

9 Things You Need to Know About Background Checks

(And Didn't Think You Had to Ask)

1. Criminal records originate – and are most accurate – at the local court level.

Criminal records originate at the local courts (municipality/city or county) and their court records are updated as the case is processed, and eventually, decided. The local courts then “report up” – by sending their court records to the state – but the frequency of their reports and updates varies by jurisdiction.

2. Commercial background check providers cannot search the FBI's NCIC database.

The National Crime Information Center, or NCIC, is the United States' central database for tracking criminal records. The NCIC is maintained by the FBI and contains arrest records and wants/warrants that are linked with an individual's fingerprints. The NCIC is not public information; it is available only to law enforcement, government agencies, and organizations given permission to search the records. Third party background check providers cannot search the NCIC.

3. 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.

4. 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's why the best – and most accurate – records are local court records.

5. How long records are accessible varies by jurisdiction.

Some counties permit searches of criminal records for a maximum of seven years; others have a maximum of 10 or 15 years. States typically permit searches for seven years. Commercial providers can maintain records they've purchased indefinitely. The NCIC records are maintained indefinitely by the FBI.

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6. 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.

7. Very few juvenile records are included in criminal databases. However, juveniles who are registered sex offenders may appear in a sex offender registry search.

Many experts advise running the same criminal records search on minors as legal adults, but most juvenile records have been sealed by the courts. When running a criminal records search on a juvenile the results often return as "Sealed by court" or "No offenses found." Records for juveniles tried as adults are typically included in the database searches. Juvenile registered sex offenders may be included in the sex offender registry.

8. Sex offense records originate at the local level, but sex offense records are maintained in each state's sex offender registry. Sex offenders are in the sex offender registry for life, with few exceptions.

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. 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.

9. Criminal records searches are important, but they are insufficient.

Due diligence mandates that you perform background checks for employees and volunteers; historically 7% of all non-profit volunteers and staff have a discoverable criminal record and there are over 560,000 registered sex offenders. Only an estimated 3-4% of sex offenders have criminal backgrounds. Most never get caught.

What sort of background checks should you perform?

- **National Sex Offender Registry Search**
- **Multi-State Criminal Records Search**
- **Social Security Number Trace and Alias Check**
- **County Criminal Records Search (for all counties of residence for 10 years)**