The Role of Criminal History Databases in Conducting Background Checks
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Abstract
National Background Data, LLC (NBD) is compiling a national online database of criminal history records. This database (The National Background Directory™) is being used to provide commercial background checks for pre-employment, tenant screening, and other permissible purposes, through a network of authorized screening company affiliates.

Statewide criminal history databases from 38 states encompassing more than 75 per cent of the US population are currently on line from one or more commercial database compilers like NBD. Several of the remaining states have legal barriers to private companies obtaining their criminal history databases.

The Fair Credit Reporting Act (FCRA) includes provisions for individuals to obtain information from Consumer Reporting Agencies (CRAs) that may relate to them and to have erroneous information corrected. Since the erroneous information may exist in the courts’ criminal case files, background screening companies need to assist individuals and the courts in resolving issues associated with erroneous or disputed information.

Background
Until recently, sending researchers to county courthouses was, and to an extent still is, the most prevalent way of conducting criminal background checks. This approach tends to be costly in time and money because a “runner,” who lives in the geographic vicinity of the county court, has to obtain a copy of the applicant’s criminal history file for that county and return it to the background screening company. Cost prohibited checking more than a few counties of residence in most commercial background checks. These on-site court checks are frequently augmented with name-based criminal background checks of statewide databases in those states where the state criminal history record repositories provide this service.

Starting several years ago, companies like NBD began compiling statewide criminal history databases. Until a number of inherent limitations in the early statewide databases were addressed, there was limited acceptance of them, especially on the part of large end-user clients. Although many end-user clients are still reluctant to rely totally on database searches, there is growing acceptance that databases, when available, are valuable supplements to on-site court searches. They permit applicants’ criminal histories to be quickly and cheaply checked not only in the counties of residence, but the entire state of residence and other states, as well.

Criminal History Databases
NBD’s wholly owned subsidiary National Data Registry, Inc. (NDR), works with state and county agencies and trusted strategic partners/Affiliates in acquiring criminal history data. The acquired data comes from databases the agencies developed for their own purposes. The agencies provide the information that applicable regulations permit them to make public in one or more text files. Because each agency developed its database for its own particular needs, there is little consistency amongst the agencies in the content, structure, and format of the data they provide. Although the agencies always provide descriptions of the structure of the data, in many cases there is insufficient data input validation for all of the information received to be in the correct format.

The information commercial compilers obtain from the courts is in the form of indexes, rather than as complete criminal court case files. Ideally, these indexes include sufficient:

- **Personal identifying information** to make a determination of whether the applicant and the defendant are the same person, that is, the defendant’s name, date of birth, sex, race and social security number.
- **Case retrieval information** to permit the CRA, its end-user client, or the applicant to contact the
court for further information about the case, that is, the court and its case number.

- **Offense information** to permit CRAs to determine whether the information can be legally provided to their end-user clients and for end-users to determine whether the nature of the offender’s behavior is such that an adverse action should be taken with regards to an employment or rental decision, that is, offense description, offense date, arrest date, disposition and sentence, sentence date and offense classification (felony, misdemeanor, or violation).

Some courts provided additional information to avoid the need for special filters to remove it when their databases are exported. In these cases NDR imports only the information that will be of value for our intended uses.

We import the received data into a normalized database structure in accordance with our established accuracy and usability standards. During the import process, data formatting problems are corrected with the assistance of the jurisdiction that provided the data.

Commercial compilers also need periodic updates of the data, preferably of the complete database, so any records that have been updated or expunged since the previous run will be updated. In some cases these updates include only the new and updated records. In these cases it is important that the jurisdictions inform the compilers of the records that have been expunged, so these records can be deleted from their databases.

The requirements that apply to FCRA permissible purposes do not apply to other purposes that are not regulated by the FCRA. To facilitate compliance with the FCRA, NBD and NDR maintain separate web sites. NBD’s site is for FCRA-compliant uses. NDR’s site is for other responsible non-regulated uses. From the onset, NBD has chosen to market its database products for pre-employment purposes exclusively through a national network of authorized affiliate CRAs.

To responsibly use criminal history databases it is important to understand the characteristics of criminal history databases in general, the variations amongst them, their inherent limitations and how to mitigate these inherent limitations.

Criminal history databases have many characteristics, which are summarized in Table 1. As previously stated, there is substantial variation amongst these characteristics in the databases provided by the various types of agencies from different states. The source of the database makes a big difference in the types of records it typically contains. For example, Department of Corrections databases of current and previous inmates and parolees usually do not contain information about: (1) misdemeanor convictions, unless they were in conjunction with felony convictions, (2) arrests that did not result in convictions, and (3) in some cases convictions that did not result in incarceration. On the other hand, court databases typically do not include: (1) final disposition, for example, when the offender was discharged from supervision, and (2) when the offender was incarcerated following violation of probation or parole. Wherever possible, we obtain both corrections and court records in the state to provide a more complete summary of the offenders’ criminal history in the jurisdiction.

**Table 1 – Characteristics of Criminal History Databases**

<table>
<thead>
<tr>
<th>Sources of Data:</th>
<th>Courts or Departments of Corrections</th>
</tr>
</thead>
<tbody>
<tr>
<td>Types of Records:</td>
<td>Arrests, convictions, misdemeanors, felonies, probation, incarceration, parole</td>
</tr>
<tr>
<td>Time Spans:</td>
<td>Earliest records, start of complete records, most recent records</td>
</tr>
<tr>
<td>Currency:</td>
<td>How frequently are updates available</td>
</tr>
<tr>
<td>Population:</td>
<td>The larger the population covered, the more valuable the database</td>
</tr>
<tr>
<td>Completeness:</td>
<td>Personal identifiers in the database that reduce the potential for false positive results</td>
</tr>
<tr>
<td>Other Screening Resources:</td>
<td>A database’s value is heightened when on-site court searches are difficult or costly</td>
</tr>
</tbody>
</table>

Inherent Limitations of All Criminal History Databases

It is generally accepted that fingerprint-based searches are the most accurate. However, currently there are a number of legal, efficiency, financial, and public acceptance barriers that prevent most businesses using fingerprint-based searches for their due-diligence and investigative purposes. Thus, the inherent limitations in the accuracy of name-based searches must be addressed in any responsible use of criminal history databases, regardless of who compiles them.

**Currency lag** – Criminal history databases are periodically updated by jurisdictions at intervals that range from semi-monthly to annually. Thus, there will always be some lag in currency of any secondary public or private database and the jurisdictions’ master criminal history records.

**Inaccurate personal identifying information** – The offender may have been using a different name or
provided false or misleading information when he/she entered the criminal justice system, or the offender’s information may not have been correctly entered in the jurisdiction’s criminal history database.

**Insufficient personal identifying information** – In some cases sufficient personal identifying information (date of birth or Social Security Number) is not present in the offender’s record in the database to ensure that a record returned from a name-only search applies to the consumer being reported on.

**Gaps in database coverage** – As previously stated, statewide criminal history databases are not available from states with about one quarter of the US population. In many of the other states, statewide databases of criminal court records are not available, limiting the availability of information about misdemeanor convictions and arrests that did not result in a conviction. NBD and NDR are working to minimize the impact of these gaps by acquiring:

1. Additional statewide criminal history databases.
2. Individual county court and arrest records in states where statewide databases are not available. For example, we have acquired criminal case name indexes from the courts in 8 of the most populous California counties, since a California statewide database has not been available.
3. Sex offender registries, with priority on those states for which we do not have statewide criminal history databases.
4. Criminal history records our Affiliates have obtained during their on-site court searches.

**Mitigating Inherent Limitations of Criminal History Databases**

These inherent limitations can lead to both false positive and negative results, depending upon how the databases are queried and the results used. These limitations can be mitigated by:

**Addressing the currency lag** – The currency lag is addressed with proper disclosure to:

- The end-user of when the database was last updated by the jurisdiction
- The consumer, when required by FCRA § 613. (As an alternative to notification of the consumer, an on-site search can be conducted to update the status of the conviction records returned by the database as permitted by FCRA § 613.)

**Avoiding false positives** – The FCRA requires the Consumer Reporting Agency (CRA) who prepares a Consumer Report to follow reasonable procedures to assure maximum possible accuracy concerning the individual about whom the report relates. Failure to follow “reasonable procedures” places the CRA and its end-user client at risk for civil liabilities under the FCRA in the event that the end-user client takes an adverse action against a consumer based upon information in a Consumer Report that does not apply to the consumer.

Many end-users want the convenience and low cost of real-time criminal background checks and are willing to accept the risk of some false negatives to obtain this efficiency and cost savings. These database-only searches are based upon stringent match criteria that return results only when the database includes sufficient personal identifying information to provide a high likelihood that they apply to the consumer being reported on. Of course, these database-only searches are not as deep as conventional on-site county court searches. However, database searches can be much broader in scope covering most of the country, increasing the probability of identifying convictions outside of the counties where the applicant reportedly resided.

**Avoiding false negatives** – False negatives can expose end-user clients to civil liabilities associated with negligent hiring or leasing. CRAs can use a number of measures to reduce the occurrence of false negatives and still comply with the FCRA’s requirement to assure maximum possible accuracy of the Consumer Reports that they provide to their end-user clients. But, these measures all require additional labor-intensive research by the CRAs to reduce the probability of false negatives. Ultimately, it is up to the end-users to weigh the risks of some false negatives against the cost and time required for this additional research by their CRAs.

To reduce the probability of false negatives, the CRA broadens the search criteria and then investigates each of the results that would not have been returned using the stringent match criteria. The CRA only includes in the Consumer Report it provides to its end-user client those results that its research indicates clearly apply to the consumer. These measures include:

1. Using a product like our Address Information Manager™ (A.I.M.) or a credit bureau’s trace report to:
   - Verify the accuracy of the Social Security Number provided by the applicant.
   - Identify any other names in which the applicant has used credit. (For example, a woman may use her middle name and married name, if she has a record of convictions under her first name and maiden name.)
• Identify additional locations where applicants may have lived and names that applicants may have used that were not included in the information the Affiliates received from their end-user clients.

2. Comparing the applicant’s physical characteristics, such as height, sex, race, etc., with the physical characteristics of the offender.

3. Using the Soundex\textsuperscript{10} equivalent for the first and last name search criteria to identify likely variants in the spelling of these names and then eliminate any returned results that are not simple variants of the applicant’s first and last names.

4. Comparing verifiable information regarding the applicant’s residence and employment history with any periods when the returned offender was incarcerated.

5. Contacting the jurisdiction, when personal identifying information is not available in the database, to determine whether the applicant’s personal identifying information matches that of the jurisdiction’s master file.

6. In those rare cases when ambiguity regarding a conviction cannot be eliminated by these methods, or when the applicant challenges the result, the applicant can request a fingerprint-based search of his/her record from the applicable jurisdiction’s criminal records repository.

The New Standard of “Best Available Means” in Terms of Background Checks

Last November, ChoicePoint and National Background Data introduced low cost, real time background checks of their entire criminal history databases. Last spring, most of the other private compilers of criminal history databases started offering checks of their entire criminal history databases. These products permit CRAs to dramatically increase the geographic scope of their background checks, very quickly and at minimal additional cost.

As a result of our affiliates and competitors’ aggressive marketing efforts to end-user clients, market acceptance of these new database products has increased dramatically this year. In doing so the industry has created a “disruptive product” that will be changing the meaning of “best available means” in negligent hiring and negligent renting tort law. This change is very important to our affiliates and their end-user clients. Failure to check counties and states beyond the applicants’ current and recent residences can no longer be justified on the basis of cost and time required to check multiple jurisdictions. If these other areas were not checked, the “best available means” were not used.

Responsible Uses of Private Criminal History Databases

By accounting for their inherent limitations, private criminal history databases provide a valuable supplementary prescreening tool to help target on-site searches at county courts. When the CRA’s end-user client considers that extra diligence is not warranted, criminal history databases provide an affordable, timely alternative to on-site searches at individual county courts, especially in today’s mobile society.

FCRA-Compliant Regulated Uses – The FCRA regulates a variety of uses of criminal history data that it calls “permissible purposes”\textsuperscript{11}. Although the main thrust of the FCRA is ensuring fair and accurate credit reporting,\textsuperscript{12} two of the most frequently used permissible purposes of criminal history data are for:

• Employment screening in response to “Negligent Hiring and Retention” exposure\textsuperscript{13}
• Residential leasing, especially multi-family housing, in response to “Negligent Leasing” exposure\textsuperscript{14}

There is a natural tension between the FCRA, instituted to protect the rights of consumers, even if they happen to have criminal records, and the emerging body of tort case law, which seeks to protect the health and safety of other employees, customers, neighbors, and the public at large. CRAs, employers, and property managers have to be sensitive to both sides of the double edged sword that results from the potentially conflicting objectives in the applicable body of law.

Other Responsible Non-Regulated Uses – Some commercial compilers of criminal history data do not restrict use of their data for purposes that are not regulated by the FCRA. However, we prohibit use of our criminal history databases for frivolous or curious purposes, as well as those that may cause physical or emotional harm to the subject of the report (for example, harassment, etc.).

Thus, to protect our sources and our investment in compiling the databases, we restrict access to our databases to legal and appropriate investigative uses by legitimate businesses. Some examples of such responsible non-regulated uses by legitimate businesses and public agencies include, but are not limited to:

• Investigating Crimes and Apprehending Criminals
• Development of Legal Cases
• Fraud Prevention
• Insurance Claims Investigations
• Investigations of Potential Business Partners
• Investigations of Potential Romantic Partners\textsuperscript{15}
Controls for FCRA-Compliant Regulated Uses

The FCRA mandates CRAs to implement extensive “compliance procedures” controlling their development of Consumer Reports, limiting access to these reports to those with permissible purpose, and providing consumers access to the Consumer Reports when adverse actions are taken based upon them.\footnote{16} There are two distinctly different approaches to implementing these “compliance procedures”:

The CRA Prepares the Consumer Report - In this case, NBD provides its CRA with the results of queries of The National Background Directory™ databases, the breadth of which are specified by the CRA. The CRA uses these results as the starting point for its investigations to confirm that the results included in its Consumer Report apply to the consumer on whom the report applies. The CRA is also responsible for including in the Consumer Report only those results that are reportable within the limits of FCRA § 605 and any more restrictive statutes that apply in the state in which the consumer will be working.

The Database Generated Consumer Report Is Transmitted Directly to the End-User – Although NBD does not recommend this approach, many end-users want the convenience and low cost of real-time criminal background checks and are willing to sacrifice some thoroughness to obtain this efficiency and cost savings. To accommodate these end-users, many of our affiliate CRAs have created online ordering systems that permit their end-users to submit their screening orders directly to The National Background Directory™. As previously indicated, the FCRA in § 607. (b) requires the CRA that prepares the Consumer Report “to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.”

Since the results that the database generates are submitted directly to the end-user, these results become the Consumer Report. Thus, the CRA cannot include in this report any ambiguous results, for example, results where there is a first and last name match, but where the offender record obtained from the jurisdiction does not include sufficient personal identifying information to ensure that the result probably applies to the consumer. In these cases, NBD’s CRA Affiliate is acting as a “reseller”\footnote{17} and has responsibility both by law and its contract with NBD of notifying the consumer when potentially adverse information is returned when the Consumer Report is used for employment purposes.\footnote{18}

By contract, NBD’s CRA Affiliate also has the responsibility to restrict use of its online ordering systems when state statutes that are more stringent than the FCRA would apply. For example, it cannot permit use of the results for employment purposes in California since some convictions that are reportable under the FCRA are not reportable in California.

In both approaches, since NBD does not prepare the Consumer Report, most of the burdens imposed by the FCRA on CRAs do not apply to NBD.\footnote{19} Because NBD’s CRA Affiliate prepares the actual Consumer Report it is subject by law and NBD’s contract to all of the controls imposed by the FCRA on the CRA that prepares the Consumer Report.

Controls for Other Responsible Non-Regulated Uses

As a matter of policy, NDR has chosen to offer access to its set of Public Records databases for non-regulated investigative uses only through its screening company Affiliates and through other Affiliates that specialize in providing online information from public and proprietary sources to legitimate businesses for investigative purposes. Thus, NDR is leveraging these Affiliates’ infrastructure and experience in protecting proprietary and sensitive personal information from frivolous and inappropriate use. NDR contractually requires these Affiliates to impose the same level of controls over access to NDR’s Public Records database as they impose on access to their proprietary databases of sensitive information. These Affiliates are required by contract to obtain NDR’s prior approval of any changes to these access controls.

In its contracts with its Affiliates, NDR limits dissemination of the results of searches of the NDR Public Records database. Of course Authorized end-users may subsequently obtain a copy of the original public record from the applicable public agency for use in any lawful manner, for example, in publicly disseminating the information or using the information in a court case.

Access to Individual Consumers’ Data

Industry practices vary with regard to access to individual consumer’s data. To implement the spirit of the FCRA with regards to providing individual consumers access to data about themselves, NBD has developed standards:

a. For consumers to request information about themselves for the purpose of verifying that the information in these databases is correct.

b. For consumers to obtain the identity of each person who has obtained information about their criminal history for FCRA permissible purposes within the time limits specified by the FCRA.\footnote{20}
c. For providing assistance to consumers in having erroneous information about them corrected by the applicable governmental agencies.

Our proprietary criminal history databases include information about offenders, the offenses for which they were arrested and/or convicted, and in some cases their incarceration, probation, and parole history. These databases are accessed based upon the applicant’s name, date of birth and Social Security Number, where available.

We do not maintain separate files on individuals, as the credit bureaus do. The credit bureaus’ files on individuals are tied uniquely to individuals via their Social Security Numbers, which we rarely have in our public records data. As a result, the provision of the FCRA that requires “Consumer Reporting Agencies to clearly and accurately disclose to the consumer all information in the consumer’s file at the time of the request” does not strictly apply to NBD. However, we strongly support the spirit of the FCRA and the general privacy principle that calls for individuals to be able to view the information about themselves and have erroneous information corrected. Thus, our standards for individuals to obtain a background screening on themselves are based upon:

a. The individual’s submission of proper identification, (a photocopy of their driver’s license or other state issued identification with photo, date of birth, height, weight, and sex), Social Security Number, and an affirmation that the information is being sought on themselves.

b. The individual’s payment of the fee permitted by the FCRA and applicable state regulations.

c. Our verification that the Social Security Number, name and address on the identification are valid.

d. Implementation of our proprietary algorithms so information about other people, who have the same name, but different personal identifiers (birth dates, etc.) and physical features (sex, race, height, etc.), are not reported.

In addition to providing a background check on the consumer, the report to the consumer will also identify each person who has obtained information about their criminal history from The National Background Directory™ for FCRA permissible purposes within the time limits specified by the FCRA.

Resolution of Disputes in Criminal History Records

The FCRA provides for reinvestigation of the disputed information submitted to the credit reporting agency in the event a consumer challenges it, either as a result of an adverse action taken by an employer or as a result of the consumer’s analysis of the information he or she has obtained. The dispute resolution process in the FCRA has been tailored for credit information submitted to the credit bureaus. Again, industry practices vary from company to company in how disputed information in public records is handled.

However, consistent with our commitment to the spirit of the FCRA and the general principles of privacy protection, we assist individuals in having erroneous information about themselves corrected in the public records and identify the substance of the disputed information in the records until the erroneous information has been corrected by the applicable government agency.

There are four basic types of disputes that are likely to arise in an individual’s criminal history background check:

a. The offense record applies to the individual, but contains errors (for example, incorrect sentence, disposition, or charges). In this case, if the individual provides us legal documentation related to the case, we will note the record with the disputed information and will assist the individual in having the agency correct the records it provides to us. The information we return on this record will be notated with the disputed information, for our Affiliate to consider in its research and preparation of its Consumer Report.

b. The offense record has been expunged, but is still in the public records that we received. We receive periodic updates of public records, so there will be an inherent time lag between when the expungement was approved and when we receive the update that deletes the expunged record.

In the event that an expunged record is returned in a consumer report, we will delete the expunged record as soon as we receive a certified copy of the applicable expungement documentation. If a prospective employer has already received a report that includes an expunged record, we recommend that the individual obtain a fingerprint-based background check from the applicable state’s criminal history repository. We will assist the individual in locating the applicable state repository. Assuming that the repository’s database has been updated to reflect the expungement, the resulting report from the repository will establish a clean record with regards to the expunged offense.

In addition to assisting the individual, we will also work with the agency to ensure that other
expunged records also are purged from the data we receive.

c. The offense record applies to someone else with the same name, personal identifiers and physical characteristics. Most criminal history databases that we receive do not have Social Security Numbers and the Social Security Numbers in the databases that do have them may not be reliable because they are not carefully verified when the records are created. In addition, more than one person may have the same name and date of birth. Usually, physical characteristics will be sufficiently different to establish unequivocally that the individual was not the offender. In cases where the offender was incarcerated, it would be sufficient for the individual to show that he or she was gainfully employed during the period of incarceration to demonstrate that he or she was not the offender. Again, the ultimate confirmation that the individual is not the offender can be provided by a fingerprint-based search conducted by the applicable state repository.

d. The individual was a victim of identify theft. Law enforcement agencies and courts are not required to verify the identity of offenders, so convicted offenders may appear in the public records with someone else’s identity. If the physical characteristics are not sufficiently different to establish unequivocally that the individual was not the offender, the ultimate confirmation that the individual is not the offender again is provided by a fingerprint-based search conducted by the applicable state repository.

Incorrect Information in A.I.M. Reports

The Public Records and commercially available data sources used to compile an A.I.M. report may have errors and may be incomplete. Data is sometimes entered poorly, processed incorrectly and is generally not free from defect. This system should not be relied upon as definitively accurate. Also, it is not possible to pinpoint the database that included the erroneous information for the following reasons: A.I.M. draws data from over 400 databases, many of which are updated daily. The sources of the data are not retained in the compilation process. Even if we could identify the source of the information, the organizations that provide the raw data have no legal obligation to make the corrections, unless the data falls under the FCRA.

So, as previously stated, our A.I.M. reports may be used only to assist our background screening company affiliates to establish the scope of their investigations. A.I.M. reports cannot be used directly for the purpose of making employment decisions or for taking any adverse actions under the FCRA. For these reasons, erroneous information in an A.I.M. report cannot cause any adverse consequences to the individual when the results are used for the authorized purpose.

A.I.M. Reports

Address Information Manager™ (A.I.M.) is a tool that assists background screening companies to establish the scope of their investigations. With an A.I.M. report our screening company affiliates are able to identify additional locations where applicants may have lived and names that applicants may have used that were not included in the information the affiliates received from their end-user clients. A.I.M. also permits the affiliates to obtain applicants’ dates of birth, when their end-user clients did not do so and to verify the applicants’ Social Security Numbers.

A.I.M. reports also may assist the background screening company affiliates in eliminating criminal history results from jurisdictions far removed from where the applicant lived. A.I.M. reports serve as an enhanced credit bureau trace report, since it also includes substantial amounts of information from public and private sources that do not relate to the credit histories of applicants.

Through a process similar to the one previously described for criminal history records, individuals may obtain an A.I.M. report about themselves.

CONCLUSION

Although private criminal history databases have inherent limitations, they represent a significant advance in the availability of criminal history information for a number of responsible regulated and unregulated uses when these limitations are mitigated and appropriate controls over these uses are imposed.

Although the provisions of the FCRA for individuals to access and dispute information in their file maintained by CRAs do not specifically apply to public records,
we have established standards to implement the spirit of the FCRA on behalf of individuals.

1 Standards for The National Background Directory™, pages 4-5.
2 To date, we have obtained both court and corrections data from seven states. We do not charge extra for screenings that query these additional databases.
3 The Florida Department of Law Enforcement database is updated with feeds from the county courts bi-monthly.
4 This supplementary database will include only those screening results where a criminal history record was found during on site checks. It will be checked in conjunction with contributing Affiliates’ background checks as a value-added feature.
5 FCRA, § 607. (b). Accuracy of report. Whenever a Consumer Reporting agency prepares a Consumer Report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.
6 FCRA, § 616 and § 617.
7 NBD searches include those aliases provided by the jurisdictions and name variations (for example, when there are two last names).
8 The official FTC commentary on § 607. (b) recognizes that this section does not require error free consumer reports.
9 Our CRA Affiliates report that on average our A.I.M. reports identify about 40 per cent more counties where the applicant may have lived than a traditional credit bureau trace report.
10 http://www.nara.gov/genealogy/coding.html
11 FCRA, § 604.
12 FCRA, § 602 (a).
13 FCRA, § 604 (b).
15 Such investigations by individuals are not permitted, but a legitimate business can provide this type of investigation to individuals.
16 FCRA, § 607.
17 FCRA, § 607 (e).
18 FCRA, § 613 (a)(1).
19 This conclusion is supported by an FTC staff opinion letter that states that record researchers are not CRAs.
20 Authorized uses of A.I.M. would include expanding the scope of criminal history background checks to include: (1) states and counties where the applicant may have lived based upon the A.I.M. results, but were not included on the application, and (3) verification that the name, address, and social security number that the applicant provided are consistent with at least some of the A.I.M. results. In the event the expanded scope of the background check returns information that is potentially adverse to the applicant, the background screening company is still obligated to confirm that the results actually apply to the applicant.
21 An example of a prohibited use of A.I.M. results would include taking an adverse action, as defined by the FCRA, solely based upon addresses or name changes returned by A.I.M., which the applicant was not required to disclose.
22 In the event that erroneous information appears in the A.I.M. results, but does not appear in the individual’s credit reports, data entry errors may be the cause. In the event that the results are still indicative of identity theft, the individual has the information necessary to determine whether the erroneous identity is in fact still being used, for example, by sending a letter to that address with recipient verification required.