

## Are Criminal Record Checks Relevant To Your Employee Screening Process?



Criminal record checks are one of the world's leading forms of pre-employment checks. Should you be able to deny a candidate employment based purely on their criminal record check?

Globally, there is a massive movement called "Ban the Box" aimed at removing the checkbox on job applications that asks about an applicant's criminal history. The initiative is intended to give ex-offenders a fair chance at employment by delaying questions about criminal convictions until later in the hiring process.

The reason for this is that employment provides individuals with a sense of purpose, structure, and responsibility. All of which are crucial for rehabilitation and successful reintegration into society. A job can also offer stability and opportunities for personal growth, helping ex-offenders break the cycle of crime and contribute positively to their communities.

This may be a valid notion in the global sphere; however, South Africa may differ. In South Africa, conviction rates can vary depending on the legitimacy of the justice system, the type of crime, the effectiveness of law enforcement, and various other factors. The availability of evidence often influences conviction rates, the strength of legal arguments, the efficiency of investigations, and the judicial process. In South Africa, the lack of a criminal record may not be indicative of an individual's criminal intent or their potential for malicious behaviour.

Additionally, reporting and recording practices can impact the accuracy of conviction rate statistics, and we need to remember that South Africa faces challenges related to crime, including high rates of violent

crime, property crime, and many other offences.

This leads us to question whether South African companies should conduct criminal record checks on candidates, at all.

Many people will swear high and low, that running criminal record checks is a necessary pre-employment check:

**1. Legal Compliance / Regulatory Requirements:** Certain industries and positions may require employees to undergo criminal record checks, as part of regulatory compliance. For example, industries such as financial services, childcare, security, healthcare, and education may have specific legal requirements regarding employee background checks.

**2. Risk Mitigation:** Conducting criminal record checks helps employers assess potential risks associated with hiring candidates who may have a history of criminal activity. This is especially important for roles that involve handling sensitive information, financial transactions, working with vulnerable populations, or maintaining public safety.

**3. Safety and Security:** Employers have a duty to provide a safe and secure work environment for their employees, clients, customers, and stakeholders. Criminal record checks can identify red flags or potential risks compromising workplace safety or security.

**4. Trust and Reputation:** Hiring employees with criminal records without conducting proper background checks can damage an organisation's trustworthiness and reputation within the eyes of their clients or the public at large. Clients, customers, investors, and partners may have concerns about working with a company that does not prioritise due diligence in employee screening.

**5. Preventing Fraud and Theft:** Criminal record checks can help prevent fraudulent activities, theft, embezzlement, and other misconduct within the organisation. Employees with a history of financial crimes or dishonesty may pose significant risks to the company's financial integrity.

Once companies have decided whether or not, a criminal record check is the right way to go and add these checks to their employee screening policy, it is essential that they understand the results and how to manage the information they receive.

Results can indicate no criminal history, and the candidate may have no criminal record. Still, it could also return varying forms of criminal history, and the consultant handling such information needs to understand the risk to the company in interpreting such data.

Examples of this have been seen in many formats and could be as simple as a candidate having been arrested and the incorrect data being captured by the South Africa Police Service. Information should be shared with the candidate, and the opportunity given to them to declare their details. They should be given the chance to prove that the details provided by the South African Police Service report are incorrect. They are entitled to get their personal information from a local police station and can provide their report to the potential employer.

There have also been cases where a candidate has declared their criminal record and either believes it has been expunged or is irrelevant to the job application.

Unfortunately, not all criminal records are eligible for expungement. Generally, minor offences, certain juvenile offences, and offences committed a long time ago may be considered for expungement. Serious offences, violent crimes, sexual offences, and repeat offences are typically not eligible for expungement. A recent labour court ruling allowed a candidate with multiple criminal charges and an expunged criminal record to be employed despite the employer considering the employment to be a risk to their organisation.

A second example is Oscar Pistorius, the South African athlete and former Paralympic champion, who was convicted of the murder of Reeva Steenkamp in 2014. After serving his sentence, Pistorius must demonstrate rehabilitation and a commitment to reintegration into society. Still, like any individual with a criminal record, Pistorius may face challenges securing employment, especially in roles that require a clean criminal record or involve positions of trust, security, or public safety. After being paroled, Pistorius allegedly reached out to members of the International Paralympic Committee, hoping to get a job, but was rejected.

When questioned about the relevance of criminal record checks in the pre-employment screening process in South Africa, Jenny Reid, founder of iFacts, stressed that whilst criminal record checks are a relevant check, it should never be the only check to be done on a candidate.

Other checks that could be considered would be integrity or social media risk assessments. Still, she said that an employee screening policy should ensure that an effective employee screening policy should consider the risks related to the position in the company. There were various elements to be considered when assessing such risk.

iFacts can assist in criminal record checks, as well as a bouquet of other pre-employment checks. We can also assist in the interpretation of the data received during the screening process.

Hire with confidence, hire with iFacts.