



SUMMER 2011

New at Sterling.....

Sterling Social Media

Sterling participated in the June, 2011 SHRM conference held in Las Vegas, NV. and announced the next generation in background screening, “Sterling Social Media.” Sterling Infosystems can now provide clients with a service to conduct social media screening in a non-discriminatory and FCRA compliant manner. Sterling Social Media provides employers with a deep dive into the larger social media universe by combining automated discovery and manual review in supporting risk management professionals with the ability to make informed hiring decisions. Please contact your Client Service Executive for more information or visit:

<http://bit.ly/lzAriY>

The Bishops Report

We would like to take the opportunity to introduce you to **Bishops Services**, the Investigative Due Diligence arm of **Sterling Infosystems**. Many of our Sterling clients have engaged Bishops Services to provide intensive background investigations on both people and companies, and have incorporated Bishops Services into their standard processes for executive and board member hiring, acquisition and major investment due diligence, and vendor screening and selection.

Bishops Services has been providing confidential, professional and reliable investigative reports for clients across the globe for over a century. Our team of seasoned investigators maintains resources, correspondents and alliances that span more than 200 countries and date back over generations.

If you have any questions regarding Bishops Services, or would like to explore these services further to discuss how they may complement your current business processes, please feel free to reach out to your Sterling Account Manager, or contact Bishops directly at info@bishopsservices.com.

Future installments of **The Bishops Report** will bring you up to date critical information concerning the world of Investigative Due Diligence; noteworthy global news, changes in regulatory and legal requirements, and important announcements and communications.

Jackson Lewis Help Line.....

Did you know that - as a Sterling customer - you have complimentary access to our Jackson Lewis Help Line to assist you with employment and labor issues and legal questions?

The ability for our clients to have direct access to a legal specialist to help navigate employment and labor law matters is a key point of differentiation for Sterling customers.

<https://wd.sterlingtesting.com/helpline>

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Helpful Links.....

- Fair Credit Reporting Act (FCRA)*
- Equal Employment Opportunity
Commission (EEOC)*
- Federal Trade Commission (FTC)*
- Department of Labor (DOL)*
- Department of Transportation (DOT)*
- Department of Health and Human
Services (DHHS)*
- Substance Abuse and Mental Health
Services Administration (SAMHSA)*
- National Institute on Drug Abuse
(NIDA)*
- Office of National Drug Control Policy*
- Drug & Alcohol Testing Industry
Association (DATIA)*
- Substance Abuse Program
Administrators Association (SAPAA)*

www.sterlinginfosystems.com

Upcoming Complimentary Webinars.....

Did you know that - as a Sterling customer - you can participate in complimentary online webinars offered throughout the year?

Sterling / Jackson Lewis Webinar Series #3:

"The Five Most Difficult Conversations to Have with Employees", September 13, 2011 2PM (EST) – HRCI Certified

"Understanding the FCRA in the Background Check Process,"

Wednesday September 21st at 2:00 PM (EST), Presenter: Joe Rotondo, Vice President of Compliance- HRCI Certified

"Tell Me More about Paperless/Electronic Chain-Of-Custody",

Thursday October 20th, at 3:00 PM (EST), Presenter: John Mallios, C-SAPA, Director, Occupational Health Services

"Am I Ready For a DOT Substance Abuse Testing Audit?"

Thursday September 22nd, at 3:00 PM (EST), Presenter: John Mallios, C-SAPA, Director, Occupational Health Services

"So What Is An MRO Responsible For?"

Thursday November 17th at 3:00 (EST), Presenter: John Mallios, C-SAPA, Director, Occupational Health Services

Sterling / Jackson Lewis Webinar Series #4:

"Annual Year-End Employment Law Update – What Happened in 2011 and What to Expect in 2012?", December 13, 2011 2PM (EST) - HRCI Certified

Please register by at sterlingsentinel@sterlinginfosystems.com

International Spotlight: South Africa.....



New Fingerprint Requirement in South Africa

Sterling's criminal record search in South Africa has historically consisted of a name, date of birth, and National ID Number check through the South African Police Service (SAPS) database. Effective July 1, 2011, SAPS no longer supports this search. Instead, applicants must now have their fingerprints collected by a local law enforcement office in order to process the search.

This change occurred because SAPS has determined that the search offered previously is no longer sufficiently reliable due to incomplete information available in the database. The fingerprint database is more comprehensive and will return higher "hit rates," providing employers critical information to assist in their hiring decisions.

From a compliance perspective, it is important to comply with SAPS' requirements to avoid any potential interruption in service. Searching local court records or individual police stations rather than the national database maintained by SAPS would limit the scope of the search. Due to inconsistencies at the local level, the best practice in South Africa is to conduct a country-wide search of the entire database using the candidate's fingerprints.

Sterling continually strives to provide the most compliant, cost effective and efficient service to our clients. As fulfillment methods periodically change to ensure compliance with local regulations, we will prepare our clients with as much lead time as possible to work through those updates. If you have any questions regarding fingerprinting in South Africa or any of our international services, please reach out to our Client Services Team who will be more than happy to assist.

New Federal Chain-Of-Custody/Control Form.....

Effective October 1st, 2011, the new 2010 federal Chain-Of-Custody/Control Form (CCF) will be the only CCF permitted for use with respect to the collection of urine specimens for DOT and other federal drug testing programs. Meaning that the CCF that was in place prior to the October 1st, 2010 revisions to the HHS Mandatory Guidelines will no longer be valid.

If a specimen for DOT or other federally-regulated test is received on or after October 1st, 2011 at an HHS/SAMHSA-certified laboratory for analysis with the older CCF, the laboratory must treat it as a correctable flaw and require a Corrective

Statement (or MFR – Memorandum for Record) from the collector. Otherwise, the collected specimen will be rejected for analysis and subsequently canceled by the Medical Review Officer (MRO).

Please be aware, therefore, that the older CCF may only be used through September 30th, 2011. Your current supply of CCFs should be carefully checked to ensure the new form is available for use beginning October 1st, 2011. An image of the new CCF and other related information can be found through the HHS web site at <http://www.workplace.samhsa.gov/federal.html>.

The new federal CCF includes several changes, including the following:

- ▶ The specific testing authority (HHS, NRC, and the DOT agencies – FMCSA, FAA, FRA, FTA, PHMSA, and USCG) will be specified in Step 1D to be identified.
- ▶ All substances/metabolites tested in the new five panel test, including the addition of MDMA (Ecstasy) its analogues (MDA and MDEA), and 6-Acetylmorphine (heroin) will be specified in Step 5A of Copy 1 to be identified.
- ▶ The MRO will identify the drug(s) for which a positive result is verified (or provide remarks relating to donor refusal to test situations) in Step 6 of Copy 2.
- ▶ The MRO will identify if a split specimen is reported as cancelled in Step 7 of Copy 2.

In addition, instructions for completing the new CCF are included on the reverse side of Copy 5.

Under DOT, the revisions that included the adoption of the new federal CCF last October 1st, 2010 introduced other revisions to DOT drug testing as well, including:

- ▶ Lower cocaine and amphetamine cutoff levels
- ▶ Analysis of MDMA (Ecstasy)
- ▶ Analysis of 6-Acetylmorphine at initial screening for establishing heroin use
- ▶ New confirmation testing methodologies (in addition to GC/MS)

State Compliance Updates.....

Philadelphia, PA



The Philadelphia "Fair Criminal Record Screening Standards Ordinance" was signed into law by Philadelphia Mayor Michael Nutter on April 18th, and became effective on June 17, 2011. Similar to recent legislation in Massachusetts, the Ordinance prohibits employers that employ 10 or more persons within the City of Philadelphia from asking criminal history questions prior to or during the first interview. Philadelphia employers may no longer ask on employment applications completed pre-interview whether an applicant has ever been convicted of a crime. However, such inquires can be made following a first interview. If any information is voluntarily disclosed during the first interview, the employer may then ask questions regarding the conviction history.

Indiana



New restrictions regarding information that can be obtained by employers as part of a background check went into effect on July 1, 2011. Individuals may restrict employer's access to their criminal record: (i) if an arrest does not result in a conviction; (ii) for misdemeanors or Class D felony cases that did not result in injury to a person; and f or vacated convictions. Accordingly, Indiana employers may be unable to acquire some information that they currently receive. However, with the exception of the convictions, such information, such as vacated convictions and arrests that did not result in convictions, generally should not be used for disqualification decisions. If a court orders an individual's records to be restricted under this chapter, the person generally may legally state on an application for employment or any other document that the person has not been arrested for or convicted of the felony or misdemeanor recorded in the restricted records.

Connecticut



Effective October 1, 2011, Connecticut employers will generally be prohibited from using credit reports to make employment decisions. Under the law, employers may not require an employee or prospective employee to consent to a credit report unless the employer is a financial institution, the report is required by law, the employer reasonably believes the employee has engaged in specific activity that constitutes a violation of the law related to employment, or the report is substantially related to current or potential employment and the employer has a bona fide purpose for requesting the report that is substantially job-related and disclosed to the subject.

Sterling has modified its suggested consent form to comply with this legislation.

Maryland



Effective October 1, 2011 Maryland employers also will generally be restricted from using credit information in making employment decisions. Credit information only may be obtained and used for employment purposes: (i) if the employer is a covered financial institution; (ii) if the report is required by law; or (iii) post-conditional offer if there is a substantially job-related bonafide purpose that has been disclosed to the subject.

Sterling has modified its suggested consent form to comply with this legislation.

Screening Vendors & Contractors.....

Are your vendors and contractor employees being screened to meet your standards? Can you afford to make important decisions without the confidence that they are held to the same high screening standards you are accustomed?

Sterling's extended workforce programs have revealed ineligibility rates as high as 20% for some customers. Contact your Sterling representative to discuss available options and effective programs to ensure vendor and contractor accountability.



Other Compliance-Based Products.....

- ▶ **Instructor-Led Training (Online and Onsite)** - DOT and Non-DOT
 - Designated Employer Representative (DER)
 - Supervisory Substance Abuse Awareness (RST)
 - Employee Substance Abuse Awareness
 - ▶ **Mock Substance Abuse Testing Program Auditing**
- Please email sterlingsentinel@sterlinginfosystems.com to learn more.....
- ▶ **Substance Abuse Testing Policy Development/Review**

????? Compliance Questions of the Quarter ??????



Question: Why is the Adverse Action process a two-step process?

Answer: As per the Fair Credit Reporting Act, the adverse action process must be completed in two steps. First, a Pre-Adverse Action letter is sent to the applicant, providing the applicant an opportunity to dispute the findings of the disqualifying information. After approximately five business days, the adverse action letter can be sent if the applicant does not dispute the findings or is unsuccessful in disputing the findings with Sterling.

Question: If a Random DOT drug test is cancelled by the MRO, can it be counted to meet the year-end testing requirement?

Answer: A random drug test cancelled by the MRO cannot be counted against the year-end testing requirement, though it still must be identified in an MIS (Management Information System) report. For example, if your organization has 30 drivers covered under FMCSA regulations with an annual random testing rate of 50% for drugs and 10% for alcohol, your year-end testing obligation under random testing will be at least 15 random drug tests and at least 3 random alcohol tests, excluding any cancelled tests.

Please email sterlingsentinel@sterlinginfosystems.com to submit a question. All will be responded to and at least two will be selected for posting in the next issue.

There's absolutely no one better than our customers to help the Sterling Compliance Team prepare for the next quarterly publication of the ***Sterling Sentinel***.

Please email your thoughts and recommendations for future articles and content to:

sterlingsentinel@sterlinginfosystems.com



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