

Privacy Basics

Background Check Basics



Privacy Rights
Clearinghouse

Whether individuals are hired, promoted, retained or allowed to volunteer often depends on information revealed in a background check. Companies conduct background checks on prospective employees and volunteers for many reasons including

- public safety
- legal requirements
- liability
- protecting vulnerable populations
- customer assurance
- avoiding a business loss



Sections to Follow

Uses

Types

Information They May Contain

Information They May Not Contain

Individuals' Rights

Uses

Employee Screening

Employers screen potential employees or contractors prior to offering a job for a number of reasons which include

- minimizing their liability in negligent hiring lawsuits
- wanting to verify an applicant's credentials
- heightened security and identity-verification strategies as a result of terrorist acts
- federal and state laws requiring background checks for certain jobs (i.e. working with children, seniors or individuals with disabilities)
- requiring background checks for some government positions and contracts
- extensive investigation for security clearances

* Employers may also require existing employees to submit to background checks.

Volunteer Screening

Volunteers are screened for many of the same reasons as employees and potential employees. In particular, federal and state laws often require background checks for volunteers working with vulnerable populations.

Absent a legal requirement, many nonprofit organizations find background screening prudent to maintain trust and reduce liability. Organizations that operate as an affiliate of a national organization often must follow policies set by the national organization.



Types

Third-Party Commercial

Commercial background check companies range from individual private investigators to regional or nationwide employment screening companies. They may run credit, Social Security number, driving record and many other checks. These companies often have a variety of data sources, though they generally do not have access to the Federal Bureau of Investigation's (FBI) data unless authorized by law. Instead, they get criminal history records from companies called aggregators which assemble criminal records information from courts and other publicly available data sources.

Federal Bureau of Investigation

The FBI maintains a criminal records database called the National Crime Information Center (NCIC) which can be accessed for some criminal history checks. These background checks are fingerprint-based (not name-based)—reducing the possibility of a false positive. The NCIC includes information on both federal and state crimes. Its state crime information relies on input from state repositories which relies upon input from county courts and law enforcement agencies (making the state offenses reported to the FBI database variable).



Information They May Contain

Background checks can range from verification of an individual's Social Security number to a detailed account of that person's history and acquaintances. Information included in a specific background check will depend to some extent on the position and the company.

Information that may be in a background check include

- driving records
- vehicle registration
- credit records
- criminal records (except where limited under state law)
- Social Security number
- education records
- court records
- workers' compensation
- bankruptcy
- character and personal references
- medical records
- property ownership
- military records
- state licensing records
- drug test records
- past employers
- incarceration records
- sex offender status



Information They May Not Contain

Under the Fair Credit Reporting Act (FCRA), items that may not be reported in a background check are

- bankruptcies after 10 years
- civil suits, civil judgments and records of arrest (from date of entry) after seven years
- paid tax liens after seven years
- any other negative information (except criminal convictions) after seven years

* The FCRA is a federal law that applies to background checks performed by an outside company that is considered a consumer reporting agency. It does not apply in situations where the employer conducts in-house background checks.

* These restrictions do not apply to jobs with an annual salary of \$75,000 or more.

* State law may offer additional prohibitions.



Individuals' Rights

As the FCRA applies to third-party employment background checks for the purposes of hiring, promotion, retention or reassignment, individuals have the right to

- know when an employer or prospective employer is requesting a background check from an outside company
- authorize the background check on a separate document
- receive a pre-adverse action notice
- receive a copy of the background check report (if they receive a pre-adverse action notice)
- receive an adverse action notice
- dispute the accuracy or completeness of any information in the background check report

* Modified disclosure and adverse action procedures apply to positions subject to U.S. Department of Transportation (DOT) regulations (i.e. truck drivers). The DOT has independent authority to set qualifications for workers in transportation industries.

* State law may provide more individual rights than the FCRA in some cases.



**Millions
Impacted by
Data Breaches**

**Our
Reality**



No comprehensive
Right to Privacy



Little Trust
in those who **collect, use**
and **share** our data



Lack of Power
to protect our privacy

Protecting Privacy for All

Our
Mission

Since 1992, Privacy Rights Clearinghouse has been **protecting privacy for all** by **empowering individuals** and **advocating for positive change**.

We focus exclusively on consumer privacy rights and issues, and strive to provide clarity on complex topics by **publishing extensive educational materials** and directly **answering people's questions**. We are also **amplifying the public's voice** through their individual stories—often underrepresented in policy discussions—in our work **championing strong privacy protections**.

We hope that this resource has been useful. If you would like to support the development and creation of further educational materials, please consider donating to our organization.

[privacyrights.org/donate](https://www.privacyrights.org/donate)

The image is a collage of business meeting photos. The top half shows a group of people in a meeting room, with a large blue curved overlay on the left. The bottom half shows a close-up of a person's hands on a laptop, with a large orange curved overlay on the right. The text is positioned in the bottom right corner, overlaid on the orange section.

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