

# Surveillance Comes in Many Forms: The Rise of Continuous Screening and Monitoring to Curb Employee Hiring Risk

Today's organizations are faced with numerous employee-based threats and new emerging continuous background screening and monitoring technologies are helping them to mitigate many of these risks. The risks can encompass many of the following:

- Fraud and embezzlement
- Internal theft of property
- Data breaches
- Identity Theft
- Workplace Violence
- Negligent Hiring
- Qualification Fraud
- Domestic Terrorism

With businesses having to worry about an ever increasing amount of employee-based threats more focus is being put on monitoring employee behavior outside of the workplace with the goal to get a better handle on potential problems employees may bring into the workplace or that will impact the business.

With the advent of continuous monitoring tools employers are now able to monitor arrest, bookings, convictions, serious motor vehicle violations, bankruptcies, drastic changes in credit records, etc. on an on-going basis and in many cases on a real-time basis so that timely interventions can be taken. Combining this type of surveillance with more traditional rescreening methods that focus on verification of current credentials employer can get a much better picture of what is going on with their employees. We live in an age where it is very important for employers to know who is on their payroll and to stay current on employee behaviors outside of work which could have a negative impact on the organization.

Let pause for a moment and define some key terms:

- Continuous Criminal Monitoring is a post-hire technology that provides real-time alerts on criminal activity in a workforce population. The software alerts employers to potential criminal activity in real-time, throughout the duration of employment.
- Rescreening is a post-hire process of checking employee credentials, credit and other key information.
- Combining both a continuous criminal monitoring and rescreening process together make up a Continuous Screening Program.

“Most companies screen for red flags in their employees’ work, legal or financial history once, before they come on board on day one. The problem is that those checks represent a moment in time. If an employee commits a crime, has a license revoked or loses work authorization after being hired, the employer may never find out.” — Society for Human Resource Management (SHRM)”

SHRM also reports that eighty-nine percent of organizations never rescreen employees after the initial background check, and when rescreening does occur, it is typically sporadic or at best, periodic. In between these rescreens months and years may pass, during which time, employees may have been arrested, convicted, and even incarcerated without their employers' knowledge.

In a 2015 study, Appriss Insights found that 12% of the workforce is likely to be arrested over the next five years. 20% is likely to be arrested over the next seven years. The period after an employee is initially screened and hired can represent a significant risk to your clients. Companies can be held accountable for their lack of knowledge about their employees.

Fundamentally, the way a continuous criminal monitoring program works is the employer plugs a roster of employees into a population management platform which then watches and analyzes thousands of data streams for criminal activity (arrest, bookings, and incarcerations). If a criminal event is detected the employer is notified with an alert.

Of course, implementing a continuous monitoring program, comes with a lot of organizational issues that must be sorted out and considered to ensure appropriate legal compliance issues are addressed along with employee relations issues.

The starting point for implementation of a continuous screening program is to ensure that the organization has an effective background screening policy in place that encompasses continuous screening monitoring. It is also critical that employers have a 'No Expectancy of Privacy' policy which states that when employees use company provided equipment and are working the company has the right to inspect their activities, and an 'Off Premises and Not at Work Behavior Policy' (governs employer's right to take adverse action against employees who engage in identified behaviors that may negatively impact the employer, their reputation and ability to perform their business). Collectively, these policies work together to provide a legal shield which allows the employer to surveil and monitor employee behaviors outside of the workplace. It is also important to have a policy that requires employees to report if they have been arrested, booked for a crime or sentenced to jail. This is essential because it provides an easy means for an employer to take adverse action against an employee who does not report a required incident versus having to invoke the monitoring program.

Its also important to identify 'sensitive jobs' or jobs that have higher risk associated with performing them. For example, a Finance Director has the capability to negatively impact the organization much more than an Administrative Assistant, thus it would be identified as having a higher risk. Pre-identification of 'sensitive jobs' helps to focus your initiative, define the scope and type of monitoring that is appropriate and also ties it to business necessity.

Its also important to align the implementation of a continuous screening program with an organization's culture and employee relations practices. Employers should inform employees about the nature of the program, how it will be implemented, how it will potentially impact them and clearly identify employee's rights to ensure the process is understood and to diminish skepticism or negativity towards the program. It is essential for employees to understand the program is part of the organizations overall attempt to provide a safe and secure work environment and to minimize threats that impact the financial viability of the organization.

Here's an example of how an effective program actually worked:

“Before this company started using criminal continuous monitoring technology this organization performed an initial pre-employment background check when a person was hired, and followed up with checks every three years. With the new monitoring program public records across the country are monitored, the company is 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. They only re-screen those who indicate to us through alerts that we need to look deeper. The alerts find needles in haystacks for them.”

Real examples of alerts include identifying 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 three-year check.

One unexpected way the current COVID-19 pandemic has impacted employers is that the justice system has also been ravaged by the disease and as a result many jurisdictions are choosing limited prosecution approaches to manage their workload. This means that in many cases crimes that typically would have been prosecuted are going to be passed on. Offenses that are not prosecuted will never show up in a background screening check. This means you may be employing people that under different circumstances would have been prosecuted and have a criminal record. A continuous screening program will keep a watchful eye out to alert the employer if they slip back into their criminal ways.

Stepping back from defining continuous screening and how it works, for firms that conduct background checks this is an emerging market that can create a new revenue stream. Nick Fishman, a leading background screening industry consultant and expert says, “We estimate that Continuous Criminal Monitoring will generate over a billion dollars a year for the background screening industry over the next couple years and help background screening companies increase margins and profitability . . .”

Besides the market and revenue opportunity there are some other very real benefits to clients of background screening firms:

- Continuous monitoring enables employers to intervene before external behaviors enter the workplace and lead employers to terminate an employee. Many of these external pressures are often visible in public records. Employers that move quickly to address and help employees cope with external pressures by referring employees them to their Employee Assistant Program (EAP) or community resources are better able to mitigate workplace issues and retain their workers.

SHRM has reported that the cost of replacing an employee can run as high as 50%-75% of the person's annual salary so retaining an employee can be very beneficial.

- Reducing the impact of fraud, data breaches, physical and identity theft
- Help employers to avoid the expensive cost associated with negligent retention. Continuous evaluation enables employers to see warning signs and mitigate risks before an employee incident causes a safety issue, brand damage, and negligent retention lawsuits.

While the practice of rescreening employees credentials and periodically checking certain records is not new with the advances in information technology employers are now able to add in real-time monitoring services that alert employer of criminal activity, driving, credit records problems and more. The combined usage of these technology enabled tools provide employers with the opportunity to have access to

information that puts them in a position to make proactive management decisions to move to prevent many of the mishaps that can come along with hiring people.

### **About the Author**



W. Barry Nixon is the COO, PreemploymentDirectory.com the leading background screening information portal and online worldwide directory of professional background screening firms and Suppliers to the background screening industry. He co-authored the landmark book, Background Screening & Investigations: Managing Hiring Risk from the HR and Security Perspective. He also is the publisher of award-winning newsletters, *The Background Buzz* and *The Global Background Screener*, and the author of the Backgrounder column in PI Magazine.

In addition, Barry is a past recipient of the elite 'Top 25 Influential People in Security' by Security Magazine and past Co-Chair, International Committee for the Professional Background Screening Association (PBSA). He also served as a Global Ambassador for PBSA for many years.

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