

What You Don't Know About That New Employee Can Hurt You!

by Glenn Hammer

Recently, a bookkeeper, with a criminal file a foot thick, was arrested for stealing at least \$2.5 million from his employers. Over a twelve-year period he victimized fifteen to twenty businesses (several from the Bay Area). His resume listed two prior long-term employers who did not exist. An accomplice, whom he met while doing time for fraud, gave glowing recommendations to anyone who called the phone numbers listed on his resume.

Each of these businesses could have avoided being duped if they had done a basic Employee Background Check costing as little as \$30. Employers who background their employees significantly reduce their hiring risks. Background checks help avoid workplace violence, protect against lawsuits and damages, reduce employee theft and fraud, uncover application falsification, make the first-time right hire, and -- as a result - improve the bottom line.

Employee Backgrounding is simple, inexpensive, legal, and ethical when properly done.

Application Verification

A Background Check is sometimes called an "Application Verification." A Background Check validates a candidate's job application using independent sources such as: prior employers, educational institutions, criminal and civil court records, and credit records. A Background Check starts where reference checks leave off.

Costs for a background check are typically between \$40 and \$100 per candidate. The fees vary based on the number of information sources checked and the cost of accessing the sources. For example, a typical Background Check for a production position would include a Social Security Number check, a criminal record check, and prior employer verification. Whereas, a Background Check for an accounting manager would also include a college education verification and a credit check.

Turnaround time is usually under a week, and is determined by the information sources checked. Some information sources, such as credit reports, are on-line and immediately available. At the other extreme, some State and Federal agencies only respond to requests by mail and may take weeks to respond.

Negligent Hiring Liability

A major driving force behind Employee Backgrounding is the relatively new legal doctrine of Negligent Hiring Liability. Negligent Hiring Liability effectively *requires* that an employer check a prospective employee's background. Courts hold employers responsible both for what they *do* know and what they *should* have known about their employees. While it may seem unfair, the courts have repeatedly found employers responsible for the criminal actions of employees on the job, and in some cases, off the

job. The average award in security (personal safety) negligent hiring cases is more than \$1 million. Essentially, the courts see a background check as cheap insurance against repeated criminal acts.

The laws and the courts generally recognize and support an employer's need to hire competent and safe employees. For example, the FCRA (Fair Credit Reporting Act) specifically identifies employment as a legitimate use of credit reports. Also, California just implemented a law that protects the providing of employment references on former employees.

New Laws Protects the Providing of Information on Former Employees

In many states Employers now have more latitude when giving employment references because of new laws have changed the rules for providing information about former employees. In the past, fear of legal action has caused most employers to limit the information provided on former employees. These new laws protects the sharing of former employees' work performance and qualifications with prospective employers. Typically, the new law protects a former employer if 1) the inquiry is made by a prospective employer, 2) the communication is based on credible evidence, and 3) the information is given without malice.

Employers should reconsider how they respond to work performance and qualification inquiries from prospective employers. A basic "no comment" policy may no longer be the best policy. For example, it is not hard to see how a jury could hold a company liable for a former employee's actions if it can be shown that a violent crime could have been *prevented* by an open, honest, and now *protected* answer to a prospective employer's inquiry.

Today, Employee Background Checks can be simple, inexpensive, legal, ethical, and extremely useful when properly done.

© 1995 A Matter of Fact

Glenn Hammer is a consultant and speaker on employee backgrounding and due diligence. Founder and President of A Matter of Fact, he has 25+ years of experience in the information industry. A Matter of Fact provides employee backgrounding, due diligence research, and other public record search services.