

Uber and Lyft: Fingerprint-Based Criminal Background Checks Essential to Assure Public Safety

Overview

The issue of public safety protections at Uber and Lyft is generating a great deal of debate and controversy, specifically in connection with their policies against fingerprint-based background screening.

In a [study](#), the Society for Human Resource Management found that 87% of all businesses perform background checks in hiring decisions.ⁱ Either or both of the following techniques are commonly used:

- *A name-based background check* (or biographic check) searches the applicant's reported name against relevant databases, comparing records that have the same name.
- *Fingerprint-based background checks* (or biometric checks) use the fingerprints of the individual to match against a law enforcement database, comparing records that have the same print (even if the names are different).

Uber and Lyft clearly prefer to only use name-based background checks, and exclude fingerprint based background checks from their driver qualification process. (A notable exception is New York City, where fingerprint-based background checks are required and Uber has declared its intention to remain for the long term.)ⁱⁱ

Elsewhere, both Uber and Lyft have fought strongly against the efforts to require fingerprint-based criminal background checks, claiming that they are unnecessary, onerous, ineffective, and intrusive.

Uber and Lyft's stance is in sharp contrast to the widespread and growing use of fingerprint-based background checks. These checks are now required for employment in a wide variety of professions that involve the safety and security of the public, access to sensitive information, unescorted access to restricted areas, or unmonitored access to vulnerable populations.

A wide range of employees are required by local public safety statutes to undergo fingerprint background checks, including taxi drivers, airport workers, teachers, real estate professionals, mortgage brokers, security guards, day care workers, home health aides, nurses, government employees, and even most school volunteers.

Uber and Lyft's opposition to fingerprint-based background checks unfortunately comes at a high cost to public safety. The record of safety incidents involving the two services continues to grow. In the latest high-profile incident, an Uber driver who had passed the company's biographic screening procedure was later discovered to be a twice-convicted felon with an outstanding warrant.ⁱⁱⁱ These incidents have prompted state, local, and national governments around the world to consider mandating fingerprint background checks for Uber and Lyft employees in the interest of public safety.^{iv}

Rather than comply, Uber has pulled out of cities that require such checks and threatened to pull out of cities that are considering such measures. Uber has already abandoned service in [Galveston](#) and Corpus Christi, and has said that it will leave Miami, Houston, and other localities if full background checks are mandated.^v

Uber and Lyft recently poured [millions](#) into a proposition to repeal an Austin ordinance that would require fingerprint checks for drivers from both companies.^{vi} Notwithstanding a great deal of publicity and an aggressive campaign, the proposition was resoundingly [defeated](#) by voters.^{vii} As a result, Uber and Lyft have also stopped operating in Austin. Almost immediately thereafter, RideShare Austin, an innovative tech and community joint project emerged, which has already [indicated](#) that it will abide by fingerprint background check requirements in the interest of public safety.^{viii}

Uber and Lyft continue to actively campaign against fingerprint-based background check requirements in the United States and abroad.^{ix}

The Need for Substantive Debate

While the political battle over fingerprint background checks for Uber and Lyft drivers continues to escalate, little attention has been focused on the core reasoning of their position.

As a non-profit trade association representing the identity and biometrics industry, the International Biometrics + Identity Association (IBIA) seeks to set the record straight about the value and efficacy of fingerprint-based criminal background checks. Only a rigorous and comprehensive background check that includes a search of FBI and state fingerprint-based systems, *in addition to* other potential sources of biographic background information, will provide Uber and Lyft with all the necessary information to most effectively protect the safety and security of their passengers.

By providing policy-makers and the public with an understanding of fingerprint background checks and the reasons that they are a **key** addition to biographical data checks, IBIA hopes to shed light on the safety and security importance of requiring Uber and Lyft to employ these background check tools.

Fingerprint background checks are highly accurate and reliable. The technique has been used worldwide for decades to provide governments and employers the most comprehensive link to past criminal behavior. Uber and Lyft driver applicants can conveniently access hundreds of service provider facilities throughout the U.S. for fast collection of all ten electronic fingerprint images. Fingerprint collection service facilities are especially prevalent in the large urban areas where Uber and Lyft operate. In IBIA's view, their business model does not justify exemption from measures designed to protect public safety and security of the people they serve.

Fingerprint matching is extremely accurate and reliable

Fingerprint background checks through local, state, and federal criminal files are the gold standard for public and private employers who wish to determine if a prospective employee or contractor has had disqualifying criminal activity. The accuracy and reliability of these checks has been tested and proven over decades of use around the world to assure public safety and security. The prospective employer is provided with critical information on which to base an informed decision to hire.

Fingerprint checks are used for identification at international borders, in law enforcement applications, and in government and civil background check procedures because they offer a simple and the most accurate method to determine if a subject has a criminal history. INTERPOL, the FBI, and law enforcement authorities around the world use fingerprint submissions for both civil background check and criminal investigations.

Ten-print fingerprint searches of the FBI's Next Generation Identification (NGI) database are very accurate. The FBI [reports](#) automated true match accuracy rates of over 99.6%.^x Over a decade ago, the Department of Homeland Security's IDENT database was already [reporting](#) automated match rate accuracy of 99.5% against a database of millions of records.^{xi}

On its website, Uber [asserts](#) that "a person's skin may smooth with age or use, or the prints may get smudged during the process."^{xii} This allows people with criminal records to pass a...background check because their prints have changed from when they were arrested." Uber also claims that many low quality prints must be manually reviewed by examiners, whose record of matching is of dubious value.

Fingerprint collection technologies and matching algorithms are highly accurate and reliable, and continue to improve. The National Institute of Standards and Technology (NIST) and international standards bodies have designed proven frameworks for fingerprint accuracy matching that provide scientific rigor to the field. The widespread deployment of fingerprinting systems around the world has brought the technology to a point where even damaged or hard to read fingerprints can be accurately matched without any human intervention. The advent of automated identification electronic collection and matching has dramatically improved the sophistication of fingerprinting systems. The typical fingerprint collection process is now entirely electronic, leaving no ink or paper to smudge or distort the fingerprint image.

The FBI and state law enforcement agencies have converted their old fingerprint cards into digital records.

Electronic fingerprint collection devices also alert the operator to a poor quality capture immediately, thereby allowing the operator to re-capture high-quality prints while the applicant is still present to help ensure matching accuracy.^{xiii} Higher resolution collection devices now provide a greater level of detail; helping to match against even the most degraded samples.

It is true that poor quality submitted fingerprint images are occasionally rejected by the receiving law enforcement agency for technical reasons. If a person cannot provide fingerprint images of sufficient quality due to amputation, burns, or other medical reasons, then other more labor-intensive protocols are applied to complete the background checks. However, such instances would be rare.

Name-based background checks are inherently vulnerable

Background check systems are only as good as the information against which they search. Errors or deliberate misrepresentations in biographic data (such as deliberate misspelling, switched first and last names or unknown dates of birth) are commonplace.

The critical advantage of fingerprint background checks is that they can foil an attempt to use false or misleading biographic information to avoid detection. Fingerprint-based searches are based not on what applicants claim about their identity, but what their identity actually is. These searches provide all names (aliases) that have been associated with the fingerprints that were submitted for the search.

Criminal actors utilize false identities to blend into society and to commit crimes of opportunity and, by searching biographic records only, Uber risks exposure to fraudulent applications designed to thwart the effectiveness of fingerprint database checks. Biographic searches also contain data entry errors that can eliminate qualified job seekers from consideration.^{xiv} Misspellings of names in a biographic-only system can be a serious problem, either because of entry errors or intended subterfuge. These errors have real consequences. Boston bomber Tamerlan Tsarnaev's record of transit to Russia was obscured by a misspelling of his name – a fact that ultimately affected the associated investigation by the FBI.

On its website, Uber says that all applicants undergo a national, state, and local-level criminal history check that screens a series of national, state, and local databases including the US Department of Justice National Sex Offender Database (which Uber's own website says is incomplete) and the PACER database, both of which are name-based.

Uber itself recognizes the vulnerability of name-based checks. A company spokesperson noted that "a potential driver may have a stolen or fraudulent identity {or} an illegally obtained but valid social security number that cancels his or her true identity".^{xv}

The FBI, state and local law enforcement agencies can search their records on the basis of both biometric and biographic information. As a result, fingerprint-based background checks are the only way for employers to obtain a complete view into a prospective employee's criminal arrest record and to ensure that applicants with criminal arrest records cannot thwart background checks by providing false biographic information to disguise their identity and background.

Public safety and security is the ultimate reason to perform a background check. Fingerprints are the common currency of criminal records and are relied on for accuracy and reliability. To ensure the safety of their passengers, Uber, Lyft and other shared ride services should want to undertake the most comprehensive and rigorous background checks available and include fingerprint-based searches in its system. By failing to do so, drivers with a history of drunk driving arrests, violent crime, sexual assault, child endangerment, fraud and identity theft, illegal immigrants or drug offenses may be behind the wheel.

Instead, they seek to avoid compliance with law and/or best practice until after actual harm has occurred and a need has been identified.

Collection of fingerprints is simple and convenient

As biometrically-enabled background checks become more prevalent, a broad spectrum of companies now offer fingerprint collection as part of their comprehensive background check services. Given the many new entrants in this field, competition for new business is strong.

Uber [claims](#) that collection of fingerprints is a barrier to entry for potential drivers, suggesting that travel to an enrollment facility for fingerprinting would dissuade prospective new employees. Fingerprint checks as a part of a rigorous background check may be a barrier to entry for Uber applicants, but not for the reason that Uber cites. If a potential Uber driver does indeed have a disqualifying criminal history or outstanding wants and warrants, this can and should be a barrier to entry.

The FBI and state governments hold regularly scheduled open competitions in which they certify companies to "channel" biometric information into the relevant databases. These certified channelers then either open brick and mortar outlets themselves or sub-contract with other service providers to make fingerprint collection services widely accessible. The average response time for a civil electronic fingerprint check against FBI holdings is about 1 ½ hours – a time that can be reduced to around 15 minutes for an additional fee.^{xvi}

If Uber is concerned that biometric collection is inconvenient, it should partner with a certified channeler that has the most convenient locations in Uber's markets of interest. There are currently [seventeen](#) certified FBI channelers and hundreds of fingerprint collection centers, and competition between them is fierce. Given the size of the on-demand economy, channelers are

likely to court this new business vigorously and optimize their systems, if needed, to provide the rapid results that Uber desires.

In short, there are options that offer the convenience, speed and quality of capture that the companies desire. Since Uber and Lyft operate in large cities where there are numerous locations for collection of fingerprints, the fingerprinting process should be convenient for applicants and give quick results to Uber and Lyft in support of an informed applicant suitability determination.

This is truly a case where security and convenience are not mutually exclusive.

Continuous vetting or “Rap Back” ensures that today’s background checks remain current

In 2014, the FBI introduced its Rap Back service as part of its new Next Generation Identification (NGI) system. For Rap Back, civil applicant fingerprints submitted for the initial criminal history records check are retained by the FBI in their civil master file. If the person is then hired, they can be subscribed into the FBI Rap Back service by the sponsoring organization for a small fee (\$2.25 for two years).

As long as the subscription is active, all criminal activity in the U.S. is compared against that retained civil fingerprint record. If there is a match, and the criminal activity is included on the selected list of “triggering events”, the FBI will immediately send a notification to the sponsoring organization along with an updated criminal identity history summary, also referred to as a record of arrest and prosecution or “rap” sheet. This continuous criminal record vetting service eliminates the dependence on employee self-reporting of their own arrests and makes it unnecessary for the employer to re-submit fingerprints periodically for a new criminal history records check.

Uber claims that fingerprint checks fail to find disqualifying information. It [notes](#) that “in 2014 at least 600 people in San Diego, Los Angeles, and San Francisco—all cities that require taxi drivers to [be fingerprinted]—who previously drove taxis failed our background check.”^{xvii} In these cases, Uber claims that its biographic checks uncovered criminal histories and driving violations that allowed them to disqualify applicants for employment.

It should be noted that the fingerprint-based criminal history check should be viewed as a key **element** of a comprehensive background check that includes biographic background searches and **not** the single source of information in determining suitability for hire. However, without knowing specifically what databases are being compared and the timeframes, there is no way to comment further on the company’s claim. For example, depending on the timing of the query, Uber may be citing a subsequent criminal record that occurred after the initial fingerprint background check and before the Uber application. In short, Uber’s claim says nothing about relative accuracy or reliability.

Background checks merely provide the means to inform hiring decisions

Fingerprints are color blind and automated fingerprint-based background checks do not discriminate against any group. A fingerprint background check is a tool used to find information. Once derogatory information is identified and connected to a person, the requestor must process and adjudicate the information result appropriately. Employers will then assess the results of the fingerprint checks to determine the final employment decisions.

Yet Uber [uses](#) the disproportionately high number of criminal records among minorities as a reason not to perform background investigations using fingerprints.^{xviii} As some biometric records make their way into databases through mere arrests and booking of suspects rather than final dispositions of court cases, Uber argues that minorities are more likely to garner a “hit” in the system that does not necessarily reflect a disqualifying offense. Uber also notes that some criminal records are never expunged, leaving derogatory information in the system for so long that subjects are not given the chance to rehabilitate themselves.

In fact, a recent study demonstrates the demographic breakdown of traditional taxi drivers versus Uber drivers. The findings demonstrate that there are more African American taxi drivers than African American Uber drivers. It should be noted taxi drivers are subject to fingerprint and full criminal history checks prior to their employment, indicating that there is no inherent racial bias on the hiring results based upon the checks.^{xix}

To the extent that Uber is concerned about the completeness and accuracy of information in criminal and civil fingerprint databases, Uber should establish a policy and process for appropriate review and adjudication of any reported criminal event data, a commonly accepted process practiced by government and the private sector.

Adjudication staff could review an applicant’s criminal identity history summary, or rap sheet, to determine if derogatory information is potentially disqualifying. If an initial determination is made that the applicant is ineligible for employment, Uber should consider issuing preliminary determination of ineligibility letters to applicants, and conduct redress actions, among other things, to ensure a fair and equitable adjudication process. This would include providing the driver applicant with an opportunity to dispute any information reported in error that should be further reviewed with law enforcement or the court system.

Conclusion

Uber has created a business revolution based upon the use of technology. Traditional aspects of the taxi industry have been replaced with technology in favor of efficiency, customer satisfaction, cost savings and accountability. It is ironic Uber would prefer an antiquated and vulnerable process by relying solely on name-based background checks of its applicants.

Uber and Lyft are ultimately responsible for developing their own hiring guidelines to fulfill the requirements of existing law. However, public safety and security interests necessitate that the companies use the most comprehensive and relevant data set in their personnel determinations.

In the absence of a fingerprint-based criminal background check, drivers with criminal arrest records are able to provide false biographic information to disguise their identity and background, thereby exposing the public to an avoidable level of risk. From a public safety and security perspective, the inclusion of FBI and state fingerprint-based searches as part of a comprehensive background check process is the only way for Uber and Lyft to have access to the complete criminal arrest records of their applicants and thereby ensure they are aware of the entirety of a prospective employee's suitability for the job.

The popularity of a new business model for ride hiring does not in and of itself justify exemption from statutes and regulations that exist to protect the safety and security of the traveling public.

The public safety question is not whether Uber should be required to fingerprint candidates for employment. The question is when and how.

ⁱ Society for Human Resource Management, "Background Checking—The Use of Criminal Background Checks in Hiring Decisions", July 19, 2012
<https://www.shrm.org/research/surveyfindings/articles/pages/criminalbackgroundcheck.aspx#sthash.hCQMex4i.dpuf>

ⁱⁱ New York Times, "Uber and Lyft end rides in Austin to protest fingerprint background checks", May 9, 2016, http://www.nytimes.com/2016/05/10/technology/uber-and-lyft-stop-rides-in-austin-to-protest-fingerprint-background-checks.html?_r=0

ⁱⁱⁱ Fox 5 News DC, May 25, 2016, "Uber driver arrested for attempting to shoot officers"; <http://www.fox5dc.com/news/local-news/145051389-story>; ABC 7 WJLA, Washington, DC, May 25, 2016, "Police: Uber driver arrested after attempting to murder police officers"; <http://wjla.com/news/crime/police-uber-driver-arrested-after-attempting-to-murder-police-officers>

^{iv} John Jay College of Criminal Justice, "One Standard for All: Criminal Background Checks for Taxicab, For-Hire, and Transportation Network Company Drivers", May 2015, http://www.whosdrivingyou.org/wp-content/uploads/2015/06/background_check_report.pdf

^v Houston Chronicle, "Uber ends service in Galveston", February 3, 2016, <http://www.chron.com/local/article/Uber-ends-service-in-Galveston-6804411.php>; Texas Tribune, "With new regulations looming, Uber cuts service to Corpus Christi", March 10, 2016, <http://valleycentral.com/news/local/with-new-regulations-looming-uber-cuts-service-to-corpus-christi>; USA Today, "Austin sends Uber, Lyft decision to voters", February 12, 2016, <http://www.usatoday.com/story/tech/news/2016/02/12/austin-city-council-uber-lyft-vote-election/80286830/>; Miami Herald, "Uber faces fingerprint fight in Miami Dade", February 25, 2016, <http://www.miamiherald.com/news/local/community/miami-dade/article62532202.html>; ABC 13 Houston, "Uber threatens to leave Houston in dispute over background checks", April 28, 2016, <http://abc13.com/news/riders-drivers-react-to-ubers-threat-to-leave-houston/1311906/>

^{vi} "Uber and Lyft are spending millions of dollars on a local election in Austin, Texas. Here's why.", Fusion, <http://fusion.net/story/291210/uber-lyft-ridesharing-election-austin-texas/>, April 19, 2016

^{vii} New York Times, "Uber and Lyft end rides in Austin to protest fingerprint background checks", May 9, 2016, http://www.nytimes.com/2016/05/10/technology/uber-and-lyft-stop-rides-in-austin-to-protest-fingerprint-background-checks.html?_r=0

- ^{viii} USA Today, “RideAustin offers non-profit alternative to Uber, Lyft”, <http://www.usatoday.com/story/tech/2016/05/23/rideaustin-offers-non-profit-alternative-uber-lyft/84788522/>
- ^{ix} Politicker New Jersey, “Former US AG holder says he doesn’t support fingerprinting for NJ Uber bill”, June 8, 2016, <http://politickernj.com/2016/06/former-us-ag-holder-says-he-doesnt-support-fingerprinting-for-nj-uber-bill/>
- ^x FBI, “Next Generation Identification”, https://www.fbi.gov/about-us/cjis/fingerprints_biometrics/ngi
- ^{xi} Research Gate, “Matching Performance for the US-VISIT IDENT System Using Flat Fingerprints”, https://www.researchgate.net/publication/242592707_Matching_Performance_for_the_US-VISIT_IDENT_System_Using_Flat_Fingerprints
- ^{xii} Uber, “Details on Safety at Uber”, July 15, 2015, <https://newsroom.uber.com/details-on-safety/>
- ^{xiii} According to IBIA’s contacts, around 3% of all submissions to FBI databases are rejected, and the vast majority of that 3% consists of poor quality prints which can be rectified through a simple resubmission of higher quality prints.
- ^{xiv} See New York Times, “Accuracy in Criminal Background Checks”, August 9, 2012, <http://www.nytimes.com/2012/08/10/opinion/accuracy-in-criminal-background-checks.html>
- ^{xv} Los Angeles Times, February 22, 2016, “Kalamazoo shooting: Here’s how Uber does its background checks”, <http://www.latimes.com/business/technology/la-fi-tn-uber-background-check-20160222-story.html>
- ^{xvi} See FBI NGI Monthly Fact Sheet at www.fbi.gov/about-us/cjis/fingerprints_biometrics/ngi
- ^{xvii} Uber, “Details on Safety at Uber”, July 15, 2015, <https://newsroom.uber.com/details-on-safety/>
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