

## Is Pre-Employment Screening Enough to Keep Your Organization Safe?

Organizations conduct pre-employment screenings to keep their workplace safe, to be in compliance with applicable regulations and to avoid negligent hiring legal action. But what are an organization's responsibilities surrounding those same issues with its existing workforce?

Similar to negligent hiring, the related theory of negligent retention states that retaining an employee whose violent or detrimental behavior was known, or should have been known, by an employer can result in negligent retention legal action. Although the theory is just now gaining practical traction, it was first recognized by the Florida Supreme Court in 1954.

A pre-employment background check can only provide insight into information at the time of hiring. Just because someone doesn't have a criminal record when hired, doesn't mean their record will remain unblemished.

Take for example one situation involving a high-profile chef at the Ritz Carlton Hotel in Dallas and a finalist on the popular television show, Top Chef who was indicted on charges of possession and intent to distribute child pornography. Because he was hired a years before these incidents, a background check wouldn't have revealed these recent charges.

In this case, a re-screening policy may have saved the hotel some bad publicity, but a violent crime that resulted in a coworker or client injury could have just as easily taken place.

Consider this scenario: an employer ignores rumors and reports of an employee making threats to a co-worker. The accused is a high-ranking member of the management team and revenue generator so the employer is reluctant to take action, even though several employees have brought the situation to the attention of the employer. Then an employee claims she was assaulted outside of the office by the accused and has solid evidence. The employer could be charged with negligent retention because it did not investigate the initial claims and took no action to mitigate the situation.

Re-screening current employees demonstrates due diligence to protect the workplace. It's quite possible for an employee to commit a crime and receive punishment that doesn't involve traditional incarceration, e.g. weekend jail or community service, making it difficult for the employer to discern any disturbance in the norm.

The idea of periodic re-screening of current employees seems to be growing because organizations want to do everything possible to protect the organization and its assets. For organizations that serve vulnerable populations, such as children, the elderly or the disabled, re-screening becomes a necessity to also protect the safety and security of the vulnerable population served.

The idea of a comprehensive background screening program as an ongoing process may well be the best way to protect your employees, clients and assets.



### Strategic Screening Solutions for High-Performance HR Organizations

To learn more about how to protect your organization from negligent retention lawsuits, please contact an Accutrace screening specialist.