

Background Checks' Many Flaws

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This article is written in response to the December 11, 2015, News-Gazette (N-G) editorial and to explain some shortcomings of the criminal background check procedures for new University hires.

University and UIUC administrations and the Board of Trustees (BoT) were censured in June 2015 by the national American Association of University Professors (AAUP) for procedural misconducts. Since then a number of administrators and faculty have diligently worked to codify improvements to our procedures in order to facilitate our speedy removal from this censure list. Parenthetically, we note the UI's dubious distinction of being the only world class institution to be placed twice on the century old AAUP censure list – hardly an inspiring first to further reinforce its widely accepted reputation. While we acknowledge BoT's legal right to do so, it is most unfortunate and deplorable that it chose now to aggravate the censure situation by its unilateral background check imposition.

The national AAUP policy about and objections to pervasive background checks are detailed in Ref. [1]. The BoT mandated background checks for all new hires clearly are in significant conflict with these AAUP policy documents. Consequently, the UIUC-AAUP Policy Committee has by its recent resolution called upon our BoT to rescind its required background checks for all new hires.

Negative impacts of the BoT ordered policy are:

1. The BoT ordered background checks were unilaterally promulgated in the absence of federal and Illinois state law requirements.
2. There was no organized faculty consultation in the formulation of the BoT enabling document. It was crafted by human relations and legal counsel personnel at the exclusion of faculty and staff who are directly affected by this directive. Such action clearly violates the established principles of shared governance, which have been accepted by the AAUP and educational as well as Universities' governing board associations [2].
3. The future review committee's composition, member selection process, reporting line(s), etc., are left unspecified. One of the two criteria for

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non-hire namely, “harm to the University’s reputation,” is unspecified, all encompassing and invites arbitrary and capricious institutional decisions.

4. In the US pervasive conditions of disproportional arrests and convictions of certain minority groups exists. Consequently, the implementation of the proposed all inclusive criminal background checks for all new faculty and staff hires will prove de facto to be discriminatory.
5. The administration readily admits that it is impossible to obtain criminal background check information for international applicants. Therefore, it will instead rely on the US State Department’s visa selection program for its international thresh hold. Such disparate rules further discriminate against all US citizen applicants and invite costly lawsuits.
6. Without intending to be disrespectful to our students, it is a proven statistical fact that college students perpetrate by far an excessive number of major crimes on campuses and yet no checks are required or contemplated. Nor are we suggesting that checks be instituted for them.
7. The proposed policy document gives the University and Campus Administrations and the BoT open ended and ill-defined opportunities to arbitrarily and capriciously deny employment to faculty and staff on the basis that the campus presence of the new hire might somehow injure our reputation. Our unique worldwide reputation is hardly that fragile that it would be so greatly threatened by the campus presence of a single individual. Instead, the University’s national and international reputation is in far greater peril from a prolonged censure status. Incidentally, if prior background checks had been currently in place, historically they would have identified only one potential candidate in past 100 plus years. Parenthetically we add that despite N-G staff and letters to the editor expressing opposition, our previous BoT approved this individual’s one-year re-employment by an 8 to 1 vote. The proposed BoT policy would not apply to this or other reappointments.

The U of I is a world-class institution. Additionally to the above-enumerated factors, it should exhibit leadership in this matter to protect and maintain its unique well-deserved status. Such statements as “our peer institutions are doing it and our procedures are superior to theirs” are hardly convincing logical arguments for our implementations. Our reputation rests on the high quality of our students and the superb faculty achievements in teaching and research. That premier standing will not be diminished by the hiring of some politically perceived unacceptable individual who has demonstrated that since their punishment they have not brought those past ideas and/or actions into the classroom nor continued to advocate or practice them.

Furthermore, no prior criminal background check would have exposed the illegal sordid athletic history at Penn State or, were he a faculty member, that of a former US House of Representatives Speaker who is an Illinois resident. Neither would the proposed background checks have identified the one UI Foundation vice-president who embezzled \$600,000 some time ago. None of these convicted offenders possessed criminal conviction records prior to their hire.

It has been the long-standing consequence that the legal establishment of a person's guilt imposes proper punishment and should lead to rehabilitation. Even the N-G's recent column by Scott Reeder forcefully recommends forgiveness [3]. Mr. Reeder is the executive editor of *Illinois News Network* described by the N-G as "a project of the Illinois Public Institute, a conservative think tank."

There are no guidelines in the proposed enabling document as to how long a convicted person has to exhibit good behavior before the review committee will clear them. Nor is there any indication as to relevancy or severity of the past offense(s). As absurd as it may sound, but left with undefined offenses and their magnitudes, are we not equating repeated spitting on sidewalks with sexual assault or embezzlement and other serious crimes?

Finally we note that the N-G editorial staff has hardly missed an opportunity to place the University in a bad light and particularly to denigrate faculty members with whom it disagrees. Surely, there is room here for rational discourse at considerably higher than current levels. The editorial staff is biting the hand that feeds it. Where would the thriving Champaign County be without the 44,000 students and the 10,000 UIUC employees?

Additionally, we remind the N-G editorial staff that the UIUC Senate voting assembly is not limited to 200 elected faculty representatives, but also comprises 50 students and 10 academic professionals.

[1] AAUP (2015) "Verification and trust: background investigation proceeding, faculty appointments," pp. 164 – 168, *AAUP Policy Documents and Reports*, 11<sup>th</sup> ed., Johns Hopkins Press, Baltimore.

[2] AAUP (2015) "Statement on government of colleges and universities," pp. 117 – 122, *ibid.*

[3] Scott Reeder (2015) "Ex-offenders need forgiveness," Year 164, No 145, p. C-2, *The News-Gazette*.