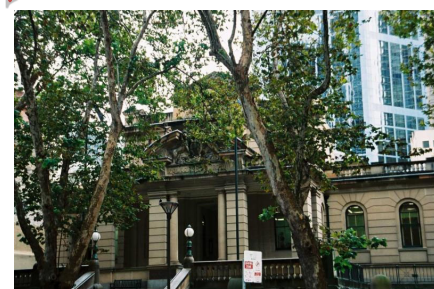


# The Background Investigator

## Your Information Resource

PBSA SYDNEY



Volume 19 Number 11  
November 2019

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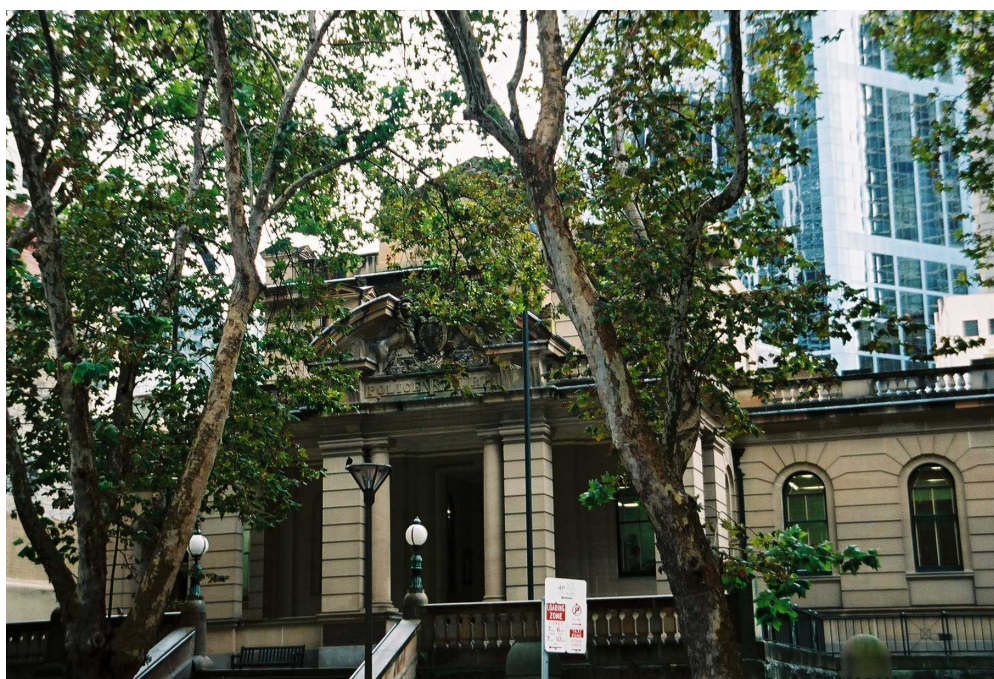
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Denton County To Make Civil And Family Court Records Available Online

Denton County records are going digital.

Denton County commissioners voted to make civil and family court records available to the public via a digital portal when they agreed to pen an agreement with Tyler Technologies on Tuesday night. The item was placed on the agenda by Precinct 1 Commissioner Hugh Coleman, who is also a lawyer.

“In order to become more transparent and in order to provide the public with better services and facilitate open government, I’ve always thought it was a good idea to put the court records that are in our county and district courts on the internet,” he said.

Both David Trantham, the Denton County district clerk, and Juli Luke, county clerk, spoke at the meeting, explaining that because of the existing online filing system, the move would be relatively painless for staff.

“We think this is the best solution to make records available,” Luke said.

The agreement does not cost the county any money, and reduces costs of records for the public. Currently, records cost \$1 a page. The new system reduces the cost to 10 cents a page. Tyler Technologies’s system is already used by Dallas County, and Collin County officials are also working with the company for digitized records.

There isn’t a clear timeline for implementation of the new system. Additionally, it won’t include criminal records initially because criminal documents require more redaction and restrictions.

Commissioners discussed what measures would be in place to make sure that personal information like

names of minors and Social Security numbers wouldn’t be visible in the system, a concern of previous clerks resistant to digitization.

When attorneys file documents online with the county, the onus is on them to make sure all sensitive information is redacted, Trantham said. Additionally, staff comb through filings to make sure there aren’t any slip-ups and that all of the documents are high enough quality, he said.

“There’s no 100 percent guarantee with anything, but at the end of the day, I think it comes down to access to public records and making it easier for the general public to see things,” he said. “We’re in the 21st century now, where everybody has a computer in their homes for the most part, and now they could log in and see that without having to drive down to the courthouse to do it.”

Survey - More Than Three-Quarters Of U.S. Citizens Accept State And Local Governments Sharing Their Personal Information Across Agencies

Most U.S. citizens acknowledge and accept that state and local government agencies share their personal data, even when it comes to personal information such as criminal records and income data, according to a new survey conducted by YouGov and sponsored by Unisys Corporation (UIS). However, the survey found they remain concerned about the security of the data.

The survey of nearly 2,000 (1,986) U.S. citizens living in eight states found that more than three-quarters (77%) accept that their data is being shared between government agencies. Most citizens believe government agencies are

sharing sensitive information, including their social security numbers (60% stating they believe this data is being shared), employment status (56%), paid income tax (51%) and any criminal history (64%).

However, despite citizens' broad acceptance of data sharing among agencies, many respondents registered concern about how these agencies are protecting their data and their privacy. The most common concerns were a lack of clarity about how the government would use the data (69% concerned), infringement on privacy (68%), lack of protection from security breaches, even if accidental (66%), an external cyberattack (65%) and access to their data by unauthorized government officials (63%). Of citizens who expressed concern about at least one type of data sharing, more than half (53%) reported that they do not trust the government.

"While U.S. citizens are aware that government agencies share their personal data with each other and appear to accept that as a fact, our survey results tell us that the government agencies holding this information need to do more to give them confidence their data and their privacy will be protected," said Shawn Kingsberry, vice president and director, Government Solutions, Unisys. "Agencies can address these concerns through data protection solutions that leverage technologies such

as microsegmentation, encryption and dynamic isolation to limit the access to this data by those who are unauthorized to see it."

The survey also found a broad preference among all citizens for online options when engaging with government agencies, with 88% saying they prefer using a computer, tablet or mobile phone to engage with government agencies and services. But preferences varied depending on the type of government service requested. For example, 77% of respondents said they prefer to go online to look up information about government services or infrastructure, but smaller percentages said they prefer an online option to apply for government benefits (46%) or apply for building permits or titles (38%).

In addition, the survey found that citizens who prefer using a mobile device want a single point of access to multiple government agencies, with 60% registering a preference for a mobile optimized website and 49% for a single app. Relatively few (24%) expressed a preference for different mobile apps for each agency they contact or engaging with government services via their social media accounts (19%).

"U.S. citizens clearly desire the convenience and efficiency of digital government tools that make it easier for them to get the information and services

they need from state and local government agencies," said Unisys Chief Information Security Officer Mathew Newfield. "But our survey shows that governments must keep taking steps to ensure security and privacy as they move forward in implementing these services – steps that will be essential to their success."

To download a copy of the survey report, go to [www.unisys.com/digital-government](http://www.unisys.com/digital-government).

Who Did What In the HireRight - GIS Merger or Buy-Out?

On 25 May 2018, the ultimate parent company Corporate Risk Holdings I, Inc. ("CRH") signed a definitive agreement to merge CRH and its Hireright business, with General Information Services {"GIS"} acquiring all the outstanding equity of CRH in an all cash transaction.

This transaction closed on 12 July 2018, bringing HireRight and GIS under common pwnership General Atlantic, a leading global groth equity firm, is the majority owner of the new combined entity. Over time, the combined compny will operate under the HireRight brand.

Straightline



Ontario

1-866-909-6678

Contact:  
Steven Brownstein  
Box 10001  
Saipan, MP 96950

+1-670-256-7000  
[findcrime@thebackgroundinvestigator.com](mailto:findcrime@thebackgroundinvestigator.com)



Meet Steven Brownstein On LinkedIn

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SHRM Says "FCRA’s Seven-Year Reporting Window Begins with Charge, Not Dismissal"

The seven-year limit for reporting criminal charges on background checks begins when the charges are filed, not when they're dismissed, a federal appeals court recently ruled, meaning employers should know that criminal charges exceeding the seven-year limit shouldn't appear in employment screens.

The 9th U.S. Circuit Court of Appeals ruled May 14 that the measuring period for a criminal charge runs from the date of entry rather than the date of disposition under the Fair Credit Reporting Act (FCRA). The FCRA prohibits background screening firms from reporting any arrest record or adverse non-conviction information older than seven years. The 9th Circuit includes Alaska, Arizona, California, Hawaii, Idaho, Montana, Ne-

vada, Oregon and Washington.

Under the Ninth Circuit's interpretation, employers should also know that background checks shouldn't include later events such as dismissals, even if they are within the seven-year window.

"At issue in the [Ninth Circuit case] Moran v. The Screening Pros was the appropriate measuring period for reporting certain criminal records that did not result in a conviction," said Pamela Devata, a partner in the Chicago office of Seyfarth Shaw.

Specifically, the court was deciding whether the seven-year period ran from the entry date of the plaintiff's criminal misdemeanor charge, or from the date that charge was dismissed four years later.

"This interpretation of the reporting rules is consumer-friendly in that it narrows the reporting window and gives specific guidelines of how to treat a non-conviction criminal charge that was ultimately dismissed," said Timothy J. St. George, an attorney in the Richmond, Va., office of Troutman Sanders.

St. George explained that the appellate court reversed the district court's holding that it was the charge's dismissal that triggered the seven-year reporting period under the FCRA. "The court provided a lengthy analysis finding a charge is an adverse event upon entry, so it follows that the date of entry begins the reporting window. That interpretation mirrors the opinions put forward by the Federal Trade Commission and the Consumer Financial Protection Bureau."

The Case

The plaintiff sued The Screening Pros, which provides tenant screening reports to property owners, for issuing a background check report in 2010 that contained his criminal history—including a misdemeanor charge in 2000 which was dismissed in

2004—in violation of the FCRA and the California Investigative Consumer Reporting Agencies Act.

A district court dismissed the claim that the screening company violated the FCRA's seven-year rule, finding that the reporting period for criminal charges began on the 2004 date of dismissal, not the date of entry.

The Ninth Circuit disagreed, holding that the reporting period for criminal cases begin on the date charges were filed. The court "went further and held that the dismissal of a charge does not constitute an adverse item and may not be reported after the reporting window for the charge has ended," Devata said.

The court said that a dismissal is only adverse in that it discloses the previous charge. "Reporting the dismissal alone would reveal the existence of the charge, which after seven years, constitutes outdated criminal history information," wrote Judge Milan D. Smith, Jr., in the court's published opinion. "A related later event should not trigger or reopen the window, as the adverse event already occurred. To hold otherwise, thereby allowing this information to be reported through disclosure of a dismissal, would circumvent Congress's intent to confine adverse criminal information to a seven-year window."

In a lengthy dissent to the majority's interpretation, Judge Andrew J. Kleinfeld stated that a dismissal is an adverse item in itself because it reveals prior con-

tact with the criminal justice system. He also noted that dismissals do not necessarily equal innocence but can also signify that someone has completed probation or struck a plea deal.

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77 More Courts In England And Wales To Close

Nearly 80 more courts in England and Wales are due to close under a justice transformation scheme that is falling behind schedule, a watchdog’s report has revealed.

HM Courts and Tribunal Service (HMCTS) is three years into a £1bn programme of changes but is facing significant delays and failing to take into account the experiences of court users, the National Audit Office (NAO) has warned.

“HMCTS has made good progress in reforming some services but it is behind where it expected to be and has had to scale back its ambitions,” said Gareth Davies, the head of the NAO. “The timescale and scope remain ambitious and [it] must maintain a strong grip if it is to deliver a system that works better for everyone and delivers savings for the taxpayer.”

The modernisation programme will include an increase in the use of “virtual hearings” in criminal cases, with judges and magistrates dealing with defendants from a police station or prison using a video link.

The report reveals a surprisingly high number of courts are being considered for closure by HMCTS, which reports to the Ministry of Justice. A total of 77 courts are currently scheduled to be shut down; until recently as many as 96 had been earmarked for closure.

Since 2010 more than half of all magistrates courts in England and Wales have stopped hearing cases, forcing defendants, witnesses, police, lawyers and justices of the peace to travel more than 50 miles in some cases to access local justice. A further 133 tribunal, crown, county and family courts have also closed over the same period.

Many courts sit idle because of cost-saving measures which have reduced the number of recorders, or part-time judges. Last week, Lady Justice Macur, the senior presiding judge, said maintaining the backlog of cases by not employing more recorders to hear waiting cases “was a political decision”. Eleven out of 18 courts at the Old Bailey, for example, were empty on Thursday.

The NAO’s report says savings to date of £133m might not all be attributable to the changes. The courts service can only track certain savings, such as those

related to property costs, the report adds.

The report says HMCTS has not given sufficient consideration to concerns about access to justice.

The Labour MP Meg Hillier, the chair of the public accounts committee, said: “A government transformation plan off-track and scaled back is a broken record. HMCTS has not bucked this trend. It must ensure that further reforms, particularly those that include closing more courts do not mean citizens lose access to justice.”

Penelope Gibbs, the director of the campaign group Transform Justice, said: “Is our court closure programme just an exercise in selling off the family silver? More than half our magistrates courts have been closed since 2010 but this NAO report reveals for the first time that the government plans to close around 80 more courts. The funds generated will be used to take justice out of the courtroom and on to Skype and mobile phones. But, as the NAO points out, we don’t actually know whether these changes will help or hinder access to justice.”

Susan Acland-Hood, the chief executive of the HMCTS, highlighted the positive elements of the NAO report. “We are pleased the NAO has recognised the progress we have made towards a more accessible and efficient justice system,” she said. “More than 300,000 people have now used our online services, and two new service

centres are making it easier and quicker for all to access help.

“This is an ambitious and challenging programme but is already making a significant difference. We will continue to listen and learn, working closely with our stakeholders to improve and ensure reform delivers the full benefits to all those who use our justice system.”

John Bache, the national chair of the Magistrates Association, said: “We strongly support the recommendation of this report that HM Courts and Tribunals Service should better demonstrate how it is monitoring the impact of its reforms on users of the justice system. We recognise the need to deliver savings as part of the reform programme, but it is essential that in doing so the experience of those who use the courts does not deteriorate.

“We are also concerned that a further 77 courts are due to be closed. Justice should, wherever possible, be administered locally and many courts are already worryingly remote from the communities that they serve.”

London Courts/Cities Pricing by Straightline International	
Greater London Magistrates Courts	
City of London	19.99
Camberwell Green	19.99
Westminster	19.99
Thames	19.99
Stratford	19.99
Wimbledon	19.99
Highbury Corner	19.99
Lavender Hill	19.99
Willesden	19.99
Others	32
Courts Served*	
Magistrates Courts - The courts of first instance. Most cases begin here. Mainly misdemeanor (Summary) cases are adjudicated here.	
* The Magistrates Court is the standard search.	
For a Crown Court search added to a Magistrates Court search add \$14	
For accuracy a Postal Code is suggested.	
TAT is 1-3 days for major metropolitan areas and their surrounding vicinity.	
Other England costs	
Civil from 48	

England Prices by Straightline International	
England	
London**	19.99
Manchester	21.99
Birmingham	21.99
Liverpool	29.99
Leeds	29.99
Sheffield	21.99
Bristol	29.99
Leicester	29.99
Oxford	19.99
Dover	29.99
Portsmouth	29.99
Hull	24.99
Others	32
Courts Served*	
Magistrates Courts - The courts of first instance. Most cases begin here. Mainly misdemeanor (Summary) cases are adjudicated here.	
Crown Courts - The court of jurisdiction for felonies (Indictables) are heard at this level.	
* The Magistrates Court is the standard search.	
For England searches a Postal Code is suggested.	
If an address without the postal code is submitted only the Crown Court will be searched when there is more than one Magistrates Court in that city.	
For the Crown Court search added to the Magistrates Court search add \$14	
**For London searches see separate sheet to see if your address is included.	
TAT is 1-3 days for major metropolitan areas and their surrounding vicinity.	
Other England costs	
Civil from 48	
"We take criminal records seriously"	

Editor's Note: These closures will not affect the search results that a court record researcher would get. Files and case information will still be available at Local Justice Areas

Straightline International Criminal Record Services

Whether it's Magistrates or Crown England Courts Straightline's got you covered.

For Background Screeners - no need for expensive, long waits, hard to get police clearances.

They are not required for most employment purposes in England and absolutely not needed for employment purposes outside of Australia.

Court records are public, easy to get, some are even online!



Public Access In Bermuda

Are court hearings held in public? Are court documents available to the public?

The Bermuda Constitution generally provides that all proceedings instituted in any court shall be held in public, save that the court may exclude persons other than the parties and their legal representatives to such extent: (i) as the court may be empowered or required by law so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings or in the interest of public morality, the welfare of persons under the age of 18 years or the protection of the private lives of persons concerned in the proceedings; or (ii) in the interests of defence, public safety or public order.

The legal principles governing private chamber hearings were considered in Bermuda Casino Gaming Commission v Richard Schuetz [2018] SC (Bda) 24 Civ.

The Bermuda courts have recognised that the granting of confidentiality orders (ie, the anonymising of proceedings and dealing with them as private) may be appropriate where there is no obvious public interest in knowing about the matter in dispute (Re BCD Trust (Confidentiality Orders) [2015] Bda LR 108). The legal principles governing confidentiality orders were recently considered In The Matter [of] The E Trust [2018] SC (Bda) 38 Civ.

The public may apply for copies of originating process, judgments and orders in civil and commercial matters save for any case whereby order of the court public access to such documents has been restricted, divorce proceedings and any other proceedings related to children, applications in relation to arbitration

proceedings, applications for directions in relation to trusts, cases relating to the administration of deceased estates, winding-up proceedings and any other category of case that may be identified, from time to time, by way of circular by the Registrar of the Supreme Court (the Registrar).

The legal basis for members of the public to gain automatic access to court records where the member of the public is not a party to the proceedings is as follows:

- where a case is no longer pending or active because it is finally concluded, a member of the public can apply to the Registry for copies of documents under the Supreme Court (Records) Act 1955;
- where a case is pending, a member of the public can apply to the Registry for copies of any originating process or orders made in the case under Order 63, rule 4 of the Rules; and
- where reference is made in the course of a public hearing or in a public judgment to any documents on the court file, a member of the public has a common-law right to apply for copies of the relevant document or documents (Bermuda Press (Holdings) Ltd v Registrar of Supreme Court [2015] SC (Bda) 49 Civ).

Rwanda Going Online

Members of the public will effective from next week access criminal record certificates through an online platform, the Prosecutor General has confirmed, in a response to public concerns that the current process is complex.

The criminal record certificate is an official document issued to an individual to state their criminal record. Whether the individual holds a criminal record or not, the status is documented on the certificate.

The document, valid for six months from the issuance date, is a requirement

for securing official services such as visas, passports and public sector jobs among others.

Background Check Information (That Shouldn't Be Available) Can Cost You Plenty of \$\$\$

A federal jury ruled that Bucks County willfully disseminated criminal record information through an online search tool on the county's website, violating a federal privacy law.

As a result of the class-action lawsuit verdict, Bucks County could be required to pay up to \$67 million to the 67,000 people booked in county jail from 1938 to 2013.

Personal information, photos, and charges had been made public through the Buck County website's inmate lookup tool for anyone booked during those 75 years, the courts found.

The eight-person jury in the U.S. District Court for the Eastern District of Pennsylvania in Philadelphia determined the county had "willfully," or with a reckless disregard, shared that inmate information.

A U.S. district judge ruled in 2016 that the Bucks County had violated the Criminal History Record Information Act, however Tuesday's proceedings found officials hadn't prevented the information from being shared.

In the class-action lawsuit — brought forth by Daryoush Taha, who discovered in 2013 his 1998 arrest details were available on the county website — each of the 67,000 people booked could be eligible for \$1,000 in punitive damages.



Many Canadian And Ontario Criminal Record Providers Are Basically Couriers

Whenever I've tried to use a provider there to get me record information or copies or civil lawsuits, judgments, or lien records it's near impossible no matter what I've been told about their getting them.

Are Canadian criminal background screeners really screeners or just a delivery service for RCMP records?

I would consider a training course for Canadian based record providers.

Now that they are members of PBSA maybe they can undergo training.

Meanwhile, I find that doing them myself has always been much better.

Maybe because I am 20 more years experienced than them in obtaining records.

But it is never too late for them to begin learning!

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High Court Judgments,

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Fine Defaults

and

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# Clear My Record Introduces Court Record Deletion Software

In the U.S. today, 1 in 3 people have a criminal record that appears on a routine background check. That means that 70 to 100 million people are left out of the workforce, unable to get student loans, housing and face a host of other obstacles to living a self-sustaining life, even though they have paid their dues to society.

Nearly every state has passed laws that allow people to clear or change their criminal record, recognizing the impact on the economy and on the lives of families when millions are shut out of the workforce or unable to fully reintegrate into their communities. But a small fraction of the tens of millions of eligible Americans have actually benefited from these laws because of the process is overly complicated, costly, and takes too much time.

At Code for America, we believe government can work dramatically better than it does today, and the criminal justice system is one of the areas where we are most failing the American people.

In 2016, we launched Clear My Record as an opt-in service for people seeking record clearance. However, we quickly recognized government is not equipped with the proper tools to support reentry and systems for decriminalization efforts. To help the government implement record clearance at scale, we shifted our focus and built Clear My Record (Automatic) to support a full systems change.

Clear My Record (Automatic)

After several years of work in this area, we are in the position to help millions get out from under the burden of a criminal conviction. In May 2018, Code for America launched a pilot to help the government

automatically clear all eligible criminal records and remove a significant barrier to work, education, and housing for people. The core technology reads a criminal record, then maps data to determine eligibility for relief under the applicable statute, and completes the appropriate forms to be filed with the court.

We will pilot this technology in 3 to 5 counties in California, partnering with district attorneys and starting with the record clearance or reduction remedies available under Proposition 64 (marijuana legalization). Our goal is to help clear 250,000 eligible convictions by 2019.

Our vision is to create a blueprint for automatic record clearance of all eligible criminal records in California and across the country. We are working with government to fundamentally rethink the process of record clearance, leveraging technology and user-centered design to reinvest in communities by removing barriers to employment, housing, health, and education.

## Understanding Record Deletion A Little Better

Thousands of criminal convictions for marijuana possession will be automatically expunged in Cook County, Illinois, through a partnership with tech nonprofit Code For America as the state prepares to legalize recreational use of the drug.

The collaboration between the county and the tech nonprofit will streamline the expungement process, helping the state atone for “the wrongs of the past,” Cook County State’s Attorney Kim Foxx said at a news conference Tuesday.

“As prosecutors who were part of the war on drugs, we were part of a larger ecosystem that believed that in the interest of public safety these were convictions that were necessary to gain,” she said.

“Conviction relief is not only a critical part of righting the wrongs of the war on drugs, it is a recommitment and statement of our values—that a low-level marijuana conviction does not mean that someone is a threat to public safety.”

Under the state’s recreational marijuana legalization law, which takes effect in January, residents 21 and older can possess up to 30 grams of cannabis. Cook County’s partnership with Code For America will automate the expungement process for convictions involving less than that amount of marijuana.

People convicted for larger amounts (up to 500 grams) can petition to have the charge wiped from their records.

Prosecutors had previously worked to streamline expungement, cutting the processing time from 18 months to eight. But that didn’t solve the major problem with expungement—that a majority of people eligible to have their records cleared don’t take advantage of the opportunity because it’s so cumbersome, Foxx said.

“The research has found that people who have been eligible for this type of relief, only about 3 to 5 percent actively work to get those convictions vacated largely because the process is so onerous,” she said. “People don’t know how to do it. The unique part about this is we are doing this on behalf of those who have had these convictions without them having to petition us to do that in the first place, which will allow for us to have maximum impact.”

Code for America’s software program will be provided to the county for free, according to Jennifer Pahlka, the nonprofit’s founder and executive director. The program works by sifting through government records to identify the ones that are eligible for expungement, then forwards those convictions to the state’s attorney’s office, where staff reviews them

for accuracy before sending them on to the court. The software can read up to 10,000 records per minute, Pahlka said.

Other states have tackled automatic expungement in different ways. This marks the first time that California-based Code for America will deploy the expungement system outside of its home state, where it’s been used in several jurisdictions, including Sacramento County and San Francisco.

Foxx said that Cook County hopes to begin the process as soon as possible, likely before the recreational marijuana legalization law goes into effect.

## Are There Really Court Runners In Every County?

Recently, I was at (of all places) Sicily when I met this young entrepreneur who is making it big in digital ID verification. It was insane, to say the least, that even in Italy I would meet someone who was buying some of his product from one of my friends - a starter in the ID verification industry.

The twist in this story is that this guy's company was searching out CRA's to do their pre-employment screening.

As they are high tech, he approached two large CRA's whose product is technology, more so than criminal records.

The story ends when he told me that even these high tech CRA's couldn't automate all their criminal record searches.

The joke is that the CRA's told this guy that where they don't have electronic access to court records they have runners that go to the court!



## Many International Criminal Record Companies Fail Geography Tests

What do you call a provider to a pre-employment screening company who has no idea (unfortunately THEY KNOW WHAT THEY'RE SELLING- their staff might think they're selling you a good product) but in reality they have no idea what's going on? Be it London, Bangkok, Manila; if there is more than one court in an area you're in a hurt of trouble.

11 courts in Bangkok, 30 some courts in Moscow, over 15 courts in London. You're getting the picture.

## How Do You Spin A Good Yarn?

Take a look at some USA international records research companies offering Russia criminal record searches.

Looking at their websites there is no way to tell what they are really offering.

Many companies will spin a yarn even before showing you the price. Probably a darn a good one if you asked them what they mean.

Russia searches? Offering Administrative penalties? Far from criminal.

Local level criminal search - what's that? Take a look at the list of Moscow courts. There's more than 30 of them.

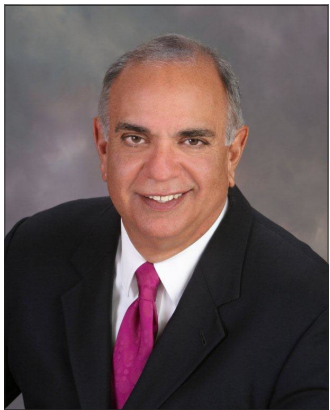
Care to guess what they're doing? Or would you rather have them do the guessing?

Know the facts. Forget the yarn.

<https://www.straightlineinternational.com/contact-us/>

## Les Rosen's Corner

A monthly column  
By Lester Rosen,  
Attorney at Law



Written By ESR News  
Blog Editor Thomas  
Ahearn

**Note: We heard a lot about continuous monitoring at the NAPBS/PBSA 2019 Conference from almost everyone as if it were something new and revolutionary. Here's an article reprinted from the Background Investigator - February 2017 edition from Les Rosen**

### Continuous Screening of Employees

While most companies currently perform background screening on employees once at the pre-hire stage, “the new normal may call for continuous, post-hire monitoring” in the near future to avoid insider threats, according to a Society for Human Resource Management (SHRM) article. The fact that Continuous Screening is a process that more employers are considering as a critical post-hire due diligence tool is Trend Number 5 in the Employment Screening Resources® (ESR) 10th annual ‘ESR Top Ten Background Check Trends’ for 2017.

“An evolving practice called ‘Continuous Screening’ involves periodic background checks on current employees to identify criminal cases that can occur after a worker was hired. While Continuous Screening can be a risk-

management tool, employers need to consider a number of factors to determine if it’s worthwhile, fair, and legally compliant,” says ESR founder and CEO Attorney Lester Rosen.

In the story entitled “Is Continuous Screening the Future Normal?,” SHRM editor/manager Roy Maurer interviewed many background screening experts including Rosen, who told Maurer that without Continuous Screening “an employer may discover post-employment that critical information was missed during the hiring process” that may lead to post-hire insider threats that can include embezzlement, fraud, theft, and even violent behavior.

“Continuous Screening” – also called Continual Screening, Infinity Screening, or Re-Screening – is usually performed on workers annually or semi-annually. Although the argument can be made that employers would likely be aware of a crime committed by a current worker because the worker is not at work, there are many serious offenses where a person can be bailed out and serve a sentence with work furlough, weekend jail time, volunteer hours, or some other alternative to actual incarceration.

According to Rosen – author of “The Safe Hiring Manual,” a comprehensive guide to background checks that includes a section devoted to Continuous Screening – employers need to consider these factors:

- False sense of security, especially if databases are used instead of checking primary sources which can lead to errors.

- Consent Issues – Does the employee know he or she will be re-screened and the program is in compliance with the federal Fair Credit Reporting Act (FCRA) and state law?

- Policies and procedure to follow if a record is found.

- Compliance with the U.S. Equal Employment Opportunity Commission (EEOC) rules on the fair and proper

use of criminal records to ensure the screening program is not discriminatory under Title XII, and Impact on Workforce.

- Numerous additional tools beyond background checks that are needed to combat insider threats, such as an environment of control since background checks by themselves are not going to prevent post-hire problems.

- Issues associated with employee morale and corporate culture.

Advocates of ongoing Continuous Screening suggest it is a way to continue to demonstrate due diligence, protect the workplace, and combat insider threats and workplace violence. However, Rosen warns in his book that continuous screening on current employees carries risks. The verdict on whether or not the advantages of periodic background checks of current employees outweigh the disadvantages is: “The jury is still out.” Even though periodic criminal screening of current employees may have some apparent advantages, it is an open question whether it is a cost-effective tool or even if the advantages outweigh the disadvantages. Here are several points to consider. There is little in the way of empirical evidence that shows Continuous Screening results in any advantage to employers, says Rosen. There are no studies to suggest, on a cost-benefit basis, such checks produce results. If such checks are used, then there is the possibility of both false positives and false negatives since databases available to private employers are not always complete, accurate, or up to date. In large states like California, New York, and Texas, such database searches have very limited value.

If there is Continuous Screening, Rosen says, it should be done ideally on the courthouse level in addition to any databases, which increases the cost. There is also the consent issue. Under the federal Fair Credit Reporting Act

(FCRA), all checks including periodic checks must be done with consent (unless there is a specific investigation for suspicion of misconduct or wrongdoing). Although most consent forms contain “evergreen” language that makes the initial consent valid indefinitely or until revoked (usually in writing), at some point, an employee can either withdraw the consent or claim it has become stale over time. In California, the argument has been made that a new consent is needed each and every time.

If an employee withdraws consent, the question arises if the employee can be terminated for refusal to consent. It is clear that employers have much more discretion in requiring pre-employment testing, based on the fact that they do not have experience with the applicant. For that reason, courts have granted wider latitude pre-hire. However, once someone is employed, the necessity argument is less convincing since the employer now has a history with the worker.

Therefore, Rosen explains, it is not clear that an employee can be terminated for a refusal to consent to an ongoing criminal check, absent some explicit employer policy or a strong showing of need. The employer could argue that since employment is “at will,” failure to consent to an ongoing background check can constitute grounds for termination. The problem is that as time goes on, the “at will” relationship can become murky depending upon the facts of the employment relationship.

The issue becomes more complicated if the refusing employee is a member of a protected class. That raises potential discrimination issues. Another complication is when the policy is instituted. If a new worker comes onboard when the policy is in place, it is much harder to object if it is clearly outlined in the employee manual. If conversely, the policy is new, current employees will

have more difficulty dealing with it, requiring HR to engage in employee education to show how the policy benefits everyone.

In addition, Rosen explains that a firm needs a well laid out policy in an employee manual as to how they will deal with a new criminal record that may be uncovered during a periodic check. At a minimum, any action must be based upon some business justification, taking into account the nature and gravity of the offense, the nature of the job, and how long ago it occurred per the 2012 EEOC Guidance. In addition, the pre-adverse action notice requirements of the FCRA would come into play as well as the “Individualized Assessment” process outlined by the EEOC.

Rosen told Maurer in the SHRM article that “job application forms should make it clear that any material falsehood or omission from the applicant can result in termination no matter when it is discovered. Employee handbooks should include language on what will happen if the employer discovers falsehoods or omissions post-hire.” He also said employers “should ensure background check releases have an evergreen clause to allow future screening if needed. Some firms include a policy that employees must self-report any arrest that can impact their ability to perform their jobs.”

There are also the cultural considerations with Continuous Screening, says Rosen. What type of message does it send the workplace if workers are constantly suspected of criminal activity? What type of workplace stress is created if an otherwise long time and loyal employees feel they are subject to dismissal at any time for a minor offense that may or may not bear upon their suitably as an employee? If the employer is unionized, then union rules can also play a role.

be subject to false positives and false negatives.

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# Continuous Screening of Employees,

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One possible solution for employers that have determined that Continuous Screening is necessary is to conduct it in a similar fashion to random drug testing done for certain drivers that are controlled the Department of Transportation.

Random pools can be set up and “real” criminal checks done at the courthouse rather than a so-called “national” database that can be subject to false positives and false negatives.

One company ended up paying \$1.6 million to re-screen their workers. On September 8, 2015, the U.S. District Court for the District of South Carolina entered a consent decree ordering BMW Manufacturing Co., LLC (BMW) to pay \$1.6 million as part of the resolution of a lawsuit filed by the EEOC that claimed BMW excluded African-American logistics workers from employment at a disproportionate rate when the company’s new logistics contractor applied BMW’s criminal conviction records guidelines when re-screening incumbent employees. The EEOC complaint alleged that when BMW switched contractors handling the company’s logistics at a production facility, the company required the new contractor to perform a criminal background re-screening on all existing logistics employees who re-applied to continue working in their positions at BMW. At that time, BMW’s criminal conviction records guidelines excluded from employment all persons with convictions in certain categories of crime, regardless of how long ago the employee had been convicted or whether the conviction was for a misdemeanor or felony.

After the criminal background checks had been performed, BMW learned that approximately 100 in-

cumbent logistics workers at the facility, including employees who had worked at there for several years, did not pass the re-screening. The EEOC alleged 80 percent of the incumbent workers disqualified from employment as a result of applying BMW’s guidelines were black. Following an investigation, the EEOC filed suit alleging that blacks were disproportionately disqualified from employment as a result of the criminal conviction records guidelines. EEOC sought relief for 56 African-Americans who were discharged. BMW has since voluntarily changed its guidelines.

Having noted the disadvantages, the case can well occur where an employer is sued for a failure to check current employees if such a failure to check was the proximate cause of workplace violence or some other harm that arguably could have been prevented. The bottom line is that this is an issue that will be worked out in a court decision in the coming years. In the meantime, employers contemplating such periodic checks should approach it with caution and seek the advice of their attorney.

Rosen says there is also the issue of whether Continuous Screening is even an effective tool to counter insider threats. Although pre-employment background checks are often cited as an essential element of an insider threat prevention program, they are just one part of an overall strategy. The identification and prevention of insider threats requires an inter-disciplinary approach that can include mental health assessments, psychological testing, physical security, internal controls, continuous evaluation of personnel, supervisor and co-worker training to recognize danger signals, identification of risk factors, sharing and analyzing information between responsible parties, and a culture of safety, reporting, and integrity. Most critically, an organization needs to have a commitment to prevent these threats, and a leader-

ship team and professionals who are able to formulate and implement an overall strategy.

Rosen concludes that an organization considering continuous screening needs to bolster all aspects of its insider threat protection program, and understand that such screening is just one element of an overall program that needs to be approached with caution in order to ensure it does not create workplace or legal issues. The bottom line: if an employer is interested in continuous screening, it needs to work with a screening partner who can assist the employer with understanding all of the pros and cons in order to make an informed decision and to avoid pitfalls in setting up the program, and avoid providers that simply want to sell more searches that could end up doing more harm than good.

## Record Keepers Can't Get It Straight

California Police, Prosecutors And Courts Are Keeping California’s Criminal Justice Data A Secret

A quick flip through the statute books could leave the false impression that California has the nation’s most transparent criminal justice system, the most comprehensively compiled and carefully analyzed crime data, the most penetrating public access — even without a new bill on its way to Gov. Gavin Newsom’s desk.

Since the 1950s, California law has required the state Department of Justice to collect names, numbers and other key facts from every state and local agency dealing in any way with crime, criminals or “juvenile delinquents.” In the 1970s, lawmakers set standards for sorting and sharing justice data among courts, police, prosecutors, jails and prisons. In 2016, a new law required the state attorney general to post basic criminal statistics

online. And for decades, California has acknowledged the public’s right to inspect arrest records and other essential documents. Yet retrieving useful information about California’s justice system is nearly impossible. More than half of all arrest records fail to show whether the suspect ultimately was convicted, so police can’t tell whether the person they just stopped has a serious felony record. Innocent people might sit in jail while courts or probation departments try to track down complete rap sheets that really ought to be available with a couple keystrokes. Violent felons may be left free to buy guns despite being legally barred from doing so. Potential employers can’t tell the difference between a job applicant with a criminal past and one who was once mistakenly arrested.

Meanwhile, inadequate numbers and other data leave the public with no idea whether criminal justice reforms or other new laws are working as they were intended, or whether their courts, cops, prosecutors, probation departments and public defenders are working efficiently and effectively.

How can a state that requires so much information-gathering be so in the dark about its justice system? In part, it comes down to lack of resources and lack of technological know-how. Some courts and county agencies (barely) meet their legal requirements by sending paper records to the Justice Department, which then must transcribe the documents into its own data system. Other agencies have some tech savvy but use systems or software that are incompatible with one another or are no longer supported by the companies that developed them. And standards for collecting data vary around the state, so all that carefully compiled information has limited utility.

Still — other states that face similar challenges manage to do better.

One problem that sets Cal-

ifornia apart is scale. The state is huge, and so are the numbers of arrests, dismissals, convictions, sentences, probation orders. It takes money and expertise to manage all those records.

But it may also be that criminal justice agencies have little enthusiasm for opening their operations to public scrutiny. For example, until recently the California Department of Corrections and Rehabilitation prohibited researchers from publishing findings that officials believed might reflect poorly on the department, according to an April 2019 report by the Stanford Criminal Justice Center and Measures for Justice (an organization seeking to improve justice data collection practices).

The same may be true of other agencies. A district attorney, for example, has a political incentive to jealously guard data about conviction rates, reversals on appeal and the like. Judges are wary of being graded on how swiftly cases move through their courts or how many African American defendants, for example, are convicted in their courtrooms, and how long their sentences are compared with convictions and sentences for white defendants.

Assembly Bill 1331 would close some of the current gaps in criminal history records by tightening reporting requirements for law enforcement agencies and courts. It would require release of anonymized information to research agencies, which would then be able to sift through data to discover trends or biases. It would promote better and faster sharing of information among public agencies.

It’s a step forward but like all those older laws on California’s books, it won’t solve the state’s criminal justice information problem without serious buy-in by courts, police and other participants in the system. They will have to more fully embrace — on their own or through public and political pressure — their role in producing useful data.

Buzz Feed
Questions
Background
Check Practices

In Chicago, a Lyft driver is in jail on charges of tying up a passenger and raping her in the back of the car.

In Texas, a customer accused a Home Depot delivery driver of grabbing her by the neck when she said the wrong item had been dropped off — leaving marks.

And in Hawaii, a manager at a storage facility allegedly sexually assaulted a teenage girl — the daughter of a frequent client.

Each had a criminal history. But their employers had relied on third-party background check companies that had failed to turn up their past convictions, according to court documents and sources — allowing people with criminal pasts to work directly with customers, sometimes in the most vulnerable of settings.

The dominant player in the industry, Sterling Talent Solutions, is an unseen component of how thousands of companies hire workers. From its headquarters in New York, it employs thousands of people around the world, bringing in revenues of almost half a billion dollars a year, and screens employees for nearly 30% of Fortune 500 companies.

Criminal records checks are done nearly universally in the hiring process today. And the rise of the gig economy has only bolstered the background check industry as it depends on quickly hiring new employees for high-turnover positions — while assuring their customers they are safe when interacting with strangers.

The TaskRabbit handy person who shows up to help you move furniture, the babysitter you’ve hired from Care.com, even the flight attendant who serves you a drink on a Southwest Airlines flight may have all

been vetted by Sterling. New demand has only put more pressure on companies to speed up their services in order to compete for lucrative contracts. When Sterling first released its own proprietary technology more than a decade ago, it claimed it could search court records 50% faster than its competitors. Today, it tells prospective clients that it stands apart with its advanced technology, accuracy, and speed, and has won business from companies like Walmart and Disney.

Sterling’s growth has accelerated in the last decade, which has seen it buy around a dozen of its competitors. Goldman Sachs and other investors acquired a stake in the company for nearly \$700 million in 2015.

Behind the scenes, Sterling’s rise has been built on cutting US jobs and expanding its operations in the Philippines and India, where verification teams sometimes struggle to meet the volume of checks that Sterling’s clients request. Despite the emphasis on technology, much of the work still relies on low-paid workers to sort through records. Offshore workers at Sterling described to BuzzFeed News large caseloads that led to manual errors, problems with technology, and even panic attacks and injuries from the stress and repetitive nature of the work.

Other issues with background checks arise as well — records databases can be incomplete, and workers don’t always have enough information to confirm that a conviction belongs to the person who applied for the job.

Around 200 lawsuits have accused Sterling of failures — most often attributing criminal records to the wrong person, preventing them from getting a job. But the very worst errors are the ones in which people with violent criminal records slip through the net, and go on to harm the very people they’re supposed to

work for. Sterling delayed an interview with BuzzFeed News several times and then ultimately declined to speak. The company also did not answer a detailed list of questions. A spokesperson said in a statement that “as a leading provider in the background screening industry, Sterling relies on rigorously tested processes, proven best practices, and many years of experience in this highly regulated and complex sector as part of its commitment to keep companies and consumers safe.”

But interviews, police reports, consumer complaints, and court records tell a different story. Sterling’s focus was on growth above all, many employees said, even as it struggled with the very technology it claimed made it a world leader — and mistakes led to alleged harm. Ultimately these piled up, and a grave error in its Mumbai office would lead Sterling to lose its contract with Lyft in the US, one of its biggest clients.

On a summer evening in 2017, a young woman with bright blonde, shoulder-length hair got into a Lyft in Chicago around 11 p.m. After a few minutes, she fell asleep — not noticing that the driver, Angelo McCoy, had canceled her ride. Instead of dropping her at the intended destination, she said he pulled into a secluded alleyway.

Once parked, McCoy allegedly crawled into the backseat, and after threatening his young woman passenger with a knife, grabbed her iPhone. He then zip-tied her hands behind her back, according to the police report. Unable to move, she said he forced his penis in her mouth, vagina, and anus. McCoy held her there for hours, she said.

When he was finished, McCoy drove off, his passenger still in tow. The young woman only managed to escape when McCoy stopped at an inter-

section in the North Side of Chicago.

Police later charged McCoy with assault, kidnapping, robbery, and unlawful restraint. McCoy is currently in jail awaiting trial for these allegations, along with charges associated with a second rape, according to Cook County Sheriff’s Office records.

When Sterling screened McCoy, he had a recent, previous conviction for theft, BuzzFeed News found, a criminal charge that Lyft lists as a disqualifying offense for drivers. A lawsuit against both Lyft and Sterling cites a longer rap sheet of McCoy’s that included a conviction for possession of weapons. A Cook County clerk told BuzzFeed News that not all case files for McCoy were available.

Sterling’s background check failed, the lawsuit alleges.

In a filing Sterling said that it was not responsible for protecting the victim from McCoy’s alleged criminal act. Lyft declined to comment, citing active litigation.

Ride-hail companies have long been under fire for not checking their drivers thoroughly enough. In 2014, the Los Angeles and San Francisco district attorneys sued both Lyft and Uber for how they were representing their background checks to their customers. Lyft paid \$500,000 to settle that claim and agreed not to describe them as “industry leading.” Uber fought the allegations but ultimately settled as well in 2016.

A few years later, Massachusetts passed legislation requiring in part that Lyft and Uber drivers submit to an additional state-run background check. In 2017,

it disqualified thousands of drivers from both companies, finding more than 950 had committed violent crimes and 51 were sex offenders, according to figures provided by the state. (Uber contracts with Checkr, one of Sterling’s competitors.)

Criminal checks aren’t standardized — searches vary based on what a client orders from third-party companies. The fractured nature of the US court system, which includes thousands of courts across the country, means not everything will show up in just one search.

Typically searches start with a Social Security number trace to verify an applicant’s identity, determine where they have lived, and then search the court records in those states and particular counties. Lyft had requested a Social Security number trace from Sterling on its drivers, along with a nationwide criminal search, a county court records search, a federal criminal court records search, and a US Department of Justice 50-state sex offender registry search.

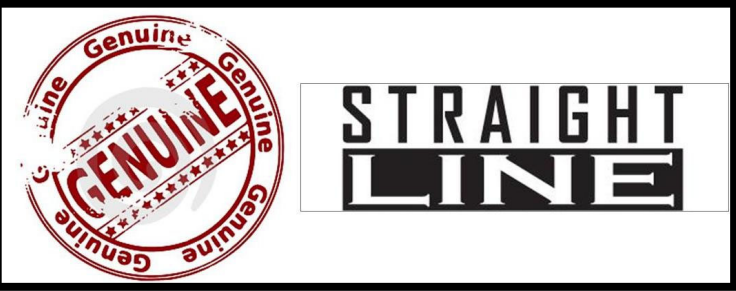
Sterling has automated some of its record searches, employees said. But most of the time, a criminal records search requires a pair of human eyes to read through court documents, confirm the contents, and code the results for a client.

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The ads posted for jobs in Sterling’s call centers in India and the Philippines show the company targeted fresh graduates who usually required only a year of work experience to qualify for a “nonvoice” or back-office position like data entry or searching US court records.

The process was prone to error, employees said, especially given the speed with which the checks needed to be completed.

On any given day, Sterling’s staff might have a target of reviewing the files of 80 people. That means searching the courts for each jurisdiction where someone has lived, reviewing the documents related to each file, ensuring they matched the correct person and that they were reportable under federal and local laws, and then coding those results — all in just a few minutes. Common names were particularly challenging because there could be a large number of matches and lots of files to review.

It was “very stressful. That’s how people used to make a lot of mistakes,” said Sneha Soneja, who worked in Sterling’s criminal records department for about a year around 2017.

Lots of errors cropped up, agreed Avisek Dasgupta, who was a training manager at Sterling for several years in Mumbai. Sometimes, he said, workers would simply use “control + F” to search court documents for keywords instead of reading through them to determine if there was a conviction.

Other times, employees didn’t take the time to confirm whether state laws allowed them to report a case — in California, for example, it’s illegal to report a felony conviction more than seven years old. “They want to do it fast. They

want to get through the files because there are targets to make,” Dasgupta explained about the criminal verification workers.

Not all said they found the targets stressful. Several employees told BuzzFeed News they enjoyed the work and that they could meet the targets because it was a straightforward task to search for records.

Occasionally leadership at the office requested Dasgupta hold extra training sessions with employees to guide them away from these errors, he added. But it had little effect. “Everyone was trying to save time and cut corners.”

The driving force behind Sterling is William Greenblatt, who founded the company while at the University of Maryland in 1975. At first the company was dedicated to secret shopping and polygraph testing, until the 1980s, when regulation changes led him to shift his business to employment screening.

For years, the company’s annual revenues had hovered around \$1 million. But things picked up across the industry after 9/11, as demand inevitably grew for more extensive screening procedures. Greenblatt told the New York Times in 2005 that he expected revenues around \$50 million that year. In a 2008 profile of the company, a business publication wrote that Greenblatt had a “maniacal focus on growth.”

With increased demand from employers, speed became more important. The proprietary technology that it had recently launched made it 50% faster than the rest of the industry, Sterling said. Today the company’s website states that the technology allows it to automatically pull digitized records from more than 2,300 counties around the country.

“We’ve taken the most important component of the background check, the criminal check, and made it faster, more accessible and more accurate than at any

other time in our history,” Greenblatt was quoted as saying in a company press release.

Sterling began snapping up other background check companies in 2008 and soon started making lists of the fastest-growing companies in the country published by Inc. and Deloitte. By the end of 2010, it had attracted private equity investment.

Those companies allegedly made mistakes in their background checks too. One of the first that Sterling acquired, Abso, cleared a registered sex offender.

After Dale McShane was hired as the manager of a storage facility in Honolulu, his boss requested a background check on him in early 2009. Abso reported that its search of county-level criminal records and a sex offender registry was clear, so McShane kept working.

But months later, McShane was accused of forcibly kissing and touching the daughter of one of the clients who used the storage facility. The 15-year old had recently moved to Hawaii from Japan and didn’t speak English well. On multiple occasions, McShane had allegedly cornered her — sticking his tongue in her mouth and rubbing her inner thigh, a lawsuit later alleged.

The owner requested Abso run another check on McShane after the family filed a police complaint. Abso’s second report included an added search of the Department of Justice’s sex offender registry, which revealed McShane was a registered sex offender in the state of Hawaii. He had a prior conviction for attempted third-degree rape.

Andrew Daisuke Stewart, a lawyer for the victim, said it illustrated one of the shortcomings with background checks — that not all records databases are complete.

In a court filing, Sterling — which had acquired Ab-

so by that point — denied it was responsible for McShane’s alleged assault.

Yet Sterling gained more prominence as it grew on the backs of these smaller companies. In 2011, Greenblatt, his spiked hair whitened since his college days, spoke to Fox Business about his company. In a dark pinstripe suit, he warned that the services Sterling offered were essential because “most of what businesses see is not true.”

“People lie about everything,” continued Greenblatt. “It’s the American way.”

People lie, but Sterling gets it wrong sometimes too. Unsuspecting job applicants who were never dishonest about anything on their application or had no criminal history could be caught up in a web that ultimately led them to lose out on employment and wages.

Last March, Matthew Mintz opened the Lyft app on his phone to start a shift when he discovered he had been locked out of his account. He had already been driving part time for about a year, but this time, a notice popped up that directed him to an email saying a background check had turned up criminal charges against him. Sterling’s report mentioned sex-trafficking convictions. (Some companies rerun background checks to ensure they are aware of any crimes that an employee might commit while working for them.)

Lyft suspended his account.

But Sterling seemed to have in fact confused Mintz — a 53-year-old man living in Shakopee, Minnesota — with a 26-year-old in Chicago who shared his name and had recently been convicted for his role in an international scheme trafficking hundreds of women from Thailand who were forced into prostitution across the US to pay off bondage debts.

Unable to work, Mintz sued Sterling. It’s one of nearly 200 suits that the company has faced in the last decade over failures of the Fair Credit Reporting Act, which governs what third-party companies like Sterling can report to clients. The consumer protection measure limits companies from reporting arrests more than seven years old, and outlines that companies have to take reasonable precautions to make sure they are reporting accurate information.

Sterling settled with Mintz within a few months — the terms of which included a nondisparagement agreement.

But the frequency of mistakes is likely far higher than the number of lawsuits reveals. In the last five years, the Federal Trade Commission has received another 190 complaints about Sterling, according to a Freedom of Information Act request. Complaints range from incorrect information or outdated charges being reported to the company not responding at all to requests to correct those mistakes.

“There’s not a lot of financial incentive to ensure accuracy,” said Michelle Drake, a consumer rights attorney in Minnesota who has litigated cases against Sterling. From a revenue standpoint, “you can make up for inaccuracy with a higher volume” of clients, she added.

Sterling itself admits there are limits to its services. In contracts reviewed by BuzzFeed News, Sterling lays out pricing terms and assures that client data will be kept confidential. But in signing, the client acknowledges that “Sterling cannot act as an insurer or guarantor of the accuracy, reliability or completeness of the data” or confirm “the services will be uninterrupted or error-free.”

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Sergei Lemberg, a consumer rights attorney who represented Mintz, described errors within the industry as a “pervasive problem” and said that those cases made up a significant portion of his practice.

“Some of the errors are just egregious,” he said, adding that the most prevalent mistakes he sees are because of confusion over common surnames.

Sterling tells clients that it can do a criminal records search in under 24 hours in most cases. But the challenge is matching someone’s name to criminal records that don’t have a unique identifier of a person. Social Security numbers, for example, aren’t always a part of court records.

“Sometimes there wasn’t always a birthdate or a way to verify that the name was the same,” said Amol Khengre, who worked in criminal records in Mumbai. In those cases, he said, if criminal records came up on a person, his team “still attached it to the file.”

These types of errors happen across the industry. In 2012 the Department of Justice (DOJ) sued HireRight for violations of the Fair Credit Reporting Act, including failing to take reasonable measures that ensured it was reporting correct information. The company paid a \$2.6 million penalty. The DOJ declined to comment about whether it was currently investigating Sterling or its competitors.

Those competitors, like First Advantage and HireRight, have also been sued a number of times, and there are hundreds of FTC complaints against those companies, records show. Some are alleged to have ended in harm, too.

Charlene Allen was outside her home on a hot September day in a suburb of Dallas to meet a delivery driver from Home Depot. When the delivery arrived, she noticed the part she had ordered for her washing machine was the wrong one.

Allen asked the driver — Nigel Graves — to wait so she could call Home Depot. When Graves refused, Allen took the delivery paperwork from him so she could jot down the reason for declining the order.

But Graves’ demeanor suddenly changed, she said in a lawsuit. With one hand he grabbed her by the neck, and with his other he gripped her left arm right above her elbow. In pain, she dropped the paperwork and Graves grabbed it and drove off.

Just a few years prior, Graves had been indicted in a nearby county for charges of burglary and aggravated assault. But the background check company, First Advantage, had not discovered Graves’ previous criminal history, a suit later alleged. The parties resolved the case and it was then dismissed. First Advantage declined to comment further. A lawyer for Allen declined to discuss the case.

If Sterling does make a mistake on a background check, it’s not always easy to correct, according to federal agency complaints, lawsuits, and interviews. A small team responsible for resolving disputes is based in Ohio. But Sterling’s client services team is often the first line of defense for customers to correct any errors — and like the criminal records verification team, it’s based offshore as well.

John Garfin started in this department around 2014 when the team was first formed in the Philippines — where a cluster of them worked overnight in one of its Manila offices to keep up with US hours.

In the beginning, the cli-

ent services team took on all of the calls from US clients, Garfin said, and there was rarely a break. He estimated about 80% of the calls that he handled were about mistakes or disputes over background checks.

Robert Duncan found himself trying to get through to Sterling a few years ago. After he was hired as a security guard in 2015, Sterling reported to his potential employer, US Security Associates, that Duncan had been charged with 29 child pornography-related felonies in Chester County, Pennsylvania, and had been convicted of five of them.

Sterling had the wrong person, though. The Duncan convicted of child pornography charges was Robert Everett Duncan Jr., who lived in Pennsylvania, while the Duncan who had applied for the security job was Robert Eustace Duncan and lived in Texas.

Duncan later alleged that he contacted the court directly, disputed the error with his employer, and tried to reach Sterling several times — but could never get through on the phone to even speak to someone.

What Duncan didn’t know is that lots of people were trying to get through too, so employees just had to keep working — sometimes through their lunch break, and sometimes past the end of their shift.

Workers weren’t allowed to leave or take breaks when the queue of calls remained high, multiple employees confirmed. “The number of calls was more important than the people servicing them,” Garfin explained.

The team often heard from repeat callers, frustrated that they hadn’t gotten an answer yet — not knowing their inquiries could be bouncing between offices in different countries.

And after each call, a two-minute timer began counting down on the worker's screen. The timer paused the next incoming call, but

employees had to scramble to fill in notes on the call or forward inquiries or complaints to a different department to find out what had gone wrong. Sometimes they didn’t even get the full two minutes — employees described managers forcing calls through to their phones before the timer had expired.

In cases like Duncan’s, the client services department could be messaging workers in India, the Philippines, and the US to find out how an error may have happened.

Email inquiries were coming in at the same time that employees answer as well. “It was kind of traumatic, to be honest,” said a worker who left the department last year.

One night, the worker described, she got so overwhelmed that she started feeling dizzy and her head began pounding. She went to the medical office to lie down, she recalled. But as the hours dragged on, things got worse. Eventually, she said, the night guard escorted her to the emergency room to treat her panic attack.

She didn’t decide to quit until she saw an error that Sterling had made in a background report for a client who continued to call about it. “I just lost faith in the company,” she said.

In Duncan’s case, his attempts to fix his report failed. He said US Security Associates later contacted him to say that Sterling wasn’t correcting his report. He lost his job offer.

After months of unemployment, he took a job at McDonald’s instead.

In January 2016, the head of a background check company called TalentWise called its employees into a conference room in its office outside of Seattle to announce the company had been bought by Sterling.

TalentWise was a smaller player in the industry, but had caught the attention of

others for the technology it had developed. “We were all kind of shocked,” said an employee who was in the meeting. “We always looked at [Sterling] as this terrible, old company that no one wanted to work for.”

Another former TalentWise employee who stayed on with Sterling after the merger called them “the 400-pound gorilla in the industry.”

Six months before that, Goldman Sachs and a partner had acquired a majority stake in Sterling for nearly \$700 million. Jack Daly, a managing director of Goldman Sachs, described it as an exciting investment because of the company’s “clarity of vision and leadership position within an attractive industry.”

Goldman Sachs’s investment only encouraged the company to make more acquisitions. TalentWise was the company’s ninth acquisition in recent years.

“Goldman had a very deliberate strategy to invest,” said a former Sterling executive. “We went on a spree. Most of it was buying businesses — EmployeeScreen, RiskIQ — that was all buying logos. The acquisition of TalentWise was a technology play.”

TalentWise had developed its own technology that made it easier for human resource departments to initiate background checks from its own platforms — which Sterling had noticed. But in this rush to grow faster, Sterling also assumed it could purchase a company to shortcut its needs.

“It had a really slick, modern user interface,” said the Sterling executive involved in the transaction. Sterling was looking to improve the capabilities of its own platforms. “They said they had things we needed and if they had that, we could cut our time to market.

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# Buzz Feed Questions Background Check Practices

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Under pressure from executives to make the transaction happen, the department in charge of the transaction scrambled to find money in the budget to acquire TalentWise and only spent about a month looking into the investment, said the employee.

Sterling’s CEO at the time, Clare Hart, came into TalentWise’s office in Washington state and said Sterling management wanted to keep things the same. The tight-knit startup did all of its sales and screening in-house.

But TalentWise staffers soon started to get fired by their new management. “Each week three or four people would drop. It became obvious quickly they were forcing people out and from a cultural point it wasn’t a fit,” said a former TalentWise employee who stayed through the merger.

Salespeople were largely kept on, but all the operations staff — including those in verifications and customer service — were let go. New employees in Mumbai and Manila took up those positions. The transition was rocky. TalentWise’s clients weren’t keen on suddenly troubleshooting any issues through an office so many time zones away, said former TalentWise managers. And offshore employees had a whole new company’s procedures to learn.

Lee Galgo had been working for Sterling as a verification specialist in Manila in 2017, but after the merger she was promoted and became a team leader on TalentWise accounts.

The changes left many employees bewildered, said Galgo. “Everyone was always in limbo,” she said. “People would get confused about which processes to follow.”

Clients grew vexed. “There was an incredible amount of complaints,” said a former TalentWise manager who transitioned to Sterling. “I don’t think it was their fault,” he added, referring to the offshore teams, “they just weren’t trained on what to do.”

Before Sterling took over, TalentWise often used to win new business from clients after other third-party companies had made mistakes, said Cody Sprecken, a former sales manager who stayed on during the transition. “You’re certainly going to get mistakes” in background checks, he said.

But after the merger, Sprecken said, making sales for Sterling became about offering cheaper services in exchange for locking down many clients into 24- or 36-month terms that automatically renewed. Contracts reviewed by BuzzFeed News stipulated that Sterling be their exclusive screening vendor.

And Sterling was strict in enforcing these terms. Since 2012, it has sued more than a half a dozen clients in New York state for failing to give proper notice of terminating the contract, records show.

Meanwhile, integrating the Sterling and TalentWise platforms was more difficult to realize than first thought. While trying to scale up TalentWise’s platform with a much greater number of clients than TalentWise ever had, things weren’t working properly. Costs started ballooning.

“We were sold a piece of junk,” said a senior Sterling employee.

As an incentive for employees to work the nighttime shifts in Sterling’s Manila offices, a commuter van picks up staff in the evenings and they get paid a small, additional bonus. But turnover remains high — hiring notices pepper groups on Facebook advertising for call center jobs. And there’s open hiring Monday

through Friday in the afternoons at their main office hub in the south of the city, ads show.

Maryfred Domingo joined Sterling in Manila as a data clerk in 2017, and she would regularly create between 80 and 90 files each night for Canadian clients, for which she would earn around \$320 US a month. Manual entry work brought its own issues: Sometimes clients submitted handwritten employment applications that Domingo and other data clerks had to interpret. Other times the IDs were hard to read because a photocopy was fuzzy.

“Sometimes one file would give us a headache” because it was hard to read all the documents, she said. “We worked fast, always copy and paste, copy and paste,” she said, adding there was a lot of time pressure.

Most in the Manila and Mumbai offices weren’t allowed to bring in paper, pens, or phones as a security measure. Much of the information workers were reviewing, like Social Security numbers, was sensitive.

But the company experienced a data breach in June 2015, it acknowledged in a court filing. That month, in Mumbai, a worker had taken an unsecured laptop home, and their car was later broken into, according to an employee familiar with the incident. The laptop was stolen. It was unclear how much client information was exposed, but Sterling disciplined employees over it.

Overnight hours were typical, as staff tried to keep up with the time zone of North American clients. Domingo said she didn’t mind it — the commute was faster. But for others it was hard to adjust.

One former Sterling employee said she ended up renting a studio apartment with three others near the office to escape the brutal Manila traffic that added hours to her commute. To

sleep through the days after a night shift, they put up cardboard in the windows. Others said the hours made them sick — their bodies never adjusted to sleeping through the day.

After close to a year on the job, Domingo developed an inflammation in her left hand. The pain got increasingly worse as she continued the work — her fingers often flying across the keyboard. At first the pain seemed normal, she said, but then it grew worse.

“I started to feel really bad — I could not even lift a cellphone,” she said. Domingo flexed her hand slightly to show her motion was still limited.

A doctor diagnosed her with an inflammation in the tendons in her hand — and recommended she quit the job or the pain wouldn’t stop.

And as the late hours wore on, people got tired and hurried to make their daily targets. “You saw incomplete information, people rushing,” said Christopher Iresare, a former supervisor who trained employees. “It happened all the time.”

Still, Sterling continued to grow — acquiring a company called Verified Person in the fall of 2016 and then two other companies in 2017. The offices in Mumbai expanded, and Sterling opened up a second office in Manila. Today, the company says it has over 50,000 clients.

Thousands of criminal checks were coming into the Mumbai office a day, recalled one employee, and Lyft was one of its big contracts.

But Sterling mostly escaped scrutiny for its role in Lyft’s background checks until October 2017, when a Chicago news outlet reported that one of Lyft’s drivers had been sentenced to federal prison for 90 months on charges of aiding terrorism. Prosecutors alleged Raja Khan had wired funds to an al-Qaeda operative in Pakistan in or-

der to buy materials for an improvised explosive device.

“They should check my background before they give me the job. That’s their problem, not my problem,” the driver told WGN.

Lyft, meanwhile, pointed to Sterling. “Our independent background check provider should not have approved this driver, which it did.”

News of a former al-Qaeda operative driving for Lyft attracted the attention of Chicago officials, who pressured Lyft to drop Sterling. By April 2018, Lyft had stopped using the company to screen its US drivers.

BuzzFeed News found other instances of Lyft drivers with criminal records who had been screened by Sterling and gone on to allegedly harm its passengers. In Boston, a driver with a previous drug conviction was arrested for stabbing a passenger. Lyft policies say it doesn’t hire drivers with disqualifying drug convictions.

And in San Diego, another young woman accused a driver of raping her so brutally he left lacerations and tissue damage. He had a criminal history with multiple charges as well — including a guilty plea that was only a few years old for resisting an officer.

Lyft declined to confirm whether Sterling reported the past convictions to them in these cases as well.

In response to questions about its relationship with Sterling, a Lyft representative told BuzzFeed News: “The safety of the Lyft community is our top priority, and since the beginning, we have built products and policies with that in mind.”

Lyft continues to contract with Sterling to screen its drivers in Canada.

Continues next page

Buzz Feed  
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Lyft said that since Canadian criminal checks are done differently than US criminal checks, the same concerns did not apply.

But several Sterling employees who had worked on Canadian accounts in the Philippines told BuzzFeed News that they saw mistakes resulting from the manual entry work and the high volume of files.

Zahara Fernandes, a former vice president of Sterling in Mumbai, told BuzzFeed News the mistake in not catching Khan’s criminal record was a result of human error. “With a human-involved process there is definitely a possibility of failure,” Fernandes acknowledged.

But she added that overall, the quality of the company’s screening process was strong. “Sterling has a lot of controls and a lot of checks to limit that failure,” Fernandes said.

In response to questions about its relationship with Sterling, a Lyft representative told BuzzFeed News: “The safety of the Lyft community is our top priority, and since the beginning, we have built products and policies with that in mind.”

They added that Lyft had recently expanded its safety policies by adding continuous monitoring for criminal records of its drivers. “Any driver who does not pass both the annual and continuous screenings is not able to use our platform,” they said. “We are committed to constantly improving the experience for all users, and keeping our community safe.”

Within Sterling, the publicity of the error resonated. Fernandes said employees were briefed on it. Layoffs hit that spring. In Manila, employees whispered about the news that the company

had cleared someone with terrorist charges. And the CEO left the company in May last year.

There was a new attention on any sort of error, employees said, that could suddenly mean a termination. “People were in fear. They were thinking, If I make any small mistake, I will get terminated,” said a former worker in criminal verification. “Everyone was afraid.”

Sterling finally abandoned the TalentWise technology.

But six months ago, Sterling acquired another background check company in Australia.

Sterling keeps getting bigger. ?

OSBI  
(Oklahoma)  
Criminal  
Reports  
Available Online,  
For \$15 Each

Criminal history background checks from the state's top investigative agency are available online for the first time, for a price.

The service costs \$15 per search. Additional searches of the sex offender and violent offender registries cost \$2 each, and each online transaction includes an additional one-dollar fee.

Results on the Criminal History Information Request Portal come back within minutes. The site can be reached at chirp.osbi.ok.gov.

Oklahoma's State Bureau of Investigation has long offered background checks to the public, but they were only available by filing a written form by fax, snail mail or in person.

"It is the exact same service we've offered since 1985, as far as criminal background checks. It's just the convenience of being able to do it from a computer," said OSBI spokeswoman

an Brook Arbeitman. "It's definitely a lot faster than if you live out in rural Oklahoma and have to drive or mail it."

Much of that information can be found elsewhere on the internet for free, however. The Department of Corrections makes its violent offender and sex offender registry database available at no cost.

The public can search names and case numbers on the state's somewhat-clunky court records site, OSCN, to retrieve both civil and criminal filings from Oklahoma district court-houses.

A similar court records service, ODCR, offers a free basic search.

Where OSBI's Criminal History Information Request Portal (CHIRP) service stands out from the rest is that a search will include arrest records, regardless of whether the individual was convicted of a crime.

CHIRP only includes records from Oklahoma, including state and local law enforcement that take fingerprints and submit records to OSBI.

The agency's IT team built the program in house, from the ground up using the state's software development resources. OSBI purchased two new high-end blade servers to scale up its existing Computerized Criminal History System, Arbeitman said.

Using a background search like CHIRP brings comfort in knowing more about people in sensitive positions, she said. For example, parents can check whether their babysitter has a rap sheet.

"Or you have small businesses that are wanting to background check potential employees to make sure they're a good fit for their business. The biggest thing is it provides peace of mind," said Arbeitman. "Whether you've got a kid who's got a new boyfriend, or you need to hire help for

your parents, you can just check into who's hanging out with the people you love the most.

From The "Say  
It Ain't So  
Department"

Someone told me this scene took place in a major CRA's backroom meeting.

Present are the President/ CEO, the COO, the CFO, Chief Counsel, VP of Marketing, VP of Criminal Records Dept, and the Chief Compliance Officer..... -

CEO: We (have) brought modern software and technology to background checks. This is why we have been able to grow so fast.

CFO: And don't forget it chalks up clients and funding

LEGAL: But as it chalks up clients and funding, (we) have also been collecting something else: lawsuits.

CEO: Anything else?

COO: “There is a concern that without proper checks and balances in our system, technology could be getting it wrong.

COMPLIANCE (meekly): That is a possibility. But we have to think about the proportionate volume of searches that we running and the resulting number of mistakes.

CFO: Think of it as a cost of doing business. For every case we have to settle , the amount of money we’re making with these reports far outweighs it.

CEO: Then it's settled. Business as usual.

Why I Do Manila  
Searches By  
Myself

I've been going to Manila and doing court checks for decades and as of now I still haven't seen a Researcher (that sells to pre-employment screening companies) that does real background searches in the Philippines

For example, the last 2 companies I tested failed miserably. One sent me a fraudulent clearance certificate and the other just failed to get the simplest search done at two courts in the Metro area.

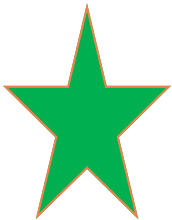
These were PBSA APAC members! But it is not PBSA's fault. PBSA is not the police.

Other companies, including USA based researchers and resellers that say they have a footprint in Manila have been unable to get me the easiest type of document after bragging to me how great they are!

Forget about NBI clearance verifications. You can do them for free yourself online, but they only return verifications that are current.

The NBI does not sell clearance certificates to 3rd parties.

This is not a matter of "vendor selection," a term use loosely by NAPBS members. It is a matter of knowing what they're doing.



# Many Ways Things Can Go Wrong With Background Checks

Mikhail Arroyo had made it out of the coma, but he was still frail when his mother, Carmen, tried to move him in with her.

The months had been taxing: Mikhail was severely injured in a devastating fall in 2015.

He had spent time in the hospital, and by 2016 was in a nursing home where his mother visited him daily, waiting until they could live together again.

Carmen planned to move him to a new apartment with her in the Connecticut residential complex where she was staying.

The only task left was the paperwork.

At a meeting, she says, the management company broke the news. Mikhail wouldn't be allowed in to the apartment. Carmen was shocked.

“On what basis?” she asked.

The woman she spoke to couldn't tell her. Although Carmen couldn't have known all of the details, Mikhail had been flagged by a criminal screening tool run by a company called CoreLogic. She says she was only shown a single sheet of paper — one she couldn't take with her, and that scarcely helped — and given a CoreLogic phone number to call.

She got nowhere. She waited on hold, was transferred back and forth. Carmen was Mikhail's designated conservator, giving her legal decision-making power, but the company needed documentation for her and Mikhail — a passport, a driver's license — and she wasn't getting through. Carmen was “livid.” At one point, she says, she was told to get in touch with the legal depart-

ment, but they weren't available. Was this over a credit check? And didn't the circumstances count for anything? She started to worry, wondering whether the number was somehow fraudulent and she'd handed over all of her personal information.

The process dragged on for months. “They just kept giving me the runaround,” Carmen says. Meanwhile, she looked for another place to live, and found one spot, even if it was in a worse neighborhood. But it had stairs, and Mikhail couldn't walk at the time — so he wouldn't be able to live there. He wasn't able to fully speak yet, either, but when it was time to bring him back to the nursing home, he'd point to tell her he wanted to go back to the apartment. Some days, he'd cry. “It was heartbreaking for him,” she says, “because he wanted to go home.”

As landlords decide who to rent to, CoreLogic offers an array of screening tools. They might use a product called ScorePLUS, which the company describes as a “statistical lease screening model” that calculates “a single score” to determine the potential risk of someone signing a lease. A landlord might also turn to a product called Crim-CHECK, which conducts a database search for criminal records. The breadth of records the company advertises is impressive. The company says it uses an arrest records database of more than 80 million booking and incarceration records from approximately 2,000 facilities, updated every 15 minutes. Crim-SAFE, the system that flagged Mikhail, is described by the company as an “automated tool [that] processes and interprets criminal records and notifies leasing staff when criminal records are found that do not meet the criteria you establish for your community.”

The ability to outsource decisions is a key pitch to prospective screeners. “Whatever decision or information service you use,

you'll find the same simple data entry process, rapid turnaround and clear concise results that eliminate the need for judgment calls by your leasing professionals,” the company tells visitors to its website. Should there be a problem, and a landlord must send an “adverse action” letter, the company advertises an automated system for that as well.

But for some housing advocates, the rise of automation and elimination of human “judgment calls” is increasingly the problem, not the solution. When screening tools bypass more human forms of decision-making, they say, those decisions are more likely to collapse complex matters into simple, algorithmically generated pass-fail mechanisms — leaving behind people looking for a home.

Eric Dunn, the director of litigation at the National Housing Law Project, has seen how the tools used by landlords have evolved in recent years. Over time, he's watched more people move away from what he calls “old guard screening,” where research was done by humans and landlords were provided extensive documentation. Instead, systems are more likely now to map “identifiers,” selecting options like certain types of crime, against massive databases of obscure origin.

Fair housing proponents like Dunn say nuance is lost when landlords rely on automated screening tools that turn a personal history — one person's story, which a landlord might have to grapple with, weighing actual risk — into a list of variables to be machine-verified. If there are extenuating circumstances around a record, they can't always be captured in the rigid framework of the system, advocates argue. No matter how expedient it might be for landlords and background check companies to use those tools, they say, it will lead to blocking people who otherwise would have been accepted by a more personalized

form of screening.

The companies that offer these tools frame them as recommendations for landlords, which they can override. But Dunn questions that line of thinking. If the machine calculates a failing decision, he argues, there's little other basis for a landlord to come to a different conclusion, especially if the landlord isn't provided the complete history.

Federal law prohibits landlords from selecting their tenants based on protected characteristics — an applicant's race, sex, or religion, can't be used to determine whether they're offered a place to live. But criminal records are more complex. If a record involves property damage, for example, a landlord might be within their legal right to decline an application, on the basis that it indicates a potential problem in the future.

In the past few years, some of the boundaries of those protections have been extended. The Supreme Court, in a major 5–4 decision in 2015, ruled that the law extended to decisions that disproportionately affected certain groups, even if it was indirectly. If a policy affects a black neighborhood more than a nearby white one, for example, the policy could be unlawful. The legal theory is known as the “disparate impact” standard.

Noting the disproportionate effect of criminal records on minority groups, the Department of Housing and Urban Development issued new guidance for real estate transactions in 2016. Under the guidelines, a landlord, or someone else determining whether to offer someone a home, might be able to use a criminal record to make a decision about a tenant. But that decision, according to the guidance, requires a close look at individual cases. If the screening policy fails to consider the severity or relevance of the record, or how long ago the incident happened, it likely wouldn't pass HUD's test. The Arroyos are currently in-

volved in a suit with CoreLogic over these protections.

Monica Welby, deputy director of litigation at the Legal Action Center, says commercial checks are also “notoriously” inaccurate. Dunn sees similar issues. “I've looked at more criminal records reports than I could count, and I would say that well over half the ones I've looked at had some kind of inaccuracy,” he says.

A record might, for example, include information from someone with a similar name, leading to a denial. “This happens all the time,” Dunn says. A similarly named relative — or maybe someone completely unrelated, who happens to share a name with a rental applicant — can derail a tenant's application. The problems, Dunn says, often might have been caught by a more individualized screening system.

CoreLogic has faced lawsuits over such errors. Under the Fair Credit Reporting Act, companies are required to make an effort to ensure accuracy as well as they reasonably can, but some have questioned the depth of that commitment. In 2015, a South Carolina man said in a lawsuit that he and his wife were seeking a new place to stay after flooding damaged their home. When he applied for a new apartment, though, he was flagged by a CoreLogic tool as a registered sex offender — apparently due to someone with a similar name. In court documents, the man said he was eventually able to reach someone to correct the discrepancy, but the process for removing the information would take two weeks, as the apartment slipped away.

A dispute can be hard to fight, as Carmen discovered. She eventually found legal representation from a local nonprofit, the Connecticut Fair Housing Center. The group filed an administrative complaint with the management company.

Continues ➔

Background Checks Do Go Wrong,

Continued from preceding page

The CoreLogic system that flagged Mikhail, according to court documents, allows landlords to select certain options about criminal history to screen against. This means the decision largely remains in the landlord’s hands, the company argues, since the landlord chooses the parameters. CoreLogic has said its system only makes a check based on what it’s told to do, and is compliant with housing law. (CoreLogic declined to answer questions about its screening process, citing pending legal disputes, several of which it has faced in federal court. The company would not provide more information on precisely what landlords can screen for, or how it ensures accuracy in its results.)

If the company flags your application, and you believe it’s relying on inaccurate information, CoreLogic offers a helpline to call. The company says it will conduct a reinvestigation that will be completed within 30 days, and if any errors are found, will fix the issues. Still, some argue that even if the errors are corrected, whatever home an applicant has applied for will likely be gone after a month.

The Connecticut Fair Housing Center tried to get the management company to overlook the background check. Whatever caused Mikhail to be flagged, they argued, it was clearly moot. If a criminal screening is predicated on the theory that it could predict future behavior, Mikhail was hardly likely to commit a crime in the future — he was disabled now, reliant on others for help. There was no basis to think he was somehow a danger to people or property.

The argument, according to Salmun Kazerounian, a staff attorney at the center, didn’t sway the management. “They responded, essentially, ‘how can we

agree to overlook a criminal record if we don’t know what it is?’” he says.

CoreLogic’s documentation was a sparse source of clues. The company provided a “result” that said there was a “disqualifying record,” but not enough to deduce what the problem was. The report generated a “jurisdiction” entry that was seemingly nonsensical: “000000033501.PA.”

At first, they had no idea how to find out what the record could mean. It took more digging to determine the circumstances, but eventually the story could be pieced together. Before his accident, Mikhail faced a retail theft charge in Pennsylvania. The charge, according to the center, was for a “summary offense” — a charge below misdemeanor or that’s also called a “non-traffic citation.” The level of the charge suggested the incident involved less than \$150 and was Mikhail’s first offense. He was 20 years old at the time. “It was as minor as they come,” Kazerounian says. Last year, the charge was withdrawn. (Mikhail was also arrested following a burglary in 2013, according to statements from local authorities; Kazerounian stressed that, regardless, the Pennsylvania charge was the only item on his record.)

While it’s hard to determine the exact rate of disputes like the Arroyos’, experts say there are broader issues around accuracy in background screening. “Disputing information with consumer reporting agencies can be extremely challenging for individuals,” Welby says.

In one CoreLogic case recently settled, a man named Abdullah James George Wilson was sent to prison after a 1992 robbery, but years later, after his counsel was found to be ineffective, Wilson was granted a favorable ruling on appeal. His record was sealed.

But in 2014, Wilson, looking for a place to live, found that his application

was rejected anyway. The problem: a CoreLogic system flagged the record from the New York correctional record. Wilson was barred from the apartment.

“In this age of technology and widespread use of criminal background checks, it is more important than ever that background check companies get it right,” Wilson, who reached a settlement in a lawsuit, said in a statement to The Verge provided by the Legal Action Center. “They must take the proper steps to ensure that the criminal record information they report is accurate. The stakes are high for people — it can be the difference between having a place to call home or not.”

Mikhail was finally allowed to move in with Carmen in June 2017, after the charge was withdrawn. Had the screening been done effectively, the Connecticut Fair Housing Center alleges in a lawsuit against CoreLogic, they could have been reunited a year earlier, saving the Arroyos time, money, and emotional energy. “I’m bringing it because I think it was wrong, what they’ve done,” Carmen says.

Mexico State Civil Court Going Online

The governor Alfredo Del Mazo Maza headed in Ixtapan de la Sal the presentation of the Online Civil Court of the Judicial Power of the State of Mexico , as well as the inauguration at a distance and in a virtual way, of the Mediation Center of Huixquilucan.

He explained that the mobile application is a tool open to the general public, facilitates access to justice in an agile way, relevant legal information and judicial records can be consulted , which reduces time and costs for courts, lawyers and users.

In the case of the Mediation, Conciliation and Restorative Justice Center of

Huixquilucan , he said that it offers tools for alternative solutions to community conflicts and will have powers and powers to intervene in civil, family, commercial and criminal dispute resolution, among others.

During the event and accompanied by the President of the Judiciary, Sergio Medina Peñaloza, the head of the State Executive, highlighted the modernization of the institution through various technologies and platforms, which accelerate and improve its services to the population.

For his part Medina Peñaloza, head of the PJEM , indicated the new APP of the court, makes available to the general public information that strengthens accountability, such as the board of directors, performance statistics by court or by room.

" For the courts, the chaining of files through the electronic signature reduces the issuance of copies and certificates, as well as the time invested in the consultation of files or agreements, " he said.

He also explained that the Civil Court Online is a mechanism that will have the power to attend in a transparent, prompt and expedited manner throughout the state territory, will have 12 remote courtrooms and through the use of telepresence will expedite the process of formalities.

He pointed out that through this Civil Court Online in a maximum of 20 days resolutions will be issued and the corresponding hearings will be held. Medina Peñaloza, head of the PJEM , indicated that the new tool will allow 50 to 60% reduction in the resolution and handling of procedures and procedures, for example court notifications from 30 to 5 days, the consummation of usucapion from two months to five days; the ratification of a contract or agreement of 20 to 10 days, among other deadlines you cited.

Original: <https://www.elfinanciero.com.mx/nacional/presentan-enedomex-juzgado-civil-en-linea>

# We Get Hits

Mexico Prices by Straightline International

Mexico	
Mexico City	19.99
Guadalajara	21.99
Puebla	27.99
Tijuana	21.99
Monterrey	21.99
Others	36

Courts Served

Tribunal Superior - is the court of first Instance (Juzgado de Primera Instancia) for criminal matters and most cases are heard at this level.

Juzgados Distrritos - District Courts have jurisdiction over Federal Law.

The Court of the First Instance is the standard search.

Add \$10 to include the District Court search with the search of the Court of First Instance if the search is of a city listed above.

Submit the search request with the subject's full name. That should include mother's maiden name.

**TAT is 2-5 days for most major metropolitan areas and surrounding vicinity.**

Other Mexico costs

Civil from 54

"We take criminal records seriously"

An Example Of One Of The Most Common Summary Offenses In England

Two local businesses fined for not having TV licences *The proprietors of a pub and a restaurant in North Warwickshire which were caught without a TV licence have both been ordered to pay £445 by magistrates.*

Mr Nicholas Bray, the proprietor of The Fox and Dogs Inn, Orton Road, Warton, was fined £220 for the offence of using a TV without a licence on the business premises. He was also ordered to pay £195 costs and a £30 victim surcharge following a Magistrate’s review of the case on 2 September 2019 at Nuneaton Magistrates Court.

Also, Mr Yourgus Christopher Kafetzis, proprietor of the Funky Bear Tamworth, Tamworth Road, Cliff, was fined £220 for the offence of using a TV without a licence on the business premises. He was also ordered to pay £195 costs and a £30 victim surcharge following a Magistrate’s review of the case on 2 September 2019 at Nuneaton Magistrates Court.

Any business showing television programmes as they are broadcast on TV, whether for customers’ use or in staff areas, must be covered by a valid TV licence. If there is living accommodation on the premises where a TV is also in use, this must be covered by a separate licence.

Those without a valid licence are breaking the law and run the risk of a court prosecution and fine of up to £1,000.00 per offence, plus costs. Businesses found guilty are also required to buy a TV licence at £154.50, or they could face a potential second prosecution.

Rachel Roberts, TV Licensing spokesperson for the Midlands, said: “We appreciate these are tough times for businesses, but to be fair to the majority who do pay the licence fee, we have to take action against those who watch TV illegally.

“We’d rather businesses think ahead and check if they need a licence than risk being prosecuted. A licence costs £154.50 and can be bought in minutes online at [www.tvlicensing.co.uk/businessinfo](http://www.tvlicensing.co.uk/businessinfo).”

TV Licensing is also reminding other businesses to make sure they are aware of their licensing requirements, to avoid the risk of prosecution and a large fine. In the last three years, TV Licensing enquiry officers visited more than 44,000 businesses across the UK, ranging from takeaway restaurants and holiday parks to garages, hair salons and sports clubs, to confirm if they were correctly licensed.

Who needs a Licence?

If anyone at your business watches or records TV programmes as they are being shown on TV, irrespective of the channel they’re watching, the device they’re using (TV, computer, laptop, mobile phone or any other), and how they receive them (terrestrial, satellite, cable, via the Internet or any other), you will need to be covered by a valid TV Licence. A licence is also needed if staff or customers watch BBC programmes on iPlayer on equipment supplied by the business. In general, one licence will cover all the TV equipment your business uses for business purposes on a single site. The only exception to this is hotels, which have separate licensing requirements.

However, if you sub-let any part of your premises to another business or have an on-site social or welfare club, then it will require its own separate licence. Please note that the licence does not cover any residen-

tial accommodation on-site or within the premises.

When is a licence not needed?

You do not need a licence for your business premises if the TV equipment is never used to receive or record television programme services, but is only used for closed circuit monitoring or to watch pre-recorded videos.

Penalties for Licence evasion

Using television receiving equipment to watch or record television programme services without the correct licence is a criminal offence. Your business could face prosecution and a fine of up to £1,000.

Paying for your business’s TV licence

A colour TV licence costs £154.50. A black and white TV licence costs £52. The licence fee is set by government.

TV Licensing aims to make it as easy as possible for people to buy a TV Licence, which is why there are many different ways to pay including online.

Primary School Children Of EU Citizens To Be Checked For Criminal Records

The Home Office (UK) has prompted outrage after confirming primary school-age children of EU citizens will be checked for criminal records, despite previously suggesting that this would only apply to over-

18s.

Campaigners said ministers were "misleading the public" after the Home Office said all applicants for the EU settlement scheme aged 10 and over were being checked to see whether they had a criminal record, and would be refused if they met the "deportation threshold".

This is despite the fact that the government website states criminal checks would apply only to applicants who were 18 or over, prompting concerns that the government was "misleading the public".

EU nationals living in Britain need to apply for settled status by the end of June 2021 – or by the end of 2020 if Britain crashes out of the bloc – to remain in the country legally.

Without settled status, children will risk becoming undocumented, which would leave them unable to access state support and could make them liable to detention and deportation in the coming years.

Dozens of vulnerable EU children serving jail sentences in Britain could be stripped of their immigration rights after Brexit because the Home Office is refusing to let them apply for settled status.

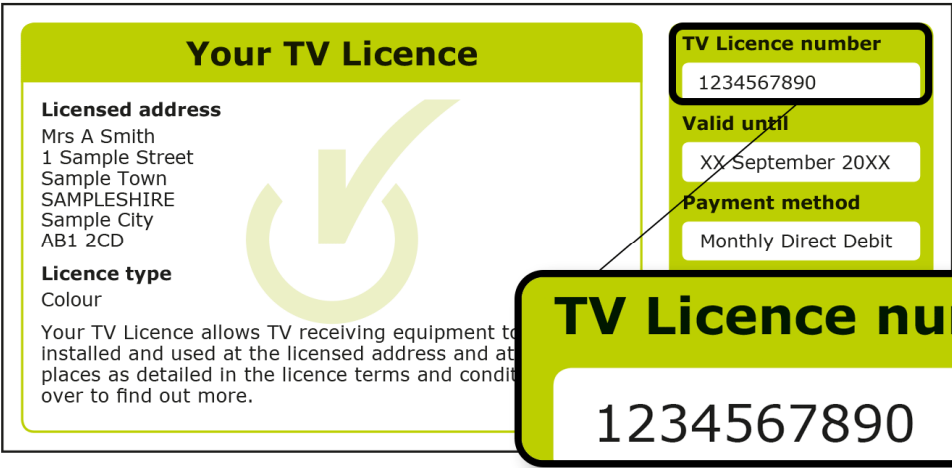
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**Lyft, Uber, Checkr Show Why Continuous Monitoring Does Not Work**

A review of Portland Bureau of Transportation records found 168 cases during the past five years in which city inspectors suspended or revoked an Uber or Lyft drivers’ permit because of criminal or driving history.

These drivers should have been rejected by Uber and Lyft during routine background screenings; instead, they slipped through the cracks. The drivers weren’t flagged until several months later when the city of Portland conducted a secondary background screening or spot check.

“We are catching people who shouldn’t be driving,” explained John Brady, spokesman for the Portland Bureau of Transportation.

Nationwide, both Uber and Lyft are facing increased scrutiny over safety concerns and the effectiveness of their background checks. A CNN investigation in April 2018 found 103 Uber drivers had been accused of sexual assault or abuse in the last four years. Lyft is now facing a flurry of lawsuits related to rides that allegedly ended with rape or sexual assault.

“We do not think they are doing enough,” explained Meghan McCormick, an attorney at Levin Simes Abrams. The San Francisco law firm is litigating more than 100 cases against Uber and Lyft, many of which involve alleged sexual assault.

“Just about every one of our clients has said their biggest concern is making sure this doesn’t happen to somebody else,” said McCormick.

The records, obtained from the city of Portland through a public records request, indicate 78 Uber drivers should have been disqualified because of

their driving history. The city flagged 17 Uber drivers who had a suspended license within a the previous three years. Forty-three Uber drivers had two or more traffic violations within the past year. Five drivers got past Uber background checks despite not having a valid driver’s license.

Lyft had 90 drivers in Portland who should have been disqualified, according to city records. Fifty-three Lyft drivers had two or more traffic violations within the past year and 24 drivers had their license suspended within three years of applying to drive for Lyft. Two Lyft drivers got past a background check despite having felony convictions in the mid to late 1990s.

Under an agreement with the ride-sharing companies, the city can’t say exactly how many drivers are permitted to drive for Uber or Lyft in Portland. But the city can say there are roughly 10,000 ride-share and taxi drivers operating in Portland.

**How Lyft Tries To Explain Away Their Missed Records**

A Lyft spokesperson confirmed both drivers with felony records should not have been approved to drive for Lyft. The drivers were removed from the platform in March 2018 after the missed convictions were brought to Lyft’s attention by PBOT.

Lyft explained that Sterling, a third-party company that conducted driver-applicant background checks for Lyft, missed the convictions. Lyft has since ended its contract with Sterling.

In April 2018, Lyft started using Checkr to conduct criminal background checks based on federal and county court records. Additionally, Lyft explained, Checkr reviews a nationwide criminal search and sex offender registry

search. “Any driver who does not pass the initial, annual, and continuous screenings is not able to use our platform. We are constantly working to improve the safety of our platform and are committed to delivering the best experience for all users,” a Lyft spokesperson said in a statement to KGW.

In April, Lyft expanded its background check process to include continuous criminal monitoring. A second company, First Advantage, provides Lyft with daily monitoring and notification of disqualifying criminal convictions. Additionally, Lyft announced it will soon launch continuous driving record checks in partnership with SambaSafety.

Uber also uses Checkr to conduct criminal background checks. It instituted continual background checks in July 2018.

With all this in place they still come up on the short end.

**From The Same Article Criminal Records Are Tried To Be Explained**

How did these Uber and Lyft drivers slip through the cracks?

Background checks are not perfect. A basic online search may fail to pick up someone’s criminal activity or driving history because a name is misspelled or local court records don’t show up.

“A lot of people watch CSI or those types of TV shows and think there’s one database. You put in somebody’s name or social security number and it tells you everything about them. Unfortunately, it doesn’t really work that way,” said Alex Ward of CICS Employment Services, a nationwide background check firm.

Ward explained that screeners should utilize multiple databases. Addi-



tionally, an effective background check should look at every place a person has lived, where they’ve worked and studied.

This level of detail to screen an applicant can be time consuming and is expensive. And background checks must be repeated on a continual basis to catch new convictions or recent driving problems.

“There’s really only one solution for background checks and it is to do it the right way,” said Ward. “If your business relies on people feeling safe, it is important to make sure you are doing the best type of search possible.”

**Hats Off To These Two Real Assets To Pre-Employment Screening**

Two people who are a real asset to pre-employment screening:

They are John Hanks (now of GIS) and Stephen Ginsberg (retired, formerly with Crimsearch and USIS/HireRight).

As long as I've known



John Hanks –LinkedIn

John he has been a motivated learner, once a beginner, but today a "professor."

I know his history, how he began at Records Search, came to Chicago as my study, ending up Director at Crimsearch, before currently with his position at GIS. His knowledge of criminal records and how to obtain them; finding vendors and getting quality results - he just might be the best.

And Stephen Ginsberg, who one day in 1996 came into my office for an interview answering to a clerical help wanted position. Instead. I saw something in Steve; maybe something others didn't see, but it looked to me like a "never take no" attitude so instead of the clerking position, I hired him, as the first person I ever thought could do a job getting court records as well as me.

Steve proved me right. He applied what I taught, plus added a touch of his own bonafide "go get em" attitude, and became what I would call the most successful criminal record researcher ever that I could trust.

Both John and Ginsberg's hard work has made a lot of what we do today much easier.

South Dakotans Will Soon Be Able To Access Court Records From Any Computer

If a South Dakotan wants to see public court records, they can only do that by looking them up on computer at a state courthouse during work hours between Monday and Friday.

That means a Pine Ridge resident would have to drive an hour to the court in Hot Springs or 50 minutes to Martin. Many people in Meade, Butte and other large western counties also face long drives.

So to help improve access to court records, the UJS is currently piloting a program that will eventually allow the public to see records from any computer, said Greg Sattizahn, administrator of the South Dakota Unified Judicial System. The website will be similar to the PACER website, which lets people view and download federal court records for a fee.

"We recognize that the (computer) terminals are kind of limited in their functionality," he said.

Lawyers can currently view documents related to their cases on any computer for free and on the new website, Sattizahn said. The new website, which is being used by a small group of lawyers before expanding this month, will allow them to see documents related to other cases for 10 cents per page. The website will then be open to the general public, who will also have to pay 10 cents per page they view, in late 2019 or early 2020.

The fees will help cover enhanced technology within the UJS, Sattizahn said.

The public computers at the courthouses only let people search by case number, which can be retrieved by telling a clerk the name of the defendant and their alleged crime. The new

website will allow people to search by name if a date of birth or county and date range of the alleged offense are also entered. Requiring the extra information with the name is meant "to ensure the correct person and case is returned and to safeguard against data mining," Sattizahn said.

To search for someone's complete criminal background, he said, people will still need to pay \$20 at a state court or at ujspars.sd.gov. The online court calendar (ujscourtvtv.sd.gov), which lists hearings the day they happen, is not going to expand to listing hearings that are scheduled further out. Federal courts in South Dakota have a website that lists hearings scheduled in the next five days.

The new website will improve access to public records and should help cut down on paper and printing costs. But in the meantime, before the website goes live, expect to pay more when printing court documents in Rapid City or at any other court that previously allowed for double-sided printing.

The public computers at the state courts were recently upgraded from Windows 7 to Windows 10, which requires new security whose software prevents the computers from allowing double-sided printing even if printers are capable of it, said Kent Grode, IT director for the UJS.

Most documents are free to view on computers made available to the public, but it costs 20 cents to print each page. Before the upgrade, people visiting courts with double-sided printers could print two online pages onto one piece of paper. Now, with only single-sided printing, they will pay twice as much.

UJS considered both cost and security needs when upgrading the computers, Sattizahn said.

"Certainly cost was a factor that was taken into consideration. However, the need to meet system securi-

ty standards for the information held by the UJS was an overriding concern," he said. "The UJS database includes highly confidential information, sealed court records and personally identifiable information in addition to publicly accessible records, and we must be vigilant in safeguarding those records."

Printing costs can add up, especially because police reports can be many pages long and while listed on the public computer at the Pennington County court in Rapid City can't be opened on the computer. In order to see those documents, the public must pay to have them printed and redacted by a clerk.

That's still how people will have to access police reports filed in Pennington County cases with the new website, according to Kristi Erdman, administrator of the 7th Judicial Circuit, which includes Pennington, Custer, Oglala Lakota and Fall River counties.

"The court clerk receives the documents from law enforcement and the state's attorney's office, who have

informed us they do not have the capability to redact the reports in the short time between generation of the report and court," Erdman said.

Instead of law enforcement or prosecutors redacting the documents before submitting them, the clerks redact information — such as Social Security numbers and names of minors and victims — after someone asks for them to be printed.

If a prosecutor doesn't attach police reports to a case, the public has to request the documents through the records department, which oversees the Rapid City Police Department and Pennington County Sheriff's Office, said police spokesman Brendyn Medina. He said records are usually only provided to those directly involved in a case or their family.

Other law enforcement agencies, state's attorneys and courts handle police reports and probable cause for arrest affidavits in different ways.

Police reports aren't at-

tached to cases in the 4th Judicial Circuit, said Administrator Shawn Sorenson, who oversees courts for Butte, Lawrence, Meade, Corson, Dewey, Harding, Perkins and Ziebach counties. She said clerks first redact any private information before filing probable cause for arrest affidavits, and the documents are able to be viewed on the public computer screens.

These affidavits, which aren't commonly filed in Pennington County, can also be viewed on the public computer, Erdman said.

Police reports and probable cause affidavits for arrests are rarely attached to cases in the 2nd Juridical Circuit said Karl Thoennes, who oversees the Minnehaha and Lawrence county courts. If an affidavit is attached, the documents can be viewed on the public computer screens. But when police reports are attached to a case, they can't be printed for the public. Instead, someone would need to ask a judge or the relevant law enforcement agency to release the reports.

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Bruce's Conference  
Report

Well, the BIG NEWS at this year’s professional background screening conference was the association name and branding change from NAPBS to PBSA: Professional Background Screening Association. The change was made with great fanfare, to respond to the borderless nature of the industry. Changes to the bylaws and membership structure were voted on and approved during the opening ceremony. Everyone celebrated with a balloon drop and champagne toast! Full details of this transforming change may be viewed on the new website: [www.thepbsa.org](http://www.thepbsa.org). Please take note of the October 1 deadline for switching out the old NAPBS logo for the new PBSA logo on all web-sites and materials.

Attendance was hearty with 635 attendees and 269 exhibitor personnel. Pretty sure this is a new record. The conference is three days but the time goes so fast. It all started with the board meeting, the ad-vanced FCRA course and exam, and then Anna Brooks holding her ambas-sador training for those members who volunteered to help out during the conference. Serving as an am-bassador helps the confer-ence planners to direct peo-ple to sessions, food and services. The volunteers also support the presenters during their sessions. It’s a great way to help out and meet other members.

Registration was bustling as most attendees appeared to arrive within the same time frame. Great oppor-tunity to connect and recon-nect with colleagues while in line.

Exhibit Hall set up – fun time with everyone arriving and working to get booths set up for a 6PM opening.

Many old and new faces were seen at the 4PM networking recep-tion. Professional background screening at-tendees were chat-ting up colleagues and first time at-tendees. The bor-derless nature of our industry was visible in this set-ting as colleagues from across the globe were pre-sent.

Next it was on to the (extended) opening cere-mony with Angela Preston of Sterling, completing her term as chair of the associa-tion.

Bon Idziak of Accurate Background assumed his role as the new Chairperson of the PBSA. He thanked the past board members and committee leaders for their selfless service. Bon asked attendees about their “firsts” experienced as a professional background screener with the associa-tion. He asked for example, who presented in front of a large audience for the first time at an NAPBS confer-ence? Who met with a con-gressman in their office through NAPBS? etc.... It was a very cool way to show shared mission and

appreciation for the associ-ation that bonds us! Of course my ‘first’ was that I was the first employer of Mr. Idziak in our industry when I hired him as a sales rep 20 years ago!!— Congrats Bon.

Michelle Leblond of Plu-sOne Solutions is the chair-elect. Dustin Dahl of SJV won closest to the pin in the Sue Weaver Cause golf tournament. Heidi Patti of Innovative won the wom-en’s longest ball.

The annual Lifetime Achievement Award was renamed the Mike Sankey Lifetime Achievement Award. This year’s winner was industry guru, NAPBS founding member and our first Chair, Mr. Les Rosen of Employment Screening Resources (ESR). Thought-

ful and comical comments were made by Mike’s wife Lynn Sankey, Dawn Standerwick (ESR), Jason Morris (Morris Consulting Group) and Bob Capwell (EBI). Dawn noted that the industry at its inception needed a collective voice and established standards. She shared that Les was the catalyst who led the charge. BTW, when the association asked me who should be the second recipient of this Award, all I could say was “there is no other choice but Les”. Congrats my friend, well-earned.

Five Takeaways from  
the Conference

Our background screening industry is global. Global CRAs, global clients, glob-al providers.

Governments will contin-ue to create laws that com-plexify and lawyers will continue to find fertile ground relating in our in-dustry.

The industry is still healthy due to our strong economy, but how long will that strong economy continue as it is currently in its longest expansion on record? Read here for a thought on the economy.

Better sourcing of data at lower costs is a never-ending requirement.

You just don’t know what you don’t know. Get edu-cated via PBSA, your com-petitors and from consult-ants serving our industry.



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