

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

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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 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."

In conducting his research, Bushway obtained the criminal records of 120 parolees in Virginia, then submitted their names to a popular online background check company--he won't say which one.

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.

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 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."

Long estimates that of the more 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 offers 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 Department.

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 drugmaker 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 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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