

# The Background Investigator

## Your Information Resource

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## England's Sex Offender List

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**Steven Brownstein  
Goes Back To Tokyo  
(page 2)**

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Two Types of Record Certificate in Vietnam

Current Vietnam judicial records law regulates the issuance of two types of criminal records forms. Both the forms are granted at the municipal Department of Justice or the National Centre for Criminal Records. Form No 2 includes even deleted criminal convictions and is provided only to judicial units to assist investigations and prosecutions, or to a person requesting their own criminal record.

Close As You Get UK Sex Offender List

List 99 Check Online

Education providers are able to complete a List 99 check, now known as Children's Barred List Search through Personnel Checks.

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How Much Does a List 99 Check Cost?  
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Who Can Access A List 99 Check?

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List 99 checks are a separate service to DBS checks, you do not have to apply for a DBS check in order to access the List 99 Check.

Around The World With Steven Brownstein (reprint)

Toyko

This month Steven Brownstein travels to Tokyo to find out if criminal records are available.

Recently it came across my desk that Japanese court records were somehow "out of bounds" for researchers.

Someone even wrote that the only way to get a record was to pretend to be a relative.

Living only 3 hours from Tokyo, where my company Straightline International, has had a relationship with the Courts for over seven years I decided to visit once again

Perhaps, something had changed since I last visited. I needn't had gone.

Everything is the same as always. On the 11th Floor of the Tokyo District Courthouse is the Criminal Case Filing Section, i.e., the Clerk's office.

They were happy to see me again and after cordial greetings Japanese style I began to converse with the chief clerk aided by my Japan researcher and translator, Miho.

Like I wrote, everything is the same. The computers now go back 10 years (as they started computerizing from 1999). Names are searched by last name, then DOB; only then if there is a match, by first name. No, I did not have to pretend to be a relative. I couldn't pretend anyway since they already knew me!

The computers work in Chinese characters so the clerks and my researcher are very careful with translations. As an added service the clerks have decided that if I fax them the names in

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Japanese characters that would be alright, too. So I searched the names; rather, the clerk searched the names and I asked several questions:

- \* Do I have to be a relative?
- \*\* No. \* Can I get copies?
- \*\* No, not here.
- \* Why not?
- \*\* Because while we process the information when the case is before the court upon completion we send the file over to the Public Prosecutor's office.
- \* Where's that?
- \*\* Across the street.

So my questions were answered. Though not all is solved for even though the case information is available at the court should I need copies I would have to make contact at the Prosecutor's office.

But this is pre-employment screening and copy retrieval is usually beyond the scope of that.

For pre-employment screening purposes the information received from the Courts is more than adequate.

Also, as a reminder always obtain implicit consent from the applicant.

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Cayman Court  
Records Dispute  
Enters  
International  
Spotlight

The domestic dispute over the Cayman Islands court system’s new restrictions on photocopying public records has ballooned into a potential international incident. The publisher of a U.S.-based offshore financial news site is reacting strongly against a policy that he believes targets him.

David Marchant, the publisher of Miami-based financial news site OffshoreAlert, is planning to make Cayman’s court records policy the focal point of his opening address Monday at his upcoming OffshoreAlert North America Conference, which will draw hundreds of industry professionals and journalists from 25 countries.

“The new policy rolls back decades of transparency at the court and appears to be directly targeted at OffshoreAlert, which has been publishing publicly available Cayman court filings on a weekly basis,” Mr. Marchant wrote in an email blast Wednesday to 9,000 subscribers in 100 countries. “When a judge punishes such activity, instead of encouraging it, you know a jurisdiction has serious problems.”

The Cayman court system – headed by Chief Justice Anthony Smellie – recently began to restrict the photocopying of public records by citizens and the media. Mr. Marchant said his researchers were barred from their usual practice of photocopying and publishing local court writs earlier in the week, thus restricting knowledge of business dealings in the Cayman Islands.

“The court is not a private company,” he told the Compass on Thursday. “Their salaries are paid for by the public. They do not own these documents, and the general law is that there is no copyright on public

documents. The documents are owned by the public. These people who work for the court need to wise up.”

The Cayman Islands Judicial Administration responded to an inquiry by the Cayman Compass on Wednesday, claiming officials were rectifying “unintentional departures in practice over time.”

People can still access and take notes on court records after paying a \$20 inspection fee. Obtaining photocopies – for an additional fee of \$20 per document plus \$0.50 per page – is allowed for “any legitimate purpose,” including investigative journalism, with prior approval from the clerk of court.

What is prohibited, according to the statement from the court administrator, is the “wholesale reproduction” of records:

“The rules of court were never intended to allow the wholesale reproduction by photocopy of every record, thereby enabling the documents themselves to be available by paid subscription to another provider, all under the guise of transparency, as mentioned in your story in [Wednesday’s] edition of the Compass. This amounts to the unauthorized sale of those documents for profit.”

The new policy, which was issued with the approval of Chief Justice Smellie, is a significant departure from previous practice. Financial Services Minister Wayne Panton said he was only aware of the issue through the media, but he thought it would be best for public records to remain available for copying unless there is a compelling reason to restrict their use.

“Overall, it’s going to be better for the media and for everyone else to have unfettered access to public records,” he said when told of the court’s statement.

The court also claims that publishing public court documents online could constitute a violation of

copyright for both the parties who filed their lawsuits and for the government as a whole:

“To allow this to continue unchecked would be tantamount to allowing an abuse of the process of the court and a breach of the copyright of the persons who paid for the creation of the documents that they file with the court for the purpose of access to justice. It would also allow the ongoing breach of the Crown’s copyright in the judgments of the Courts.”

Minister Panton, who is a former partner at Walkers law firm, said, “If a record is part of the public domain, I wouldn’t think on the face of it there is an issue of copyright. It seems to me to be a slight contradiction.”

Mr. Marchant said Thursday that he had never heard of that justification for clamping down on public access to documents. He had previously said that he felt un-

fairly targeted by the court’s decision to disallow the photocopying of official court records.

If it’s an issue of breaching copyright, Mr. Marchant said he would welcome arguing that in a judicial setting.

“If the court thinks we’ve done something illegal, sue us. I’m in the United States. I have substantial assets. Sue me. Why don’t they sue me? Because they have no claim in law. Everybody will laugh at them because it would be pathetic.”

He said, “This is the reality. The Cayman Islands is so embarrassed about the business it does and the disputes that arise from that business that they don’t want the outside world to know about it. However, they still want to continue taking millions and tens of millions of dollars from the same outside world.”

Mr. Marchant said that if the issue is not resolved by

next Friday, he plans on issuing a monthly warning against doing business with companies in the Cayman Islands in his newsletter.

“Whoever is responsible for this is unintelligent and unworldly,” Mr. Marchant said.

“But I can tell you now, the court for ridiculous reasons has chosen to go to war with OffshoreAlert, and there will be consequences and repercussions only in the sense that I will explain to the financial world what is going on accurately and fairly. It’s basically a question of the court hanging itself with its own rope. They have provided me with three miles of rope from which to hang them. Thank you.”

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# Washington Background Checking Agencies Are Flawed And Unenforced

by Ashley Archibald

Susan Mason makes no bones about the fact that she served time.

The executive director of What’s Next Washington and member of the FARE Housing Coalition went to prison 14 years ago for 15 months. Despite Mason’s subsequent clean record and steady paycheck, landlords still look askance when she applies for housing in Seattle’s overheated market.

“I don’t even apply with property management companies,” Mason said. “They take your money and tell you ‘yes.’ It’s never a ‘yes.’”

Anybody who has applied for an apartment in recent memory knows the drill. Fill out an application, hand over a cashier’s check, pray to whatever higher power you hold dear that your late payment on an auto loan didn’t push your credit score down too far to raise eyebrows. Feel confident that you have a leg up on millions of Americans because you’ve never seen the inside of a courthouse or jail cell, and your background check makes you look like an adult Pollyanna.

Prepare for the shine to come off that halo.

Background checks used for tenant screenings in the rental housing industry are notoriously inaccurate.

Background checks used for tenant screenings in the rental housing industry are notoriously inaccurate. They use algorithms to scour public databases for a potential tenant’s credit history and criminal background, but rarely fact check the information. Results are compared to a landlord’s rental criteria, and sometimes it’s just a

thumbs up or thumbs down that gets transmitted rather than the actual report.

The outcome hurts both sides of the transaction: Good tenants are routinely denied housing for offenses they did not commit, or that shouldn’t appear on a background check at all.

To top it off, there’s no government agency in Washington state that polices the industry, leaving it up to the individual to discover and correct errors, or even violations of law, themselves.

In theory, a background check works like this: A landlord or employer submits information on the prospective tenant and a company delves into credit history and publicly available information to generate a report. The landlord then makes a decision on a prospective tenant based on that analysis.

That report should only include things like a credit score, a bankruptcy that’s less than 10 years old and any crimes committed within the last seven years.

That process is problematic, even if it were followed to the letter. In many cases it’s not.

“There are extraordinary rates of errors in these reports,” said Eric Dunn.

“There are extraordinary rates of errors in these reports,” said Eric Dunn.

Dunn is a staff attorney with the Center for Economic Justice at the Virginia Poverty Law Center. But before he moved, Dunn worked for more than a decade at the Northwest Justice Project in Seattle, where he got to know the ins and outs of background checks and tenant screenings very, very well.

“What I started noticing is that I could represent somebody and settle their case, or get it dismissed, and they would come back to me at some point and say, ‘I thought we won our case?’” Dunn said. “But they went to rent somewhere else and got turned down.”

Dunn began looking into

background-check companies around 2005, when he started working for the Northwest Justice Project. When his clients returned to him, still unable to rent by dint of their background check, he began research that would lead him down a legal rabbit hole that, to this day, consumes much of his professional life.

“At the time, nobody was doing this type of stuff,” Dunn said. “There was one guy in New York City, Jimmy Fishman, who was handling these types of cases, but certainly nobody in the Northwest.”

Dunn found that automated background checks crawl through public databases to find information, but that the results can be inaccurate, inconsistent or redundant.

Take a hypothetical John Doe accused of committing assault. The courts record the charge, as does WATCH, the Washington Access to Criminal History database. If Mr. Doe pleads guilty to a lesser offense, like disorderly conduct, the court will recognize that change, but WATCH now has information on the original charge and the new plea.

If he’s sentenced to time in jail, Mr. Doe gets yet another record, this time in the corrections system.

The ultimate disposition of the charges aren’t necessarily recorded, so when Mr. Doe goes to a landlord hoping to rent an apartment, the background check turns up a rap sheet — an assault, disorderly conduct and jail time.

“A lot of times, computers scrape up all these records, and the computer is not able to distinguish which records relate to the same crime,” Dunn said.

The lack of discretion has ripple effects.

What if the courts found John Doe guilty of a more serious crime, for which he had to serve a 10-year prison sentence? By federal and state law, Mr. Doe’s record should be clear seven years after he leaves in-

carceration.

Washington routinely releases prisoners before they complete the full length of their sentence for good behavior and work programs, but the background searches don’t take that into account. Instead, a background check will turn up crimes seven years after the end of a sentence, meaning that a person could be frozen out of housing for years after they are released.

Hilary Young works for Pioneer Human Services, a housing provider that caters to people with criminal records and difficult backgrounds. With permission, she ran a background check on a Pioneer employee who’s worked with the organization for a decade as a test.

“He still has charges,” Young said.

Many computer-based searches automatically match records to birth date and name or something name-adjacent, but not an exact match.

Many computer-based searches automatically match records to birth date and name or something name-adjacent, a moniker close to the intended subject’s name, but not an exact match.

That’s how one pair of Dunn’s clients found their records saddled with an eviction for a home they never rented — a Glenn Patrick Thompson assumed the eviction history of one Patricia Thompson.

“It’s generated entirely by a computer,” Dunn said. “There’s no human being that looks at these things.”

It’s hard to overestimate the consequences of such mistakes: homelessness, desperation and new crimes born out of necessity that lead to a perpetuating cycle of incarceration.

And yet, finding and fixing blemishes on background checks requires vigilance on the part of the victim rather than the company that compiles the information.

Like most injustices that

require institutional change, the fight to protect tenants from the blind groping of artificial unintelligence plays out in Olympia and the courts.

Advocates encountered roadblocks in both avenues.


In 2012, the legislature passed a law requiring landlords to inform applicants why their tenancy was denied, followed by a 2013 measure that allowed victims of domestic violence to break their leases without retaliation from the landlord.

It was 2016, however, that rocked the system.

“This bill created first-of-its-kind ability for judges to mark an eviction record for limited dissemination,” said Michele Thomas, director of policy and advocacy with the Washington Low Income Housing Alliance. “[A tenant could] make a case that the eviction record isn’t fair, and shouldn’t deny them housing in the future.”


The legislation opened doors for a range of tenants, but especially those charged with an eviction, a major red flag for most landlords, who ultimately won their cases.

That wasn’t true when Dunn represented two clients, Ignacio Encarnación and Norma Karla Farias, before the King County Superior Court in 2014.



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## Criminal Requests

Encarnación and Farias lived in the same apartment for three years before a new owner bought it and decided to close the place down for renovations. Under law, the new owner had to honor existing leases, but filed an eviction against the couple anyway after they refused to go month to month.

The pair received remuneration for at least three months of rent and the new owner was sent packing, but Encarnación and Farias still had an eviction on their record, even though they prevailed in court. Dunn sued to remove their names from the court record, changing them to initials so that the eviction that wasn't would not haunt them in the future.

That's when things got exciting.

A court clerk named Barbara Miner refused to change the record, a move for which she was praised in The Seattle Times opinion section. The legal dispute that followed went all the way to the Washington Supreme Court, which decided in favor of Miner, but with an important caveat.

The courts did not rule in Dunn's favor, but it left the door open for the Washington Legislature to fix the problem.

And, in 2016, the Legislature did just that.

Landlords can still find that information if they physically go to the courts and look, Thomas said, but the legislation removed the passive appearance of the eviction suit on a background check.

Of course, there's a flaw: No agency in Washington state government enforces laws restricting the information included in background checks.

Of course, there's a flaw: No agency in Washington state government enforces laws restricting the information included in background checks. "That's the problem, the huge gaping loophole," Thomas said.

Before 1985, also before widespread use of the internet, the Attorney General's Office managed such cases. It was, Dunn recalls, the busiest section of the office. But then came Anthony Schwab.

Schwab and his wife bought up a number of poorly maintained properties in Seattle and rented them out inexpensively under one condition: the tenant accept them "as is." That meant no maintenance, no complaints, no guarantee of livable conditions.

That clearly violated state law, and Schwab's tenants took him to court, suing under the Consumer Protection Act. The judges hearing the case looked to the legislative history of the Consumer Protection Act and found that the Legislature had entertained an amendment that would make violations of the landlord-tenant law an immediate violation of the Consumer Protection Act.

The amendment did not pass, and the judges effectively removed the power to enforce landlord-tenant law from the Attorney General's Office.

"It was a pretty bad decision," Dunn said.

It's one that has left Washington with little recourse except to hope tenants know their rights and will take the time, energy and expense to enforce them, or that screening companies will take the time, energy and expense to produce accurate reports.

That hope is unfounded.

Background checks, for housing and employment, constitute a \$2 billion industry with more than 14,000 employees, according to IBISWorld, an industry analysis company.

Background checks, for housing and employment, constitute a \$2 billion industry with more than 14,000 employees, according to IBISWorld, an industry analysis company. Roughly 39 percent of that

demand comes from landlords, the rest from employers.

Background-check companies have no incentive to provide complete, accurate information. At between \$30 and \$40 a pop, their interests lie in the quantity of reports generated. Each — even records produced by the Washington Access to Criminal History — come with a disclaimer that inoculates them from blame.

That means that companies can produce inaccurate information, landlords act upon it believing it to be true and tenants get branded as problematic, and no one is held to account.

Business is only growing.

Property management companies don't often screen tenants individually, they outsource to these background-check mills. They send nonpayment information to an attorney on retainer who files evictions in court, but likely doesn't follow up if the eviction doesn't pan out, leaving people with evictions on their record that may never go through.

Stephen White has seen the consequences.

White owns RentPrep, a background-check company that operates out of New York. White didn't buy into the automation craze. His site boasts that it takes a person in his employ at least an hour to generate a report by hand. Each one is prepared by an employee certified by the National Association of Professional Background Screeners.

"We are an old-fashioned screening company," White said. "We do it by hand, hand-compile each report, don't trust the automated process of grabbing data, grabbing information."

That pits White against a host of other companies without the same standards, but he's competing for a different clientele, the smaller landlords and companies that demand higher quality product.

Landlords need to know information about their tenants, White said. A study by a major credit agency showed that a person with one eviction on their record was 2.5 times as likely to get another than a person with no evictions. But throwing up barriers without determining that the records match the tenant? That's bad for landlords and people looking for housing.

It can happen to anyone.

White shares the county in which he lives with 76 other Stephen Whites, all of the same spelling. One is a sex offender. Another has several convictions.

"Individual landlords didn't have access to good screening," White said. "Out of the box, rubber stamp instant out-of-the-box solutions."

On July 13, Seattle officials began a process that could give a helping hand to people with criminal records who are working to reintegrate and in need of a place to live.

Councilmembers Lisa Herbold and Kshama Sawant, with members of the Office of Civil Rights, unveiled new legislation that would further limit the ability of background-screening companies to divulge criminal history by cutting the "lookback" period to two years in most cases.

Advocates want that to be cut down to zero, something the Seattle Weekly reported that Herbold was open to.

Landlords, however, are not.

Small landlords already have so much to balance in Seattle, argued William Shadbolt. Forcing them to operate from a position of less information only puts them, their other tenants and their property at risk, he said.

Small landlords already have so much to balance in Seattle, argued William

Shadbolt, a representative of the Rental Housing Association of Washington, a landlord advocacy group. Forcing them to operate from a position of less information only puts them, their other tenants and their property at risk, he said.

"We should be looking at the criminal justice system, not putting this on individual landlords," Shadbolt said.

The Rental Housing Association offers screenings to its members, ranging from \$25 to \$45 a pop, depending on the kind of information requested. The organization uses record aggregation services, but also employs two people to go through the results to make sure the report handed to the landlord satisfies state and federal laws and does not erroneously associate records to the wrong applicant.

There is no statistical evidence linking a criminal history to a bad tenancy, and, as Dunn puts it, for "everybody who commits a crime, there has to be a first."

Even studies used to back up a seven-year lookback period come with caveats: samples were taken from one city, at one moment in time. The authors themselves wanted more research to supplement the data, and have said as much in conferences and other public settings, Dunn said.

The stage is set, and Seattle has a recent history of passing renter-friendly legislation.

At the end of the day, this new regulation, like all the others, will be about enforcement with investigations conducted by the Office of Civil Rights. Whether or not they have the capacity to enforce this along with other council-driven mandates will be borne out in time.

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Lawyers Could Be Liable For Staff Misuse Of Confidential Records

Indiana lawyers could face potential ethical liability if their paralegals or other staff misuse confidential information from online case records.

That prospect was raised Sept. 8 at a quarterly meeting of the Supreme Court’s Advisory Task Force on Remote Access to and Privacy of Electronic Court Records. Lawyers now have access through my-case.in.gov to online court documents in many cases, including those that are confidential or include confidential filings.

Lawyers have online access to available confidential information in cases where they have appeared, but task force member and Court of Appeals Judge Paul Mathias said there is no way for state courts to distinguish when an attorney, or a member of his or her staff, has accessed those records.

“From a tech standpoint, it is just absolutely unthinkable to have an audit trail” to determine the user who accessed records. He suggested a “clarifying rule” in the Rules of Professional Conduct that would state an attorney is liable for misuse of confidential information by the attorney’s staff.

The task force took no action on the proposal, but several members supported making attorney liability clear in such a case. “If it’s not clearly a violation of the rules, it should be,” said task force member and Indiana University Maurer School of Law professor Fred Cate.

Mathias pointed to news of the massive data breach reported at the Equifax credit reporting agency that compromised the personal information of 143 million Americans in pointing to potential identity theft issues with Indiana’s online

court records.

He said a particular concern is pro se litigants who have party access to cases in which they are litigants. Mathias said more than 90 percent of pro se litigants fail to register an email at which they can be served notice in their cases. At the same time, there is a risk that others with access to a pro se litigant’s email address, often used as an identifier, might be able to access court records.

Some task force members suggested there are criminal charges that could come into play for someone who illegally accesses non-public court records, but Mathias and others said those cases are difficult to prove and may be a low-priority case among prosecutors.

“This is an area that’s ripe for abuse,” said Chris Naylor, assistant executive director of the Indiana Prosecuting Attorneys Council.

The task force appeared to lean toward keeping most court records in domestic, estate, trust and paternity cases offline, though these records in most cases are public and can be accessed at the courthouse. Final orders in most of these cases are available online.

Indiana State Press Association Executive Director Steve Key suggested there may be oversensitivity to concerns that, for instance, someone at home on their couch may be peeking at their neighbor’s divorce case on their computers. He wondered if there were studies on whether “the pajama-wearing couch surfer is a reality.”

Chief Justice Loretta Rush, the task force chairwoman, said the task force had looked at other states. “We really saw people who flipped the switch too soon have pulled back” online access to divorce records.

The task force will revisit whether these records should go online at its next meeting, but Tippecanoe County Clerk Christa

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Coffey affirmed there are people who do visit the courthouse to check their neighbor’s divorce file. She elicited laughs when she observed that sometimes “they come to the courthouse in pajamas.”

The task force recommended making filings available online in civil collections, civil plenary, civil tort, and mortgage foreclosure cases. Final orders in these cases are available online, and access to pleadings in these civil cases will be made available to the public in the future.

However, the committee decided that no filings in infraction and ordinance violation cases will be made available online, except for final orders in those cases. Several committee members were concerned that personal information such as driver’s license and Social Security numbers and dates of birth could be made available if

documents such as speeding tickets were posted. become part of the record. •

The committee withheld a decision on whether court filings other than final dispositions will be made available online in small claims cases. Mathias noted that the record would be incomplete because testimony and evidence that may be decisive is often produced at trial in the form of receipts and other documents that may not

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# Uber Has Problems With Regulators Over Background Checks

One reason Transport for London (TfL) announced that Uber has lost its licence to operate in London on Friday was due to the way it carries out driver checks — but a source has suggested this was a "lousy reason" by the city's transport regulator.

All cab drivers must undergo what's known as a Disclosure and Barring Service (DBS) check, essentially a criminal record check to ensure no one unsuitable is driving cabs or taxis. They also need to provide medical certificates to show they're fit to drive.

Until recently, Uber partnered with a UK startup called Onfido to process DBS checks for its drivers.

It's important to note that Uber doesn't carry out checks itself. Onfido is a third party which processes applications for criminal record checks and, according to its site, it liaises directly with government

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agencies. Onfido is listed on the Home Office site as an approved provider.

Recently, London's transport regulator TfL said it was unhappy with the way Uber approached its enhanced DBS checks, but didn't go into more detail. A spokesman also refused to provide further detail.

Here's where it gets confusing.

Earlier this year, TfL quietly changed its policy around DBS checks. This meant it would only accept

checks processed through its own contractor, GBGroup, and not third parties like Onfido. TfL said 13,000 drivers would need new DBS checks as a result. According to a Sunday Times article earlier this month, the bulk of those 13,000 drivers were Uber drivers.

TfL hasn't explained the reasons for that policy change, or why it might be unhappy with Onfido or other third parties. Onfido has not responded to a request for comment, but told The Sunday Times the policy change was because TfL wanted to maintain an exclusive contract with GBGroup.

Business Insider understands that Uber began recommending TfL's contractor GBGroup to its drivers at the beginning of this year because of the policy change. If this is true, it isn't clear why TfL is still unhappy with the way Uber processes DBS checks.

A source close to TfL acknowledged it was "a lousy reason" to revoke Uber's licence.

"This is partly down to TfL as well," the person said. "It's not unique — TfL consistently do things, then after doing them,

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end up having to pick up the pieces of their own misdeemeanours.

"They try their hardest, but realise they've got it wrong after the event."

Uber has outwardly said it doesn't understand either. Fred Jones, head of cities in the UK and Ireland, told the BBC's Today programme on Monday: "This decision was TfL's decision, so sitting down with TfL representatives as soon as possible would be the most helpful thing to really understand their concerns."

There were several other reasons that Uber lost its licence, such as its alleged use of Greyball software, which shows different versions of the app to different people and may have been used to fool regulators; its failure to report serious crime to the police; and its approach to obtaining medical certificates.

Jones acknowledged that Uber had failed to report a case of serious sexual assault. Met police inspector Neil Billany wrote to TfL earlier this year to complain about Uber's conduct, saying a second assault could have been prevented.

"In this specific incident, we hold our hands up, we made a mistake," Jones told the BBC. "We just didn't realise when the passenger

wrote in how serious it [was]." Jones added that Uber had set up a "working group" to better understand how it could work with the police.

## Maine Pulling Records Offline

The general public could soon be blocked from accessing nearly all Maine state court files online.

The change is part of a proposal by the group charged with figuring out how to digitize those public records, which are now available only in hard copy at courthouses.

The proposal has not yet been accepted by the judicial task force. But government transparency advocates are worried the plan, as drafted, would spend millions of dollars on a system that would do little to make court records more readily available to the public.

The draft report, however, states that privacy interests demand that public documents not be made widely accessible online — preserving the courts' veil of "practical obscurity."

The Transparency and Privacy Task Force is scheduled to send its recommendations on bringing Maine courts into the digital age to

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# New Restrictions On Hiring Of Foreign Scientists

By Erin Mershon

The Food and Drug Administration is implementing a new hiring protocol that could make it significantly harder for foreign scientists to find jobs and research opportunities at the agency, according to interviews and newly obtained documents.

The FDA recently began directing hiring managers not to extend any employment offers — including for fellowship and contractor positions — to any individual who has not lived in the U.S. for at least three of the five previous years, according to briefing materials shared with STAT that have been presented to some agency employees.

In the documents, the FDA attributed the new hiring protocol to changes associated with the background checks that every government employee must undergo to obtain an ID card.

It’s unclear whether other agencies are implementing similar measures. If it is applied more broadly across the government, the policy could upend the research community across federal agencies. The Agriculture Department, the Centers for Disease Control and Prevention, and the Environmental Protection Agency, among others, also host visiting scientists and scholars. A spokeswoman for the National Institutes of Health, which annually hosts thousands of non-citizen scientists from more than 100 countries, said the agency would continue using the protocol it had been using, without any stricter residency requirement.

At the FDA, the change — expected to take effect Oct. 1 — has some staff at the agency “dismayed,” and “stunned,” two employees told STAT in separate interviews.

“It affects a huge chunk of the scientific workforce,” one scientist said, speaking

on condition of anonymity because she was not authorized to speak on the matter. “We all heard the presentation and went, ‘What?’”

The scientist called the change “devastating” for the agency’s talent pool and recruitment efforts and suggested that many key staffers would not have been hired if the policy had been in place in the past.

In a statement, a spokeswoman for the FDA said the agency was acting in according with guidance from the Department of Homeland Security, which has authority over the ID cards. “The agency is committed to accurately reflect the DHS policy and will continue to evaluate its implementation plans, and make adjustments as appropriate,” the spokeswoman said.

The new hiring protocol centers on applications for an ID card, known as a Personal Identity Verification or PIV card, that is required for nearly every government employee. To get the card, all employees must undergo a relatively standard background check.

Because the government is now soliciting more information as part of that background check, it can’t complete the investigation unless an individual has lived in the U.S. for three of the last five years, according to the FDA document.

“It is strongly suggested that hiring managers inquire of prospective hires how long they have resided in the U.S. prior to extending an offer,” the document reads.

That had not been the policy in the past, including at the FDA. The official government-wide policy on the ID cards, from 2008, does separate non-citizens into two groups: those who have lived in the U.S. for at least three years, and those who have not. It does not mention a “three-out-of-five” criterion.

The 2008 policy says agencies looking to employ non-U.S. citizens who haven’t

lived in the U.S. for three years can delay the background check until they do, and instead rely on a different ID card to conduct their daily business.

It isn’t clear why the FDA made the change this year. The document cites a Jan. 13 Department of Health and Human Services internal policy document that updates the agency’s procedures for the ID cards. The FDA also referenced the Jan. 13 update from HHS. But an HHS spokesman said the internal document did not include new policies on a residency requirement.

The HHS spokesman said any new background check and ID card policies were government-wide and promulgated by the Office of Personnel Management.

But it was unclear whether the stricter residency requirement referenced in the FDA document is a new policy from OPM, which is in the process of updating federal background check guidelines, or only the FDA’s new interpretation of them, since individual agencies have discretion to go further than OPM rules in their departmental policies.

The HHS spokesman also emphasized that any change related to ID cards and background checks was not a mandate about hiring decisions. Those policies, implemented across the government, “[do] not dictate federal agency hiring authorities,” he said.

Other government agencies, for example, could try to find a workaround for hires that might be able to work temporarily without a PIV card.

At other agencies, including the NIH, for example, non-citizen new hires have been able to go through a separate background check process to obtain a “Restricted Local Access” card, rather than a PIV ID card. That allowed them to be hired even if they did not have access to government data systems. That same process will continue, the NIH spokeswoman said.

Visiting scientists are hired under a range of authorities that vary between and even inside federal agencies, and it isn’t clear how many of them rely on PIV cards or would be able to conduct most of their work with an alternate ID card.

The FDA document said the change will not impact non-citizen workers currently employed at the agency.

The document also suggests the policy change had been shared last month with executive officers from the agency’s main security, human resources, and operations teams, its ethics office, the chief scientist and general counsel, as well as the agency’s senior science council.

It’s difficult to determine exactly how many foreign-born individuals work in

the U.S. government, but many of the opportunities for non-citizens are in the sciences.

The NIH alone hosts more than 2,000 non-citizen scientists, and staffs an entire office to assist them with immigration and transition issues. The FDA also employs more than 100 visiting scientists and associates, according to a review of agency directories. CDC, too, employs a handful. So do agencies outside of HHS. The EPA has a visiting scientist program, as does the USDA and other research agencies. HHS even offers a training video on its website entitled “Mentoring International Postdocs.”

The scientific community in particular has emphasized the importance of international collaboration. More than 182 professional societies castigated President Trump’s travel ban earlier this year for the impact it would have on industry and academia.

“Scientific progress depends on openness, transparency, and the free flow of ideas and people, and these principles have helped the United States attract and richly benefit from international scientific talent,” the groups wrote. “To remain the world leader in advancing scientific knowledge and innovations, the U.S. science and technology enterprise must continue to capitalize on the international and multicultural environment within which it operates.”

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Internet Court Online

China has just opened a new court that will solely deal with internet-related cases.

Based in Hangzhou – where many large Chinese internet companies are located – the Net Court will hear cases covering everything from domain names to ecommerce disputes to online defamation.

The court accepts complaints and filings electronically and tries cases via livestreaming. Its first case on Friday was between a novelist and an internet company that offered her novel to subscribers without gaining copyright permissions. It took about 30 minutes and everything was carried out online, with the public able to watch a video feed of proceedings.

A pilot of the court was run earlier this year in Zhejiang and seemingly proved so popular and successful that Hangzhou launched its own version. The number of lawsuits over ecommerce has rocketed in recent

years, leading to concerns that the legal system will be swamped if a more modern approach to physical courts wasn't introduced.

"The internet court breaks geographic boundaries and greatly saves time in traditional hearings," said its vice president Wang Jiangqiao.

Although the approach is novel, the court still operates in the exact same way as physical court and follows the same laws, although over time the expectation is that the court will build significant expertise in online issues and so provide both faster and more consistent internet law judgments.

Those wishing to file a complaint first need to register an account with the court and then verify their identity through the online payment service of online marketplace Alibaba (called Alipay). The court audio and video and any evidence presented is encrypted and accessible to both parties online (that service is also provided by Alibaba). Notifications and judgments are sent via

email. Others

China may be the first to run active cases through a cyber court, but other jurisdictions are looking at the same approach. Canada has an online tribunal for small claims and the UK has run several pilots of online court in the past year in Liverpool, Leeds and Kingston-upon-Thames as part of a broader effort to transform and update the legal system – although in those cases the main factor was that the court allowed witnesses to pre-record their testimony rather than having to appear in person and give live testimony in court: something that most people find intimidating.

The UK has also experimented with allowing fines for fare dodging and traffic penalties to be done online. In those cases, d

Chattanooga, TN Online

Circuit Court Clerk Larry Henry said both the Circuit and General Sessions Civil Courts cases will be availa-

ble to view online by the attorneys and the general public beginning Monday.

He said, "It will provide 24/7 access to cases filed in the Circuit and General Sessions Civil Courts."

Clerk Henry said the clerk's office will cover the user cost and there will be no charge for users.

The office will use the TennesseeCaseFinder.com system.

He said the same information that could be found with a trip to the courthouse will be available online.

All data is immediately available once entered by the clerk.

Search by multiple options including party name, file date, attorney name, etc.

Clerk Henry said his offices get from 500 to 800 calls per week, and the new system should cut way down on that number.

The Least Populous County In State Goes Online

A new website for the Vinton County Court allows local residents to pay citations and view the court schedule online.

The website is available at www.vintoncountycourt.com.

Online payments can be accepted in lieu of appearing in court for certain low-level offenses like traffic citations. However, citations with a mandatory offense (any felony, for example) cannot be paid online and a Court appearance is required. A list of payable offenses is published on the website.

The site also has a Vinton County Court records search as well as an online Court schedule.

Separately, the Vinton County Clerk of Courts

continues to operate its own website at www.vintonco.com/clerk-of-courts. That website offers public records and a case schedule for the Vinton County Common Pleas Court.

The Vinton County Court office is open Monday through Friday from 8:30 a.m. to 4 p.m. The office, located in the county courthouse, can be reached at 740-596-5000.

Women - Eating Disorder-Criminal Record

An analysis of more than 950,000 women found those with eating disorders were more likely to be convicted of theft and other crimes. The incidences of theft and other convictions were 12 per cent and seven per cent, respectively, in those with anorexia nervosa, 18 per cent and 13 per cent in those with bulimia nervosa, and five per cent and six per cent in those without eating disorders. The associations with theft conviction remained in both anorexia and bulimia nervosa even when adjusting for psychiatric comorbidities and for familial factors. Researchers say their findings, published in the International Journal of Eating Disorders, indicate that further studies are needed to investigate the potential mechanisms underlying the relationship between crime and eating disorders. They also want to determine how best to address the relationship in treatment.

Study lead author Shuyang Yao, of the Karolinska Institutet, in Sweden, said: "Our results highlight forensic issues as an adversity associated with eating disorders. "Criminal convictions can compound disease burden and complicate treatment." She added: "Clinicians should be sure to conduct routine reviews of criminal history during assessments for eating disorders."

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The Most Criminal Name In Australia Has Been Revealed. And it's not Ivan

If you had to have a stab at the most criminal first names what would they be?

Bonnie maybe? Or

Clyde? Maybe Hannibal - as in Lector? Or what about Ivan, forever tarnished by the Milat connection?

Wrong. The most common first name for criminals in Australia is ... Leon.

That's right, Leon. And if you're a criminal called Leon you're most likely to

have committed an assault.

Women caught up with long arm of the law are most likely to be called Robin.

Law firm Go To Court collated the names from over 25,000 crimes found on the Australian Crime-Net database and then cross-referenced them

with the most popular names in Australia in the last 90 years.

For every 100,000 Leons, more than 3000 had committed a crime.

But Ivans weren't far behind with 2000 per 100,000 having a criminal record, many of those for drug offences.



A Note From Phyllis Nadel

Ali, Gerald and Roy rounded out the top five male names.

Women were far less likely to commit crimes. For every 100,000 Robins, 934 had committed a crime with fraud the biggest misdemeanour.

Second placed Kyms were mostly into burglary, Nicoles had dabbled in drugs.

And you shouldn't trust your aunty Jean. Around 300 in every 100,000 Jeans are a crim and they're likely to be murderers. Watch out what she's put in those scones.

But what of Bonnie, Clyde and Hannibal — how do they fare? Well, de-

spite their namesakes nefarious pasts, the people who now carry their names are likely to be law abiding citizens.

Most criminal male names

- 1. Leon
- 2. Ivan
- 3. Ali
- 4. Gerald
- 5. Roy
- 6. Terrance
- 7. Albert
- 8. Danny
- 9. Frank
- 10. Frederik

Most criminal female names

- 1. Robin
- 2. Kym
- 3. Nicole
- 4. Lee
- 5. Shannon
- 6. Raelene
- 7. Kerri
- 8. Tiffany
- 9. Sonya
- 10. Jean

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