

CITY INVESTIGATIONS

CORPORATE SECURITY



CICS

EMPLOYMENT SERVICES, INC.

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A large, faint, light gray silhouette of a person in a dynamic, athletic pose, possibly a dancer or a person in motion, positioned on the left side of the page. The person's arms are raised, and their body is angled towards the right.

The Investigation begins with you!

CICS GUIDE TO PRE-EMPLOYMENT SCREENING

Information contained in this guide should not be deemed absolutely accurate or definitive. Please consult with legal council before relying on any information that is contained within. Contents of this guide may change from time to time as updates occur.

Welcome to



CICS Employment Services, Inc.!

Please take a few minutes to read this pamphlet. A short time spent now, before you begin to submit checks, will pay you back several fold in the future. The quality of the outcome of your searches is directly related to the accuracy and thoroughness of your submission.

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What you should know about our product.



Often times we are asked about the accuracy level of our products. The truth is, we can't know for certain what percentage of records that we miss, and in fact, no one can. If we knew what we missed, then we wouldn't miss it. We can't know what we don't know.

Although very rarely we do get a complaint that we missed a record or that we misreported a record, we know that the odds are that we must miss some records. This is a very big country, and people are free to come and go wherever they choose. Our nation's criminal record storage and retrieval "system" is very fallible, as are the humans (including our staff) that locate and retrieve the information. It is very simply the nature of our business.

Since we have no way of knowing for certain, it is impossible to say what percentage of people with criminal records we are able to screen out of your organization. We believe the percentage of criminals that we screen out is high and that this is a significant value since it enables you to significantly reduce your exposure for not a lot of money. Having said that, it still leaves you with the potential of having a criminal who passed the screen working in your organization. Whether they like to admit it or not, this is true with any screening company. In this case, ignorance is not bliss, and what you don't know can come back to hurt you. This is why it is important that even if the employee has passed the screen, you should keep your ears and eyes open. If we may have missed something or if you obtain additional information, we are more than happy to perform additional research at no additional charge.

Lastly, if you are a personnel agency and you are placing someone with a client, we feel that it is imperative that you discuss with your client the mechanics, including the limitations, of a criminal screen. If everyone is knowledgeable and realistic about the screening process, it helps us all to work as a team to solve a common problem.

It is natural for any business to want to hype their strengths and to proclaim that they are the best (we certainly believe that we are), but we feel it is just as important to inform our clients of what we aren't and what we can't do.

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Let's Partner Up!

As partners our goals are parallel. We both want you to get the right fit for your available position. A good fit will enhance your company's work environment and productivity. A poor fit will do the contrary and cost you plenty of money in the process.

Opening the Tool Box

A pre-employment screen is constructed using many different tools; none of them perfect. Although each tool has its limitations it is possible by correctly using a combination of methodologies to end up with a useful result.

The fact that you perform a criminal screen will deter many who would be applicants with something to hide. Most individuals with criminal records and false resumes would prefer to apply with a company that does not pre-screen.

Those people who fail the screen or simply don't apply with the company that screens, most often find employment with a company that doesn't screen; hopefully one of your competitors.

In any employment advertisement you post it is important to state that your company performs criminal screens.

Make certain that your application forms are thorough and up to date. Be certain to have your applicant sign all documents that they provide to you.

Trust but Verify

Keep in mind that your screening procedures are followed consistently with each potential employee. To safeguard against discrimination lawsuits, each candidate must be treated with the same level of scrutiny.

This does not mean that each candidate is treated equally, it means that each candidate for a similar position is treated the same. Different positions may require different levels of scrutiny.

Make certain that your evaluation criteria is relevant to the position that you are offering. For example, ordering a driving record may not be appropriate for a position that does not require driving.

It is critical to verify all applicant provided information that is relevant to the offered position.

Overall your company is allowed to obtain information from public records, former employers, credit agencies, schools, personal and business references, and licensing authorities under the following conditions:

- The information is reasonably job related and a valid predictor of job performance.
- The information is not legally prohibited or regulated.
- The information does not discriminate against a protected group.
- The information does not violate any privacy or legal right.

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The Application

Regardless of whether an applicant provides a resume, applicants should always be required to fill out and sign your company's application. Also to be signed are any resumes that the applicant may have provided.

The application should always include a seven-year history of past employers and three personal references and professional references if desired.

It is critical that the employment history includes valid contact numbers, supervisor names, dates of hire and termination, and reason for termination. The personal and professional references should all have contact names, addresses, and telephone numbers.

The Interview

This is your chance to get to know the applicant and to perhaps develop information that may be useful in the screening process. As much as you like your company, this is not the time to be singing your praises; but rather a time to listen to your prospect. The following interview questions can be helpful in the screening process:

- Our pre-employment process includes a criminal screen. A criminal conviction will not necessarily exclude you from a position here, however failure to disclose a conviction will. Do you have any concerns about this? Do you have any open or pending criminal filings?
- It is our policy to contact all previous employers. What do you speculate that they will say about you?
- Do you have any short-term employers that you failed to include on your past employment history?
- Will any of your past employers indicate that you had a problem with your job performance, tardiness, or missing work?

Prior to the interview the interviewer should examine past dates of hire and termination for unexplained gaps. The applicant's resume (if provided) should be consistent with the information contained on the company employment application. If inconsistencies are found this is the time to investigate.

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Signs of Possible Deception

Part of the interviewing process is to revisit the information that the applicant has provided to you. Open-ended questions are the best, and as you explore pay attention to the applicant's body language. Is he leaning toward you and engaged, or is he leaning back in his chair with his arms crossed? The latter is a defensive position and may be an indicator that you are close to information that he doesn't wish to be disclosed.

Here are some possible indicators of possible deception:

- Applicant does not answer criminal history questions on his *Permission to Procure an Investigative Report* form. By not answering the criminal history question, the applicant will be able to assert (if records are discovered) that he simply overlooked the question. Using this method, he believes he cannot be disqualified or lying, plus there is always the chance that his criminal records may be undiscovered. It is important to make certain that all of your applicants answer all of the questions that are asked of them.
- Applicant does not sign for consent for background check. The reasoning behind this omission is that the employer is required to have the applicant's signature before the background check is initiated. The failure of the employer to comply with this law gives the applicant leverage against the employer in case records are found.
- Employment application is not signed. In most cases the motivation for this would be to evade allegations of falsification if later discrepancies are found.
- Applicant reports a minor criminal conviction. What seems to be an action of forthrightness can actually be an attempt to derail the criminal screen. The hope is that once the criminal record is reported it will be able to be explained away with no further action taken.
- Applicant does not explain reasons for leaving previous jobs. It helps to remember that your applicant will almost always quickly report flattering past information. Evasively answered questions rarely reveal flattering information once investigated.
- Applicant fails to identify or explain gaps in employment history; or the applicant's explanations just don't make sense. Gaps in the applicant's employment history can mean unreported past employers or worse yet, time spent in prison. Any discrepancies should be carefully reviewed and addressed.
- Scratch-outs on the application may be a warning sign that the applicant is making up information as they go along. Lots of scratch-outs and corrections are often a good sign of a creative writing project in progress.

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Fair Credit Reporting Act

When using a third party to conduct your background checks you must be in compliance with the Fair Credit Reporting Act in the following ways:

- You must obtain written consent from the applicant, and provide them with a disclosure statement of your intentions to run a criminal screen. This should be a separate document apart from the application.
- If you should decide against hiring an individual based on what is discovered during the course of the criminal screen, you must provide an Adverse Action Notice. This document explains the rights of the applicant to raise objection as to the accuracy of the report.
- As an employer you must provide documentation that you will follow the law, you will not discriminate, and that information obtained will be used in accordance with the FCRA.
- A second letter must be issued when the final employment decision is made.



Checking References

The single most important aspect to the hiring process is quite possibly the reference check. Here is your opportunity to confirm the whereabouts of your candidate during the past several years. Keep your eyes open for any gaps in their employment history. Although, many companies will only confirm dates of employment, this will be enough information to further your research.

If you are lucky enough to make contact with a reference that is willing to offer you more information about your applicant, make sure your questions are specifically job related. Focus on the performance and skills of the individual, and if possible direct them toward their former supervisor. Co-workers, generally are not recommended, as they may have personal reasons to mislead you.

The Criminal Screen

Once you have confirmed your candidates address history, you can confidently move forward to the criminal background check. Contrary to popular belief, this screening process is loaded with complications, and numerous avenues to jeopardize the accuracy of the search. Public records by their nature have omissions and errors, and therefore any report cannot be relied upon to be absolutely complete or authoritative.

It is a popular industry myth that there is a national criminal database that screening companies use. This is simply untrue. There are over 10,000 courthouses covering over 3,000 state and federal jurisdictions. Each relevant location must be searched. It is important that your applicant's previous locations are confirmed to ensure the accuracy of the criminal background check.

The anatomy of a criminal screen



The following is substantially the method that we use to process most criminal screens. Your screens may vary. CICS reserves the right to change search criteria and search parameters at its discretion. All searches are fallible and under no circumstances should be relied upon as definitively accurate or inclusive.

STEP 1 We gather information from our clients regarding the subject to be searched. This information should contain data that has been entered on the *Permission to Procure and Investigative Report* form. This data should include the subject's date of birth, social security number, and address history.

We also request any other relevant subject history that our clients have developed themselves. This would include for example, past residences, or past criminal history, that was not reported by the subject on the *Permission to Procure an Investigative Report* form.

STEP 2 We process the applicant's social security number through a proprietary database commonly known as a "credit header" search. This tool helps us generally match the data provided by the applicant. It is important to note that information from this source is prone to errors. Rarely is inconsistent information contained in the "credit header" search an indication of fraud or deceit. If requested we will search additional addresses found if they are clearly within the seven-year search parameters.

It is important to remember that verification of an individual's social security number can only be done by the social security administration. It can only be done after the applicant has been hired. CICS cannot verify an individual's identity.

STEP 3 Using information provided by the employer, the applicant's address history is broken down into states and counties, and each state or county is searched for criminal records. Where available and economically feasible a state level search is performed, where not available a county level search is performed. Felony and gross misdemeanor convictions are reported unless otherwise indicated. All searches are for seven years unless otherwise stated.

STEP 4 Using information provided by the employer, the applicant is processed through a proprietary "national" criminal database. Information regarding the scope and limitations of this database is available on our site.

STEP 5 The report is formatted and transmitted back to the client.

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How To Gather Identifiers

Across the nation information is kept about people in just about every area. Whether you buy or sell property, get a traffic ticket, change your address, register a vehicle, get married, order a magazine or even shop for groceries, information is kept about you in a file. Files can be either private or public and are labeled (indexed) in different ways. The information that is used to locate these files is called an **identifier**. Some files can be identified only by a file number, some by name, some by social security number, some by date of birth or death, and some by a combination of the aforementioned. To make certain that the correct files are located, it is important that we obtain the proper **identifiers**. Criminal records are most often indexed using the following **identifiers**:

Name

The most common way an individual's name is entered on his criminal file is exactly as it is found on their state issued identification. You have access to this document; we do not so it is important that you review the document carefully.

CICS cannot verify an applicant's identity. The only way to verify identity is using biometrics (finger prints), so it is up to you to do the best you can using state issued picture I.D.

- Begin the screening process with a pen in one hand, the subject's state issued I.D. in the other, and the subject right in front of you.
- Make certain that you examine the I.D. first to determine if it appears to have been altered. Also check to make certain that the person that is sitting in front of you is the same person whose picture is on the I.D. that you have in your hand.
- Check the height and weight to make certain that it is consistent with the information on the applicant's driver's license. If you have any doubt, ask for additional I.D.
- Ask about aliases! Ask if they have ever gone by any other names, and write down the dates (start and finish) that they went by the other names (this includes maiden names).
- Make certain that you obtain the person's entire name, no abbreviations or initials.
- Ask them directly if they have ever been convicted of a criminal offense.

Social Security Number

Although SSNs are not often used for the identification of criminals, it is still important to ask for the individual's social security card. This is another piece of data that an applicant will often try to alter if they have something to hide. Don't make it easy for them!

Date of Birth

All Criminal records contain the individual's DOB. This is the way we separate one John Jacob Smith from the other. Proper recording of a person's DOB is critical. One mistake or omission and you will invalidate the entire search. Many criminals are aware of this and will attempt to alter their DOB. It is up to you to catch them.

Trust your Instincts!

If you feel that the applicant is being evasive or deceptive, let us know. We will be happy to take a closer look, to make certain that we don't overlook something. Lastly, if an applicant reports a criminal conviction, pass the information along to us. Make certain that you document when and where the conviction took place.



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Determining where to search

This is a big world and an individual could theoretically have records anywhere. So what is the best way to search?

We recommend the following process:

- 1) Gather applicant's self reported name and address history using the form titled "Permission to Procure and Investigative Report". Make certain that you include all past names used and address history on to us.
- 2) Review the applicant's past employment history. Remember, if a person worked for a company, most likely they lived in the area. Compare the applicant's self-reported address history to their employment history and if there is a discrepancy investigate it. Ask the applicant for an explanation. If an additional address is uncovered, include it in your request to us.
- 3) Don't neglect the personal reference check. Many professionals see little value in checking personal references, but we see them as quite valuable for confirming information that has been provided by the applicant. Remember a reference is a contact that has been provided to you by the applicant as a person whom you can refer to confirm information.

Information that is gathered from the personal reference can be quite valuable. It can provide you with past residences and employers that were not reported. In addition it may provide a lead into unreported criminal history.

Now you have information from three sources; self reported, past employment, and personal references. Make certain that information that you developed is consistent with the information that you provide to us.



HELPFUL TIP!

We recommend including the following questions in your interview with the reference.

- *Can you tell me each town or city the applicant has lived during the last seven years?*
- *Can you share with me the applicant's past employers during the last seven years?*
- *Do you know if the applicant has ever been convicted of a crime?*
- *Do you know if the applicant has gone by any other names?*

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How cases are filed

Cases are filed alphabetically starting with last name first, first name second, and middle name or initial last. In most cases, files are found using the name as it is displayed on the file holder's state issued identification. Sometimes, however, files are displayed under a nickname or alias.

Warning: It is not uncommon for files to be misfiled. While filing seems straightforward enough, this is where the majority of errors occur. Clerks routinely make errors. Sometimes they misspell the defendant's name, or put the defendant's middle name as last. They make date of birth recording errors, or add hyphens or apostrophes.

Our country's population diversity adds unreliability to the process as law enforcement and court clerks struggle with lack of name familiarity when attempting to set up files. Name sequence and proper spelling are the most common errors. Any small error can affect the search results.

Fortunately this situation is getting better as court search engine technology is advancing. CICS searches all names as submitted.



“I’m Innocent!”

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Where are the #*% files?!

Probably the first recording of files has been found in caves, with primitive wall drawings of hunters with spears and a wounded bison. The problem with the first files is they weren't transportable, they were difficult to locate, and even harder to access. Even having found the file, they did a very poor job of answering the basic questions of who, what, where, when, how, or what could happen!

As technology has changed, files have become much easier to locate and access, but technology has also created a down side which simply has put many files out of reach.

The following is a list of the ways criminal filings have been stored throughout the 1900s to the present.

1900 to early 1960s - First, paper files (legal size) in large file cabinets. A new innovation was 4" by 6" file cards. This saved space but could carry limited information. Hard file copies would last forever, but were time consuming to access, easily misfiled, difficult to transfer, and took up lots of space.

1960s to 1980s – Microfiche made its debut. This was the first real space saver for records, but the records were still difficult to access and transfer, and the system was cumbersome.

Early 1980s to mid 1990s – Computers using the DOS system. This system pretty much solved the storage and accessibility challenges, but the system was primitive and somewhat cumbersome to use and had to be accessed by a hyper terminal.

Late 1990s to present – Computers using windows applications. This system is the best to date. Easy to access, with some problem solving technology integrated. Access is now via the Internet.

So what's the problem?

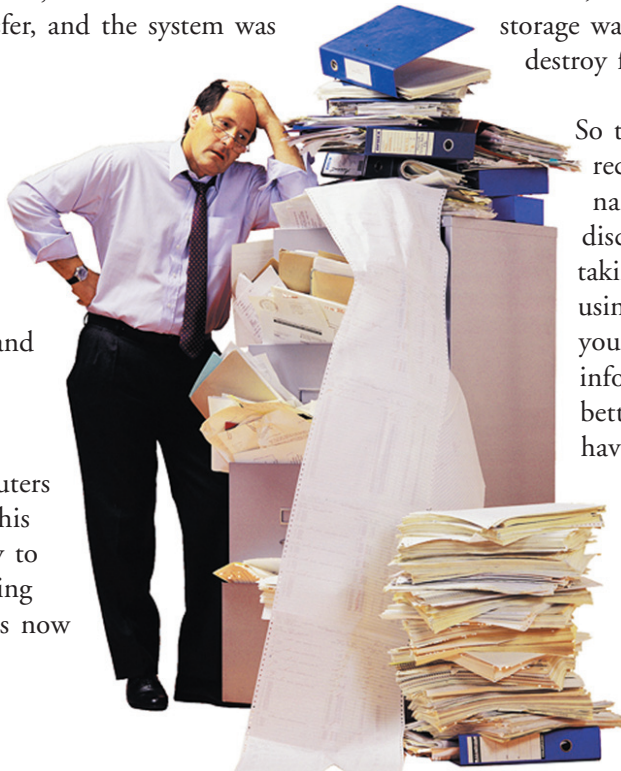
The problem is that with so many courts throughout the land, some courts are still accessing information using the file card system, while another may be using a system that uses a DOS program. In a way, it's kind of like the automobile industry when they first began producing cars. Each company, and there were over two hundred of them, had its own unique set of tools used for repair; if you changed cars, you had to change tools.

As the courts' individual technologies move up from one system to the other, often times the information that is contained in the old system is not transferred to the newer system. This is why information becomes less and less inclusive the farther back one goes. Generally most systems are pretty complete for the last seven to ten years, but after that the information could well be anywhere from sitting in a file card stacked with thousands of other file cards in a storage facility, or on microfiche in the basement, or in a virtually abandoned DOS system.

This means that within a single court it is possible for the court to have records in their Windows system, more in a DOS system, still more in the basement on microfiche, and even some sitting in files in a storage warehouse. Some courts simply destroy files after ten years or so.

So that's the problem! Searching for records is more than just filling in a name and poking a button, discovering the truth is oftentimes taking information that you have and using it to discover information that you don't have. The better information you have at the start, the better information you are likely to have upon completion.

“ Information becomes less and less inclusive the farther back one goes. ”



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Additional Searches

Civil Records

Most civil records are filed by name only. Careful examination is required to confirm that the case directly relates to your candidate. Civil records can reveal issues related to sexual harassment, lawsuits, restraining orders and other serious matters. Be particularly mindful that the information obtained is directly job related. You may want to establish a strict company policy regarding the use of civil information in the hiring process.

Credit Reports

CICS Inc. has access to credit reports. Your organization should maintain strict policies and procedures as to the use of this information. Credit reports contain public records concerning an individual's credit history, bankruptcies, liens and judgments. They may also reveal other names used, address history and previous employers. Use of credit reports should be limited to applicant's who are applying for management and executive positions, or who will have access to cash, company credit cards, assets or confidential information.

Be sure that your organization is in strict compliance with the federal Fair Credit Reporting Act and that the applicant is notified and provides a signed release before you access this information.

Fresh Start Rule

The "Fresh Start" rule guarantees that an individual who files bankruptcy cannot be penalized for utilizing a legal proceeding. You cannot base any part of your hiring decision upon the fact that an applicant has previously filed bankruptcy. The reasoning behind this is that the bankruptcy process is a legal option to an individual who is hopelessly in debt. If that person is denied the ability to obtain employment because he utilized a right designed to help him obtain a fresh start, it would be counter to the intent of the bankruptcy process.

Workers Compensation

Use of these records are strictly regulated by state and federal laws, and each state may have different rules and regulations. It is advisable that you contact your attorney or legal department to confirm that you are in compliance with the Americans with Disabilities Act before utilizing this information.

Vendor Check

Generally the rule of thumb is that if an employee is on your premises then you may well be liable for their behavior, regardless if you are paying their salary or their salary is being paid by one of your vendors. If your worker is an employee of a personnel agency, your company will most likely will be liable for that employee's actions. If the delivery driver of a vendor you hired assaults one of your employees, then you also most likely be liable. If you hire a contractor to repair your office and one of his employees assaults someone while working on your job, most likely you can be held liable.

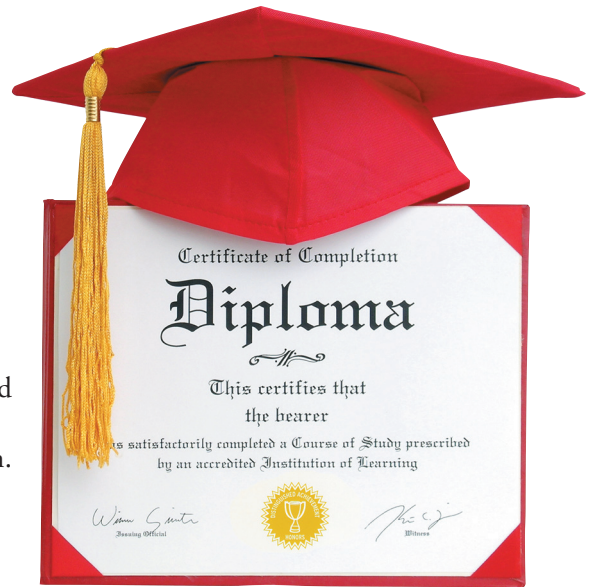
It is important to get a certification from any of your vendors that potentially may expose you to employee liability, that they perform criminal screens on their employees that will have contact with your employees or your customers. This certification should include the name and qualifications of the screening agency and the nature and depth of the screen that has been employed.

Credential and Education Verification

Confirming your applicant's qualifications through verification of education and credentials is a valuable part of the pre-screening process. A high rate of individuals have been known to falsify this information. Due to the ease of this search, there is virtually no good reason for neglecting this vital piece of information. Be sure that you have the correct name and year of graduation for this verification. Many individuals had different last names when they were

in school due to marriage and legal name changes. If you are unable to verify the degree or diploma do not assume the applicant is lying. The best thing to do is reconfirm the name and location of the school, or ask the individual to bring in documentation of graduation.

Professional Licenses are required in many fields. You will want to verify the issuing agency, state, type of license and that it is current.



HELPFUL TIP!

Take a look at the applicant's past employment history and cross-reference his past employment locations with his self-reported address history on his criminal screen permission form. They should match! If they don't be certain to add the missing information onto your criminal history request form.

Driving Records

If your applicant is required to drive as part of the job description, you will want to run a Motor Vehicle Report to confirm that the license is valid and in good standing. An individual's driving record may disclose problems with drugs or alcohol. Be sure that the information is directly job related, due to restrictions in some state laws and the Americans with Disabilities Act.

Some motor vehicle reports can be difficult to discern. It is advisable that you obtain a list of that departments particular codes and their meanings before drawing any conclusions. Due to state restrictions, some states will not provide motor vehicle reports. In those cases you may request that the applicant bring in the documented report that they obtained themselves.

It is important for the person who is gathering information from the applicant to get as accurate and as much information as possible.

Common Misconceptions

Misconception: There is a central national location that an investigator can access an individual's criminal files.

Truth: There is a national criminal data base called the NCIC. This data base is available to law enforcement agencies only. It can be accessed using an individual's name and date of birth or their SSN. As good as it is, it is not perfect, as it relies upon the cooperation of all of the various law enforcement agencies to submit **accurate** criminal data into the system in a timely fashion. In fact, even an FBI finger print check is not always accurate or complete. Like all systems, it relies upon the cooperation and competence of its contributing agencies.

Misconception: A person whose background is checked, and comes back with no records located, has no criminal record.

Truth: A person who comes up clear in a background check may well have records that have been undiscovered. The reason for this is that there are literally thousands of places for an individual's records to "hide". Each city may have multiple courts, each county has multiple cities, and each state has multiple counties. Remember that a person is free to commit a crime in any state and may well use multiple names; add to this is that a criminal's records may be filed or misfiled in any number of ways. **This is why it is important for the person who is gathering information from the applicant to get as much information as possible.**

Misconception: It is illegal for an employer to ask the applicant his date of birth.

Truth: It is perfectly legal to ask for an applicant's date of birth as long as it is for a legitimate business reason. Performing a criminal background check is a legitimate business reason.

Misconception: If a person has an F.B.I. number it means that they have been in Federal Prison.

Truth: F.B.I. numbers are issued at the time an individual is finger printed. No finger prints, no F.B.I. number. A person can have never been convicted of an offense, but still have an F.B.I. number.

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Miscellaneous bits of handy information

DEFINITIONS

- Felony** A serious crime usually punishable by imprisonment of more than one year and in some cases death. Examples of a felony would be extortion, kidnapping, manufacture of a controlled substance, murder, grand theft, and assault with a deadly weapon.
- Misdemeanor** A less serious crime (original meaning is misbehavior) usually punishable by jail time of less than a year. Common misdemeanors are drunk driving, simple assault, harassment, petty theft, and leaving the scene of an accident.
- Infractions / Violations** A minor violation of the law that is punishable only by a fine. Most of the time these are traffic violations, but sometimes first time misdemeanors can be treated as a violation. These often will include petty theft and possession of marijuana.
- Reportability** CICS reports only misdemeanors and felonies. In compliance with the Fair Credit and Reporting Act, dismissed cases can only be reported for seven years.

COURTS

- Federal Courts** These courts have jurisdiction over federal statutes, constitutional questions, and crimes that occur interstate. Unless specifically requested federal courts are not searched.
- State Courts** These courts are divided by county. Each county has a court, or if the county is large enough, multiple courts that adjudicate cases within that county. These courts go by various names, such as superior court, circuit court, district court, county court, and courts of common pleas. These courts try felony and misdemeanor cases and carry the major work load of each county's judicial process. When we provide a basic search these are the courts that we access.
- City Courts** These courts are called municipal court, city court, or justice courts. They handle nonviolent petty misdemeanors which are punishable generally only by fines. Unless specifically requested city courts are not searched.

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How the justice system works



The Arrest An arrest is a situation in which the police detain a person in a manner that, to any reasonable person, makes it clear that he or she is not free to leave. An **arrest warrant** is a document issued by a judge or magistrate that authorizes the police to arrest someone. Warrants are issued when law enforcement personnel present evidence to the judge or magistrate that convinces him/her that it is reasonably likely that a crime has taken place and that the person to be named in the warrant is criminally responsible for that crime.

Just because a person has been arrested does not necessarily mean that the individual will be charged with a crime. **As a rule arrest records are not public information and most likely will not be included in a criminal history report.**

The Incident Report The incident report is prepared by the law enforcement agency which investigated the crime. It is usually the City Police if the crime occurred within the city limits. The County Sheriff's Department investigates crimes outside the city limits. The State Police investigate crimes that are outside the experience and expertise of the local and county law enforcement agencies. The incident report is basically a synopsis of the crime and the details and circumstances surrounding the crime.

The Investigating Agency It is the investigative agency's function to collect evidence relating to the crime and to recommend charges.

The Prosecutor After the investigating agency has transferred the case to the Prosecuting Attorney, the prosecutor will review the evidence to determine whether:

- 1) To charge the offender with the criminal charges recommended by the investigating agency.
- 2) To charge the offender with different, fewer, or additional charges.
- 3) To decide not to charge the offender because of insufficient evidence.

The Arraignment At the arraignment, the accused appears before a judge who informs him of the charges pending and of his constitutional rights, including the right to a court appointed defense attorney. It is at this point that an offender becomes a defendant and may enter a plea of guilty, not guilty, or no contest. **This is also the point where a court case number is created and, in most cases, record of the case becomes public.**

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Plea Bargaining / Sentence Bargaining

These terms refer to negotiations which take place between the prosecutor and the defense attorney. These negotiations may result in a guilty plea to a lesser charge or a guilty plea in exchange for a reduced sentence. Attorneys and judges favor plea/sentencing bargains because they do not have the time or resources to take every case to trial. Only a small percentage of all criminal cases are actually tried.

Trial If the defendant persists in pleading not guilty, the case will be set for trial. He has the constitutional right to choose whether he wants his case to be decided by a judge (bench trial) or a jury.

The Verdict A legal verdict and the truth may not be the same thing. While a defendant may not, in truth, be innocent, he may be proven “not guilty.” The standard of proof in criminal cases is “beyond a reasonable doubt,” the highest burden of proof required in any trial proceeding.

Sentencing Trial or Hearing If the defendant is convicted in the adjudication phase (innocence/guilt phase) of the criminal trial, the case will proceed to sentencing. Sentencing may occur immediately following the conviction, or be scheduled for a later hearing. In some jurisdictions, the judge decides the sentence, and in others, the jury does.

Appeals Following a conviction and sentencing, the defendant has the right to appeal the case, or in some circumstances the sentence, to a higher court to consider errors in procedure or application of the law at the trial court level.

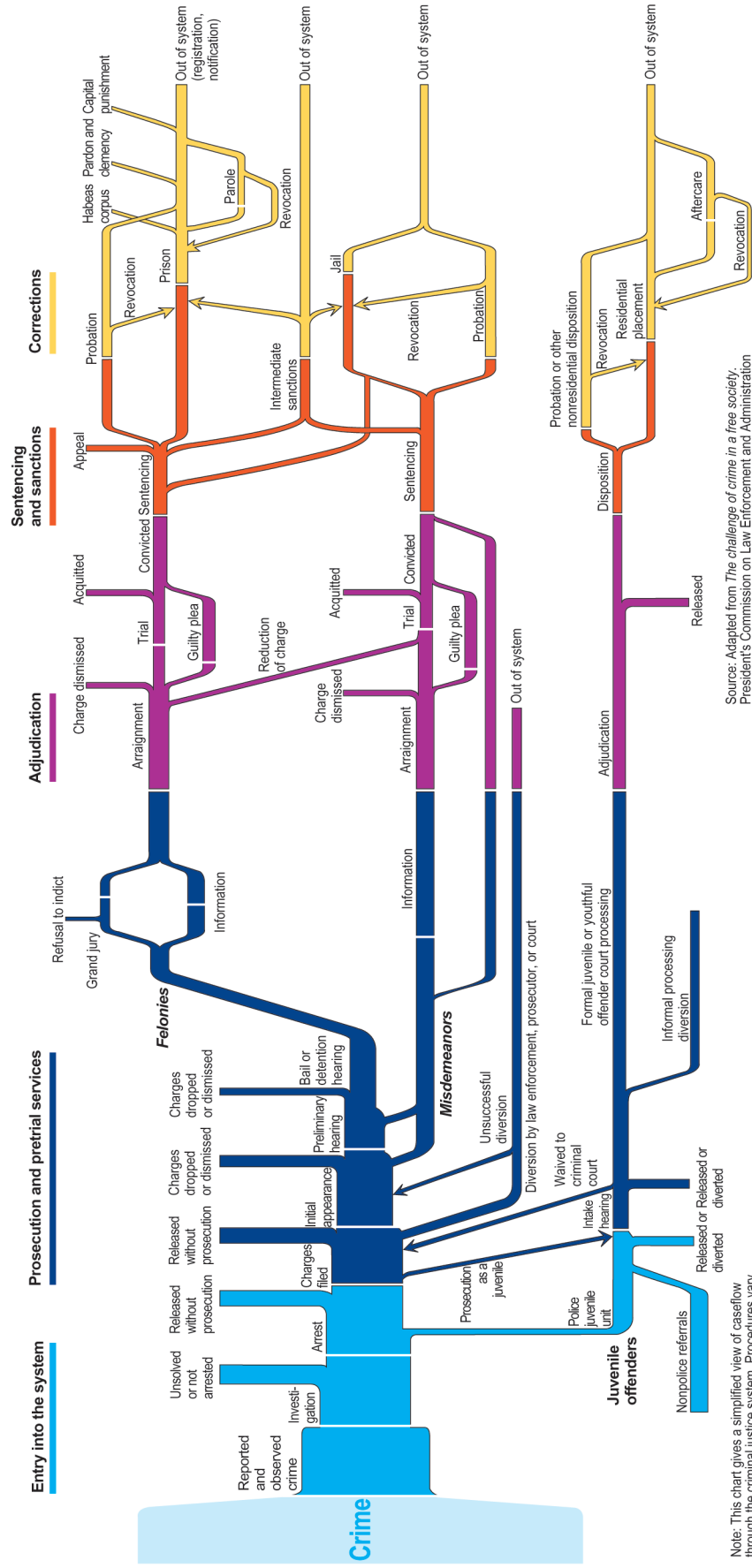
Parole Sentences assessed are seldom sentences served. Primarily because of prison overcrowding and prisoner control, the concept of “good time,” credit given for days of imprisonment because of good behavior, is common. The convicted criminal may receive two or three days credits, for each day served, and, in fact, serve only a fraction of the actual sentence imposed.

Note: Juvenile Records In most states juvenile hearings are not open to the public and juvenile case files are not reportable.



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What is the sequence of events in the criminal justice system?



Source: Adapted from *The challenge of crime in a free society*. President's Commission on Law Enforcement and Administration of Justice, 1967. This revision, a result of the Symposium on the 30th Anniversary of the President's Commission, was prepared by the Bureau of Justice Statistics in 1987.

Note: This chart gives a simplified view of caseload through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show actual size of caseloads.

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guys don't come with
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