



Public Record Searching Techniques

According to www.merriam-Webster.com, a public record is:

“: a record required by law to be made and kept:

a : a record made by a public officer in the course of his legal duty to make it

b : a record filed in a public office and open to public inspection”

Two Certainties about Public Record Searching

Certainty #1: Just because records are maintained in a certain way in your state or county, do not assume that any other county or state does things the same way.

As you read about how to search for many types of government-held records, you will realize all records are not completely “public.” For example, in some states or jurisdictions a specific category of records (such as criminal records) is severely restricted and therefore, those records are not necessarily public. But that very same category of records may be 100% open in other states. Also, records in some jurisdictions may be fully accessible, but only with certain personal information removed (such as motor vehicle records). Some of the records examined in this book have restrictions regarding access as imposed by state statutes or administrative rules.

Knowing when records are public and/or not public is an important tool for any public record researcher. As your public record searching takes you from county-to-county or from state-to-state, always keep this truth in the back of your mind.

Certainty #2: It’s not all on the Internet.

Today everyone is trying to either save a buck or find an edge over their competition. Finding the best online resources is a constant quest. Typical questions often asked are “How much does it cost?” and “Is the data current?”

But the questions that need to be asked and answered are:

- Is ‘x’ a primary source or a secondary source?
- Is an online search of ‘x’ equivalent to an on-site search?

To take this a step further, there are **five important truths about searching public records online from government agencies:**

1. More than 30% of state and county government maintained public records are not available online. (Per the Public Record Research System PRRS)
2. Government sites can be free or fee-based. Generally, the fee-based sites are more robust.
3. Most government public record Web sites that are free to search contain no personal identifiers beyond the name.

Often the searchable and viewable information found online is limited to an index or summary data, rather than document images. Most access sites – especially the free access sites – permit the former, not the latter.

4. Just because certain records are accessible online in your state or county, do not assume the same accessibility exists in the next county or state.

Keep these truths in mind and your public record searching will lead to better results.

Key Elements to Evaluating Public Record Sources

There are two places you can find public records—

1. At a government agency
2. Within the database of a private company

There are key components that determine the thoroughness and attributes of the record source, regardless if it's government or privately-held. Consider these questions:

- How are the records stored?
- How far back are records kept?
- How are records indexed?
- What are the access procedures?
- Are there restrictions involved?
- Are record images available?

Finding and examining the answers to these fundamental data questions are important when deciding if the source will match your needs and the best access method to use.

Record Storage

Record storage methods used by government agencies are quite diverse; they maintain records in a variety of ways. Typical formats include paper, microfiche, microfilm, electronic records, magnetic tapes, maps, disks, photographs, film and sound recordings. Of course, most federal agencies and state agencies are computerized. So are many highly populated county or local level agencies (including parishes, cities, town, villages, etc.). But it is surprising how many local level agencies are not so sophisticated. Many agencies still use microfiche, microfilm, index cards, and paper as the primary method to store images, files, and indexes. As mentioned, everything is NOT online, and everything is NOT electronic.

To computerize records, government agencies have to convert their document files to electronic summaries or images. These paper documents are destroyed or placed in archival storage, per the law or per the whim of the administration. Depending on the type of agency or record, the State Archives will often warehouse these files and this is a good place to search if you are looking for old records. Sometimes it is the only place.

A key point to remember is the agencies that have converted to computerized storage will not necessarily place complete file records on their system; they are more apt to include only an index or summary data from the files.

The storage procedures used by private companies (vendors) is dependent upon the media format when the records were purchased or gathered. Vendors usually develop their databases by buying records in bulk from specific government agencies or by sending personnel to a government office to make copies or key in information on a laptop computer. A third common method is to buy data from other vendors.

Data Retention and Currency

Good questions to ask are:

- How far back are records kept?
- How current are the updates?
- When are records purged?

The need for due diligence may require that a record searcher research a certain time period. This may be seven years or longer, and it obviously is beneficial to know the record retention period. Any answer except a clear, concise date is not going to be adequate.

Knowing how “fresh” the information is – when it was last updated – becomes an important factor. An index of records may have been updated last week at a courthouse or at a Web page, but this data may reflect a 60-day delay or backlog. This update gap is extremely common with the state criminal record agencies such as the State Police or Department of Public Safety who receive and hold criminal case information from the courts. See page <https://www.ncjrs.gov/pdffiles1/bjs/grants/249799.pdf> about the most recent Department of Justice Survey regarding state criminal record repositories. **The Survey reported that 20 states have over 3 million unprocessed or partially processed court dispositions unable to be matched to arrests, ranging from 200 in Michigan and North Dakota to over 1 million in Nevada.** And that is just one disturbing fact; there are more. Similarly, many Web vendors selling criminal record content do not indicate how up-to-date their records are.

Ideally, when you search for or purchase items of information you should be provided access to a statement of accuracy, without having to ask.

Record Indexing

Many types of public records are only searchable via an index. A record index points to a location or file number where documents, such as recordings, case files, deeds, and articles of incorporation are kept. If you are searching an unfamiliar location, then the presentation of the index is one of first items you need to check. A public record index can be electronic, but also can exist onsite in card files, books, microfiche, etc. The record index can be organized in a variety of ways – by name, by year, by case or file number, or by name and year. Depending on the type record, an alpha index could be ordered (organized) by plaintiff and/or defendant name, by grantor and/or grantee name, by address, etc.

If you are searching an index of court records, then you are searching what is called the docket. A docket can be an item on a simple list of cases on a court’s calendar or a more sophisticated log containing the schedule and all the actions involved in a court case.

Here is an important fact to take note: the primary search that government agencies provide is a search of the index. When someone tells you “I can view xxx county court records online,” this person is most likely talking about searching a docket summary of records and not about the documents found in a case file.

The Difference Between a Record Search and a Document Request

There is a significant difference between searching an index to determine if a public record exists versus obtaining or viewing file copy documents. Many times the latter cannot be accomplished without first doing the former.

Asking government personnel to perform a search by name of public records usually incurs a fee. Asking government personnel to provide you a specific file or case usually does not incur a search fee if the document is readily available, and you have provided the exact file or case number.

Name Searching

Let’s say you wish to determine if an individual has a criminal record or perhaps if an individual has collateralized certain assets such as a real estate holding or ownership of equipment used in a business. The best way to perform this research is to do a “name search” – also known as an “alpha search” – of an index at the government agency that holds the records. Due to privacy concerns, an index may or may not contain dates, the date of birth, or even a partial Social Security Number due to privacy concerns. Obviously, having identifiers can help verify the correct person who is the subject of a search.

Using an Internet site to perform a name search often is merely a supplemental search since many agencies withhold personal identifiers from appearing on the Web. Some government agencies allow a researcher to view a record index; others do not permit the public to research. Where the public is not allowed to do its own on-site search the agency almost always imposes a fee for a government employee to do the name search.

Other agencies, such as many of the county-based Supreme Courts in New York, refuse to allow the public to view an index in person AND refuse to perform a name search. These NY courts direct searchers of criminal records to the New York State Office of Court Administration (OCA) for a statewide criminal history search (CHRS) for a \$65 fee.

Requesting a Specific Document

When you know the document number or exact location of a record, it becomes much easier to view or obtain a copy. If you are requesting a specific document, the government personnel are much more apt to help you compared to asking them to do a name search.

Also, using a government Web page to search for a specific document is often easier when you have the document number or an identifier like the docket number. Remember, images of all the pages in the file may not be available online. This is especially true when searching court records or real estate recordings.

The Importance of Identifiers

Identifiers serve two different although related purposes.

First, the identifiers of the subject person must be used to analyze a public record for the purpose of determining if the record is about that subject. Perhaps the records are indexed by the last name and also by either the DOB or part of a SSN. If so, a searcher with a DOB or SSN will have a more accurate search result.

Second, the identifiers act as an important safeguard for both the requesting party and the subject of the search. There is always the chance that the “Harold Johnson” on whom a given repository has a record is not the same “Harold Johnson” on whom a check has been requested. The possibility of a misidentification can be decreased substantially if other identifiers can help match the individual to the record. Providing an identifier as simple as the middle initial or year of birth is likely to identify the correct Harold Johnson.

The federal, state, and local agencies that maintain public record systems make substantial efforts to limit the disclosure of personal information such as Social Security Numbers, phone numbers, and addresses. However, the lack of identifiers is a real problem for employers or financial institutions that require a certain high level of accuracy in their due diligence. The existence of any possible adverse information must be checked by a hands-on search to insure the proper identity of the subject. Even then identifiers may be removed from the source material.

Government agencies who offer online access on a fee or subscription basis – often to pre-approved requesters – are more apt to disclose personal identifiers such as the date of birth than the free access sites. Very few give Social Security Numbers and those that do usually cloak or mask the first five digits. Some now even cloak the month and day of the birth and only release the year. For example, most U.S. District Court and Bankruptcy Court PACER search systems provide no way to use personal identifiers on a search and none on search results, thus making a reliable “name search” nearly impossible.

Matching Logic

Matching logic means using the identifiers given with a search request in order to determine if the record found does, in fact, belong to the subject. For example, before reporting results to clients, pre-employment screening companies are responsible for determining the level of matching logic that will meet Fair Credit Reporting Act (FCRA) mandates.

According to the search standards of the PRRN, the Public Record Retriever Network PRRN (see www.PRRN.us), there are three levels of matching logic:

- **Partial Name Match Logic**—Match Logic that requires only a partial match of the subject’s name to a result.
- **Name Match Only**—Results of a search that uses the subject’s full name as a match.
- **Strict Match Logic**—Match logic that requires a minimum of two and, when possible, three subject

identifiers before reporting.

Of course, using three subject identifiers is best. Even then you can have problems. Consider when a Jr. and Sr. are living at the same house; there are many possibilities of identifiers getting crossed.

Strictest matching logic available should be applied if negative or derogatory information is found.

When a researcher must ask government personnel to do the look-up in the index, it is good practice to provide them with personal identification information beyond the minimum whenever possible. Every available piece of information could aid their search. For example, maiden name, alias, or other previous names should be included when possible. Although no repository can be expected to give a 100% positive identification (unless it is a match of fingerprints), the more pointers matched, the smaller the chance of a mistake.

What If the Index Doesn't Have Matching Identifiers?

You will often find that if an index does not contain a personal identifier, one may be found within in the record file or in associated paperwork.

Let's say you are searching for a record on Joe B. Cool with a DOB of 01/01/1985. And let's say the index gives you an index showing a possible record match of J Cool with no DOB, and another possible match with a Joseph Cool with a partial DOB match. The next step is to examine the two files. The contents in the file may contain the matching personal identifiers you are looking for. If the highest form of accuracy is vital, then you may have times where a common name requires you to view dozens of files.

The Redaction Trend

Redaction is simply removing or hiding certain elements within a record itself or the record index. This is a way government agencies and legislative bodies can deal with identity theft problems. News stories surface regularly about privacy and efforts to remove personal identifiers from public records.

However, in some locations the anticipated cost of redacting records is forcing government agencies to instead block public access to the records. Yet at the same time many government officials understand the importance and benefits attached to the openness of public records. The balance of privacy interests versus public jeopardy goes beyond the purposes of this book. However, the key point for researchers is to be aware of change and know that redactions can and will alter public record searching procedures.

The Access Methods for Public Records

The following is a hard look at the various methods available to access public records from government agencies. Keep in mind—

- There is a distinction between performing a name search versus asking for a specific document copy.
- Many government agencies will not do a name search for the public but will retrieve a specific document file.

Visit in Person

Direct access is easy if you live close by. Many courthouses and recorders offices provide free use public access terminals (PATs), but charge to make copies of file documents. This is also true for certain state-held records such as corporate or Uniform Commercial Code (UCC) records generally found at the Secretary of State office. The index or the documents in a record file can be viewed for free, but a fee is charged if copies are requested.

Not every agency will permit walk-in traffic. Agencies such as the State Police, Workers Compensation Bureaus, certain Motor Vehicle agencies, and many Occupational Licensing Boards will not honor in person requests.

There is one key distinction to make about in person searches at courthouses and recording offices: who is permitted to do a name search of the index? At some agencies, only government personnel can do the

searching. At others, the government personnel will not help and only the public can do a search of the index. Still other agencies offer a choice. If the only way to do a record search is to do it yourself on a PAT, and if you do not live close by, you will need to hire a record retriever to visit the agency and perform the search for you.

It is no secret that a search performing by government employee can be influenced by the kind of day that person is having. If someone woke up on the wrong side of the bed or if personnel are extremely busy, then you might not have your request serviced fully or accurately. Ongoing search requesters always find ways to make friends with the staff, but sometimes it is necessary to remind staff about a particular law in their jurisdiction that dictates what is public record and open.

Mail

While most agencies will process a request for a specific document or file if allowed by law, there are a number of agencies that will not honor a name search request by mail. Do not assume all do.

Some agencies do not charge to *find* a record but charge a fee to make a document copy or print a computer screen image. Call first and ask about the fees.

When mailing the request, an insider tip is to use a large, priority mail envelope. A 9 x12 envelope stands out and demands to be dealt with.

Another worthy piece of advice is to always include a SASE (the acronym for a self-addressed stamped envelope) or a prepaid express delivery return envelope. Providing either one insures the agency is not going to reject your request because you did not include postage. Your request may even go to the top of the request pile.

Fax

Generally, a fax service for requesting and/or returning documents is only available to pre-approved requesters, especially if fees are involved. If you prepay a request and ask for a return of results by fax, some agencies will oblige only if the call is local or to a toll-free telephone number. While most courts will not offer to fax results of search requests, many will fax specific documents if the case file or docket number is given, again, to a toll-free number.

Some agencies (state vital record agencies, for example) consider fax requesting to be an expedited service which can trigger additional fees.

Telephone

A limited number of agencies that permit telephone requests merely answer "Yes" or "No" to questions such as "Does John Doe have a civil court case in his name?" Several state motor vehicle agencies offer some rather sophisticated read-back dial-up systems as a service to ongoing accounts.

Professional searchers know that name search requests and results by telephone are not adequate in a due diligence situation. This is because there is no assurance the court personnel keyed in the correct spelling and there is nothing in writing to back up the assertion that no records were found.

If the agency provides telephone service to pre-approved accounts or a fee-based "900" phone service, then the searcher may feel the agency personnel would do a better job of searching. But calling a public record agency for a name search should be performed only for "quick and dirty" research.

Online

Online access to public records comes in several varieties and packages. Online access can be an instant path to viewable or downloadable record data or the means to transmit record information along an information chain. The Web is the primary conduit, but there are a few dial systems (non-Internet) that still exist for access to subscription based services. There are many useful Web pages maintained by the government and by private enterprise that provide valuable information about public records.

More information about online access from government agencies appears later in this article.

Bulk or Database Purchases

Many agencies offer the ability to purchase all or parts of their database for statistical or commercial

purposes. Purchasing records for statistical purposes is often easy. Purchasing for commercial purposes is not so easy. “Commercial purposes” means the data may ultimately be used for marketing products or by database vendors building proprietary database products. Whether or not a government agency will sell the records is determined by restrictions imposed by law or administrative rule or if it has the personnel, means, and time to fulfill a request.

Typically, records are available to those who qualify in the following media types: FTP, cartridges, paper printouts, labels, disks or CD files, microfiche, and microfilm.

Monitoring and Notification Programs

Some government agencies offer the ability to notify clients if there is activity on records. This may be on a submitted-list basis (such as monitoring commercial drivers or insured drivers) or an alert of activity related to a certain record type. An example is the LENS Program with the New York DMV, which registers drivers of participating employers or organizations.

Hire Someone Else

As mentioned previously, one method to access public records is through a vendor. Vendors must comply with state and federal laws governing the release of records. Thus, if the government agency will not release a full record to the public, neither will the vendor (at least the reputable ones do not).

Using The Freedom of Information Act (FOIA)

The Federal Freedom of Information Act (FOIA) is only applicable to records held by federal agencies. States have their own FOIA or Open Records laws in place. A great resource for FOIA and also for finding state’s open record laws is found at a Web page of the National Freedom of Information Coalition. See <https://www.nfoic.org/organizations>.

About Record Fees and Charges

Public records are records of incidents or transactions. It costs money (time, salaries, supplies, etc.) to record, store, and track these events. Although public records may be free of charge to view, they are not necessarily free of charge when obtaining file copies. Certainly, fees are to be expected if government personnel must perform searches.

Common charges found at the government level include copy fees (to make copies of documents), search fees (for clerical personnel to search for the record), certification fees (to certify a document as being accurate and coming from the particular agency) and expedite fees (to place you at the “front of the line”).

When searching records at the state or county level, fees can and do vary widely from jurisdiction to jurisdiction for the same record type. Search fees range from under a dollar to \$65 for government personnel to perform a name search of court records. Copy fees vary from \$.10 to \$10 per page. Also, expect additional fees if records must be pulled from an archive or from off-site storage.

According to public record searching expert Lawrence Lopez, many states have a Superintendent of Public Documents who can be a real advocate. These Superintendents often intercede if you have problems with agencies charging higher fees than allowed or claiming they don’t have to give you a certain document.

About Online Access

First and foremost, let’s look at three important facts—

1. 30% of the available public records from the government cannot be found online.
2. Most free government public record Web sites contain no personal identifiers beyond the name.
3. Usually the searchable and/or viewable information found online is limited to name indexes and summary data rather than document images. Most access sites – especially the free access sites – permit the former, not the latter.

Many government Web sites offering online record access include a warning or disclosure stating that the data

can have errors and/or should be used for informational purposes only. Such sites should be considered as supplemental or secondary sources only. Using a criminal record search from such a source usually does not in and by itself comply with Fair Credit Reporting Act regulations involving pre-employment screening.

Government Agencies and Identifiers

The federal, state, and local agencies that maintain public record systems make substantial efforts to limit the disclosure of personal information such as Social Security Numbers, phone numbers, and addresses.

The lack of identifiers displayed when searching online can be real problem for employers or financial institutions who require a certain level of due diligence. The existence of any possible adverse information must be checked by a hands-on search to insure the proper identity of the subject. Even then the identifiers may be removed.

The government agencies that offer online access on a fee or subscription basis, usually to pre-approved requesters, are more apt to disclose personal identifiers such as the date of birth, than the free access sites. Very few give Social Security Numbers and those that do usually cloak or mask the first five digits. Some now even cloak the month and day of the birth and only release the year of birth. For example, most U.S. District Court and Bankruptcy Court search systems give little or no personal identifiers on search results, thus making a reliable "name search" nearly impossible.

Government Subscription Accounts

The use of subscription accounts is more prevalent than many people may be aware. Also, many agencies, such as state motor vehicle agencies, only provide access to pre-approved, high-volume, ongoing accounts. Typically, this contractual access involves fees and a specified, minimum amount of usage.

A growing trend is offering online access to information on a pay-as-you-go basis, usually with a credit card payment online. Some agencies will give you a glimpse of the index or docket but will charge a fee for the record copy. Some allow the record to be printed on the spot, other times it is mailed.

Have you heard of the National Information Consortium (NIC)? You may be aware of its services but not realize how widespread this company's services are in the U.S. NIC is a provider of government Web portals. NIC designs, manages, and markets eGovernment services on behalf of over 30 states and a number of local and federal government agencies. NIC does this without spending taxpayer dollars.

The state affiliates of the NIC offer services that range from managing the look-ups found at states' Web pages to managing record access subscription accounts for MVRs, UCC filings, and court records. Examples of states with NIC affiliates include alabama.gov, kansas.gov, and idaho.gov. Of course, access to restricted records involves account approval from the managing state agency. Visit the NIC at www.egov.com for a list of all affiliates and services.

Sometimes the only way to obtain certain records online is from a vendor. A vendor may provide access to many records that otherwise may not be found online via the government online sources.

Use of Disclaimers

Many government websites offering online record access include a warning that the data can have errors and/or should be used for informational purposes only. The common reaction is often "yeah, so what?"

Does the site you are using have a different bias or purpose than your intent? Have you considered the severity of a site's disclaimer in relationship to the level of due diligence needed? Is the disclaimer merely a CYA courtesy warning, or should this site truly not be used as a primary search site? Is there any possible legal exposure if the disclaimer is ignored?

Below are two examples of disclaimers from sites providing statewide court record searches.

1. Disclaimer from Washington (<https://www.courts.wa.gov/jislink/?fa=jislink.agreement>)

This is part of the license agreement that all online users must agree to and sign:

"Disclosure Statement - You agree to provide a disclosure statement to each customer, client, or other third party at the time any information from JIS-Link is provided to them. You agree that a statement is displayed or provided every time information is provided which states, at a minimum:

The data or information provided is based on information obtained from the Washington State courts as of _____ (insert date the information was obtained from JIS-Link). The Administrative Office of the Courts and the Washington Courts:

- 1) Do not warrant that the information is accurate or complete except for court purposes;
- 2) Make no representations regarding the identity of any persons whose names appear in the information; and
- 3) Deny liability for any damages resulting from release or use of the data or information.

The user should verify the information by personally consulting the "official" record reposing at the court of record."

A search from Washington JIS-Link site is commonly considered to be on-site equivalent – meaning a search made using this system provides the same results as a search performed at the local courthouse using a public access terminal. So, the system is a good primary system, but the warning still exists. A key question then is – if you are receiving instant WA records from a vendor using this site, are you also receiving this notification?

2. Disclaimer from Rhode Island (<https://publicportal.courts.ri.gov/PublicPortal>)

This disclaimer is taken direct from the free search site of the Adult Criminal Information Database maintained by the Rhode Island Judiciary.

"The Public Portal is provided as an informational service only and does not constitute and should not be relied upon as an official record and/or schedule of the court. Since personally identifying information is not included in this service, the information contained therein shall not be relied upon to confirm a person's identity or a person's criminal record for any purpose including, but not limited to, background checks or employment screening. Furthermore, only certain case information is accessible on the Public Portal. Court documents are not available via the Public Portal. Employees in the Clerk's Office will not confirm case content or other information contained in or referenced on the Public Portal over the telephone."

In other words, the Judiciary is telling you this site should not be used for a background check. The issue then is to find out if this is merely a lawyer's version of a boilerplate warning or if the information unreliable. So, what is your exposure if this is the only site you are using for a RI search and the results are incomplete or incorrect? A few red flags certainly come to mind.

The message here is that a strong disclaimer, such as this RI disclaimer, should be considered as an early warning device and further investigation is likely needed. Talking to reputable researchers in the area is a good way to find answers.

Comments we received from local record searchers indicate this site is known to show cases that were sealed or were supposed to be removed. Plus, only the year of birth is shown on results. So, if using this site it is suggested to confirm case existence before reporting to a client. Actually, it is probably best to only use the Rhode Island site as supplemental or secondary source, especially if you are performing record searching that requires strict due diligence or is covered by the Federal Fair Credit Reporting Act (FCRA).