

INTEGRITY ISSUES

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White Papers



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LYING, CHEATING AND STEALING-- THE SCOPE OF THE PROBLEM AND THE UTILITY OF APPLICANT SCREENING TOOLS TO ADDRESS THESE ISSUES

This paper will provide various examples documenting the prevalence and impact of employee theft, other ethical breaches and general workplace counterproductivity. Additionally, it will focus on the various means by which employers can screen applicants who have a propensity of engaging in workplace theft and other problematic behaviors. The advantages and disadvantages of each approach will be discussed. Based on an analysis of the various approaches to applicant screening, best practices for employers will be recommended.

THE SIZE OF THE PROBLEM

Employers vary in terms of their awareness of the impact of employee theft, ethical problems and counterproductivity. Unfortunately many employers misguidedly believe that almost all their employees are dedicated workers who act in the best interests of their employer. To demonstrate the prevalence of such misbehavior, a cursory search of the Internet was conducted to identify incidents reported in the press over the course of three days in June 2007. The following headlines, quotes and statistics indicate that employers should be circumspect in their hiring of employees regardless of whether the individual is seeking an entry or higher level position.

- Kmart employee busted for letting relatives walk out with shopping carts full of stolen stuff.
- A former employee of Tiffany and Co. has been charged with the theft of ten pieces of jewelry worth \$145,000.
- Shopko employee arrested and jailed for stealing a large amount of electronic store merchandise over a lengthy period.
- A former Wells Fargo bank branch manager was sentenced for one count of embezzlement for issuing \$500,000 in cashier checks without authority.
- An Indiana Department of Revenue employee was fired after diverting \$24,000 from six businesses and 11 individuals.
- A former Ouachita County employee was charged with five counts of theft after charging over a \$150,000 of personal items on a Wal-Mart credit card issued to the county.

Beyond this three day period, the following headlines, quotes and statistic are commonplace:

LYING

- A 2005 study by CareerBuilder.com found that 20 percent of workers lie at the office at least once a week.
- A 2004 article in HR Magazine estimates that 40 to 70 percent of job applicants embellish or outright lie on their resumes.
- George O'Leary lost his football coaching job at Notre Dame due to falsely claiming he had a master's degree in education.
- In 2006, the CEO of Radio Shack resigned after it was confirmed that he had falsified his resume.
- Senator Harkin from Iowa indicated that he



I N T E G R I T Y I S S U E S

spent a year in Vietnam flying combat missions. In reality, he was stationed in Japan and saw no combat experience.

CHEATING

- A survey by CCH found that the average cost of absenteeism in 2005 was \$660 per employee—costing large organizations millions of dollars. Significantly, almost two out of three employees who fail to show up for work are not physically ill.
- A 2005 study by Salary.com and America Online found that the average worker admits to wasting over two hours of work time per day. That is one week every month. This unproductive time costs employers \$759 billion annually.
- A 2007 study by the Academy of Management and Learning found that 56 percent of M.B.A. candidates admitted to cheating in the past year.

STEALING

- The 2006 report by the Association of Certified Fraud Examiners showed that businesses with fewer than 100 employees suffered a median of \$190,000 in fraud losses.
- According to the National Retail Survey released in 2007, the majority of retail shrinkage in 2006 was due to employee theft at \$19.5 billion, which represented almost half of losses (or 47 percent). Shoplifting accounted for \$13.3 billion, or about one-third (32 percent) of losses.
- The former president of Morris Brown College pleaded guilty to embezzling millions of dollars in federal funds from the government and students.

ADDRESSING THE PROBLEMS

In light of the above discussion, it is obvious that a prudent employer must address these general ethical issues when evaluating job applicants for employment. Some of the tools that are helpful to

address these issues are reference checks, criminal background checks, interviews, drug testing and written integrity testing. Following is a discussion of the advantages and disadvantages of each of these tools.

REFERENCE CHECKS

Reference checks are a very important component of any applicant screening process. They can be useful in documenting that the information provided by the applicant via resume and/or interview is truthful. Additionally, the reference check is imperative to help insulate an employer against negligent hiring liability. Unfortunately, there are many downsides to conducting reference checks. First, they are time consuming and costly to conduct. Second, applicants' previous employers often provide no substantive information due to the potential of being subject to defamation claims. Finally, if an employer utilizes a third party to conduct reference checks, then the employer has to ensure that it is complying with the Fair Credit Reporting Act ("FCRA"), along with its many notice requirements.

CRIMINAL BACKGROUND CHECKS

Since past behavior is a good predictor of future behavior, criminal background checks are useful in helping determine whether a prospective employee will steal from an employer. If an applicant has a recent conviction for a theft-related crime, then it should be a legitimate and useful basis for denying employment. Also,



I N T E G R I T Y I S S U E S

conducting a criminal background check demonstrates that the employer is attempting to discharge its duty of care in hiring employees, thus, making such checks a useful defense in negligent hiring suits.

On the other hand, only about five to eight percent of criminal background checks reveal a conviction. And of these convictions, many are not theft-related crimes. Another issue with respect to criminal background checks stems from the fact that they exhibit a disparate impact on the basis of race. As a result thereof, the Equal Employment Opportunity Commission (“EEOC”) has indicated that it will highly scrutinize an employer’s rejection of applicants on the basis of criminal convictions. This means that the employer needs to ensure that applicants must only be rejected on the basis of convictions that are job-related and consistent with business necessity.

Another limitation to criminal background checks stems from using them with younger job applicants. In the vast majority of cases no information regarding juvenile convictions will be provided, since juvenile records are typically sealed by the courts. Finally, the vast majority of employers who utilize criminal background checks in the employment process retain a third party to procure such information. Use of these third parties requires that the employer comply with the FCRA. Parenthetically, employers must be very circumspect in retaining these parties to help ensure that

procured criminal background information is free of errors and omissions.

INTERVIEWS

Interviews are an integral part of the hiring processes and can be very useful when conducted by trained professionals using a structured format. While interviews can be useful to help identify falsehoods contained within an applicant’s resume, they generally are very poor predictors of ethical behavior. Hence, an employer should focus on ensuring that its interviewers are well trained, unbiased and focused on uncovering resume misrepresentations.

DRUG TESTING

Drug testing is a very accurate means of ascertaining whether a job applicant recently used illegal drugs. As a result, drug testing is a somewhat useful means of predicting some forms of employee counterproductivity. Specifically, this form of screening should lead to lower levels of absenteeism and tardiness, while increasing workplace productivity. Drug testing can also be a reasonable line of defense in negligent hiring suits.

On the downside, drug testing is a relatively expensive undertaking, which needs to comply with various state statutes. While courts have pretty much allowed drug testing regardless of the position a job applicant is seeking, it is commonly viewed as invasive and has stimulated extensive litigation. In terms of positive hits, the most recent research indicates that only



I N T E G R I T Y I S S U E S

about 4 percent of drug tests for job applicants are positive. Ostensibly this rather low hit rate somewhat stems from the fact that many savvy job applicants simply abstain from the use of illegal drugs for a few days before they must submit a urine sample for testing.

WRITTEN INTEGRITY TESTING

Integrity tests have been used by employers for over forty years. These instruments have been developed to predict whether an applicant will engage in various forms of workplace counterproductivity (e.g., absenteeism, theft, not working during working hours). Research in the area of personnel psychology has consistently shown that these tests are extremely effective in addressing workplace counterproductivity. A representative quote from an extensive review of the research on written integrity tests states: “Results indicate that integrity test validities are substantial for predicting job performance and counterproductive behaviors on the job, such as theft, disciplinary problems, and absenteeism.”

In addition to the strong validity evidence discussed above, integrity tests have been shown not to exhibit disparate impact. These tests have been administered to millions of job applicants over the last forty years and have not been a lightning rod for litigation (only about 35 challenges). Moreover, in the case of every challenge, the EEOC or the relevant state human rights agency has found in favor of the

employer. Also from a legal perspective, integrity tests can be a useful form of defense to negligent hiring suits.

Finally, written integrity tests are relatively inexpensive compared to all of the hiring procedures discussed in this paper. The use of these tests is further facilitated by the fact that they can be easily and quickly administer either online or via a toll free number. As a result, high risk applicants can be screened from contention for a job before wasting time and money on interviews, criminal background checks, references and drug testing.

On the downside, employers who are interested in utilizing a written integrity test need to exercise diligence in their selection of such an assessment. This stems from the fact that not all test publishers offer appropriately researched assessments. Employers should look for a publisher with appropriate professionals (e.g., industrial psychologists, employment attorneys, measurement specialists) on staff, as well as documentation of the test’s validity. Additionally, an employer should look for a publisher who is a member of the Association of Test Publishers.

CONCLUSION

In summary, lying, cheating and stealing is ubiquitous in the modern workplace. Employers can effectively combat these problems in the employment process and workplace through the use of various screening tools. Certainly an employer’s



I N T E G R I T Y I S S U E S

goals and jobs will dictate whether all or just some of these tools are used in the hiring process. However, given the effectiveness and utility of written integrity tests, prudent employers should always strongly consider their implementation.

If you have any questions or would like further information regarding the information discussed herein, please contact Wonderlic's General Counsel (David Arnold).