

# The



# Tracker

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## Holes found in cheap background checks ; \$10 online services often don't reveal criminal history: [Chicago Final Edition]

*Greg Burns, Tribune senior correspondent. Chicago Tribune. Chicago, Ill.: Apr 11, 2004.*

Employers worried about crime, terrorism and liability are embracing a new breed of online services for screening job candidates, but these low-budget background checks don't always check out.

The cheapest ones routinely fail to identify criminals, performing such superficial reviews that serious offenders can get perfectly clean reports, critics say.

Even when these services uncover

criminal records, the information often is incomplete and unreliable. And with instant checks costing as little as \$10 apiece, the trampling of privacy rights and fair-hiring laws can become as simple as a point and a click, the critics say.

While the private background-check business has a few big players, hundreds of upstarts have emerged in recent years to cash in on the nation's heightened security concerns, according to Shawn Bushway, a

Sixty came back showing no criminal record at all, and many of the other reports were so jumbled that the offenses were tough to pick out, he said.

The Chicago Tribune conducted a similar spot-check six weeks

ago, submitting the names and birth dates of 10 Illinois offenders whose sentences were reported in the media for crimes ranging from drunken driving and fraud to possession of child pornography.

criminologist at the University of Maryland who has studied the booming industry. About 465 companies offer background checks on the Internet, Bushway said. And in at least some instances, they provide little more than false assurances to those vetting everyone from truck drivers to child-care providers.

"It's absolutely impossible to know who these companies are," he said. "They're not responsible to anybody about anything."

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## Controlling Workplace Security: Conclusion

Refrigerated Transporter, Jan 1, 2004

### Three security components

Effective security systems all have three components in common, Brandman says. Food distributors are willing to spend money to protect their assets. The problem is that many programs waste money, because it is not spent in the right way, he says.

The first step in building an effective security program is a comprehensive background screening system. Many companies have begun to use screening available from Internet providers for about \$14 per applicant. The first thing to know about these online background checks is that a national background search cannot be done, because the

information does not exist. "An Internet background search is not a cost-effective way of screening applicants," he says. "The simple truth is that companies that buy an inexpensive background check are getting what they pay for — almost nothing."

Many companies want to do good background screening, but they stop short of getting all the information that they need. For instance, many companies never verify an applicant's social security number. Checking a social security number can reveal a number of things. The number may not match the name of the person applying for a job. It may

be a completely bogus number — one that the Social Security Administration has never



assigned. Most companies need to expand the scope of their criminal history investigations. In general, criminal history is recorded on a county-by-county basis, Brandman says. Most

exchange criminal conviction information; most states don't exchange criminal histories either.

### Fit checks to jobs

Background checks should be designed to fit job requirements. The higher the potential security risk a position holds, the more extensive the background check

should be, Brandman says. Checking deeper into an applicant's background costs more, but the expense is worth it to prevent systematic theft. A single background check at initial hiring is not enough. When people are promoted within the company, conduct another background investigation. "The discovery that the background screening process is inadequate should not come after a major

loss," he says.

Conduct periodic reviews of the security program, Brandman says. Take a realistic look at the program and what it is supposed to accomplish. Determine whether or not the program is designed to detect theft or embezzlement. Make sure that the program includes safeguards against product tampering. A realistic analysis will probably

show that the program still depends on the same techniques that it started with. In addition, analysis probably will indicate a low level of adherence to the program and will find few checks and balances to ensure that the program is self-correcting.

Once a workable security plan

has been designed, make sure it keeps working by running periodic, unannounced audits, Brandman says. Audits are necessary, because most supervisors are not overly concerned about security on a daily basis. Without audits, daily concerns will quickly overwhelm any security program.

### Unannounced audits

Audits must be unannounced. If people know an audit is coming, the audit will not find anything out of the ordinary, because the workers will put on a show for the inspectors, Brandman says. An unannounced audit that pulls a truck back to the dock and counts every case on board against the shipping documents will get the undivided attention

results to annual performance reviews. Putting security awareness into the compensation equation motivates people to do a better job of protecting company assets.

An internal tip line is essential to an effective theft prevention program, Brandman says. Whether it's warehouse theft or a major crime, most of the time, the solution comes from a tip, usually from someone near to the bad guys. If workers have a safe, secure method for providing information, they will provide tips. If not, they will remain silent.

An open door policy is not the same as an anonymous tip line. An open door is fine for worker complaints, but it will not work to generate leads about theft, Brandman says. To be effective, the tip line must not be answered by company personnel. It has to be handled by third party operators. The best part of a tip line is that it helps keep people from taking the chance to steal. If workers know that others can turn them in anonymously, they may not steal. The point of a tip line is not so much to catch thieves; it is to prevent theft in the first place, he says.

**Techniques that work**

Undercover investigations are widely used in the food industry and are extremely effective at catching thieves, Brandman says. It takes a while, but once an undercover investigator has been in a warehouse for some time, other employees will open up and say or do things to provide information. "We have actually had investigators invited to become a part of theft schemes," he says.

Several new technologies can be helpful for preventing theft. "Some clients have had trouble with cargo theft right off the dispatch line by drivers

to be from an authorized carrier," Brandman says. "To prevent this, we have required all their contract carriers to take digital photos of their drivers. When a driver is dispatched to pickup a load, the carrier must email a photo of the driver to our client. The driver must match the photo before the load is released."

One good way to prevent collu-

sion between inbound drivers and receiving personnel is to institute a 10-minute freeze rule on the receiving dock. Once an inbound shipment has been taken off the trailer and placed on the dock, no one is allowed to touch it for 10 minutes, Brandman says. Freezing an inbound shipment on the dock keeps dishonest workers from putting goods into storage

before a complete count is done.

Lax security often results from making one or more common mistakes, Brandman says. For instance, a poor security program put in place for cosmetic reasons often leads to a sense of complacency. In turn, complacency communicates itself to potentially dishonest workers who begin to see the company as an easy mark, he

Companies need to ensure that they are not hiring experienced troublemakers. The best example of hiring a troublemaker is a worker who takes drugs or sells drugs at work. "We can show a definitive correlation between drug use and crimes in the workplace," Brandman says. "By the same token, use every means to keep

people who use a false identity to get a job."

Take proactive steps to prevent loss. Companies that simply react after a theft are more likely to sustain losses in the future, Brandman says. Setting up a good program for receiving tips and other intelligence is essential for communicating a company's

desire to remain secure to the workforce

Never have a victim mentality, Brandman says. Let everybody in the company know that security is a high priority. Make sure that workers know that the company will fight to protect its assets.

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InstantPeopleCheck.com found no criminal records for any of them in its \$9.95-per-person statewide search. It flagged one as a sex offender, based on his entry in the state's free online registry, but included no corresponding description of his guilty plea a year ago for soliciting a juvenile prostitute.

The service, chosen at random from the Internet, won't disclose the identity of its owners or employees and lists its mailing address as a post office box in an Anchorage mall.

Through an unsigned e-mail, InstantPeopleCheck.com said its

search fulfilled the criteria set forth on its Web site. Indeed, the company promised only a cursory check and disclosed that it couldn't guarantee the accuracy or extent of the results.

Still, even the simplest searches convey a sense of scope that they rarely if ever have, said Lynn Peterson, president of the PFC Information Services Inc. research firm.

Some vendors, she noted, effectively check only for current inmates of state prisons. Their reports indicate "no record" even for those on probation or serving time in a county jail.

**Hiring researchers**

Peterson's company specializes in more extensive screenings that involve tracing the addresses and names used by a subject over the years, then hiring researchers known as "runners" to track down public records at each location.

"You can do a darn decent background check for a couple of hundred dollars," she said.

A thorough screening almost always involves sending runners to the courthouses, noted John Long, chief executive of the publicly held First Advantage Corp., one of the largest

background check services.

Even as the rise of the Internet and inexpensive computer databases have transformed the business, verifying and interpreting the mass of available data remain the key, he said.

"The Web makes people think they have a lot of information, and they don't."

than 400 background check vendors, approximately 100 are what he would consider "reputable."

The privately owned InstantPeopleCheck.com took nearly six months to develop its databases before launching its business about two years ago, according to the unsigned e-mails sent from the service. It

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more thorough and time-consuming searches that could have picked up the prior offenses of the criminals it failed to identify for \$9.95, the e-mails claimed.

The large, publicly held Choicepoint Inc. also defends the value of the online instant background checks it performs

for fees

starting at about \$25, and a spokesman said it is possible to get a meaningful result without any gumshoe work.

Nevertheless, the boom in inexpensive online screenings is fueling a backlash among those who believe the privacy rights of workers are being compromised.

No one has established widely accepted guidelines for how the information should be used, labor advocates say. And so much data is available that some, inevitably, is inaccurate and misleading.

"The incompleteness usually works to the detriment of the worker," said Mike Ingrao, secretary-treasurer of the AFL-CIO's Transportation Trades

Employers, for their part, are stepping up efforts to protect their companies and workforces. That was the case at Eli Lilly & Co., which started requiring criminal checks for employees of its outside vendors in the wake of the Sept. 11 terrorist attacks.

A Lilly spokeswoman said the Indiana-based drug maker uses much more sophisticated tools than the typical instant online checks.

"Our general stance is always that we use the best available technology," she said.

But even so, Lilly banned from

its premises at least one technician who was mistaken for a relative with a criminal record. The technician got his post back eventually, and "the system is working well," the spokeswoman said.

In fact, background checks present a thicket of conflicting legal issues for employers.

***Stringent requirements***

At the same time that new rules requiring background checks for certain jobs are proliferating, existing law already imposes some stringent requirements on how those checks can be conducted.

The long-standing Fair Credit Reporting Act, for instance, requires employers to use up-to-date information for screening job candidates. It also says the subjects must give their permission for a background review and receive copies of any records used in employment decisions.

The rise of quick online checks makes those rules tougher to enforce, according to the University of Maryland's Bushway.

A job candidate might never get a chance to explain, for example, that an arrest resulted in an acquittal, he said. "In most cases,

you're not going to be hired, and you're not told why."

Performing background checks can leave companies open to allegations of discrimination or defamation. Yet failing to perform background checks can lead to liability for the acts of criminals on the payroll--so-called negligent hiring and retention.

Balancing those conflicts "puts employers squarely on the horns of a very difficult legal dilemma," said labor and employment attorney Gerald Skoning, a senior partner at Seyfarth Shaw in Chicago.

The risks of negligent hiring were demonstrated tragically in a recent case involving a Chicago native murdered in her California home by a carpet cleaner with a long criminal

history. The murderer went to prison, and the surviving spouse of Dr. Kerry Spooner-Dean won an \$11 million judgment in 2000 that put the carpet company out of business.


"The verdict sends a message," said Paul Scott, the plaintiff's attorney in the case against the company, which performed no screening. "A background check would have helped."

The lesson is that even a sketchy check can reduce liability in such circumstances.

"They're definitely better than doing nothing. It's a cheap insurance policy," Skoning said.

Spooner-Dean's mother, Mary Spooner of Grayslake, vowed to

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**Cheap background checks**

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push for wider use of criminal background checks in the wake of her daughter's death.

She quickly recognized that many businesses still were skeptical of the need for checks or were too eager to seize the cheapest option, she said.

"Those \$9.95ers," she lamented. "There's so many holes."

After a while, Spooner, a dietitian at Rush University Medical Center, grew resigned.

"It became a very frustrating experience," she recalled. "I just kind of gave up on the whole thing."

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For more on the Fair Credit Reporting Act:  
Federal Trade Commission  
[Http://www.ftc.gov/](http://www.ftc.gov/)  
Gramm-Leach-Bliley Act

[Http://www.ftc.gov/privacy/glbact/index.html](http://www.ftc.gov/privacy/glbact/index.html)



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**LEGISLATION**

**SB1806**

The Senate Bill 1806 provides authority for law enforcement to contract with private investigators to locate sex offenders who have failed to register, whose registration has expired, or who cannot be located at the residence or place of employment listed in their registrations.

This bill would assist the efforts of law enforcement to ensure that they have essential information regarding the location of registered sex offenders in our community. The bill would authorize law enforcement to work with a licensed private investigator to find sex offenders who are required to register with the police or sheriff's department but who have failed to register, who have let

their registrations expire, or who cannot be located.

**Calif. State Bar to Allow Lawyers to Break Confidentiality**

A new law passed by the state legislature last year will go into effect July 1, broadening the state's Evidence Code by providing that the attorney-client privi-

lege can be broken when a lawyer "reasonably believes" that disclosure is necessary to prevent a criminal act by any person, including a client, that could result in death or substantial injury.

This new law makes disclosure discretionary, not mandatory. The State Bar Board of Governors will be meeting in Los

Angeles to discuss making a related change in ethics rules, so that attorneys won't be subject to disciplinary action if they comply with the new Statute.

To read this bill or any bill or law, go to:  
[www.leginfo.ca.gov](http://www.leginfo.ca.gov)

Helpful Web Sites

- California Association of Licensed Investigators**  
[www.cali-pi.org](http://www.cali-pi.org)
- Professional Investigators of California**  
[www.pica-association.org](http://www.pica-association.org)
- California Department of Consumer Affairs**  
[www.dca.ca.gov](http://www.dca.ca.gov)
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- California Secretary Of State**  
[www.ss.ca.gov](http://www.ss.ca.gov)

### Ants in the House

BY Janice Whiting

As with many home dwellers, over the years my husband, Ray, and I have had our share of ant problems. It has been a pain but we have managed to keep in under control by periodically spraying insecticide around the outside of the house. The ants stop using our house as a hunting ground for a while and we can stop washing every dish two seconds after we use it.

Over the past 4 or 5 months we have had a serious problem. We are talking about being stalked by ants. If you open a can of tuna you had better be ready to eat, rinse and dry because they were gathered in the crevasses of the kitchen waiting for the opportunity to seize

the can. It had gotten to the point I started to think I was messing with my karma by killing so many. I found myself mesmerized by their persistent and uniform march across my bathroom counter.

**We were stumped. We sprayed outside when it was sunny; we sprayed outside when it was cloudy. We increased the lethal dosage. We bought ant stakes, spikes, circles and squares. Nothing but more ants!!**

The other day Ray was doing sit-ups on the living room floor and looked up at the ceiling. There were thousands, marching two inches thick to the left and to the right from our doorbell ringer.

As he started to attack he realized that the ants were not coming from the walls, they were coming from a plant on the shelf.

These ants had moved into "Club Med" and set up house. Needless to say we moved the plant outside and sprayed the walls with ant killer. They are gone now and we are back to letting the dishes sit, probably longer than they should.

As business owners we all have ants in our house. Our ants are those things that frustrate us while we keep doing the same things to fix them. As a business owner for many years I have learned that one of the major ingredients in business success is the ability to be creative and resilient during changing times. As with the ant problem I have found myself applying the same marketing plan, the same business solutions and the same growth strategies over and over with out

much more than temporary success. The saying goes, "the definition of insanity is doing the same thing over and over expecting different results." Well unfortunately as business owners, many times we apply the same solutions but we are actually looking at a different problem. We need to learn to look deeper at the problem to see if we have chosen the best solution. In the book Business Think, the authors suggest that one of the main ingredients is to "Move off of the solution." The reason we are look-

ing for a solution is because we believe that the solution will do something for us such as increase sales, decrease costs or get rid of ants. However, the danger in making assumptions in business is that we lose precious time, money and resources. One of the ways we can work to move off of the solution is to get creative about what the problem is. Just as it took Ray to be lying on the floor looking up to really see what our problem was, in business we need to release what we believe the problem may be and work to

see it from a different angle.

For example I have been working with a client around the issues of marketing her business. Throughout this process we have been looking at marketing from the standpoint of traditional marketing techniques for her type of business such as printed advertisement and flyers. These techniques have been working but with minimal impact. She stepped off of the solution of using traditional marketing techniques and started identifying the problem

and came up with a business-to-business approach. Moving off of the solution involves getting creative. Here are some techniques to breaking through to creativity:

- Don't get caught up in the past. Just because it worked before or for someone else does not mean it will work in this situation.
- Remove mental restraints such as thoughts of perfectionism or being worried

about what others may think of your ideas.

- Be willing to look everywhere for possibilities. Research ideas outside your box.
- Set a time to think about the problem and be creative. Find someone who does not know anything about your business, make his or her job to ask why or why not, to everything you

say.

- Draw your problem in picture form or a storyboard. Don't worry about technique. Take the problem out of your left-brain and put it into the right.
- Give every idea an "A", that is try on each idea as if it is the truth for 5 min. Think

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Ants In The House Cont. from pg. 7

about all the implications as if they were true. Then move to the next.

- Remember creativity relies on freedom early, and structure later.

There is always something uncomfortable about trying on a new skill. I have found over the years that the more I step out of my comfort zone the more I develop new and innovative ways to keep my business moving forward and successful.

Prosperity to you.

Janice Whiting is the owner of a Sacramento based consulting and training group, *The Performance Enhancement Group*. She has been working with companies and teams for over 5 years in helping them unlock their potential and creating visions.

## Small Claims

### Where To Sue In California

These are general rules for California.

- 1) A suit can be filed in the judicial district where the defendant resides or has a place of business. This includes suing multiple defendants in a judicial district in which one of the defendants resides.
- 2) A suit can be brought in the judicial district in which a contract was entered into. In California this rule has been taken one step further in that a suit can also be brought in the jurisdiction where the contract was to be performed. One way to help insure where to file is to include the jurisdiction in which a suit will be filed (usually your own) within the default portion of the original contract and a

city or county of execution in the signature line.

- 3) A suit can be filed where the injury or damage took place. In California a suit can be filed in the judicial district where damage to rental property took place, for instance, even though the defendant lives in a different district.
- 4) Small Claims Courts are State Courts and only have jurisdiction over those who reside within the state or who have been served within the state. If the person that is being sued lives out side your state, and is an individual, then he

or she will have to be sued in the state in which he or she lives unless this person travels into California frequently enough to be served

here.

- 5) A suit may be filed against a business or owners of property when the business or property is located within California or,
  - \* the business sells it's goods or services here.
  - \* the business employs a sales rep who solicits your business here.
  - \* the business solicits business in California.
  - \* the business solicits your business online.
  - \* the business places advertising within California media.
  - \* the business has a franchise or dealership in California.

For more information and detailed explanations can be found on the Judicial Councils web site at:

<http://www.courtinfo.ca.gov> under the reference category, Small Claims Court.