

CI TIMES



To Ban or Not To Ban

Does your organization have a check box on your hiring documents next to the question: Have You Ever Been Convicted of a Crime?

For many of us, this question and the “box” has been a staple in our hiring process and most of us are used to seeing it on every job application. In recent years it also appears on many background check forms. However, employers and job candidates are seeing this change rapidly in many cities and states across the country. And, to complicate matters more, these changes are not consistent from jurisdiction to jurisdiction. These changes are happening through state and local legislative measures and are commonly referred to as “Ban The Box” legislation. At the Federal level, the EEOC (Equal Employment Opportunity Commission) endorsed the removal of this question from early in the hiring process as best practices in its 2012 guidance for employment decisions.

It is estimated that more than 70 million US adults have a criminal history. Ban the box initiatives are an effort to increase the employability of anyone previously convicted of a crime, thus reducing recidivism rates. Sometimes referred to as anti-discrimination policies, these initiatives can also affect the chances of persons with a criminal history receiving housing, by applying requirements to fair housing standards.

But don't let the name fool you, even if you don't have a “box” to check on your hiring documents, these initiatives apply if you plan to ask a job candidate in any way about their past criminal activity, before a specific point in the hiring process. Like the legislation itself, that point also varies from jurisdiction to jurisdiction. Some jurisdictions have also incorporated hiring policies modeled after the EEOC guidance requiring an employer to demonstrate that the conviction record restrictions are directly related to the job and that applicants are individually assessed for the position. In New York the EEOC guidance is very similar to Article 23-A law requirements.

Variations amongst the various laws include –

- ◆ Type of employer the law applies to (public and/or private).
- ◆ Size of employer the law applies to (4 or more employees, 15 or more employees, all sizes of employer of a certain type, etc.).
- ◆ Can always ask about criminal past at a certain point

in the hiring process (after interview or after conditional job offer).

- ◆ Documentation requirements of decisions made on criminal data in some jurisdictions.
- ◆ Copy of background report supplied to the subject required in some jurisdictions.

Pros of Ban the Box Initiatives -

- ◆ Allows applicants with a criminal history to get further in the hiring process.
- ◆ The “box” discourages individuals with a criminal history from even applying.
- ◆ Candidates are initially evaluated on job qualifications not past criminal activity.
- ◆ Eliminates possible discriminatory hiring processes.
- ◆ Employment is a significant factor in reducing recidivism.

Cons of Ban the Box Initiatives -

- ◆ Allows applicants with a criminal history to get further in the hiring process.
- ◆ The “box” discourages individuals with a criminal history from even applying.
- ◆ Some versions conflict with federal and state laws.
- ◆ Puts safety of the workplace and client protection as an afterthought.
- ◆ Eliminates the discharge opportunity afforded when an applicant with a criminal history does not disclose the conviction which is later found.
- ◆ Creates duplicate compliance efforts to comply with all hiring laws.
- ◆ Eliminates a relied upon integrity test during the hiring process in regards to truthful disclosure on hiring documents.
- ◆ Waste of time for human resource professionals and job applicants.

Some organizations, such as Target and Wal-Mart, have implemented “Ban The Box” throughout their organizations whether or not the business is in a jurisdiction with “Ban The Box” legislation

To allow Commercial Investigations clients a choice, we have created a new version of our consent forms that do NOT ask criminal history questions. So, based upon the legal advice of your lawyer you can choose the best form to assist your hiring process as modified by any “Ban The Box” legislation that applies to you.

Is this a phase or a here to stay initiative?

Only time will tell.

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CI Webinar Series

Our 2014 monthly webinar series has proven to be a great success. Did you know you can see the recorded presentations and PowerPoint slides?

The recordings can be found here: commercialinvestigationsllc.com/CIWebinarSeries.html

The PowerPoint presentations are on our Slideshare page found here: www.slideshare.net/CommercialInvestigations

Our future Webinars—

November 20 11:00 AM ET:
Ban the Box

December 18 11:00 AM ET:
The CI Client Audit

If you would like to receive email notifications regarding our webinar series, please contact us at 800-284-0906, info@commercialinvestigationsllc.com or commercialinvestigationsllc.com/signupforcieducationalmaterials.html.

Due Diligence: Changing of Seasons

In our last edition of CI Times, Due became a free man once again as the pending charges involving Ray Robinson's truck were finally dropped. Due must also decide what to do with his freedom this time. Due will have to focus on the contract with the park so that he can keep his lawn care business running. This will require Due to get back on track with his community service hours. But the question remains, has the damage already been done?

The first step for Due is to prove to Clean Slate Disaster Relief that he is ready to come back to continue his community service work. Due gets a copy of the final disposition from the court to show Clean Slate that the charges were dropped and that he is a free man. Due is hoping that Clean Slate Disaster Relief will take him back because he needs more community service hours in order to keep his lawn care contract with the park for the 2016 season.

Now is the crucial time period to get community service hours because it is the off season for Clean Cut Clippings. Due wants to do everything he can to stick with Clean Slate Disaster Relief so he sets up a meeting with Clean Slate. At this meeting Due is planning on asking Clean Slate if he can become a volunteer once again. Due attends the meeting and afterwards is feeling like everything went well. A few weeks later Due receives a call and is told that he has been officially reinstated as a volunteer with Clean Slate Disaster Relief. Due is very excited, and is starting to feel like everything is back on the right track once again.

Now that everything is settled with the volunteer organization, Due decides to get back to his company for the end of the fall season. Due stays for a while to help Patty Larceny finish up the fall cleaning work at the park. While working at the park, Patty and Due begin to brainstorm other ways to make some extra money during the offseason. Patty mentions that a client of the lawn care business approached her and asked if they provide snow plowing services along with the lawn care. Patty and Due agree that it would be very helpful to have some extra income during the winter season. After some thinking, Due and Patty agree that it would be a good idea to offer a snow plowing service during the winter season. They both feel that the extra money would be great and Due believes that this would be a good way to expand Clean Cut Clippings.

Both Due and Patty are excited about this new expansion of the company and feel that this would provide the extra money they need to live comfortably all year round. Now that Due is looking into the snow plowing business he will need a place to stay near Clean Cut Clippings during the winter. Due and Patty agree that the snow plowing business should have a different name than Clean Cut Clippings because this is a completely different line of work with a different set of clientele. Patty wants the name to be catchy and something that people will remember and she comes up with the name Snow-Must-Go Plowing and Removal Service. Due agrees to the name and begins to search for some clients.

Due approaches many different business in the area and eventually comes across a large shopping center called No Boundaries Shopping Plaza. The manager of the shopping center states that he would like to hire Due as an independent contractor to do all of their snow plowing over the winter. There is only one thing preventing Due from getting his first big snow plowing client. The property management company for the shopping center requires that any independent contractor on location for a certain amount of time pass a background check. The property management company, Uncommon Property Group wants to make sure that there are no criminals working on the property as there are many different businesses in this location. Due agrees to a background check and is hoping for the best. This would be a big move for Due and his company but background checks have been an issue for Due in the past.

Due has the opportunity to expand his business to the next level, but will he be able to reach this goal? Will he and Patty get this new contract with the shopping center to start his snow removal services? Will Due pass a background check or will this be another setback? Find out in our next issue...

To learn more about products offered by Commercial Investigations please contact a CI representative at: **(800)284-0906** or **info@commercialinvestigationsllc.com**.

Stay tuned to find out what Due is up to next!

TO BE CONTINUED . . .



Meet Due Diligence Last Scene from Due

In our previous edition of CI Times, Due watched as Crystal began smoking methamphetamine when his phone rings and on the other line is his coworker from Clean Cut Clippings, Patty Larceny, and she has some good news for Due. In Due's absence Patty has been working hard to keep the lawn care business going. Patty got the contract with the park extended for another year! Due does not want to ruin this second chance.

Now Due could focus on getting his pending charges dropped so that he may get back to work on turning his life around. In the meantime Hot Rod was able to convince his father, Ray Robinson that the stolen truck incident was just a misunderstanding.

The trial has come and Due is dressed in his best suit hoping to walk out a free man. Due's attorney calls Ray Robinson to the stand. Ray Robinson is questioned about the incident and explains how it was all just a miscommunication. In light of the testimony, the judge dismisses all charges against Due. Will Due be able to keep up his good luck streak?

To see Due's past reports, view his page online at:
www.commercialinvestigationsllc.com/duespage.

Read previous issues of CI Times to see the full details of Due's life at:
www.commercialinvestigationsllc.com/newsolder



CI's 10th Birthday: Autumn Events

If you are from the northeast, like those of us at Commercial Investigations LLC, then you know winter is here! However, we have not let a little snow damper the celebration for CI's 10th Birthday. Before the weather got too chilly the staff at CI was able to get outside for the 2014 Bassett Healthcare Network Cupola 5k Run/Walk. Seven of the staff members put on their sneakers and headed to Cooperstown, NY to participate for a great cause.

We went from sneakers and t-shirts in October to gowns and tuxes in November. Two members of our business development team were dressed in their finest to attend the Rome Hospital Foundations Annual Gala. This event took place at Turning Stone Resort and was a terrific night of great food, dancing, and a silent auction, all to benefit the amazing work the hospital does.

With only one month left in the year we will finish off our 10th birthday celebration by preparing a meal for the Ronald McDonald House Charities of the Capital Region. Be on the lookout for our January 2015 edition of CI Times to hear about the meal we cooked for so many deserving families before the holidays.

Just because it will be 2015 and our 10th Birthday will come to a close, there will still be exciting news and information happening at Commercial Investigations! So, as we move towards our 11th Birthday we would like to wish everyone a very safe and happy holiday and New Year from all of us at Commercial Investigations LLC.



Inquiry Spotlight

Cursory Indicator New York

This proprietary inquiry allows CI to quickly assess when additional criminal record research is needed in New York state. CI's investigative staff handles the tiered inquiry and will automatically proceed to tier two if CURSORY INDICATOR NEW YORK indicates that it is necessary to perform more comprehensive inquiries.

CURSORY INDICATOR NEW YORK positively identifies the subject. This occurs because the data being searched usually contains two, if not all four main identifiers; name, date of birth, social security number, and address. Therefore, we know the data matches the subject before we incur any additional costs required to research the data at the primary source (court record) for the applicable conviction details. Thus, eliminating costs incurred for name match only research.

CURSORY INDICATOR NEW YORK is extremely comparable to the New York Statewide Office of Court Administration (OCA) inquiry in all respects except cost. CURSORY INDICATOR NEW YORK has been proven to be more effective than running county court criminal record inquiries in New York. This is so because CURSORY INDICATOR NEW YORK contains levels of misdemeanor information, which is not usually found in New York County Court Criminal record inquiries. CURSORY INDICATOR NEW YORK contains local, town and city criminal data not found at the county level. It also contains Federal criminal data.

That being said, CURSORY INDICATOR NEW YORK is an exceptional value when compared to the New York Statewide Office of Court Administration (OCA) search where the state charges \$65 per name plus financial transaction fees.

CURSORY INDICATOR NEW YORK is Fair Credit Reporting Act (FCRA) compliant and abides by the "primary source verification" rule and not the "simultaneous notice" rule.

Contact CI at (800) 284-0906 or info@commercialinvestigationsllc.com for more information on CI's Drug Test inquiry.

Commercial Investigations LLC

A Licensed Private Investigative Agency

Providing the proactive truth with high quality background investigations through human intervention with an investigative approach.

Background Investigations

CI provides accurate, timely, cost-effective and fully compliant reports delivered with exceptional client service.

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