NEGATIVE: Fingerprint Uber Drivers

By “Coach Vance” Trefethen

Affirmative plan requires ride share drivers to be fingerprinted for security purposes. They will use the fingerprints to compare to FBI database and verify the background check of the drivers.

This is a flawed policy for several reasons. Studies in Maryland and California have found that it adds no value to an existing well-done background check. Other studies have found that the federal fingerprint database is so flawed that it should not be used for employment purposes, in part because it was never designed for that in the first place. It has missing data and it also has "too much" data. For example, fingerprints of someone who was arrested but never convicted of a crime will come back as a "hit" on the database, and they will be denied employment even though they are not guilty of anything.

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Negative: Fingerprint Uber Drivers

NEGATIVE PHILOSOPHY

Affirmative's expert advocacy is based on ignorance of how it works and its limitations

Angela Preston 2016 (Senior Vice President and Counsel, Corporate Ethics and Compliance with Sterling Talent Solutions, a background checking contractor company) Fingerprints vs. Name-Based Background Checks: And The Winner Is... <https://genesisbackgroundscreening.com/wp-content/uploads/1476203246_464890956.pdf>

Despite the limitations, FBI background checks are often required by law. But the requirements go no further. There may be several reasons for this. First, the FBI and its database are well known. It’s natural, and relatively uncomplicated, for legislators to draw up statutes based on what they think they know. It’s the path of least resistance, so to speak. They may be unaware that such checks have limitations and shortcomings. They may not know that such checks are poorly suited for employment screening. FBI checks, which in most case files will not contain the “full story,” may well be best used as lead generators. But they are not the basis for sound hiring decisions. Legislators may not even know that there are better alternatives when it comes to thorough screening.

MINOR REPAIR

State of California study finds: Fingerprints add no value, all we need is just use accredited background check contractors

San Francisco Chronicle 2017 (journalist Carolyn Said) 5 Oct 2017 " Uber, Lyft avoid fingerprint checks again under proposed California regulation" <https://www.sfgate.com/business/article/Uber-Lyft-avoid-fingerprint-checks-again-under-12254029.php> (ellipses in original)

State regulators declined to require biometric background checks, such as fingerprints, for ride-hail drivers, but plan to require annual checks, codifying something that Lyft and Wingz already do but that Uber, the biggest player in the market, does not. A [proposal](http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=196478351.) from the California Public Utilities Commission, which oversees ride-hailing companies, would require the firms to ensure that vendors conducting the commercial background checks are accredited by an industry association, and provide proof of that to the regulator, as well as proof of annual screenings. The utilities commission, however, said it is declining to require biometric screening “after much consideration and public comment ... finding that doing so would not add a greater level of safety.”

INHERENCY

1. Status Quo checks are better

Status Quo LYFT background check is more comprehensive and more effective than fingerprint verification

Daniel T. Rockey 2016 (attorney for Lyft) statement to the California Public Utilities Commission, 29 Aug 2016 COMMENTS OF LYFT, INC. RE: ASSIGNED COMMISSIONER’S RULING INVITING/INSTRUCTING PARTY COMMENTS ON BACKGROUND CHECKS OF PROSPECTIVE TRANSPORTATION NETWORK COMPANY DRIVERS <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M172/K518/172518970.PDF> (brackets added)

As explained in more detail below, a typical DOJ [US Dept. of Justice] -administered fingerprint-based background check queries two government-administered, aggregate databases -- a California criminal history database and the FBI criminal history database – each of which is dependent for accuracy upon regular, timely reporting of criminal history from many other agencies. Studies have shown that this history is reported haphazardly and unevenly, resulting in gaping holes in the data. In addition, the processes employed are cumbersome, time-consuming and vulnerable to human error. Fingerprint databases have been shown to routinely omit disposition information. However, by law the DOJ must suppress criminal history for which no disposition can be found in a manual review, presenting an unacceptable risk of approving drivers with disqualifying criminal history. In contrast, the multi-layered approach utilized by Lyft’s background check provider queries multiple, overlapping databases which are used as pointers to target retrieval of records directly from the primary sources of criminal history, providing assurance that relevant criminal history will be found and reported and that individuals unfit to drive will not be approved.

HARMS / SIGNIFICANCE

1. No threat to public safety

No evidence Uber is more dangerous than riding a taxi

Terence Lee 2015 (journalist) 26 Oct 2015 "An economist destroys arguments for regulating Uber in Singapore" <https://www.techinasia.com/economist-destroys-arguments-regulating-uber-singapore>

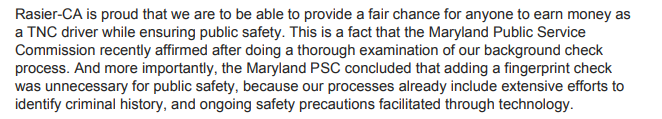
The fear toward Uber is exaggerated. There are no empirical studies proving that Uber is more dangerous than riding a taxi. It means nothing if the media reports on a few rape cases by Uber drivers. It’s just like how dramatic reports about plane crashes exaggerate the danger of boarding airplanes, when in fact they’re [safer than cars](http://traveltips.usatoday.com/air-travel-safer-car-travel-1581.html).

SOLVENCY

1. No added safety benefit

Maryland Study: Fingerprinting adds no additional safety benefit for Transportation Network Company (TNC), also known as ride-sharing

Rasier-CA 2017 (ride sharing company) "Rasier-CA, LLC: workshop Statement" 17 Feb 2017 Statement submitted to the California Public Utilities Commission <http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/licensing/transportation_network_companies/rasier-ca__llc's_bgc_workshop_statement__2-17-17_(1).pdf>



2. Flawed databases

Many serious problems with fingerprint databases

Roy Maurer 2016 (*online editor/manager for Society for Human Resource Management* ) 24 May 2016 Relying on FBI Fingerprint Background Checks Is Flawed, Risky for Employers <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/fbi-fingerprint-background-checks-flawed.aspx>

State legislators are increasingly proposing that FBI and state fingerprint checks be a required part of employment screening, but there are potentially serious problems with this: results from these databases are incomplete, the databases include arrest records employers shouldn’t be considering and the system doesn’t allow applicants to challenge the results. “Fingerprint background checks are popular because they are well-known—and legislators may not be aware of their limitations and shortcomings,” said Angela Preston, senior vice president and counsel, corporate ethics and compliance for SterlingBackcheck, a background screening company based in New York City.

Multiple studies show fingerprint databases are flawed – not designed for screening applicants and missing data

Daniel T. Rockey 2016 (attorney for Lyft) statement to the California Public Utilities Commission, 29 Aug 2016 COMMENTS OF LYFT, INC. RE: ASSIGNED COMMISSIONER’S RULING INVITING/INSTRUCTING PARTY COMMENTS ON BACKGROUND CHECKS OF PROSPECTIVE TRANSPORTATION NETWORK COMPANY DRIVERS <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M172/K518/172518970.PDF>

Although no method of conducting background checks is foolproof, numerous studies, including studies by the U.S. Attorney General, the Government Accountability Office, and various non-profit groups, have demonstrated that fingerprint-based background checks can be dangerously flawed. Fingerprint-based background checks utilize databases that were never designed for the purpose of screening applicants and which rely on voluntary and often haphazard contributions from other law enforcement agencies for criminal history and updates.

Example: Washington State drunk driving conviction didn't get into the database

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The FBI’s Fingerprint Identification Records System excludes “…arrests and court actions concerning non-serious offenses, e.g., drunkenness, vagrancy, disturbing the peace, curfew violation, loitering, false fire alarm, non-specific charges of suspicion or investigation, and traffic violations (except data will be included on arrests for vehicular manslaughter, driving under the influence of drugs or liquor, and hit and run)….” . For some safety-sensitive positions, a conviction for drunkenness and disturbing the peace may be highly relevant. A good example: Gilbert Maier, 45, of Lake Stevens, Washington, was arrested for DUI in Snohomish County, Washington while driving a bus with 11 senior citizens from the Snohomish Senior Center to the Skagit Valley Tulip Festival. According to eye witness accounts, Mr. Maier ran two stop signs, and, according to police, struck two Jersey barriers. (Alison Grande and Linzi Sheldon, Senior center bus driver arrested for DUI with 11 on board, KIRO-TV, April 8, 2015, (Link).) According to KCPQ-TV, the April 2015 arrest was Mr. Maier’s second in less than a year.“ Administrators at the senior center said Maier’s 2014 DUI arrest didn’t show up on their background check, and Maier didn’t mention the arrest on his volunteer application. It turns out the State Patrol wasn’t required to report the 2014 incident because the charge is a gross misdemeanor – and Maier wasn’t taken to jail.”

Lots of missing crime data from California not reported to the federal database

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In 2010, the most recent year for which such data is available, California reported that only 42% of felony charges in the database included a final disposition. Notably, the DOJ database includes only convictions reported from California jurisdictions and therefore does not capture criminal activity occurring outside of California. In addition, California fingerprint-based background checks search only the state’s fingerprint database and do not search the California Sex Offender Registry unless expressly provided by statute,12 meaning that an individual could be a registered sex offender and still pass a DOJ background check with flying colors.

Large percentage of cases, including felonies, in Oregon never get entered into the fingerprint database

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In addition, there are a growing number of “Cite and Release” cases where fingerprints are never even taken, and the charges and dispositions never get into the database. For example, a study of seven circuit court locations in Oregon over a three-month span in 2009 found that 31% of all cases filed were “book and release” cases. Of those, 52% had no control numbers because no prints were taken.³ In Ohio, “thousands of convictions, which police officers and public and private employers hope to detect during background checks, are missing from the state database.” A number of counties in the state “have not turned in the most-serious offenses — felony convictions — for three months and perhaps much longer, according to the May 1 audit.”

3. Not designed for employment

The fingerprint database isn't designed to work for employment, and you have to already be in the system for it to identify you

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A fingerprint is one way to access criminal history, but it is not the only way; in fact, it is often necessary to use other personal identifiers to access a full criminal history. The CJIS [FBI Criminal Justice Information Services] Database provides leads in criminal investigations and can point to possible criminal records, but it is not reliable as a resource for employment screenings as it was not designed for that purpose.   
The Limits of Information and Access   
It’s important to highlight that a set of fingerprints alone does not identify you unless you are already in the system— either from a prior arrest or job application. It does not tell who you really are. Many people believe that you must have a fingerprint to identify someone. That would be true if the CJIS Database had a fingerprint for every individual— but it does not.

DISADVANTAGES

1. Consumers harmed

Link: Fingerprint rules aren't about safety – they're intended to make life harder for ride-shares and shut down competition

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Although a frequent topic of discussion, to date very little light has been shed on the mechanics of how background checks actually work. Too often the discussion has been premised upon unexamined assumptions regarding the presumed superiority of fingerprint-based background checks rather than empirical evidence; when, in fact, the empirical evidence demonstrates unequivocally that fingerprint-based checks can be dangerously incomplete and unreliable. Perhaps most unfortunately, fingerprint-based background checks have now become a political football, promoted by various groups opposed to the emergence of TNCs [Transportation Network Companies] as a protectionist tool to staunch competition, rather than as a truly necessary safety measure.

Impact: Consumers and low-income potential drivers harmed. Entrenched business interests don't like competition so they use regulations to shut them down

Scott Shakford 2017 (journalist) 5 May 2017 " [Uber’s Efforts to Bypass Nanny Regulators Lead to Federal Criminal Investigation](http://reason.com/blog/2017/05/05/ubers-efforts-to-bypass-nanny-regulators)" <http://reason.com/blog/2017/05/05/ubers-efforts-to-bypass-nanny-regulators>

The reality is that the negative publicity came primarily from those who are already outraged about Uber and the existence of Uber and the threat that ride-sharing presents both to entrenched commercial cartels and also top-down regulatory economic controls that originate from city leaders. From [hotels](https://reason.com/blog/2017/04/19/national-hotel-lobbyists-backed-the-loca) to taxi companies, cities and companies have operated hand-in-hand in working out ways for both to maximize revenue at consumers' expense. The regulatory and taxation system guarantees a flow of money to the city. The system also serves as a massive barrier to entry for new businesses who can't afford to compete. And the consumer ends up paying more, while low-income citizens have fewer opportunities to make money.

Impact: Consumers harmed by increased delays

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At the same time, the Commission must also be mindful that imposing a burdensome, ineffective and unnecessary fingerprint background check requirement will harm the very riding public the Commission seeks to protect by creating unnecessary barriers for prospective TNC drivers, limiting the number of drivers available to serve the riding public, and leading to longer wait times for riders and widespread consumer dissatisfaction.

2. Minorities harmed

Link & Uniqueness: Minorities are more likely to be harmed by information in the fingerprint database (like people who were arrested but not convicted of any crime) and using non-fingerprint background checks avoids that problem

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An FBI check, drawn from a central database of fingerprints, has been perceived as the gold standard. But is it? It has well-known flaws and shortcomings including:   
+ Voluntary record contributions from individual states resulting in incomplete criminal history,   
+ An irregular update schedule which can make records weeks or months out of date, and   
+ Frequent lack of a final court disposition which may prevent a hiring decision and may disproportionally affect minority communities.   
Despite the limitations, FBI background checks are often required by law. But, lawmakers may be unaware that such checks are poorly suited for employment screening. Comprehensive name-based background checks are a better alternative when it comes to thorough screening by drawing from a wider, deeper and fresher pool of sources.

Impact: Hundreds of thousands are wrongfully denied jobs by flawed FBI database info

PR Newswire 2016. "New Report Identifies Major Flaws with Fingerprint Background Checks--Employment Screening's Supposed "Gold Standard" " 10 May 2016 <https://www.prnewswire.com/news-releases/new-report-identifies-major-flaws-with-fingerprint-background-checksemployment-screenings-supposed-gold-standard-300265750.html>

FBI reports (a.k.a. "rap sheets") don't allow subjects to challenge the results, unlike name-based checks from consumer reporting agencies (CRAs), which are regulated by federal and state laws that protect job applicants from unfair employment actions. The negative impact is meaningful and widespread. For example, according to the National Employment Law Project, approximately 600,000 job applicants each year are hobbled by incomplete FBI data.

3. Safety turn

Link: Non-fingerprint background checks are actually better than fingerprint checks for ride-share safety

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In another example, the booming ride-sharing industry poses special business challenges. Some municipalities have suggested that all drivers undergo a fingerprint check based on decades-old laws regulating taxis. However, the comprehensive name-based background screenings for ride-sharing services are often more rigorous as they access a broader range of primary and secondary sources to find the most up-to-date record of compromising offences. Half of U.S. state legislatures have scrutinized the TNC (Transportation Networking Company) industry and established comprehensive safety legislation, and those state legislatures agree on comprehensive name-based background checks as the industry standard.

Impact: Turn the Affirmative's harms, they get worse if we do their plan.

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