Issues in Criminal Background Screening: 
An Advocate’s Perspective

Sharon M. Dietrich
Community Legal Services, Inc.
Philadelphia, PA
Netter Conference – Cornell ILR School
December 8, 2011
The Industry Has Changed – Less Human Element

- Bulk data purchasing has replaced courthouse runners as information sources
- Reports are automatically generated from databases
- Low cost is king
I’ve Got 6 Problems (At Least)

- Inadequate matching criteria
- Reporting obsolete non-convictions
- Not eliminating expunged cases
- Duplicative entries of the same case
- Confusing and prejudicial formatting
- Dispute processes that are difficult (or impossible) to use
#1 - Inadequate Matching

- **Problem**: False positives, especially for:
  - 50-state checks
  - Those matching only name and DOB
#1 - Inadequate Matching (Cont.)

- **Solutions:**
  - **Match all available data**, including:
    - Middle name/initial
    - Gender
    - Race
    - Height and weight
  
  - **Identify and scrutinize possible coincidences:**
    Common names, jurisdictions where the subject did not live. Human element!
#2 – Obsolete Non-Convictions

- **Problem:** Arrests not leading to conviction are often reported, especially in cases where there were convictions on some charges and not others.

- **Solution:** Don’t do it.
#3 – Reporting Expunged Cases

**Problem:** Cases expunged from public records remain in commercial databases

**Solutions:**
- Get better information from the states (PA: supplemental expungement file)
- Synching technology
- National Expungement Clearinghouse
#4 – Duplicative Entries

**Problems:** Same case is presented in a different format (i.e., different sources); single case is at a different stage (i.e., appeal)

**Solutions:**
- Better algorithms for matching cases?
- Deeper knowledge of state procedure?
#5 – Prejudicial Format

**CONVICTED:** NO
**CASE NUMBER:** 1233-2006
**FILE DATE:** 3/23/2006
**ARREST DATE:** 2/11/2006
**DISPOSITION DATE:** 3/5/2007
**ARREST DISPOSITION:** NOLLE PROSSED
**FILE CHARGE:** SIMPLE ASSAULT
**DISPOSITION CHARGE:** NOLLE PROSSED
**COMMENTS:** CASE IS FILED IN THE COURT OF COMMON PLEAS IN LANCASTER COUNTY, PA.

**OFFENSE TYPE:** U
**CONVICTED:** YES
**CASE NUMBER:** 1233-2006
**FILE DATE:** 3/23/2006
**ARREST DATE:** 2/11/2006
**DISPOSITION DATE:** 3/5/2007
**ARREST DISPOSITION:** PLEADED GUILTY AND CONVICTION ENTERED
**FILE CHARGE:** DRIFTING TRESPASS
**DISPOSITION CHARGE:** PLEADED GUILTY AND CONVICTION ENTERED
**SENTENCE:** 90 DAYS PROBATION; PAY COSTS AND FINES.
**COMMENTS:** CASE IS FILED IN THE COURT OF COMMON PLEAS IN LANCASTER COUNTY, PA.

**OFFENSE TYPE:** U
**CONVICTED:** YES
**CASE NUMBER:** 1233-2006
**FILE DATE:** 3/23/2006
**ARREST DATE:** 2/11/2006
**DISPOSITION DATE:** 3/5/2007
**ARREST DISPOSITION:** PLEADED GUILTY AND CONVICTION ENTERED
**FILE CHARGE:** PUBLIC DRUNKENNESS AND SIMILAR MISCONDUCT
**DISPOSITION CHARGE:** PLEADED GUILTY AND CONVICTION ENTERED
#5 – Fair Format

Lancaster County Court of Common Pleas
Court Summary

Smith, Bahir Jamal
PHILADELPHIA, PA 17146

DOB: Sex: Male
Eyes: Hair: Black

DC No: OTN: L783548

Closed
Lancaster
CP-36-CR-0001233-2006
Proc Status: Sentenced/Penalty Imposed
Arrest Date: 03/05/2007
Disp Date: 03/11/2007
Disp Judge: Cullen, James P.
Def Att'y: Spotts, Patricia Kay - (PC)

<table>
<thead>
<tr>
<th>Seq No</th>
<th>Statute</th>
<th>Sentence Date</th>
<th>Sentence Type</th>
<th>Grade</th>
<th>Description</th>
<th>Sentence Length</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>18 § 2706</td>
<td>03/05/2007</td>
<td>No Further Penalty</td>
<td>M1</td>
<td>Terroristic Threats W/ Int To Terrorize Another</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>18 § 2701</td>
<td>03/05/2007</td>
<td>No Further Penalty</td>
<td>M2</td>
<td>Simple Assault</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>18 § 3503</td>
<td>03/05/2007</td>
<td>Probation</td>
<td>S</td>
<td>Def Treason Actual Communication To Guilty Plea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>18 § 3505</td>
<td>03/05/2007</td>
<td>Probation</td>
<td>S</td>
<td>Public Drunkenness And Similar Guilty Plea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>18 § 3502</td>
<td>03/05/2007</td>
<td>Probation</td>
<td>S</td>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Other</td>
<td>Min: 90 Day(s) Max: 90 Day(s) Dismissed (Lower Court)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
#6 – Hard to Navigate Dispute Process

Problems:

• Background reports do not tell subject how to dispute, just have summary of FCRA rights
• Websites are no better; may require activation of tiny link for “consumers”
• Phone trees impossible
#6 – Easy Dispute Process

**DISCLOSURE / DISPUTE PROCESS REQUEST FORM**

If you wish to dispute the accuracy of any information contained within the General Information Services, Inc. (GIS) consumer report or consumer investigative report completed on you by GIS for USPS Integration Account, please provide the identification information listed below.

You must fax this form along with any attachments (documents which possibly validate your dispute) to GIS using the toll free fax number listed on this form in order to begin the process. You will be contacted by GIS following the receipt of your “signed” form. Should you have any questions, you may contact the GIS disclosure department using the toll free voice number listed on this form.

**GIS CASE NUMBER: 21761085**

**LAST NAME,** **FIRST NAME**, **MIDDLE NAME**

**ADDRESS**

**CITY**

**STATE ZIP**

**DAYTIME PHONE #**

**EVENING PHONE #**

**SOCIAL SECURITY NUMBER**

**BIRTH DATE**
Take-Away Message

There are ways to address the most common flaws with background screening reports, if there is the will.