

Navigating the Criminal Records Maze

Did you know that, in most countries throughout the world, conducting a criminal record search is extremely difficult, if not impossible?

For example, attempting to determine out if a potential customer, business partner, supplier, or even employee has a criminal record in England, Canada, Australia, or most EU countries means running into a thicket of privacy laws and bureaucratic stone walls.

By contrast, access to all sorts of criminal records in the U.S. is reasonably free and open. Here, such records are considered public information, available to anyone who wants to view them. You don't even need a business purpose (a so-called "permissible purpose") to check somebody out. You can use free Internet resources to investigate potential dates, even suspicious neighbors. All you need is the person's name, though it can be extremely helpful if you also have their date of birth, especially if they have a common name.

Where do you go on the Internet to conduct a criminal record search? Generally, you'll want to visit either state or county government websites (more on this below). Alternatively, you can use a fee-based service to do the work for you.

Unfortunately, as with many things run by the government, there are some complications. Here are the major ones you should know about before you start trying to check out somebody to see if they've had any serious run-ins with the law --

First, be aware that even in the U.S., there's just no easy way to achieve complete certainty when researching criminal records. The only truly comprehensive nationwide database of criminal records in the U.S. is the National Crime Information Center (NCIC), maintained by the FBI. Unfortunately, it's only available to law enforcement agencies.

So you have to conduct your checks on a regional basis - either statewide or county-wide. For example, if your "subject" (i.e., the person you're checking out), lives in Texas, you can check that entire state's repository of criminal records for a small fee, entering the individual's name and DOB. Some other states offer the same service. Unfortunately, most don't.

Thus in most states you have to check county by county. Fortunately, nearly all counties in the U.S. make this type of information available to the public, but what a task it is to access it. You need, first, to know your subject's "address history," and second, to locate county criminal records sites for each county he/she has lived in. But because criminal records are so fragmented by jurisdiction in the U.S., that's probably the only way to do it with reasonable reliability. You can locate most county websites by entering the county name/state into a search engine. Then contact the county courthouse and ask how best to run a criminal records search - in some counties you can do it online, in some others they'll run it for you while you wait on the phone, and in a few you have to send your request in by mail. Talk about tedious. But read on, a much easier way to do all this is suggested below.

Essentially, then, to check whether someone has a rap sheet in the U.S. you need to, at a minimum, search county records in your subject's county-of-residence for, say, the past seven years. That would be an extremely basic criminal records search -- and, of course, of dubious reliability. For example, if your subject lives in County A now, he/she may have been convicted of a crime in County B sometime in the past. And County B could be the adjoining county, or it could be a county in some other state.

Another problem is aliases. What if your subject has a rap sheet under a different name? Or what if your female subject has been convicted of a crime under her maiden name?

So as you can see, it's easy to get a false sense of security by running someone's name through government criminal records databases and coming up with "No Records Found." That person may have a long rap sheet in other jurisdictions or under other names.

One last, extremely important, complication: if you're an employer, you can't run a criminal records check on an employee or potential employee without that person's written permission. Employment-related background checks are closely regulated by state law and the federal Fair Credit Reporting Act. This Act confuses everybody, even employment lawyers. However, its main thrust is clear enough: full disclosure whenever you run background checks on employees or potential employees, and always obtain signed releases from them.

An Easier (But Still Imperfect) Way to Search Criminal Records

So, given that conducting criminal records searches can be pretty tricky and pretty tedious, is there an easier way? Yes, you can utilize one of the fee-based services to do the work for you. They are not expensive, about \$20 for a statewide search and about \$45 for nationwide. Two of the better

services are Intelius.com and E-CriminalBackgroundCheck.net (Note, however, if all you are interested in is whether your subject is a registered sexual offender, you can check the National Sexual Offender Public Registry for free. Of course, your subject could have a long rap sheet of nonsexual felonies and wouldn't be listed here.)

In fact, it's a little discouraging but the truth is you can never be absolutely certain your subject doesn't have a criminal record. Why not? Because all public databases of criminal records are incomplete. These databases are compiled from county data. However some counties simply don't make the information available to their state governments so it never finds its way into a database. Also, of course, your subject may have completely changed his/her identity, or for that matter, may have even committed crimes overseas.

So your best strategy is to simply use the best information available to you, given the purposes of your search. For some purposes, a simple county-wide search may be adequate -- for example, you feel very confident your subject has no criminal record but you want or need to run a search anyway pro forma. In other cases, a statewide search which includes all counties in your subject's state of residence may be more appropriate -- for example, you have a subject who has lived in several counties in the same state.

However, for most purposes your best bet is a nationwide search. These days, most people don't stay in one place very long. The average person moves once every 4 years. That could be a move from Maine to California or Alaska. So for real reliability you should run a nationwide search going back at least seven years.

One final point: Always be sure to check the "Coverage" of any service you pay to do a criminal records search for you. They should have a link on their home page to "Coverage" or "Availability." This link should produce another page or a pop-up which reveals exactly what jurisdictions are included in their database. You may be surprised to find, for example, that not every county in California is included - and the county-of-residence of your subject is one of those not included. If that happens you should still probably run the search, but you should supplement it with an search of criminal records in that missing county. Call the county clerk there and ask how you can get a criminal records search for that county.

In summary, checking criminal records in the U.S. is much easier than in nearly any other country, but is still a big hassle if you do it yourself. So it's nearly always better to hire a reputable online service to do the work for you, remembering that even the most comprehensive searches they can do will not include some counties.

About the Author

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