

Background Check Basics

A Guide to Getting Started



IntelliCorp Records, Inc.
3000 Auburn Drive, Suite 410
Beachwood, Ohio 44122

1-800-539-3717
sales@intellcorp.net
www.intellcorp.net



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I. Introduction

Welcome to the Background Check Basics Whitepaper

Companies look for ways to help ensure their next hire is the correct hire. But having to wade through embellished and outright fraudulent resumes can be difficult. One top of that, employers want to promote a safe workplace and reduce risk, but how do you do that?

The pressure organizations face to make correct hiring decisions is increasing. Whether it comes from strained budgets in a challenging economy, increased government rules and regulations, or fear over lawsuits and other legal damages, companies understand that they need to make good hiring choices the first time around.

Part of building a successful company begins with hiring qualified employees that fit into your company's culture. Smart hiring decisions position a company for success. Poor hiring decisions can jeopardize revenue, lead to inefficiency, and increase the risk for liability issues. That's where a strong background screening program comes in.

**What do most successful companies consider to be their greatest asset?
What separates them from organizations that struggle to compete and grow?**

The answer to both: Their *employees*.

The importance of screening wisely

Pre-employment screening products and services help organizations lower risk every day. Before you begin your evaluation and selection process of what products and services to use, your organization should have a formal company screening policy in place. Having a formal policy that your company endorses and consistently enforces throughout the organization, will help to ensure safe hiring practices and protect the organization from legal troubles.

It's important to have an awareness and solid understanding of the various background screening products available, so you can receive quality information to help make sound hiring and recruiting decisions. Finally, you should understand your obligations, as well as providers' obligations, under the Fair Credit Reporting Act (FCRA).

The purpose of this whitepaper is to help you get started in the right direction, providing key details you'll need to know along the way.

II. Background Check Basics

Establishing a Company Screening Policy

Implementing a consistent screening policy throughout an organization can help avoid costly hiring and recruiting mistakes, lessen exposure to risk, and serve as a protective measure from potential legal issues.

Here are some suggestions for reducing liability concerns before hiring:

- Require a companywide commitment to mitigate risk and promote a safe work environment.
- Develop a pre-employment screening policy to ensure safe-hiring best practices.
- Follow all FCRA rules and regulations.
- Perform due-diligence in selecting the right supplier for your organization.
- Utilize multiple screening products and develop position-specific standardized searches.
- Establish criteria to evaluate background information.
- Eliminate judgmental decisions to ensure consistency when interpreting results.
- Conduct periodic program review to ensure that those managing the background check process are observing all applicable policies.

Background Check Products

There are many background check products that you can choose from to screen job applicants and obtain a comprehensive picture of their history. However, due to the wide variety of options available, selecting the proper combination can be confusing. It's also important to understand the process in which the information presented in the background screen is collected.

Be sure to keep the below items in mind when making your decisions:

- There is no single source containing all criminal history information. There simply is too much information to expect any one database to have it all.
- A comprehensive screen should check information from multiple sources (i.e. national, state, local). Generally, with respect to criminal background checks, the most up-to-date information can be found at the county courthouse level.
- A "validation" process should occur for any background screen that returns a record that could potentially have a negative impact on an applicant.
- Validating a record entails going back to the source of the information and verifying its accuracy.

Many employers may wonder what constitutes a “comprehensive” background check. It can be difficult to know what should be included in a search to constitute a comprehensive pre-employment screen. As a starting point for a search, below is a list of products that if packaged together, could be a starting point for a basic criminal background check.

- Validated criminal database search
- County courthouse level searches with an address history going back at least 7 or 10 years
- Validated nationwide sex offender search
- Validated Department of Corrections search
- Social Security number verification
- Government sanctions search (Results include data from government agencies including, but not limited to, the Office of Foreign Assets Control, Government Services Agency, Directorate of Defense Trade Controls, Bureau of Industry and Security, and Bureau of International Security and Non-proliferation).

Supplementary Reports and Searches

Depending on the type of position you need to fill, you can add supplementary reports and searches, as noted in the list below:

| | | | | |
|-------------------------|-------------------------|---------------------------------|-------------------------------|---------------|
| Education Verification | Motor Vehicle Reports | Drug Testing | Credit Reports | Civil Records |
| Employment Verification | Professional References | Medical Fraud and Abuse (FACIS) | Medical License Verifications | I9 & E-Verify |

FCRA Compliance & Other Legal Issues

The FCRA is a federal law that governs the use of background screening, and businesses and organizations must follow certain procedures when using a consumer reporting agency (CRA) to obtain a background check report. The success of your screening program depends on having processes and procedures that are FCRA compliant.

A complex piece of legislation, the FCRA contains numerous provisions. Some of these include; how information is protected, what information is disclosed and why, and the process individuals can follow to dispute or correct inaccurate information contained in a report.

If your company purchases background checks from a third-party screening provider, there are **3 basic steps for FCRA compliance**:

1. Before you get a consumer report
The applicant or employee must be made aware that a consumer report is being used for employment purposes.
 - a. You must obtain the applicant's permission and signature authorizing the background check
 - b. The signed authorization must clearly indicate the nature of the check (i.e. employment purposes)
2. Before you take adverse action
If you rely in whole or part on a consumer report for an "adverse action" such as denying a job application, reassigning or terminating an employee, or denying a promotion, be aware that:
 - a. You must give the individual a pre-adverse action disclosure that includes a copy of the individual's consumer report.
 - b. You must provide a copy of "A Summary of Your Rights under the Fair Credit Reporting Act" — a document prescribed by the Federal Trade Commission. The CRA that furnishes the individual's report will give you the summary of consumer rights.
3. After taking adverse action
After you've taken an adverse action, you must give the individual notice — orally, in writing, or electronically - that you have taken the adverse action. The notice must include:
 - a. the name, address, and phone number of the CRA that supplied the report
 - b. a statement that the CRA that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it
 - c. a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished and his or her right to an additional free consumer report from the agency upon request within 60 days

A background screening provider must also adhere to certain FCRA requirements, some of which include:

- identify the purpose for which clients wish to access products and services
- obtain certifications from client verifying clear disclosure to the consumer in writing and, in the event of an adverse action, that the client provides to the consumer a copy of the report and notification of the consumer's rights
- maintain strict procedures to ensure that reported public record information is complete and up to date
- provide copies of reports to consumers upon receipt of proper identification
- maintain procedures to properly dispose of consumer report information properly

Simply put, the benefits of following FCRA requirements can be tremendous, even if you conduct background checks in-house. Because FCRA regulations were designed to protect applicant privacy and contribute to fair hiring practices, it makes sense that employers who follow the requirements will be offered greater protection from lawsuits.

While meeting FCRA requirements can seem daunting, once your process is in place, complying with these regulations can be easy. A good background screening provider will provide assistance with FCRA compliance, supply necessary consent documents, and offer pre-adverse and adverse action notification services.

Some Additional Legal Trends and Issues Impacting Employment Screening

- **Ban the Box**

This legal trend has gained momentum in the last few years and has been increasingly adopted in various forms by state and local governments. It deals with the question on whether a criminal history question should exist on a job application. Advocates for individuals with criminal histories claim including this question in an application adds a bias to the hiring process. Qualified applicants with a criminal record are filtered out of the selection process before they are even given an interview. 'Ban the box' legislation usually includes a provision that the employer may not ask about criminal history until the first interview has concluded.

- **Social Media**

Another recent trend steadily being addressed by state and local government deals with how much, if at all, should an employer view information on social media profiles when judging an applicant. Some may argue there is no expectation of privacy when it comes to social media, but it's generally not considered a best practice to base a hiring decision on what someone has in a profile. Some laws have specifically prohibited an employer from asking for login information to a social media account.

- **EEOC**

Every employer should understand the purpose of the Equal Employment Opportunity Commission (EEOC). The EEOC is a federal agency that represents employees who are victims of alleged workplace discrimination, and sometimes litigates on their behalf. In 2012 the EEOC released a document, or guidance, for employers on how to comply with workplace discrimination issues. It's entitled Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964.



III. IntelliCorp – About Us

IntelliCorp is a nationwide provider of comprehensive background checks and employment screening solutions. We've been in business since 1996, and our services assist numerous businesses and nonprofit organizations with their hiring and volunteer-recruiting processes.

- Accredited through the Professional Background Screening Association (PBSA).
- Named to Human Resource Outsourcing (HRO) Today magazine's 2019 Baker's Dozen list of the nation's top 13 outsourced screening providers. The inclusion marks our 11th appearance on the list.
- Listed on the 2019 Workforce Management Hot List of background screening providers for the tenth consecutive year.
- A Cative Company

Clients benefit from industry-leading data, easy-to-use services, personalized customer service, and training and compliance education. IntelliCorp's customer-driven solutions and flexible system architecture allow for simple integration into multiple platforms. A robust operational framework and infrastructure of guiding principles and industry best practices demonstrate IntelliCorp's steadfast commitment to compliance with federal and state requirements pertaining to background screening.

IntelliCorp understands the importance of selecting quality employees and volunteers to facilitate a safe and productive environment. A large part of our history involves building and sustaining ongoing successful client relationships. We're proud to provide a full suite of services that bring value to your organization.