



Curious Paradox in Background Investigations

Background investigations and compliance seem to embody some "curious paradoxes." Legal experts and industry presenters at the Professional Background Screening Association iterated one such paradox at the 2019 Annual Conference, by consistently echoing the two opposing mantras, "Avoid litigation, and Automate," and "Human intervention is key to avoid litigation." Well, which is it?

We, as investigators, face a difficult challenge in confronting these two seemingly contradictory mantras. We ponder the larger societal implications. Automation can lead to the unintended and detrimental consequences of false identification. Moreover, question where the point of inflection is as we attempt to streamline our services through automation, while at the same time diminishing human intervention in order to protect our organizations, our clients, and the populace they serve.

There must be a balance between automation and human intervention in the conduct of background investigations, and the paradox itself suggests that there is no universal approach. Striking a balance between competing approaches offers a viable value solution to the automation vs. human intervention paradox problem. The other paradox that we investigators face pertains to legislation aimed at protecting identity and individual privacy, which can unintentionally cause more harm than good. This is what we call the "identity protection paradox." No one wants to improperly reveal subject data or pass on information that does not belong to a subject. We are in the business of protecting others.

Legislation calls for masking personal identifiers, which gives the impression that their identities are protected. However, the unrecognized flip-side reality of this is that it increases the risk of "false positives". Individuals are at risk of becoming falsely associated with records which they have no connection to, and that can have detrimental effects to their reputation and identity.

The reality is that Court Clerks have become more obstructive when it comes to providing as many identifiers as possible in order to facilitate accurate subject-to-record matches. This reticence on the part of Court Clerks shows how deeply the aforementioned consensus runs, and we, in the industry, do not want to improperly reveal subject information. The problem here is that our quest for Court Clerk clarification is not improper, for we act on behalf of subjects, and with their written consent as required by law.

So, what is an investigator to do? Do we pass what is possibly incorrect conviction information about a subject? Do we suppress the case, when the conviction could very well pertain to the subject, and risk a client's safety?

These curious paradoxes pose eternal questions for criminal researchers, which will continue to be asked as we navigate the ever-changing landscape of background investigations compliance. What are the best practices to ensure consumers are protected, and at the same time avoid negligent hiring? In addition, which approaches hold the greatest risks? We must do what we can to find as many identifiers as possible, though becoming trickier each day; we must forge ahead and continue in our daily quest to protect.

April 2020

Volume 17, Issue 1

INSIDE THIS ISSUE

Curious Paradox in Background Investigations.....	1
Due Diligence.....	2
Guardian's Travels.....	3
Spotlight: Naming Our Turret.....	3
About CI.....	4



Problematic Pandemic

Meet Due Diligence...

Last Scene From Due

We take a break from our regularly scheduled Due Article to bring you an important update on Fancy Valley and the Four Seasons amidst the COVID-19 Pandemic. Over the last several weeks, the Fancy Valley team kept hearing about the virus spreading throughout the world. Like many of us, it seemed so unrealistic in the beginning. Now, with the pandemic at our doorstep, the Fancy Valley team began to panic. However, in light of this national emergency, Vice President of Fancy Valley, Justin, had a lot on his plate other than keeping the business operating...

Sue had just finished watching one of the daily briefings. Sighing, she clicked the "X" to close the browser window. A million thoughts were going through her head. With the new orders to shut down all non-essential businesses to increase social distancing, what would Fancy Valley do? How would they survive? How would the business' bills be paid, and what would she do herself for her own finances, or Justin, and Duey for that matter? What would happen to them? At that moment, Justin walked in and asked Sue if she saw the news. Nodding in silent acquiescence, Sue looked back to the desktop picture feeling completely forlorn.

"My volunteer ambulance corps is trying to onboard people quickly and volunteers are coming from all over the country to help out. We need to check exclusion lists quickly, but I'm not entirely sure it's possible to do this. Typically, we just run the normal background investigation through Commercial Investigations LLC, and that includes sanctions. I don't think we'll have time to run that, also



there's the new policy of granting reciprocity across the United States. My chief doesn't know how long this will be and we want to monitor the people. It's been utter chaos."

Sue thought for a moment. While Fancy Valley and the Four Seasons were inevitably going to hurt from this new situation, she had completely forgotten that Justin was an EMT. Now a new fear had struck her forcefully. He was a first responder and his risk was even greater than hers.

"Oh Justin! What are you going to do?" She exclaimed.

"What I have to do. I took an oath, and this is one of the reasons I wanted to be an EMT. I wanted to help people, at all costs. As worried as I am, I really want to help the chief navigate the hiring process, so that we're ready."

They were quiet for some time. After what felt like hours, Sue finally asked the question she had been holding back since she had watched the briefing. Cautiously, she said, "Justin, what will

Fancy Valley do? I mean, what is the plan?"

He turned to stare at her; he knew the answer, even if he hadn't had a chance to discuss it with Duey. They would have to shut down to comply with the social distancing guidelines. While typically their services were contracted and only single employees, he wasn't sure how to navigate the current situation. Deciding that he wouldn't give up hope that they could come to a gratifying conclusion, he explained that they would shut down for a week, while they looked into options. He was going to call the Department of State to see if they had guidance on their business, and if it would be possible for them to continue to operate as long as they didn't have contact with their clients.

Sue agreed it was best. She began to pack up her things, while Justin watched. As she was picking up her last knick-knack on her desk to bring home, unsure if it was the last time she would see her lovely little home away from home, she paused. A thought had occurred to her.

"Justin! Call Commercial Investigations LLC, I saw something about continuous monitoring on their website. Maybe they can help the Ambulance Corps!"

"You think they could? Are they still going to be able to operate?"

"Only one way to find out!"

Justin called CI, and spoke with one of the Lead Investigators, who explained, 'Yes, they were working remotely, and some of the business had been a little interrupted with closures, but overall they were still fully operational.'

"Is there an option for continuous monitoring of medical sanctions?" Justin asked.

"Of course! We have a product called Vigilant MEDS™. Every month you would upload your list of employees or vendors and it's run through our sanctions database providing a list of potential matches. Once we receive the potential matches, we go through each one and either rule them out based on identifiers, or positively identify them. Then you will get a report with the information. Just have your chief contact us and we can get them set up!" It was a perfect solution. While things were uncertain for Fancy Valley and the Four Seasons, Justin was ready to battle the crisis at hand.

How will Fancy Valley and the Four Seasons Survive?

What happened with Duey and Prue, did she say yes?

Stay tuned to find out!

Guardian's Travels

If you are unfamiliar with Clement Bard, he is the notorious, self-taught, barstool lawyer. He never had any official training; however, he is very self-assured in his abilities. Clement immerses himself in such nuances as the Oxford comma and the meaning of semicolons. He just applied for a position with The Catskill Center, working with at-risk youth. Do not get all choked up in admiration, Clement certainly has alternative motives at play here!



Guardian wasted no time! Racing through the air, he sang to himself. "Here I come to save the day..." Oh wait. Is that theme song already taken? Nevertheless, this is no time to sing; Guardian must get to The Catskill Center before it is too late. Guardian saw Anastasia, Human Resources Associate, reviewing the background investigation compiled by the team at Commercial Investigations LLC.

Ah, what a relief! Though Clement did not disclose his little run-in with the police nine years ago, those diligent investigators found it. In Clement's mind, he was innocent. His friends were the ones who torched the abandoned Burger King. He was convicted of being an accessory to the crime just because he was there. So, according to Clement, he didn't do anything and it is ancient history. "Anything over seven years cannot be held against me," he thought.

From where Guardian perched, he could see Anastasia shake her head. If Clement had come clean at the beginning, there could have been some value in him learning his lesson when working with the youth here. However, the last thing The Catskill Center wants is someone showing their youth how to get away with crimes. Anastasia pulled up the sample preadverse action letter provided by Commercial Investigations LLC.

Dear Mr. Clement Bard,

Enclosed is a consumer report that was requested in connection with your application for employment with The Catskill Center. In accordance with the federal Fair Credit Reporting Act, enclosed is a copy of your rights under the Act. Because contents of this report may adversely affect our hiring decision, you have the right to dispute the accuracy and completeness of the information it contains. You may do this by contacting Commercial Investigations LLC....

Anastasia was just about to hit the send button. "With the preadverse action letter sent by email, Mr. Bard should get it today and two days should be enough time for him to present any issues to Commercial Investigations. If we don't hear anything by Thursday I'll send the adverse action letter."

"NO!" Guardian exclaimed, swooping down on Anastasia's keyboard and looking her straight in the eyes. He always liked Anastasia, but this could be catastrophic! "Clement Bard, or Mr. Bard as you so politely call him, will eat you alive! Print out that preadverse action letter and send it by certified mail today. Give him five business days to dispute anything. It may seem a bit much, but he lives off honest oversights."

Sure enough, when Clement saw the email, he grinned. Two days later, the letter arrived in the mail and sent the potential lawsuit down the drain. He called CI and pulled out all his lawyerly knowledge, but for some reason they were not as impressed as his buddies at the bar.

Another organization saved from bad actors. Guardian was pleased! There is much to be said about having a good Adverse Action Process. Now that his work was done here, maybe there is time for some singing...until next time!

Spotlight: Naming Our Turret!

The Turret of Truth is the home of the call center here at Commercial Investigations LLC. Our turret is where a majority of our staff works diligently to provide the superior customer service to all those we make contact with on a daily basis, five days a week. There is a lot that goes on daily inside our turret; one of our many trained investigators answers all incoming calls throughout the day. It is only fitting that we give our home away from a home a name that accurately represents our mission.



One weekend, Michelle, President of Commercial Investigations LLC, was watching television in her downtime and came across a commercial. In the commercial, knights were looking for the party turret where the launch party of a new brewed beverage was being held. Instead, the knights were led to the Serious Turret, and that is what gave Michelle the idea to name our turret at CI!

That Monday, Michelle called our staff to gather for a meeting. This was not your ordinary staff meeting; it was a team-building exercise meeting. Michelle is always encouraging her staff to increase their brain activity and what better way to start a Monday morning than with a brainstorm! Several names were mentioned, such as Guardians Travels Turret; Due Diligence Dungeon; Turret of Protection; and a popular favorite, Teenage Mutant Ninja Turret!

An anonymous survey was conducted and after all the results were in, a final name was chosen. The official name was announced during a staff pizza party in celebration of the naming. From that day forward, our call center turret has been operating as the "Turret of Truth".



A Certified Woman-Owned Private Investigative Agency providing accurate, timely, cost-effective and fully compliant reports - delivered with exceptional client service.



Latham, NY & Harmony, FL USA
Phone: (800) 284-0906
Fax: (212) 937-3858
info@commercialinvestigationllc.com
www.commercialinvestigationllc.com

Your Proactive Truth Partner™



This publication is designed to provide accurate and authoritative information with respect to the subject matters covered. It is distributed with the understanding that CI is not engaged in rendering accounting or legal services.