



## **Errors in Employment Background Checks: Harmful Long-Term Consequences for Individuals**

Comments Submitted to the FTC Transition Team by:  
Beth Givens, Director, Privacy Rights Clearinghouse, December 16, 2008

The Privacy Rights Clearinghouse's (PRC) attention was drawn to the problem of inaccurate and inappropriate data in employment background checks by individuals who contacted us for information about their rights. Consumer-initiated contacts on the subject of employment background checks, including calls to our free hotline and inquiries on our web-based inquiry form, increased dramatically in the early 2000s, spiking sharply after 9/11. Such inquiries have remained at a high level ever since. The "hits" to our online educational materials on employment background checks increased at an even faster rate and also remain high. (<http://www.privacyrights.org/workplace.htm>)

This led us to track media coverage concerning employment background screening issues (which also increased over time and remains active). In addition, we made two separate FOIA requests of the Federal Trade Commission to obtain complaints filed by consumers against CRAs concerning background checks (one in May 2005, another in May 2006).

Complaints and observations from each of these sources were consistent: Subjects of flawed background checks were denied employment, sometimes for years, or lost jobs at which they had performed successfully, again, sometimes for years. The problems arose from inaccuracies in data reported or the failure of employers and consumer reporting agencies to follow laws and proper procedures.

It is evident to the PRC that this is a critical area of consumer protection and that it deserves the increased attention of the FTC. Our analysis of FTC data uncovered numerous instances of complaints against the same company for reporting inaccurate data, often concerning criminal activities; failure to follow Fair Credit Reporting Act (FCRA) requirements for limiting information reported; and difficulty in getting the errors corrected.

The PRC conducted an informal survey of the consumers who contacted us concerning employment background checks over a 60-day period. We learned that not even one of these individuals was aware of the FTC's role in protecting their rights. Furthermore, when the PRC filed its second FOIA request, we received no response for four months, and only did so after considerable prodding. While this is undoubtedly the result of scarce resources, we feel that the urgent social concerns associated with background checks require immediate action.

We would support changing the law to separate employment background checks from the FCRA's credit-related provisions, thus giving this matter an opportunity to receive the attention it deserves. At the very least, credit history reports should be prohibited for jobs that do not relate to finance, modeled after a 2007 Washington state law (S.B.5827).

(<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=5827&year=2007>)

The U.S. Attorney General's June 2006 Report to Congress on Criminal History Background Checks contains many constructive suggestions for improving the quality of data reported in employment background reports, and improving reporting standards in the industry in general. We would be pleased to work with the FTC in helping to implement such changes. ([www.usdoj.gov/olp/ag\\_bgchecks\\_report.pdf](http://www.usdoj.gov/olp/ag_bgchecks_report.pdf))

If the Federal Trade Commission wishes to contact us regarding the situation described in this summary, including footnotes of sources, please contact Beth Givens, bethg \*at\* privacyrights.org, or as follows:

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