

Background Checks 101

This document is designed as a quick FAQ reference guide and not intended as legal advice.

Who should I screen?

Employers should screen ALL employees to help protect against workplace violence and Negligent Hiring – what you order is dependent on their roles and responsibilities. Non-profits should screen any unpaid employee (a.k.a. Volunteer) that has responsibilities that may include: supervision of another, children, youth, vulnerable adults, money, keys, drivers as well as outside Contractors that are unescorted at all times.

Sex offense records originate at the local level.

While an arrest and conviction record originates at the local level, each state must maintain a registry of sex offenders in accordance with Megan's Law and other State and Federal laws. Sex offenders must register with the state where they live – and when they move, they must register with the new state. 30% of sex offenders are absconders (i.e. they do not register in accordance with law). Their sex offenses are still recorded in the state's sex offender registry, but their location will not be accurate. Sex offenders are in the sex offender registry for life, unless otherwise specified by the courts. Not all Sex Offenders are pedophiles but all pedophiles are sex offenders.

There is no "perfect" criminal records search.

Criminal records are inaccurate for a variety of reasons. First, offenders may have their records expunged if they comply with the terms of their sentencing. Second, data is entered and updated by humans, thus the margin for human error. Third, the process requires first that the information be entered and then updated. A breach can occur at either step. Finally, false positives occur due to identity theft, spelling errors, name changes, and so on. That is why the best – and most accurate – records are local court records.

There is no such thing as a truly "national" commercial criminal records search.

Since third party background check providers cannot search the NCIC, they compile multiple sources of data into databases that are searchable by name. These searches are often referred to as "online database searches," "name based searches," or "multi-state searches." The jurisdictions and courts included in these searches will vary from provider to provider, so be sure to ask your provider for their jurisdiction coverage list. SecureSearch offers three types of "Multi-State" database searches, please consult with one of our knowledgeable Client Advocates for recommendations on services and coverage in your area.

Myth: Fingerprinting searches will always find a criminal record.

False. Fingerprint records are not the perfect search for a variety of reasons. Typically, this information is kept in an "arrest" record database in which dispositions are not updated or part of the record. Only 60% of arrests typically are fingerprinted leaving a large gap in coverage. Sending fingerprint cards to the state does not guarantee a "national" FBI search unless requested and paid for at an additional fee. When the FBI "national" search is requested, they only return results on Felonies not misdemeanors.

What should I do about other known names (i.e. maiden, previous married, nicknames, aliases)?

Due to the fact that criminal searches are based solely on Name and Date of Birth, it is imperative for due diligence that each and every name they are aware of regarding the applicant is searched. SecureSearch does offer an Alias Name search that will automatically search for criminal and sex offender records of all names that are returned via our SSN Trace (a compilation of name and address history from the three credit bureaus going back over 25 years). Please ask one of our Client Advocates about the Multi-State search with Alias Names for more information.

Federal crimes are not included in county or state databases.

Federal crimes (i.e. crimes against the federal government, crimes on federal land, or crimes like racketeering, securities fraud, or embezzlement) are not included in local court records or online database searches. A separate Federal Criminal Records Search of US Courts should be conducted to search for these crimes.

How do I fill in the gaps?

Run Multi-State Searches on everyone who works or volunteers in your organization. We recommend one or more following services combined with the Multi-State search for proper due diligence.

- **County Courthouse searches:** *Manual search of court records at the jurisdiction. Each name requires a separate search, i.e.: Alias and Maiden name.*
- **Statewide Criminal Repository:** *Currently 18 states provide statewide searches. Sources for this information vary from state to state. Each name requires a separate search, i.e.: Alias and Maiden name.*
- **National Federal Courthouse search:** *Searches all Federal Courts nationally. Each name requires a separate search, i.e.: Alias and Maiden name.*

What about Juveniles?

Although some juveniles who are registered sex offenders *may not* appear in a sex offender registry search, many experts advise running the same criminal records search on minors as legal adults. Most juvenile records have been sealed by the courts. When running a criminal records search on a juvenile the results may return as “Sealed by court” or “No offenses found.” Records for juveniles tried as adults are typically included in the database searches. It is a good practice to run these searches as due diligence even though you will usually not get a “hit”. It is the paper trail of your process that is key.

**Note: A parent or guardian must sign a consent form for minors. A consent form for minors is located on our website.*

How often should I conduct background screenings?

Pretty much it is up for interpretation but you want to make sure that you are doing what is or has become the “norm” in your “industry”. Therefore, if others are running checks annually, you probably should be doing the same as the courts may see this as common for a like organization.

Call us if you have questions about coverage or which services would be best for your organization. We are happy to customize a package that fits your needs and budget.

SecureSearch

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