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WHITE PAPER

# DEBUNKING MYTHS: CRIMINAL SEARCHES



Why do you run a background check on your prospective employees? Is it just to check a regulatory box? To protect your organization from liability? Or is it for the safety of your employees, clients, patients, tenants, and more?

## THE MYTH: INSTANT CRIMINAL BACKGROUND CHECKS

While the as-seen-on-TV idea of an “instant” criminal background check is an attractive notion, it’s unfortunately unrealistic. Instant or 24-hour criminal searches offered today are limited in scope and typically consist of incomplete or bad data, placing organizations at risk. You may get a result returned quickly, and it may be cheaper, but it will be at the cost of the integrity of the data you receive. Hurrying through criminal background checks will set you up for bigger concerns down the road.

Additionally, the Consumer Financial Protection Bureau has issued judgements against Consumer Reporting Agencies (CRAs) who cut corners to provide you with quick, inaccurate data. Organizations should ensure your selected CRA is reputable and does its due diligence before providing you with criminal record data.

## THE RISK

The risk of not thoroughly vetting your candidates, employees, or contractors cannot be overstated. At best, a negligent organization risks the loss of reputation, which can take years to rebuild. Once trust with the public is broken, it can be incredibly difficult to earn back.

Organizations may also face steep financial penalties if found directly or vicariously liable for harmful acts committed by employees. Recently, negligent hiring practices cost an organization \$7 billion due to an inadequate background check.

At worst, organizations risk putting clients or employees in danger of physical harm including loss of life, such as a home delivery driver who murdered an unsuspecting elderly customer.

You’d never assume this would happen to your organization – but are you taking the appropriate steps to prevent it?

### *The Bare Minimum*

You may think that limiting your scope to meet the minimum regulatory requirements is sufficient for your organization, but consider the data you’re missing when you do.

For instance, North Carolina only requires a 5-year search of criminal history within the state when hiring for a position

at a long-term care facility. But what about the applicant who committed a crime in South Carolina and moved one state over to get a job?

In a common example, many government agencies, including schools, only conduct a state-level Bureau of Criminal Identification (BCI) fingerprint search and nothing more. These searches often provide incomplete data. For instance, some courts don’t report their data to the state and some states have issues with reporting to the FBI.

If your organization does insist on a limited scope search, your CRA may require a signed affidavit holding the CRA harmless in the case of a missed record that would have led to an adverse hiring decision.

### *Felony vs. Misdemeanor Offenses*

Many employers only consider felonies when running a criminal background check. However, considering misdemeanors can make the difference between a safe and unsafe workplace. Consider this:

- There is little to no standardization among states regarding what is considered a felony and what is a misdemeanor.
- Many serious criminal offenses that would result in a felony charge are pleaded down to a misdemeanor either due to lack of court resources to go to trial, or defense attorneys with a good working knowledge of the court and judge.
- Class of crime is just as important, if not more, than grading level. A felony for theft is often less impactful to employers than a misdemeanor for a violent offense or sexual misconduct.



## THE SOLUTION

To truly reduce risk and protect employees and clients, organizations require a comprehensive approach to criminal searches that result in quality, current, accurate, and therefore actionable data. These thorough searches increase the likelihood of catching any adverse criminal history commonly overlooked by an “instant” search or a bare minimum search to meet regulatory requirements alone.

There are quite a few types of criminal background searches. None are a one-size-fits-all, and the approach your organization takes may vary based on industry, job type, and whether the employee will interact with clients or enter customers’ homes.

For instance, the types of criminal searches offered by Cisive include:

- **State and County Criminal History:** Statewide and/or county-level Criminal History Record Search (CHRC) per name, per jurisdiction
- **Federal Criminal History:** Federal district criminal history records check per name, per district
- **Supplemental Database:** Proprietary multistate database that consists of several hundred million current and historical arrest, felony, misdemeanor, incarceration, conviction, fugitive, escapee, absconder, and probation records on millions of offender
- **Civil Federal Litigation:** Based on provided names and the location of provided residences and/or employment for a specified period of time.
- **Civil State Litigation:** Performed in upper-level state courts, based on provided names and the location of provided residences and/or employment for a specified period
- **Sex Offender Registry:** Search of individual state registries using scope of search parameters including number of years or previous addresses, or a database search of all 50 state registries combined with the Supplemental Database, or a standalone database search of all 50 states.
- **Global Criminal Record:** An investigative audit confirms record accuracy, followed by a review for legal dissemination under national and international law.

In addition to ordering a comprehensive criminal background check from your CRA, there are a few things you can do to reduce the turnaround time for your accurate data:





- **Collect the driver's license information from your applicant.** This ensures your CRA has the applicant's correct legal name, including middle name where applicable, as well as a recent address when ordering a criminal background check. This can help reduce the cost of a criminal search for your organization as well.
- **Provide a social security number.** This provides an additional "touch point" to ensure accurate records, particularly when your applicant has a common name.
- **Provide and search aliases.** These include nicknames, former names, or other aliases currently or previously used by a candidate.

## CONTINUOUS CRIMINAL MONITORING

Continuous Criminal Monitoring is growing more common with employers. In Cisive's report, [Cisive Insights: Talent Screening Trends 2021](#), we found that almost a third of employers who introduced new background checks in 2020 included continuous monitoring. Employers who may be most interested in Continuous Criminal Monitoring may have employees engaged in the following job duties:

- "Final Mile" delivery drivers, particularly those who are required to enter homes of customers,
- Utility workers with access to customer property and/or homes,
- Healthcare staff who have regular access to patients,
- Financial services employees with access to important information, and
- Any other employees with access to the public, clients, sensitive information, homes, etc.

### How does it work?

Continuous criminal monitoring allows organizations to receive real-time arrest record monitoring on an ongoing basis. These alerts arrive within 60 minutes of criminal arrests and/or convictions. Organizations can place a "watch" on

employee lists, receiving automated alerts when an employee is booked into custody, released from custody, or incarcerated for a certain "length of stay." Sources are updated hourly, and Cisive provides alerts to clients upon validation of arrest, typically within 1-2 days.

With continuous criminal monitoring, your organization can ensure you're doing everything possible to reduce liability and keep your customers safe.

## FLEXIBILITY TO MEET YOUR NEEDS

Ultimately, your organization's criminal background check program will vary based on your unique needs. Work with your account management team to determine the comprehensive solution that effectively reduces your risk while meeting your cost and time service requirements.

## CISIVE'S CRIMINAL SEARCHES

Cisive conducts a multiple-repository search to capture felony records that may be stored in a separate repository, as they are in more than 50% of the 3,007 counties in the U.S., and includes a third level when municipal courts are appropriate. Many CRAs only search higher courts, resulting in missed records; Cisive searches both superior courts (or equivalent) and district courts at the county level. Cisive also provides access to criminal background screening in 200+ countries.

Cisive's verification process ensures each criminal report is verified and re-verified up to five times, giving Cisive an impressive 99.9993% accuracy rate - significantly higher than the industry average of 99.9% when you consider the millions of background checks Cisive processes.

We also provide a continuous criminal monitoring solution, which allows organizations to receive real-time arrest record monitoring on an ongoing basis.

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## ABOUT CISIVE

At Cisive, we are experts in the specific risks and regulations that apply to the financial services and other highly regulated industries including healthcare and transportation. For many years, we have provided tailored solutions to meet the unique requirements of our enterprise clients.

Cisive's service model provides a single, integrated system throughout the globe using complete applicant information and country-specific forms. Cisive returns information to our clients through a centralized system for analysis, quality control, presentation, and billing.

With over four decades of experience and expertise in working with many of the world's largest financial services institutions, Cisive's deep insight into employment screening practices and industry knowhow, is unlike any other background screening provider in the industry.

Your business will not only get a background screening provider, but a lifelong partner – a company that stands by their work; protects their clients and provides the consultation and guidance world class act organizations are looking for.

## CONTACT US

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