

How Automated Background Checks Freeze Out Renters

Algorithms that scan everything from terror watch lists to eviction records spit out flawed tenant screening reports. And almost nobody is watching.

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Burglary and domestic assault in Minnesota. Selling meth and jumping bail in Kentucky. Driving without insurance in Arkansas. Disorderly conduct. Theft. Lying to a police officer. Unspecified “crimes.” Too many narcotics charges to count.

That’s what the landlord for an apartment in St. Helens, Ore., saw when he ran a background check for Samantha Johnson, a prospective tenant, in 2018.

But none of the charges were hers.

The growing data economy and the rise of American rentership since the 2008 financial crisis have fueled a rapid expansion of the tenant screening industry, now valued at \$1 billion. The companies produce cheap and fast — but not necessarily accurate — reports for an estimated nine out of 10 landlords across the country.

The automated background check for Ms. Johnson cast a wide net, looking for negative information from criminal databases even in states where she had never lived and pulling in records for women whose middle names, races and dates of birth didn’t match her own. It combined criminal records from five other women: four Samantha Johnsons and a woman who had used the name as an alias, even though the screening report said she was an “active inmate” in a Kentucky jail at the time.

“You can totally tell we’re not the same person at all,” said Ms. Johnson, who eventually got the apartment after she convinced the landlord she wasn’t a criminal.

It was not the first time she had been the victim of incorrect automated screening reports. It wouldn’t be the last, either.

False Reports of Crime, With No Human Review

The reports can be created in a few seconds, using searches based on partial names or incomplete dates of birth. Tenants generally have no choice but to submit to the screenings and typically pay an application fee for the privilege. Automated reports are usually delivered to landlords without a human ever glancing at the results to see if they contain obvious mistakes, according to court records and interviews.

A review of hundreds of federal lawsuits filed against screening companies over the past 10 years shows how hasty, sloppy matches can lead to reports that wrongly label people deadbeats, criminals or sex offenders. Among those who say they were wrongly maligned:

- Davone Jackson, who was denied low-income housing in Tennessee after the screening company RealPage reported that he had twice been convicted of trafficking in heroin in Kentucky and was on Wisconsin’s sex offender registry. In fact, those records belonged to an Eric Jackson and a James Jackson. After the denial, Davone Jackson said, he and his 9-year-old daughter were forced to live in a small motel room for nearly a year.
- Glenn Patrick Thompson Sr. and Glenn Patrick Thompson Jr., who said they had been left homeless near Seattle after a tenant screening company called On-Site, which is now part of RealPage, told two different landlords that the father and son had been previously evicted. In fact, the eviction was for a Patricia Thompson, who was not related to them.
- William Hall Jr., who lost out on a duplex in his small town in Georgia after TransUnion Rental Screening Solutions said he had sexually abused a minor. The criminal record belonged to a William Hall who was 30 years older and possibly dead. Mr. Hall said the landlord had stopped returning his telephone calls after receiving the incorrect report.

Mr. Hall’s suit is pending; the others were settled for undisclosed sums.

The screening process happens so quickly and the competition for apartments can be so fierce that prospective renters don’t always know why they were turned down, much less whether an incorrect background report was the cause.

Some screening companies don’t even provide the underlying records to landlords, instead producing a color-coded “risk” score or a thumbs-up or thumbs-down lease recommendation.

A background report from Samantha Lee Johnson's federal lawsuit showed a pattern of mistaken identity

Samantha Seigler, who was reportedly convicted of meth distribution and jumping bail in Kentucky. “Samantha Johnson” was one of many criminal aliases she used. According to the report, she had a different birthdate and was in jail at the time.

Samantha Lee Johnson, who has a long rap sheet in Minnesota, according to the report, including convictions for selling drugs, burglary, theft, domestic assault, disorderly conduct, and lying to a cop. The screening report lists her race as American Indian.

Samantha Lorene Johnson in California and another **Samantha Lee Johnson** in North Carolina, with different dates of birth. The report indicates both have criminal records, but doesn’t specify the offenses.

The minor traffic violations of as many as five other **Samantha Johnsons**—with a variety of dates of birth, middle names, and races—in Arkansas, California, Illinois, Missouri, and South Carolina were included in the report, too.



Screening company employees have stated in lawsuits that they err on the side of including any possible match, rather than excluding possible errors. The owner of one screening company criticized his industry, saying his peers can do better.

“We can figure out how to match a record,” said Matt Visser, chief executive of Victig Screening Solutions, whose Utah company sells 10,000 to 20,000 tenant and employment screening reports a month. He said his company verified negative findings. “It requires a human element,” he said.

“When we are performing any of these reports, it is a fairly monumental moment in someone’s life,” he added. “You just have to give a crap.”

Large background firms, including RealPage, CoreLogic and TransUnion, declined interview requests for this article. They referred specific questions to a trade group, the Consumer Data Industry Association.

Noting the millions of tenant background reports produced each year, the group denied that any systemic problems existed and accused consumer lawyers of being myopic.

“If I sat in a cardiologist’s office all day, all I would see is people with heart problems,” said Eric Ellman, the association’s senior vice president for public policy and legal affairs. He acknowledged that it hadn’t developed any standards for screening accuracy but said the companies had their own policies.

In responses to lawsuits, tenant screening companies say renters dispute fewer than 1 percent of reports. But it’s impossible to know the actual error rate because tenants may not always know to complain.

With about half of the nation’s 43 million rentals turning over every year, even an error rate of 1 percent could upend the lives of hundreds of thousands of people.

Regulators have taken action against a few companies for slipshod tenant screenings; the Fair Credit Reporting Act requires background screeners to “follow reasonable procedures to assure maximum possible accuracy.” But rejected tenants continue to complain about the same careless practices by companies that regulators had called out, interviews and federal lawsuits show.

Ms. Johnson has lost count of the times she has been turned down for housing or work because of incorrect background reports. Since 2016, she has sued six tenant screening companies for incorrect reports. All of them have settled.

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When she moved out of the apartment in St. Helens and applied to rent a house, the background report was 112 pages long. By then Ms. Johnson knew the drill: Find out where the report came from, call the screening company, fax in a copy of her ID and start the dispute process.

“I’ve tried to figure out if there’s something I can do, to stop that from happening,” she said. “But I don’t think that there really is, because there’s just so many background companies out there — and they’re not doing their jobs.”

Lax Rules and Wild Cards

Tenant screening was once confined to a simple credit check with the three major credit bureaus and a few phone calls to references, but it was revolutionized by the advent of cheap or even free, easily available electronic court records. These include criminal records from across the country, sex-offender registries, terrorism watch lists and housing court records.

Easy access to the troves of data has also made it possible for anyone with a computer to become a background screener: About 2,000 companies offer the service, but that’s only an estimate. Tenant screeners don’t have to register with any government agency.

People can complain about faulty background reports to the Federal Trade Commission or the Consumer Financial Protection Bureau — or sue. But regulators have not limited tenant screening as much as other kinds of background checks.

Regulators forced credit bureaus to follow standards for matching records to a person, and the kinds of records the bureaus can legally report are limited. Rules for employment screening, which some of the tenant-screening firms provide, require employers to share the negative report with a rejected applicant.

None of those restrictions applies to tenant screening.

Federal law requires landlords only to tell tenants if they were turned down because of a negative report and who produced it. Under the Fair Credit Reporting Act, screening companies have 30 days to respond to tenants' requests for corrections. By then, a landlord may have given the apartment away.

"It's just crazy that you can't get immediate results," said Andrew Guzzo, a consumer lawyer who has filed more than 100 federal lawsuits against background screeners and other consumer reporting agencies. "There's not many worse imaginable consumer financial services related impacts that you could have, more than an inaccurate tenant screening that costs you the ability to rent an apartment."

Tenants can't get ahead of the problem by checking their background reports in advance because too many companies provide the service.

"You can't just go to one place and request your free annual report," said Ariel Nelson, author of a 52-page National Consumer Law Center report on screening errors.

A handful of cities have begun to regulate tenant screening by limiting a landlord's ability to reject an applicant for old criminal convictions or evictions.

Courts have also begun to take notice; a panel of federal judges recently consolidated seven lawsuits about errors in TransUnion's tenant screening reports.

Screening companies put the onus for accuracy on landlords, telling them right in the reports that they should double-check them.

Steven Schachtman, a longtime Minneapolis landlord and property manager who oversees about 10,000 rentals and uses screening firms, said it was difficult for a landlord to check the reports to ensure they matched their applicants.

"That is why we are hiring them," he said. "I assume they have matched everything up."

One CoreLogic employee said during a deposition for a federal lawsuit that she considered a background report "accurate" if it correctly reported what was in public records.

A common method that screening companies use to increase hits, court records show, is a so-called wild-card search, which gathers different names that start with the same few letters.

Terrence Enright's experience, described in his federal lawsuit against National Tenant Network, shows how it works. When he applied for an apartment in Chicago in 2014, the company searched for "Enright, Ter*" and "Terrence, Enr*." But the company also searched for misspelled versions, including "Enwright, Ter*" and found a match: an eviction for a Teri Enwright in California, one of what Mr. Enright said were three evictions mistakenly attributed to him, which resulted in his being denied the apartment. His lawsuit was settled out of court.

Screening companies could use more careful methods to reduce incorrect reports, such as excluding eviction records for addresses that don't appear on a person's credit report. Or reporting only records that match full names and other data, such as complete dates of birth.

But they often don't, tenants and consumer attorneys say, and the errors can have an outsized effect on people with common names — particularly members of minority groups, which tend to have fewer unique last names. For example, more than 12 million Latinos nationwide share just 26 surnames, according to the census.

How Wild-card Searches Produce Bad Data

The asterisk represents any number of additional characters.

Jones, Ant*

Jones, Anthony

Jones, Antony

Jones, Antonio

Jones, Antoinette

Wild-card searches are useful to catch nicknames and misspellings of people's names, but they can also pull in other people entirely.

Marco Fernandez is suing RentGrow, another screening firm, after it included information in his report about another person named Mario Fernandez Santana. Mr. Fernandez lives in Maryland works for an elite military cybercommand strike force and has a top-secret security clearance. The other man is on a federal watch list for suspected terrorists or drug traffickers, lives in Mexico and has a different date of birth, according to the lawsuit.

“These matching algorithms treat Hispanic names just like a mix-and-match,” said Mr. Fernandez’s attorney, E. Michelle Drake.

RentGrow declined to explain why the company included the other man’s record in Mr. Fernandez’s report, but said in a statement that it had “promptly resolved all concerns in his favor.” Mr. Fernandez was able to get into the apartment he wanted.

While disputing the report, however, Mr. Fernandez said he discovered that RentGrow had incorrectly reported the same federal watch list information to a landlord four years earlier, according to the lawsuit. He said he was not informed at the time.

Hector Hernandez took CoreLogic to court after the company mixed him up with an accused drug smuggler, Hector Hernandez-Garcia, causing him, his wife and their newborn son to be temporarily homeless in the Washington, D.C., suburbs.

“I kept telling them: ‘You got the wrong guy. I’m telling you, that’s not me,’” Mr. Hernandez, who works for a pest control company, said in an interview. CoreLogic settled the lawsuit.

In a deposition for another federal lawsuit, a CoreLogic employee said independently verifying reports like these before sending them out “would be an overwhelming task.”

It's certainly more expensive: Court filings in a federal lawsuit show that RealPage pays one data broker 22 cents for each criminal record by buying data in bulk. The company typically charges landlords \$12 per report. If there's a dispute, the data broker would charge RealPage \$7 to hand-check a record, according to the contract, shrinking RealPage's profits — but not eliminating them.

That lawsuit claims RealPage produced 11,000 inaccurate renter background reports between 2014 and 2019 using “abbreviated” criminal records, which are cheaper than a full record check, bought from an affiliate of Backgroundchecks.com. The records don't include details of the resolution or complete dates of birth, so are more likely to lead to incorrect reports.

In a statement, RealPage said that “the screening that gave rise to this case occurred years ago” and that the company “has long since made changes to its criminal matching logic that would prevent this record from returning for the plaintiff in that case.” It would not elaborate on those changes.

Federal regulators have fined both RealPage and Backgroundchecks.com.

Backgroundchecks.com and an affiliated company were fined by the Consumer Financial Protection Bureau in 2015 over employment screenings. Among other things, the agency said the company had failed to look for patterns in customer disputes that would identify root causes of inaccuracies, such as court jurisdictions with unreliable data, error-prone procedures or employees who are particularly sloppy.

In 2018, the Federal Trade Commission fined RealPage \$3 million for using wild-card searches; the company did not have to admit wrongdoing. The company brings in about \$48 million annually from tenant background screenings, according to court filings.

Despite the federal action, RealPage continues to employ a name-matching program that tolerates a significant amount of imprecision, according to federal lawsuits.

For instance, according to a lawsuit by Leon Howard, RealPage included criminal records for a Lonnie Howard and eviction records for a Linnea Howard in his background report when he applied for a rental in Georgia in 2019. Lonnie Howard's date of birth was different than Leon Howard's, and the report included a photo of the offender, according to the lawsuit, which RealPage settled for an undisclosed sum.

Vindicated but Still Waiting



Sandra Smith spent a year and a half trying to get a denial overturned after another person's information was sent to the public housing authority in Jacksonville, Fla. Jon M. Fletcher

Most hurt are people living on the edge, especially those who made it to the top of long wait lists for a housing voucher or a public housing unit only to lose out because of faulty background checks.

Sandra Smith waited more than a year for a spot in public housing in her hometown, Jacksonville, Fla. After a divorce, she had been staying with friends and her mother. Unemployed while recovering from health problems, Ms. Smith was relieved she'd finally be able to move back out of her teenage bedroom.

"I'm 55," she said. "Having my own space is something I haven't had in a long time, and I felt like I was ready for that."

But the housing authority turned her down after a background check reported a 2013 eviction for a different Sandra Smith.

“Everything was a runaround,” she said. “No one had any more anything to show me — why they were so convinced that this was me.”

Agency officials said she had been denied because of the screening, which is their policy.

“It would’ve taken them two to three minutes to investigate this,” said Adam Thoresen, a Jacksonville Area Legal Aid lawyer whom Ms. Smith turned to for help.

The signature on the lease agreement, which was attached to the online eviction records, wasn’t the same as his client’s, he said. The lease listed multiple children — but his client has only one child, an adult in his 30s, and the names didn’t match.

“This is really simple stuff,” Mr. Thoresen said.

It took Ms. Smith a year and a half to get her denial overturned. She is still dealing with the paperwork and hasn’t gotten an apartment.

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