

Think it Can't Happen to You? Stories of real people harmed by inaccurate or misleading criminal background checking reports

Excerpted from *Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses* ©2012 National Consumer Law Center
<http://www.nclc.org/issues/broken-records.html>

Catherine Taylor, Arkansas: Mismatched Report

Company: ChoicePoint (now LexisNexis)

Ms. Taylor has no criminal history, but on several occasions she has had her housing and employment threatened because of mismatched background checks.

ChoicePoint allegedly reported the criminal record of another Catherine Taylor with the same date of birth. That Catherine Taylor lived in Illinois. According to Ms. Taylor's complaint, ChoicePoint had access to other identifying information which would have distinguished these two women; however, the particular ChoicePoint product in this case was designed to give an instant result, and thus was not designed to access that information.

ChoicePoint acknowledged that next time the company generates a report on the Arkansas Catherine Taylor, the same thing will happen again.

Samuel M. Jackson, Illinois: Mismatched Report

Company: InfoTrack

Mr. Jackson was allegedly denied employment after a prospective employer ran an InfoTrack background check. InfoTrack reported a rape conviction from 1987— when Mr. Jackson was four years old.

The rape conviction actually belonged to a 58-year-old male named Samuel L. Jackson from Virginia who was convicted of rape in November 18, 1987. And *that* Samuel Jackson was incarcerated at the time the InfoTrack report was run.

Bahir Smith, Pennsylvania: Misleading Report

Company: USIS

Mr. Smith is a truck driver, which is an industry that subjects him to many criminal background checks. Mr. Smith only has 1 arrest on his criminal record. Yet according to his complaint, in March 2009, USIS issued a report comprised of 9 pages and listed that single arrest 3 different times. Nearly a year later, USIS allegedly issued another report, in which that same case was listed 4 times.

"John Doe 1," Pennsylvania: Misleading Report

Company: ADP

This ADP report on a Philadelphia resident dedicated 1.5 pages to listing 3 different county courts in Virginia in which ADP conducted the search. In font smaller than all the other fonts in the records, the report states: "No record found based upon the Applicant Data Provided." Therefore, any employer who

gave the report a quick glance could easily think that this person *did* have a record in those jurisdictions, when in fact he *did not*.

Background screening agencies may also report single arrests or incidents multiple times. On this same report, ADP reported 10 charges twice (from only 2 cases). The ADP report was 28 pages long, yet essentially presented information about 2 cases. Information was provided redundantly for every single count (including birth date, gender, race, and physical description). This voluminous presentation suggested that this man had a massive rap sheet, when in fact there were only 2 cases.

A. Garcia, Illinois: Misleading Report

Company: USIS

USIS listed 1 case in Mr. Garcia's report 3 separate times. A review of the report indicates that each of those entries was the result of USIS running a search on a different date. Each entry looks slightly different. Therefore, it appears that USIS simply included what it found each time, and did not review the information to see if it matched with a record already in the report.

"John Doe 2," Pennsylvania: Misclassifying Offense

Company: Phenix Group, Inc.

In a background check, Phenix Group, Inc., incorrectly reported the grade of a conviction of a Pennsylvania man. Although the man was charged with a felony and two other misdemeanors, those charges were dropped. Instead, he pled guilty to 2 "summary offenses" for public drunkenness and defiant trespass.

In Pennsylvania, summary offenses are below the level of a misdemeanor and may not be used by employers in hiring decisions. Because of this mistake, when "Mr. John Doe 2" applied for a job, his application was rejected.