Is your background good enough for a job?

By Kozue Larson

Grim Job Market

Have you heard stories or read newspaper articles about recent university graduates not being able to land on the job they desire and still living with their parents? These stories place blame on the poor economy, and are sympathetic about the grim job market. However, these stories may not be telling you about another challenge university graduates have to face when entering job markets—youthful indiscretions lurking in their background.

Background Checks

Many of you may know that employers often conduct background checks before they hire new employees. Employers do this because they may be legally responsible for their employees’ actions. The employer wants to make sure that they are hiring not just a skilled, educated, individual with potential, but also an individual with no history of criminal misconduct or drug use.

Reasons for an increase in Background Checks

Child Protection

Child abuse and abduction cases in the media have affected laws in most states to require criminal background checks for any individual who will be working with children. This move extends to volunteers.

September 11, 2001

Both prospective employees and current employees who have been working for years could be equally examined through background checks because of heightened security nationwide.

White Collar Crime

Many large corporations have suffered from white collar crime and damaged their reputations; among them are Enron, WorldCom, Global Crossing, Quest Communications, and Xerox.

Extent of Background Checks

Employers may perform both formal and informal background checks. Informal background checks can be searching profiles of individuals through MySpace and Facebook. Do you know how your profiles on these sites present you? You need to be careful what you post on-line.
The following are some of the information that might be found by formal background checks. Many of these records are public.

- Driving Records
- Vehicle Registration
- Credit Records
- Criminal Records
- Family Abuse and Protection Orders (i.e.: Restraining Orders)
- Social Security Number
- Educational Records
- Court Records
- Workers’ Compensation
- Bankruptcy
- Character References
- Medical Records, if no longer protected by HIPAA
- Property Ownership
- Military Records
- State Licensing Records
- Past Employers
- Incarceration Records
- Sex Offender Lists

Background check may also include the following:

- Neighbor Interviews
- Drug Tests
- Personal References

**The Fair Credit Reporting Act (FCRA)**

When an employer performs background checks, they might use an outside agency called a “consumer reporting agency.” The Fair Credit Reporting Act (FCRA) regulates the actions of consumer reporting agencies, but they do not regulate actions of in-house background checks by employers. Under FCRA, the report produced by consumer reporting agency is called a “consumer report.”

**The consumer report cannot include the following:**

- Bankruptcies for 10 years
- Civil Suits, Civil Judgments, and Records of Arrest for seven years
- Paid Tax Liens for seven years
- Accounts placed for collection for seven years
- Any other negative information (except criminal convictions) for seven years

However, according to Federal Trade Commission, the FCRA does not impose these restrictions on jobs with an annual salary of $75,000 or more.

**Your Rights**

Under the FCRA, the employer must ask the individual’s permission before they conduct background checks through an outside agency. If the employer uses information from the consumer report to deny your application, terminate your employment, invalidate a job offer, or deny a promotion, you must be given a “pre-adverse action disclosure” before these actions are taken which includes a copy of the report and explanation of rights.

After these actions are taken, you must be given an “adverse action notice” which includes the name, address, and phone number of the agency that conducted the background checks, a statement that the agency did not make these decisions, and a notice that you have the right to dispute the information in the report.

**What you can do**

1. You can contact Consumer Reporting Agencies (CRAs) who have files on your information about your work, house, criminal records, and financial information. Make sure the information they provide about you is correct. The following are the major three credit agencies:

- **Equifax**
  P.O. Box 740241
  Atlanta, GA 30374-0241
  (800) 685-1111

- **Experian**
  P.O. Box 2104
  Allen, TX 75013
  (888) EXPERIAN (888-397-3742)

- **Trans Union**
  P.O. Box 1000
  Chester, PA 19022
  (800) 916-8800
2. If you are applying for a position that requires driving, you should get a copy of your driving record from the DMV. Remember that a DUI (driving under the influence) and DWI (driving while intoxicated) are serious traffic violations. You have to be honest when filling out job applications that ask for this information.

3. If you have any criminal record or have been involved with any court cases, make sure that the court records are updated. You may order an FBI background check for a small fee: http://www.fbi.gov/hq/cjisd/fprequest.htm

4. You should search your name using the major search engines like Google and Yahoo. Many employers actually search the candidate’s name online as one of the hiring steps.

5. You can let your neighbors and coworkers know that the prospective employer may contact them as part of their background information.

Problem
As previously stated, FCRA can only regulate the actions of an outside agency. Background checks performed by the employer are not subject to FCRA regulation.

Need Assistance?
Contact Student Legal Services (SLS) at 503-755-4556. SLS may be able to assist you with expungement of criminal convictions, identity theft cases, or we may be able to advocate for you.