



How to Select a Reliable Background Screening Company

Accurate and reliable background reports are critical to making sound hiring decisions. A criminal record check that misses a conviction can lead an employer to hire an applicant that will go on to hurt the company and co-workers and subject the company to negligent hiring liability. A report that contains convictions that are not the applicant's can cause an employer to turn down the best qualified person.

ACCURACY PROBLEMS

All background checking companies (known as Consumer Reporting Agencies or CRAs) are not the same. There are no educational or training requirements to be a CRA. Nor are there any significant legal requirements regarding conducting background checks to insure accuracy. ⁱThe National Association of Professional Background Checkers (NAPBS), the industry association, has an accreditation program, but the vast majority of CRAs are not accredited.

The result is that many CRAs have serious accuracy problems. HireRight, a leading national CRA, recently paid \$28 million in a federal lawsuit over mistakes in the records of nearly 700,000 people. ⁱⁱThe state of North Carolina revoked access to criminal records for nine different CRAs for poor practices. ⁱⁱⁱInvestigations by the Associated Press and National Consumer Law Center ^{iv} have disclosed widespread inaccuracies in criminal record reports. ^v

Poor quality CRAs can create liability for their employer clients. The Fair Credit Reporting Act (FCRA) requires employers to inform applicants that they may be turned down because of their criminal record before a final decision is made. ^{vi} Some employers depend on their CRAs to meet this requirement. When a CRA fails to provide these notices both the CRA and the employer are liable.

FINDING A RELIABLE CRA

Fortunately, there are CRAs with high quality standards that produce consistently accurate and reliable results. Employers can identify a reliable CRA with the following six steps.

1. **Use an Accredited CRA:** The National Association of Professional Background Screeners maintains an accreditation program. CRAs with NAPBS accreditation follow basic industry recommend quality standards. A list of certified CRAs is available from NAPBS. There are five additional practices not required for NAPBS certification that are needed to insure accurate reports:

2. **Confirm Records with Original Criminal Justice Source:** Many CRAs obtain information from secondary data bases. To insure accuracy, all information obtained from secondary sources should be confirmed with the original criminal justice data base.
3. **Standard for Reporting a Record:** Many people have the same, or similar, names. CRAs that rely on name alone often make mistakes. To avoid such mistakes, CRAs should only report a criminal record where: a. Full name (including middle name) and at least one other identifier match b. All identifiers in the CRAs possession match
4. **Current Records:** Update data from all sources to make sure it is current.
5. **Reporting:** All charges related to a single incident should be recorded in a single entry. Otherwise, the report may give the impression that there are multiple incidents when there is only one.
6. **Human Judgment:** Determining whether the identity of applicant is the same as the person whose record has been found requires judgment calls that cannot be effectively automated. For reliable results, a trained staff person should review reports before they are sent to the employer.

Employers should ask prospective CRAs whether they follow each of these practices. Only CRAs that follow all six can be counted on to produce accurate and reliable reports.

COST

Quality is not free. Taking the time to be sure a report is accurate increases cost. But the difference in cost between a reliable background check and an unreliable one is surprisingly low.

For additional information about finding reliable background checking companies, contact the National Workrights Institute.

ⁱ The federal Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681) states that CRAs must have "reasonable procedures" to ensure accuracy. But no specific procedures are required. ⁱⁱ <https://www.dallasnews.com/business/business/2011/12/21/when-your-criminal-past-isnt-yours> ⁱⁱⁱ <https://bangordailynews.com/2011/12/16/news/nation/when-your-criminal-past-isnt-yours-background-check-errors-have-devastating-consequences/?ref=relatedBoxApps>

^{iv} www.nclc.org/images/pdf/pr-reports/broken-records-pr.pdf ^v Ibid ^{vi} 15 U.S.C.1681(g); these notices are known as "pre-adverse action notifications"