified in states that require background screening firms to be certified or require a private investigator license.
7. Does the vendor have a clearly demonstrated process in place to fully explain limitations of national or multi-jurisdictional databases to clients and have a written procedure in place for how criminal hits received from such sources will be re-verified?
8. Does the vendor maintain records regarding how often their databases are updated and make this information available to clients upon request?
9. Will the vendor assist you in developing an effective Background Screening Policy, if needed, or if one already exists, will they review your policy and make recommendations for improvements?
10. Does the provider give you projected hit rates (what you can expect) based on your industry, nature of the jobs you recruit for and geographic scope of your recruiting for the following categories:
  - Criminal background;
  - Dispute rate (discrepancy with reported information); and
  - Resume verification discrepancy rate.
11. Ask the provider to describe how their company responds to candidate disputes and their problem escalation process. Also ask what percentage of the applicants they screen file a formal dispute claim?
12. Ask the provider about the steps that they take to ensure accuracy of the information they report.
13. Ask if the same record is reported from multiple sources, how many times it is noted on the report.

**“The FCRA requires background screening firms to provide the maximum possible accuracy in information so make sure you evaluate how a provider goes about ensuring they are meeting this requirement.”**

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## II. Legal Compliance

1. Require the vendor to certify their compliance with all applicable federal, state and local discrimination, consumer reporting, privacy protection, data destruction and other governing laws.
2. Verify that the vendor has written procedures in place to ensure that all information sent to the client will comply with the law, e.g., arrest records, sealed or expunged records, etc. In addition, does the vendor provide all necessary FCRA forms, procedures and training in how to appropriately use, as needed?
3. Does the vendor have an established process in place to monitor and ensure that all 'data furnishers' as defined by FCRA/FACTA, that supply them information about individuals have instituted reasonable policies and procedures that (a) ensure the accuracy and integrity of furnished information and (b) allow individuals to formally dispute the accuracy of certain information that has been provided about them?
4. Does the vendor certify that their employees and sub-contractors who have access to personally identifiable information, sign a confidentiality and non-disclosure agreement that meets your company's requirements? This should include language that addresses new hires and employees leaving the firm. Have your legal counsel review the agreements.
5. Does the vendor have a written policy and procedure that clearly articulates the process to be used when an adverse criminal record is discovered that complies with the FCRA? At minimum, this should include their process for re-verifying the information and/or notifying the applicant at the time the information is reported as required by law.
6. Does the vendor have a written policy that details how they investigate and certify that all of their sub-contractors are bona fide businesses involved in the legitimate processing of personally identifiable information for a permissible purpose as defined by the FCRA?
7. Does the vendor's policy state that consumer reports will only be issued after a client certifies it will comply with the FCRA and applicable federal and state laws? Also, does the policy affirm that access to personally identifiable information will only be provided to an authorized representative of your firm as prescribed by the FCRA?
8. Ask the vendor if they update you on changes in legal requirements at the local, state and federal level.
9. Check to see if the vendor can provide guidance regarding 'Relevance Screening' (identifies the convictions

to consider based on job criteria) to ensure compliance with EEOC and OFCCP Guidelines or has a matrix that maps relevance.

10. Ask if the firm has been held liable for their business practices or are currently facing any active claims?
11. If your firm will be conducting background checks on applicants who have lived, studied or worked in another country, verify that the vendor complies with current employment and data protection laws in the respective countries and is knowledgeable about the Privacy Shield certification process proposed to replace Safe Harbor certified by the U.S. Department of Commerce. (Also check the International Resource Center at [PreemploymentDirectory.com](http://PreemploymentDirectory.com) for additional information.)

### **III. Policies and Procedures**

1. Does the vendor certify that all staff, regular, part-time and temporary, have been criminally screened at time of hire and ongoing checks are made to ensure employees continue to have acceptable work histories? This should be a contractual agreement that is part of the service delivery contract.
2. Does the vendor have a written policy and procedure in place to avoid contacting a current employer if the applicant has requested that they not do so?
3. Review the vendor's policy regarding making employment verification calls to verify the number of times the vendor will attempt before closing the search and ensure this meets with your requirements.

### **IV. Information Technology and Systems**

1. Does the vendor have the capability to interface and/or integrate their screening solution with your HRIS and/or Applicant Tracking System (ATS) to allow information to seamlessly flow in and out of your organization's HR system in a secure manner?
2. With great advances in smart programming systems, predetermined hiring criteria can be programmed into a system so each report on an applicant is graded consistently and fairly. Using rules that apply to the various searches conducted during background screening, a system can electronically evaluate all the information to yield individual search decisions, as well as an overall recommendation. Does the vendor have this ability to help you create a 'smart' system?

Sounds like a great idea! If you choose to set up this type of process, you need to exercise great caution to ensure that your system does not simply identify 'pass/hire' or 'fail/no hire' decisions. Otherwise, with the new EEOC Guidance on the use of criminal records in background screening you will likely put yourself on a collision course with the EEOC if convictions result in automatic denial.

The new guidance recommends tailoring screening procedures to ensure that they are job related and consistent with business necessities; these procedures should include an individualized assessment that considers the following:

- Identifying essential job requirements and the actual circumstances under which the job will be performed;
- Determining the specific offenses that may demonstrate unfitness for performing the jobs; and
- Determining the duration of exclusions for criminal conduct based on all available evidence.

Remember all selection criteria used must be job related and have business justification. Ideally, the criteria should be included in a job description and reviewed by your labor attorney.

### **V. Training and Client Onboarding**

1. Does the vendor have a documented training process in place for all staff that will be involved in processing or will have access to personally identifiable information? This training should be offered at the time of hire and on an on-going scheduled basis to ensure competency levels are maintained. Training should, at minimum, cover:
  - Legal requirements for conducting background screening;
  - Effective data protection and privacy to ensure security of information; and
  - The essential elements of a background screening policy and key elements of an effective employment background screening program.

2. The vendor should also be required to provide periodic reports that demonstrate that the training is occurring as scheduled.
3. Ask the vendor to describe their process for implementing the transition to their services. Many firms have specialist that will guide you through the process.
4. Does the vendor have procedures and processes in place to advise, train and educate clients regarding:
  - Their legal responsibilities in conducting background checks;
  - How to order, retrieve, read and understand the information provided in a consumer report; and
  - Appropriate forms including providing sample documents, which are needed to legally conduct background checks.

## **VI. Data Protection, Privacy and Security Measures**

1. Does the vendor have a written Information Security Policy that adheres to known best practices and provides a high level of data protection? Ensure that the vendor policy addresses at minimum the following:
  - Details the purpose of the collection of an applicant or employee's personally identifiable information;
  - The intended use and how the information will be shared, stored and destroyed;
  - Creates an audit trail of who has accessed information and has a procedure in place to detect, investigate and respond to intrusions; and
  - Have procedures in place to mask some or all of the social security number from all reports, as well as obscure the year of birth.
2. Have your Information Technology staff verify that the vendor and any sub-contractors that are involved with processing personally identifiable information:
  - Have system security in place that fully meets your data security requirements and meets background industry standards; and
  - Have procedures in place to mask some or all of the social security number from all reports, as well as obscure the year of birth.
3. Have your Information Technology staff closely scrutinize data security processes for communicating and securing data. This is especially important if the firm utilizes independent contractors or home operators for court records research, verification services or sends data offshore for processing. In addition, if such practices are used by the vendor you should have your Legal Counsel define contractual language to be included in the vendor's agreement with their contractors that addresses:
  - The appropriate type and amount of Errors & Omissions insurance coverage that needs to be in force with your firm named as co-beneficiary;
  - The contractors and their employees are held to the same requirements and standards as the vendor's employees;
  - Specific procedures exist to ensure your data is protected; and
  - All data protection laws are strictly followed.
4. Your security staff should verify that the vendor and any sub-contractors that process personally identifiable information meet your physical security requirements for securing their systems and meets background screening industry standards.
5. Verify that a written policy exists that states that an applicant's personally identifiable information or client information is never resold. Make sure this language is built into your contractual agreement.
6. Require the vendor to either provide periodic reports verifying data protection procedures are being followed



or to allow their processes to be audited. An emerging practice is the use of the Service Organization Control (SOC) 2 Report that is performed in accordance with American Institute of CPAs standards. (A report on management's description of a service organization's system and the suitability of the design and operating effectiveness of controls.)

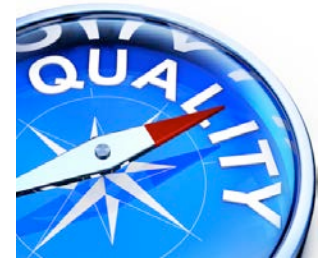
7. Verify that the vendor has a Record Retention and Destruction policy that clearly defines how electronic and papers records will be destroyed and fully complies with Federal Trade Commission (FTC) regulations.
8. Review the providers data breach policy to ensure it matches your requirements.
9. Review the company's disaster recovery plan to ensure it meets your company requirements.

## **VII. Order Management and Notification**

1. Does the provider have an Account Management focus that provides continuity of support, assign someone to your company that you regularly deal with to gain familiarity with your company's policies and ways of conducting business?
2. Ask vendor to explain their capabilities to support centralized management of orders from many locations or conversely, their capabilities to support multiple locations with different policies based on your needs.
3. Ask vendor to describe their capabilities to provide batch ordering services, if needed.
4. Ask them for a sample of the report format and are they willing to customize to meet your needs.

## **VIII. Quality Assurance**

1. Does the vendor have a documented quality assurance policy and on-going process in place to ensure the highest report accuracy is maintained?
2. Ask the vendor if their processes have been audited by a certified external organization and the frequency that audits occur.
3. Ask the vendor about anti-fraud steps they take to mitigate the risk created by diploma mills, fake resume firms, bogus references, etc.



## **IX. Financial and Pricing**

1. Has the vendor demonstrated financial stability over the last three years? Have your Controller or CPA review.
2. Does the vendor have Errors & Omissions insurance or self-insurance that meets your company requirements?
3. Require the vendor to fully disclose previous litigation within the last five years and any that occurs while the contract is in place. Make sure this language is built into your contractual agreement.
4. You need to do a thorough examination of the cost associated with conducting the different type background checks, checking alias, scope of the checks, e.g., federal, state, county, number of years that will be checked, number of follow up attempts, etc. You should also carefully review the providers' policies that govern pricing. It will be wise to have a person knowledge of background screening to provide input on the providers' pricing.

## **X. Making Sense of the Answers**

The starting point for making sense of the answers to all of these questions is to be very clear about your job requirements which include identifying the level of risk associated with performing the duties of the position and the specific skills, knowledge, behaviors, traits and experiences that are required to be successful. A well written job description is the road map to success in hiring the right person, presuming that it is used to guide the process.

There should be a clear nexus between the stated risk level and specific skills, knowledge, behaviors, traits and experiences, requirements in the job description and the type and scope of background check that should be performed.

With this thought in mind, the challenge is to balance the ten factors and the answers to the questions to arrive at a conclusion in order to select a background screening firm that best fits your needs. One of the ways we suggest to firms to balance the selection decision is to assign an importance weight to each of the factors. This will allow you to score providers and make consistent comparisons. The key to this approach is getting the importance rating right so that it properly guides your selection process. This is a decision that has strategic importance to the organization's talent management strategy and accordingly, it should have the input of senior stakeholders.

This approach will also help to reduce the subjectivity that can creep into the process. For example, the firm that has the slickest and most dazzling presentation may make a great impression, but may not have the same strength of services that a less impressive presenting firm has. The driving force behind the selection has to be matching your requirements as identified in the importance ratings and the strengths of a given provider.

Another action that we strongly encourage organizations to include as part of their selection process is to meet the team of people that they will actually be working with; the people that will deliver services to them on a day to day basis. During your site visit, ask for a meeting with the service delivery personnel that will be providing services to your account. This is where the synergy between the provider and your organization must be a great fit, not just with the Executives and Marketing/Sales team.

**“There should be a clear nexus between the stated risk level and specific skills, knowledge, behaviors, traits and experiences requirements, and the type and scope of background check that should be performed.”**

Finally, we suggest that you ask for a set of test searches before you make a commitment so you can actually experience the providers service firsthand.

## **Conclusion**

A background screening company is an important business partner which your organizations should rely on to help you mitigate many of the risk associated with hiring people and to hire the right people.

We have presented many of the essential factors that should be considered to be sure you make an informed decision when selecting a background screening firm. In addition to our selection guide, we suggest you review the National Association for Professional Background Screeners (NAPBS®) Model Request for Proposal, which includes the key questions businesses should be concerned about when selecting a background screening firm (see [www.NAPBS.com](http://www.NAPBS.com)). In addition, the following emerging issues, tools and information should be considered:

The passage of medical marijuana laws in 24 states and the District of Columbia and approval of legal recreational use of marijuana by adults in Colorado, Washington, Alaska, Oregon, and the District of Columbia is causing the need for firms to re-examine drug screening policies. In addition, the SAMSHA National Survey on Drug Use and Health reported that “for 2008-2013, an annual average of 8.7% of full time workers in the 18-64 age range used alcohol heavily and 8.6% used illicit drugs in the past month[of the survey], and 9.5% were dependent on or abused alcohol or illicit drugs in the past year.

One practice that continues to grow is Infinity Screening™ (see the article on page 13) which has great promise to help mitigate hiring risk beyond the identification of potential problem at the prehire stage. Infinity Screening™ will continue to grow as employers recognize it is a valuable tool to manage and mitigate risk over the life cycle of employment, and emerging technologies make it easy to perform.

According to the Association of Certified Fraud Examiners (ACFE) roughly 11% of the background checks conducted by firms that encountered fraud did uncover at least one red flag (e.g., prior criminal activity, employment issues, or financial problems) regarding the applicant—meaning that the organizations who hired these individuals knew or should have known about potential issues but hired the person anyway. In more than 91% of cases, at least one behavioral red flag was identified prior to detection, and in 57% of cases two or more red flags were seen.

Nationwide, over 100 cities and counties have adopted a form of "ban the box" and as of April 2016, 23 states representing nearly every region of the country has implemented a legal policy. In addition, President Obama via Executive Order has directed federal agencies to "ban the box" in their hiring decisions and the Fair Chance Act (S. 2021) which would ban federal agencies and federal contractors from asking job applicants to disclose criminal histories before making conditional job offers has received bipartisan report.

The level of screening of contingent workers continues to grow, however, there is still a gap which leaves organizations vulnerable.

Social media tools will continue to impact employment screening as the search engines and sites like LinkedIn, Facebook and Twitter continue to attract business users. We believe that managers everywhere are using these tools to check out applicants on their own despite official company policies to the contrary. The challenge for businesses is to find a way to harness these new social media tools to maximize their benefit and minimize the risk.

Global screening continues to grow as more firms operate at a multi-national level and recruiting across country borders is becoming commonplace. In 2014, the U.S. Department of Labor indicated that there were 25.7 million foreign born workers in the U.S. labor force or 16.5% in total. Couple this with a report by KPMG that showed that 70% of American executives indicated intentions to expand their international employee base, the ground work for increasing global checks has been laid.

Any future plans dealing with selecting a background screening firm should consider these emerging issues. We hope this information is valuable in helping you to select a background screening firm and encourage you to contact us with any questions.



**About the Author:**

W. Barry Nixon, SPHR, is the COO, PreemploymentDirectory.com, the leading online background screening information portal. He is the co-author of 'Background Screening & Investigations: Managing Hiring Risk from the HR and Security Perspective.' The firm publishes the leading e-magazine for professional background screeners, *The Background Buzz*, the only international focused e-magazine, *The Global Background Screener*, both of which are award winning publications. Barry can be contacted at [wbnixon@preemploymentdirectory.com](mailto:wbnixon@preemploymentdirectory.com) or directly at 1(949) 770-5264.

**Disclaimer:** Any use of the recommendations included in this article should be done under the auspices of a knowledgeable labor attorney and/or expert consultant with specialized knowledge of background screening. There is no intent to provide legal advice in any form.

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# **ARE YOU PERFORMING BACKGROUND CHECKS OR BACKGROUND INVESTIGATIONS?**

## **The Difference is Critical to the Success of Your Business**

*By: Kevin Prendergast, President and General Counsel*

The candidate's credentials were outstanding. Undergraduate and graduate degrees from a prestigious university. He presented an exceptional work history with long-term management positions at two Fortune 500 companies. He had a clear criminal record in the area where he lived for over twenty years. There was just one problem. It was all a lie.

The candidate had applied to become the VP of IT Security at our client, a prestigious professional service firm. He was offered the position contingent on a successful background investigation. He interviewed well and the hiring managers liked everything about him. He was brought on board to fill a critical need before the background investigation was complete. The hiring turned out to be a mistake.

In this article, we will discuss the important difference between a background "check" and a background investigation. The true case of the IT candidate mentioned above will be used to illustrate the importance of going beyond a superficial inquiry when screening employees, especially those applying for key positions within your organization. The example discussed throughout this article is not an anomaly. The concerns raised by this one case are issues my firm sees every day as candidates lie and embellish their credentials to obtain positions for which they are unqualified. Unfortunately, for many employers performing superficial background checks, the concerns would never have been uncovered by a basic background check and often lie dormant until a serious issue arises post-hire.

### **The Cost of a Bad Hire**

The U.S. Chamber of Commerce estimates that theft by employees costs American companies \$20 billion to \$40 billion a year. The chamber also reports that an employee is 15 times more likely than a nonemployee to steal from an employer. Most of the perpetrators of these crimes against employers did not have a previous criminal record. Yet many employers believe a cheap and quick criminal background check is sufficient to combat employee theft. Unfortunately, they are relying upon information that is minimally predictive of the conduct they seek to curtail.

In addition to relying upon the wrong information, employers often get wooed into a false sense of security since the majority of candidates have clear criminal histories. Since the vast majority of criminal background checks come back clear, some employers fall into the trap of believing that candidate vetting is little more than a formality that can be accomplished with some quick database searches and a basic criminal background check. For the professional service firm discussed earlier in this article, their clear rate was at 98%. But they realize that background screening is not about clearing the 98%. It is about avoiding the 2% that can wreak havoc in your organization. And those 2% of candidates are capable of some incredible deception.

In over 50 years of conducting background investigations, my firm has found that deception can take many forms. It may provide some comfort to know your candidate has a clear criminal record. But it is equally important to determine whether a candidate has falsified their education or employment history. This will help ensure both their professional qualifications and their integrity. Avoiding employee theft and criminal behavior are important objectives to a background screening program. But equally important is ensuring that the individual possesses the requisite skills and qualifications to do the job they are hired to perform. Unqualified and incompetent employees cost employers dearly since those employees rarely work out, can damage a client relationship and require significant resources to fix the problems they cause.

A recent study indicates that a problem employee will cost his or her employer 125% of their annual salary. This figure includes: (1) amounts paid to the employee for salary and benefits; (2) recruiting and training costs; (3) management time dealing with "the problem;" and (4) termination costs and replacement expenses. Assuming one in every 20 job applicants is ill-qualified, consider this example of the potential ROI of a comprehensive background screening program:

#### **Administrative Employee.**

- \$28,000 Annual Salary.
- 125% of Salary= \$35,000
- Cost of comprehensive BI \$350

#### **Professional Employee**

- \$80,000 Annual Salary.
- 125% of Salary= \$100,000
- Cost of Comprehensive BI \$500

A comprehensive background investigation will go well-beyond a database check or mere criminal history search. An in-depth background investigation will verify the applicant's educational credentials, employment history, professional licenses and other pertinent information. But obtaining that information is just the start. Unlike a background check, a true investigation will not only obtain this data, it will dig into conflicting and discrepant findings and take the extra steps to uncover the truth. As illustrated above, the cost for these in-depth searches are typically one percent or less of the cost of one bad hire.

#### **The Cell Phone Deception**

Mobile phones have become an indispensable tool for both personal and business life. They are also an instrument for deception. An investigator can never assume that the party on the other end of a cell phone call is legitimate.

Our IT candidate discussed above had provided two employment references from his previous employers and their cell phone numbers. The references confirmed his management-level titles, dates of employment and provided glowing remarks about his job performance. However, the official company records did not confirm either employment.

When confronted with this discrepancy, the candidate pushed back. He claimed that the HR records were incorrect. He produced real-looking payroll records and an offer letter from each company. The hiring manager was satisfied. The HR professionals were not. Our investigator dug deeper.

The profiles for the two references and the job candidate were accessed through an on-line source. The employment history on the references' profiles did not show that they had worked with the applicant at the companies where employment was claimed. Rather, the three had worked together at a start-up company a few years earlier. Employment records were also negative for the references at the firms where they claimed to work. Neither of the references nor the applicant had ever worked at the firms.

Accepting cell phone verifications is acceptable to some lesser background screening firms. However, nothing short of an official verification through the company should be accepted. There is no way to really know who is on the other end of a cell phone and these phones can be obtained easily and inexpensively. We are seeing this type of deception more frequently and counsel our clients not to accept this information without an official verification directly from the information source.

## **The Educational Fraud**

Fake diplomas can be created on a laptop and cheap printer in minutes. The same is true with educational transcripts. We regularly see fake documents from candidates who claim degrees that were never obtained.

When our investigator attempted to verify the undergraduate and graduate degrees for the IT candidate, she was advised that there was a financial hold on the applicant's records for failure to pay a bill- from 1993. Because of this, the university was refusing to provide any information regarding the applicant. The degrees could not be confirmed. When confronted with this information, the applicant produced official looking transcripts and a copy of his diplomas showing both degrees. He even produced a recent background check from a lesser firm that verified the educational history based upon his transcripts and diplomas. Our investigator was not convinced.

The investigator contacted the university and asked to speak directly with the registrar. The situation was explained and the investigator offered to forward the documents at issue to the registrar for verification. The issue was presented not as an educational verification but rather a check into whether there had been academic fraud. The registrar agreed to review the documents and immediately contacted us after his review. The documents were fraudulent. The applicant had been getting away with a lie for over 20 years by refusing to pay a bill and thereby blocking access to his academic records.

Unfortunately, educational fraud has become more common as the job market has tightened. Candidates are willing to take a chance and lie since there is often no penalty for getting caught. Without our investigator taking the extra steps and looking through what the candidate presented, this candidate may have been hired into an IT security position. A cheap background check would not have discovered these issues. A background investigation uncovered the truth.

## **The Undisclosed Address**

During the course of the investigation, an address history was developed for the applicant showing an address in New York for most of his adult life. But an odd address popped up in another state. The odd address could have been easily ruled out since the applicant had a common name. A cheap provider would have ignored the address. When confronted with the address, the applicant denied any connection.

Applicants will often fail to disclose an address where a problem arose so as to avoid detection of that problem. In this case, the out-of-town address was checked and a criminal record was found. The record indicated that the defendant was part of a scheme of stealing laptop computers from his employer and then selling them on-line. However, the on-line court data did not reveal any identifiers for the defendant.

Better investigative firms will have a national network of affiliates who can go to the various court repositories and obtain records. We contacted our field representative who went to the court and copied the criminal file. Deep in the court records, we found a social security number, date of birth and a signature of the defendant on a plea agreement. The identifying information was matched to the applicant and the signature was matched to onboarding documents that the applicant had executed when hired. Incredibly, the applicant was still on active probation from the criminal case and was making monthly restitution payments.

Obviously, our client removed the employee from his position. Certainly, the recent criminal case was enough to deny this individual employment. But the education fraud and fictional employment history provided grounds to take adverse action as well.

Unfortunately, many companies still believe that background screening is an area to cut corners and go cheap. Quick and dirty background checks can be performed on-line with little or no interaction between the company and the screening firm. But a savvy candidate can easily defeat these background checks because basic checks are not designed to uncover fraud and deception. What a company saves in utilizing the services of a cheap provider is easily lost in one bad hire.

There is a difference between performing a background check and conducting a background investigation. If a company is not performing thorough investigations, they are missing quite a bit of information. Additionally, a better firm will provide compliance support to assist employers through the tangled web of federal, state and local laws regulating background investigations. At RAI, we have developed an on-line platform which manages the compliance process for our clients, including all of the necessary documents for initiating an investigation, conducting adverse action and handling applicant disputes.

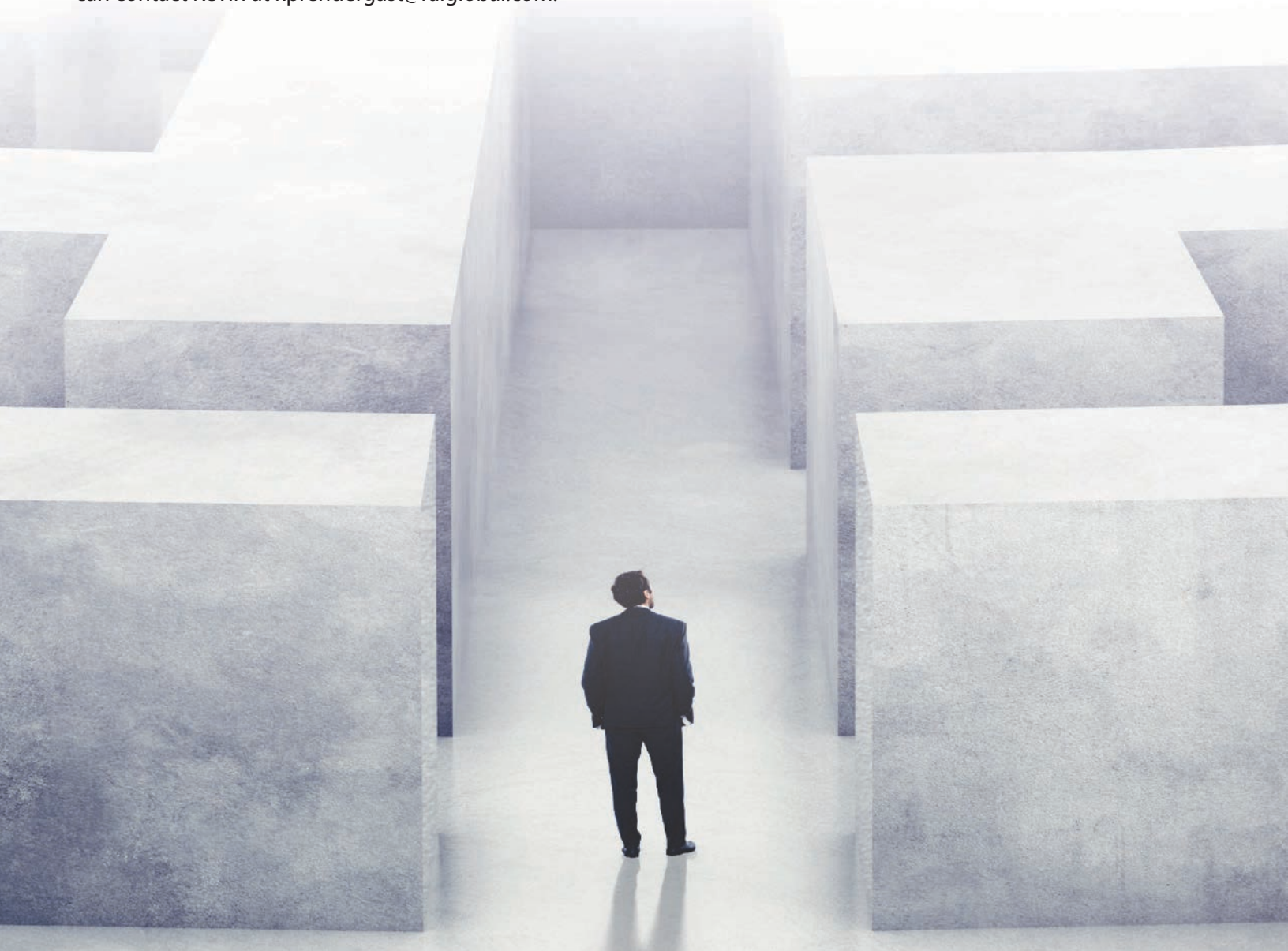
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## THE EMERGENCE OF INFINITY SCREENING: MOVING BACKGROUND SCREENING FROM PRE-HIRE PROBLEM IDENTIFICATION TO A THREAT MANAGEMENT TOOL THAT HELPS TO MITIGATE RISK

Employment Background screening has been around a long time. It has become ubiquitous and is inexplicably tied to the employment hiring process. It's estimated that more than 90 percent of all businesses and organizations conduct some form of pre-employment background check.

Despite its longevity we see change coming to background screening. The change we see emerging is infinity screening. Infinity screening is the process of conducting background checks on current employees on a periodic or on-going basis to stay informed about life changes which could create increased risk for your organization. The terms infinity screening, continuous screening, reoccurring screening and post hire screening are synonymous and are used interchangeably.

We originated the term infinity screening in 2006 when the data base technology for being able to conduct on-going or reoccurring screening emerged. We saw the "hand writing on the wall" and that the dye had been cast for significant change to occur in the background screening industry. It has been a slow and arduous journey, but every year more and more firms are moving to conducting infinity screens. HireRight reported in their 2015 Annual Benchmark report that 46 percent of their survey respondents were conducting re-occurring background checks up from 32 percent in the 2014 Benchmark Report.

Infinity screening is taking hold because employers are beginning to learn and understand that pre-hire detection of problem behavior is not enough to forestall or foretell future bad behavior that creates risk for the organization. It's no surprise to any experienced business manager that at the core of risk and threats to businesses are the people they employ. Employees account for a significant portion of risk including:

- Theft embezzlement
- Identify theft
- Industrial espionage
- Data breaches
- Reputation damage
- Workplace violence

Along with understanding the reality of the risk and threat associated with hiring people the technology that enables continuous screening to happen real time has continued to progress as well. With the advent of cloud computing the capabilities have leaped forward.

Rather than scanning one time, or on a regular schedule of intervals (such as every few years), organizations now have the power to perpetually evaluate risk post-hire as life events, and identity data, evolves. Using Personnel risk assessment technology in a continuous screening model, sophisticated analytics can be unleashed to assess risk factors in real-time and proactively alert managers to potential issues before they escalate. A shift to continuous post-hire monitoring for the latest actionable information is now possible.<sup>1</sup>

**"Using Personnel risk assessment technology to continuously screen assesses risk factors in real-time and proactively alerts managers to potential issues before they escalate."**

Technology also helps organizations visualize threats and prioritize based on various factors, which can be customized for industry. For instance, the transportation industry may weight a DUI as a riskier trait than the finance industry, whereas the healthcare industry views delinquent payments as a bigger problem. Each industry faces its own unique challenges in meeting regulations and mandates, but a continuous screening platform can help organizations make sense of it all.<sup>2</sup>

One example of a company using a software program to continuously check public records for everything from DUIs to bankruptcies, and alert officials when something happens to an employee that creates a potential risk. A company official shared, "If you go out and get a ticket for jaywalking, we don't care. [however,] "If you're working in financial markets we may want to know about liens, judgments, civil actions that could indicate someone is in financial trouble and more likely to do something wrong."

**"We are now alerted when a worker is arrested or convicted for an offense that would trigger concern, saving time and money by not having to conduct screens on workers who have no change in their status."**

Before this same company began using the continuous monitoring software, they performed an initial background check when a person was hired, and followed up with checks every three years after. By monitoring public records across the country, they are now alerted when a worker is arrested or convicted for an offense that would trigger concern for the employer, saving time and money by not having to conduct screens on workers who have no change in their status. "We re-screen only those who indicate to us through alerts that we need to look deeper," he said. "The alerts find needles in haystacks for us."

Alerts helped identify three workers who had died, uncovered a first-degree murder conviction for one worker and exonerated another worker whose brother had stolen his identity and was arrested.

Before the firm began checking public records, they wouldn't have screened any of those people until they came back up on their periodic check.

Another case further illustrates the impact of using a continuous screening model on the ability to make pro-active informed decisions. Note the name of the actual firm in the case has been changed.

The Acme XYZ company identified the following risk they were concerned about and wanted to find ways to mitigate these Issues:

1. Acme is bound to background screening standards that are based on the Department of Homeland Security (DHS) and Transportation Administration (TSA) lists of Disqualifying Criminal Offenses; in addition to the Fair Credit Reporting Act and the guidelines set by the Equal Employment Opportunity Commission (EEOC).
2. Acme is required to conduct pre-screening and rescreening upon every 3 year anniversary of more than 30,000 employees.
3. Acme is concerned that their current background screening requirements, as well as the process do not provide consistent, timely and accurate risk assessments per employee. Significant changes may occur during a 3 year period which may impact the risk profile and ultimately impact employment eligibility. More frequent traditional background checks are cost prohibitive.
4. Acme's has a policy requiring employees to self-report violations of their policies or significant life events, however, based on analysis of policy results the reporting policy is deemed ineffective.

The company implemented a trial of a 'continuous monitoring service' that conducted continuous screening of their workforce and the outcomes produced are listed below:

During the initial 3 month period that the Company used the Continuous Monitoring Service, over 800 identity

#### Bookings/Arrest :

- (1) Criminal possession, with intent to sell 10 lbs. marijuana
- (3) Unnamed offenses
- (1) Drug related, intent to sell

#### Criminal-State

- (1) Criminal possession of stolen property
- (1) Criminal possession of controlled substance
- (1) Criminal possession of a weapon
- (1) Robbery 2nd degree
- (1) Assault 1st degree
- (1) Injury/risk of injury to minor – sexual nature
- (1) Felony possession of controlled substance
- (2) Receiving stolen property
- (1) Endangered welfare of a child; photo sexual act
- (1) Unnamed offense

#### Recorded Death:

- (3) Death

#### Sanctions

- (4) Prohibition from working on NJ Government Contracts

#### Sex Offender

- (1) Multiple sexual offenses

changes were identified, of which there were twenty four (24) actionable alerts that had the potential to disqualify the noted persons from continued employment in a sensitive position.

The following is a list of the actionable alerts received during the initial 3 months which were deemed disqualifying upon actual investigation.

The level of risk associated with the 'actionable alerts' clearly depends on the nature of the work and sensitivity of job that is being performed, however, having the information positions the employer to be able make an informed decision as oppose to getting blindsided by negative information.

The above examples illustrate the true value of using a continuous screening model and shows how real time alerts can provide actionable information. Armed with this level of specific information managers are positioned to make decisions on how to best reduce or mitigate their risk when derogatory information is discovered about an employee.

It should be noted that it is important that firms using continuous screening understand that identifying derogatory information on an employee does not mean automatic termination and should simply be grounds for an investigation to ensue. This is where an individual assessment is very important and all the relevant information needs to be examined starting with is there a nexus between the negative information and the nature of the work being performed. For example, the alert identifies that an employee has been convicted of robbery and their job is parking cars. It's a clear nexus between the two and finding the employee another position or termination might be in order. Whereas, an employee convicted for possession of child pornography that works on a manufacturing production line would be a steeper hill to climb in showing a nexus between the two, despite how much disdain you might have for the wrong doing. The point being each case must be looked at based on the unique circumstance and variables relevant to the situation, but above all, avoid blanket policies. And, before you take any actions be sure to consult your attorney.

If you have not already started to use Infinity Screening now may be a good time to explore adding it to your threat management toolbox and risk mitigation tools.

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#### About the Author

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# Information Security a Top Priority for Employers Due to Recent Data Breaches

By Dawn Standerwick, Vice President Strategic Growth of Employment Screening Resources (ESR)

## Data Breaches Make Headlines

Several widespread and well-publicized data breaches in recent months have made information security a top priority for background screening firms in today's digital age. As a result, background check firms that deal with Personally Identifiable Information (PII) of consumers must be on constant guard against unwanted data breaches and embarrassing cases of identity theft that can affect millions of people.

Information security and data breaches have become big news and big business. Information protection is a critical concern for any business hoping to prevent embarrassing and costly data breaches that can harm a company's reputation and bottom line. The following cases of recent data breaches are just a few examples among many of why businesses need to protect their data from unwanted visitors.

## Recent Private Sector Examples

In March 2016, Home Depot Inc. agreed to pay a total \$19.5 million – \$13 million to settle class action lawsuits and \$6.5 million for identity protection services – to compensate approximately 50 million consumers affected by a massive data breach in 2014. Home Depot also agreed to improve information security and hire a Chief Information Security Officer (CISO) as part of the settlement agreement.

In September 2015, credit reporting agency Experian discovered a data breach where an unauthorized party accessed records containing information of T-Mobile users that included names, addresses, dates of birth, and Social Security numbers (SSNs). Experian notified appropriate federal and international law enforcement agencies and took additional security steps to prevent future data breaches.

Also in September 2015, Sony Pictures Entertainment reached a settlement to end class action lawsuits resulting from a data breach hack first revealed in November 2014 that exposed the personal information of thousands of Sony employees online. The lawsuit claimed Sony Pictures did not take adequate measures to prevent the incident that compromised the personal information of thousands.

## Government Data Breaches

Even the United States government is not immune to suffering an embarrassing data breach. In July 2015, the U.S. Office of Personnel Management (OPM) announced that information including Social Security Numbers (SSNs) for 21.5 million people were compromised in a data breach involving the background checks of current, former, and prospective Federal employees and contractors.

## International Concerns

The issue of information security also rose to prominence on the international stage. In March 2016, the European Union (EU) Commission and the United States (US) agreed on a new transatlantic data transfer framework called the EU-US Privacy Shield that reflects the requirements set by the October 6, 2015 ruling by the European Court of Justice that declared the previous Safe Harbor framework invalid.

The EU-US Privacy Shield places more obligations on U.S. companies that handle the personal data of Europeans to protect that data and stronger monitoring and enforcement by the U.S. Department of Commerce and Federal Trade Commission (FTC) that includes robust enforcement, clear safeguards and transparency, and effective protection of EU citizens' rights with several redress possibilities.

## **How Screening Companies Can Best Guard Against Data Breaches**

So how does a screening firm protect consumers' information used for background check reports from embarrassing data breaches? A background screening firm, such as Employment Screening Resources® (ESR) that has achieved accreditation by the National Association of Professional Background Screeners (NAPBS) and undergoes annual SSAE 16 SOC 2 Type 2 audits has safeguards in place against unauthorized users and unwanted intrusions.

### **NAPBS Accreditation**

Since its inception, the NAPBS believed there is a strong need for a singular cohesive industry standard and so created the Background Screening Agency Accreditation Program (BSAAP). Governed by strict requirements and measurements, the BSAAP is an industry "seal" representing a screening firm's commitment to excellence, accountability, high professional standards, and institutional improvement.

To become accredited, a Consumer Reporting Agency (CRA) must pass a rigorous onsite audit, conducted by an independent auditing firm, of its policies and procedures as they relate to six critical areas of the Background Screening Agency Accreditation Program (BSAAP): Consumer/Data Protection; Legal Compliance; Client Education; Product Standards; Service Standards; and Business Practices.

The cornerstone of NAPBS Accreditation is 'Clause 1.1 Information Security Policy' which states CRAs shall have a Written Information Security Policy (WISP) to protect consumer information from internal and external unauthorized access and cover issues such as acceptable use, intrusion detection, data retention/destruction, information sensitivity, passwords, user access, and physical security.

Founded in 2003 as a non-profit trade association, the NAPBS represents the interests of more than 800 member companies around the world that offer background screening. Approximately 10 percent of NAPBS member screening organizations are accredited.

### **SSAE 16 SOC (Service Organization Control) 2 Type 2 Auditing**

To add an additional layer of audited information security capability, a background screening firm may, like ESR, undergo yearly SSAE 16 SOC (Service Organization Control) 2 Type 2 audit to ensure that the company meets the high standards of the American Institute of Certified Public Accountants (AICPA) to protect the privacy, security, and confidentiality of consumer data used for background checks. Annual SOC2 audits demonstrate a greater commitment to and confirms the effectiveness of data protection policies and procedures. This is particularly important for publically traded companies and regulated industries with strict data protection requirements such as those in the banking, investment and mortgage brokerage industries.

SOC 2® audit reports are becoming increasingly important to businesses seeking assurance about the effectiveness of controls surrounding security, confidentiality, and privacy of the systems and information used by screening companies to process the background check orders of their clients. Definitive assurance is only provided through an independent SOC 2® audit report. ESR's SOC 2® report demonstrates competency in protecting confidential and personal information of clients and their employees from unauthorized access and use. This growing concern in today's digital world needs to be addressed head-on. ESR is committed to protecting any and all information used in the company's background screening services. To learn more, visit [www.esrcheck.com/SOC-2/](http://www.esrcheck.com/SOC-2/).

### **About the Author**

Dawn Standerwick is Employment Screening Resources' (ESR) Vice President Strategic Growth. She has more than 25 years of experience in workforce screening solutions with extensive knowledge of background screening, substance abuse testing and occupational health testing. She currently serves on the NAPBS executive board as chair elect. She is actively involved on the NAPBS government relations committee and participates in legislative advocacy efforts on behalf of the association.

### **About ESR**

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Since 1989, Data Facts has provided information employers can trust and rely on to make sound hiring decisions. Staying apprised of industry regulations allows us to provide comprehensive background screening solutions to our clients in a variety of industries. Our NAPBS accreditation, SOC 1 and SOC 2 and FCRA certifications, along with active roles on the NCRA board, demonstrate our commitment to internal and client compliance.

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Florida, 32901  
USA  
800-725-3343  
info@edgeinformation.com  
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Edge Information Management, Inc., established in 1991, is a privately held national provider of employment screening services dedicated to furnishing employers with accurate background screening, drug testing and electronic i-9/E-Verify services at cost-effective rates. Edge delivers services to each client via the internet through its proprietary software (WebScreen<sup>SM</sup>), portal or integration with a variety of industry leading ATS systems. The ability to combine "big business" technology with "small business" customer service is the value most appreciated by its clients. The NAPBS Accreditation exemplifies Edge's dedicated focus on delivering accurate information quickly and in compliance with hiring federal and state regulations.





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- Driver records come directly from the FMCSA Motor Carrier Management Information System (MCMIS)
- Driver records include three years of roadside inspection and five years of crash information

## HOW DOES PSP WORK?

- Visit PSP any time to purchase a driver's record (with the driver's written consent)
- PSP is completely Internet-based and access credentials are required
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- Save and print records for a driver's file
- Know your clients are hiring the safest drivers



**Pre-Employment Screening Program**  
Federal Motor Carrier Safety Administration

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**Pre-Employment Screening Program**  
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The Pre-Employment Screening Program (PSP) offers background screeners instant, online access to commercial drivers' crash and inspection U.S. DOT histories from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). PSP records are available for the motor carrier and motorcoach industries and may only be used as part of the pre-employment screening process. PSP helps carriers make better informed hiring decisions so that the safest drivers are behind the wheels of commercial vehicles. PSP records are updated monthly, the service is accessible 24x7, and customer service is available via phone or email. PSP records cost \$10.



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VP Client Services  
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Director of Business Development  
Shield Screen  
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