

# NCBE CHARACTER AND FITNESS INVESTIGATIONS: THE ELECTRONIC APPLICATION AND OTHER MINOR PROCESSING MIRACLES

*by Chris Christian*

Since early in its existence, the National Conference of Bar Examiners has made available to U.S. jurisdictions a character and fitness investigation service. While the service was begun to serve those jurisdictions with fewer applicants, and thus fewer resources to devote to character investigations staff and overhead, these days the Conference is responsible for gathering character and fitness information for close to 30 U.S. jurisdictions.

As one would expect, over the years the methods and tools used in the investigations process have changed dramatically. The Conference's current investigations procedures are light-years away from the methods used when NCBE first became involved in the process. Recent advances in technology and the increasing number of applications flowing through annually have called for significant upgrades in the investigations services.

## BACKGROUND

Bar admission in virtually all U.S. jurisdictions involves proof of both an applicant's competence and his or her character and fitness. While a number of jurisdictions investigate the character and fitness of their applicants and make decisions based on what they uncover, approximately 30 jurisdictions use the

NCBE investigations service to carry out the first half of this process for some or all of their applicants.

The NCBE Investigations Department takes applications either from or on behalf of jurisdictions and gathers the information needed to make decisions about character and fitness. The results of each investigation are returned to the jurisdiction for decision making by a character committee or a board of bar examiners. While they make daily decisions about the investigation process itself, staff members in the Investigations Department are never directly involved in admissions decisions. The mission of the department is to provide the most accurate and thorough information to the jurisdictions so that they can use that information as a basis for further investigation or for making admissions decisions.

## MODERN TOOLS OF THE TRADE

### **The Electronic Application**

The improvements made to the investigations process by NCBE's Information Technology (IT) Department in the last six years have been impressive and invaluable. The electronic character and fitness application alone is a minor processing miracle.

The electronic application is an online document containing 28 questions for applicants to complete. It began life in 2001 as a downloaded software

application that required applicants to save their information onto a floppy disk and mail it in with their printed information; the information was then “lifted” from the floppy and automatically loaded into the investigations system. The latest incarnation, first implemented in 2003, is a modern web application with an interface that makes it possible to run in most standard web browsers without any additional software downloads, and all of the data is automatically uploaded and securely stored on NCBE servers.

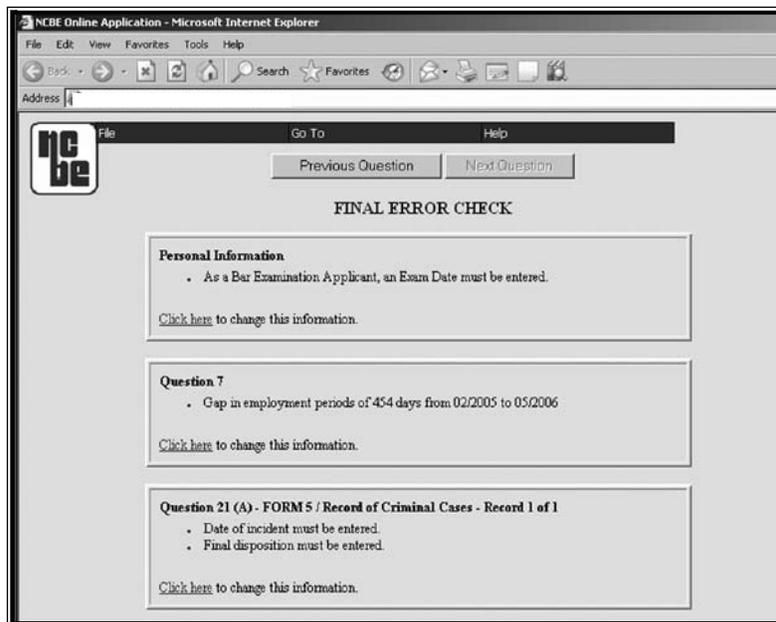
Applicants may access the electronic application by going to the character and fitness section of the NCBE website, choosing a jurisdiction, and logging in. Those who apply online are able to begin the application and then come back to it at any time to complete it, up to one year from the date they first began entering information. The information is automatically saved as the applicant moves from question to question, and the applicant may skip or go back to any part of the application at any time. Most items are “validated” so that if the applicant doesn’t provide sufficient information, the item number and instructions on how to correct the deficiency will appear at the end of the application on the Final Error Check. If the applicant fails to eliminate all the items from the Final Error Check, he or she will not be allowed to “finalize,” or electronically submit, the application.

Once the application is finalized, the applicant is instructed to save a copy of the application for his or her own records, print one or more copies, sign the Authorization and Release Forms (and have them notarized), and send the application to the jurisdiction or directly to NCBE along with the appropriate payment (requirements differ by jurisdiction). Once

the hard copy of the application has reached the office, a staff member can scan the bar code which retrieves the electronic application data. (While there is a movement toward eliminating the hard copy submission in the future, there is still some institutional resistance to accepting an elec-

tronic signature on the Authorization and Release Forms, and thus the original signature requirement persists.)

The electronic application is user-friendly for applicants and NCBE staff alike, increasing efficiency in processing by leaps and bounds. With a paper application, all of the data must be entered into the investigations system by typing it in. When applicants use the electronic application, the information is already there, ready for transfer to the investigations system via the click of a mouse. While the process is more involved than that, there is a world of difference between manually entering data from a typed or handwritten application and quickly transferring data from an electronic application.



Sample screen showing the applicant’s “final error check”

Many jurisdictions are discovering the value of using the electronic application; approximately 21 jurisdictions currently use electronic filing for some or all of their applicants.

### Verification Requests and Responses

Once the application information is entered into the system and the application is deemed complete, "analysts" in the Investigations Department begin the process of verifying the information entered by sending "verification requests" to various persons or entities either listed on the application or known

to the department to have the means to confirm the information.

Analysts use several kinds of verification requests. Requests can be made online, by telephone, by mail, or via fax, either manually or automatically. All individuals and agencies contacted to verify bar application information may utilize the NCBE online method of verification, which simply entails signing on at a secure server and verifying the information online, without the hassle of receiving paper copies by fax or mail and returning them the same way. If their needs dictate, verifiers may print or save a completed verification and a copy of the

applicant's signed Authorization and Release Form directly from the verification screen. All admission and good standing authorities as well as law schools will soon be able to respond using the online verification system.

Verification responses received by fax or mail were previously filed and processed by hand. Currently, every document received, whether electronically, by mail, or by fax, either is or will become an electronic image. This innovation has been indispensable in increasing efficiency and decreasing the potential for human error.

### Online Verification by Third Parties

Many schools and employers will no longer verify information themselves but will direct inquiries to third-party clearinghouses, such as The Work Number for Everyone and National Student Clearinghouse, that can be accessed online for a fee. Various criminal records repositories and

**National Conference of Bar Examiners**

**VERIFICATION VIA INTERNET:**  
<http://members.mason.fr.gov/search/member.aspx>

STATE BAR OF FRANKLIN  
 MEMBERSHIP RECORDS  
 123 FREDERICK ST.  
 MASON, FR 12345

02/20/2008  
 3702750  
 941575

**Applicant's Name:** THOMAS XAVIER HOFFMAN  
**Date of birth:** 05/29/1947  
**Date of admission:** 05/26/2007  
**Bar number:** 250486  
**Social Security Number:** 111-58-7890

The National Conference of Bar Examiners prepares character and fitness reports on applicants seeking admission to the bar or a limited license to practice law. The Conference has been requested to prepare a report on THOMAS XAVIER HOFFMAN, who is submitting an application to Vermont. Please complete this form and return it to us along with any relevant information you may have concerning the applicant's character and fitness for the practice of law.

**Provide exact date of admission:** \_\_\_\_\_

**Is the applicant an active member of your bar?** Admission by:  Exam  Motion  
 If the answer is "No," please provide an explanation below.  Yes  No  Not processed in this office

**Is the applicant in good standing?**  Yes  No  Not processed in this office  
 If the answer is "No," please provide an explanation below.

**Have there been charges or complaints against the applicant?**  Yes  No  Not processed in this office  
 If the answer is "Yes," please provide an explanation below regarding each charge or complaint, including date filed; name and address of complainant; nature of complaint; date applicant was notified complaint was filed; and final disposition.

Shelly Sanders x8998  
 Analyst  
 Inquiry made by: (Shelly Sanders) Date 2/20/08  
 NCBE Analyst

ADMISSION AND GOOD STANDING VERIFICATION

302 S. Bedford Street, Madison, WI 53703-3622 - 608-280-8550 - Fax: 608-442-7999 - TDD: 608-661-1275 - Web: www.ncbex.org  
 All information solicited and received for character and fitness reports is treated confidentially by NCBE and restricted to official use by the proper admitting authorities. NCBE is an affiliated organization of the American Bar Association.

Sample verification requests

courts are jumping on board with online databases, and there is at least one website which provides information about the good standing of attorneys.

Online verifications are beneficial in that they are easily and quickly done. Disadvantages include the fact that the information provided may be incomplete and the fact that there is no choice but to pay full price for partial verification. Another potential disadvantage lies in the impersonal nature of the verification. The standard letters requesting verification have several character and fitness questions that cannot be answered via computer-generated responses.

### **Reports to the Jurisdictions**

Once the application is complete and all information verified, the Investigations Department sends a report to the requesting jurisdiction. Many jurisdictions receive complete character and fitness reports online with the option of viewing the original application, all of the responses received by the Investigations Department, and a summary report of the investigation results. Twice a month, client jurisdictions are provided with a case status report detailing the progress made on individual cases. Jurisdictions that access case status reports online are able to view the information as it updates daily; there is no wait for status information to arrive in the mail. Some jurisdictions that use the electronic application also choose to receive their applicants' raw data, as obtained from the applications, in electronic form.

### **The Investigations System and Database**

A key processing tool in the investigations process is the comprehensive database that is maintained in the Investigations Department. This database contains information on schools, courts, licensing agencies, criminal records repositories, military records

repositories, and other institutions or agencies that are common verifiers. Each of the entries in the database includes address, preferred method of delivery, applicable fee(s), and any special instructions. The system also stores scans of common authorization forms that are required. For example, if the applicant has a past residence in Knox County, Tennessee, the analyst need only enter this information into the system. The system already "knows" that the Knox County Sheriff's Office requires a unique form for a criminal record check. The Knox County Sheriff authorization form automatically prints, along with a letter to the applicant requesting completion of the form and a letter to the Knox County Sheriff that will remain ready in the file until the authorization form is returned. If there is a fee associated with the police check, an accounting memo also prints so that the fee will be paid on the front end instead of delaying the process by waiting for an invoice from the agency.

Similarly, if the request requires online or fax verification, the web address or the fax number prints on the letter, alerting the analyst to the correct method of sending the verification request. Auto-faxes and NCBE online verifications do not even print; they go straight to the electronic queue to be automatically faxed or uploaded to the secure website that night. New forms, fee changes, and other information are added to the database as staff members become aware of them.

### **Caseload Monitoring**

Using the system, analysts are able to monitor their existing caseloads by generating reports using a variety of parameters, e.g., all cases that are over a certain age or those that have a certain percentage of work complete. There is no guarantee of a specific timeline, but a jurisdiction can generally expect a case (excluding foreign applications) to be

completed in 60 to 90 days, barring any complications. Electronic applications are completed, on average, in fewer days than paper applications.

### **E-mail Notification**

Another essential tool of the investigations system is the ability to program the system to notify the analyst upon receipt of any particular response. Such notification is automatic in the case of additional information responses from applicants; whenever an additional information response is received, the analyst instantaneously receives an e-mail notification with the applicant's response attached to it. Because the response is likely vital to proceeding with the investigation, it's important that the analyst act on the response as soon as possible. This feature also comes in handy when waiting for the final one or two responses necessary to close the case; the analyst can electronically designate the response needed to complete the file so that he or she will receive an e-mail notification when it is received and the analyst can then close the file immediately.

### **EFFECTS OF THESE TECHNOLOGICAL INNOVATIONS**

The processing efficiency that results from these technological advances naturally translates to improved service for the jurisdictions that are waiting for results. The Final Error Check system in the electronic application, for example, ensures that applications are more complete and require fewer requests for additional information, reducing processing time and resulting in a greater number of applications processed per time period. The same is true for online verifications—the end result is to reduce the time needed to complete the file and send a report back to the jurisdiction. It is clearly a win-win situation for the Investigations Department and the jurisdictions.

Needless to say, the world has changed immeasurably in the years since the investigations service was first offered to jurisdictions. A fair amount has changed even since the Conference made the transition to Madison almost eight years ago. Technology has enabled users to gather and use information and carry on electronic dialogues in ways that were previously unimaginable. The NCBE Investigations Department is processing more and better now than ever before, and we are sure to make even greater strides in the years to come as we continue to adapt, using the latest tools available and catering to the ever-changing needs of our clients. 📧



CHRIS CHRISTIAN has been Assistant Manager of Investigations at the National Conference of Bar Examiners since October 2006 and has been with the Conference since 2001. She holds a BA in political science from the University of Wisconsin–Madison and an MBA from Cardinal Stritch University.