

THE ULTIMATE GUIDE TO **CRIMINAL BACKGROUND CHECKS**



Why This Guide?

Because so many people use the term “criminal background check” —in HR, the news media, and endless movies and TV shows—it’s easy for us at Good Egg to think everyone must understand what a criminal history check *is*.

Yet whenever we stop and take a closer look, we quickly discover the opposite is true: most people don’t understand what a criminal background check is, especially when it comes to the finer points. And like everything else in life, these finer points matter.

So we put together this comprehensive guide in an effort to help.

In it, we cover the following topics:

- 1. What a criminal background check is**
- 2. Understanding the criminal background check process**
- 3. Three reasons why you should conduct criminal background checks**
- 4. The argument for ongoing criminal monitoring**
- 5. Eight criminal background checks myths, busted**
- 6. Criminal background checks best practices**

Let’s get started.

What is a criminal background check?

At its simplest, a criminal history check (also referred to as a criminal background check) is the foundational element of a pre-employment screening program. Understanding a candidate's past—including criminal history—is an essential input to the hiring process.

Among other things, a criminal background check helps an employer assess whether previous behavior could negatively affect a candidate's ability to fulfill the responsibilities of the position and/or pose a potential risk to clients and co-workers. While not foolproof, past behavior is often indicative of future behavior.

A thorough background check, including a criminal history check, is an important contributor to post-offer decision making. (It's also worth noting that in many states and localities, the criminal history check cannot be performed *unless* a conditional offer of employment has been made.)

What's included in a criminal background check?

The most common background check consists of criminal history searches in counties where a candidate has lived in the past 7 years. These county searches are often supplemented with a nationwide criminal history database search, which provides a quick, affordable method to search for criminal history information that may be recorded in jurisdictions *outside* the candidate's address history.

NOTE: Any criminal convictions located in the nationwide database with identifiers that closely match the candidate's information will prompt the addition of "primary source" county searches to the background check order. This is necessary for validation purposes (we're not just needlessly adding additional costs).

The scope of a criminal background check can be adjusted based on the client's requirements, including the expansion of the address history from 7 to 10 years; the inclusion of address history for locations where a candidate has worked or attended school; and the addition of searches, such as federal criminal, sex offender database, and/or sanction searches.

Are pending cases included in criminal history checks?

Based on the [Fair Credit Reporting Act](#) (FCRA) and to the extent permitted by applicable state/local laws (as well as client-specific requirements), pending cases can be included in a background check report.

Are arrests included in criminal record checks?

Based on the FCRA, arrests can be included in a background check report where permitted by state rules. Client customizations are possible, as long as the client requirements are not diametrically opposed to the FCRA and/or relevant jurisdictional limitations on scope or restrictions on reporting arrest records.

If FCRA and state requirements are met, and the client has requested they be reported, arrests and pending cases are classified as “reportable non-convictions.”

Are there different “types” of criminal background checks?

[The default scope for a criminal history search is 7 years.](#) Extended scope searches (10-year, full criminal history) can be supported at an additional cost to the client, to the extent permitted by applicable law.

Now, let’s look at the different types:

County criminal check. This is a county-level court search for criminal convictions and reportable non-convictions associated with the applicant. Scope of search is 7 years. Average turnaround time (TAT) is 3 days, but again, this is an average.

Turnaround time varies based on jurisdiction searched and research method available: automated counties are returned same day/next day. Counties with on-site public access terminals used by court runners are returned in 1-3 days. In counties where information is only available by placing a request with the court clerk (“clerk-assisted”), the turnaround time can extend from several days to several weeks.

RELATED: [Why Some Employment Background Checks Take So Long](#)

State criminal check. This is a statewide search (obtained directly from a state police department or state repository) for criminal convictions and reportable non-convictions associated with the applicant.

The scope of search is 7 years. The average turnaround time is 3 days. Again, this varies based on the state searched and research method available: automated states are returned same day/next day. States with on-site public access terminals used by court runners are returned in 1-3

days. In states where information is only available by placing a request with the state police (“clerk-assisted”), the turnaround can extend from several days to several weeks.

Statewide searches offer the client a wider research “net” for obtaining criminal history in areas adjacent to where a candidate has lived or worked. State-level repositories depend on the individual county courts to report data “up” to the state. Since there may be a time lag in the reporting from the county to the state, and the data reported can be inconsistent or incomplete, Good Egg recommends that customers use a state search as a *supplement* to county searches, which are based on address history.

An important note: *Statewide criminal searches are not universally available. Some states do not offer the service. Some require a protracted and expensive process (like submission of fingerprints by the candidate). Some have data repositories that are not updated on a regular basis, so they are unreliable sources of information for background checks. Like county searches, turnaround time for state criminal checks will vary based on the source and fulfillment method.*

Federal criminal check. This is a nationwide search for crimes prosecuted against the applicant at the federal level, in any U.S. state or territory, which include tax evasion, bank robbery, kidnapping, and/or counterfeiting. The scope of search is 7 years. The turnaround time is 1-2 days unless additional research is needed, which could extend the turnaround to 5-7 days.

Federal criminal checks are conducted as name-match-only searches. When a match is found, additional research is conducted to determine if the match is, in fact, the candidate.



Nationwide criminal check. This is a nationwide criminal database search for criminal history information associated with the candidate's primary and alias/maiden names in jurisdictions that fall *outside* the candidate-provided address(es) and address history obtained from the social security number trace.

The nationwide database is a compilation of information from various sources, including county and state criminal history repositories, department of correction records, and state sex offender registries. The frequency of the database updates is not readily known, and data is not considered primary source.

Because the results of the nationwide database search aren't considered primary source, results are not displayed to the client. Instead, the information obtained is used as a "pointer." Any reportable criminal history information found that closely matches the candidate's name and personally identifiable information (PII) is validated at the *primary* source, i.e., by processing a county criminal search, to determine if the information is reportable to the client.

What is automatically included in a "basic" criminal background check?

A "basic criminal background check" is in the eye of the beholder and is based solely on client requirements. That said, Good Egg offers a baseline package configuration that is the starting point for building out a screening program to meet the client's needs.

How do we work towards meeting a client's specific needs? Well, part of our discovery process with a prospect is to understand their business, including the positions to be screened, the number of hires expected per year, and the budget allocated for their background screening program.

Understanding the Criminal Background Check Process

Now that we thoroughly discussed what a criminal background check is (and all its various nuances), it's time to talk about the criminal background check process itself.

Let's say an organization is interested in hiring an applicant, pending the outcome of a criminal history check. What happens next? Below, we answer some of the most common questions associated with this process.

Do you need to get permission to conduct criminal background checks?

Bottom line: yes. You must present and obtain acknowledgement of receipt from the candidate for all required disclosures and summaries of rights, and you must present and obtain written authorization from the candidate to conduct a background check. In some jurisdictions, this step cannot be performed unless a conditional offer of employment has been made to the candidate.

What information is collected and processed during criminal background checks?

Below is a helpful list of the info we collect and process during the criminal background check:

- Collect subject-level information from candidate: name, social security number (SSN), date of birth (DOB), current address, alias names.
- Process SSN trace using subject-level information:
 - SSN trace returns address history for last 7 years (or lookback requested by client)
 - Automatically identify alias names associated with address history for last 7 years
- Programmatically add county criminal searches to the background check for all “in scope” names (primary and aliases), and counties gleaned from the subject profile and SSN trace.
- Process CrimScan+ (nationwide criminal database search), searching primary name and aliases.
- Add county criminal searches to the background check for all convictions found for “in scope” names and counties that are considered high-probability matches to the candidate.



How are county searches conducted for criminal background checks?

Each county search is dispatched to the most accurate and efficient fulfillment method for that particular jurisdiction.

Those fulfillment methods include the following:

- The county's data repository via an electronic/integrated solution
- A researcher who contacts the court directly via fax, postal mail, or web-based methods
- A "court runner" who visits the courthouse to conduct research via a public access terminal or by making a request through the court clerk

How are criminal history search results delivered?

Delivery of criminal history search results will vary by jurisdiction: searches processed via electronic/integrated methods will typically be returned more quickly than those searches conducted by researchers and court runners.

Clear results will often be returned more quickly than results containing records. Why? Because with results containing records, there's an additional quality control step applied to the data to ensure that convictions and reportable non-convictions comply with the [Fair Credit Reporting Act](#) (FCRA), state/local-level laws and regulations, and client-specific reporting guidelines.

What happens if you need to use the information from a criminal history check to reject the job applicant?

If you plan to reject a job applicant due to information obtained on a criminal background check, you are required by law to inform the job applicant via a pre-adverse action notice, followed by an adverse action notice.

Per compliance with EEOC guidance, an individualized assessment must be conducted before an applicant can be disqualified based on criminal history. Depending on the city/state where the applicant lives or applied for employment, an individualized assessment may also need to include the completion of jurisdiction-specific forms and additional information beyond the EEOC guidance. We've written an article on adverse action in the workplace, including what you need to keep in mind.

RELATED: [Understanding Adverse Action in the Workplace](#)

How does Good Egg handle conducting criminal background checks on international applicants and/or someone who has spent part of the last seven years working in another country?

The process of recruiting and hiring employees has undergone a sea change in the last few years. Thanks to technology, employers can recruit and engage talented employees based on their ability to satisfy the qualifications and capabilities to perform the job, regardless of where those individuals live. Time zones and geographical barriers are very much becoming a thing of the past.

The advent of an increasingly global—and mobile—workforce can add a layer of complexity to the background screening process. Your employee screening partner should be able to effectively, and compliantly, fulfill international services to supplement your U.S.-based screening program, when needed.

Good Egg is partnered with a leading global screening provider to ensure timely, accurate, and compliant fulfillment of international background check services for candidates who reside in the U.S. but have lived and worked, or attended school, in other countries. Supported international services, which can be conducted in over 230 countries, include (but are not limited to) criminal history, credit and bankruptcy check, motor vehicle report/driver abstract, education verification, and employment verification.



Do criminal traffic offenses show up on criminal background checks?

Criminal traffic offenses can, and do, appear on some county criminal searches. And there are jurisdictions where those offenses may only appear on a motor vehicle report (MVR). Good Egg's guidance to prospects and clients is that unless an individual will be driving as part of their job, a motor vehicle report should not be part of the background check and should not be included in the hiring decision.

Why shouldn't companies use "instant" national criminal background checks?

Spend any time online researching criminal background checks, and you'll see enticing offers for "instant" criminal background checks. The problem: anything too good to be true usually is.

While a nationwide criminal database does exist, it's important to know what this database includes. The nationwide database is a compilation of information from various sources, including county and state criminal history repositories, department of correction records, and state sex offender registries.

The problem? No one really knows how often this database is updated. Also, because the database is a *compilation* of data, it is not considered a primary source.

So the caveat remains true when it comes to "instant" national criminal background checks: buyer beware.

At Good Egg, we do not display the results from the national criminal database to the client. Instead, we use the information we've obtained from the database as a "pointer." Any reportable criminal history information found that closely matches the candidate's name and personally identifiable information (PII) is validated at the *primary* source, i.e., by processing a county criminal search, to determine if the information is reportable to the client.

3 Reasons Why All Companies Should Conduct Criminal Background Checks

Now let's talk about why ALL companies, large and small, should run criminal history checks on job candidates.

1. Consider this stat: 70 million Americans have a criminal record.

That's one in three adults. Keep in mind that this number is based on the FBI's definition of a criminal record. According to [this article](#), "The FBI considers anyone who has been arrested on a felony charge to have a criminal record, even if the arrest did not lead to a conviction."

We can quibble on the definition, but our point is still apt: chances are if you're an employer, you will have job candidates who have criminal records.

As an employer, you'll want to make an informed decision on every hire. Among other things, a criminal background check can help you gauge whether previous behavior could negatively affect an applicant's ability to fulfill the responsibilities of the position and/or pose a potential risk to clients and co-workers. While not foolproof, past behavior is often indicative of future behavior.

2. Ban-the-box legislation increases the necessity for criminal background checks.

This goes hand-in-hand with the previous point. Currently, 33 states and over 150 cities and counties have ban-the-box legislation.

"While criminal records may be uncovered in background checks, ensuring that people have a clean slate when applying initially allows them to present themselves to employers as qualified workers, not just a checked box on an application." – [Fast Company](#)

Banning the box creates a level playing field for job applicants—and this is a good thing. But it's still smart to conduct criminal history checks on job candidates after extending a conditional employment offer. And then, of course, if you decide to reject the candidate because of information you learn from the background check, you must conduct an individualized assessment and issue a compliant pre-adverse action notice, followed by an adverse action notice. (Read more about [adverse action](#).)

3. A quality criminal record check can reduce the risk of hiring a bad employee.

Think of all the costs associated with bad hires—recruitment costs, onboarding/training costs, "disruption" costs, severance, the cost of replacing the bad hire, the potential plummeting of workplace morale—the list is seemingly endless. Search "cost of a bad hire" in Google, and you'll find countless articles, all of which offer startling stats.

Even if you take the most modest money numbers cited in these articles, the bottom line is this: a bad hire WILL cost your organization. So if you can avoid a potential bad hire through a criminal background check, you'll likely save your company money and aggravation—not to mention potential lawsuits and brand damage that could result from ongoing criminal activity (for example, if your employee steals your customers' credit card numbers).

Remember, you use criminal background checks to inform your hiring decisions. If you're considering a job applicant for an online customer service position, it might not matter as much to discover the applicant was convicted of a DUI three years ago. But if you were considering the same applicant for a delivery position, that information would likely matter very much.

The Argument for Ongoing Criminal Monitoring

Pre-employment background checks are common. [GlobalHR](#) reports that a 2017 survey showed “background checks are nearly universal among employers, who turn to these pre-employment screenings largely to ensure the safety of their workplaces.”

The type of pre-employment screenings can and will vary, depending on the workplace, but they often include drug testing, verifications, and, of course, criminal background checks.

Why criminal monitoring should never really stop

Remember, criminal behavior isn't static. You might hire someone today who has a clean record, but six months from now, your employee has a run-in with the law. The employee now has a criminal record.

Of course, not all crimes result in a prison sentence or are deemed violent. And not all crimes will negatively affect that employee's position or performance. But you still should be aware of these infractions. Ongoing criminal monitoring can ensure exactly that.



Benefits of post-hire criminal monitoring

- Criminal monitoring is an excellent component of a post-hire screening program because it can help ensure workplace safety and data protection for your employees and your customers.
- Criminal monitoring is especially valuable when your staff is providing in-home services or working with vulnerable populations. Think children, the elderly, and physically or mentally challenged individuals
- Criminal monitoring is necessary in the growing “gig” economy where people often have multiple jobs. If your employee commits a crime while working at a second job, wouldn't you want to know about it in case it affects *your* workplace?

Ongoing criminal monitoring – how it works

Criminal *monitoring* is actually very simple, quick, and cost-effective. Once a pre-employment background check has been completed, which provides a “baseline” criminal history for a newly hired employee, that individual can be monitored, *automatically*, on a monthly basis to ensure there has been no subsequent criminal behavior.

Costs associated with continuous criminal monitoring

The monthly fee, per employee, is nominal. Not to mention it's an investment in the safety and welfare of your staff and customers. Here's how we approach it at Good Egg:

- If a change is identified versus the previous month's monitoring result, a primary source search or validator (e.g., county court, sex offender registry, etc.) will be processed and all reportable information will be delivered to the client. All validators, and associated pass-through fees, are invoiced at a pre-determined a la carte price.
- If no change is identified, only the monthly monitoring fee will be invoiced for that employee. In other words, no additional charges are applied.

8 Criminal Background Check Myths, Busted!

1. Social Security Number Trace = Social Security Number Validation. FALSE!

The “social security number trace” (sometimes referred to as “SSN trace” or “name and address locator”) is a research tool that we use at Good Egg to identify addresses, names (i.e., aliases, aka's), and dates of birth (DOB) associated with a social security number. Various algorithms are employed to determine the output of the SSN trace, including but not limited to combinations containing full, partial, and “wild-card” database searches of first name, last name, DOB, and SSN.

The outcome of the SSN trace will indicate an approximate SSN issue date and location where the number was issued. The SSN trace may also indicate if the SSN appears on the Social Security Death Index (SSDI).

All that said, **the SSN trace is *not* a social security number verification.** The search does *not* confirm that the social security number is associated to the candidate, nor does it confirm that the candidate is eligible to work in the United States.

The only authorized pre-employment method to confirm that a social security number is valid and belongs to a candidate is by requesting [consent-based social security verification](#) (CBSV) from the Social Security Administration.

2. A Nationwide Database Search or “Instant Background Check” = A “Full” Criminal History Check. FALSE!

The existence of a true “nationwide criminal history check” is one of the most common, and persistent, myths about criminal background checks.

This myth is reinforced by the myriad “instant background check” providers that pop up on the Internet (seemingly) daily. A google search for “instant background check for employment” quickly shows the lay of the land with promises like, “provides instant results,” “ensure your company’s safety,” and “instant background check in 3 easy steps.”

The reality is quite a different story...

Various national databases do exist and are regularly used by background screening providers to enhance the scope of a background check by searching for criminal activity outside the subject’s address history.

The problem is that many people believe a search of these data sources provides sufficient information about a candidate’s behavior to properly inform a hiring decision. THAT IS FALSE.

Here’s the truth about a national criminal database search:

- The search is not comprehensive; data from many jurisdictions does not appear in the nationwide database.
- Data can be incomplete and/or out-of-date.
- Updates to the database vary by jurisdiction, and users of the data do not have insight into when data has been refreshed.
- Data can lack personal identifiers (i.e., full date of birth, middle name) required to match the record to the candidate.
- Criminal history information obtained from a national criminal database search cannot be used to inform a hiring decision unless that information has been validated at the primary source.

At Good Egg, we do not display the results from the national criminal database to the client. Instead, we use the information we’ve obtained from the database as a “pointer.” Any reportable criminal history information found that closely matches the candidate’s name and personally identifiable information (PII) is validated at the *primary* source, i.e., by processing a county criminal search, to determine if the information is reportable to the client.

3. A Fingerprint-based Background Check = A “Full” Criminal History Check. FALSE!

The Professional Background Screening Association (formerly the National Association of Professional Background Screeners) provides [a comprehensive position statement regarding fingerprint-based background checks](#). We’re summarizing parts of it below.

Despite what TV shows like *Law & Order* tell us, the FBI criminal history database is not the “gold standard.” The database is premised on a passive collection system (i.e., jurisdictions are expected to report information to the database; the FBI is not soliciting or actively “pulling” information from the jurisdictions). This can lead to gaps in information and a significant incidence of incomplete and/or inaccurate database records.

The purpose of the FBI database is to aid law enforcement during *investigations*, not determine eligibility for employment.

While fingerprint-based background checks are a useful tool when conducting background screening, they do not provide a comprehensive history, so they shouldn’t be the only tool used for obtaining complete and up-to-date information (especially given there are gaps in the FBI database since many state and local jurisdictions fail to report arrest records or a court disposition to the FBI).

And keep in mind that you can’t legally fingerprint everyone who walks through your door. Many jurisdictions only permit you to fingerprint job applicants for certain occupations in which a criminal history background check is authorized or required under state or local law. An example: if the job requires dealing with a vulnerable population, fingerprinting might be applicable.

Instead, a truly comprehensive screen should use a combination of both private databases and primary source data (such as county, state, and federal repositories).



4. All criminal records are available through online databases, so the information is easy to obtain. FALSE!

Criminal records are disseminated throughout over 3,200 county court jurisdictions in the United States and its territories, and only a third of those are available online. In other words, *two thirds* of criminal records reside in paper repositories in the U.S. Conducting a thorough criminal background check requires manual labor to search through paper records, which takes time.

5. All criminal background checks are the same. That's why you should only consider price point when choosing a vendor. FALSE!

Criminal background checks are not created equal, and here's where the adage "you get what you pay for" comes into play. A cheap criminal report will provide basic results—and it could very well miss relevant information. A thorough search costs more because it takes more time and manual labor.

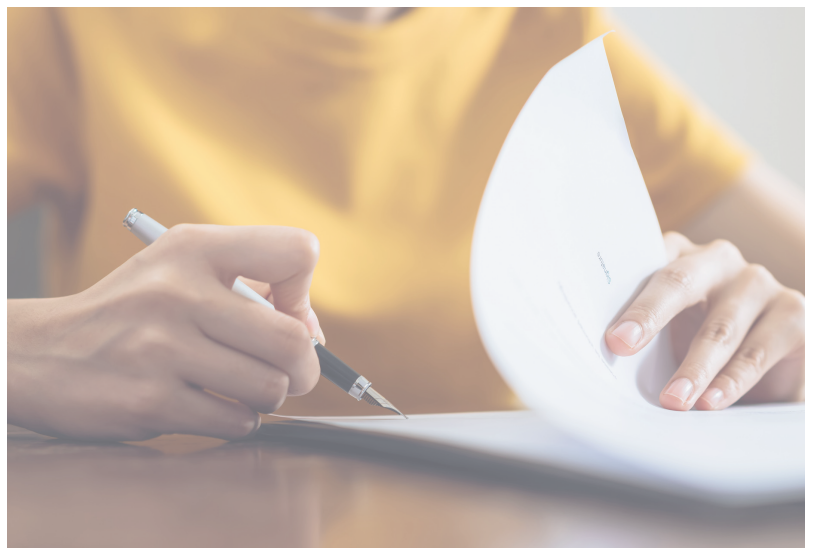
If you look only at price, it's easy to think, "I'll just go with the cheaper one." But that cheaper check won't be thorough—it won't give you much (if any) good information.

When comparing providers of criminal background checks, make sure you're comparing apples to apples. Consider what the record check is going to cover. A quality criminal background check should, at the very least, consider aliases (like a maiden name) and where the person currently lives (and, ideally, has lived). Then, the background check provider should conduct criminal county searches in those jurisdictions. (Note: it's worth noting that the majority of crimes are committed and prosecuted at the local level.)

6. Don't worry about all the documentation around disclosures and authorizations—it's just an administrative task and isn't that important. FALSE!

You can't run criminal background checks on people without their written permission and without giving the appropriate disclosures. Period. And HOW you ask people for this permission is equally important. Your organization could be facing stiff penalties for non-compliance.

Keep in mind that many states and localities have different notices that you must present to job applicants. Depending on where you're hiring people and where your applicants live,



you may have to present individuals applying for the same position with different documents to get their permission to run the criminal background check. And guess what? This verbiage is constantly changing at the state and local level. So if you don't invest in reviewing and updating these documents at least annually, you're likely running afoul of the law and you could cost your organization big bucks in terms of violations, lawsuits, and enforcement actions.

Do not underestimate the risks associated with providing the wrong or inadequate disclosures and authorizations to job applicants and employees. Ideally, you should work with a vendor who can keep you compliant.

At Good Egg, our system will dynamically present the right disclosures and authorizations based upon that job applicant's circumstances. We are proactive and alert you whenever there's a change at the state or federal level.

7. A pre-employment criminal background check is enough. There's no need for ongoing monitoring or re-screening. FALSE!

We live in the gig economy, where people often have multiple jobs. They might work 32 hours for you, but drive for Uber on the weekends, for example. If your employee commits a crime while working at a second job, wouldn't you want to know about it?

Criminal behavior isn't static. You might hire someone today who has a clean record, but six months from now, your employee has a run-in with the law. The employee now has a criminal record. Sure, not all crimes result in a prison sentence or are deemed violent, and not all crimes will negatively impact that employee's position or performance with your company. But wouldn't you still want to know about them? Not to mention, your company could be at risk of a negligent retention lawsuit.

Bottom line: A one-and-done criminal background screen at the time of hire is not enough to ensure a safe and reliable workplace over the long term.

8. Fast equals good. FALSE!

There's a lot of pressure to turn around background checks quickly—you don't want to lose a great candidate, after all. We understand that, but the reality is that a thorough and useful screening can take time.

So, again—don't be fooled by cheap criminal background checks or claims of super-quick turnarounds. Sure, you might save a few bucks, and you might get the criminal background check in record time, but what's the point if the results aren't complete or worse—they're downright sloppy?

Your organization deserves better.

Criminal Background Checks Best Practices

Here are several criminal background check best practices to keep top of mind:

- **Make sure that all background checks, including criminal history searches, are conducted consistently across the organization.** In other words, the same package of services is ordered for each individual applying for a particular position.
- **Understand your obligations, as an employer, under the Fair Credit Reporting Act (FCRA).** This includes initiating adverse action whenever a decision not to hire is based in whole or in part on the outcome of a background check.
- **If conducting criminal monitoring or rescreening—and/or a drug-free workplace program is in place—make sure you communicate clearly with candidates and employees about these programs.** Apply policies consistently across the affected areas of the organization. See this article regarding [drug testing program best practices](#).

RELATED ARTICLES:

- [Capital One Breach Highlights Criminal Brazenness Online](#)
- [Background Checks: 9 Big Mistakes Recruiters Still Make](#)
- [The Surprising Connection Between Background Checks & Customer Service](#)
- [Criminal Records and Employment Discrimination – Is it Affecting You?](#)

We hope this guide was helpful.

Thorough, fast, accurate, and compliant criminal background checks are the foundational element of an effective pre-employment screening program. Working with a reputable vendor who takes the time to learn about your business and goals will go a long way in making sure you develop a successful program that meets those goals.

At Good Egg, we have the legal expertise and experience you're looking for. We'd love to work with you. [Get in touch online](#) or call us directly: 631-557-0100.



About Good Egg:

Today, everyone has a digital footprint, thanks to social media. As a result, conducting employee background checks has become a lot more complicated. Plus, old screening methods haven't kept up. Enter Good Egg. We combine the human touch with lightning fast technology that not only looks at a person's past, but also their present and future behaviors. This helps HR managers hire more good eggs faster and with confidence, while maintaining 100% compliance. Learn more at www.goodegg.io.

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