

# Public Record Update

June 2016

This edition of the Public Record Update is devoted to certain current issues affecting court record access.

## Arkansas Attorney General Opinion on Access to Court Records

### No More Name Searches?

A number of Arkansas District Courts have recently modified their record access procedures and are refusing to perform name searches of the criminal and civil docket index for the public. This refusal is traced to the release of [Attorney General Opinion No. 2015-121](#) issued April 14, 2016 by the state's Attorney General Leslie Rutledge.

In summary, the Opinion states that a request for an individual's court records for the purpose of performing employment background checks is classified as a request for "bulk distribution" or "compiled information" as defined in Section III of Supreme Court Administrative Order 19. Therefore the request is not considered an FOIA request and is thus subject to Section VI of [Order 19](#). The requester may disagree with the clerk's decision not to provide a record search and appeal, but this action means the request becomes a detailed and lengthy process.

### An Idea for a Workaround

To those who are in the business of providing record searches or background checks in AR, you may consider submitting a copy of a signed release with each request. Include language on the release form that states the name search is not used for bulk distribution or for data aggregation purposes.

Of course, if a court that refuses to perform a search provides an onsite Public Access Terminal (PAT) or online access, then this issue has minor implications. However, the majority of AR District Courts do not have a PAT and at least 20 Circuit courts do not have a PAT. Also, online access is not widespread, especially at the District Court level. The Arkansas online system has two levels of record searching. The upper or thorough level has approx. 55 Circuit Courts plus District Courts from 9 participating counties. The lower or limited level has 19 Circuit Courts participating. The Equivalency Matrix at [www.CriminalRecordSources.com](http://www.CriminalRecordSources.com) (CRS) rates the online/onsite equivalency of state and judicial criminal record access systems on a 1 to 5 scale with 1 being the highest or best. CRS rates the upper level as a 1 and the lower level as a 5.

## Odyssey Software and Court Record Access

If your job involves working with court records and you are not familiar with Odyssey you should be. Odyssey is a product line of [Tyler Technologies](#). Per their web page, Tyler "...is the largest software company in the nation solely

focused on providing integrated software and technology services to the public." Their Odyssey software is designed to update and streamline state and county court management software and case information access as well as cut overhead.

### **Use of Odyssey is Widespread**

Also per their web page Odyssey "...serves more than 100 million residents...in more than 600 counties across 22 states, including 60 counties in Texas. Odyssey is statewide in Indiana, Minnesota, New Hampshire, New Mexico, North Dakota and South Dakota....There are statewide implementations currently underway in Idaho, Maryland, Oregon, Rhode Island and Washington."

In these states and counties the Odyssey system is used for online access and for the Public Access Terminals (PATs) provided at local courthouses when offered. Note that New Hampshire does not provide public online access to court records via Odyssey.

### **Inherent Problems**

Historically, when a jurisdiction/state switches to the Odyssey a number of re-occurring issues may surface. Typical problems include lost or lack of case dispositions, not all parties in a case are tied to the name index, lost or lack of identifiers, etc. This was especially true in Indiana which was one of the first states to go onto Odyssey. Per comments from local researchers and private investigators, there are still problems using the online system in that state. For example, Odyssey in Indiana does not display any identifiers other than name and address (at time of charging and any field updates); certain counties do not provide sentencing details, especially regarding plea bargains; and the system merely shows there is a disposition date. Therefore one must pull the case file in person for details. The Odyssey online system in Indiana is rated as a 3.5 on the CRS Matrix.

If you fast forward to recent installs, we have received similar comments lately from Snohomish County WA, Napa County CA, and Fort Bend TX. Here are some recent sound bytes:

- all cases under one index, cannot sort minor traffic infractions vs. felony
- business name function does not always pull up the business records
- having to search the system by last name first, and then by last name, FULL first name and then by last, first and middle initial, and records have still come up missing
- inability to research 2-part Spanish names
- no documentation or instructions, court personnel do not use system so they cannot help
- the date range option pulls up records outside the date range

### **The Odyssey Effect on the Information Chain**

So what does this all mean? How are these shortcomings affecting businesses that rely on the accuracy of court records?

- Expect Higher Costs for Research
  - Increased need to hand pull files
  - Simple name searches take longer to perform

- Expect End Users or Consumer Reporting Companies to Shop Services
  - Researchers who are unable to convince the other end of the information chain that lengthy, time consuming research is caused by the computer software and not the researcher are in trouble.
- Consumer Reporting Agencies Could Unknowingly Cut Corners
  - CRAs and end users are inviting potential lawsuits if they rely on Odyssey systems in-house as a primary or single search and they are unaware of the possible lack of court dispositions and other shortcomings.

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