



Katie's Korner Q4 2020

Oct 1st, 2020



About Peopletrail

Peopletrail® is a leading US-based consumer reporting agency, providing advanced background checks and pre-employment screening solutions globally.

As a leading consumer reporting firm, we make ordering a background check more secure, accessible, and flexible for our clients. Our background screening products' depth serves a broad client base ranging in multiple industries and company sizes.

COVID-19 and Court Closures

COVID-19 has affected all avenues of business. There has not been an industry unaffected by COVID's wrath, which includes the background industry. Unfortunately, the sources of information that typically appear in background checks are now quite

hard to access, and this can make our clients left in the dark when it comes to making employment decisions.

Many employers, schools, and courts are either closed or limiting access to information. This has created a challenge to obtain public records and verify educational credentials and prior employment. It is vital to remember that the Fair Credit Reporting Act (FCRA) is in effect even during a pandemic. The FCRA requires us to have up to date information, and we do this by going directly to the source such as a court, employer, or school.

Due to these challenges of many of these institutions being delayed or closed, reports may show orders as “pending,” much longer than Peopletrail’s usual standards to have our clients’ backgrounds completed within 48-72 hours timeframe.

The following are some of the sample questions that we have received from clients like you:

Should the employer change the types of information, it orders from a background check provider because of COVID?

Most likely not. This depends on what standards your backgrounds are based on. Some of our clients work with children or other at-risk populations, and they have particular requirements that they must complete due to Federal, State, and local laws. Our clients are locked into what they must get in a background check to remain compliant in these cases.

In theory, more lacks employers could change their background packages because they may not have compliance restrictions. It is vital to know that this most likely is unnecessary. We are seeing courts go through cycles of being open to being closed. It depends on the current outbreak in the area, but clerks have been excellent about making sure that, when they are available, we are getting the much-needed information. Sometimes there is a backorder for the clerks, but we have your request in a “line” waiting to get your results.

It is vital to remember that the Fair Credit Reporting Act (FCRA) is in effect even during a pandemic. The FCRA requires us to have up to date information, and we do this by

going directly to the source such as a court, employer, or school. If you are concerned about a specific timeline, please reach out to either client success or your dedicated account manager.

If the “pending” item relates to criminal history, are there ways to expedite this search?

If there is a criminal history search pending more than 72 hours, a state or court may likely be delayed.

On the front page of our homepage, the compliance department posts once a week of the latest delays and more information about it. Please review that page to see if the search in question is subject to their jurisdiction, and if you are unsure, feel free to reach out to your dedicated account manager.

Finally, if they are on the list, it may be harder to expedite, because some of the courts are closed. However, if you call, we will try to reach out to our vendors to see what is possible.

Can employers allow candidates to start work before completion of their background checks?

It depends, but employers might be reluctant to do so because they know nothing about the candidates' backgrounds and cannot assess whether they will pose a risk to property, employees, or customers.

Overall, employers need to perform employment background checks for multiple reasons. It is said that about 40% or more potential employees misrepresent themselves on their resumes, applications, and their previous criminal activities. A background check points out discrepancies between what your applicants are telling employers and what is right. Companies lose about five percent of their revenue a year due to company fraud. Roughly 30% of employees admit to stealing from their place of employment, with about 41% of managers, 39% of employees, and 19% of executives or owners, have admitted to stealing. It is estimated that small businesses or organizations can lose around \$140,000, while larger companies or organizations can lose about \$1 million a year due to company fraud.

Sadly, white-collar crimes have not slowed down during the pandemic, and it is vital to protect your organization from any risk. Please talk to competent legal counsel about your situation and what is best for your organization.

How can employers dismiss employees because of their background checks?

The FCRA requires a two-step notice process (Pre-Adverse & Adverse) for denial of employment or any other action that negatively affects the employee based in whole or in part on information revealed in the background check report. This requirement is still in effect during the pandemic. You cannot immediately take negative actions towards an employee based on the background check without completing the Pre-Adverse and Adverse Process.

There may be additional state and local requirements for the Pre-Adverse and Adverse Process with the FCRA. Please talk to competent legal counsel about your situation and what best for your organization.

US Court System

The US Court System is exceptionally complicated. We have the federal Supreme Court, federal district courts, state supreme courts, state district courts, municipal courts, and the list for courts goes on and on. It is challenging for non-legal experts to understand its structure, but I will attempt to break down the US Court System into more manageable pieces to understand.

The U.S. Constitution is the supreme law of the land in the United States. It creates a federal government system in which power is shared between the federal government and the state governments. Due to federalism, both the federal government and each state governments have their court systems. The state supreme court's interpretation of any state law is generally final and binding to both state and federal courts. Federal courts may overrule a state supreme court decision only when a national question springs up a federal jurisdiction. Therefore, for this visual representation, the State Court System will be included under the US Supreme Court.

Due to this separation, when completing a background check, Peopletrail must check the federal, state, and local courts separately. There is not a large court source that

covers all these jurisdictions. This creates complications when looking for records because we may have a fiscally conservative client and do not want us to search all levels of the US Court System for a case that may or may not exist. Sometimes, fiscally traditional clients will only have us search Federal courts, thinking that only federal courts deal with the most heinous crimes. However, this is not the case because many states and even local courts deal with horrific crimes labeled felonies and misdemeanors.

Clients must understand the US Court System to understand why Peopletrail has to search multiple courts for applicants' records. This ensures that our backgrounds have the full picture for our clients to make informed and accurate decisions.

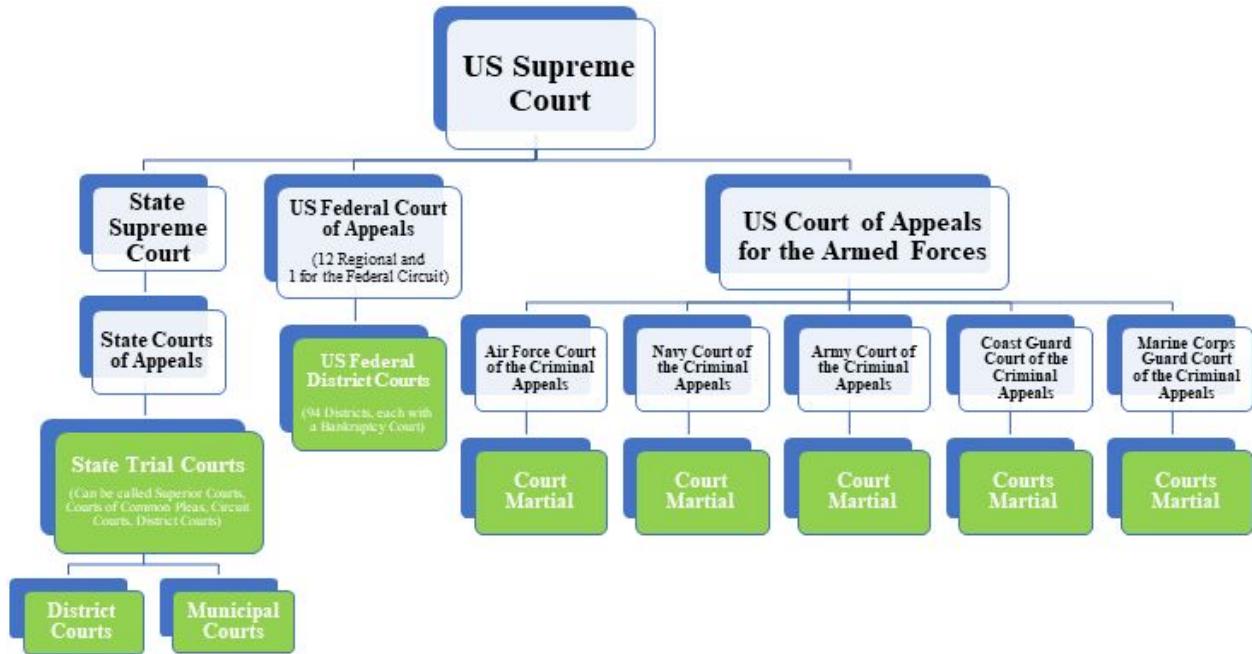
Federal Courts

Most criminal cases involve violations of state law and are tried in state court, but criminal cases involving federal laws can be tried only in federal court. We all know, for example, that robbery is a crime, but what direction says it is a crime? By and large, state laws, not federal laws, make theft a crime. There are only a few federal laws about the robbery, such as the law that makes it a federal crime to rob a bank whose deposits are insured by a federal agency. Examples of other federal crimes are bringing illegal drugs into the country or across state lines and using the U.S. mail to defraud consumers. Crimes committed on federal property (such as national parks or military bases) are also prosecuted in federal court.

Military Criminal Courts

A court-martial is a criminal trial conducted by a branch of the U.S. military. No matter where they are stationed in the world, military members can be tried at a court-martial for criminal violations of the Uniform Code of Military Justice, the military's criminal code. The military does not use criminal types called felony or misdemeanor, but they have three types: Special, Summary, and General. The level chosen usually depends on the severity of the offense and the rank of the accused. Some crimes that military members may be charged with are domestic violence, adultery, military desertion, and

much more. There is such a wide range of criminal charges because the U.S. Armed Forces hold their servicemembers to a higher ethical level than civilians.



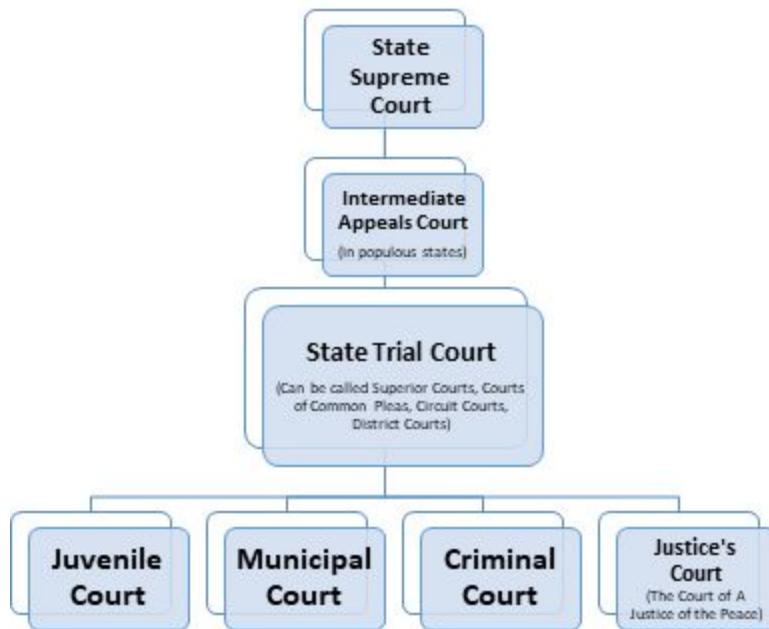
State Courts

Trial courts are the bottom of this hierarchy order, and they are where a case starts. Sometimes, they start in a municipal court or a District Court, depending on what laws were broken. The difference between these courts is minimal, but they are separate entities. The majority of states do not have a central repository for court records within both the municipal and district courts. Therefore, we must request records from both of these courts in separate requests.

The majority of populous cities have a municipal court. In these courts, a judge will hear cases brought by the city prosecutor in which the prosecutor alleges that a city law was broken. The prosecutor represents the city in these cases. Due to statutes being very vast from one town to another, what is legal in one city may be illegal in another can vary. Some of the crimes associated in this court are Possession of narcotics, drug paraphernalia, battery, assault, trespassing, and others.

The District Court is the largest and most powerful court in the county. These trial courts have many names, and they vary state to state. They can be called Superior

Courts, Courts of Common Pleas, Circuit Courts, District Courts, and more. District Courts have original jurisdiction to try all civil cases, all criminal felonies, such as homicides, assaults, sex and drug offenses, forgery, arson, robbery, and misdemeanors in certain circumstances.



Next in the chain is the appellate courts. In these courts, there are no witnesses, and no evidence is presented. In appellate courts, the lawyers simply argue legal and policy issues before the judge or a group of judges.

Last in the chain is the state supreme court, and it is the highest state court in the U.S. State Court System. Various names in the countries know the state supreme courts. State supreme courts' primary responsibility consists of correcting the errors of the inferior state courts. It exclusively hears appeals on legal issues from inferior state courts. Since it does not make any finding of facts, it holds no trials.

Typical State Court System

In rare instances where the state supreme court finds that a trial court made any egregious error in its finding of facts, the state supreme court shall remand such case before it to the trial court for a new trial.

Hawaii Bill (SB2193) Limits Lookback period for Criminal Screening.

Hawaii Bill (SB2193) alters the lookback period. An employer may currently inquire about an individual's "conviction record" within the past ten years, excluding any period of incarceration (Haw. Rev. Stat. § 378-2.5). This restriction includes public employers - such as the state.

Hawaii Bill (SB2193) initially altered the lookback for felonies for five years, and three years for misdemeanors. However, the House amended the bill to change lookbacks to 7 years of a felony and five-year misdemeanor, making it more Fair Credit Reporting Act consistent.

The Hawaii House and Senate passed and submitted the bill to the Governor on July 10th, and the invoice was sent to Governor David Yutaka Ige on July 13th, 2020. It's expected that the Governor will sign this bill.

This passing of the law may affect your Hawaii records or employees. As always, Peopletrail recommends the utilization of a competent legal representative for any legal issues. We will notify you when Governor Ige signs this bill.

Social Media Searches Update

Peopletrail now uses machine learning to analyze posts and images for specific types of risks. When you run a social media check, the posts are retrieved from your subject's associated social media profiles. Every camp and image is analyzed for one or more of the 12 risk classifications. This new system analyzes both text and images from a subject's social media profiles.

The following are the risk classifications Peopletrail will identify:

1. *Insults and Bullying*
2. *Self-Harm*
3. *Narcotics*
4. *Threat of Violence*
5. *Political Extremism*
6. *Toxic language*
7. *Obscene language*
8. *Violent Images*
9. *Hate speech*
10. *Explicit Images*
11. *Drug Images*
12. *Keyword Match (Custom Request)*

Peopletrail flags a post when there is at least one risk category with a probability beyond a set threshold. For example, a post may have a likelihood of a Toxic language of 65% and a Hate Speech of 73%. In this case, the flag will indicate Hate Speech. It is possible to have a post and an associated image that gets flagged at the same time. In this case, the flag will indicate both the reason for the post text and the image triggering one of the risk classifications.

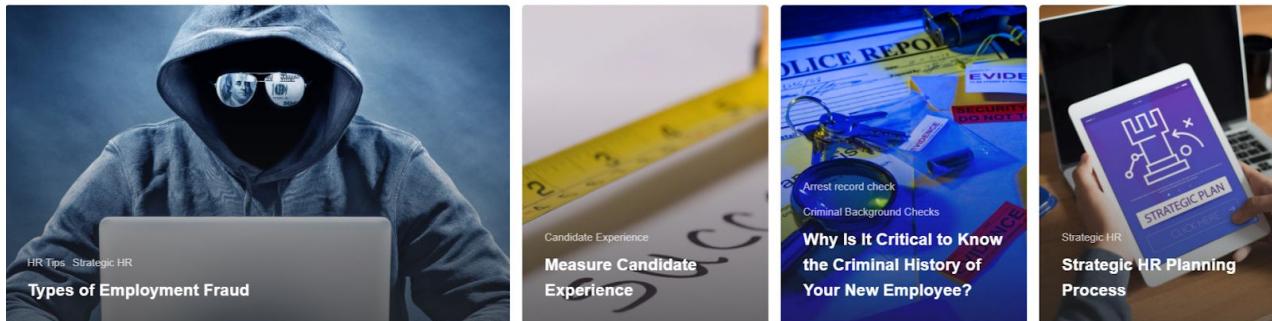
Almost every candidate you come across will have a sizable imprint on social media. Usually, this appears in various accounts over several platforms, such as Twitter, Facebook, Instagram, and many more. These social media accounts serve as a valuable resource for gaining information about the potential risks associated with a consumer.

This is an updated and improved process for our social media searches. Therefore, the social media searches may look different from what you are used to getting, but this product is still the Actionable Insight You Trust®.

For more information about Peopletrail's Social Media Screening product, please visit:

peopletrail.com/social-media-background-check

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Case Study of the Quarter

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Sorenson Communications

Employment Screening For High Volume, Multi-State Hiring Needs

With more than 5,200 employees and roughly 500 new hires each year, Sorenson Communications is a \$25M+ company that needed an employment screening provider with expertise in compliance laws across several states to accommodate 109 locations operating in 39 states. In addition, they required a highly configurable and scalable solution to accommodate their diverse hiring needs that would also improve their time to hire. Through Peopletrail's Actionable Insight Screening® technology, Sorenson streamlined and simplified its hiring processes, reduced time-to-hire, and easily customized hiring packages to meet organizational needs based on our suggested best practices.

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