

**Schmidt, Kurt**

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**From:** Sandstrom, Justice Dale V.  
**Sent:** Monday, August 20, 2007 11:03 AM  
**To:** 'Buringrud, Jay E.'  
**Cc:** Holewa, Sally; Schmidt, Kurt  
**Subject:** RE: Traffic Offenses included in Court Case/Calendar Search

Thanks Jay. I will see that your comments are considered in the review of this feature.

Dale

-----Original Message-----

From: Buringrud, Jay E. [mailto:jburingrud@nd.gov]  
Sent: Friday, August 17, 2007 11:40 AM  
To: Sandstrom, Justice Dale V.  
Subject: Traffic Offenses included in Court Case/Calendar Search

Dale,

Yesterday, I became aware of the Supreme Court's "District Court Case/Calendar Search" feature on the court's web page. I can understand how this is valuable in some instances, however, I believe this information may be "misused."

My primary concern is the inclusion of traffic case information. It appears that many types of traffic offenses are listed as records, regardless of the points assigned by the Department of Transportation or the age of the offense. Under NDCC 39-06.1-10(1) traffic offenses with points of two or less are kept separate by the DOT and that separate driving record "shall not be available to the public." Sometimes institutional memory is a good or bad thing, but as I recall the reason the two point "confidentiality" was established in 1979 was to prevent insurance companies from using "minor" violations, especially exceeding the 55 MPH speed limit, either to surcharge insurance premiums or cancel policies.

In addition, NDCC 39-16-03.1 provides that any entry on a driving record more than three years old is not available to the public.

I know the traffic case information on the District Court Case/Calendar Search is not a record of the DOT, nor an entry on a driver record, but it would seem the spirit of the confidentiality of two or fewer point violations as well as violations over three years old is being violated, especially if insurance companies are accessing the Court Case/Calendar information as a means of discovering information specifically protected if it is in the possession of the Department of Transportation.

Jay

Jay E. Buringrud  
jburingrud@nd.gov  
O: 701.328.2916

**Schmidt, Kurt**

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**From:** Don Berg [don.berg@bergconsultinggroup.com]  
**Sent:** Thursday, August 16, 2007 5:12 PM  
**To:** Schmidt, Kurt  
**Cc:** `Harry Grundmann; `Cindy Sullivan; `Bruce Berg  
**Subject:** Re: Inquiry to Information- ND crim searches

Kurt,

Thank you, so much, for your prompt and courteous reply.

Grand Forks clued me in why the test name we were given had a case number that started with 81 versus 18 (it wasn't a typo, it was a an old 1993 County record). The clerk couldn't see DOB but verified the social we were given.

I inserted some text below.

----- Original Message -----

**From:** [Schmidt, Kurt](#)  
**To:** [don.berg@bergconsultinggroup.com](mailto:don.berg@bergconsultinggroup.com)  
**Sent:** Thursday, August 16, 2007 4:41 PM  
**Subject:** RE: Inquiry to Information

Mr. Berg:

The system does display the county number. The first 2 digits of the case number indicate the county in which the case is venued.

The opening paragraph of the web site includes a paragraph that states:

*This page allows you to search North Dakota District Court Case information for Criminal, Traffic, and Civil case types. The search will also include municipal court cases from certain areas. The search does not include restricted cases such as mental illness. For a complete description of the data and the counties that are searchable click [here](#).*

The final sentence in that paragraph includes a link that will take you to a cross reference of of the county numbers to county name. (*too obvious*)

Therefore, by using the county number as listed in the case number and cross referencing that to the link in the opening paragraph, one is able to find the county in which the case is venued.

Related to Dates of Birth: At this point that information has been removed from the public search case. The rules governing what information is included are being reviewed for possible modification and inclusion of DOB and address. I cannot know what the outcome of those discussions will be. *We can all hope that some sort of identifying info is supplied so that every common named person, searched online (let's say by another community resident), isn't perceived as THE criminal living next door.*

*Additionally, you might find this interesting and please pass this along. PA redacted part of the DOB and just gave*

the year of birth on their online system. After extensive review and input from clerks, industry groups and others during 2006, they decided to provide the full date of birth for online records beginning in 2007. They still do. Many other states provide the full DOB on a returned record.

At this time, we do not intend to provide tiers of access. The information is public information and is available to anyone within "the public".

Thank you.

Kurt T Schmidt  
Director of Technology  
ND Judicial Branch

-----Original Message-----

**From:** Don Berg [mailto: [don.berg@bergconsultinggroup.com](mailto:don.berg@bergconsultinggroup.com)]  
**Sent:** Thursday, August 16, 2007 12:27 PM  
**To:** (SUP) Information  
**Cc:** `Cindy Sullivan  
**Subject:** Inquiry to Information

I was at Custom (url <http://www.ndcourts.gov/custom/custom.htm>) and I have this inquiry:

We are trying to locate a "list" of courts, counties or jurisdictions that may correspond to the case numbers provided on your online system when a record is encountered...as your system does not yet display the court number or location. One could make an *ASSUMPTION* about the court location based on the attorney or defendant's name...but not always and assumptions are not preferred (the background screening industry needs to know the court location for their employment screening consumer reports).

They also need some way to verify the date of birth (at the very least some will accept month and day, or month and year). Is there any intent to add that capability? Is there a possibility that DOB may be a search option in the near future?

Do you have any intention to add a capability for another level of access, for those that have a legitimate and secure business purpose for these records (and have registered with you, and have at their business location, signed releases to research these names)...if your reason for not including any portion of the DOB is for identity or identity theft reasons.

Thank you,

Don Berg  
Consultant  
Berg Consulting Group, Inc.  
Consulting only to the Applicant Screening Industry  
2240 Palm Beach Lakes Blvd. Suite 105  
West Palm Beach, Florida 33409  
Phone 561-712-1277 Fax 561-712-1255 Cell 860-428-0762  
[don.berg@bergconsultinggroup.com](mailto:don.berg@bergconsultinggroup.com)

[www.bergconsultinggroup.com](http://www.bergconsultinggroup.com)

**Schmidt, Kurt**

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**From:** Schmidt, Kurt  
**Sent:** Tuesday, August 14, 2007 12:21 PM  
**To:** 'Carolyn Merbach'  
**Cc:** 'Vicki L. Volk'; Hohbein, Lynn  
**Subject:** RE: North Dakota Court Record Information

**Attachments:** AR-M450\_20070810\_135726.pdf



AR-M450\_20070810\_135726.pdf (5...

Ms. Merbach:

The record as displayed on the web site accurately reflects what happened in Mandan Municipal Court. The status of transferred to district is correct. That record cannot be changed without a judge's order.

You were issued a citation for "...Driving a Motor Vehicle while under the influence..." (See attached citation from the case file in Mandan Municipal Court).

That citation ended up with a case being filed in Mandan Municipal Court. The CHARGE in that case was "DUI", as listed on the citation. Therefore, you WERE CHARGED with DUI.

The status of that case indicates transferred to district court. That status, too, is correct. The case was "TRANSFERRED TO DISTRICT COURT".

In other words, you were CITED for, were CHARGED with, but NOT CONVICTED of DUI in Mandan Municipal Court. The record accurately reflects the sequence of events and can't be changed without a judge's order.

Furthermore, the status of transferred to district court should give indication to anyone looking at the case that they need to go to the district court case to get a full understanding of what happened in that case and with the original citation.

I do realize organizations are using the web site. I cannot control how they use it, or what they use it for. I cannot force them to go to a clerk's office and view all paper records.

However, the information on the website is public information. That information has been available at the courthouse, both through the clerk's offices and through the public search terminals. The simple fact that it is now available via the internet does not alter the fact that most court cases are public records.

I believe a brief explanation of how the public search web site works is in order: The site is simply a copy of the information contained in the clerk's database. Records are added, updated and changed on the clerks database. Within seconds, those changes are automatically made to the copied database that the public search site uses. The IT department here does not "make changes" to the records on either the clerks' database or the public search site database. Those records are under the domain and control of the clerks of court. We do not have a practice of changing them for the clerks - with or without permission. Changes to the electronic record are done by the clerk.

I appreciate your suggestions for the disclaimer. We will consider implementing them, as appropriate. We do not need legislative approval to alter that disclaimer.

Thank you.

Kurt T. Schmidt

Director of Technology  
ND Judicial Branch

-----Original Message-----

From: Carolyn Merbach [mailto:carolineindakota@hotmail.com]  
Sent: Friday, August 10, 2007 11:24 AM  
To: Schmidt, Kurt  
Subject: RE: North Dakota Court Record Information

Hi Kurt,

Thanks for responding. Just a few notes and a little bit more information in regards to the "difficulties this website has caused me". It is the website, not the case that has caused the difficulties. If you go to all of my official case files and records, IT CLEARLY SHOWS I HAVE NEVER BEEN CHARGED OR CONVICTED OF A DUI.

Just to clarify your number 1 below: I was arrested for a DUI but never charged/convicted of a DUI.

I have had many, many coworkers, families, and friends calling/stopping me and responding..."I see you have a DUI from the ND State Court Records, of which I try to explain that I was never charged or convicted with a DUI. Of course to no avail, they do not believe me and believe the North Dakota State Court System would really not allow something as misleading.

I have also tried to explain that you will not make an entry on my record that says "No DUI charge - See District Court Records". People do not believe me either in regards to this. Therefore, several people are now convinced I have a DUI and I am a liar. Also, just to let you know, organizations, entities, businesses, etc. are using this website for hiring and other purposes. Since it is free and does not require any effort to use, this is where they are coming for criminal background checks.

I was just questioned about this "DUI CHARGE" from a perspective employer last week and this is where the real difficulties have occurred. Again I tried to explain that I was never charged or convicted of a DUI. At that point they showed me a print out of my record from your site, commented that if that is really the "nature of the situation" then I should correct it as it reflects very negatively about me. They still didn't believe me and I did not get the part-time job. They ARE NOT GOING TO GO TO THE PHYSICAL DISTRICT COURT RECORDS BECAUSE THEY BELIEVE THEY ONLY NEED TO SEE YOUR SITE!

Although you have a disclaimer that says records may have errors or omissions, people are convinced that that is in regards to typos or maybe omitting a zip code. Although, I understand that the arrest information from Mandan municipal court is displaying and the case charge and conviction shows in the district court and is not being displayed per the governing rules and statutes, it is very confusing for people that are viewing this records to understand unless they know that information.

Anyways, try a little test in your place of work as I did. Pull up my record and have approximately 5 people in your work area come and view that record and then ask them if I was charged/convicted of a DUI. 5 out of 5 people will respond that I was charged with a DUI, when in actuality I was never charged or convicted of a DUI.

I also understand my two alternatives, of which one is costly and will only solve my record, the other may prove to be as difficult as this has been, but is certainly a course of action I will pursue. But in order to pursue that I first need to know if your disclaimer is limited to the governing rules and statutes. More specifically, can you add more information to your disclaimer or does that need to be addressed legislatively?

Note the suggestions below. The wording would have to be worked out, but I think you can clearly see the content of what I am trying to get across. Also your disclaimer needs to be much bigger and more noticeable. Of the 5 people I tested, than brought them back to the disclaimer, all 5 of them never saw the disclaimer to begin with!!

I would like to see your disclaimer include: Although this service is provided as a service to the general public, the information on your site should not solely be used to make decisions (hiring, firing, employment decisions, custody of children, character, performance indicators, etc.) regarding the individual without viewing all official court documents related to the case and/or individual

I would also like to see your disclaimer include: Cases transferred to district court do not affect the information stored within the municipal court for the original case. As such, the information displayed on this public search web site is from the municipal court and the information from the district court is not displayed. Cases transferred to District Court will have to be accessed for charges/convictions.

Another Suggestion: Is to provide some directions with how to use your website. There is absolutely no reference or definitions on how to read and understand each record from the word offense on down. I think if you explained how to read those records and someone came across the sentencing or guilty/not guilty and seen it was blank, they could go to the instructions and see that that is an indicator to search the case further and not assume the individual was charged with the offense they were arrested for.

And I am convinced that you do not believe I was not convicted of a DUI and also I am a liar because you are relying on this website too. It is highly unlikely that you will go over to Mandan and pull my district court records.

Therefore, too you have already judged me assuming I have been convicted of a DUI.

Anyways, please print this e-mail and pass it on to your next committee meeting regarding the website.

I thank you for your apology, but the apology really needs to come from those that have denied me a job because of this website record and other co-workers, family, and friends who believe I have been charged/convicted of a DUI.

This is truly a situation of being charged guilty until I can prove I am innocent.

Carolyn

>From: "Schmidt, Kurt" <KSchmidt@ndcourts.gov>  
>To: "Carolyn Merbach" <carolineindakota@hotmail.com>  
>CC: "Marshall, Kathy" <KMarshall@ndcourts.gov>,"Vicki L. Volk"  
><vvolk@cityofmandan.com>  
>Subject: RE: North Dakota Court Record Information  
>Date: Thu, 9 Aug 2007 14:16:17 -0500  
>  
>Ms. Merbach:  
>  
>As I understand the situation:  
>  
>1) You were arrested for DUI and charged in Mandan Municipal Court.  
>2) Mandan Municipal Court transferred the case to Morton County  
>District Court.  
>3) The Morton County District Court case resulted in a deferred  
>imposition of sentence.  
>4) You complied with the terms of the deferral. As such, the Morton  
>County District Court case does NOT show up for public view or on the  
>public search site.  
>5) The original case in Mandan Municipal Court still shows up as public  
>information and on the public search site.  
>6) The status of the original Mandan Municipal Court case is  
>"Transferred to District Court".  
>  
>As I understand it, the status of "Transferred to District Court" IS  
>the appropriate and correct current status of the municipal case. The  
>governing rules and statutes that apply to district court relating to

>the deferred imposition of sentence do not affect the information  
>stored within the municipal court for the original case, which was  
>transferred to district court. As such, the information displayed on  
>the public search web site is displayed there appropriately as it is  
>part of an open record in municipal court.  
>  
>Your possible recourse related to removing that information from the  
>public's view would include consulting an attorney and pursuing  
>alternatives related to sealing/expunging the case in municipal court  
>or contacting your legislative representative to effect a statutory change.  
>  
>I apologize for the difficulties this is causing you. However, if my  
>understanding of the case facts are correct, and given the current  
>rules and statutes, the case information seems to be correct and the  
>case seems to be appropriate as it is being displayed on the public search web site.  
>If my information is incorrect and I have misstated the facts, please  
>contact me.  
>  
>Kurt T. Schmidt  
>Director of Technology  
>ND Judicial Branch  
>  
>-----Original Message-----  
>From: Carolyn Merbach [mailto:carolineindakota@hotmail.com]  
>Sent: Thursday, August 09, 2007 10:01 AM  
>To: Schmidt, Kurt  
>Subject: North Dakota Court Record Information  
>  
>Hi,  
>  
>Does anyone know how I can get a case file updated/corrected to reflect  
>the correct offense and current status.  
>  
>The current status says "Transferred to District Court". I spent 3  
>hours on the phone yesterday with the clerk of court for the county  
>(per your website - Kathy at Morton) the case is from who has all of  
>the correct information, but said they can't do anything about entering  
>or changing the website to reflect the correct information.  
>  
>The offense listed on the website is different from the clerk of  
>counties and the website does not have the current status as it is not  
>currently in District Court.  
>  
>Then I was directed to the clerk of court for the city of Mandan  
>(Vickie), who tells me she can't do anything about changing the website  
>to reflect the correct offense and current status.  
>  
>All I want is for this case record to show up on the north dakota  
>courts website with the information that is accurate for that record.  
>  
>Please instruct me on the procedures of how to correct and update this  
>file.  
> Both the Clerk of the City of Mandan and the County of Morton tell  
>me they can't help me and that they don't know how to correct/update my  
>nd court record.  
>  
>The Clerk of Court for the county the case is from (per your website -  
>Kathy at Morton) did say that they will send me a certified copy of the  
>offense, charge, sentencing date, current status, plea, sentencing  
>judge, and a complete event description. Once I have the certified  
>copy of the north dakota court case, can we get this corrected?  
>  
>I understand from Vickie (Clerk of City of Mandan) who just called me,  
>to not contact you because you are only going to refer me back to her.

>  
>Please advise, as this record is misleading all those parties that have  
>looked at this record.  
>  
>Thank you for your time.  
>  
>Sincerely, Carolyn Merbach  
>

**Schmidt, Kurt**

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**From:** Miller, Penny  
**Sent:** Thursday, July 26, 2007 3:31 PM  
**To:** Schmidt, Kurt  
**Cc:** Holewa, Sally  
**Subject:** FW: Inquiry to Information

-----Original Message-----

**From:** Harry Grundmann [mailto:harry.grundmann@bergconsultinggroup.com]  
**Sent:** Thursday, July 26, 2007 8:30 AM  
**To:** Miller, Penny  
**Subject:** RE: Inquiry to Information

Ms. Miller,  
 Thank you for your response, it is much appreciated. I would like to ask a follow-up.

We apparently agree that dob is public and the courts should supply it or at least verify it, when asked, if we give name and case number and dob we are looking for. My question is: will they allow such verification requests to be made by phone? or fax? or will they require in-person visits to the court?

I have asked your IT department some questions that they have not responded to as yet. (it's been one week). I wonder if I could use your offices to help get some answers? Below is the original text to your IT department.

Quote:

I was at <http://www.ndcourts.gov/publicsearch/> (url <http://www.ndcourts.gov/publicsearch/contactsearch.aspx>) and I have this comment: As a consultant who has accessed, examined and evaluated every statewide and county specific website available, I find your website very functional. I do have two questions/comments.

1) It would be nice if there was a way to isolate the type and location of search being requested. Separate criminal search requests from civil data search requests and also allow requests for only a specific county to be searched. I realize this involves more behind the scenes than just changing screen parameters. Do you have any plans to add this enhancement?

2) It is vital to our industry (background screening) that date of birth be included in the name index so that we know this "John Smith" is the guy we want. Many states/counties provide this data element or some piece of it (as their statutes allow or dictate) such as Year of Birth only, or Month and Day of Birth only. Do you have any plans to include this in any format? Thank you for feedback on this.

Unquote.

Thank you for all your help in this.  
 Harry Grundmann

-----Original Message-----

**From:** Miller, Penny [mailto:PMiller@ndcourts.gov]  
**Sent:** Thursday, July 26, 2007 8:50 AM  
**To:** harry.grundmann@bergconsultinggroup.com  
**Subject:** Inquiry to Information

All counties should validate the date of birth if you provide the name and case number. It remains public information even if it is not included in the records available through the public access website.

-----Original Message-----

**From:** Harry Grundmann [mailto:[harry.grundmann@bergconsultinggroup.com](mailto:harry.grundmann@bergconsultinggroup.com)]

**Sent:** Thursday, July 19, 2007 9:56 AM

**To:** (SUP) Information

**Subject:** Inquiry to Information

I was at <http://www.ndcourts.gov/publicsearch/> (url <http://www.ndcourts.gov/publicsearch/contactsearch.aspx>) and I have this inquiry:

If I do a search looking for criminal cases (for pre-employment screening purposes) and I get a "hit", will all counties that my subject name appears in, validate the date of birth of the subject if I call each county and give the case number(s) from the web search and the date of birth I am looking for?

Thank You!

Harry Grundmann

[harry.grundmann@bergconsultinggroup.com](mailto:harry.grundmann@bergconsultinggroup.com)

Phone 561-712-1277 ext 4#

Fax 561-712-1255

[www.bergconsultinggroup.com](http://www.bergconsultinggroup.com)

**Schmidt, Kurt**

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**From:** Schmidt, Kurt  
**Sent:** Thursday, July 19, 2007 3:47 PM  
**To:** Webmaster  
**Subject:** RE: Comment to the Webmaster

Mr. Grundmann:

Thank you for the comments.  
In response

1) to allow the broadest search possible, the search checks all case types for all counties. We do not expect to limit the scope of the search.

2) the rule that governs access to records is being reconsidered for modifications. The dob may be added as a result of those efforts

Kurt T. Schmidt

-----Original Message-----

From: Harry Grundmann [mailto:harry.grundmann@bergconsultinggroup.com]  
Sent: Thursday, July 19, 2007 9:35 AM  
To: Webmaster  
Cc: Don Berg  
Subject: Comment to the Webmaster

I was at <http://www.ndcourts.gov/publicsearch/> (url <http://www.ndcourts.gov/publicsearch/contactsearch.aspx>) and I have this comment:

As a consultant who has accessed, examined and evaluated every statewide and county specific website available, I find your website very functional. I do have two questions/comments.

1) It would be nice if there was a way to isolate the type and location of search being requested. Separate criminal search requests from civil data search requests and also allow requests for only a specific county to be searched. I realize this involves more behind the scenes than just changing screen parameters. Do you have any plans to add this enhancement?

2) It is vital to our industry (background screening) that date of birth be included in the name index so that we know this "John Smith" is the guy we want. Many staes/counties provide this data element or some piece of it (as their statutes allow or dictate) such as Year of Birth only, or Month and Day of Birth only. Do you have any plans to include this in any format?

Thank you for feedback on this.

Harry Grundmann  
harry.grundmann@bergconsultinggroup.com  
Phone: 561-712-1277 ext 4#  
fax 561-712-1255  
[www.bergconsultinggroup.com](http://www.bergconsultinggroup.com)

**Schmidt, Kurt**

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**From:** Holewa, Sally  
**Sent:** Friday, June 29, 2007 9:29 AM  
**To:** Schmidt, Kurt  
**Subject:** FW: Public Access to Information

Please include these comments with the others you are collecting.

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**From:** Miller, Penny  
**Sent:** Thursday, June 28, 2007 4:25 PM  
**To:** Holewa, Sally  
**Subject:** Public Access to Information

You continue to say "the court is supposed to be transparent" as a reason to include an individual's personal information on the website. That seems like an overly broad statement, considering the number and types of records and proceedings that are closed by law. In addition, I have to say publishing the docket information we do, especially personal information, does not necessarily shed light into the court, nor does it make what is happening in a case necessarily obvious.

I do believe it is the court processes, procedures and rulings that should be open and transparent, which isn't accomplished necessarily by the docket either. I am not against publishing the district court dockets, I just question some of the information provided. An individual's personal information is not the court's information to publish just because it happens to be in a court record.

So my question remains..... what is the purpose of publishing personal information? Just because we can, or that's the sign of the times doesn't cut it for me. It almost seems like we are pandering. The court system should be more thoughtful than that. I have had phone calls and emails from too many distraught people whose names are in old Supreme Court opinions to feel comfortable with publishing even more personal information.

I don't expect a response, but the subject always changes when we are in meetings.

**Schmidt, Kurt**

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**From:** James Loomis [jim.loomis@cbcinnovis.com]  
**Sent:** Thursday, June 14, 2007 3:56 PM  
**To:** Schmidt, Kurt  
**Subject:** CBC Innovis Reply

Curt,

This is the response that I got from our public records manager regarding the DOB and address being removed from the file:

Jim:

We need to have either DOB or full address as an identifier for the individual. Our preference is DOB which was (I thought) a field that the judiciary in their language considered permissible.

Steve

Just wanted to update you on this.

Respectfully,

***Jim Loomis***

CBC Innovis

701-293-2041

701-219-4978 (cell)

**Schmidt, Kurt**

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**From:** Holewa, Sally  
**Sent:** Monday, June 11, 2007 9:25 AM  
**To:** Schmidt, Kurt  
**Subject:** FW:

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**From:** VandeWalle, Justice Gerald  
**Sent:** Friday, June 08, 2007 3:52 PM  
**To:** Crothers, Justice Daniel J.; Kapsner, Justice Carol; Maring, Justice Mary; Sandstrom, Justice Dale V.; Holewa, Sally  
**Subject:** FW:

FYI. I thought of Jack when I heard about the Minot incident because of the apparent similarity of the crimes and the publicity it generates there. I never thought of the website. While a prospective juror could look at the file in the clerk's office that is probably an unlikely scenario and one that could probably be verified if it did happen. The web is a different matter.

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**From:** Paulson, John  
**Sent:** Friday, June 08, 2007 11:04 AM  
**To:** Strand, Arnold  
**Subject:** RE:

Thanks Arnie, what a wonderful and scary thing technology is--more problems maybe than solutions. Being not as techno literate as I should be, I was not aware of all of that. I am off shortly to Fargo to do more of the case. jtp

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**From:** Strand, Arnold  
**Sent:** Friday, June 08, 2007 8:58 AM  
**To:** Paulson, John  
**Subject:**

Judge, if it isn't hard enough to get a jury, you move it to Minot and a similar event happens there, life just gets more complicated. I also wanted to alert you to the fact that with the Supreme Court's new website DistrictCourtCase/calendar search on the Supreme Court website not only can a prospective juror find out what case they are being called in for but from that site you can click on the case number and go into the docket and see what's filed, such as the motion to suppress the victim's sexual history which I really don't think a prospective juror needs to know. Anyways, I hope all these new events don't make it too difficult to get a jury.

Arnie

**Schmidt, Kurt**

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**From:** Holewa, Sally  
**Sent:** Thursday, June 07, 2007 11:34 AM  
**To:** Schmidt, Kurt  
**Subject:** FW: Update on the website

MaryAnn has given me permission to forward this to the technology committee. She would like to add this comment: "My personal observation is the d/o/b should be available, otherwise how can anyone verify if the person they are checking is the correct person..."

I think this e-mail is a good example of the confusion that exists when we treat the same information differently based on whether information is in paper (available) or electronic (not available) and whether the electronic information is obtained via public terminals at the courthouse (available) or over the internet (not available).

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**From:** Anderson, MaryAnn  
**Sent:** Thursday, June 07, 2007 10:55 AM  
**To:** Holewa, Sally  
**Subject:** Update on the website

Good (Wet) Morning!

Just thought I would give you a quick update on the use of the website...

It will be helpful to oil and gas producing counties as the word gets out-I have been telling land men about it who check for probate records, foreclosures, etc. and they appear to be excited. It also helps clerks so we will not have so many requests.

It was interesting this morning tho-I rec'd a call from a lady with the case number, wanting to verify a date of birth on a criminal case. She indicated she was using the website but the d/o/b was not there and needed to verify it. I looked in our case and it was listed so I told her if it was not showing on the website, the information is confidential. She said why do d/o/b show on some cases and not on other cases. I said I didn't know. She really pushed to get the d/o/b verified and I would not give it to her. (My assumption if it was correct when she said it is available on some cases, is that the cases are older and that information was available then and perhaps is not now-I don't know...) Do you think I did right by not verifying it if it was not available on the site and was in UCIS?

Mary Ann

**Schmidt, Kurt**

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**From:** Russell Hons [russ@honsinvestigations.com]  
**Sent:** Monday, June 04, 2007 11:11 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Online UCIS Search

Kurt:

Thank you for the email. When I mentioned the 1000's of emails and letters, I did not mean it as a threat or anything, I was just wanting to let you know that the investigative industry nationwide would rally if they thought there was a possibility of a state removing identifying information from court files. This information is used 1000's of times a day for many reasons.

As a private investigator, I perform many functions of which the public may not be aware. Professional investigators use court information to help us locate individuals for a variety of important purposes. We assist identity theft victims to restore their good names. We use such information to locate witnesses in order to present best evidence at trial, and in fact, have used such data to free innocent individuals falsely convicted! In addition, we have used such information to locate deadbeat parents, find heirs, recover stolen funds, and search for criminal and civil records while doing background checks for employers, and on individuals involved in criminal and civil cases.

When we are looking for someone with a common name, the Social Security number &/or date of birth is essential for making a correct identification. Imagine that John Smith is applying for a new job in North Dakota and we were hired to do a background on him. One of the requirements when doing a background check is to check court records for criminal and civil records. A simple search of UCIS shows ton's of records on John Smith. Without a date of birth and address present we would have no way of differentiating which one is the proper John Smith. Federal legislation under the FCRA requires us to get the records from the courts, and if it is challenged, we have to reinvestigate. If we reported all of the information in UCIS on John Smith, it would no doubt be challenged. We would then have to go to every court that has a file, pull that file and look there at the DOB/SSN to see if it is the proper individual. This would be exhausting work for us AND the clerks that would have to be pulling these files every day.

I agree with you that the DOB information should not be up on the web site, that is too easy for identity thieves to access and glean information, however, I, and the investigative industry feel strongly that the personal identifiable information must remain available at the public terminals in the court house so that we can properly report criminal convictions on the proper individuals.

Just for your information, there are numerous bills in the federal system talking about baring access to Social Security Numbers, as they are the ultimate way of identifying a correct individual. A recent bill just passed has the following wording re: access to social security numbers "to identify or locate

missing or abducted persons, witnesses, criminals and fugitives, persons that are or may become parties to litigation, parents delinquent in child support payments, organ and bone marrow donors, pension fund beneficiaries, missing heirs and persons material to due diligence inquiries." This is for Social Security number access, and they are still allowing us access for those reasons. Therefore I feel strongly that at least the Date of Birth should remain on the UCIS system so that we can at least somewhat properly identify a person.

I can give you a perfect example. We recently had a request to search for records on an individual in Adam's county ND. We searched the name and found a Gross Sexual Imposition charge there. Further investigation showed that the person with the GSI in Adam's county had a different Date of Birth than the person we were checking on. He did however have the exact same first, middle and last name. If we did not have access to the DOB on that situation, we would have reported that this (found to be upstanding/clear criminal record) individual was a possible sex offender.

As a regular, high volume user of UCIS (150+ times per day), and a knowledgeable individual on access to information, federal legislation regarding privacy rights, etc. I would be happy to meet with your committee at any time to discuss your concerns, ideas, etc. If this is something your committee would like, please let me know. Thank you.

Russell Hons

Hons Investigations

**From:** Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
**Sent:** Wednesday, May 30, 2007 9:53 AM  
**To:** russ@honsinvestigations.com  
**Subject:** RE: Online UCIS Search

I don't think "thousands of emails" will make much more of an impression than a few well-written letters describing your industry needs and desires as related to the data.. Obviously your views would be shared by most everyone in your industry.

I will forward your comments to the committee.

Thank you.

Kurt

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**From:** Russell Hons [mailto:russ@honsinvestigations.com]  
**Sent:** Friday, May 25, 2007 11:07 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Online UCIS Search

Ok.

How much email do you want on this issue for your committee?

If I put it out to the industry nationwide, that the ND courts are considering blocking access to DOB information in court files, you will have 1000's and 1000's of emails.

Russell Hons

Hons Investigations

**From:** Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
**Sent:** Friday, May 25, 2007 11:02 AM  
**To:** russ@honsinvestigations.com  
**Subject:** RE: Online UCIS Search

The court rules that govern whether DOB and Address are confidential would apply to all public access, public terminals in the courthouses included.

Thank you.

Kurt

**From:** Russell Hons [mailto:russ@honsinvestigations.com]  
**Sent:** Friday, May 25, 2007 10:54 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Online UCIS Search

Kurt:

That is 100% correct.

If this blockage of the DOB is ONLY for the website access, I have no problem with that, as I also feel that it does make it much easier for someone to log on and run lots of searches and pull up people's dates of birth, etc. As for accessing that information on the UCIS terminals at the courthouses, we MUST still have access to DOB's there.

If we do not have access to DOB's at all on UCIS, we would have to have the clerks pull every single file that there is a potential record on, so that we could try and determine the proper identity. Just for my company, that would amount to 100's of files per DAY having to be pulled by various clerks!! The access to DOB's is imperative. As you know, there has been federal legislation regarding social security number privacy, etc. In the last couple of federal bills, they have backed off on totally banning access to social security numbers because of the below reasons that you stated. On the federal level the investigative industry among others have had a direct impact on access to this information for many reasons. Thus the reason we still have access to drivers license information, etc. which is governed by the DPPA. We as professional investigators still have access to that information as long as we have a permissible purpose.

If in the future, the courts consider totally hiding DOB's on the UCIS system, I would implore them to institute a separate web site or system access where LICENSED investigators can have access to this highly critical information.

Please let me know if you are JUST talking about access to it on the Web Site or not.

Russell Hons

Hons Investigations

**From:** Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
**Sent:** Friday, May 25, 2007 10:38 AM

**To:** russ@honsinvestigations.com  
**Subject:** RE: Online UCIS Search

The issue of whether DOB and Address should be confidential, such as SSN is confidential is being discussed, yes. There are people on both sides of the issue. Those, such as yourself who believe DOB is necessary and beneficial to ensure a positive identification; and those on the other side of the issue who think providing it via a public site such as this helps foster identity theft.

I assume your arguments are that DOB and address (Especially DOB) are needed for a positive match? Assuming such, I have been saving emails, on both sides of the issue, to present to the committee that will take the issue up.

Thank you.

Kurt

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**From:** Russell Hons [mailto:russ@honsinvestigations.com]  
**Sent:** Friday, May 25, 2007 10:28 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Online UCIS Search

Kurt:

Could you clarify? The issue of having the DOB on the website search is a matter of "intense discussion"? Are they for it being included or against? I would be more than willing to give feedback to your committee from the users point of view.

Russell Hons

Hons Investigations

**From:** Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
**Sent:** Friday, May 25, 2007 10:23 AM  
**To:** russ@honsinvestigations.com  
**Subject:** RE: Online UCIS Search

You're welcome.

I should mention that this is a matter of "intense discussion" within the courts. I will forward your comments to the committees that are trying to formalize the answer.

Thank you.

Kurt T. Schmidt

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**From:** Russell Hons [mailto:russ@honsinvestigations.com]  
**Sent:** Friday, May 25, 2007 9:56 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Online UCIS Search

Ok. Thank you for letting me know right away. This will definitely help us from losing clients, as the searches now have to be done back at the courthouse.

Thanks again!!

Russell Hons

Hons Investigations

**From:** Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
**Sent:** Friday, May 25, 2007 9:53 AM  
**To:** russ@honsinvestigations.com  
**Subject:** RE: Online UCIS Search

DOB and Address information has been removed from the site.

Kurt T. Schmidt

Director of Technology

ND Judicial Branch

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**From:** Russell Hons [mailto:russ@honsinvestigations.com]  
**Sent:** Friday, May 25, 2007 9:41 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Online UCIS Search

Kurt:

I have a question regarding the court search page. The dates of birth are no longer showing up next to the names on the criminal cases. They are also not listed "inside" the specific file. This just started happening. Is this a glitch in the system, or is this information no longer going to be listed on the online search? I look forward to hearing back from you.

Russell Hons

Hons Investigations

**From:** Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
**Sent:** Thursday, May 17, 2007 11:00 AM  
**To:** russ@honsinvestigations.com  
**Subject:** RE: Online UCIS Search

Mr. Hons,

Thank you for looking at the web site and for taking the time to comment.

In response to your questions:

At this time we are not expecting to implement a per-search charge for the site or a limit on the number of searches that can be done. The information in the database and presented via the site is public information and as such, is available to everyone. However, to avoid automated scripts from attempting to "harvest" the database, there is a challenge-response test that is presented after every 10 searches.

Administrative Rule 41 (AR41) (<http://www.ndcourts.gov/court/rules/Administrative/AR41.htm>) is the rule that relates to electronic access to court records. That rule indicates that the public data should be provided in bulk form. As such, we are working on the site, contracts and other items necessary to comply with that portion of the rule and expect to be ready to distribute bulk data in the coming months. This will be a fee-based service. The fee is yet to be determined.

Relating to your point about increasing volume of traffic to the site. The site is designed to run as efficiently and as fast as possible, given the multi-million-row databases that are being searched. While we have not given it a complete and thorough load test through the internet, it is our expectation that the servers running the system will be able to handle the load. With that said, there is always a chance of hardware or network problems causing outages and slowdowns. We will deal with whatever problems arise as expeditiously as possible.

Relating to your final point, let me first clarify terminology. The term "background check" is routinely used when people are using UCIS or the Public Search Site to check if a person has had contact with the courts in North Dakota. The term is also used in a more formal setting when people check the "Criminal History" of a given individual. However, when one uses the public terminals to check UCIS or the Public Search Site to check the database, one is really checking the court's history as related to an individual. It is really not what I would call a "background check".

That said, we are in the processes of adding the list of when counties began using UCIS and other descriptive information to the web site.

Thank you.

Kurt T. Schmidt  
Director of Technology  
ND Judicial Branch

---

From: Russell Hons [<mailto:russ@honsinvestigations.com>]  
Sent: Wednesday, May 16, 2007 11:42 AM  
To: Schmidt, Kurt  
Cc: 'Hons Investigations Office Manager'  
Subject: re: Online UCIS Search

RE: Online UCIS search.

I wanted to make a couple comments. I know to an effect this is self serving, as my company was probably one of the heaviest users of UCIS at the local court house, running hundreds of names per day for background check purposes.

The first question I have is this. I was told last fall that when this did get put online, that there were going to be some limits, such as a person only being able to run a few names a day, etc. The other option would be for them to buy the data in bulk. Is that a possibility of happening? We are already losing a ton of clients who have decided that they can now do the searches themselves, for free, since they don't need someone to go to the courthouse in ND anymore. If there was a per search charge implemented after x amount of names, that could be a way of generating new revenue for the state.

That leads me to the 2nd point, once this website gets more publicity in the background check industry, there will be huge amounts of traffic. Is the system built to handle that? I ask, because we will still be running many searches on UCIS for our Retail background check clients, and want to be aware if there is the possibility of delays or slowdowns.

And finally, the thing that concerns me most is this. The background check industry is going to flock to this search now, rather than paying a researcher to go to the courts and search the names. The standard background check requested is a 7 year minimum search, and in some instances a 10 or 13 year search. We have a list showing when each county joined UCIS, but this data is not listed on the web site. Therefore, when our current (and soon to be former) clients decide they need a 10 year Adam's county search, they are going to go to the website, do a search on the person's name and report the findings, not knowing that they are missing all records from before Dec. 2002. This could have drastic consequences if the person has criminal convictions prior to 2002. These searches are done for Employment purposes every day, and a convicted pedophile, etc. could be listed as CLEAR if they have a record from before the counties joined UCIS.

I'm not sure how hard it would be to put this information on the website, but I feel that this is a significant issue that should be addressed, so that people don't get a false sense of security when running certain searches on UCIS.

Thank you for your time. I look forward to hearing back from you.

Russell Hons  
Hons Investigations  
311 So. 4th St. Ste. 204  
PO Box 6315  
Grand Forks, ND 58206-6315  
(701) 775-7704 Office  
800-450-4667 Toll Free

**Schmidt, Kurt**

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**From:** Mike H. [mhovorka@orangetreescreening.com]  
**Sent:** Wednesday, May 30, 2007 11:20 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Court Records - Follow up

Kurt,

Basically the information is considered "public" and is now just more convenient to get at verse a drive to the local courthouse. By leaving out the DOB and/or address really doesn't keep that information from anyone. See the link below and feel free to enter in my name Michael Hovorka.

<http://www.intelius.com/>

I am the one in Brooklyn Park, MN - Yep I am 41 and yes my middle name is Paul. The information courts think they protect is already out there and they start to do a disservice in not providing valuable information, valuable public information.

Thanks again - Mike

-----Original Message-----

**From:** Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
**Sent:** Wednesday, May 30, 2007 8:51 AM  
**To:** Mike H.  
**Subject:** RE: Court Records

Mike,

As of now, the rules do not allow for information to be provided to one party but not another; just as they don't allow it to be provided in one format (such as electronic) but not another (such as paper).

What I can safely say is that the issue of the confidentiality DOB and Address is being taken up by the Court Technology Committee and will likely be the subject of intense discussions before the issue is resolved.

If you have comments on the issue, I can take them to the committee.

Thank you.

Kurt

-----Original Message-----

**From:** Mike H. [mailto:mhovorka@orangetreescreening.com]  
**Sent:** Tuesday, May 29, 2007 8:16 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Court Records

Will you offer this additional information to subscribers as this is really key to the information. Other wise we end up calling the courts and pushing additional calls and questions to them.

Mike

-----Original Message-----

From: Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
Sent: Friday, May 25, 2007 8:32 AM  
To: Mike H.  
Subject: RE: Court Records

We have removed DOB and Address from the site.

Kurt T. Schmidt

-----Original Message-----

From: Mike H. [mailto:mhovorka@orangetreescreening.com]  
Sent: Friday, May 25, 2007 7:52 AM  
To: Schmidt, Kurt  
Subject: RE: Court Records

Good Morning Kurt,

I just did a name search - have you removed the DOB from the files or did I just search a name with none listed?

Thanks,

Mike

**Schmidt, Kurt**

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**From:** Mike H. [mhovorka@orangetreescreening.com]  
**Sent:** Wednesday, May 30, 2007 11:05 AM  
**To:** Schmidt, Kurt  
**Subject:** RE: Court Records

With that in mind - I think Florida's information will serve well - I have cut and pasted how they handle the information and why below - Good luck with the fight and thank you

Internet Access Law and the Escambia County Clerk's Office

The only records available on the web are the records available to the public during the hours the Clerk's office is open. The internet has simply opened the files to the public twenty four hours a day, seven days a week, as the law anticipates.

Florida law mandates the Clerk's Office to provide access to the records we have on file. Due to changing technology the records are more accessible than ever and this office has received inquiries as to why the Clerk's office is providing access to these records via the Internet. The following information will explain what the Legislature has directed the Clerk's office to do:

The Florida Constitution says in part (Art. I, Sec 24):

"Every person has the right to inspect or copy any public record made or received in connection with the official business of any...officer...except with respect to records exempted pursuant to this section....."

Section 119.07 of Florida Statutes says in part:

"Every person who has custody of a public record shall permit the record to be inspected by any person desiring to do so..."

Sec. 119.01 of Florida Statutes says in part:

"The Legislature finds that, given advancements in technology, providing access to public records by remote electronic means is an additional method of access that agencies should strive to provide to the extent feasible. "

Sec. 28.2221 of Florida Statutes says in part:

"The Legislature finds that a proper and legitimate state purpose is served by providing the public with access to public records and information on the Internet and hereby determines that the provisions of this section fulfill and further an important state purpose."

"No later than January 1, 2002, the county recorder (Clerk of the Court) shall provide a current index of documents recorded in the official records of the county for the period beginning no later than January 1, 1990, on a publicly available Internet website which shall also contain a document requisition point for obtaining images or copies of the documents reflected in the index..."

"By January 1, 2006, each county recorder (Clerk of the Court) shall provide for electronic retrieval, at a minimum, of images of documents referenced as the index required to be maintained on the county's official records website by this section."

**NOTICE:**

The following documents recorded in Official Records after June 5, 2002, will not be available via the Internet website pursuant to action by the 2002 Legislature. The documents listed below recorded in Official Records prior to June 5, 2002, will continue to be available unless the affected party identifies the record and requests in writing that it be removed pursuant to law.

Military discharge  
Death Certificates  
Court records relating to Family Law  
Court records relating to Juvenile Procedure Court records relating to Probate

Notices for the Suppression of Public Information

Notice:

Depending on your occupation, you may be eligible under Florida Statutes, Chapters 119.07(3)(i) and 119.07(3)(i)2, to have your address and other specific personal information suppressed from our public records.

Notice:

Any person has the right to request the Clerk/County Recorder to redact his or her social security number, from an image or copy of an Official Record that has been placed on such Clerk's/County Recorder's Publicly available Internet Website. Florida Statutes, Chapter 119.072.

Notice:

Any Veteran of the United States Armed Forces or his or her widow or widower, attorney personal representative, executor, or court appointed guardian has the right to request the Clerk/County Recorder to remove from the Official Records any military separation forms recorded by or on behalf of the requesting veteran. The forms eligible for removal include: DD-214; DD-215; WD AGO 53; WD AGO 55; NAVMC 78-PD; and NAVPERS 553. Florida Statutes, Chapter 119.072.

Notice:

Any person has the right to request the Clerk/County Recorder to redact his or her bank account, debit, charge and/or credit card numbers from an image or copy of an Official Record that has been placed on such Clerk's/County Recorder's publicly available Internet website. Florida Statutes, Chapter 119.072.

-----Original Message-----

From: Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
Sent: Wednesday, May 30, 2007 8:51 AM  
To: Mike H.  
Subject: RE: Court Records

Mike,

As of now, the rules do not allow for information to be provided to one party but not another; just as they don't allow it to be provided in one format (such as electronic) but not another (such as paper).

What I can safely say is that the issue of the confidentiality DOB and Address is being taken up by the Court Technology Committee and will likely be the subject of intense discussions before the issue is resolved.

If you have comments on the issue, I can take them to the committee.

Thank you.

Kurt

-----Original Message-----

From: Mike H. [mailto:mhovorka@orangetreescreening.com]  
Sent: Tuesday, May 29, 2007 8:16 AM  
To: Schmidt, Kurt  
Subject: RE: Court Records

Will you offer this additional information to subscribers as this is really key to the information. Other wise we end up calling the courts and pushing additional calls and questions to them.

Mike

-----Original Message-----

From: Schmidt, Kurt [mailto:KSchmidt@ndcourts.gov]  
Sent: Friday, May 25, 2007 8:32 AM  
To: Mike H.  
Subject: RE: Court Records

We have removed DOB and Address from the site.

Kurt T. Schmidt

-----Original Message-----

From: Mike H. [mailto:mhovorka@orangetreescreening.com]  
Sent: Friday, May 25, 2007 7:52 AM  
To: Schmidt, Kurt  
Subject: RE: Court Records

Good Morning Kurt,

I just did a name search - have you removed the DOB from the files or did I just search a name with none listed?

Thanks,

Mike

**Schmidt, Kurt**

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**From:** Mattson, Doug  
**Sent:** Monday, May 21, 2007 10:38 AM  
**To:** Schmidt, Kurt  
**Cc:** Hoffer, Susan  
**Subject:** RE: Web record Incorrect

**Attachments:** Blank Bkgrd.gif



Blank Bkgrd.gif (235  
 B)

Thanks Kurt. I'm copying this e-mail to Ward County District Court Clerk Susan Hoffer so she can see what my concerns are in this matter.

Just a heads up: I e-mailed the State Court IT Department referenced at the bottom of the page I was looking at for the case profile for 51-2006-K-1456.

Thanks again.

**Douglas L. Mattson**

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**From:** Schmidt, Kurt  
**Sent:** Monday, May 21, 2007 10:12 AM  
**To:** Mattson, Doug  
**Cc:** Knoebel, Dixie  
**Subject:** RE: Web record Incorrect

Judge,

The record that shows through the state court web site ([www.ndcourts.gov](http://www.ndcourts.gov)) is a copy of what is in UCIS. As such, any changes have to occur in UCIS to the court record held in that system. Those types of changes and the court record in UCIS are under the control of the clerks of court.

I have contacted the clerks office in Minot to look into and correct any errors in the case you mentioned below.

Kurt T. Schmidt

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**From:** Mattson, Doug

**Sent:** Saturday, May 19, 2007 10:11 AM  
**To:** Schmidt, Kurt  
**Cc:** Van Grinsven III, John; 'rsandberg@srt.com'  
**Subject:** Web record Incorrect

RE: Dan Craig Hendrickson 51-06-K-1456-1

There is an error on the Supreme Court's web record for Dan Craig Hendrickson in 51-06-K-1456-1.( See <http://www.ndcourts.gov/publicsearch/CSResults.aspx?lname=hendrickson&fname=dan&citation=>). As the sentencing judge, I never ordered, even on a conditional basis, for Defendant Dan Craig Hendrickson to report to the North Dakota State Penitentiary. This needs to be changed immediately.

Also, Hendrickson's supervised probation was changed from 4 to 5 years. it is no longer the four years listed in the Supreme Court's web record for him.

I trust you'll make the corrections. Thank you.

Douglas L. Mattson  
District Court Judge  
Ward County Courthouse  
P.O. Box 5005  
315 3rd St. S.E.  
Minot, ND 58702-5005