

August 5, 2005

Mr. Richard A. Hertling

Deputy Assistant Attorney General

Office of legal Policy

4234 Robert F. Kennedy Building

950 Pennsylvania Avenue, NW

Washington, DC 20530

REFERENCE: OLP Docket No. 100

Dear Mr. Hertling:

InfoMart is a privately held background screening company, established in 1989. We are grateful for the opportunity to respond to the Department of Justice's requests for comments regarding criminal history background checks. Our responses to the notice outlined in Federal Register/Vol. 70, No. 107/Monday, June 6, 2005/Notices are as follows:

### **Factor 3**

InfoMart strongly supports stringent reporting requirements from county to state level repositories with for the following reasons:

- While reporting practices vary by state and county jurisdiction, many counties routinely report complete criminal history information.
- Other counties report inconsistently, and frequently omit vital record information, such as final disposition and disposition date, charge classification (felony/misdemeanor) and sentencing information, prompting an additional search at the county level.

In our industry, it is necessary to provide the most accurate and up-to-date information to the requesting employer. Implementing stringent reporting requirements from the county jurisdiction to a state level repository will assist in ensuring information is accurate and as up-to-date as possible.

### **Factor 10**

InfoMart suggests federal regulation promoting consistency between the information which can be reported by a Consumer Reporting Agency (CRA) and information which can be used by an employer in making hiring decisions, across all 50 states. Many states have laws impacting the level of information that can be used by an employer, but the information is still reportable by a CRA. This causes confusion on the part of an employer utilizing a CRA to conduct background checks.

### **Factor 11**

InfoMart supports regulation of access fees. States' access fees can range from \$0 to \$52 (in New York). High state fees such as those charged by the state of New York place an undue burden on employers, thus promoting a less consistent hiring process.

### **Factor 12**

Response time varies by state/jurisdiction, and can range from 1 day to 8 weeks. Delayed turnaround times from a state or county jurisdiction, such as a Missouri statewide search (6-8 weeks to receive record results), will discourage employers from accessing records in these areas, once again promoting a less consistent pre-hire process.

InfoMart believes that state repositories should be required to respond in a reasonable time frame (no more than 2 weeks) in order to encourage employers to access records consistently and promote a consistent pre-hire process.

### **Factor 13**

InfoMart believes that federal criminal history searches should be updated on PACER (the system maintained by the federal government to house records) to reflect all federal district courts in one search. Currently, districts from Alaska and Nevada are omitted.

### **Factor 15**

Background screening companies rely on personal identifiers such as a name, date of birth, or social security number to provide accurate information regarding a potential employee to an employer. We realize that, in an effort to protect privacy, identifying information is being removed from criminal records in several states; however, this makes a comprehensive criminal history search more difficult to obtain.

Criminal records should always contain full names/AKA's, and at least a partial date of birth and social security number in order to ensure that job applicants' criminal histories are not being reported in error.

When a criminal record is found through research at the state or county level, and does not contain identifying information, it is left to the potential employee to prove the record does not belong to him/her. CRA's are then left to search for anything that can be tied back to the applicant, and if nothing can be found, the record must be cleared by the CRA. However, in the event that the record does belong to the applicant in question, the employer could have broken consistent hiring practices by unknowingly hiring an applicant with a serious conviction.

We appreciate the opportunity to provide feedback on a vital service to employers and the community at large. If you have any further questions, please feel free to contact me at (770) 984-2727, ext. 1240.

Sincerely,

Tammy Cohen, PHR

President and Chair