What a National Criminal Database Is Not

To this point in the evolution of the screening industry, there is no all-inclusive National Criminal Database [NCD] product in existence. The most famous National Criminal Database is the FBI’s National Crime Information Center [NCIC]. Access to the NCIC is limited to law enforcement personnel only and any access that is currently being sold on the open market by screening companies is being done so illegally and without the permission of the FBI. The NCIC is the only NCD that actually integrates with law enforcement agencies across the country and even that is in a very limited manner. The balance of information that enters the NCIC are records compiled by each state’s Department of Justice in an information share process between the two entities. A recent study funded by the National Association of Professional Background Screeners [NAPBS] concluded that even the FBI’s NCIC is not comprehensive enough to be used as the sole source for searching criminal records when conducting a background check.

There are dozens of companies that purchase and compile public records to create their own proprietary National Criminal Database product. The NCD products currently available on the screening market are compilations of purchased records from different public record entities all across the country; these databases are not directly integrated with county courthouse indices to process up to date searches. There are thousands of sources of criminal information for sale in this country but compiling them into an all-inclusive database cannot replace the effectiveness of directly searching the counties of an address history associated with your applicant.

The National Criminal Database Product

The background screening industry has evolved tremendously over the past two decades and professional background screening companies such as USA-FACT have made significant progress in shaping the information retrieval methods in this country to provide their customers with the highest quality screening possible. The primary sources for criminal records searches are at the county and federal district court system and today they remain the benchmark for due diligence criminal background checks.

Proprietary National Criminal Database searches have come under increasing scrutiny and regulation by the federal government. Compiled databases are inherently inaccurate in some critical ways.

I. Because not all data in this country is for sale, employers will miss records using a database product. USA-FACT has tested the largest national databases on the market against live courthouse searches and our data has determined them to be at best about 60% accurate.

II. Databases are updated sporadically. Sometimes this is the fault of the court system that sells the data. There are occasions when the courthouse is not able to meet the download schedule requested by the re-seller and other occasions when a re-seller who cannot afford to purchase downloads regularly is the culprit.

III. Database accuracy is affected because good reporting practices have yet to be implemented within our court systems. For example, state repositories are notoriously inaccurate because the counties within the state are not required to report their data. Additionally, there is no “uniform system” in place for the convenience of the counties that do report their data.
The primary concern of the federal government with the use of database products is consumer rights. They are concerned about protecting a "consumer" whose employment or prospective employment could be jeopardized because an employer considered a potentially incomplete court record. Post-adjudication actions such as an expungement or set-aside judgment are good examples. They are just now beginning to enforce FCRA regulations on database use.

There are two additional factors that have dramatically increased the legal exposure an employer now faces by using a database as their primary screening tool. The first has to do with the recent negative press surrounding the two largest criminal database companies. USA-FACT believes this will force the federal government to take a closer look at the method used to compile criminal databases and lead to a closer scrutiny of the product which could filter down to the end-users. The second factor is more significant. The vivid disclosures and acknowledgements that screening companies and government entities have made regarding the questionable accuracy of the products they sell (USA-FACT requires clients to sign a disclosure when using the NCD as a sole means of screening). These published statements have placed employers in a "should have known" situation in the event a problem occurs. Many employers continue to use databases as their sole screening source regardless of the risk, as a cost saving measure. However, an employer using a criminal database search as their primary screening tool is exposing their hiring process to possible legal action.

Summary

There is a place for database use in employment screening. The National Criminal Database can enhance the applicant screening effort by increasing the coverage area of the search as a supplement to the comprehensive live county courthouse search. A National Criminal Database could possibly identify a crime an applicant or employee may have committed while traveling or on vacation. They can also be helpful in the event your applicant intentionally lied on their application about where they have lived or worked. The National Criminal Database search is ideal for companies hiring over-the-road drivers, traveling executives or sales staff.

USA-FACT in no situation ever utilizes the National Criminal Database search to process county criminal searches.

USA-FACT is always searching for ways to improve the quality and effectiveness of the service we provide and it is our belief that databases should never be used as a primary screening tool. We believe this is best for our clients and the safety of their employees and customers. However, we also believe that our Nationwide Criminal Database product, when properly used and properly integrated into your screening process, can enhance the effectiveness of your screening program.

Works Cited:

1 – In a phone interview with Stephen Fischer Jr. at the Federal Bureau of Investigation, Mr. Fischer informed USA-FACT that the NCIC remains prohibited from providing National Wants and Warrants information to private screening companies.

Sources Used to Compile Proprietary National Criminal Database Products

**National Criminal Database (NCD) Sources**

About 70% of all sources and approximately 50% of all criminal records in this country are available for sale to companies compiling database information. This is a graphic of the sources of the NCD and how information flows in this country. The NCD does not include every record from every source, only records of those sources that make them available for resell.

**County Courthouses**
- Over 3,100 counties
- Over 5,000 courthouses
- Most up to date info
- Info usually contains identifiers

**State Databases**
- Available in 38 States
- Maintained by DOJ
- Comprised mainly of DOC records (Repository Data)

**Dept. of Corrections (DOC)**
- Prison Records Searches
- Comprised solely of incarceration records transferred from county (Repository Data)

**INTERPOL & OFAC**
- Int'l Terrorist

**State Sex Offender**

**Federal District Courts**
- 92 Federal Districts
- Source info for crimes against the federal government
- Few identifiers in the information
- Not contained in other databases

**The NCIC**
- All sources are obligated to report to the FBI but not all do and there are no published regular intervals.
- The NCIC is not available to private industry.

**Criminal Information Sources**

All criminal databases are compilations of either county or federal district criminal records. State repositories are a compilation of records derived from both the county courthouses and from Department of Corrections records. Department of Correction Records are comprised of county courthouse records. The federal district courts maintain their own records and these records will not be found in the National Criminal Database in the original form. However, federal district records may be found in the NCD when obtained through research but cannot be purchased for inclusion from the federal districts.

If you have any questions regarding this information or you would like a copy of the article published by the NAPBS regarding the NCIC Study, please contact USA-FACT at 800.547.0263 or by email at gary@usafact.com.