



**PRESENTS**

**LIMITING YOUR LIABILITY: THE NEXT  
STEP**

**YOUR FREE GUIDE TO APPLICANT  
SCREENING SERVICES**

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# I. Introduction

We would like to take this opportunity to say thank you for ordering our free report, “***Limiting Your Liability: The Next Step***”. As we begin, the first thing you would probably be inclined to ask yourself is, “I want to limit my liability as an employer, so what is my next step?” The answer is background investigations. Not only performing them, but more importantly, understanding how to identify red flags in your processes, interpret the results and apply the information to your situation. The first step you took was to order your copy of this report. This is important because it shows your commitment to providing a safe environment for both employees and patrons alike. Education and understanding are at the core of any successful applicant screening program and this guide is intended to be a resource from which you gain a tremendous insight into the background check process.

Give some thought to these two simple questions and we’ll tell you how other employers answered them a little later on.

1. What is the goal I wish to accomplish by running background investigations?
2. What were the determining factors used when you selected your current background check vendor?

As a provider of background investigative services the most common complaint we hear from our customers is that they don’t understand the process. We commonly hear, I ran a background check... Now What? So, our goal with this guide is three fold. Most importantly, we want to raise the awareness about the importance of background checks for those who may not be conducting them. Second, whether you utilize TruDiligence as your vendor or not, you must understand the process completely. If you don’t, you are exposing your organization to liability. Just running a background check alone does not protect you. So we intend to educate you on what a background check vendor does, what works and what doesn’t. Together, we’ll explore what your vendor may not be telling you and expose the shortcomings in your background check processes. We will help you with an explanation of the many services typically offered and even give you a sampling of questions to ask when evaluating and selecting a background check vendor for your company.

Finally, we’d like to tell you a little about TruDiligence along the way. We hope to show you that all things are not equal. There are important differences between background check vendors when you consider all factors; Quality, Accuracy, Customer Support, Price and Turnaround Time. We believe you’ll see that TruDiligence is the best choice for background screening services and we’ll show you why.

So let’s get started.

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## II. A Little History

*"33% of all employment applications have been falsified or misrepresented." - **The Wall Street Journal.***

*'Homicide is the leading cause of death for women in the workplace, and the second leading cause of death for men.'" - **United States Department of Labor, Bureau of Statistics, 1995.***

*"Three million violent crimes and thefts occur annually in the workplace." - **U.S. Justice Department.***

*"Crime and theft cause 500,000 victims to lose an estimated 1.8 million workdays annually." - **U.S. Justice Department.***

*About 2 million people a year were victims of violent crimes or threatened violent crime in the workplace from 1992 through 1996. - **Justice Departments Bureau of Justice Statistics.***

*Workplace murders accounted for over 16% of fatal occupational injuries. - **Bureau of Labor Statistics.***

So how did we end up in this mess? I'll bet you remember a time when background checks were not a routine part of the hiring process. Back in the day, an employer would take a job application from a prospective employee, conduct a job interview and maybe talk to a few references. That was it. No in depth checking of history such as criminal record, credit or MVR was conducted except for very high level executive positions. Over the past decade, this has changed with a series of landmark cases like this one heard by the Texas Supreme Court. To summarize:

The Texas Supreme Court has sided with a woman who sued The Kirby Vacuum Cleaner Company because she said she was raped by a door-to-door salesman for the company.

The divided court ruled that the Kirby Co. should have required its distributor to do a background check before hiring salesman Mickey Carter, which would have revealed previous complaints of sexual misconduct. "I hope this decision will cause Kirby to change its ways to make sure that criminals are not sent into people's homes to sell Kirby vacuum cleaners," the rape victim said in a statement. "I also hope that it will prevent another woman from having to go through what my family and I have been through."

Justice Raul Gonzalez said Kirby's way of doing business - selling its products in customer's homes - poses a potential danger. "Kirby dealers, required to do in-home demonstrations, gain access to homes by virtue of the Kirby name. A person of ordinary intelligence should anticipate that an unsuitable dealer would pose a risk of harm," he wrote. The victim told authorities that Carter raped her in her Seguin, Texas home as her children slept in the next room.

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Clark Aspy, Kirby's lawyer, said he had not read the decision but "was disappointed in the outcome." He declined to comment further. Kirby argued that the distributor that hired Carter as an **independent contractor** was negligent for failing to check the criminal records of its sales staff. The company said that it must hire competent distributors but that it is the distributor's duty to hire competent salespeople.

The Court upheld \$160,000 in actual damages but agreed with the 3rd District Court of Appeals which threw out \$800,000 in punitive damages levied against Kirby. (Courtesy: Associated Press 01/02/99)

### III. Negligent Hiring

Cases such as the one cited above are quickly setting precedence and are routinely putting the employer against the courts in defense of their hiring decisions. It has clearly been decided that employers must exercise a reasonable amount of "Due Diligence" in their hiring practices to avoid "Negligent Hiring" lawsuits.

Negligent hiring is defined as "the hiring of a person that the employer knows or should have known, was unfit for a particular position". If an employer becomes aware of circumstances in an employees private life that would suggest the employee is unfit for his or her position, the employer could face certain liabilities for negligently retaining them. Because of this, litigation in the field of human resources is fast becoming an important area of concern.

If an employee has demonstrated past acts of misconduct, this could lead to "employer's negligence". One such instance might be...Joe truck driver has a history of drinking on the job. He or she gets in the truck to make a delivery after having a few beers and causes an accident on the roadway. The employer had prior knowledge that the employee had been fired from a previous job for drinking or alcoholism. This could constitute negligence on behalf of the employer.

More and more employers are being held for the willful misconduct of their employees. Since the early 80's, negligent hiring/retention lawsuits have been sharply on the rise. After determining that a settlement is owed to the victim, the court considers the nature of the employer's responsibility. This could amount to thousands, hundreds of thousands or even millions of dollars. Victim's searching for large compensations often see this as an opportunity to cash in. Lawyers, on the other hand are trying their cases with a definite vigor, since the payoff will be substantial, if they win. Courts are also showing an increased interest in these types of cases, not only to determine guilt, but also to compensate the victim.

So what does all of this mean? In a nutshell, each employer has the duty to make an adequate and reasonable determination of the applicant's fitness prior to hiring. This is accomplished through a background check.

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## IV. The Background Check

In this section, we will examine the background check process, release forms and requirements that must be followed when taking adverse action. Then we will breakdown the more common searches typically offered by many vendors and discuss the pros and cons of each. A critical point to realize here is: Your background check process may be letting you down and you don't even know it. This is not to say that you are uninformed, rather that you may simply not possess a deep enough understanding of the process to make it work successfully. We are here to fix that.

Let us restate an important statistic from the history in Section II:

*"33% of all employment applications have been falsified or misrepresented." - The Wall Street Journal.*

This is a huge percentage! Critical indicators such as aliases and addresses are routinely omitted by applicants causing inaccurate or incomplete results. Make no mistake, people with derogatory backgrounds are in your applicant pool, and, they know how to hide. Probably the single most important concept to grasp here is the background check process must be designed so that it does more than simply “verify” the information provided by the applicant. It must uncover the information your applicant does not want you to know; otherwise he or she would have disclosed it in the first place.

### Release Form

The first step in your background check process is the applicant release form. Because background check vendors operate as “consumer reporting agencies” as defined by the Fair Credit Reporting Act and the reports prepared are considered “consumer reports”, there are requirements governing the release form. Section 604 of the Fair Credit Reporting Act (FRCA) establishes the following guidelines:

Disclosure to consumer:

(A) In general. Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless--

(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

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(B) Application by mail, telephone, computer, or other similar means. If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application--

(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

In its' short form this simply means the applicant must sign a release giving permission to check their background in a document that contains the authorization only. A disclaimer on a job application is no longer sufficient. You must use a separate release form. Once the authorization is on file the background check process can begin.

## **Requirements On Adverse Action**

The Fair Credit Reporting Act regulates the actions that must be taken if you uncover derogatory information during your investigation that would cause the applicant to be denied for employment. Section 615 of the FCRA establishes the guidelines as follows:

(a) Duties of users taking adverse actions on the basis of information contained in consumer reports. If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall

(1) provide oral, written, or electronic notice of the adverse action to the consumer;

(2) provide to the consumer orally, in writing, or electronically

(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and

(3) provide to the consumer an oral, written, or electronic notice of the consumer's right

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(A) to obtain, under section 612 [§ 1681j], a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

(B) to dispute, under section 611 [§ 1681i], with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

TruDiligence provides all documentation necessary to maintain compliance at no charge to each client.

Now let's take a look at the more common searches that you may access during a background check. As Social Traces and Criminal History's are by far the most common and most misunderstood searches, we'll spend the most time on them.

## **The Social Security Number Trace**

As stated above, a common problem in your background investigation is the applicant's potential failure to disclose complete information on their identity and addresses. As records are typically indexed using a name and date of birth, accurately knowing your subject's identity and residence history is crucial. The best tool to accomplish this is a trace on their social security number. TruDiligence believes that Social Traces are where every good background check starts.

First, let's put to bed one of the most common misconceptions of the Social Trace. The information gained from this report does not come from the Social Security Administration. The SSA does not release information contained within its' files to the general public. Therefore, in order to trace an applicant's Social Security Number, we must utilize other sources such as one of the National Credit Bureaus. In essence, when an individual utilizes their SSN in a financial capacity, such as applying for a loan, apartment complex, credit card etc...the information they supply on the credit application is submitted to the Credit Bureau. The bureau then maintains a history of the names and addresses used by the applicant in this capacity. The Social Trace is simply a printout of this name and address information. Given our modern mindset of keeping up with the Jones', most people utilize their credit on a daily basis. Therefore, the credit report and more specifically the social trace is imperative when tracing an applicant's name and residence history. When used effectively with a criminal record search, the names and addresses revealed by the Social Trace can be invaluable to insuring complete and accurate criminal information.

Although the layout may change from vendor to vendor, the anatomy of a social trace is quite simple. A sample Social Trace Report has been included for reference.

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## SAMPLE SOCIAL SECURITY NUMBER TRACE

### SECTION 1

|              |                |          |         |
|--------------|----------------|----------|---------|
| TRACE REPORT |                |          |         |
| FOR          | MKT/SUB INFILE | DATE     | TIME    |
| P DE00011005 | 44 DE          | 09/12/01 | 11:14CT |
| RPT ON       | SSN            |          | DOB     |
|              | 123-21-1234    |          |         |

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### SECTION 2

| NAME                | ADDRESS   | ADDR RPT DATE |
|---------------------|---|---------------|
| 1. ANDERSON, JOHN L | 3560 ELIZABETH ST, HOUSTON TX. 80205              | 08/2000       |
| 2. DOE, JOHN L      | 6837 RIVERDALE RD., #D101.<br>RIVERDALE MD. 20737 | 05/2000       |
| 3. DOE, JOHN L      | 2672 S. XANADU B WY., AURORA CO. 80014            | 01/1999       |
|                     | 2261 S. BUCKLEY RD., #101. AURORA CO. 80013       | 09/1998       |
|                     | 3560 ELIZABETH ST., DENVER CO. 80205              |               |

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### SECTION 3

FILE SSN ISSUED: 1978 - 1979; STATE: CO\*\*\*  
\*\*END OF NETWORK TRACE\*\*

### SECTION 1

This is the report header. It simply identifies the date and time the report was generated. It also indicates the Social Security Number that the trace was ran on. An extremely important item to note here is, when a social trace is ordered, the actual Social Security Number is the only component used. The Credit Bureau will return all names and address associated with the SSN, without regard to who the SSN actually belongs to. Although this seems like a drawback, it is actually a benefit when performing a background check. This will be explained below.

### SECTION 2

This section is the heart of the report. It outlines all of the names and addresses linked to the applicant's SSN. The date on which the information was reported to the Credit Bureau is also generally listed. As indicated above, the report will show all names and addresses linked to the SSN, without regard to who the SSN actually belongs to. This is important because if the applicant has used aliases, been married, had a name change, or moved, and that information was supplied on a credit application, it will show here. Likewise, it is important to understand that if an applicant has moved or changed their name, and this new information has not been used on a

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credit application, it will not be revealed by this report. So the question is, how do I use this information? The whole concept of this report is to use it in conjunction with a criminal history. You should review the names and addresses supplied by the subject through the application process and cross check that against those provided by the Social Trace. Through this process, we can uncover any “Red Flags”, such as names or addresses the applicant may not have revealed because they are trying to disguise a criminal history. In any case, running criminal record searches on all names and within all jurisdiction revealed by the Social Trace is advisable.

One of the most common questions we receive is, why does another name show on the Social Trace that is not my applicant? This normally caused by one of a few things. First, remember that the information is derived from a person’s Credit Report. Therefore, if they have joint credit or have co-signed with another individual, this would create a joint account on the file and would cause the other person to show on your applicant’s report. Normally, not a concern when performing a background search.

Second, if the other persons SSN is similar to your applicant’s’, it might simply be a typographical error in the Credit Bureau files. When they were inputting the secondary person’s information, a typo was made, erroneously matching your subject’s SSN. Now that person is showing up on your applicant’s report.

Third, if a secondary person is using your applicant’s SSN fraudulently, that would cause them to show up as well. In both scenario two and three, it is most important to rule out that this is not an alias for your applicant. Typically, if the first name is different or the address does not match an entry that is linked to your subject, we can be relatively assured that it is not an alias. Again, probably not a major concern from a background check prospective, however it might be advisable to let the applicant know about the discrepancy that was found. TruDiligence would recommend that the applicant contact the Credit Bureau to have the erroneous information investigated and removed from their report.

### **SECTION 3**

At the end of each Social Trace you will find the year and state in which the SSN was issued by the Social Security Administration. This information is typically optional and comes at an additional cost to your vendor, so it may not always be included. TruDiligence feels this information is critical and includes it with each and every social trace at no additional cost to you. The year and state of issuance are invaluable tools in identifying fraudulent numbers. For example, if the SSN was issued prior to your applicant’s birth, it is fraudulent or incorrect. Additionally, if the SSN was issued in Texas and your applicant was born and has always resided in Colorado, that also poses reason for further investigation.

Hopefully, this has taken what seems to be a complicated report and separated it into information that can be applied effectively. Social Traces are a cost effective, yet invaluable tool to any screening process. If you have additional questions or would like to discuss how to best apply this search to your circumstance, please give us a call.

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## The Criminal Record

Criminal records are the staple of most background investigations and probably the single most requested search. It is important to realize a few factors when conducting criminal record searches.

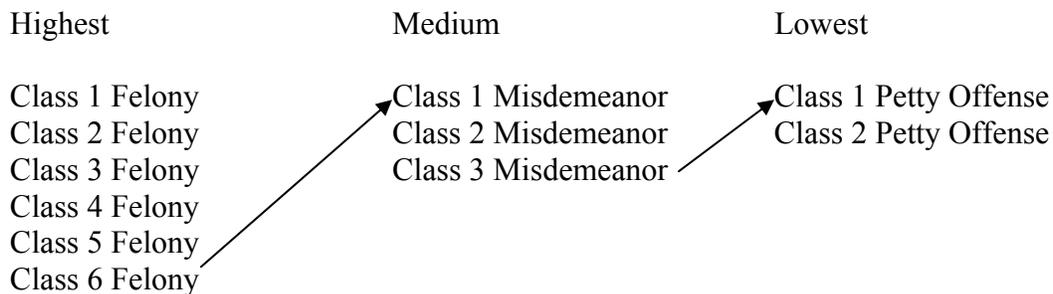
1. Criminal records are indexed by primarily a name and date of birth. If the applicant has name changes or known aliases, they must be search individually.
2. They are very jurisdictionally based. There **is no** single, nationwide source for criminal records available for non law enforcement purposes at this time. If your applicant or social trace revealed addresses in Wyoming, Oregon and Florida, then you must search their criminal record in each of these locations. If your vendor is selling you a “national” search, you must understand exactly what you are not getting. This will be explained in more detail later.
3. A negative criminal record may not constitute a bar to employment in your organization, but knowing about the record, prior to placing the applicant in a position of trust, is invaluable in limiting your liability. So if you are not running criminal histories, you should be.

Let’s provide some basic foundation with a small crash course in the criminal record indexing system. At their core, criminal records are typically placed in two main categories: Arrest records and Conviction records. The use of each has its strengths and weaknesses, so it is important for you to evaluate what you are trying to achieve to determine which is best for your application. For example, an Arrest Record may show you a pattern in your applicant’s history that is important to know about. However, legal rulings by the courts have set a precedent that Arrest Records, on their own, cannot be used as the determining factor. The arrest must be followed up with an actual conviction in order to be used as a basis for not placing someone. To further complicate matters, the laws vary from state to state that govern the use of criminal records and it would be impossible to outline them all in this format. Additionally, if you are using a background agency to furnish your records, the Fair Credit Reporting Act stipulates that Arrest Records must be limited to a seven year disclosure period however; Conviction searches are reportable for an unlimited time frame. Suffice it to say, that you must understand your requirements as the end user of this information. This is why TruDiligence highly recommends that you utilize a professional background screening service to assist in your compliance with all Federal, State and Local regulations.

Now, where to find the records. They are typically housed in one of five record systems depending on the nature and scope of the crime. They are; City, County, State, Federal or National. The type of crime committed will determine which court will handle the case. Additionally, each type of crime will generally have a classification that is determined by its severity. For example, a type of crime would be Murder and its classification might be Felony (1). There are multiple classification levels as shown in the table below with 6 classes of felonies, 3 classes of misdemeanors and typically one or two classes of petty offenses. Within each class the lower the number the worse the crime. In other words, a class 1 felony is worse

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than a class 6 felony as so on. You are probably familiar with the term Murder in the First Degree. This means the charge or crime was murder and based on the circumstance surrounding the crime it was determined to be a class 1 felony.



Now let's look at the court levels mentioned above starting with the highest.

### **Federal Court.**

Federal-level searches involve cases in which a person is tried by the United States government in a U.S. District Court. Charges you would expect to find here are Treason, Terrorism, and Securities Fraud etc... The information returned by the search will consist of the defendant's name, case number, case type and any available case details. One disadvantage to the federal access system is that the defendant's identifiers are usually limited to name only. Therefore, if a match is found, additional research may be required at the court level to confirm a positive identification. TruDiligence maintains a network of hands on court retrievers that abstract records from the Federal Courthouses for specifically this purpose.

### **State Level Arrest Records**

State arrest records are usually housed in a databank maintained by the governing judicial body within each state. Many of these systems are fingerprint driven, meaning that when an individual is arrested and fingerprinted, those fingerprints are submitted to the state databank for tracking purposes. The records that are subsequently pulled outline an individual's arrest record based on those fingerprint submissions.

It is important to realize that if an illegible fingerprint card is submitted, the state will return it to be redone. Unfortunately, by then the subject may have already been released from custody and is not available to be re-fingerprinted. Subsequently, there will not be a record of this arrest in the system.

The primary disadvantage to most arrest record systems is they do not contain disposition information on the charges. This means that you will not know if the person was convicted of the crime for which he were arrested. However, using arrest records can also be an advantage. The arrest record in itself may show a pattern that could pose a potential concern depending on the position for which your applicant is applying. This pattern could be critically important, regardless of whether a conviction was entered, depending on the position you're trying to fill.

Finally, statewide records are not available in all states and some states have lengthy turnaround

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times which may cause their use to be ineffective for your purposes. Therefore it is imperative that you determine if arrest records will best suit your needs.

### **State Level Court Records**

These record systems are typically city and county level courthouse records which are being compiled by a single source. This source may be the state judicial body, an independent contractor hired by the state to maintain the system, or even, an independent company that is simply purchasing the county level records and compiling an independent database. If you are utilizing a source that claims to be a statewide resource, there are a few very important factors to consider.

1. Are the records being maintained directly by the state or by an independent company?
2. If the records are being compiled using city and county level records, do all jurisdictions report to the state system?
3. How often does the state system get updated with city / county records?
4. Are the records complete with dispositions, sentencing information etc..?
5. Does the state have a special release form requirement in order to access records?

TruDiligence always recommends utilizing statewide records as a last resort. Simply for the reasons stated above. Typically, you will find that they are on very poor update schedules, the turnaround time is inconsistent and the release form requirements can be extensive. Whenever possible it is recommended that you perform your criminal records search directly at the county or city level.

### **County Level Court Records**

Think of the county courthouses as the source from which all information flows. To simplify the system, each county jurisdiction is typically broken into two levels. The first and highest level is the district court, sometimes referred to as superior court. At this level you will generally find most felony cases. The second level is the county court. At this level you will find most serious misdemeanor cases. All cases are indexed by a name and date of birth, therefore if the applicant's name has been changed you must run each name separately in order to obtain a complete record. For this reason, it is imperative that you review the Social Security Number Trace and compare it against the release form completed by the applicant. You must be able to accurately identify what names the applicant has used and what jurisdictions need to be searched.

Remember what was discussed earlier. **People with derogatory backgrounds are in your applicant pool, and, they know how to hide.** Probably the single most important concept to grasp here is; the background check process must be designed so that it does more than simply “verify” the information provided by the applicant. It must uncover the information your applicant does not want you to know, otherwise her or she would have disclosed it in the first place.

The TruDiligence systems can automatically assign research to the county jurisdictions revealed by the social security / address verification for the past 7 years taking the guesswork out of your

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research. We can even limit the number of searches added to a specific time frame or a maximum number ordered depending on your preferences. This all happens automatically and behind the scenes increasing your accuracy and efficiency.

When conducting a court record search, TruDiligence always recommends searching the first and second level courts, where available. We maintain a network of hands on court retrievers that abstract records from the County Courthouses for specifically this purpose.

### **City (Municipal) Court:**

The lowest court level is the municipal court, sometimes referred to as city court. At this level you will typically find most minor misdemeanors and petty offenses, usually cases where the individual was simply issued a summons to appear in court. In most background investigations, the Municipal court is not encompassed, simply because there are so many Municipalities that would need to be searched. Remember how we said the criminal records system is very segregated and very jurisdictionally based.

Think of most county boundaries within the country. Now think about how many cities there are within each county. In order to effectively conduct a Municipal level search, each city that has a court house would need to be searched. This is a daunting task by any standard and quite simply not cost and time effective for most background searches.

The common thought here is that the severity of the charges found at the city level that are not be researched far outweighs the cost and time involved to abstract them. Put simply, do you need to expend the time and resources to learn that your applicant paid a small fine for fishing without a license or walking a dog without a leash. Probably not. If your situation is more sensitive than most and Municipal searches are important, they would be abstracted city by city using the applicant's name and date of birth. The same rules apply that if the applicant has changed name, each name must be researched separately to insure an accurate result.

### **National / Multiple Jurisdiction Database Searches**

In a simple statement, you should be very cautious of anyone who offers a national or multiple jurisdiction criminal search. At this time, there **is no** single, nationwide source for criminal records available for non law enforcement purposes. If your applicant release form or social trace revealed addresses in Wyoming, Oregon and Florida, then you must search their criminal record in each of these locations.

If your vendor is selling you a "national" search, you must understand exactly what you are not getting. Just like the statewide searches discussed earlier, all national searches are databases maintained by independent companies. They essentially buy the records from any number of resources to compile what is sold as a "vast" resource of millions and zillions of records. We can't overstate this fact, be very cautious of national and database resources. If you are going to utilize a National Resource, Multiple Jurisdiction Resource or "Database" in general, here are some guidelines to follow.

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1. Are the records being received directly from a state resource?
  2. If the records are being compiled using city, county or state level records, do all jurisdictions report within that state report within the system?
  3. How often does the “database” get updated?
  4. Are the records complete with dispositions, sentencing information etc..?

Make no mistake, TruDiligence does utilize databases, however we apply the same principals being taught here, because they are sound. We will only utilize a database monitored and sanctioned by the agency responsible for its’ data, that is updated regularly and provides complete information. For example, the State of Colorado, Court Administrators Office contracted with a private company to develop a portal into the state’s database of District and County court records for which we have designed an interface into. The system is updated in real time and is exactly the one used by court clerks when an in person record search is requested. Therefore, we believe the database search to be just as accurate as an in person record abstract, but quicker and more cost effective. In instances such as this, where the validity of the data contained in the database is unquestionable, a database may be used as a source of information.

TruDiligence believes that, in most cases, if you research a database resource thoroughly, you will find a “huge hole” in their “vast” resource of records. For this reason, a national or multi-jurisdictional search is not currently available through TruDiligence and won’t be until a good one is available that addresses the concerns listed above.

Now let’s take a brief look at some of the other searches available.

## **The Credit Report**

A credit report can be ordered for employment screening purposes and is important when considering an applicant where financial responsibility is key. This report will contain a full disclosure of the applicant’s financial background and will detail information on all trade accounts including date opened, credit limit, balance and payment history. The report will also contain a record of any delinquent accounts, collection accounts, bankruptcies and judgments. As reading a credit report can be overwhelming, a very detail document explaining the anatomy of a typical credit report is available through TruDiligence. Simply call if this would be helpful and we will be happy to provide it to you.

## **The Drivers History**

When you are employing personnel who will be driving on behalf of the company, checking their driver’s history is critical. Access to an individuals Driver’s History is regulated by the Drivers Privacy Protection Act.

The DPPA limits the use of a driver's motor vehicle record to certain purposes. These purposes are defined in 18 U.S.C. § 2721:

- 
- Legitimate government agency functions.
  - Use in matters of motor vehicle safety, theft, emissions, product recalls.
  - Motor vehicle market research and surveys.
  - "Legitimate" business needs in transactions initiated by the individual to verify accuracy of personal information.
  - Use in connection with a civil, criminal, administrative or arbitral proceeding.
  - Research activities and statistical reports, so long as personal information is not disclosed or used to contact individuals.
  - Insurance activities.
  - Notice for towed or impounded vehicles.
  - Use by licensed investigators or security service.
  - Use by private toll transportation facilities.
  - In response to requests for individual records if the State has obtained express consent from the individual.
  - For bulk marketing distribution if State has obtained express consent from the individual.
  - **Use by any requestor where the requestor can show written consent of the individual.**
  - For any other legitimate State use if it relates to motor vehicle or public safety.

Provided you meet one of these requirement and have a release on file from the applicant, Driver's Records may be reviewed at your discretion.

## **The Workers Compensation Claims Search**

An applicant's history of workers compensation claims may be reviewed only after a conditional job offer has been made. Not all states allow public access into their workers comp files and many have specific release form requirements. In most cases, the information returned will consist of:

Workers Compensation File Number  
Date of Injury  
Body Part Affected  
Employer at time of incident

It is important to remember that the Americans with Disabilities Act prohibits an employer from discriminating against an applicant based on disability. However, the information revealed by a search of workers compensation case filings may provide insight into an applicant's ability to adequately perform the duties of the position they are applying for.

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## Verifications

Verifications can come in a variety of forms. When applicable, most employers will typically perform verifications on an applicant's former employment history, education and degrees, personal references, certificates, designations and professional licenses. Employment verifications are by far the most common and used as a tool to gain insight into an applicant's qualifications. Unfortunately, in today's lawsuit happy environment, many employers are beginning to limit what information they are willing to provide on former employees so that they are not subject to defamation suits. In most cases, you will only be able to verify dates of employment, position held and possibly their eligibility for rehire.

Education, Certificates and Professional Licenses are substantially more accessible as the verification is typically conducted through resources that are designed to provide verification of their files. The information confirmed will vary depending on the source. Remember, the goal with your verification process is to reveal the information the applicant does not want you to know or has falsified on their application.

Although the level and type of searches available may vary a bit, these are the most common. There are additional services that may be specific to your industry which are not described here. We would encourage you to contact our office for guidance in these areas.

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## V. Running Background Checks Internally?

Many organizations choose to run their background checks internally by going “directly to the source” in an effort to save time and money? This generally involves locating a vendor for each type of background search that is going to be conducted. For example, if you are going to run Credit Reports you must setup an account with each of the three major credit bureaus and for Drivers History’s you must establish an account with your State Department of Motor Vehicles.

Needless to say, this quickly becomes an overwhelming task when you consider all of the different types of searches that are available and the different resources available for each. Furthermore, an important fact to realize is, most resources that you may utilize directly return the results in a raw form without any formatting or de-coding to make them easily usable. Compound this with how to handle applicants that are relocating from another state and your resources can quickly become strained, simply trying to manage your applicant screening process.

For these reasons, TruDiligence strongly suggests that you consider contracting with a professional service that specializes in applicant screening. The quality, time and convenience gained will far out way the difficulties encountered with an internal program.

Simply put, whether you’re a plumber, electrician, business owner, corporate executive or human resources professional, you are undoubtedly an expert in your field and probably not an expert in background investigations. This is not meant to insult your intelligence, it merely means that you may not possess the knowledge to adequately protect your company and manage an applicant screening program.

We hope you will select TruDiligence, but regardless of whom you choose as a background check vendor, you will be one step further in your quest to most effectively limit your liability by utilizing a professional applicant screening service.

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## **VI. How To Evaluate and Select A Background Check Vendor?**

Listed here are a variety of questions to consider asking when you are evaluating your background check vendor or shopping for a new one.

### **About the company**

How long have you been in business?

What is the principal owner's background?

What type of insurance do you carry?

Do you have an Errors and Omissions insurance policy?

### **About the products**

Do you have a sign up fee?

Are their monthly usage minimum requirements?

What resources do you use? Databases, in person record retrieval etc...

How often are your resources updated?

What quality control measures do you have in place?

How do I place orders? Internet, Fax, Email etc...

What are your customer support hours?

Do I have access to support after hours?

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## **VII. Who We Are?**

### **Company Background**

TruDiligence is a Colorado based background investigations firm that was originally formed on December 06, 1993 as Investigative & Background Solutions, Inc. We changed our name in 2004 to better align ourselves with the message and image desired in the applicant screening industry. We began operations as a full service investigative agency specializing in records research for the legal community. In 1995, we were invited to become an approved vendor to the State of Colorado to run background investigations on applicants for employment. Upon approval of our application, TruDiligence began to service The Colorado State Board of Nursing, screening applicants for licensure through the board. This state contract started our restructure and during the 1996 season, TruDiligence began to focus solely on applicant screening. With our new business posture, we secured many private and government accounts, servicing clients ranging from The Denver Department of Excise and Licensing to The United States Post Office.

The United States Post Office was our first large, regional account. Throughout the period from September through November, the Post Office conducts its seasonal holiday hiring, screening nearly 4000 candidates in Colorado and Wyoming alone. During this time, TruDiligence accommodates this heavy volume, in addition to, our standard daily volumes. An account as demanding as this created the need for a more reliable and convenient ordering and retrieval system. To this end, in October of 1998, the TruDiligence operations backbone went into its concept phase. We successfully planned, developed and deployed an electronic ordering, tracking and reporting system, with the promise to accommodate any client with reliability, speed and convenience. TruDiligence unveiled its new, state of the art system in October of 2000.

### **Hours of Operation**

Office hours are 9:00 am to 5:00 pm MST. Additionally, our voicemail system is programmed to page key staff members when a message is left in one of our critical mailboxes, such as customer service and technical support. This message notification system allows the TruDiligence staff to return phone calls and address any question or concern promptly.

Furthermore, key members of the TruDiligence support staff have remote access into our systems via PDA and Laptop computers, allowing them to provide assistance even when they are away from the office, if needed.

### **Setup and Usage**

TruDiligence has no setup fee, No Contract and No monthly minimums. You simply complete the sign up process to establish an open account, sign a terms of service document and receive a username and password for the website. You may then place orders at your discretion and are billed monthly on NET 15 terms for any searches completed in the previous 30 days.

### **Quality Control**

TruDiligence understands that our field of endeavor is not a perfect one. Whether we use a real-time access database or conduct a manual search of documentation, human hands are involved in the process at various stages along the way. Therefore, our quality control measures are

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completely designed to head off difficulties before they occur, whenever possible. And in the event something does “fall through the cracks”, respond to it swiftly with a remedy.

To this end, TruDiligence practices quality control in many stages during an average background check. The first stage addresses the accuracy and content of the information supplied. As described previously, each request is checked manually and / or electronically to ensure all necessary information and identifiers are present. Our system further monitors each request, as it progresses, assuring that all searches are ordered and results updated as soon as they are received. The system achieves this by color coding all pending requests by time outstanding. Our staff uses this feature constantly to review pending searches for any request that is tardy in its completion. This feature also allows us to conduct daily communication with all vendors to identify and address any complications as they occur.

When conducting requested searches, TruDiligence always uses all available and relevant identifiers to insure an accurate result. Furthermore, we also take great care to insure that our vendors provide service that meets our strict standards. TruDiligence routinely submits known records to our vendors and compares known activity to new search results. This assures the highest level of quality in information provided to TruDiligence.

Every operation, on every file processed is recorded in an audit trail for record tracking and research in our system.

We also take great pride in the level of customer service offered. There is always the familiar voice of a support team member available, who is dedicated to assuring the quality of customer service received. All questions and concerns are addressed timely and effectively.

TruDiligence believes that complete customer satisfaction is the ultimate goal of any quality control program.

### **Insurance**

TruDiligence carries General Business Liability insurance, as well as, Errors and Omissions insurance in the amount of \$1,000,000. We have never been sued nor had a complaint filed against us. Certificates of insurance can be provided at your request.

### **How You Will Interface With Us**

#### **WEBSITE**

Using only your Microsoft Internet Explorer Web Browser and the Adobe Acrobat Reader, our full service website allows clients to request and retrieve new orders, as well as, monitor the status of pending searches. The website allows two separate password levels allowing for flexibility in account management. The first level is an individual user, location or departmental password. The second level is an administrative or management level password, allowing administrators to view and check status of searches submitted by individual users within their group.

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At system login, the user is presented with a general information page which is updated daily with service messages such as, court delays, new service offerings, client appreciation contests and even a daily quote from the Successories, motivational line of products.

Data entry during the request phase is simple and guided. A short interview process will direct the user to input the correct information for each search desired. All mandatory fields are clearly marked. Many checks and balances are in place to assure input information is complete and valid. When each request is completely entered, the user will be provided with a confirmation of their order. Information submitted on the site is loaded into our database for processing every 5 minutes. After receiving a submitted request, TruDiligence will again check for mistakes or any additional required information. Once all information is in place, the request will be assigned and sent for research immediately.

Our pending status database is then updated once an hour. The user can access and track the pending status of any search submitted and will be made aware of its current status, as well as, any problems or concerns. As search results are received, they are updated to the site at intervals of thirty minutes and are posted to a table that houses all completed searches.

As a user convenience, there is no need to continually log on to check if a requested search is complete. The system will automatically send an email notification to the user, informing them that a completed background check has been posted for their review. The results are then kept in archive on the website for a period ranging from 90 – 365 days, which is programmable at the client level. While the results are on the website, unlimited viewing and reprints are available, as needed. Then after the archive period has expired, the results reports are removed from the server; however they are available indefinitely through the TruDiligence offices. As simple call to our support team requesting a copy of an archived report will generate a fax copy to your attention immediately.

As a convenience, the user may filter and display the results using many identifiers such as; applicant name, date of submission, social security number and client number, all in ascending or descending order. This allows a client to access results from one year ago as easily as results from the prior day. All documents are formatted using the Adobe Acrobat Reader, which is available free of charge, via the TruDiligence website.

TruDiligence has taken every precaution to assure that your information is secure. All data transferred to or contained by the website is secured using state-of-the-art Verisign 128 bit SSL encryption. Furthermore, the actual website server is housed in the largest, secure data center in downtown Denver, offering multiple redundancies in its systems and providing 99.99% uptime.

All features of the system are available 24 hours a day, seven days a week.

## **SOFTWARE**

For those looking to avoid online data transfer or those without internet access, TruDiligence also offers a dial-in software package. This software is available for a one time charge of \$75.00 per installation. The primary advantage to the software method is, dial-in connections are more

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stable than internet connections and are not subject to server problems inherent to internet access. Clients using the dial-in software also enjoy an additional level of data access, in that, completed results are housed locally on the user's workstation and are available indefinitely. The software allows the user to enter information in an off-line environment. Then during a single dial-in connection, upload new requests and download any completed searches that are ready for distribution. Daily status reports for dial-in users are generated once a day and sent, via fax, at days end. This being in contrast to the website, which generates status reports once an hour, as described previously. Again, TruDiligence has taken every step to ensure that the system is reliable and user friendly. Dial-in access is available 24 hours a day, seven days a week on dedicated telephone lines.

### **XML / DIRECT FILE EXCHANGE**

We have the capability to interface directly with your system using the internet file XML standard. We can also provide direct import of many file formats including ASCII text, excel, dbase and FoxPro. Call for further information.

## VIII. How Does TruDiligence Stack Up?

|                     | <b>TRUDILIGENCE</b>   | <b>OTHERS</b>  |
|---------------------|---|--|
| Setup Fee           | None  | \$25 - \$125   |
| Contract            | None  | Many require a contract that locks you to their service for a minimum of 1 year.                                       |
| Monthly Minimum     | No monthly minimum. You are simply billed for what is ordered every 30 days.  | Many have a minimum usage requirement. You are billed the minimum whether you use the service or not. Usually \$25.00. |
| Company History     | Originally formed in 1993   | Varies   |
| Insurance           | \$1,000,000 in General Liability.<br>\$1,000,000 In Errors and Omissions.   | Varies   |
| Ordering Methods    | Fax, Email, Software, Web, XML  | Comparable   |
| Office Hours        | 9:00a – 5:00 p MST  | Varies   |
| After Hours Support | TruDiligence voicemail systems are programmed to page key staff members. When a message is left in the support mailbox, you will receive a return call within the hour. Additionally, key staff personnel maintain remote access into our systems via PDA / Laptop computer to address any issue that may arise should they be away from the office at the time of your call. | Typically not available  |
| Quality Control     | An audit trail is generated for every operation, on every file.   | Varies   |
| Reporting           | TruDiligence results are returned in a single, clear, concise report with summarized data.  | Many do not provide a formatted report. Data is often returned in its raw format and left for the user to interpret.   |
| Social Trace        | Year and State of Issuance are included on every TruDiligence social trace at no additional charge.   | This is usually an option that comes at an additional cost.  |
| Criminal History    | TruDiligence can automatically identify addresses and assign criminal research in those counties. This is programmable to a maximum number of searches or limited to a specific time frame.   | This process is manual for many vendors which will lengthen the turnaround time.                                       |

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## IX. Summary

As stated at the beginning of this guide, our goals with the publication of this document were three fold:

- To raise awareness in general about background checks.
- To provide you an education, regardless of who you use as a vendor, so that you may conduct better background checks.
- Tell you a little about TruDiligence and how we operate that sets us apart from the rest of the pack.

We hope to have accomplished this goal and that you can now look at your next background check with a completely new understanding. Interestingly, one of the alarming facts that we discovered when doing research for this guide was; most employers indicate that providing a safe workplace and avoiding hiring liability are the primary reasons for running background checks. Unfortunately, many of these same people also state that they selected their current background check vendor based solely on price and turnaround time. Simply put, these two thoughts do not always support one another.

What are your goals when conducting a background check? What is important to you? Do you agree that even \$5.00 is too much to pay for a background check that may do nothing to limit your liability?

We believe that TruDiligence is the definitive choice to help you limit your liability when Quality, Costs, Efficiency and Customer Service are equally important. Give us an opportunity to prove it.

### **TruDiligence, LLC.**

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