

white paper

NATIONAL CRIMINAL DATABASE

This paper provides recommendations pertaining to best background screening practices when utilizing a national criminal record resource.

Background check processes vary widely. Screening programs typically depend on a number of factors such as tasks involved with the employment position, the location of the job site, and the surrounding employees an individual may interact with on a regular basis.

Since employers are primarily concerned with an applicant's criminal record, the most basic and commonly used feature within a background check is a criminal background search. A criminal record may be factored into an applicant's hiring eligibility if the criminal history might impact an individual's ability to safely and securely complete tasks associated with the position.

There are a variety of resources available to process criminal background searches. Locally, searches can be conducted directly through county courthouse records. On a broader level, statewide searches can be executed via established repositories. The highest search level available is a national search. Such searches utilize a multi-jurisdictional resource covering billions of criminal records collected from across the country, commonly referred to as the **National Criminal Database (NCD)**. Seemingly, the NCD would be the most logical resource to use when conducting background checks; however, relying on the resource alone can produce negative, complicated and even costly outcomes. The NCD cannot

act as a primary resource for information and employers must confirm any results with the original jurisdiction holding the conviction records.

This white paper will discuss the private sector's resource for national criminal records searches, the NCD, along with the resource for public sectors, the **National Criminal Information Center (NCIC)**. The article will conclude with the benefits and limitations of both resources and offer recommendations pertaining to best background screening practices when utilizing a national criminal record resource.

NATIONAL CRIMINAL RECORD SEARCHES IN THE PRIVATE SECTOR

The NCD compiles information from different courthouses, agencies, correctional departments and other registries. The NCD holds more than two billion records collected from nearly 2,000 sources across the country and has the functionality to return results instantly. An NCD search acts as a "wide cast net" for the background check process, which precedes any narrow, jurisdiction-specific search. Such searches are processed by a third-party and the results are corroborated with a primary source to confirm or negate the original findings.

The NCD search is useful as a supplemental search to identify records outside of an individual's specific address history. Some data sources that comprise the NCD include:

- Booking and Arrest Records
- Corrections Records
- County Specific Court Records
- Parole Records
- Probation Records
- Sentencing Records
- Sex Offender Records
- State Department of Safety Records
- Statewide Court System Records
- Traffic Court Records

NCD searches are essential—if an employer chooses to forgo the search, crimes committed outside the scope of the applicant's regular and usual whereabouts would go undiscovered. For example, if an applicant only supplied the last three residences and jobs, and the employer chose to only run county criminal checks, any criminal convictions for the individual, while perhaps on vacation or travelling for work, would never be revealed.

Accuracy

Regardless of the description of the service, the data sources utilized, or the size of the database, a resource such as the NCD can never be qualified as comprehensive or entirely accurate. There are several mitigating factors associated with the entities responsible for maintaining the data sources fed into the NCD.

First, because the database relies on the availability of electronic information, the NCD might not include accurate information from jurisdictions with unsophisticated electronic court records or delays in record updates. Entities must ensure that the information matches the original reporting jurisdiction,



as the results may be incomplete or outdated. It is imperative that entities seek out as much additional information as possible about the record in question.

Second, when using the NCD employers must note that the lack of results does not necessarily mean there is no criminal record for the applicant. This database relies on the assumption that every entity providing information to the NCD updates records accurately and regularly.

For the reasons stated above, entities must confirm any NCD results before entirely relying on the results as fact.

NATIONAL CRIMINAL RECORDS SEARCHES IN LAW ENFORCEMENT

Unlike the NCD, the NCIC's database of information is not accessible to private individuals or corporations. Background screening companies that offer nationwide searches must do so through an NCD.

The NCIC is a computerized system that centrally holds criminal information from every state and is accessible by all law enforcement agencies in the United States.¹ The system first launched in 1967, connecting a centralized database from the FBI to 15 state and city computers across the country.² By 1971, the database included criminal record information feeding from all 50 states. Today this electronic clearinghouse of criminal data is accessible to nearly every criminal justice agency nationwide. The NCIC holds approximately 17 million active records, processes nearly 14 million transactions daily, and receives entry submissions and updates from more than 90,000 agencies nationwide.³ The NCIC is composed of more than 21 crime-based categories, covering two file types – property and persons.

All 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and Canada have an entity that serves as a single point of contact for the NCIC; these entities maintain

and operate their own databases. There are also a number of federal agencies that maintain a direct line of contact with the NCIC. These entities, referred to as Criminal Justice Information Services System Agencies (CSAs), have the responsibility to enter, remove, or modify data submitted to the NCIC. NCIC's shared management model between the FBI and federal, state, local and tribal criminal justice users is subject to an auditing process every three years; this includes a review of CSA administrative policies and data quality procedures.

Accuracy

The NCIC is designed to run searches either in real time, as an event is taking place, or as a method of research. However, according to NCIC policy, positive search returns must be substantiated and verified with the agency that originally entered the information into the NCIC. For example, such results may not be used as probable cause for an officer to take action. This is a precautionary measure to ensure the information used by an officer is both accurate and current. Upon confirmation, the officer or inquiring agency has authorization to take action, whether that is in the form of an arrest, charge, or property recovery.

LIMITATIONS OF THE NCD AND NCIC

These databases are far from comprehensive and require further inquiry prior to validation. Record accumulation by human data entry alone is vulnerable to error. Negative outcomes generated by CSA underreporting reveal that most staff are inadequately trained to competently conduct these tasks. Errors might include simple data entry mistakes or misunderstanding how to interpret or classify certain information.

Additionally, these resources require some due diligence. When using either the NCD or the NCIC, positive, negative, or a lack of results alone cannot be used as a basis of fact. Private entities and law enforcement must take additional steps to confirm information when using their respective resource.

¹ FBI, 2019. *National Crime Information Center (NCIC)*, <https://www.fbi.gov/services/cjis/ncic>

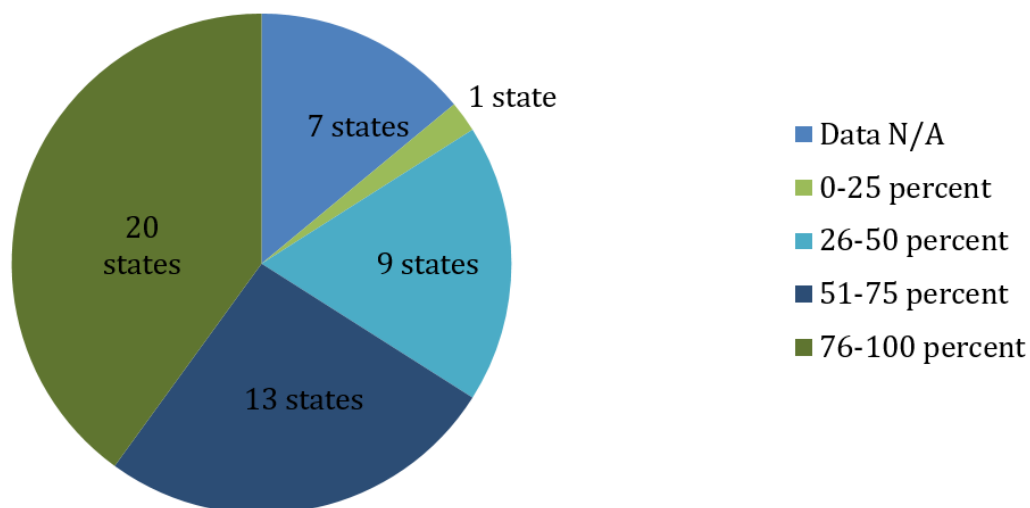
² *Id.*

³ *Id.*



Another shortcoming of the process involves the lack of disposition information. Typically these instances are a product of the court failing to report a case as a no charge, dismissal, or acquittal to a central repository. The Government Accountability Office (GAO)'s Report to Congressional Requesters in 2015 reported the following data regarding arrest records accompanied by final disposition:⁴

Percent of Arrest Records Accompanied by Final Dispositions by State (2012)



As indicated by the chart, at least 75 percent of the time, a large number of states cannot confirm that their respective arrest records were accompanied by a final disposition.⁵ Essentially, almost half of the United States arrest records carry at least a 25 percent chance of not being recorded with a final disposition. In turn, an individual's case classification may be erroneous.⁶ A record may reveal that a case is still pending, when in fact it is closed and the individual has either been charged or absolved.

Additionally, protocols and procedures may vary from agency to agency regarding entering information into the database. For example, some entities operate on a calendar with predefined times to route data. This creates lapses in record currency and accuracy; new records are not uploaded as they become available and existing records are not updated as changes occur.

⁴ United States Government Accountability Office, *Report to Congressional Requesters*, Pg. 19, (February, 2015).

⁵ *Id.*

⁶ *Id.*



BEST PRACTICES IN UTILIZING THE NCD FOR BACKGROUND SCREENINGS

In reviewing NCD results as part of an applicant's background check, it is critical to verify information by the originating source. A search with no returns requires the same subsequent action as a search that reveals a criminal record for the individual. **The NCD should only be used as an initial starting point to determine where the search for a background check should begin.** An entity cannot unequivocally reach conclusions without some corroboration. The concept is identical when using the NCIC – in order for a law enforcement agent to take action on information returned from an NCIC search, the information must be substantiated through the original reporting source.

The obvious question is why use the NCD at all when the severity of negative outcomes is so great? Although there may be negative outcomes, with the right amount of due-diligence, the NCD is still a great source to filter information and begin a criminal background check at the widest point. The NCD should be used as a comprehensive, all-encompassing source that points to information. A direct follow up with a county or state court is an effective way to confirm NCD search results.

Ultimately, employers are encouraged to incorporate an NCD search into existing background check packages to further increase the odds of making safe hiring decisions.

*This service is an optimal complement to local (i.e. county, state) jurisdictional courthouse searches since it offers the possibility of identifying potential criminal histories that exist outside of the applicant's provided address history. Furthermore, the increased level of security an employer gains in conducting this search far exceeds the cost. **For more information about incorporating NCD searches into background screening programs, please contact your account management team.***