

Security Passport Frequently Asked Questions

Q: What if a person has a felony that is not in the matrix?

A: If a person has a felony that is not listed in the matrix, it is most likely not a crime of violence or a member of the most well known group of convictions that would most likely cause concern. For example: prostitution is not in the matrix nor are most vice crimes such as illegal gambling. The matrix was designed to catch persons that represent a clear risk to others and property. This matrix was based on the FAA and DOT guidelines (**see Addendum A below**). These references do not mention vice crimes as well.

Q: What if the person committed a felony in the matrix, but it was plea bargained down to a misdemeanor?

A: Plea-bargaining is part of the American criminal justice system. It really begins with the first officer on the scene exercising discretion up to the DA office reducing the charge. In many instances, it could be viewed as a more reliable conviction measure because a plea bargain ensures a conviction. Again, the matrix was designed to catch career criminals. A long and ongoing debate encircles this issue of plea-bargaining. There are very few accurate sources to determine the extent of plea-bargaining. Plea bargains, not guilty verdicts and jury nullification (such as the OJ case) demonstrate that the American CJ system has quirks, but that it is generally good at identifying career criminals. The issue of plea bargains and other factors that help dictate felony convictions is a losing battle with conflicting information. Many factors play a role in conviction rates.

Q: Why isn't domestic violence/abuse in the matrix?

A: The term "domestic violence" more or less describes to the officer what to expect when they arrive on the scene and helps to flag the case for specialized treatment in the court system. Domestic violence in general may not be the criminal statute that a person will be charged with, but it helps to prescribe to the officer on the scene special actions that must be taken by the police. In Louisiana for example, we have a domestic abuse battery statute that is a misdemeanor until the third conviction (the matrix reads any felony battery). The statute describes that a person can be charged with "domestic abuse battery" rather than simple battery if a battery occurs amongst family members. By far, most specific domestic violence battery statutes are misdemeanors and would not make the matrix. Serious violence between family members such as aggravated battery, murder, kidnapping, etc. is treated as a "run-of-the-mill" felony and do not stipulate domestic violence as an element of the crime. However, domestic violence may be stipulated so that the courts can use this

information to process the case differently (child custody etc.). For example, the courts do not treat a homicide between a husband and wife as a domestic violence homicide; it is simply a homicide. The court may treat the victim and the perpetrator differently if they are husband and wife (domicile rights, child custody, restraining orders, etc.). In addition, each state is different. Part of the benefit of a third party investigator such as Sterling Testing is that they are more familiar with each state's quirks surrounding convictions. Domestic battery, domestic assault, and other charges are covered in the matrix (battery, assault, etc). Any physical felony crime of violence will most likely be caught in the matrix.

Q: What if someone is issued the Security Passport but then gets a felony conviction the next day?

A: The individual had to be in some sort of pretrial stage to be convicted at the time of the issuance of the passport. The matrix clearly says "under indictment" is a disqualifier. A person could not be arrested, charged, and convicted in the 3 business days that it takes to issue the passport. The intent of the matrix was not to issue passports to persons who are wanted or currently under indictment. Therefore, this person should be disqualified.

Q: How does Security Passport verify a volunteer's address?

A: From Sterling Testing System's Social Security (SS) Trace report. The Sterling Testing Systems SS Trace database taps into approximately 8800 different data sources that are continuously being updated (daily, weekly, monthly and yearly). When a search is performed, an exhaustive number of sites that may contain an applicant's prior address are accessed. The system combines data source lists to include the following industries: billing and collections (to include residences listed with all three credit bureaus: Experian, TransUnion, and Equifax), banking, fraud detection, human resources, insurance, media and law enforcement. Clients have consistently commented on the comprehensiveness of residences that appear on the SS trace database report. The main reason the differences may exist between Sterling's system and others may be due to the large number of sources and the associated proprietary linking technology that flags all data and correctly sorts information about the applicants in a "smart" way. The Social Security Trace is more cost effective than using a Credit Report system solely because it does not require an on-site inspection due to the fact that Sterling is not providing the financial information associated with obtaining information from a Credit report.

Q: Why are federal criminal records reviewed?

A: Federal criminal records contain information of criminal convictions involving federal jurisdictions. Federal crimes include serious violent felonies, property

offenses, drug offenses, weapon offenses, immigration offenses and public order offenses. Some offenders may have both state and federal criminal convictions. Both state and federal criminal records must be checked to ensure the highest level of safety. Not searching federal criminal history records allows a significant margin of error that could result in a serious security incident or, at the very least, a lack of due diligence. Terrorist, hijackers, bombers, white-collar criminals, gangsters and drug cartel members are but a few of the sophisticated criminals that are processed by the federal criminal justice system.

A **federal crime** is a crime against the United States as described in the United States Code. For example, *United States of America, Plaintiff v. Theodore John Kaczynski, Defendant*. Or *USA v. Edwards, et al*(*Edwin Edwards Case*). Federal criminal cases are processed by U.S. District Courts and Federal Magistrate Courts. The outcome (or disposition) of a criminal case is found in U.S. District Court Records.

Searching federal criminal records is a vital part of any background screening program. The U.S. Bureau of Justice Statistics (BJS) states, "In 2002, State and Federal courts convicted a combined total of nearly 1,051,000 adults of felonies. State courts convicted an estimated 1,114,000 adults and Federal courts convicted 63,217 adults (accounting for 6% of the national total)."

Although 6% may seem like a low number of convictions, the types of crimes that offenders were convicted of are serious. In 2001, federal courts convicted 2,604 offenders for felony violent crime, 12, 349 for felony property offenses, 25,088 for felony drug offenses, 4,925 for felony weapon offenses and 10,050 for felony immigration violations (BJS, Federal Criminal Case Processing, 2001).

Q: What is the prison release date search?

A: This search is of a particular **State's** Department of Corrections database. Forty one states currently participate in the program. Louisiana is not one of the 41. Federal prisons are not included. As an example, for Alabama, it's a statewide record of currently incarcerated inmates. Records on approximately 25,000 persons. Results **may** show defendant name, DOB, race, sex, **prison release date**, offense description, status, and current location. It varies from state to state and is used an additional search tool to complement the other searches that are done.

Addendum A

FAA Guidelines:

[Code of Federal Regulations]

[Title 14, Volume 2]

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TITLE 14--AERONAUTICS AND SPACE

CHAPTER I--FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

(Continued)

PART 108--AIRPLANE OPERATOR SECURITY--Table of Contents

Sec. 108.33 Employment history, verification and criminal history records checks.

(a) Scope. The following persons are within the scope of this section:

(1) Each employee or contractor employee covered under a certification made to an airport operator, pursuant to Sec. 107.31(n) of this chapter, made on or after November 23, 1998.

(2) Each individual issued air carrier identification media that one or more airports accepts as airport approved media for unescorted access within a security identification display area (SIDA) as described in Sec. 107.25 of this chapter.

(3) Each individual assigned, after November 23, 1998, to perform the following functions:

(i) Screen passengers or property that will be carried in a cabin of an aircraft of an air carrier required to screen passengers under this part.

(ii) Serve as an immediate supervisor (checkpoint security supervisor (CSS)), or the next supervisory level (shift or site supervisor), to those individuals described in paragraph (a)(3)(i) of this section.

(b) Employment history investigations required. Each air carrier must ensure that, for each individual described in

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paragraph (a) of this section, the following requirements are met:

(1) The individual has satisfactorily undergone Part 1 of an employment history investigation. Part 1 consists of a review of the previous 10 years of employment history and verifications of the 5 employment years preceding the date the employment history investigation is initiated as provided in paragraph (c) of this section; and

(2) If required by paragraph (c)(5) of this section, the individual has satisfied Part 2 of the employment history investigation. Part 2 is the process to determine if the individual has a criminal record. To satisfy Part 2 of the investigation the criminal records check must not

disclose that the individual has been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years ending on the date of such investigation, of any of the crimes listed below:

- (i) Forgery of certificates, false marking of aircraft, and other aircraft registration violation, 49 U.S.C. 46306;**
- (ii) Interference with air navigation, 49 U.S.C. 46308;**
- (iii) Improper transportation of a hazardous material, 49 U.S.C. 46312;**
- (iv) Aircraft piracy, 49 U.S.C. 46502;**
- (v) Interference with flightcrew members or flight attendants, 49 U.S.C. 46504;**
- (vi) Commission of certain crimes aboard aircraft in flight, 49 U.S.C. 46506;**
- (vii) Carrying a weapon or explosive aboard aircraft, 49 U.S.C. 46505;**
- (viii) Conveying false information and threats, 49 U.S.C. 46507;**
- (ix) Aircraft piracy outside the special aircraft jurisdiction of the United States, 49 U.S.C. 46502(b);**
- (x) Lighting violations involving transporting controlled substances, 49 U.S.C. 46315;**
- (xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements, 49 U.S.C. 46314;**
- (xii) Destruction of an aircraft or aircraft facility, 18 U.S.C. 32;**
- (xiii) Murder;**
- (xiv) Assault with intent to murder;**
- (xv) Espionage;**
- (xvi) Sedition;**
- (xvii) Kidnapping or hostage taking;**
- (xviii) Treason;**
- (xix) Rape or aggravated sexual abuse;**
- (xx) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;**
- (xxi) Extortion;**
- (xxii) Armed robbery;**
- (xxiii) Distribution of, or intent to distribute, a controlled substance;**
- (xxiv) Felony arson; or**
- (xxv) Conspiracy or attempt to commit any of the aforementioned criminal acts.**

DOT Guidelines:

The list of disqualifying crimes was specifically designed to identify those most likely to endanger the nation's transportation network and is comparable to background reviews applied to millions of airport and airline employees.

These crimes are only disqualifying if they are **considered felonies** in the appropriate jurisdiction, civilian or military. A driver will be disqualified from

holding a hazmat endorsement if he or she was convicted* or found not guilty by reason of insanity within the last seven years, was released from prison within the last five years, or is wanted or under indictment for any of the following crimes:

- Murder
- Assault with intent to murder
- Kidnapping or hostage taking
- Rape or aggravated sexual abuse
- Extortion
- Robbery
- Bribery
- Smuggling
- Immigration Violations
- RICO (Racketeer Influenced and Corrupt Organizations Act) Violations
- Distribution of, intent to distribute, possession, or importation of a controlled substance (State laws on the quantity of marijuana required for the offense to be considered a felony, vary. Typically, however, to be convicted of felony marijuana possession a person must possess a quantity of marijuana greater than an amount considered for “personal use”.)
- Dishonesty, fraud, or misrepresentation, including identity fraud (e.g., felony-level: embezzlement, tax evasion, perjury, and false statements to the Federal government)
- Unlawful possession, use, sale, distribution, or manufacture of an explosive device, firearm, or other weapon
- Conspiracy or attempt to commit any of these crimes

A driver will be disqualified from holding a hazmat endorsement if he or she was ever convicted or found not guilty by reason of insanity of any of the following crimes:

- Terrorism
- Espionage
- Sedition
- Treason
- Arson
- Unlawful possession, use, sale, distribution, or manufacture of an explosive
- A crime involving a severe transportation security incident (i.e., security incident involving a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area)

* Convicted means any plea of guilty or nolo contendere or any finding of guilt

- Improper transportation of a hazardous material (Minor infractions involving transportation of hazardous materials will not disqualify a driver. For instance, no driver will be disqualified for minor roadside infractions or placarding violations.)
- Conspiracy or attempt to commit any of these crimes

MTSA Guidleines:

MARITIME TRANSPORTATION SECURITY ACT
OF 2002

“§ 70105. Transportation security cards. . . .

“(A) has been convicted within the preceding 7-year period

of a felony or found not guilty by reason of insanity of a felony—

(i) that the Secretary believes could cause the individual to be a terrorism security risk to the United States;

or

(ii) for causing a severe transportation security incident;

“(B) has been released from incarceration within the preceding 5-year period for committing a felony described in subparagraph (A);

“(C) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

“(D) otherwise poses a terrorism security risk to the United States.

Louisiana Law Defines "Serious" Crimes:

TITLE 14 CRIMINAL LAW
CHAPTER 1. CRIMINAL CODE
PART I. GENERAL PROVISIONS
SUBPART A. PRELIMINARY PROVISIONS

13) "Crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence":

- (a) Solicitation for murder
- (b) First degree murder
- (c) Second degree murder
- (d) Manslaughter
- (e) Aggravated battery
- (f) Second degree battery
- (g) Aggravated assault
- (h) Mingling harmful substances
- (i) Aggravated rape
- (j) Forcible rape
- (k) Simple rape
- (l) Sexual battery
- (m) Second degree sexual battery
- (n), (o) Repealed by Acts 2001, No. 301, §2.

- (p) Intentional exposure to AIDS virus
- (q) Aggravated kidnapping
- (r) Second degree kidnapping
- (s) Simple kidnapping
- (t) Aggravated arson
- (u) Aggravated criminal damage to property
- (v) Aggravated burglary
- (w) Armed robbery
- (x) First degree robbery
- (y) Simple robbery
- (z) Purse snatching
- (aa) Extortion
- (bb) Assault by drive-by shooting
- (cc) Aggravated crime against nature
- (dd) Carjacking
- (ee) Illegal use of weapons or dangerous instrumentalities
- (ff) Terrorism
- (gg) Aggravated second degree battery
- (hh) Aggravated assault upon a peace officer with a firearm
- (ii) Aggravated assault with a firearm
- (jj) Armed robbery; use of firearm; additional penalty
- (kk) Second degree robbery
- (ll) Disarming of a peace officer
- (mm) Stalking
- (nn) Second degree cruelty to juveniles
- (oo) Aggravated flight from an officer