

- **CRIMINAL RECORD INFORMATION**
- **STATEWIDE CRIMINAL CHECKS**
- **CRIMINAL RECORD DATABASES**
- **FAIR CREDIT REPORTING ACT RESTRICTIONS**

If you have surfed the Internet you have no doubt seen all types of criminal record searches being offered ranging from National and Statewide databases to a variety of county checks. There are a few things of which you should be aware.

- **FIRST:**

There is **NO** complete **NATIONAL CRIMINAL CHECK** available to the general public. The only real **NATIONAL** criminal check is that done through the FBI based on fingerprints and access to those is extremely limited.

You will see references to a **NATIONAL CRIMINAL RECORD DATABASE** checks. They sound good, and can be useful, but **ONLY** as an added search. One could be considered extremely negligent if the commercial database criminal search is all that was conducted in a normal background screening check because there are so many holes in the information in those databases. The principal limitation of these database searches is that they are, for the most part comprised of information on persons who were sentenced to state prisons for more than 1-year. Yes – we do offer them, but only as an add-on to a normal county criminal court (or statewide) criminal record search.

- **Why is that?**

In real life, **MOST** persons convicted of felonies do **NOT** go to prison for more than one (1) year, and in fact, many do not go to prison at all. So those names will not appear in the typical database. Most misdemeanor cases, which seldom involve more than a few weeks or months of local jail time will not appear therein either.

To understand the numbers just take a look at what is offered in the commercial NY State database searches. Most indicate that from 290,000 to 400,000 names are covered in that search since about 1990. That works out to about 30,000 names per year.

Take a look at the criminal justice statistics from the State of NY for the year 2002 and you will realize how much you can miss if all you do is the commercial database search. We have attached a chart of this information from the State of NY and have summarized the salient points below.

There were 526,000 adult arrests for felonies and misdemeanors in just one year. Of those, 167,000 were felonies and 359,000 were misdemeanors. Out of these totals, only 44,000 ended up as felony convictions and 273,000 were misdemeanor or other convictions. Out of the 44,000 felony convictions, **ONLY** 18,450 were sentenced to serve more than 1-year in state prison. The 18,450 number is the only one that gets into the commercial database for NY State.

Taking the 526,000 adult arrest figures and extrapolating them over the last 20 years, you will come up with at least 10 MILLION adult arrests. The commercial database is just contains about 400,000 of those names!

In NY State, prior to 2003, one had to search criminal record records on a county by county basis. However, that has all changed and one can now conduct a statewide check of the criminal court system in NY State for at least the last 20 years and in some parts of NY, back to 1976.

The criminal justice figures for NY State are probably not much different in any other state. So, when using criminal database checks, just be sure you understand what you are getting - and what you are not getting.

Yes these state databases are useful, but when it comes to making a diligent search, one must not rely only on that search. A county check should always be done as most people who do get convicted do so in the county where they are living or where they used to live.

Listed below are the actual figures for the State of NY based on 2002 information. Comparable figures for prior years are also included.

Criminal Justice Indicators New York State: 1998-2002

Data Last Revised On Reported Crime: **Wed Jul 23 09:47:40 2003**

Data Last Revised On Arrests, Prosecutions and Sentencing: **Mon Jun 9 07:24:22 2003**

Adult Arrests

	1998	1999	2000	2001	2002
Total Arrests	595,746	553,667	575,101	533,569	526,888
Total Felony	198,138	181,337	178,379	169,891	167,047
Violent	60,266	54,064	52,620	51,014	48,866
Drug	57,975	51,249	47,570	40,264	40,103
Other	79,897	76,024	78,189	78,613	78,078
Total Misdemeanor	397,608	372,330	396,722	363,678	359,841
Drug	98,242	94,539	117,725	94,637	95,710
DWI	42,686	39,627	40,019	38,505	39,146
Other	256,680	238,164	238,978	230,536	224,985

(source: Computerized Criminal History system)

Felony Prosecutions

	1998	1999	2000	2001	2002
% Prosecuted in the Upper Courts	30.9%	29.9%	29.9%	30.4%	32.0%
Total Indictments/SCIs	63,173	54,403	52,617	50,574	50,543
Violent	16,241	14,021	13,945	13,995	14,228
Drug	26,532	22,164	19,335	17,455	16,914
Other	20,400	18,218	19,337	19,124	19,401

(source: Indictment Statistical system)

Convictions and Sentences

Convictions

	1998	1999	2000	2001	2002
Total Convictions	370,181	342,758	349,663	318,386	319,097
Conviction Rate (% of Disposed)	63.1%	61.8%	62.7%	60.4%	62.1%
Felony	49,939	45,812	44,236	42,897	44,837
Misdemeanor	158,427	150,955	153,562	139,925	140,428
Lesser	161,112	145,244	151,249	134,938	133,041

Sentences

	1998	1999	2000	2001	2002
Total Incarcerations	145,906	135,734	132,237	119,080	117,359
Incarceration Rate (% of Convictions)	39.4%	39.6%	37.8%	37.4%	36.8%
Prison	23,643	21,130	19,699	18,365	18,451
Jail	109,487	102,589	101,583	90,320	88,995
Jail and Probation	12,776	12,015	10,955	10,395	9,913
Probation	32,181	30,860	29,792	28,135	27,025
Fine	85,448	79,563	78,691	73,285	75,862
Other	106,646	96,601	108,943	97,886	98,851

(source: Computerized Criminal History system)

- **SECOND:**

Then there is the 7-year criminal check. Be sure you understand what that means. It means that if your applicant is 36 years old and was convicted of rape 10 years ago, the information will NOT be reported to you if all you obtained was a 7-year check.

What the 7-year check means is that the agency doing the check will ONLY check for convictions occurring in the last 7-years!

The 7-year check is a holdover from the past when the confusing Fair Credit Reporting Act made it a violation for a reporting company (such as ours) to tell you that an applicant, who was being paid under \$20,000 annually, had been convicted of a crime more than 7-years ago! Ludicrous, but that was the law and before we could report an older case, we first had to check with you to determine if the applicant's salary met the reporting criteria.

NEW LAWS & CHANGES

Congress finally realized the 7-year restriction created major problems and in 1998, the Act was amended so that NOW, there is NO limit on reporting convictions of CRIMES, with some minor exceptions in *NY and CA.

This means that in most cases, if an applicant was convicted of a CRIME 15 years ago, it CAN be reported to you.

However, if that person, who had been arrested 15 years ago, had the charges dismissed, that would NOT be reportable to you unless that person can reasonably be expected to earn over \$75,000 annually.

You should insist that any search should go back as far as information is readily available in the courts. It might cost more in some areas, but these days, it is worth it. Especially if the extra few dollars saves your company a bundle.

- WHAT IS AVAILABLE IN THE COURTS?

In most courts, a search can be conducted for the last 10 to 30 or more years, depending on the location and the manner in which files are stored.

In some states, such as in CALIFORNIA, many court files are PURGED or destroyed after 10 years. That means that even if a name comes up 12 years ago in a search of the index, there may be no way to make a positive identification since the back up court file may not exist.

In New York City, on the other hand, all our searches cover back to 1976 and in most cases, the backup paper file is still available, although with some delays. If the applicant in *NY State earns over \$25,000, there is no limit on reporting convictions of crimes.

In most states, criminal record checks must be conducted by an on-site search of court dockets, normally in the county where the applicant is living and or used to live. However, there are a number of states where there are additional sources available to us.

There are also states that allow a direct check of State Police files, or the equivalent, assuming proper authorization has been obtained.

Most of the searches we perform are done through the appropriate county courts. We are summarizing below how WE do searches in some of the states where a combination of statewide and county searches can be conducted:

ALABAMA

We check all criminal courts in the state for arrest/conviction records dating as far back as 1979.

(As a bonus, this search also covers civil cases and those may from time to time be included in a report).

ALASKA

We check a statewide commercial database that tracks conviction records in Alaska back to about 1990. We also search the Statewide Court System.

CALIFORNIA

A County check in superior court and in many cases, municipal court for criminal records dating back 10 years. Records prior to 10 years ago are pretty much limited as many times the back up files are purged and destroyed thus making positive identification difficult.

There are commercial databases in CA that covers many counties. However, much of the information is limited and in many cases, there is no d.o.b. or address listed in the database, making identification almost impossible without first going to the court. We may use these as a back up, but all our searches in this state are at the county level through the court system.

Unfortunately, recent amendments to the California version of the Fair Credit Reporting act bar us from telling you that a person you ask us to check was convicted of rape, murder, arson, armed robbery or some other violent crime 12 years ago, served a few years in prison and was released from prison and parole OVER 7 years ago. (We strongly suggest careful reading of the State version of the FCRA). This odd restriction applies even if the person was re-arrested within the last 7 years on some other charge.

On the other hand, the Federal FCRA was also amended recently, but in a way that DOES allow the reporting of criminal convictions no matter how old they are.

COLORADO

In Colorado, we run a statewide check of the COLORADO DEPARTMENT OF PUBLIC SAFETY reportable criminal history records PLUS a check of the statewide criminal court system. Why do both? Because the state files are incomplete in that many criminal court cases have NOT been reported to the states central conviction record database. We do both searches automatically and they cover back as much as 20 years.

CONNECTICUT

In this state, we search the Statewide Superior Court Disclosable conviction record database. This contains criminal records from as far back as the mid to late 1980s.

DELAWARE

In Delaware, there is no State police check available. However, we automatically search all three (3) Delaware county criminal courts for the last 10 years for the price of a single search. Searches generally cover the last 10-15 years.

FLORIDA

In Florida, our search automatically covers the State of Florida Department of Law Enforcement (FDLE) files, which contain records of most felony convictions, and some misdemeanor cases back to the 1970s. However, there is a large reporting gap in the Florida system, so in most cases we ALSO run a check of the Residence County and include it when we check the FDLE files.

The FDLE check also includes records of outstanding arrest warrants from all over the state as long as they have been reported to the FDLE. In addition, the FDLE search picks up records of Sexual Offenders.

This means that if you have an applicant living in Dade County, Florida, for the price of a single criminal check, we search Dade County Criminal Court records dating back almost 20 years, PLUS, the State FDLE criminal history files.

GEORGIA:

In Georgia, we conduct one of two types of searches, depending on the nature of your release.

If you use the current Fidelifacts release, in which the State of Georgia is mentioned, we provide you with a statewide check of felony and misdemeanor arrests and convictions dating back close to 35 years.

If you do NOT use the current Fidelifacts release, we can only provide you with a felony conviction record search for the same time frame.

There is a big difference in the type of search done this way and we strongly suggest the former as most inclusive.

IOWA

A check of the State of Iowa criminal history database is conducted. It is fast and covers over 25 years.

KANSAS

Kansas Bureau of Identification files are available. However, the service is currently handled by mail and as a result, it can take weeks for a response. Unless requested, we only run the county searches in KS. That may change in the future as the state is planning a change in the method of accessing. Additional state search fees apply for the KBI search.

KENTUCKY

This is a statewide search of criminal records. However, when a record is found, the state will notify the subject of the search of the record found. The search dates back over 20 years.

MAINE

The old statewide check in Maine used to take weeks or months. That has changed and now, if there is no record, we get an almost immediate no record response. However, if there is a record, it takes longer for the state to get back to us with the details. This search covers felony and misdemeanor convictions back to 1936! The only exception are DUI cases that have only been in the system from 2000 on.

MARYLAND

We check all the district courts in the State as one search. In addition, the basic check includes a number of Circuit courts in the State. The searches date back to the mid 1980s. Most felony and misdemeanor cases are initiated in the district courts. If a charge is found to be a felony it will appear in the district court and then be forwarded to a Circuit court.

As a result, the district search picks up almost all-criminal cases in the state.

MICHIGAN

Michigan State Police, Criminal Justice Information Center is a statewide search that is automatically run, but there are so many missing cases, and because of a lack of central reporting that we always check county records and just run the State check as a backup. State records date back over 20 years. Currently there is NO extra charge for the statewide search.

NEW JERSEY

Normally, in NJ, criminal records can only be checked through the Superior Court system where the readily available records date back to about 1986. Superior court handles all criminal (felony) cases, plus cases that start in the municipal courts and are serious enough to possibly warrant handling as a felony. A case may then be remanded back to a municipal court if it is not considered a felony level charge.

If a person is arrested for a disorderly person's offense, which is not considered a crime in NJ, that will usually only appear in the municipal court where the offense occurred. Most driving violations, including DUI are handled only in the Municipal courts.

For employment purposes, we can check NJ State Police records that date back at least 25 years. However, this search takes at least 2 weeks to complete. The cost of that search is \$34 per person including state fees.

- **SOMETHING NEW!!**

For a small fee more than the cost of a county superior court check, you can also get a statewide check of felony convictions that for the most part date from 4 months ago back to 1986, though there are some cases from even earlier years.

This is only offered in addition to the regular county check because this database is limited to felony convictions and does not include pending criminal cases, or those that have been remanded to a municipal court as a misdemeanor or disorderly person's offense.

The database contains about 800,000 cases disposed of over the last 16 years or about 50,000 per year. However, consider these figures from the New Jersey Judiciary that indicate there are on average 230,000 cases in the Superior courts.

In 1995, there were about 5,600,000 cases in the municipal courts in NJ. Of those, 10% were criminal in nature (560,000). About 230,000 of those are minor disorderly persons offenses and remain in Municipal court. The remaining 230,000 annually, are handled in the Superior Court system. Many of those however, are remanded back to the Municipal court. That is why one must check in the county Superior court to get solid coverage.

Why not check Municipal Courts? There are numerous municipal courts in each county and it is virtually impossible to run a name check in their records without first knowing that there was a record, the date of the arrest and the case number. Hence, searches in NJ are limited to Superior Court where one does not need that information to search.

NORTH CAROLINA

In North Carolina, we conduct a two-fold search. The basic check covers ALL courts in the state ranging as far back as 1984 for felonies, misdemeanors and traffic violations. We also check pending criminal & DUI cases.

On top of that, we check the official state database of persons who have served time in any state prison since 1972, or who have been placed on parole or probation due to a criminal conviction since 1972.

OREGON:

The statewide criminal court system is checked, generally back to the mid 1980s. Should a case come up, we will in many cases also check the Oregon State police files. However you should know that if the Oregon State police have a record, they first notify the applicant in writing that a report is being made to us. That procedure can delay a report from the state police for 2 weeks. However, if there is NO record, there is no delay.

PENNSYLVANIA

All checks are conducted through the Pennsylvania State Police whose records date back 30-40 years. If there is NO record, we are immediately notified.

If there is a record, the State will notify us that the record is under review and it usually takes 2 weeks for a detailed response that may include all details, or may indicate that there is NO record (that the state is allowed to report).

At the same time we run the State Police check, we also check in one or more counties, depending on the location being searched. If the state notifies us that a record is under review, we automatically check the Residence County of the applicant, if known, as most arrests will take place in the county of residence.

This is all at the price of one search.

RHODE ISLAND

We check the statewide criminal court system containing records dating back to the mid 1980s. Depending on circumstances, we may also check the State criminal history repository, but that takes a few weeks.

SOUTH CAROLINA

Because of the costs of conducting a **statewide search**, most are conducted in the Residence County in SC. However, if requested, we can search the State of SC criminal history database, but there are additional fees involved. (If requested, the State search is fast and their data goes back 25 plus years).

TEXAS

The Texas Department of Public Safety offers a statewide search of information in their files, but those files are VERY incomplete because of inadequate reporting by individual counties to the state.

Hence, in TX, we always conduct county searches (in many cases, we may check 2-4 counties at no additional cost to you) and depending on circumstances may include, at no extra charge, a search of the TDPS files.

WASHINGTON STATE:

We check the entire Washington State district court system, which is where most criminal cases, both felonies and misdemeanors plus traffic offenses are initiated. This search dates back to the mid 1980s and earlier. In addition, we check the Superior Court covering the known residence of the subject.

And this is all for one price. In cases where we see possible matches, we may also run a check through the Washington State Patrol (WSP), similar to the state police.

WSP statewide criminal history files date back to the 1960s. The court search for the most part date back to the mid 1980s.

WISCONSIN

This is a very thorough search dating back at least 15 years. It covers all types of criminal cases on a statewide basis through the state court system. One search covers all but two (2) the counties in this state. In addition we check the State of Wisconsin Dept. of Justice Criminal History files.

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