

# COVINGTON

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**By Email**

**July 18, 2016**

Mr. Michael Picker, President  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dear President Michael Picker:

I write regarding the California Public Utilities Commission (CPUC) recent invitation for public comment on background checks for prospective Transportation Network Company drivers.

When I served as U.S. Attorney General, I asked every state Attorney General and all my fellow Cabinet secretaries to consider how they could eliminate policies and regulations that impose unnecessary burdens on people with criminal records who have fulfilled their debts to society.

For many non-law enforcement purposes, fingerprint-based background checks are just such a practice. The FBI's Criminal Justice Information System (CJIS), as the FBI has acknowledged, is incomplete and lacks information about the final outcomes of a significant percentage of cases. That means that its records may not indicate whether a person who was arrested was even charged or ultimately convicted of any offense. Because of these issues with law enforcement databases, a fingerprint-based check can prevent people from getting a job even if they were never found guilty of a crime.

Moreover, fingerprint-based background checks for non-law enforcement purposes can have a discriminatory impact on communities of color. Nearly 50 percent of African-American men and 44 percent of Latino men across the U.S. have been arrested by age 23; therefore, the practice of denying work based on law enforcement records with incomplete and inaccurate information disproportionately disadvantages people who have been arrested. The impact becomes even more acute when looking at communities such as Chicago, where 80 percent of working age African-American men have arrest records and nearly half of young black men are unemployed.

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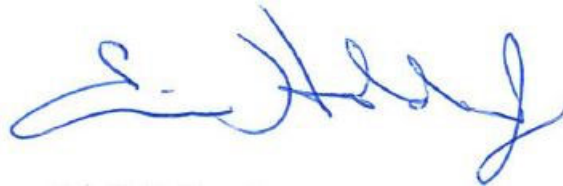
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The FBI and other law enforcement databases have a clearly-defined purpose: to aid law enforcement during investigations. These checks enable investigators, who are then expected to follow up on information found in the database, to determine whether the information included is complete or not. These databases were not designed to be used to determine whether or not someone is eligible for a work opportunity. Relying on it for that purpose is both unwise and unfair.

The better course of action would be to enact practices that can ensure safety without limiting economic opportunities for those Californians who need them most.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Holder, Jr.", with a stylized flourish at the end.

Eric H. Holder, Jr.

CC: Commissioner Mike Florio  
Commissioner Carla J. Peterman  
Commissioner Liane M. Randolph  
Commissioner Catherine JK Sandoval