

Report of the Background Check Task Force

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Committee Charge

Our understanding of the committee charge was as follows:

- The committee was asked to review previously proposed policies and responses related to background checks for ASU employees.
- The committee was expected to recommend whether a background check policy is needed or not.
- If the committee were to conclude that a background check for ASU employees (or selected ASU employees) is needed then it was to recommend a policy that would address relevant issues that would be included in such a policy.
- If the committee were to conclude that background checks for ASU employees (or selected ASU employees) is not needed, the committee was still asked to suggest a policy that would be least objectionable if we were required by the Legislature or our Board of Trustees to adopt such a policy.

The Committee's Approach to the Task

The committee reviewed the prior background check drafts presented to campus constituents and responses to those drafts. The committee collected data on background check policies at other universities by searching the internet for relevant examples. General internet sources and scholarly articles were reviewed on the efficacy, implementation problems, cost, legal issues, and the ethical ramifications of background policies in higher education settings. Committee members also reviewed how background checks are done in those areas on campus where they are currently required by law or other special circumstances such as in the areas of university police, childhood services, and for students in healthcare settings that require background checks. This background information was used to write the tentative background check policy which appears below.

The Committee's Conclusion

In order to create a safe and secure workplace for administrators, faculty, staff, students and visitors, to ensure the protection of funds, property and other assets, and to ensure that Arkansas State University Jonesboro campus employees are qualified to perform duties and responsibilities of the positions they will hold or are applying for, the Background Check Committee recommends that the University should consider adopting a background review

policy with additional input from the shared governance process. Our recommended policy follows for further consideration by shared governance constituents.

Due to the un-even number of hires across departments, the Task Force Committee emphatically recommends that background checks should be funded at the university level rather than coming from the budgets of hiring departments.

Tentative Background Check Policy for ASUJ

What will be reviewed? Who will decide?

Which items are deemed appropriate to the position will be decided by the hiring department prior to the beginning of the search. The items selected by hiring supervisors will be reviewed by appropriate human resources personnel; human resource input will be primarily to assure adherence to legal mandates. Personnel on the sensitive duties list will be expected to have more detailed reviews looking at specific items relevant to the position. Sensitive duties are defined below. Consumer credit reports and drug testing will be used only when clearly relevant to ordinary, daily duties.

Background reviews, depending upon position relevance, may include the following using national and international sources (if indicated):

- Credential verification (academic degrees, certification, professional licenses, etc.)
- Criminal history and identity (Federal, State, and Local and International where appropriate)
- Employment references
- Consumer credit reports
- Drug Testing
- Social Security Number traces
- Motor vehicle driving history
- Finger printing
- Sex offender registry checks

Arkansas State University -Sensitive Duties Positions

Employees who perform the following types of duties will be subject to higher levels of scrutiny because of the higher level of personal or financial risks associated with these positions.

- Care, safety and security of people or property (includes sworn public safety officers, childcare workers, camp counselors, etc.), e.g., will be required to have sex offender registry checks and other checks required by law ;
- Direct access to, or control over, cash, checks, credit card account information (includes cash handling or credit card acceptance positions); e.g., will be required to have consumer credit reports if authorizing expenditures over an amount determined by university policy and/or relevant laws;

- Authority to commit financial resources of the University through purchases or contracts, e. g., will be required to have consumer credit reports if authorizing expenditures over an amount determined by university policy and/or relevant laws;
- Control over campus-wide or departmental business processes, either through functional roles or systems security access (includes network administrators, system programmers, etc.), e.g., criminal background information from multiple jurisdictions would be indicated.
- Access to detailed personally identifiable information about individuals or organizations associated with ASU (includes information about volunteers, affiliates, students, staff, alumni, and/or vendors), e.g., criminal background information from multiple jurisdictions would be indicated.
- Possession or access to building master or sub-master keys; access to residences and certain other facilities, particularly laboratories (includes custodial service, locksmith, residential and student services program employees, etc.), e.g., criminal background information from multiple jurisdictions would be indicated, and
- Regular operation of University vehicle, e.g., evidence on prior driving violations would be indicated as would drug testing if required by law.

Who will be subject to review?

The policy will primarily affect new hires. Existing employees will only be affected if transferring into new positions. The following employees will be subject to background review:

- All regular and adjunct employees who are being considered for hire, rehire, transfer, promotion, reclassification, or appointment to interim positions. A background review will be conducted at the initial time of hire. Employees holding positions in any of these categories will not be subjected to another background review unless there is a break in employment of one year or more. *Rank promotions of tenured, tenure track and non-tenure track faculty are not subject to a background review upon promotion. Administrative realignments of departments, programs or colleges will not trigger a background review.*
- University employees competing for vacancies through an external search process.
- University employees changing positions from faculty to academic administrative positions.
- Graduate assistants, teaching assistants, post doctoral appointments, temporary employees, volunteers and affiliates with significant responsibilities listed in the ASU Sensitive Duties Checklist. A background review will be conducted at the initial time of hire. Employees holding positions in any of these categories will not be subjected to another background review unless there is a break in employment of one year or more. A waiver may be granted by Human Resources for short-term hires of 30 days or less (no extensions). However, the Department Head/Director is responsible for ensuring that the employee does not perform duties listed in the ASU Sensitive Duties Checklist without adequate safeguards. Student employees will only be included if they have significant responsibilities listed in the ASU Sensitive Duties Checklist. A determination of which positions are included for purposes of student hires should be made by departments in consultation with Human Resources prior to implementation of the policy.

It is expected that the number of student hires subject to the screening policy will be minimal.

- Criminal background checks must be completed on all contract employees performing work on our campus before work begins. Specific language will be added to bid and contract advertisements to require that contracting agencies provide evidence that they use background checks that are performed in a manner substantially equivalent to the procedures used for ASU's own new hires.

It is customary for universities with a background check policy to require applicants to complete a Candidate Consent and Disclosure Form before any background review may be conducted. Such a form will need to be developed by Human Resources with input from hiring supervisors. This form is needed in order to inform candidates that they will be subject to a background check and notify them of their legal rights to appeal any incorrect information that appears on reports from outside reporting agencies. In addition, the form will allow candidates to personally disclose and explain any information they are aware of that may show up as a red flag on background checks, but they believe should not preclude them from employment. In the event a job applicant refuses to submit a Candidate Consent and Disclosure Form their application will be removed from consideration. Any background review report that reveals information the hiring department has determined could possibly preclude hiring will trigger the candidate being given 5 business days to explain or challenge the information. Even in those cases where the candidate does not deny the reported event happened, the hiring department will be given the opportunity to review the information to determine in consultation with human resources if the reported offense is sufficiently minor in scope or if sufficient time has passed that the reported offense should not be considered detrimental to the safe performance of duties.

Any material misrepresentation or omission on an application document may be grounds for rejection of the applicant from employment consideration, termination of employment, or refusal of subsequent consideration for jobs with the University.

Additional employment reviews may be required by law, regulation, or contract. Background review information findings are to be regarded as highly confidential and will be released only under conditions consistent with applicable law. In the normal situation, human resources has the responsibility to ensure security of employment background check information. There may be special instances, such as the case of university police officers, where another department is required by law or their credentialing agency to maintain the records.

Expected Procedures

General policy is typically separate from the detailed procedures of implementation. But because of the sensitive nature of background checks, these suggested procedures are included so that campus constituents will have as much information as possible about the likely implementation procedures.

When a department initiates a hire that is subject to a background review, the hiring department will coordinate with Human Resources in making HR aware of the type(s) of background review(s) to be conducted consistent with duties and legal requirements for the position.

Any job that is subject to a background review, must contain notice to applicants that background reviews will be performed on the finalist(s) for the position. The application packet of viable candidates must include a Candidate Consent and Disclosure Form to be considered a complete application.

The Human Resources Department will coordinate requests to external vendors for background checks once they receive information that the department is otherwise authorized to hire. The Human Resources Department will review all background review reports received and report back to the department whether or not adverse information is received. The Public Safety Department is the exception to this provision. Public Safety applicant background checks will be performed by the Public Safety Department in accordance with established criteria and guidelines set forth by the Commission on Law Enforcement Standards and Training.

No Information is Discovered that Would Potentially Preclude Hire:

If no negative information is received from the background check, the department will be notified of that fact, so that the remainder of the hiring process can proceed.

Negative Information is Disclosed by the Background Check:

If the background review reports produce any information that was initially noted by the department as potentially preventing a hire, the Federal Credit Reporting Act requires the candidate be given 5 days to challenge the accuracy of the information. The Human Resources Department, in compliance with the Fair Credit Reporting Act (FCRA), is required to forward a Pre-Adverse Notice to the applicant that includes a copy of the individual's background report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act". The Pre-Adverse Action Notice will provide the candidate an opportunity to challenge the information provided in the report and provide information on what steps to take to correct inaccuracies or provide explanation. A final employment decision will not be made by the hiring department until the candidate has had the required minimum of five days for an applicant to refute, explain or correct the information.

If the review reports only information already disclosed by the candidate, the department should have made a case with human resources prior to the background check as to why the information is not sufficient to preclude a hire based on the date of the offense(s), the nature of the offense(s), and/or the explanation of the offense per the disclosures the individual provided on the Consent and Disclosure Form.

The Human Resources department will manage and retain employment background review information with the exception of Public Safety Personnel or other departments required by law or university policy to maintain their own records. The length of time will be that required by law. Information collected on applicants who are ultimately hired will be stored separately from the official employee files. Information collected on those applicants not hired as the result of information obtained from background reviews will be stored with the candidate's application materials and retained for three years. Documents related to employment collected by the departments, e.g., information on academic credentials and employment history will be maintained by the department and destroyed three years after rejection for unsuccessful candidates or three years after termination or retirement for successful candidates.

Positions that Require a Commercial Driver's License:

Per current policy as based on federal law, individuals in positions that require a commercial driver's license must pass a drug test as part of the application process, and if hired, these employees or applicants for employment must be in Arkansas State University's commercial drivers license drug testing program and comply with all of the requirements of that program during the full length of employment.

Supervisor's Discretion to Drug Test:

Per current policy as based on current law, supervisors may require a drug test in the event of an accident or due to reasonable suspicion. The employee will be required to submit to drug testing, or be subject to progressive discipline up to and including involuntary termination. Supervisors receive training as to what constitutes reasonable suspicion.

How can this policy be made workable for last minutes hires such as last minute class sections added at the beginning of a term?

Supervisors in all but the most sensitive of positions may be granted permission to hire on a temporary basis, e.g., 15 working days, with the understanding that the employee will be removed from the position if the background check and subsequent review processes indicate information that would preclude finalizing the hire. The fifteen days should not be used on a routine basis to avoid background checks on temporary workers.

What is the likely cost of background checks? Is it reasonable?

A sub-committee of the overall group was charged to study the costs of background checks based on the number of hires in the current year. The number of new hires from January 1, 2007 to the beginning of November was approximately 1100. After removing the student workers from the count, this left 568 hires which were used as an approximation of the number for a typical year. The Hire Right software which integrates with our current Human Resources software used to manage and track the hiring process provides National Criminal Checks for \$11, Sex Offender Checks for \$9.25, License/Education verification for \$8.50, and Credit Check for \$5. The task force ran estimates based on most positions requiring 1) National Criminal and Sex Offender checks for \$19.25, 2) National Criminal, Sex Offender, and License/Education Verification checks for \$28.75, or 3) National Criminal, Sex Offender, and Credit Check for \$25.25. This estimate does not include the cost of any fingerprinting for positions such as in childhood services. Hire Right also has the capability of providing international checks with pricing varying by country. Committee members noted that faculty with international visas probably would have already had some criminal background checks done as part of that process.

Based on the prior year, the total costs would have been as follows:

National Criminal and Sex Offender Check	502 X \$19.25 =	\$9,663.50
National Criminal, Sex Offender, License Verification	62 X \$28.75 =	1,782.50
National Criminal, Sex Offender, Credit	4 X \$25.25 =	<u>101.00</u>
ESTIMATED TOTAL		\$11,547.00

The assumption was that credit checks would only be required for persons with substantial financial money handling responsibilities. It is possible that persons handling P-cards might also need credit reviews in some cases. So, the amount above is just a rough estimate that could run as high as \$20,000.

While software used by background check companies is continuously improving, they provide only limited assurance. Even in the case of police databases, which are not legal to use for employment background checks, there can be omissions of data, particularly older data. The committee concluded that the cost of the checks from Hire Right or a similar vendor would provide an indication that the university had exercised due care in its hiring processes at a reasonable cost.

What if negative information is challenged by the job applicant?

Campus constituents may have concerns that if candidates challenge negative information reports, the hiring process could be held in limbo indefinitely. The committee believes that the Candidate Consent and Disclosure Form should minimize these incidences. Further, negative information could come to light after a hire has occurred even when background checks are not used. The committee believes these types of incidences would be rare. University legal counsel would be needed to draft language to help minimize these types of challenges, particularly for cases where individuals began work before the background check was completed.

APPENDICES

Appendix A: Anticipated Questions on the Proposed Policy

Appendix B: What Is Currently Being Done at ASU

Appendix C: Brief Listing of Websites with Background Check Information

Appendix D: Links to Example Background Check/Hiring Policies of Other Universities

Appendix E: Prior Work on Tentative Background Check Policy at ASU

Appendix F: Common Views on University Background Checks

Appendix A: Anticipated Questions on the Proposed Policy

- 1. Why are we considering this policy?** Courts may consider employers to be negligent if a negative event occurs involving an employee with a questionable background which the employer could have reasonably predicted based on information in a background check. In addition, background screening can be useful in determining if applicants have a history of criminal or other behaviors not conducive to the types of duties assigned. Although background checks are not a guarantee against criminal acts, they may reduce the likelihood of embezzlement or offenses against vulnerable populations such as in child care jobs.
- 2. Will current employees have to undergo background checks?** Generally, current employees would not have to undergo criminal background checks. Transfers, promotions, or a significant change in job duties could trigger a background check consistent with the new duties. Faculty promotion will not trigger a background check.
- 3. Will adjunct or other intermittent workers be subject to the background check every time they are rehired?** The proposal is that a new background check will be triggered only after a separation from duties of a year or longer.
- 4. Does a background check include checking into a person's credit rating and personal finances?** Generally, no. Credit checks would only be needed if the individual has significant money handling responsibilities.
- 5. Is this policy intended to promote drug testing for all employees?** This policy is not intended to mandate drug testing unless already required by laws such as those from the Department of Transportation aimed at regulating operators of equipment requiring a commercial driver's license.
- 6. Who will have access to criminal background check results?** With the exception of the University Police personnel, maintaining privacy and confidentiality of the background check information records will be the responsibility of the Human Resources department.
- 7. Why are background checks not simply shredded after they are done?** Federal law requires keeping adequate records to document how the hiring process was conducted in order to demonstrate a fair and nondiscriminatory process.
- 8. Why does the proposed policy say the background checks on those hired will be maintained, but kept separate from the personnel file?** This helps to protect employee rights to privacy, and is based on what is required by law. If negative information were uncovered such as misdemeanors or driving violations which were deemed not sufficiently relevant to the job duties to prevent a hire, the background check results should be kept separate from the personnel file in order to ensure this information does not directly or indirectly impact subsequent performance reviews.
- 9. How long will the background results remain on file?** The record retention of 3 years for persons not hired or 3 years from the date of separation from employment is consistent with current law.

- 10. Will convictions for shop lifting when a teenager or doing marijuana years ago, preclude individuals from being hired?** Hiring supervisors and search committees will be able to determine which violations are sufficiently relevant to the job duties to preclude a hire.
- 11. Why are student background checks not included in the policy, since campus violence is often perpetrated by students?** Students are only included in this proposed employment background check policy if they work in sensitive duty positions. The University's legal responsibility for the actions of its employees is separate and distinct from the issue of student behavior and background; looking at general background checks for students was beyond the scope of our work.
- 12. What if negative information is challenged by the job applicant?** Campus constituents may have concerns that if candidates challenge negative information reports, the hiring process could be held in limbo indefinitely. The committee believes that the Candidate Consent and Disclosure Form should minimize these incidences. Further, negative information could come to light after a hire has occurred even when background checks are not used. The committee believes these types of incidences would be rare. University legal counsel would be needed to draft language to help minimize these types of challenges, particularly for cases where individuals began work before the background check was completed.

Appendix B:

WHAT IS CURRENTLY BEING DONE AT ASU

ASU HUMAN RESOURCES

There are no written policies for background checks or reference checks.

There is no random drug screening except for DOT Safety Sensitive positions.

CHILDHOOD SERVICES

Criminal Background checks are required of all licensed child care facilities. The following are the types of background checks performed by ASU's Childhood Services.

1. All applicants complete a self-disclosure form.
2. Check references for applicants that are seriously considered for positions. Anecdotal, Robyn Doyle feels that 85% of the reference responses are wholly accurate and in 60% of those instances where phone calls are made to past employers meaningful feedback is provided (above and beyond dates of prior employment). Robyn went on to suggest that oftentimes it's what references don't tell you that raises a red flag. Applicants provide signed approval for Childhood Services to make inquiries of their prior employers.
3. Criminal background checks are additionally provided through the Arkansas State Police by the applicant filling out a form. There is no cost for this service, or if so . . . it is borne by the licensing fees paid to the State of AR.
4. Child Abuse and Neglect background checks are provided by the Department of Human Services of Arkansas. There is no direct cost for this service and once again, presumed to be borne by State licensing fees.
5. An FBI background check is also performed vis-à-vis fingerprint. There is a \$20 fee for this service which is borne by the applicant.
6. MVR's are performed on all staff whose job requires that they operate a vehicle.
7. They adhere to ASU's policy of random drug testing, but have never done so.

There is no limit relating to the number of years these checks go. They will reveal incidents that go as far back as there is documentation to support the incident. There is no internal rule to limit the check to 5 yrs, 8yrs, 10yrs, etc.

No job applicant has ever been eliminated because of information revealed relative to a criminal background check. I might add that this could likely be because of the quality of internal selection processes that cull out unacceptable candidates before culling down to the 1 or 2 for a job whose background is checked.

EDUCATION

No criminal background checks are provided by the College of Education. They employ licensed counselors and psychologists who are required to have license checks, but this is required in their licensing which they have in hand before arriving at ASU.

Students who are preparing to graduate complete a self-disclosure form, but all criminal background checks are performed outside of ASU as they seek licensing to practice as teachers.

NURSING

Two groups of nursing students participate in background checks.

The first group amount to students who are preparing to graduate and are applying for their nursing licenses with the State of Arkansas. The students complete a self disclosure statement which is part of their licensing application and separately submit to a State Police and FBI criminal background check at their own expense. The State Board of Nursing matches the self-disclosure statements with the results of the background check. The role played by the College of Nursing is purely that of a functionary to facilitate the process. They do not receive or process either the disclosure statement nor the findings revealed by the criminal background checks.

CRNA's serving at St Francis Hospital in Memphis comprise the second group who are required to have a criminal background which the College of Nursing performs prior to their internships. As of 10/8/2007, St. Jude Hospital and LaBonneur Hospital of Memphis will be requiring similar background checks for CRNA's practicing as interns in the very short future. The background check amounts to:

- Self Disclosure form is completed by students on the Certified Background's website without the involvement of the College of Nursing
- No finger printing
- The College of Nursing does not have the findings reported to them, but forwarded directly to St. Francis.
- The College of Nursing uses Castlebranch, Inc. which is the parent company for Certified Background, Inc – contact is Mr. Tim Joiner ph: (888) 723-4263 Ext 7119 or timj@castlebranch.com. The background check consists of the following:
 1. Health care fraud and abuse
 2. Sexual offender
 3. County criminal search (going back 7 years)
 4. Residence history

5. Social Security alert (identity confirmation)

- Cost for the service amounts to \$40 if the student has resided in only one county. If the student has resided in more than one county there is an additional cost of \$14 per county. Total cost is borne by the student.

UNIVERSITY POLICE DEPARTMENT

Childhood Services, Nursing, and Education students are required to have their fingerprints taken and a background done before they can obtain licensure, and in the case of Education students, Childhood services and some Nursing, they must do this anytime they seek new employment or to renew licensure/certification. UPD does fingerprint them, but any Police Dept. can do this. The student must then take the fingerprint card along with a sheet of personal information and send it to the Arkansas State Police along with a fee to have the background run. The return of this background check is usually sent to either the employer or the school, and sometimes to the applicant as well. The checks would not necessarily return every crime in every state. This would depend on if the Arkansas State Police send the background check to the FBI as well. I am not intimately knowledgeable about this specific process, but I would be glad to research it and get back to you on the depth of a check they do. Fingerprints sent in for employment checks are not entered into the system. They are merely read and compared to known files in the database. If there is no hit, the card is shredded, hence the reason everyone has to return every few years to be re-fingerprinted to renew certifications and licensure, along with changes in employment. I have been fingerprinted several times for employment reasons and my fingerprints are not on file in the database.

UPD has access to all crime databases in the nation. The problem is it can only be used for criminal justice purposes by state law and under guidelines established on the Federal side (National Crime Information Database (NCIC)). We use this system as one component of a background check for applicants at UPD. If we use it for background checks on non-law enforcement personnel we can be personally charged with a felony for each occurrence, so obviously this is not a possibility for our committee to consider. I also do not see the legislature considering changing this process since the Arkansas State Police has generated a revenue stream by charging for the background checks, even after forcing Arkansas schools to make them mandatory.

As far as background checks in general, the only real background check that is accurate is to go to every county courthouse and review court records to determine if they have ever committed a crime in that jurisdiction (obviously this is not even possible nor practical). A criminal background is only developed in the database (NCIC) when fingerprints are taken. If the applicant was charged with an offense and never fingerprinted, there will likely be no trace of this in the system. If they were fingerprinted, the second phase to develop a criminal history would be for the court clerk of the court the case was heard sending the disposition of the case to the State agency in charge of entering the disposition. After both of these are done a criminal history is captured in the database and searchable. Usually if fingerprints are entered into NCIC (only in criminal situations would fingerprints be entered) then they would usually never be removed except by court order regardless if the court clerk sent a disposition in or not. This

would indicate you have an applicant was fingerprinted for some possible criminal reason, but you would have to do more research to find out why and if they were convicted.

There are also issues of some states not keeping their databases up to date, or not having adequate systems in place to accurately capture the whole spectrum of the justice system. This in turn would also allow you to miss an applicant's criminal history. A good example would be an applicant who is a juvenile when they commit a sex offense related crime. These cases are usually sealed, and not added to the applicants record when they become an adult so you would have no idea this person is a sex offender. Many of the cases require the offender to register as a sex offender for the rest of their life, even though they are convicted as a juvenile. Since juveniles are not fingerprinted, the database was not updated, and the juvenile court record was sealed, many times these persons (a small percentage compared to the whole system) "fall through the crack" and as long as they move to another state they are likely to never be caught. The awareness of this situation is heightening, and systems are fixing these type situations, but there are some still out there. I have experience with this type of situation occurring. I don't find it alarming, or widespread, you just need to realize the system has flaws and gaps just like any other.

In closing, you cannot depend on obtaining a 100% assurance you are getting an employee with a clear record by running criminal backgrounds, but it is my experience with the NCIC system it is dependable on the criminal history you do discover. The question would really be, could you use or gain access to the system by using the method the current Nursing, Childhood Services, and Education students use? Would private industry who offer criminal background checks for a fee have records as complete as NCIC would? In either case, I think any system we might choose is better than nothing. --- RANDY MARTIN

Appendix C:

BRIEF LISTING OF WEBSITES WITH BACKGROUND CHECK INFORMATION

University of Kentucky Overview: <http://www.uky.edu/HR/HiringOfficials/PDS/overview.html>

Legal Issues: <http://www.mbbp.com/resources/employment/backgroundchecks.html>

Privacy Clearing House Resource: <http://www.privacyrights.org/fs/fs16-bck.htm>

Getting Back into Workforce with an Issue on Your Record:

<http://www.privacyrights.org/ar/rosencrim.htm>

Sharing Records: <http://www.ncsl.org/programs/pubs/slmag/2003/203criminal.htm>

Pros and Cons from Society of Human Resource Management:

http://www.shrm.org/memberkit/sub_pages/whitepapers/CMS_000379.asp

Student Background Check for Enrollment?

<http://www.wbir.com/news/national/story.aspx?storyid=44340&provider=gnews>

Student Checks: http://www.usatoday.com/news/nation/2007-04-17-blcover_N.htm

Not accepted in health care program if student fails background check: <http://www.tri-c.edu/nursing/docs/background.checks.htm>

Draft of criminal background policy for University of Wisconsin:

<http://www.secfac.wisc.edu/senate/2006/1106/1946.pdf>

Chronicle of Higher Education Background on university checks:

<http://chronicle.com/daily/2006/10/2006100203n.htm>

<http://chronicle.com/news/article/1395/wisconsin-system-to-require-criminal-background-checks-on-new-hires>

Appendix D:

Links to Example Background Check/Hiring Policies of Other Universities

Penn State Background check issues: http://www.psu.edu/dept/vprov/pdfs/q_a_background_cks.pdf

Indiana University: <http://www.indiana.edu/~ufc/docs/backgroundcheck.htm>

Marywood U reserves right to do background checks:

http://www.marywood.edu/www2/policy/5Business/Background_Checks.stm

University of Idaho: http://www.nacua.org/documents/UIdaho_BckgrndChk_Complete.pdf

University of South Carolina: <http://hr.sc.edu/forms/bkgrndAuthAdmin.pdf> and

<http://www.sc.edu/policies/hr190.pdf> and

http://www.scsu.edu/files/hrm_policies/Background%20Checks.pdf

University of Western Kentucky:

<http://www.wku.edu/hr/AAWeb/Policy%20Background%20Investigations.htm>

University of Kentucky: and <http://www.uky.edu/HR/policies/hrpp011.html>

University of California Santa Barbara:

http://hr.ucsb.edu/employment/pdf/Background_Check_Form.pdf and

http://hr.ucsb.edu/employment/pdf/Background_Check_Procedures.pdf

University of Colorado at Boulder: <http://www.colorado.edu/studentemployment/background.html>

and <http://www.colorado.edu/policies/backgroundcheck.html>

Norfolk State University: <http://www.nsu.edu/policies/pdf/FinalBackgroundCheckPolicy1.pdf>

Farleigh Dickinson University: <http://hr.fdu.edu/policies/backgroundcheck.html>

Arizona University System – Board of Regents:

http://www.hr.arizona.edu/02_sel/preEmpScreenOverview.php and

http://www.hr.arizona.edu/09_rel/policies/pp103-1.php and

http://www.abor.asu.edu/1_the_regents/policymanual/chap6/6-709.pdf

Birmingham—Southern College:

http://www.bsc.edu/administration/humanresources/job_opportunities.htm click on Statement of Consent

New Mexico State University: http://www.nmsu.edu/~fsenate/emp_background.html

Miscellaneous links to various universities:

http://www.cupahr.org/knowledgecenter/kc_template.asp?id=1946 Berkeley specifically

<http://hrweb.berkeley.edu/policy/bgcheckfaq.htm>

Appendix E: Prior Work on Tentative Background Check Policy at ASU

Background Checks Policy & Procedure -ASU Jonesboro Draft & Dean's Response

In order to create a safe and secure workplace and to ensure that Arkansas State University Jonesboro employees are qualified to perform duties and responsibilities of the positions they hold or are applying for, the University has adopted a background review policy.

The Policy as set forth is:

Background reviews, depending upon the position, may include a combination of any of the following:

- Credential verification (academic degrees certification, professional licenses, etc.);
- Criminal history and identity (Federal, State, and Local);
- Employment references;
- Consumer credit reports;
- Drug Testing;
- Social Security Number traces; and
- Motor vehicle driving history.

The following employees will be subject to background review:

- All regular employees who are hired, rehired, transferred, promoted, reclassified, or appointed to interim positions. Rank promotions of tenured, tenure track and non-tenure track faculty are not subject to a background review upon promotion.
- University employees competing for vacancies through an external search process.
- University employees changing positions from faculty to academic administrative or to administrative status.
- Graduate assistants, teaching assistants, post doctoral appointments, temporary employees, student employees, volunteers and affiliates with significant responsibilities listed in the ASU Sensitive Duties Checklist. A background review will be conducted at the initial time of hire. Employees holding positions in any of these categories will not be subjected to another background review unless there is a break in employment of one year or more. A waiver may be granted by Human Resources for short-term hires of 30 days or less (no extensions). However, the Department Head/Director is responsible for ensuring that the employee does not perform duties listed in the ASU Sensitive Duties Checklist without adequate safeguards.

A signed Candidate Consent and Disclosure Form is required as part of the application process and must be present before any background review may be conducted.

Any background review report that reveals adverse information on an applicant or employee shall not automatically disqualify a candidate for the position being sought or held conditionally pending results of review.

Any material misrepresentation or omission on an application document may be grounds for rejection of the applicant, termination of employment, or refusal of subsequent consideration with the University.

Additional employment reviews may be required by law, regulation, or contract.

Background review information findings are to be regarded as highly confidential and will be released only under conditions consistent with applicable law.

Procedures:

When a department initiates any action requiring a background review, the hiring department will coordinate with Human Resources to determine the type(s) of background review(s) to be conducted.

All job postings must contain notice that background reviews will be performed on the finalist. The application packet required of candidates must include a Candidate Consent and Disclosure Form to be considered a complete application. Access for the form is at the following WEB address:

The hiring department is responsible for obtaining the following information on finalists when required for the position:

- Educational credentials -Verify through the official transcripts the highest (terminal) degree of final candidates .

- Employment references and past performance -Check and document at least three of the relevant references listed on the application or resume. Verify work dates, job titles, work experience and performance of candidates.

- Professional license or certifications -If a position requires a license or certification(s), such as a licensed practical nurse, contact the responsible licensing board (local or national) to verify and document that the candidate has a current and valid license or include this in your background review request. Once a finalist is selected, the Hiring Department will forward to Human Resources a completed permission to offer, Employment Background Review Request Form, a copy of the signed Candidate Consent and Disclosure Form, pertinent application materials, and sensitive duties checklist. The Human Resources Department will work with the hiring departments to coordinate the appropriate background reviews.

The Human Resources Department will coordinate requests to external vendors for the applicable background review checks and will note on the Employment Authorization Form the date the authorization was received and the date the request was made to

external vendors. The Human Resources Department will review all background review reports received.

Non-Adverse Information Discovery:

If background review reports are non-adverse, the Human Resources Department will notify the hiring department that the offer may be finalized or, if the individual is currently working, that the background check has been successfully completed and the hiring process is finalized.

Adverse Information Discovery:

If the background review reports produce any information that might be considered as a cause for an adverse employment action, Human Resources will work with the hiring department, appropriate Dean/VP and University Legal Counsel to evaluate the value of the information against the total past employment record and future employment potential. These parties will assess the relevance of the information to job duties, the date of the offense(s), the nature of the offense(s), and the accuracy of the information the individual provided on the employment application. If consensus cannot be reached, the

VP for Finance and Administration will make the final decision.

If the information is deemed relevant and prompts the University to consider taking adverse employment action (i.e. denying employment, reassignment, or termination), the Human Resources Department, in compliance with the Fair Credit Reporting Act (FCRA), is required to forward a Pre-Adverse Notice to the applicant that includes a copy of the individual's background report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act". The Pre-Adverse Action Notice will provide the candidate an opportunity to challenge the information provided in the report and take steps to correct inaccuracies or provide explanation. A final employment decision will not be made by the hiring department until all information is gathered and evaluated, or at such a time as the applicant fails to respond as required. A minimum of five days for an applicant to refute, explain or correct the information is required.

The Adverse Action Notice forwarded to the applicant must include:

- The name, address, and phone number of the reporting agency;
- A statement that the agency supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- A notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and the right to receive a free additional consumer report from the agency upon request within 60 days, and to dispute with the reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

The Human Resources department will manage and retain employment background

review information. Information collected on successful applicants will be stored separately from the official employee files. Information collected on unsuccessful

applicants will be stored with the candidate's application materials and retained for three years. Documents related to employment background review information collected by hiring departments will be filed and maintained in the departments and destroyed three

years after rejection for unsuccessful candidates or three years after termination or retirement for successful candidates.

All hiring departments should contact the Human Resources Department for further assistance if information obtained from a consumer report is to be used to take adverse action against a candidate or employee.

Positions that Require a Commercial Driver's License:

Positions that require a commercial driver's license must pass a drug test as part of the application process, and if hired, subject to random drug testing during the full length of employment.

Supervisor's Discretion to Drug Test:

Supervisors may require a drug test at any time that an accident or erratic behavior is observed. The employee will be required to submit to drug testing, or be subject to progressive discipline up to and including involuntary termination.

Arkansas State University -Sensitive Duties Checklist

Arkansas State University requires a background review on graduate assistants, teaching assistants, post doctoral appointees and other temporary employees, student employees, volunteers and affiliates that have significant responsibilities listed below:

- Care, safety and security of people or property (includes sworn public safety officers, childcare workers, camp counselors, etc.);
- Direct access to, or control over, cash, checks, credit card account information (includes cash handling or credit card acceptance positions);
- Authority to commit financial resources of the University through purchases or contracts;
- Control over campus-wide or departmental business processes, either through functional roles or systems security access (includes network administrators, system programmers, etc.);
- Access to detailed personally identifiable information about individuals or organizations associated with ASU (includes information about volunteers, affiliates, students, staff, alumni, and/or vendors);
- Possession or access to building master or sub-master keys; access to residences and certain other facilities, particularly laboratories (includes custodial service, locksmith, residential and student services program employees, etc.); and
- Regular operation of University vehicles.

Draft Date: July 21, 2006 -> *NOTE ADDED BY CURRENT TASK FORCE: DATED JULY 21, 2006 BUT THIS WAS APPARENTLY ACTUALLY JULY 21, 2007.*

DRAFT

The Academic Deans Council would like to provide questions and commentary on the document entitled "University Wide Pre-Employment National Background". The comments will not include all concerns but be limited to text in the draft document.

1) Your title implies a national background check but mentions Kentucky as a state with a mandated requirement. Will we be using Kentucky as our model?

**The ADC recommends that the Chancellor appoint a university wide committee to study the national background check issue. In the interim, HR should contact universities in states where there are mandates, collect information about policy, procedure, issues and concerns and utilize that information as a basis for further discussion.

2) You make assertions in your preamble for a "safe and secure environment", "protect funds, property and other assets" and to "stay current with best practices".

a) What sources of information will you use to verify and address these issues?

SSN#s

Employment History

Credit History

Education

Professional Licensure

Drivers License

Addresses

Criminal Convictions

Civil Lawsuits

Motor Vehicle Records

Other

**The ADC would recommend that you have a clear purpose of WHY you are doing these checks so that you select and verify the appropriate sources of information.

b) How will you access that information-through what sources?

**The ADC would caution you that it is extremely important, once sources have been identified, to understand the limitations of the information provided.

c) How far back will you go in an employee's history-7 years, 10 years, entire life

**A consistent policy needs to be adopted for all new hires.

d) For all of the categories you are verifying, when will you deny employment? Who will determine the classification of offenses and the optimal cut off for employment?

**The ADC does not agree that the hiring official is the responsible party for making that determination.

3) The draft indicates that your goal is to "find out as much as you can about skills and behaviors". It is unclear what skill sets you are seeking to investigate-the ability to keep a job, drive a motorized vehicle, manage our finances, not commit crimes. These skills are considerably different than what we advertise as part of the formal job description.

**The ADC recommends that the last paragraph be removed from the draft paper.

4) Cost per employee

**The ADC recommends that IF a pre-employment background check policy is implemented, the fiscal impact be built into the university budget. The account established for that purpose can be used by everyone at the university to fulfill this new employment obligation

Finally, the ADC would like to note there are many states and agencies who do NOT endorse criminal background checks. In Arkansas, there is no legal, legislative or organizational demand which forces this type of adoption. If ASU chooses to pursue this path, careful consideration of implications and unintended consequences need to be discussed and reviewed. We are under no constraints to hurry this policy consideration.

University Wide Pre-Employment National Background

Draft presented to Faculty Senate January 19, 2007

It is important that Arkansas State University's academic, service and research missions are supported by qualified employees in a safe and secure environment for all university constituents, including students, visitors, parents, and employees. It is also important that Arkansas State University take meaningful actions to protect its funds, property and other assets. It is also important that Arkansas State University stay current with best practices in Human Resource Management intended to support the verification of credentials, criminal history, and other information related to employment decisions that assist the university in meeting its commitments. This being said, ASU should have the following policy:

Policy

It is the policy of Arkansas State University that all external candidates for employment of staff (regular and temporary), faculty and students have certain credentials, criminal and other background information verified as a condition of employment. These verifications will be completed prior to making the hiring decision.

Background

Recently the Kentucky legislature passed a law requiring state post secondary institutions to conduct pre-employment national background checks on all perspective regular full-time, regular part-time, temporary and student employees hired beginning July 12, 2006. Additionally, all applicants for employment will be required to complete an employment application requesting self-disclosure of felony convictions.

The use of the Arkansas State University online employment system will be instrumental in streamlining this process containing cost and assuring compliance.

According to Privacy Rights Clearinghouse, universities' need to know about potential employees is driven by a number of factors. These include:

- False or misleading information given by job applicants (estimated by some sources at 30 to 40% of all information given on resumes and job applications)
- Federal and state legal requirements for certain jobs including those that involve contact with children, the elderly or disabled
- The September 11 attacks
- Negligent hiring lawsuits where a university is sued because an employee caused harm to someone else

The University's goal is to find out as much as it can about skills and behaviors an applicant will bring to the university. ASUJ is trying to establish basically whether a prospective employee will be a good fit for the university and what type of risk might be posed to the institution.

Date Prepared: January 16, 2007

**Report of Faculty Senate Ad Hoc Committee to Respond to Background Check Proposal
Presented by Jennus Burton at
1/19/2007 Faculty Senate Meeting**

Committee Members

Louella Moore (Chair), Winfred Bridges, Donna Caldwell, Mark Foster, David Holman

Recommendations

The committee recommendations are as follows:

- 1) No blanket policy for background checks of incoming new faculty should be implemented at this time.
- 2) The proposal for background checks of all incoming faculty should not receive any further consideration by campus constituents in its present form. This is too serious an issue to get general permission then work out the details later. The procedural problems of how to implement the policy should be worked out before the recommendation can be appropriately considered by campus groups or the Board. The language that “the University’s goal is to find out as much as it can about skills and behaviors an applicant will bring to the university” is clearly too far reaching.
- 3) The Faculty Senate should recommend that any modified proposal to extend background checks to faculty in situations other than when required by law, should be accompanied by specific procedural guidelines informed by campus constituent groups and a clear indication of what types of background items would be checked, for what period of time, along with a clear rationale for job relevance. The policy language as written seems to apply equally to new staff, faculty, and students when clearly different types of data would be needed. Background check needs and legal issues are different for each

group. These should be three separate policies with different implementation guidelines worked out in advance.

Rationale for the Conclusions:

The Committee understood its charge to be as follows: to develop a timely response to the proposal for background checks as presented by Jennus Burton at the January 19th Faculty Senate Meeting, preferable by the next Senate meeting. To this end we sent out an open-ended survey to the members of the faculty listserv (Faculty-L) on Monday January 22 asking for responses to the proposal by noon January 25th. We asked for faculty to indicate if they were 1) highly in favor of the proposal, 2) highly opposed 3) partially in favor, but only with significant modifications in the wording of the policy to protect the misuse of the data – if so, what kind of modifications? In addition to responses from the faculty listserv participants, we also received one forwarded comment from Donn Mixon as contacted by the local AAUP.

Three committee members met to reach a consensus on how to categorize the open-ended responses. Results were as follows:

In Favor	Serious Implementation Issues	Opposed	TOTAL
9	8	16	33
27%	24%	48%	

We interpreted these responses to mean that some faculty feel that background checks might make them feel safer and they are not concerned about background checks. On the other hand nearly half of the faculty are opposed to the proposal in its current form. Opposers

included comments that no compelling case has been made for the necessity of the checks, the departments cannot afford the checks, or other procedures already in place are sufficient. The number who are concerned about serious implementation issues may be slightly understated by the data in the chart because some of those stating that they were in favor and some of those who were opposed also stated implementation concerns about the types of background items that were relevant. Overall the committee interprets the data to mean that nearly $\frac{3}{4}$ of the respondents would be opposed to the proposal in its present form. It is unclear how many faculty would be in favor vs. opposed if faculty had more information about the types of information that will be collected, the degree to which there have been real issues with inappropriate behavior in the past that would have been caught by background checks, the procedures that will be used to make sure the data collected is clearly job relevant and accurate, and logistical issues that might slow down the hiring process. Our conclusions attempted to capture the overall feelings of the faculty rather than views of committee members. Dr. Winfred Bridges asked that a statement be included in the report as follows: "If the committee report goes in, please indicate that I am for the background checks."

Many implementation concerns were expressed about costs of a human resource function being passed on to departments that already have insufficient resources to meet their teaching and research function. For departments with large numbers of adjuncts and clinical staff the cost would not be insubstantial. Some college that already are required to do certain background checks indicated that there are many problems that arise that need more extensive input. Some expressed concern about the logistical problems of running the checks at the beginning of the term when classes split at the last minute. Some of the most commonly cited implementation concerns included the need to have clear guidelines in place prior to passing the policy that will protect persons from invasion of their privacy for issues such as credit checks that would be irrelevant for most positions. The informal legal opinion indicated that if there is no clearly developed list of what background is being searched with notice given prior to the search, the checks could cause more lawsuits than they prevent. Mr. Mixon also noted "credit histories contain information that would not be relevant to the hiring decision and are difficult to read. I would be concerned about liability issues arising." There was extensive concern about exactly what the Hire Right software will be checking and for how many years. One respondent noted that apparently the definition of what constitutes a felony varies from state to state.

Appendix E: Common Views on University Background Checks

Note: The following statements are examples of the range of “opinions” on background checks. The document was used by the background check committee in its early stages to stimulate discussion on the full range of views on the issue. The background check issue has both factual and emotional elements. These statements are NOT intended to represent the committee’s final position, but may provide some limited direction on why the issue tends to be controversial.

1. Background checks of employees create a safer workplace.

Positive: Individuals of questionable background may be less likely to apply for jobs that require a background check. Thus, the quality of the employment pool may be improved by eliminating candidates with drug convictions, sex offender, or other criminal backgrounds.

Downside: The majority of the on-campus instances of violence do not involve employees, but students. Requiring background checks of students as well would be needed to truly ensure a safe workplace. This might be unduly costly and could discourage student enrollment whereas attending a college education could be a good path away from criminal actions committed at a young age.

2. Doing background checks of employees would protect the university from lawsuits from negligent hiring practices.

Positive: If a negative event occurred in which harm was done to a student or other member of the campus community and it was later found that the perpetrator had a criminal background, universities can be sued for large sums due to negligence in checking the individual’s background. For example, a carpet cleaning company was sued by a client murdered by an employee with a criminal history; the judgment was \$11 million.¹

Downside: Background checks may not always find all instances of criminal activity in the person’s background. Where background checks are done other lawsuits can be filed because the data found was inaccurate, improperly used to exclude the individual from employment, or because the information was not properly protected from dissemination to parties without a definite right to see the information, or because reports included information that was not clearly job relevant. The annual cost of ongoing background checks could potentially far exceed the cost of a potential negligent hiring suit. It is unknown whether the cost of lawsuits from use

¹ See Discussion of \$325,000 judgment on misuse of credit reports by casinos for employee pre-screening in Laura P. Worsinger. SECURITY MANAGEMENT. Arlington: October 2006, Vol. 50(11), p. 85+. Also note in this article that failure to protect the data can result in penalties of \$1000/person or federal penalties of \$2500/violation.

of background checks might exceed the cost of lawsuits arising from failure to do the checks. Further, it is not possible to assess the true savings from background checks because of the difficulties in doing quality empirical research on events that did not happen because of background checks. Another downside is that there can be red flags in a person's background that have not risen to the level of a crime. These behaviors might be better assessed by traditional checking of references. The criminal background check could give a false sense of security that would decrease diligence of hiring supervisors in checking references.

3. Background checks are cheap, effective, and simple to do with the technology available today.

Positive: Many companies offer on line background checks for as little as \$10 per person.

Downside: According to a 2004 source, over 467 separate companies were offering background checks on the internet, but they provide little more than false assurance. In one study of 120 current parolees in the state of Virginia, when submitted to one online checking company failed to identify any criminal record on 60 of these individuals. A chief executive of one of the largest firms estimates that only about 100 of the 400+ firms in existence in 2004 were reputable. And persons can be fired or denied employment if they are mistaken for someone with a similar name.² It is not clear whether a cheap but ineffective background check would protect an institution from a lawsuit over poor quality background checks.

Many states limit the information that can be requested for pre-employment purposes. An article in the Summer 2002 EMPLOYEE RELATIONS LAW JOURNAL noted that many people are not aware that 21 states do not allow employers to ask in written or oral form about any arrest or detention that did not result in conviction. Other states preclude use of data more than 5 – 10 years old depending on the state.³

The University of Wisconsin System associate vice president for human relations estimates the cost of its newly instituted system of background checks will be between \$200,000 and \$250,000.⁴

4. Doing background checks is considered a 'best practice' among human resource managers.

Positive: Many publications from the human resource field do in fact suggest that failure to do background checks could expose the organization to legal risk.

² Greg Burns, "Cheap Background Checks often Miss Offenders," Knight Ridder Tribune Business News. Washington: April 11, 2004, p. 1.

³ Robert M. Howie and Laurence A. Shapero, Pre-Employment Criminal Background Checks: Why Employers Should Look Before They Leap. EMPLOYEE RELATIONS LAW JOURNAL, Vol 28, No. 1, Summer 2002.

⁴ Tom Schalmo, Regents Pass Hiring Checks. The Badger Herald, December 11, 2006.

Downside: It must be considered that many human resource publications 1) promote human resource manager's interests such as more employment in their department and 2) are funded by aids for aids to the human resource areas such as programs for background checks. Sometimes the articles are actually written by or quote persons who own background check companies.⁵

5. The fact that many states are beginning to require background checks for all new hires is evidence that background checks will eventually become standard practice for all universities.

Positive: The trend does seem to be toward more checks in industry and in government.

Downside: Currently, criminal background checks are only used by 26% of universities.⁶ The early adopters of background checks for state employment are discovering unintended consequences of the laws. Some universities have discovered that their state law for background checks on all new hires makes no exception for student workers such as those in federal work study. Some may even find they are required to have the checks for volunteers. Thus, the cost in terms of funding for the checks and potential disruption to university processes may turn out to be higher than expected. There is no quality empirical data available on whether the benefit of these checks exceeds the cost.

6. The technology exists to do a search that will reveal all criminal activity.

Positive: The FBI's National Crime Information Center (NCIC) system is becoming increasingly accurate.

Downside: The NCIC system is not readily available to persons other than law enforcement personnel. And 10% of the data needed is still not accessible due to computer migration issues. 25% of the data is not available for firearms and other background checks. Further, this database does not cover activity outside the US.⁷ Further, online sellers of so-called national databases usually fail to disclose that their 'online access to every court with external data

⁵ For example the quote in Martin Van Der Werf. Universities That Do Background Checks Should Apply Them to All New Hires, Speaker Says, The Chronicle of Higher Education, Monday October 2, 2006 from a university professor who owns their own risk assessment company.

⁶ Martin Van Der Werf. Universities That Do Background Checks Should Apply Them to All New Hires, Speaker Says, The Chronicle of Higher Education, Monday October 2, 2006.

⁷ Ramker, Gerard, "Improving Criminal History Records for Background Checks, 2005. Bureau of Justice Statistics Program Report. July 2006, NCJ 211485.

access' reflects perhaps only 14 % of courthouses in the country – a tiny portion of a true national search.⁸ “Contrary to popular belief, there is not a national criminal database available to most employers. Searches must be conducted at each relevant courthouse (with more than 10,000 courthouses in America).⁹

7. Other means of employment screening are less effective than background checks.

Positive: Some employers will provide little information about prior employees. Thus, a background check might provide information not provided by reference checks.

Downside: Many employers will be candid about employee performance. Further, at least a reference check would show dishonest behavior such as claiming to having worked someplace when they really had not. This kind of information would not show up on a criminal background check. According to one source, documenting an attempt to obtain references can demonstrate due diligence.¹⁰ The Society for Human Resource Management notes that 65% to 85% of respondents always check references and 78% indicated they speak to references provided by candidates.¹¹ However, another source indicated that with faculty hires only 43% verified prior employment and only 47% verified education records.¹² This may indicate a need for some universities to be more diligent with traditional reference checks.

8. If a person has nothing to hide, they will not be harmed by background checks.

Positive: This may result in those with background problems simply not applying for jobs where background screens are being done.

Downside: Reporting databases may contain errors or individuals could be unduly harmed if someone with a similar name is included in the database. One source indicates more than 6% of the population over 12 years of age (13.9 million people) has used drugs in the last 30 days.

⁸ Jon Socolof & Julie Jordan. Best Practices for Health Care Background Screening. Journal of Health Care Compliance, Frederick: Sep/Oct 2006. Vol 8, Issue 5, p. 5+.

⁹ Lester S. Rosen. Ten Safe Hiring Tools. OCCUPATIONAL HEALTH AND SAFETY, July 2002, Vol 71(7) , p. 30.

¹⁰ Lester S. Rosen. Ten Safe Hiring Tools. OCCUPATIONAL HEALTH AND SAFETY, July 2002, Vol 71(7) , p. 30.

¹¹ Rex M. Edwards and Brian H. Kleiner, Conducting Effective and Legally Safe Background and Reference Checks, MANAGERIAL LAW, 2002, Vol 44, No. 1/2, p. 136.

¹² Martin Van Der Werf. Universities That Do Background Checks Should Apply Them to All New Hires, Speaker Says, The Chronicle of Higher Education, Monday October 2, 2006.

73% of all current drug users over the age of 18 (8.3 Million) were employed in 1997. <http://www.crimcheck.com/drug-testing/substance-abuse.htm> Although drug using employees do cause more accidents and take more time off, it is not clear what will happen if 8.3 Million drug using individuals are unable to find any employment at all. While it might help the employer, it may make society even more unsafe.

9. Current employees should not mind having a background check policy, if it only applies to new hires.

Positive: Not applying the background check to existing employees should help the practice be more acceptable to current employees.

Downside: Ultimately, everyone pays. Background checks are not free. Money spent on background checks is money not available for departmental resources to accomplish the organizational mission or not available for employee raises.