Social Media History Becomes a New Job Hurdle

"All we assemble is what is publicly available on the Internet today," said Max Drucker, chief executive of Social Intelligence, which reviews the online activity of companies' job applicants.

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Companies have long used criminal background checks, credit reports and even searches on Google and LinkedIn to probe the previous lives of prospective employees. Now, some companies are requiring job candidates to also pass a social media background check.

A year-old start-up, Social Intelligence, scrapes the Internet for everything prospective employees may have said or done online in the past seven years.

Then it assembles a dossier with examples of professional honors and charitable work, along with negative information that meets specific criteria: online evidence of racist remarks; references to drugs; sexually explicit photos, text messages or videos; flagrant displays of weapons or bombs and clearly identifiable violent activity.

"We are not detectives," said Max Drucker, chief executive of the company, which is based in Santa Barbara, Calif. "All we assemble is what is publicly available on the Internet today."

The Federal Trade Commission, after initially raising concerns last fall about Social Intelligence's business, determined the company is in compliance with the Fair Credit Reporting Act, but the service still alarms privacy advocates who say that it invites employers to look at information that may not be relevant to job performance.

And what relevant unflattering information has led to job offers being withdrawn or not made? Mr. Drucker said that one prospective employee was found using Craigslist to look for OxyContin. A woman posing naked in photos she put up on an image-sharing site didn't get the job offer she was seeking at a hospital.

Other background reports have turned up examples of people making anti-Semitic comments and racist remarks, he said. Then there was the job applicant who belonged to a Facebook group, "This Is America. I Shouldn't Have to Press 1 for English." This raises a question. "Does that mean you don't like people who don't speak English?" asked Mr. Drucker rhetorically.

Mr. Drucker said his goal was to conduct pre-employment screenings that would help companies meet their obligation to conduct fair and consistent hiring practices while protecting the privacy of job candidates.

For example, he said the reports remove references to a person's religion, race, marital status, disability and other information protected under federal employment laws, which companies are not supposed to ask about during interviews. Also, job candidates must first consent to the background check, and they are notified of any adverse information found.

He argues the search reduces the risk that employers may confuse the job candidate with someone else or expose the company to information that is not legally allowable or relevant. "Googling someone is ridiculously unfair," he said. "An employer could discriminate against someone inadvertently. Or worse, they are exposing themselves to all kinds of allegations about discrimination."

Marc S. Rotenberg, president of the [Electronic Privacy Information Center](#), based in Washington, said that employers were entitled to gather information to make a determination about job-related expertise, but he expressed concern that "employers should not be judging what people in their private lives do away from the workplace."

Less than a third of the data surfaced by Mr. Drucker's firm comes from such major social platforms as Facebook, Twitter and MySpace. He said much of the negative information about job candidates comes from deep Web searches that find comments on blogs and posts on smaller social sites, like Tumblr, the blogging site, as well as Yahoo user groups, e-commerce sites, bulletin boards and even Craigslist.

Then there are the photos and videos that people post — or find themselves tagged in — on Facebook and YouTube and other sharing sites like Flickr, Picasa, Yfrog and Photobucket.

And it is photos and videos that seem to get most people in trouble. "Sexually explicit photos and videos are beyond comprehension," Mr. Drucker said. "We also see flagrant displays of weapons. And we see a lot of illegal activity. Lots and lots of pictures of drug use."

He recalled one man who had 15 pages of photos showing himself with various guns, including an assault rifle. Another man included pictures of himself standing in a greenhouse with large [marijuana](#) plants.

Given complex "terms of service" agreements on most sites and Web applications, Mr. Rotenberg said people do not always realize that comments or content they generate are publicly available.

 "People are led to believe that there is more limited disclosure than there actually is, in many cases," he said, pointing out that Facebook's frequent changes to its privacy settings in recent years may have put some people at risk in getting a job now because of personal information they might have inadvertently made public.

"What Facebook was doing was taking people's personal information that they made available to family and friends and make that information available more widely to prospective employers," said Mr. Rotenberg, whose organization has several pending complaints at the Federal Trade Commission about Facebook's privacy settings.

Joe Bontke, outreach manager for the Equal Employment Opportunity Commission's office in Houston, said that he regularly reminds employers and human resource managers about the risks of violating federal antidiscrimination employment rules and laws by using online research in hiring decisions.

"Things that you can't ask in an interview are the same things you can't research," he said, which includes the gamut of information covering a person's age, gender, religion, disability, national origin and race.

That said, he added that 75 percent of recruiters are required by their companies to do online research of candidates. And 70 percent of recruiters in the United States report that they have rejected candidates because of information online, he said.

Dave Clark, president of Impulse Advanced Communications, a telecommunications company in Southern California, began relying on Social Intelligence for background screening because he said the company needed a formal strategy and standards before assembling online information about job candidates. "They provided us with a standardized, arm's-length way of using this additional information to make better hiring decisions," he said.

About half of all companies, based on government and private surveys, now use credit reports as part of the hiring process, except in those states that limit or restrict their use. As with social media background checks, there are concerns about information that is surfaced. The equal employment agency filed a lawsuit last December against the Kaplan Higher Education Corporation, accusing it of discriminating against black job applicants in the way it used credit histories in its hiring process.

But it is not unusual for senior-level executives in many companies to undergo even more complete background checks by a private investigating firm.

"We are living in a world where you have an amazing amount of information and data on every executive," said Ann Blinkhorn, an executive recruiter in the converging technology, media and communications industry. "I think that puts the burden on the recruiter and the hiring manager to be really thoughtful about what is important and not important when making the hiring decision."