

## WHAT IS A BACKGROUND CHECK?

The term, "Background Check", means different things to different people. To one employer it might consist of verification of prior employment, education (degree), and identification verification (driver's license and social security number). To a landlord, it may just be a check for criminal records, credit history, evictions, and outstanding judgments. To someone dating a new person, it might mean verifying that the person is not married and checking his / her criminal history. For certain three-lettered governmental agencies, extensive checks will also be accompanied by interviews with neighbors of the Subject and prior in-laws and may extend as far back to the time when the applicant was 18 years old. As you can see though, there simply is no singular definition of "background check".

Typical background checks conducted by private investigators include checks in the following areas:

- Identification verification
- Address history
- Business relationships
- Criminal history
- Civil litigation history
- Judgments
- Liens
- Bankruptcy
- Credit history
- Evictions history
- Education
- Employment (prior)
- Professional licensing checks
- Online personality profiling / social networking sites
- Drug Screening (setup by the investigations company)

**Bottom Line:** There is no standard definition of what a background check is and none are infallible. There is always a remote chance that history of a derogatory nature may not be found, particularly if the subject is transient in nature, has a common name, or is tied an unusually large number of business entities.

## THE PROBLEM WITH "INSTANT" BACKGROUND CHECKS

Many online data search companies offer "instant background checks" which inaccurately indicate that you can get a "complete" background check for a nominal fee. The reality is that these background checks are not thorough at all and often miss criminal records and other derogatory history. Let's take a closer look at what the online companies are really providing:

- **Statewide or federal criminal record checks** - there is no such thing as a statewide or federal criminal record checks. In reality, these are just checks of the state Department of Corrections and U.S. Federal Bureau of Prisons inmate records. There is NO statewide or national criminal record database other than NCIC or statewide the Criminal Information Center which are available to law enforcement personnel only. Even these records do not contain all infractions due to the fact that many police departments, municipal courts, and justice of the peace offices do not report their records to the NCIC or statewide CIC. So called "federal criminal record checks" usually only identify felony convictions of a serious nature in general per our experience in using them and may miss misdemeanor records altogether and other instances where the subject was charged with a serious crime but not convicted. Note that there is NO federal law that imposes standards for collecting, indexing, searching, and using criminal record data and that not all states have automated systems for collecting data from reporting agencies and local jurisdictions.

- **Accuracy & Coverage Issues** - most of the online criminal record checks ONLY list records from the past 7 - 10 years and usually do NOT list records prior to that time period. It is important to know about past criminal activities of a serious nature as past behavior often predicts future behavior. If the job applicant has a past criminal history of misdemeanor charges pertaining to theft, assault, harassment (sexual or via electronic communications), criminal mischief, destruction of personal property, or other "nuisance" crimes this could become a serious problem for the Client later. Note that many of the perpetrators of these crimes are often given probation and are not convicted though their tendencies still remain. Often they move to other locations where they are charged with the same crimes again but are not convicted because the judge is not aware of their prior convictions. As mentioned before, a large number of criminal records are not reported to the NCIC or statewide CIC by local police departments, municipal courts or justice of the peace offices so the judges that hear the cases are not aware of the prior charges.
  - According to BRB Publications' in 2004, only 35 percent of public records were available online at that time. It is likely that the figure has exceeded that number at the present time, however, it still leaves a considerable gap in reference to accuracy in online data searches.
  - Considered to be one of the most "thorough" criminal record sources in the industry, LEXIS-NEXIS has a database that only contains record data from 42 states, in many cases only back to the year 2000; of those, 11 states list historical records ONLY, meaning that only records for 31 states are current and only go back to 2000. For some states, researchers must conduct searches using specific criteria in order to retrieve information on an individual. The FINDER/INMATE combined file only contains inmate information from five states.
  - Online data search companies will contain data that is NOT up to date. Generally speaking most data is at least 45 - 90 days or older and is NOT up-to-date. We often come across companies that only update their records annually.
  
- **Complications** - Like people, not all investigations are alike. What may seem to be a simple matter at first glance can turn out to be more complicated than it appears or in some cases less complicated which brings us to the heart of the reason as to why one investigation may cost more or less than another – unknown variables or as one attorney once put it, “you can’t see what’s coming around the bend in the road”. While an online database may "spit out" data of some value, determining which of the information is of value to the Client's needs requires analysis and interpretation of the data by a skilled professional.
  - Profile type of the subject: (1) blue and white collar criminals require more in-depth investigation as they are more likely to use sophisticated & complex methods to conceal their assets, location, and activities, (2) common names, (3) use of abbreviated names and/or those that contain suffixes – i.e. a. J. Smith or a John smith. A. J. Smith III, etc..., and (4) use of aliases, intentional or otherwise, (5) profession; different checks are required for different professions.
  - Scope & depth of investigation required: (1) geographic locations where checks need to be conducted, (2) number of individuals and business entities names that need to be checked, (3) Financial status of the individuals or entities, (4) sophistication of subject’s business operations and structure, (5) investigation objectives of the Client, and (6) complexity of investigation in general.
  - Deception methods often used by white collar criminals: (1) setting up similar named business entities to deliberately confuse creditors collection efforts and/or ownership, (2) use of acronyms and formatting methods using letters of company names, determining ownership interests in business entities when apparent methods have been used obfuscate the chain of ownership – i.e., use of attorneys and/or generic registered agents, or other business entities as their registered agents to cloak business associations), (4) use of mail drops or other methods used to conceal locations of residential or business addresses, (5)

sophistication of subject's asset concealment mechanisms – i.e. use of trusts, titling assets in the names of other family members or business entities, use of proxy agents, online banking, etc...(6) method of concealing / titling assets - i.e. title assets in names of family members, trusts, or business entities.

- Records accessibility / availability: (1) not all records are accessible to the public online or via online data sources and may require physical visits to the courthouse or subscriber access. Many jurisdictions do not allow searches by name as in property records, (2) record-keeping practices in some jurisdictions requires additional steps to acquire the information needed, (3) expenses - databases, access fees, copy costs, use of another vendor or investigator to access records, etc..., (4) obtaining copies of documents when needed; requires additional time and expense, and (5) excessive number of records found.
- Data examination, Interpretation, & report preparation: (1) data collection, processing, integration, analysis, interpretation, and evaluation of available information, i.e. "making sense of it all", (2) data integrity – determination / confirmation of accuracy and/or determining if data is up-to- date or out-dated, (3) follow-up investigation in general / "following leads", (4) compilation of information into useable formats - tables, spreadsheets, databases, etc..., (5) reports - presentation of useful intelligence developed during the investigation.
- Insufficient or incorrect information provided by client: (1) no known or incorrect identification, (2) no last known address, (3) situations where the father or son has the same name (i.e. Jr., Sr., III, etc...) and the identification available is uncertain as to which one it pertains to, (3) situations where the Subject is a career criminal and is using false identification / aliases
- Client's requests: (1) rush basis and (2) additional information requests during the investigation

In general, the more active an individual is, the greater the scope of the investigation that is required as they are usually tied to more companies, have lived in more places, and will typically have more lawsuits, judgments, liens, and other adverse actions filed against them.

**Bottom Line:** You cannot trust an online data search company's data to be accurate or complete. It is almost a certainty that the checks will miss history that could have a substantial bearing on the subject's portrayal in reference to his / her character and credibility. Databases provide data only. They do not examine, interpret, or sort the information so that it is presentable in a coherent manner to the Client.

## WHAT A PROFESSIONAL INVESTIGATOR PROVIDES THAT NO DATABASE CAN

Thorough background checks require BOTH manual and online checks of felony and misdemeanor records to ensure that the highest degree of due diligence has been exercised. A skilled investigator will conduct BOTH online and manual record checks in the counties where the Subject has resided in and/or worked in. This maximizes his efficiency so that he not only identifies criminal records filed in the jurisdictions that he checks but others where he was unaware that the Subject has lived or traveled through. Occasionally the investigator will come across expunged criminal records where the perpetrators were wealthy and utilized the services of an attorney to remove from their criminal record. Though the types of criminal records are considered the same as dismissed and cannot be used to deny a potential job applicant or business relationship, this information is useful to know just the same.

So what sets the investigator apart from using an online database? They exercise additional diligence which ensures accuracy, thoroughness, and produces findings of value that actually meets the Client's needs by doing the following:

### **Advantages of using a professional investigator:**

- possesses the expertise and resources to complete the investigative task at hand.
- ensures accuracy and thoroughness - confirm that the records found pertain to the individual being investigated, expand the scope of the investigation to include checks specific to the Subject's background or employment, and exercise the degree of due diligence necessary to conduct the investigation in a thorough manner.
- efficiency - the experienced investigator will have a large portfolio of contacts and information sources to complete the investigation faster and more thoroughly.
- licensed and insured which provides a higher degree of professionalism and protection from liability.
- develop relevant conclusions from the mountain of information that has been developed.
- compile professional reports for the Client in an understandable format.
- satisfy the Client's needs to the degree that is needed or required.

### **Legal reasons to use a LICENSED investigator:**

- Information and evidence developed by an unlicensed investigator is inadmissible in a court of law.
- In most jurisdictions, a person furnishing investigative services without a license is committing a criminal act. In some states (such as California) it is unlawful to hire an unlicensed investigator.
- in most states, a licensed investigator is required to have a sufficient degree of work related experience or several years of law enforcement experience. The licensed investigator is also required to receive continuing education courses on a regular basis and is kept abreast of new development in his field.
- a licensed investigator is required to be insured by state law in most states which may protect your liability in the event of a lawsuit.
- a licensing authority has been established to police and enforce rules and regulations for licensed investigators in most states in the event they commit acts pertaining to deceptive business practices, criminal activities, or torts committed against other parties.
- failure to perform a background or due diligence checks can become extremely costly if a lawsuit is filed. For some companies and small business owners it takes only one (1) lawsuit and an ensuing judgment to cause them to close their doors. In many situations these types of checks are required by licensing and regulatory agencies for the protection of the consumer and are mandatory. The sad fact is that most lawsuits could have been averted with a background check.

Bottom Line: A skilled investigator will ensure that a thorough background check is conducted which consists of both manual and online checks and will follow-up on any leads that may require further investigation to ensure that due diligence was exercised. The usage of an investigator will satisfy the criteria needed to exercise due diligence if a proper background check is conducted. The investigator is licensed and insured in the event of any legal mishaps. His training, experience, and resources will ensure that your investigation is handled in a professional manner and that it will be conducted properly and efficiently.