

CRIMINAL RECORDS

HOW CRIMINAL DATABASES
OPERATE



Informative, not directive

One piece of the background screening puzzle

-
- No federal oversight
 - Very little continuity
 - Volume
 - Identifiers
 - Access
 - Consequences

Criminal records disaster



End Result

- Missing Data
- Incomplete Data
- False Positives



Courthouse News S

Thursday, August 25, 2011 Last Update: 10:26 AM PT

Class Claims Credit Reporter Misidentified 'Hundreds or Thousands' of Sex Offenders

By KEVIN KOENIGER

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Woods: Background ch



Submitted by Mark Woods on October 9, 2011

Hope reporter blogs

I'm hoping to tag along with Mia and her classmates at the

There is one problem, though. OK, two problems according to Duval County Public School volunteers.

Domestic battery.

Felony counts of firearms possession.

Hearing about this background came as quite a surprise to me.

I think the biggest legal issue I've had in my 50 years is

"Or so you say," several co-workers said.

Most of them quickly said they believed me, so much so that they had a counter-reaction, arguing that I was a

ABC News Article: Background Check Errors

13 Oct 2008



According to an online article on the ABC News website today, "a review of court records by ABC News found dozens of lawsuits, on behalf of hundreds of people, filed in the last two years against the major criminal records database

companies, alleging that background checks contain inaccurate information about criminal convictions."

The article highlights the problems inherent in relying on any criminal records database in making employment decisions.

LexisNexis Settles FCRA Case for \$20.7M

01 May 2008

LexisNexis agreed to settle a class action lawsuit brought by employment applicants who claimed that the company failed to comply with its responsibilities under the Fair Credit Reporting Act. The \$20.7 million settlement is believed to be one of the largest pay outs related to FCRA compliance.

The FCRA is the federal law that governs consumer reports, a term that includes employment-related background checks. "Consumers" in this context are applicants or employees. "Consumer reporting agencies" (CRAs) include firms that deliver employment background checks.

In *Williams v. LexisNexis Risk Management, Inc.* (Case No. 3:06cv241, pending in the United States District Court for the Eastern District of Virginia), the plaintiffs were all former employees of Telespectrum and claimed that LexisNexis violated their rights under the FCRA in two areas:

First Claim:

FCRA Section 613 *Public record information for employment purposes* [15 U.S.C. § 1681k] requires that providers of employment-related background checks (which the FCRA calls consumer reporting agencies) containing public records (criminal records, for instance) follow one of the following procedures:

"At the time such public record information is reported to the [employer], notify the consumer of the fact that public record information is being reported... together with the name and address of the person to whom such information is being reported" (this is commonly called contemporaneous notification); or

"Maintain strict procedures" to ensure "the current public record status of the item at the time of the report is reported." In other words, verify information coming from criminal records databases before reporting it to the employer.

According to the plaintiffs, LexisNexis used the first option, contemporaneous notification. However, while employers had immediate access to the criminal records in the LexisNexis' internet-based database, the plaintiffs received the required communication from LexisNexis in the mail days later. The plaintiffs argued that this procedure violates the FCRA because it does not notify the consumer "at the time" the report is furnished to the employer, after the employer had already reviewed the information and terminated the employees. It should be noted that this is a common practice for those background check companies that sell criminal background databases to employers.



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Avoid Bad Hire Days

Video: Sears sends felon and stalker into woman's home

November 7, 2011

Jason Meinke was employed by a Sears contractor and sent into homes to clean ducts despite his criminal history that included misdemeanor and felony convictions, including a felony aggravated stalking conviction. When he was sent to clean Carrie Smith's air ducts, she says her nightmare started, as reported by Scott Lewis of Detroit ABC affiliate WXYZ [...]

Mike Coffey

Fake Degree Precedes \$1 Million Fraud

September 25, 2011

Not all bad hire days start with previously-convicted dishonest job seekers. Morgan County, Utah apparently thought they were hiring a qualified public administration expert when they hired Garth Day as their council administrator. According to the Standard-Examiner, Day's 2008 resume reflected that he had a Bachelor of Science degree in political science/ps [...]

Mike Coffey

Bad Background Check and Lax Credit Card and Expense Account Controls Lead to Embezzlement

September 10, 2011

In my presentations to SHRM chapters, churches and non-profits, and basically anyone who needs a good nap after lunch, I regularly warn that even great background checks typically only catch the low-hanging