

The Dangers of the Nationwide Criminal Database

(and recognizing when someone is selling it)

Published By Justin Raprager - SmartStart Employment Screening – www.SmartStartBackgroundCheck.com

Before we move forward, I would like to share with you some information about myself. Not only do I possess over 20 years' experience in the employment screening industry, I am a former private investigator and I have substantial program development experience with dynamic website development, SaaS, and database development. I feel that my experience with the two subjects makes me the perfect person to report about the positive and negative benefits of a nationwide criminal database.

A nationwide criminal database is the attempt by private industry to create a single source background check that covers all criminal records in the United States. Criminal data currently resides in over 4,000 county level courthouses, approximately 140 federal courthouses, and a variety of other ancillary sources. It would be quite difficult and expensive to search all these resources as most of them are independent of each other and require an individual to go to the courthouse and manually search their computer or book records.

The concept of a nationwide criminal database is extremely good and could be very beneficial. The reality of the nationwide criminal database is that it has produced several negative side-effects that if not handled properly, completely neutralizes any benefit of the database and creates greater liability than if it was not used at all.

Here are the situations that will be addressed.

1. Participation is needed from all the data sources.
2. Databases that do not collect the initial and original information are almost always outdated or inaccurate. Even original content databases are at the mercy of the people who are paid to keep them current.
3. Databases that do not collect the initial and original information are almost always missing data during the transfer process.
4. National criminal databases often collect information that can't be considered by employer or landlords and therefore create additional liabilities under the FCRA.

For those of you who are not familiar with databases, there are a few things to remember. First, databases are only as accurate as the data entered into the system. Second, their accuracies are only as current as how often they are updated. Lastly, they can only contain as much information as they are structured.

In the process of populating a nationwide criminal database, the first thing that must occur is you have to have permission from the original content provider to copy their information. Without their permission, you cannot obtain the data. In the case of the United States, the federal court system and

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about 40% of all courts nationwide have not given their permission to copy. So, the first deficiency of the nationwide database is they are not complete.

Many people say that they are in a State that provides complete information. This is still not acceptable in the scope of an overall background check because it does not account for the situation where applicants have moved from outside the local area. Remember, background check programs/packages should be developed to account for all possible scenarios.

Human error plays a major part in data quality. It is not uncommon that the originally sourced data has been input into the system incorrectly. Often, there is a lag due to a back log of data to be entered into the system and it takes time for court records to get updated. We have seen courts that are as much as 3 months behind. These two factors are common in the product of data error when you consider the large number of people nationwide entering data into originally sourced criminal databases.

The next thing to consider in populating a nationwide criminal database is database design. Not all databases are designed the same. This creates a substantial issue when dividing the information into the new database. This subject can be complicated so I will simplify with the following analogies. Imagine a cafeteria tray of food. There is a different area designated for each type of food. Now, you have to transfer all your food to another tray, but it does not have any compartments. So, you dump it all onto one plate. The food is now touching and all in one big area. And, if the new tray is smaller than the original, some food will get left behind.

This is the same with the nationwide criminal database. Since the database has to record information from over 4,000 different sources, it cannot be perfectly designed to accept data from each different source. This means that it must accept information on some (most) occasions in the “dump” fashion. Granted, the information should be available but this creates major issues when trying to update information. Let’s go back to our food example. You now have your plate of food, chicken, peas, mashed potatoes, and pudding all on the same plate. Now, some of the peas need to be taken away and replaced with new peas. This is not possible with the “dumping” method and is difficult even when the data (peas) are separately stored and individually tracked.

What you should take away from this explanation is that nationwide database designs can never exactly match the design requirements of even a portion of the over 4,000 sources of data and therefore must manage data in a manner that will lose data and make it difficult to update.

The final factor in considering the usage of a nationwide criminal database is the permissibility of the information you are receiving. When cases are filed at a courthouse, they are almost always transferred to the database before they are disposed (completed). This means the data will require an update, which we already know the issues with that problem. The bigger issue at hand is the law prohibits the consideration of expunged records, dismissed charges, and any other non-convictions. Databases do not filter this information from the system.

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This problem becomes untenable when an individual who was charged with a child sex offense is found not guilty. Most people will not give that person a second glance because simply being charged with the offense is sufficient reason to not hire them. But, by withdrawing a job offer based on a non-conviction, an employer can be subject to fines, penalties, and civil awards to plaintiffs, as much as a hundred thousand dollars or more.

Nationwide databases contain a lot of information that should not be considered in the hiring process. Being exposed to this type of information is enough to prejudice the decision making process and should be avoided. Furthermore, many lesser offenses are also included, like infractions and traffic tickets, further complicating the interpretation process.

The Pros of the Nationwide Database

You must now be wondering, is a nationwide criminal database worth using. I can truly say without a doubt that an end user should never be directly exposed to the results of a nationwide criminal database. But,

Nationwide criminal databases make exception supplemental products when processed and reviewed by a third party screening company. This is under the assumption that a few things occur.

1. The data in its entirety should never be provided directly to the employer or tenant screener. Rather, the end user should establish criteria with their background check company and the results of the database check should be manually interpreted and filtered before delivery to the client in accordance with State and Federal Law.
2. If a nationwide criminal database is used as the sole source of record information, then whenever a record is produced that could result in adverse action, its accuracy should be verified with the original source of the information.
3. Since one can never be sure of the completeness of the database, it should only be done in conjunction with a thorough background check consisting of a social security number trace and address history report and a county and federal level criminal search in all locations an applicant has resided in the desire period (usually 7 to 10 years). A Statewide repository will increase the completeness of the report, but will also substantially increase the cost. After this search has been conducted, then a nationwide database should be considered as a supplemental and redundant source of information.
4. If an employer, against all recommendation, decides to use nothing but a nationwide criminal database, then in accordance with the FCRA, they should make sure they allow the applicant to review any report that results in adverse action (i.e. denial of employment or housing, etc)

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Background checks have accomplished their duty and have substantially reduced the liabilities employers and landlords face from negligent hiring and housing. Now the industry faces a new challenge, failure to comply with the FCRA (Fair Credit Reporting Act). Its number one liability is the misuse of nationwide criminal database results.

The last thing to touch on is how to recognize if your background check company is using a database as your sole service.

There are a few very distinct flags that exist to determine if you are currently using a database only service.

1. How fast are you getting results? Most databases are instant. If something is returned to you in a matter of seconds or even minutes. You are using a database. There are some companies that will give you instant results if there are no records, but it will take longer if there are records because they verify the accuracy of the data produced (good for them!). This is still not considered an acceptable background check and they are only hedging your overall liability by verifying the accuracy of records.
2. How much do you pay? Most people charge \$5.00 to \$15.00 to commercial clients for a database only product. Thorough background checks cost more than \$15.00. Depending on your volume and region, you should expect to pay around \$40.00 for a good background check. This is for criminal data only and does not include any other services (like drug testing, education verification, etc).
3. Lastly, most sales people in the industry don't completely understand the background check process. When selling you the background check, they will only refer to it as a nationwide criminal search and never speak of its specifics. Make sure your representatives tell you the following:
 - a. This is not just a database search. We search real time records at the courthouse.
 - b. We are conducting county and federal level searches. This as opposed to, "We are providing county level information." Some people will try to trick you with how they word or describe their product so they can answer you without lying to you.

If there is a question about the caliber of the background check you are conducting, feel free to request a review of your program by SmartStart Employment Screening. You will receive a no pressure, no obligation, and unbiased report as to the ROI you are receiving from your provider.

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