

IDENTIFIERS & DATA SECURITY

NAPBS members are some of the largest users of PACER data



BACKGROUND CHECK BASICS

- Background checks help protect our homeland, our workplaces, our citizens and our assets from bad actors.
- A background check is dependent on access to personal identifiers such as complete name and complete date of birth (DOB).

NEED FOR IDENTIFIERS

- At state level courts, DOBs are available in all state repositories.
- At the federal court level, however, DOBs are systemically unavailable in the federal record keeping system (PACER).
- It is extraordinarily difficult for professional background screeners to definitively determine whether or not a federal criminal record belongs to a particular individual, especially when the individual has a common (or even relatively common) name.
- This can lead to false negatives where a professional background screener does not report potential federal criminal record information and potentially compromises the safety and security of others because they can't definitively link the record to the consumer when the only identifier available is the name.

BACKGROUND CHECK USES

- The inability to positively identify individuals with federal criminal records has unintended consequences:
- Many major crimes are federal, including:
Identity Theft; Terroristic Threats; Drug Trafficking; Kidnapping; Embezzlement; Weapon Offenses; Bomb Threats; Financial Crimes; Wire Fraud; Internet Crimes
- Many background screeners perform background checks on government contractors working in sensitive positions.
- Financial institutions need background checks to identify individuals who have committed financial crimes.
- The federal government's background check backlog of more than 700,000 is also impacted by the lack of access to DOB's.
- Employers are potentially at a higher risk of negligent hiring claims when records are not considered in the hiring decision because a lack of sufficient identifiers meant they could not be reported.

SECURITY

- This can be accomplished in a manner that continues to ensure public safety:
- NAPBS members already have the consumer's identifying information and consent to conduct a background check. Simply having the ability to provide the DOB to PACER and receive confirmation of a match would be a major step forward.
 - From a security perspective, DOB is not a gateway identifier to financial fraud or identity theft. Of the 48 states with data breach legislation, 47 states do not classify DOB as an identifier that if breached would require notification.
 - NAPBS members are trained to properly handle potentially identifying information and are subject to strict regulations under the Fair Credit Reporting Act and the Fair and Accurate Credit Transactions Act of 2003. Our members are also regulated by a patchwork of federal, state and local rules pertaining to data security and privacy laws.



The remedy to this dilemma is to take steps add DOB to PACER, whether it is the Administrative Office of the U.S. Courts making a change, Congress directing them to do so, or a joint effort.

