



The Honorable Wm. Terrell Hodges
Chair
Judicial Conference Committee on Court Administration and Case Management
Thurgood Marshall Federal Judiciary Building
1 Columbus Circle, NE
Room 4-532
Washington, DC 20544

Dear Judge Hodges:

On behalf of the 900+ member companies of the National Association of Professional Background Screeners who perform thousands of searches on the PACER system to protect the safety of workplaces and communities across America, we write today to share our concerns with the current policy regarding key identifiers in PACER federal court records which may be inhibiting the completeness, accuracy and speed of background screening.

We urge you to review the current practice to determine if it can be improved to make searches of PACER more thorough, complete and accurate. One way would be through the use of key identifiers, particularly dates of birth (DOBs), which would enable background screening firms to accurately match criminal history against applicant information. Federal law requires background screening firms to follow reasonable procedures to assure maximum possible accuracy, and this becomes a practical impossibility with PACER records which are often stripped of key identifiers used to match records to applicants. All employers are impacted, including those in sensitive sectors, such as utilities, healthcare, and our education system. We understand that the current policy is designed with privacy protections in mind, but this comes with the great cost of incomplete background checks and the social harms caused by the inability of employers to thoroughly screen their employees.

Currently, 47 state data breach notification laws do not classify DOBs as protected personally identifiable information (PII). DOBs are valuable to promoting accuracy and completeness in background screening, but do not pose a risk of identity theft, as recognized by an overwhelming majority of state legislatures. The availability of such key identifiers would bring PACER in line with state and local courts that currently provide them.

Each year, millions of Americans applying for employment, housing and volunteer roles are served by background screening firms across the country. Schools need to prevent violent predators from gaining access to our children. Financial institutions need to identify individuals who have committed financial crimes. Utilities need to reduce the threat of harm to critical infrastructure by denying at-risk individuals entry to their facilities. Our members service all of

these sectors, and many more. Without the right tools to perform thorough background checks on these individuals, we are putting our communities at serious risk.

We encourage you to take this into consideration and hope that you will share our concern with the policy that is currently in place. Please do not hesitate to contact our office if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'msorenson', written on a light-colored background.

Melissa Sorenson, Executive Director
National Association of Professional Background Screeners