

HOW TO OBTAIN A CRIMINAL RECORD CHECK IN RUSSIA

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Executive Summary

1. More often than not, employers are required to check for criminal offenses when hiring workers. On the one hand, the law states in a number of cases that the company's management must refuse key positions to people who have a criminal record. But on the other hand, what is to be done if the applicant attempts to hide their criminal past, and the company is not able to independently verify this vitally important information?
2. Information on citizens who have been convicted and are serving sentences – including suspended sentences – is held in a database at the Russian Ministry of Internal Affairs' Main Informational and Analytical Center. Consequently, only personnel from law enforcement bodies are permitted access. However, the invisible hand of the market dictates terms. Today, demand for such information is so high that many are constantly faced with the question: how can one check whether a person has a criminal record when they haven't provided their consent to do so, and knowing only their name?
3. It is immediately worth mentioning that it is not simple for a regular member of the public to do this. Requests for information of this kind may only be filed by the person in question, or by an authorized agency.
4. That said, in practice there are exceptions. Large commercial holdings have no problem in dealing with this difficult task, given that they have their own security departments which use dubious connections in law enforcement agencies (this practice is sometimes called a "background check").
5. As a result, they encounter no restrictions in obtaining unofficial information from the relevant Ministry of Internal Affairs information centers on whether an applicant has a criminal record or has incurred administrative liability. Information can even be garnered from the address bureau.
6. There is no use turning to a detective with such requests, because private investigators are forbidden from obtaining information from official databases. That means a detective with special permission to carry out private investigative work has very little ability to help their client, even for ostensibly straightforward matters, such as verifying an applicant's resume.
7. We have tried to rectify this absurd situation and have prepared methodological recommendations which we believe will enable detectives to carry out criminal record checks, and most importantly, to do so completely legally.

Methodical Guidelines

for the Provision of a Private Investigation Service on Collection and Analysis of Information on Civil and Criminal Cases, Presence (Absence) of Criminal Records and (or) the Fact of Criminal Prosecution or Being on the Wanted List

Subject Matter of the Investigation

1. Method for providing the service of private investigation on collection and analysis of information on civil and criminal cases on a contractual basis with participants of the process defines the time frames and sequence of actions in private investigation related to collection of information on criminal and civil cases and sets the action plan for a detective to render the service.

Range of the Detective's Customers

2. The customers are Russian and foreign legal entities and individuals, law unions.

3. Information on criminal and civil cases is provided on the basis of a detective services agreement with the written consent of the participants in the process which must contain the Customer's name and the date of consent issuance.

Standard of Service Rendering

Ethical requirements

4. Investigative procedures should enable the detective to be confident that he is observing the relevant ethical requirements, including adherence to the principles of independence and legality.

Service Description

5. The service on investigation with regard to collection and analysis of information on criminal and civil cases with the written consent of participants in the process.

Service Result Description

6. The result of the service is a detective's written report containing information and (or) facts of participation of a citizen or a legal entity in civil or criminal proceedings. Consent of a citizen or a legal entity to disclose information contained in a civil or criminal case may be obtained by the Customer in the form of an electronic document signed by a digital signature in accordance with the laws of the Russian Federation or in hard copy in written form with a handwritten signature of the party to civil or criminal proceedings upon producing by the citizen or the legal entity's representative of passport or another identity

document to the Customer. Consent of the citizen or legal entity's representative must contain the Customer's name and the date of issuance of the above-mentioned consent.

Term of Service Rendering

7. The term of service rendering shall not exceed 5 calendar days from the date of registration of an order.

8. If there is a need in obtaining any additional information, the time frames of the investigation may be extended but no more than for 10 calendar days.

List of Statutory Legal Acts Governing Relations Arising in Connection with Service Rendering

9. Relations arising in connection with service rendering are governed by the following statutory legal acts:

- The Constitution of the Russian Federation
- The Civil Code of the Russian Federation (part one)
- The Family Code of the Russian Federation
- The Criminal Code of the Russian Federation
- The Labor Code of the Russian Federation;
- Federal Law No. 210-FZ dated 27 July 2010 "On Organization of Rendering State and Municipal Services";
- Federal Law No. 129-FZ dated 08 August 2001 "On State Registration of Legal Entities and Individual Entrepreneurs";
- Federal Law No. 59-FZ dated 02 May 2006 "On the Procedure for Considering Appeals of the Citizens of the Russian Federation";
- Federal Law No. 149-FZ dated 27 July 2006 "On Information, Information Technologies and Information Protection";
- Federal Law No. 152-FZ dated 27 July 2006 "On Personal Data";
- Law No. 5485-1 of the Russian Federation dated 21 July 1993 "On State Secret";
- Federal Law No. 262-FZ dated 22 December 2008 "On Ensuring Access to Information about the Activities of the Courts in the Russian Federation".
- Law No. 2487-1 of the Russian Federation dated 11 March 1992 "On Private Detective and Security Activity in the Russian Federation"
- Decree No. 373 of the Government of the Russian Federation dated 16 May 2011 "On the Development and Approval of Administrative Regulations of Execution of the State Functions and Administrative Regulations of Provision of Public Services";

- Decree No. 477 of the Government of the Russian Federation dated 15 June 2009 “On Approval of the Rules of Clerical Work in Federal Executive Bodies”.
- Appendix No. 4 to the Procedure for the Organization of Access to Information on the Activity of the Supreme Court of the Russian Federation approved by order No. 10-П of the Chairman of the Supreme Court of the Russian Federation dated 18 June 2010.

List of documents required for the provision of services in accordance with regulatory legislation

10. In order for services to be provided, the client must present the following documents:

10.1 A letter of instruction to gather information on participation of the subject under investigation in civil or criminal proceedings, written in free form.

10.2 The written consent of the citizen to have his/her personal data processed.

The client may be required to submit additional documents and information.

Payment Procedure, Amount of Remuneration for Service Rendering

11. The service for conducting investigation with regard to collection and analysis of information on civil and criminal cases is provided under a services agreement between the detective, on the one part, and the customer, on the other part.

Terms and Procedure of Registration of a Service Order, Including in Electronic Form

12. An order is submitted in the form of electronic document, is registered subject to the requirements of records management within one business day on the day of receipt.

13. Reference number for the order is sent to the customer via email with the detective’s written report enclosed.

Composition, Sequence of Actions and Time Frames of Private Investigation

14. Provision of the service includes the following procedures:

- Reliability assessment of the detective’s customer;
- Refusal in conducting investigation on collection and analysis of data on civil and criminal cases (in case of detecting the grounds for refusal in service provision);
- Signing of a services agreement;
- Receipt and registration of a separate order;
- payment for the service;
- Preliminary assessment of the terms of execution of the order;
- Private investigation planning;

- Investigation on collection and analysis of information on civil and criminal cases;
- Investigation on collection and analysis of information on civil and criminal cases;
- Transfer of the report to the customer.

15. A chart of service provision is given in Appendix 1 to the Methodical Guidelines.

Receipt and Registration of Orders

16. The basis for commencement of service rendering is a written request of the customer.

17. The customers apply:

- Using email;
- Using the form of an online application by completing a special form on the detective agency's website.

18. To receive online applications, specialized software can be used providing for completion by the customer of the details required to work with the order and to prepare a report (in the form of a written or an electronic document).

19. The report is sent to the email address specified by the customer in its online application.

20. Detective makes a record in the Logbook of Orders about the order acceptance which shall include:

- Order number;
- Date of receipt;
- Customer's details.

21. Required information about the subject of the investigation shall include:

- For legal entities: company name, INN (Taxpayer Identification Number);
- For citizens: family name, first name, patronymic, day, month and year of birth, city of residence in the Russian Federation.

Acceptance of the Customer's Orders

22. Registered orders (accompanied by any materials, if available) are transferred to the detective on the day of their registration.

23. Upon studying the order and the materials attached thereto, the detective makes a decision on the initiation of an investigation.

Identifying Information for Preparation of the Report. Report Preparation

24. The basis for the start of the investigation procedure for collection and analysis of information on civil and criminal cases is signing of a services agreement and payment of the subject matter of the order.

25. Detective performs a check in the open database IS (Information System) “Judicial Document and Records Management” of the Supreme Court in the country of investigation and in the city of residence of the subject of investigation on the territory of the country of investigation, if this data requires clarification.

26. Researching information held in the databases of the Supreme Court does not always make it possible to establish the identity of a citizen. This is most often the case when subjects have common names and surnames. In order to avoid any errors in the detective’s research, it is therefore recommended that, in addition to checking the register of the Supreme Court, the detective should carry out additional investigative measures.

27. When checking information about crimes, the detective is able to use legend survey methods, as well as collating and studying documents. The following actions are particularly recommended:

- Conducting an interview with neighbours and relatives of the subject under investigation.
- Examining any information or data about the subject available from open sources for any indication of the commission of a crime or other illegal activity which could provide the basis for a criminal investigation.
- Examining extracts from the Unified State Register of Legal Entities containing the addresses of co-founders of companies and trusted persons from whom the necessary information could be obtained.

This list of measures is not exhaustive and is dependent on the specific circumstances of the investigation.

28. To establish potentially significant high-risk facts indicated in this information and (or) these reports; that is, indicating the possibility of illegal activity, the detective will make a decision on the appropriateness of conducting a second check of the open court documentation and records management database of the Supreme Court of the country in which the investigation is being conducted.

29. In the event that indications are identified that a crime has either been committed or is being committed, the detective will disclose all relevant materials and preliminary results of his checks to an employee of the organization of investigation, inquiry and administrative practice responsible for the relevant area. As such, the detective bears personal responsibility for the legality and justifiability of procedural decisions taken based on the results of investigative activity conducted.

30. Upon collection and analysis of evidence, the detective prepares a written report (see the Appendix).

31. Report on collection and analysis of information on civil and criminal cases shall include:

- In the absence of information about involvement in criminal (civil) proceedings, a mark “No relevant information found” shall be made in the appropriate boxes;

- In case of availability of information on participation in civil or criminal proceedings, a mark "Information available" is made in the column "availability (absence) of information about participation in civil or criminal proceedings;
- When establishing the fact of the subject of investigation being wanted for committing a crime, a mark "On the wanted list" is made in the column "availability (absence) of information about the fact of the subject of the investigation being wanted for committing a crime".
- In case of specifying in the request of a wrong (non-existent) first name, family name, patronymic, date of birth, address of place of residence of the subject of the check or if when completing a request, a mistake (misprint) was made in information about the subject of the investigation, the appropriate boxes are marked "No relevant information found. Specify the details of the request"

32. When the report is ready, the final version shall be sent to the customer using the Internet within one business day.

33. The report shall contain mandatory particulars of the detective, the number and date.

34. The report shall be sent to the customer in compliance with the requirements of records management and ensuring confidentiality of personal data.

Detective A.E.Krioni

Chart of the overall structure of sequence of actions for the provision of a private investigation service on collection and analysis of information on civil and criminal cases, presence (absence) of criminal records and (or) the fact of criminal prosecution or being on the wanted list



