

Faulty FBI Background Checks Harm Job Seekers and Workers

By Maurice Emsellem
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At a time when millions of America's workers continue to struggle to find work in the aftermath of the Great Recession, many job seekers face an additional barrier: faulty background checks released by the FBI for use in employment and licensing decisions.

The National Employment Law Project has just released a new report, [Wanted: Accurate FBI Background Checks for Employment](#) [pdf], that exposes serious flaws in the FBI records that potentially harm hundreds of thousands of job seekers and workers each year.

A record 16.9 million FBI background checks were produced for employment and licensing decisions in 2012—a six-fold increase over a decade ago. Although most private employers are not permitted access to the FBI records, an ever-increasing number of federal and state laws mandate FBI background checks for occupations such as childcare, trucking, and even janitors and food-service providers who work on federal property.

As the use of FBI criminal background checks grows, so too does the harm of inaccurate records. NELP estimates that roughly 600,000 people a year are harmed by inaccurate or incomplete FBI background checks. Around half the FBI's arrest records fail to include the final disposition of the case, so even if the case was dismissed, employers might not know that from the background-check results. In fact, roughly one-third of all felony arrests do not result in conviction, and many more are reduced to misdemeanors, overturned on appeal, expunged, or otherwise resolved in the worker's favor.

Russ F., a worker in the port of Philadelphia, was wrongfully denied a security clearance needed for his job after 9/11 because of an inaccurate FBI background check. Mr. F. had been arrested in 1971, but charges were never filed and he was not prosecuted. Thirty-seven years later, the arrest was reported on the FBI background check without the disposition information. Despite having worked at the port for 33 years without incident, Mr. F. spent months tracking down documentation to prove a negative—that he had never been convicted of, or even charged with, a crime.

Raquel Vanderpool, a nurse aid with nearly a decade of experience, was fired from her job after an FBI background check erroneously reported as a conviction a charge from her youth that had been dismissed and the record sealed. She was nonetheless terminated from her position and was unable to find employment for four years as she fought to clear her name.

Not all communities share the burden equally when it comes to inaccurate records. Just as African Americans and Latinos are disproportionately impacted by the criminal justice system, these same communities are disproportionately harmed by inaccurate and incomplete records. As highlighted by a recent class-action lawsuit against the Census Bureau, denying employment based on faulty records means that more African Americans and Latinos will be out of work longer while they struggle to correct these inaccuracies.

The big question, of course, is what can be done? How can we ensure that workers who pose absolutely no safety or security risk aren't locked out of jobs for which they are qualified? Just as the problem comes from the FBI, so too should the solution: the FBI needs to ensure that its records are accurate and up-to-date before it sends them out in response to employment and licensing inquiries.

Fortunately, there is a successful and well-established model already in place to clean up the FBI records—the federal program for firearm background checks established by the Brady Handgun Violence Prevention Act. Not only is the FBI able to produce accurate background checks for gun purchases, it is able to do so quickly and efficiently. Under the Brady Act, the FBI has three business days in which to find missing disposition information before the sale is allowed to proceed. The FBI is able to correct two-thirds of the faulty records within three days of the requests, by contacting the appropriate federal, state, and local agencies to obtain the missing information.

It's time for the FBI to take responsibility to ensure that records sent under its seal for employment and licensing purposes are accurate and up to date. America's workers deserve no less.

[Download the full report, Wanted: Accurate FBI Background Checks for Employment \[pdf\].](#)

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<http://www.opensocietyfoundations.org/voices/faulty-fbi-background-checks-harm-job-seekers-and-workers>