

The Background Investigator

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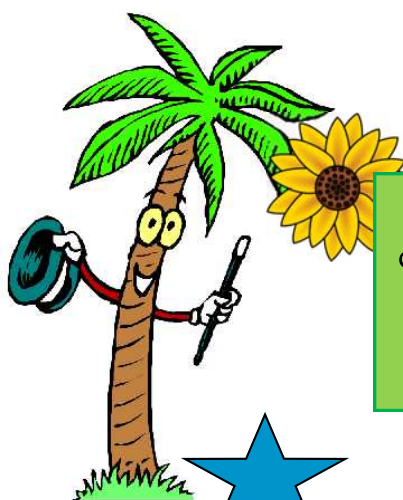
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Photograph by Steven Brownstein



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Despite Public Outrage, Web Access For Prisoners Isn't A Luxury Item – Here's Why

by Dr. Victoria Knight

The UK's prisons are slowly catching up with the digital age. But in an era of austerity and turmoil, introducing inmates to technologies that many of us take for granted is – for some – alarming.

My research shows that digital progress in prisons allows offenders to order their own meals, book visits, contact home, undertake e-learning, manage their finances, improve their health and prepare for release.

Prisoners using web-based tools to manage their daily lives is good for society. It's also an opportunity for prison staff to work with inmates to help them rehabilitate.

However, prisoners' relationships with technology isn't neutral and there are challenges in this changing landscape. I have observed that, when granted access to TV in their cells, they withdraw from their surroundings and are less dependent on fellow inmates.

But it also resonates beyond prison walls. Gary, one of my respondents, explained how he feels cut off from the outside world now

that digital communication dominates so many of our lives:

"Emails now rapidly replace letters and very few people even consider letter writing any more. I have been in the prison system for six years so far with another 16 to go ... I am in the position where I can watch as everything changes ... Some of us even find those people you grew up with or once were so close to, forget you're there because you're no longer around digitally."

Gary's "digital lag" experience could have adverse effects once he is released. But while the "digital prison" could potentially save taxpayers' money, it is still undecided if it will improve life behind bars.

Lockdown: the e-prison

There are small pockets of progress in countries experimenting with digital offerings for inmates. In Belgium, a "secure" digital service called PrisonCloud is used in prison cells. It looks and feels like a typical set-up, with access to a range of software, television and film, telecommunications, desktop programmes and e-learning gateways.

The service "offers web access through different categories like healthcare, job search, e-learning and others, where security is key", said Benny Goedbloed, chief developer of PrisonCloud.

"The inmate has no url bar, the solution is able to block all buttons and form fields without denying the ability to read, listen or view videos on the selected web pages."

In Australia, e-learning opportunities are taken seriously and many jails provide tablet devices where inmates can access online courses and reading materials.

Like Belgium, these devices are locked down. While prisoners have digital access, freedom to surf the web is denied. Instead, secure systems prevent them reaching the outside world with access limited to a walled garden.

Devices are linked to a prison server and guards are alerted if an offender – whose every finger stroke is recorded – attempts to hack the system or use a tablet or laptop for nefarious means.

Such security measures have led to some countries gaining confidence in moving towards digitisation behind bars.

In England and Wales, a project is underway to implement and test a model

similar to the one in Belgium. In-cell telephony and self-service kiosks where prisoners can manage their visits, order things from the prison shop and make requests have been established for some time now. However, there is a systematic plan to enable digital opportunities in all prisons.

HMP Berwyn, which opened earlier this year, is giving prisoners basic and securely locked laptops allowing them to access self-service rehabilitative programmes and support in custody. But use of these devices isn't widespread: they appear in a very small number of UK prisons with few inmates gaining routine access.

It's worth noting, however, that the government – perhaps wary of a potential public outcry – has declined to reveal how many digital devices are being used across prisons in England and Wales.

Eventually, one can expect that digital services in British prisons will become the norm – driven by priorities to keep the public safe and rehabilitate the prisoner. But nationally and internationally, the e-prison is yet to be adopted at scale.

people, part of their everyday lives from watching TV to communicating with friends and family to applying for jobs and managing money. A prison sentence disrupts digital literacy, which can lead to increased isolation, loneliness, boredom, frustration and anger. My earlier research on in-cell TV found that prisons are poor on communication and this leads to boredom.

Leon, another research respondent, told me:

"Boredom is poisonous, it is mental poison. You can easily get distressed and suicidal in here. TV keeps you occupied. Even just changing the channels using the remote, it keeps you focused."

Such an emotive response can be detrimental to prisoners serving time productively and safely.

Continues next page

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COVER PHOTOGRAPHER:
Steven Brownstein

PURPOSE: "Dedicated to pre-employment screenings everywhere"

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Insulting Modesty' Law Does Not Apply To Men, Rules Singapore Court

The value of a man's modesty versus a woman's has come under the spotlight after the Public Prosecutor appealed against a 10-week jail term given to a man who covertly took obscene videos and photographs of 33 men in public toilets.

The prosecution had urged the court to punish 27-year-old Teo Han Jern with a six-month jail term, arguing that this would have been the benchmark if the Malaysian's victims had been women.

But District Judge Kenneth Yap, in explaining last week why he rejected the prosecution's arguments, pointed out that Singapore's law on insult to modesty protects only women - and this could be down to the different way society regards the two sexes.

"The fact that male urinals and changing rooms are typically more 'open concept' than their female equivalents would, to some, speak volumes of a differentiated approach to modesty," suggested the judge.

Using his mobile phone, sales executive Teo had secretly captured videos and photos of men - some of them engaging in sexual acts and others defecating. He committed almost all of his offences at the Paragon and Cathay shopping malls.

He was caught on Sept 9 last year, when he went to a toilet on the ground floor of Paragon at around 6pm and tried to film a man who was inside a cubicle by placing his phone over the partition. The victim spotted the device, snatched it away and reported Teo to the mall's concierge. The police were alerted.

Teo pleaded guilty to five counts of making obscene films, for which he was jailed for four weeks each, four counts of being a pub-

lic nuisance for the pictures he took (\$1,000 fine each) and one count of having an obscene film in his possession (two weeks in jail).

Three of the jail terms for making obscene films were to run concurrently, which meant he would have to serve 10 weeks. Thirty other charges were taken into consideration during sentencing on Dec 6.

In Singapore's penal code, there are two laws that deal with crimes against a person's modesty.

The more serious outrage of modesty, which involves the use of criminal force, applies to "all persons". But the other law states that whoever intends to insult the modesty of a "woman", whether through words, gestures or by intruding on the privacy of the woman, is guilty of an offence.

So, Teo could not be charged with insulting the men's modesty. The most serious charges he faced were for making obscene films under the Films Act - for which the precedent was one to three weeks in jail.

But for each charge of making an obscene film, the prosecution recommended 10 weeks in jail. This was based on previous insult of modesty cases, in which women were filmed while in the toilet.

Given that Parliament has taken the view that a man's modesty is incapable of being offended when he is merely insulted and where his physical integrity has not been violated, said the judge, the prosecution had taken the practical view that charges, such as under the Films Act, could be used to plug the gap.

"It would seem most unfair, in the eyes of the prosecution, to consider men to be impervious to such violations of their privacy, especially when such violation is made with sexual intent," he wrote, especially in a digital era when there is even greater need for protection of male victims.

While he did not "disagree with such sentiments", the judge did not think it appropriate to increase penalties under the Films Act to fill this gap.

The fundamental question is whether a man is capable of having his modesty insulted in the same way as that of a woman - and Singapore's laws make a deliberate difference between the sexes when it come to the outrage and insult of modesty. While some may argue that everyone's privacy, regardless of gender, should be equally protected, this debate is for Parliament, not the courts, he added.

The Films Act was also "never intended to deal with voyeurism, or the intrusion of privacy and trespass to virtue", the judge explained.

Instead, it was meant to protect society at large from the corrupting influence of obscene films.

Another problem with the prosecution's submission was that in taking on considerations of modesty under the Films Act, there is a disparity that would result depending on whether videos or photos were taken of the victim.

"While there is a marked difference between what is revealed between a moving and a still image, the difference cannot be so great as to merit as much as a 10-week imprisonment term in the former... and only a maximum fine of \$1,000 in the latter."

Teo, defended by lawyer Chua Eng Hui, declined to post bail and began his jail term on Dec 13 ahead of the prosecution's appeal hearing next year.

Web Access For Prisoners Isn't A Luxury Item, continued

My research indicates that television, radio and digital services result in therapeutic outcomes for many inmates. Coping and surviving prison is a key part of rehabilitation and digital technology can help them achieve this.

But it also helps prisons run more efficiently by making systems and processes easier, saving time and reducing incidents. Recent findings by Professor McDougall and colleagues support my research.

Public opinion

A perceived anxiety and fear persists that prisoners will use laptops and tablets to commit criminal offences. While this is a valid concern, it has also been argued that they should be denied luxury, pleasure or even basic opportunities.

The idea, previously floated by then justice secretary Michael Gove, that iPads should be dished out to prisoners is distasteful to

some. But such opinions hinder digital progress.

My recent survey on the acceptability of digital technology in prisons revealed that the British public was largely supportive of this progress. As long as security assurances are maintained, time in prison should help people return to society better prepared to live a life free of crime.

Notably, prisoners aren't getting unfettered digital access and the benefits extend beyond the walls of the prison and have the potential to help us all. But, for now, uptake of digital services in UK prisons is a postcode lottery.

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When Background Checks Go Wrong

by Steven Melendez

After spending several years on a waiting list for a subsidized apartment in Tennessee, “Jack” says he was turned away by a leasing agent when incorrect information turned up in a routine background check.

“She’s like, ‘You have a sex offender charge on your record,’ and I was shocked,” says Jack, who requested that we not use his real name to avoid having it further associated with the erroneous allegation. “I never have been charged with that.”

The agent showed Jack a copy of the report, which referred to a man with a similar name and birthdate, he says. The report also included a photo of the alleged sex offender, who the leasing agent acknowledged clearly wasn’t him. (Among other things, the man pictured had conspicuous face tattoos.)

But Jack still lost his spot on the waitlist—he’s currently staying with a relative—and had a separate housing application also declined because of the mistaken information. As he tries to correct the record and clear up the confusion, every day is a new day of limbo.

Vidhi Joshi, an attorney at the Legal Aid Society of Middle Tennessee and the Cumberlands who is representing Jack, filed a formal dispute with the screening company that included the alleged offender’s picture but hasn’t yet received a response. She has also requested a copy of the report used for the second rental application, which was issued by a different background check firm, she says. (Joshi declined to identify the firms involved, since their responses are still pending).

Jack’s story is just one of what fair credit advocates say is a growing number of

cases where incorrect information on criminal and other background checks is making it difficult for innocent people to find work and housing. Such checks are routinely required for employment and rental applications, and conducted with varying levels of diligence by hundreds of companies around the country, but they only work properly when the information they contain is accurate.

And, increasingly, that’s not the case.

“We have gone from back in the early part of the century seeing a couple hundred [cases] about criminal records a year up to more than a thousand a year,” says Sharon Dietrich, litigation director at Community Legal Services of Philadelphia and head of the legal aid group’s employment unit.

Digitizing data like court records has made background checks significantly cheaper and faster than in years gone by: In 2012, a Society for Human Resource Management survey found that more than two-thirds of organizations polled conducted criminal background checks on job candidates.

“I think employers are scared not to do it because they feel like they may be found liable for negligent hiring,” says Dietrich.

But regulation has not necessarily kept pace. Even some jurisdictions that have passed so-called “ban the box” legislation, which forbids employers from requiring potential hires to indicate on job applications whether they’ve been convicted of a crime, still allow criminal history checks later in the application process.

Companies typically use a third-party background screening service to verify the work and education histories of potential hires, and often to check a candidate’s credit history and search for any criminal convictions that might serve as a red flag, says Mike Aitken, vice president of govern-

ment affairs at SHRM.

According to a May report from business intelligence firm IBISWorld, the \$2 billion background check industry is mostly composed of small, local firms, which have benefited from easy internet access to more and more public records. Fear of liability for employee misconduct and post-9/11 security concerns have also contributed to rapid growth in the industry in recent years, according to the National Association of Professional Background Screeners, an industry group which counts more than 850 background screening companies as members.

And while the majority of checks are likely accurate, Dietrich says she’s seen a “good number” of cases where background reports include information about people with similar names to her clients. In one case, she says, a client with a common name received a report with 65 pages of criminal history data about unrelated people with similar names.

“I have even seen cases where a female’s record is attributed to a male or vice versa, simply because they don’t use gender information, even though they have it,” she says.

Even job applicants who do have criminal histories can still be unfairly harmed by slipshod background checks. Often, convictions legally expunged by a court still show up on reports. Crimes can also be misclassified, such as when misdemeanors are erroneously labeled as felonies, Dietrich says.

One problem is overreliance on commercial databases, which can contain incomplete information or return hits based on false matches, says Larry Lambeth, the president of screening firm Employment Screening Services.

Lambeth is also the founder of Concerned CRAs, an association of consumer reporting agencies, as screening companies are

known under federal law, voluntarily adhering to certain ethical standards. The group requires its members to consult original documents, like court records, and compare information like birthdates and addresses to verify data from databases actually corresponds to the subject of a background check.

“If you use a database for his criminal records, if you find a hit, we require that you pull a criminal record from the courthouse and find the identifiers and ensure it’s the right person,” he says.

But not all background screeners conduct such rigorous research, and not all clients are willing to pay for it, he says. And even well-intentioned screeners can have difficulty verifying records in jurisdictions where privacy-minded courts redact personal information like addresses and dates of birth, says Melissa Sorenson, executive director of the National Association of Professional Background Screeners.

“It’s extending the time frame of getting people to work,” she says, since it takes screeners longer to complete reports for employers. The organization generally tries to work with state and local regulators to make sure background screeners have access to the data they need to do their jobs, she says.

Under the federal Fair Credit Reporting Act, applicants do have the legal right to receive copies of their background checks and to contest any inaccuracies with the agencies that did the screening. But in practice, critics say the process can be arduous even for experts, let alone for individuals looking to correct their own records. Dietrich says she’s had a screening firm resist providing her with an address to send mail on behalf of a client.

“You have to know even where to look—look for a little link at the bottom [of a firm’s website] that says ‘consumers,’ and maybe

that’s where you’ll find the dispute procedures,” says Dietrich. And those procedures often require documentation like proof of address that not everyone can easily provide, she says.

“Some people can do that, some people can’t, especially my clients who tend to be low-income and on the move,” she says.

Even in cases where data is obtained directly from government sources, it can still be incorrect or out of date: Former U.S. Attorney General Eric Holder, now a partner at law firm Covington & Burling, wrote letters on behalf of Uber to local legislators earlier this year, urging them not to require ride-hailing services to vet their drivers against the Federal Bureau of Investigation’s fingerprint database.

Critics have long said that the FBI database, which many states use to vet childcare workers, health care professionals, and others in regulated occupations, often contains wrong, misleading, or incomplete data. The database contains arrest records from law enforcement agencies around the country but only includes final case outcome data roughly half the time, according to a 2013 report from the National Employment Law Project. That means that arrests that resulted in an acquittal, dropped charges, or even expunged records can essentially appear as unresolved.

And updating outdated or simply incorrect data in the FBI’s files can be laborious and can leave jobseekers out of work while they reach out to multiple agencies to get the information fixed, says Maurice Emsellem, director of the NELP’s Access and Opportunity Program



Continues next page

When Background Checks Go Wrong continued

“Basically, you have to go back to the state that created the record to get it fixed,” he says. “The FBI won’t fix it in the FBI system.”

And while reforms to the FBI background check system have been proposed as part of bipartisan criminal justice reform legislation, they’ve yet to make it through Congress.

Nor, says Dietrich, have regulators addressed issues that have arisen around private background checks in the more than 45 years since the Fair Credit Reporting Act became law, such as how background screeners should handle record matching issues in computerized databases or how they should deal with potentially expunged cases.

“The world of regulation of these companies is not what it might be,” she says.

Meanwhile, the promise of future regulation is cold comfort for home-seekers like Jack, whose lives are being immediately damaged by bad data in a data-obsessed world. “He has suffered from homelessness,” Joshi says. “It’s had a pretty big impact.”

The Background Investigator Goes To South Africa

In a continuing series, The Background Investigator, sends its attorneys to various countries around the world to explore the justice systems and bring back to you their findings. This month Fred Frankel visited South Africa. Here is his report:

Obtaining Criminal Records in South Africa by Fred Frankel, Esq.

In South Africa, I met with the Clerk in the Cape Town and Johannesburg courts.

Their systems track the cases locally.

All cases must start at and retain a record at the lower courts.

Therefore, if you know of a case, the local Court would have the record in their system.

For outside each locality the clerks have access to getting information from other Courts.

The National office of the Criminal Records and Fingerprinting office has all arrests and criminal matter for the whole Country.

The searches there are very thorough for nationwide searches.

Turkey's Judicial Courts

The lowest civil courts in Turkey are named the civil or peace courts and are to be found in every district, then there are the civil courts of first instance for other civil cases than those judged by the peace courts.

The criminal courts are penal courts of first instance for minor cases and central criminal courts for major cases that imply a penalty of over five years of prison.

New Suit Says Cook County Court Hinders Access to Filings

A legal news service is suing one of the nation's busiest courts for allegedly hampering access to newly filed civil cases.

The Courthouse News Service made the allegations against the Circuit Court of Cook County in a lawsuit filed last week in Chicago federal court. It says rights to free expression under the First Amendment incorporate rights to timely public access to civil suits.

It names Cook County court clerk Dorothy Brown as a defendant. A message left at her office Monday wasn't returned.

The nationwide news service says a large percentage of Cook County lawsuits are accessible soon after they're filed. But it says others are withheld for days or weeks as they are processed. It contrasts that with how federal lawsuits are typically accessible online within minutes.

Skagit County, WA Superior Court To Offer Documents Online

Recently, the court began using the online system Odyssey to manage documents and make them available online, said Skagit County Clerk Mavis Betz.

She said the service is targeted at law firms and real estate title companies that often pull hundreds of dollars worth of documents a year.

The service will cost \$250 to \$600 a year, based on the size of the organization.

Members of the public who don't want to pay for access to the online service will still be able to get documents at the clerk's office as they have in the past, she said.

They will have access to the same documents available online, she said.

Betz said the fees for the Odyssey service are based on the average amount organizations pay per year for documents.

“It’s the best deal for the most amount of people,” she said. “I have some attorneys who spend \$1,000 a year, (and some) who spend \$50.”

Documents printed at the clerk’s office will still cost 25 cents per page.

Previously, documents were available for purchase on the Secretary of State’s website at \$1.25 per document.

The Case Of The Missing Tarrant Court Cases

There is a problem in Tarrant,TX county courts, and it’s difficult to determine just how big it is.

In recent weeks, Star-Telegram reporter Max Baker has reported on a number of court cases that have disappeared — many involving high-profile litigants. More specifically, the cases cannot be found by searching digital court records.

The Tarrant County district clerk and his office can find the files.

But you? You’re out of luck.

Another problem: a “glitch” in the computer system automatically boots confidential and sensitive cases out of the searchable, public-facing digital archive system.

Tarrant County District Clerk Tom Wilder has started working on the problems. Wilder says a software fix — which should come this month — will fix that.

The lack of access — and the inability to determine how many records cannot be found — raises serious questions about lawsuits throughout the civil and family courts.

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Maine's Record Access Up For Grabs

Maine’s top judge has said she wants the state’s courts to be more open and accessible to the public – including allowing for online access to records the public would otherwise have to view at a courthouse.

“The public deserves electronic access to its government,” Leigh Saufley, chief justice of the Maine Supreme Judicial Court, told the Legislature in 2014, when it was considering the Judicial Branch’s request for \$15 million from taxpayers to fund an electronic system for keeping court records.

“I can go online from anywhere and find the pending bills, the sponsors and committee assignments, the status of those bills, both in the committee and on the floor, the language of proposed amendments, committee hearing dates, and all written testimony,” Saufley said of the Legislature’s records system. “We seek nothing less for Maine people’s access to justice.”

But soon the court Saufley heads will consider a recommendation that would give lawyers instant access to court documents under the \$15 million system, while other Mainers would still have to trek to a courthouse to see the records.

A special task force the court formed to explore how to implement the new system decided that online access to court records should be limited in order to protect individual privacy from those who would misuse personal information. But critics argue that such limits would move Maine in the wrong direction when it comes to transparency in government.

The court will take written comments on the recommendation until Dec. 15 and is expected to schedule a public hearing soon to gather additional feedback. The hearing will offer a

final chance for those for and against the recommendation to share their views before the court makes a final decision on implementation.

The Judicial Branch Transparency and Privacy Task Force was made up mostly of lawyers, as well as advocates in the field of domestic and sexual violence and one journalist.

It was created by the court to develop recommendations on the accessibility of digitized court records and propose any necessary changes in state law or court rules.

Its recommendation would allow private attorneys involved in a case, as well as public prosecutors, unfettered access to online records.

ONLY THE DOCKET

But the public would have remote access only to a docket, or a list of the documents in any criminal or civil proceeding that haven’t been sealed by a judge. In order to see or obtain a copy of the entire document in a case, members of the public would have to travel to the courthouse to view the record at a special kiosk, with the aid of a courthouse clerk, who would also charge a fee for any copies of the records, as is current practice.

Advocates for open government contend that if the court adopts the recommendation, millions of dollars in taxpayer funds that were meant to improve public access will instead have been used mostly to benefit the legal profession.

“I likened it to the taxpayers being asked to build an enormously expensive and elegant restaurant and being given a menu of what could be served, but only the lawyers get to dine,” said Judy Meyer, executive editor of the Lewiston Sun Journal and a member of the Legislature’s Right-to-Know Advisory Committee. “And we foot the bill.”

The task force was established in March, held a se-

ries of meetings and made its final recommendations in September.

Mal Leary, a political reporter for Maine Public who served on the panel, said the recommendation seems to betray the vision of a more accessible and transparent court system laid out by Saufley in her 2014 address, and it also runs counter to the federal government’s practice of making public court records available online.

In a dissenting report to the task force recommendation, Leary points to Saufley’s words and writes, “What I find most disturbing is the failure to meet the goals set by the Judicial branch itself when it convinced the legislature to authorize the Government Facilities authority to issue bonds to build the electronic records infrastructure.”

In her 2014 remarks to the Legislature, Saufley detailed the limitations of the state’s paper-based records system, including the difficulty of extracting aggregate data to inform policy decisions on key issues like domestic violence.

“You and the media have asked us to tell you how many domestic violence criminal assault charges actually result in convictions,” Saufley said to lawmakers. “It is a straightforward question. Unfortunately, it is one that we simply cannot answer without a squadron of volunteers to look at every paper file related to assault charges. And some case types, such as mental health proceedings, are not even in the database at all.”

More frustrating, Saufley said, was the lack of easily accessible data for those with cases pending before the courts.

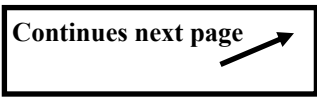
“If you have a case pending in the Maine courts, you cannot get the schedule online, you cannot see the filings from a website, you cannot get electronic access to the judge’s rulings,” she said.

“If the judge has entered

an order in your case, you or your lawyer must drive to the courthouse or wait for it to arrive in the mail. This antiquated system makes retaining legal assistance more expensive. The public deserves better.”

The Legislature agreed to fund the \$15 million system, and in December 2016 state officials signed a contract with Tyler Technologies to digitize all paper records for Maine District, Superior and Supreme Judicial courts.

But a majority of the 21-member task force – which included 15 practicing attorneys or judges – took a different view of public access to the new system. The panel voted nearly unanimously for a docket-only approach, in which the online file will simply confirm that a case exists and list any associated documents. To see those documents, a person would have to travel to a courthouse and read them at a kiosk.



Famous On-Line Cases

The Clerk of the Cook County Circuit Court archives contain original court files and documents reflecting the history of Cook County and, in many cases, the United States. While every court case is very important to the participants, some cases involving famous (or infamous) people or situations engender strong and enduring public interest. The court files and documents generated by these cases provide a window to the social, economic and political history of Cook County.

This "Famous On-Line Cases" section is an online exhibit hall featuring information about some of our most famous (or notorious) case holdings. For each case, we include a narrative summary, images of some of the original case documents and advice on how to get further information

about the case. Please check back periodically to see the new and interesting cases that we have added. The Archives Department of the Clerk of the Circuit Court maintains thousands of files for criminal, probate, domestic relations and civil cases. Whether you are a family historian looking for information on a particular case involving your family or a history buff peeking through the historical window of a famous case file, our Archives Department can assist you. Please browse other portions of this archives section to learn more about our holdings and how to order archival records from our office.

Cases Currently On-Line

Black Sox Scandal

Louis Armstrong Domestic Relations Case

Haymarket Affair Case

Dean C. O'Banion Probate Case

Nelson Algren Case

Iroquois Theater Fire

Leopold and Loeb- Crime of the Century

John Wayne Gacy

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Maine's Record Access Up For Grabs, continued

PRIVACY AN ISSUE

The task force embraced arguments that requiring the public to go to the courthouse will weed out people with nefarious intentions who could sit at home and harvest personal information disclosed in court filings. The panel pointed to cases where online court records in other states, such as Florida and Texas, have led to the inadvertent disclosure of private information, such as a person's Social Security number, for example.

In a concurring opinion with the task force recommendation, task force member and attorney Peter Guffin writes that he doesn't believe the recommendations go far enough to protect privacy.

"It is widely acknowledged that, up until now, paper case records maintained by the Maine state courts have been difficult to access," he writes. "With the Judicial Branch's move to the digital world, however, court records in Maine will be in electronic form, resulting in increased accessibility to the public. Personal information in those records, once protected by the practical difficulties of gaining access to the records, could thus become increasingly less obscure."

Guffin contends the courts should "recreate in the digital world the 'practical obscurity' that existed in the world of paper court records."

For lawyers, the new system is comparable to the electronic system long used by the federal courts. Cases can be initiated and motions filed remotely at any time and users can access case files online. It also will be used for scheduling and to track bail, warrants and protection orders.

Sig Schutz, an attorney for the Portland Press Herald and other media in Maine, said the task force's recom-

mendations are a troublesome turn.

"We don't do justice in secret," Schutz said. "That's just something we abhor in this country – in Maine and in the U.S."

Open court proceedings and records are a hallmark of American democracy, Schutz said. And while the recommendation does not suggest that court proceedings or records be made secret, it does make access to those records and proceedings more difficult when it could make it far easier, Schutz said.

"The public does not benefit from a secret court system, operating in obscurity, with meaningful access limited only to persons deemed worthy of finding out what's going on," Schutz wrote in a testimony opposing the task force's recommendation. "In the long run, secrecy is corrosive to the justice system."

Schutz also said there is no substantial evidence to suggest privacy rights have been violated in any serious way in states that do allow online records or in the federal system, which has been in place for nearly two decades. Schutz said most of the scenarios envisioned by the task force are "what if" situations.

"There really is no evidence of any sort of misuse of the records where any tangible real harm has been done," Schutz said.

He noted that access to online court records usually requires a user to register and pay for copies of records with a credit card, which creates a digital record of who has accessed the system. With the federal system, users must register and then pay 10 cents per page for records they download, although the maximum charge is capped at \$3 per document.

TREND AGAINST OPENNESS

"It's not a simple Google search and you can get all these documents," Schutz

said.

The panel's recommendation echoes a national trend to limit public access to government and records.

In April, the Council for Court Excellence, a nonpartisan civic organization in Washington, D.C., polled state courts about electronic access to court records and found that 18 states and the District of Columbia had adopted a docket-only system, while at least 12 states said they provided court case results, such as opinions, orders and judgments.

Jennifer Nelson, an attorney with the Reporters Committee for the Freedom of the Press, a Washington, D.C., nonprofit that works to protect the First Amendment rights of the media, said the committee will file comments in opposition to the task force recommendation.

"The public's right to access online court records should be the same as that which can be reviewed in a courthouse," Nelson, the committee's Stanton Foun-

dation media litigation fellow, said. "Our position is that more records should be made available (online in Maine) than what the task force is recommending. We really don't believe there was enough thoughtfulness put into how the public can

benefit from (an) online system that allows for more access."



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Baku Azerbaijan
Going Online

Over the past decade, Azerbaijan has strived to improve the transparency and efficiency of its judicial services, with a view to boosting public confidence in the judiciary and the court system, and ultimately playing a role in the country’s social and economic development.

The World Bank is providing support to Azerbaijan through its financing and knowledge services, with a focus on improving access to justice, especially for the most vulnerable. As part of this ongoing effort, the Bank’s \$200 million Judicial Services and Smart Infrastructure Project (\$100 million of which is financed by the IBRD) sets out to achieve a number of important objectives:

Strengthening e-justice services and reducing corruption (for example, through e-notarial services, e-bailiffs, SMS-based services, ICT-enabled case management),
Improving access to justice through legal aid and alternative dispute resolution systems,
Reducing the burden of business inspections to facilitate faster private sector growth that in turn will generate jobs, spur economic growth and promote inclusive and diversified development.
A key component of the Bank project is financing the construction of “Smart Courts”, which integrate ICT innovations in modern and accessible courthouse design. In addition to posting contract awards and caseload data, an innovative transparency measure is the already-operational 24/7 live web-streaming of the construction of the “Smart Courts”, which is accessible to the public.

Azerbaijan’s Ministry of Justice – the agency that implements the project – has activated publicly accessible weblinks for the three “Smart Courts” currently under construction: Sumgait Court Complex, Baku City Narimanov Dis-

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strated the positive local economic growth and employment impacts of co-locating key justice services such as courts, bailiffs and notary offices.

Within just a few years of Yasamal Court and its justice services becoming operational in 2012, businesses in the

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trict Court, and Baku City Surakhani District Court. The weblinks, together with satellite images of the construction sites (which help to ensure compliance with safeguards), are featured on the Ministry’s website.

Previously financed “Smart Courts”, such as Baku City Yasamal District Court, have already demon-

Yasamal neighborhood have received a new impetus generating much-needed employment and opportunity for local citizens.

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Supreme Court Of India Launches Integrated Case Management Information System

The Supreme Court of India (SC), the highest judicial forum and the final court of appeal in the country, launched an Integrated Case Management Information System (ICMIS) on May 10.

The Indian legal system suffers from resource constraints resulting in slow processing of cases. As of April 2017, 27095 regular hearing matters and 33650 admission matters were pending before the SC, adding up to a total of 60745.

ICMIS is expected to address information asymmetries, providing a completely transparent case management regime, and make the processing of cases more efficient.

With the ICMIS, when lawyers want to appeal a High Court (the highest court at the state level) order, they just need to enter the number of the case and the grounds on which they are filing and the entire paperbook of the case is automatically transferred to the SC from the High Court (HC), if the relevant HC has digitised records. There could be hundreds or thousands of pages in each paperbook. At later stages, also, documents available in digital form in the concerned courts can be retrieved by the ICMIS, as and when required.

The transfer of the digitised content saves time for everyone involved. If the HC does not have digitised records for the case, the system provides a mechanism for the HC to create digital records and upload them to ICMIS within the timeline prescribed.

Every part of the process is monitored to ensure that everyone discharges their

duties in time. If that doesn't happen, the next higher authority is informed automatically.

All parties concerned, including the litigants, lawyers and the HC are informed the moment the case is filed, through emails and text messages to registered mobile phone numbers. Multiple communication addresses can be entered.

Once informed, the parties can also download the grounds of appeal filed by the lawyer. They are also informed of pending court fees.

The same communication modes are used for updating the parties and stakeholders of any developments during the progress of the cases, such as the passing of orders or the setting of dates. No business matter remains undated. The 'Case status' section displays tentative dates if not dates have been assigned by the court, based on predefined logic. An updated index of paperbooks is available for the benefit of lawyers and litigants. Information is provided on all documents filed and the users can download documents. The notice service status is available, including information on which serving the notice to which respondents in pending.

In the event of any delays, everyone concerned is alerted and informed of what needs to be done.

ICMIS will also help in regular management of resources in the court, with auto-distribution of workload among available court staff on given day.

ICMIS will be accessible through a new interactive website, <http://www.sci.gov.in/>. The website is intended to provide a user-friendly interface between litigants, lawyers and the SC registry. It is optimised for use on mobile devices and includes the facility of a payment gateway.

The Chief Justice of India,

Hon'ble Mr. Justice Jagdish Singh Khehar expressed his vision of digitising the entire national judicial system, so that each case is filed only once. ICMIS will be extended first to the High Courts and then to the district courts across the country.

Police stations across the country will also be integrated into the system through the Crime and Criminal Tracking Network & Systems (CCTNS) project. Under the CCTNS Project, there are plans to connect around 14,000 Police Stations along with 6000 higher offices in the police hierarchy e.g. Circles, Sub-Divisions, Districts, Range, Zones, Police Headquarters, scientific and technical organizations such as Finger Print Bureaux and Forensic Labs. In March, the media reported on the first police post in the country to be linked to CCTNS. Prisons can also be integrated at a later stage.

At the launch, the Prime Minister, Mr. Narendra Modi spoke about the importance of changing mindsets and said that technology can only be embraced collectively within an insti-

tution. In April, the Indian government announced several initiatives to improve access to legal services for the poor, especially in the rural areas of the country, using tele-law and connecting people to pro-bono lawyers using a mobile app.

More Lenient Charges For Minors In Possession Of Alcohol In 2018

Starting this year, minors found in possession of alcohol will get a little more leniency under the law. The consequences defined by Michigan's minor is possession or MIP law changed January 1st.

The first MIP offense will be a civil infraction, instead of a misdemeanor. A minor will have to pay a fine and could be sentenced to community service or to substance abuse classes. The civil infraction will appear on a person's driving record.

The second offense remains a misdemeanor, with

the possibility of 30 days in jail.

Michael Sepic, the prosecuting attorney in Berrien County, says the law will keep youth from having criminal records for one relatively minor offense.

"I think what the legislature was trying to do was prevent the negative consequences outside the criminal justice system that sometimes follow a young person a ways through life," says Sepic.

Sepic says it will take a while to see if the law is effective.

"The jury will be out for a while to see if this relaxed penalty results in more damage," he says.

One issue with the change that hasn't been ironed out yet, says Sepic, is how to keep track of first offenses for minors who don't have a driver's license.



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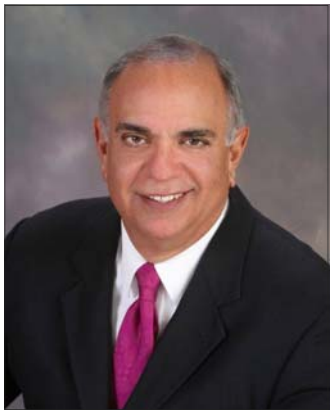
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ESR Top Ten Background Check Trends for 2018

- 1. Millennials Expanding in Workforce Will Make Background Checks More Applicant Friendly in 2018**
- 2. Local Ban the Box Laws Will Be Challenged as Less Effective than Statewide Laws with Incentives for Employers in 2018**
- 3. FCRA Class Action Lawsuits Will Continue to Target Employers Performing Background Checks in 2018**
- 4. New Data Protection Regulations for European Union will Elevate Privacy Rules for International Screening in 2018**
- 5. Background Checks of Growing Extended Workforce Will Be More in Demand by Employers in 2018**
- 6. Data Breach Protection and Information Security Will Be Critical Issues for Screening Firms in 2018**
- 7. Opioid Crisis in America Will Lead to More Advanced Drug Testing for Opiates by Employers in 2018**
- 8. Transportation Network Companies Such as Uber and Lyft Will Face More Scrutiny Over Background Checks in 2018**
- 9. Salary History Questions by Employers Will Be Restricted as Pay Equity Movement Spreads in 2018**
- 10. E-Verify System Will Move Closer to Becoming Mandatory Requirement for All U.S. Employers in 2018**

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Millennials Expanding In Workforce Will Make Background Checks More Applicant Friendly

“Millennials” – people aged 18 to 34 in 2015 – numbered 75.4 million and surpassed the 74.9 million “Baby Boomers” aged 51 to 69 in 2015, according to the Pew Research Center. The fact that technically savvy Millennials have overtaken Baby Boomers as the largest segment of the U.S. workforce and will make background checks more applicant friendly is trend number 1 of the “ESR Top Ten Background Check Trends” for 2018 selected by global back-

ground check firm Employment Screening Resources (ESR).

The Pew Research Center has established that Millennials were born between 1981 and 1997. The Pew Research Center also revealed Millennials will continue to grow as young immigrants enter the U.S. and are projected to peak in 2036 at 81.1 million when the oldest Millennial will be at least 56 years of age. By 2050 there will be a projected 79.2 million Millennials. Meanwhile, the size of Baby Boomers will shrink as the number of deaths among them exceeds the number of older immigrants arriving in the U.S.

Free Online Portal For Searching Public Records

BRB Publications, one of the nation's premier publisher of references and websites used for locating public records, launched BRB Search, a free online portal for searching public records.

The new portal is an easy search approach to view contact information and links to free online look-ups for over 20,000 government agencies. BRB Search also includes contact information for county court and recording offices, 20 core state agencies per state, occupational licens-

ing boards, federal courts, members of the Public Record Retriever Network (PRRN) by county, plus there is an adjoining county search feature.

“The new online experience from BRB Publications will help improve productivity and efficiency for our prospective customers as well as give them immediate tools they need to make relevant decisions based on access of public record data”, says CEO of BRB Publications, Michael Sankey.

BRB Publications continues to implement innovative technologies and modernize its processes to better serve its client base and those who depend on the free information displayed

at the BRB Publication website. The new cyber portal is among a number of steps BRB Publications is taking to set standards for industry innovation.

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Charlevoix, MI
Record Searches
Fees Increase

People doing civil and criminal record searches in Charlevoix County will see an increase to the fee for those records.

The Charlevoix County Board of Commissioners unanimously approved the request from the county clerk to increase the fee because of the increased number of record search requests.

The fee is now \$10, which is an \$8 increase from the previous charge of \$2.

Charlevoix County Clerk Cherie Browe said her staff is devoting more time to civil and criminal record searches because of the increased request volume.

“Our research fees for criminal cases has been basically blown out of the water,” Browe said. “We used to get one or two a week and now we are getting eight to 10 on some days. It takes a tremendous amount of staff time to research all the criminal files.”

Browe also said to the commissioners that she researched other counties statewide and found that \$10 is comparable to other county clerks’ offices.

“I found some are charging \$20 and others between \$5 and \$10,” Browe said. “It is just gotten to the point that we needed to do something and our fee falls in the middle of what other counties are doing.”

Browe said these fees do not affect the general public. The records requests often come from banks, employment agencies, and other companies that may look to hire or offer services to individuals, she said.

“The request come in from these entities and our staff is tied up devoting time to getting these requests filled,” Browe said. “This adds added labor

costs and we hope this will help offset that.”

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Click on "Order Reproductions" then "Court Records"
Select the appropriate court (Bankruptcy, Civil, Criminal, or Court of Appeals)
Follow the onscreen prompts to set up an account and place your order.

To order court records via mail/fax/email:

Download and complete the appropriate form:
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Criminal Cases Form

Fee Changes

Please note that some of the fees in the forms have changed.
See the NARA Reproduction Fee Schedule.



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Understanding Kent County, MI Court Searches

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In the criminal field, district court handles all misdemeanors where punishments do not exceed one year, including arraignment, setting and acceptance of bail, trial and sentencing; and conducts preliminary examinations in felony cases.

Also, a small claims division is provided in district court for civil cases where the amount claimed is not more than \$5,500. In these cases

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- 59th District Court in Walker encompasses the City of Walker
- 59th District Court in Grandville encompasses the City of Grandville
- 61st District Court encompasses the City of Grand Rapids
- 62-A District Court encompasses the City of Wyoming
- 62-B District Court encompasses the City of Kentwood

63rd District Court encompasses the Cities of Cedar Springs, East Grand Rapids, Lowell and Rockford; Townships of Ada, Algoma, Alpine, Bryon, Bowne, Caledonia, Cannon, Cascade, Courtland, Gaines, Grand Rapids, Gratton, Lowell, Nelson, Oakfield, Plainfield, Solon, Sparta, Spencer, Tyron, and Vergennes, Casnovia Village, and Lake and Kent City

Kent County Circuit Court (17th District)

The Circuit Court has jurisdiction over all actions except those given by state law to another court.

The Circuit Court has original jurisdiction in all civil cases involving more than \$25,000, in all criminal cases where the offense is a felony or a serious misdemeanor, all domestic relations cases, and all child abuse, neglect, and delinquency cases.

The Circuit Court also hears appeals from lower courts; appeals from local government boards such as zoning appeals; and appeals from some administrative agencies of state government (such as the Driver's License Appeal Division of the Secretary of State).

A Note From
Phyllis Nadel



Weed Laws
Change Lives In
California

by Brandon E. Patterson - Mother Jones

You’ve probably already heard legal weed is coming to California in 2018. Actually, possession of an ounce or less and private recreational use both became legal in November 2016, when Golden State voters approved Proposition 64—the law also allows for legal possession of eight grams of marijuana concentrates and private cultivation of up to six plants per residence. Possession of small amounts has been a ticket-only offense since 2011.

But bigger changes kick in on January 1. That’s when California joins Alaska, Colorado, DC, Nevada, Oregon, and Washington as the sixth state to begin licensing local businesses to sell pot to anyone 21 and up—also the legal age for tobacco and alcohol products. (Massachusetts will join that club next July.) Taxing marijuana products has brought Colorado hundreds of millions of dollars in new revenues, about half of which goes toward K-12 education. California officials expect an even bigger tax windfall.

We answer many of your legalization questions right here. But with legal sales on the horizon, you might also be wondering: What happens to the people already in jail on marijuana charges? And how will pot be policed? And will that old conviction still be on my record?

In fact, the punishment

schemes changed in November 2016, at which time people serving sentences for or previously convicted of a cannabis-related offense could start applying to have their sentences reduced or convictions “redesignated.” More than 4,500 people have already done so, and the legal changes could have a profound impact on hundreds of thousands of lives down the road. Here’s a rundown of what’s changed, and what to expect come January.

What’s changed on the criminal-justice front?

Prop. 64 slashed penalties for many of the more than a dozen existing marijuana-related offenses outlined in California’s criminal code, with differing consequences for adults 21 and up, adults 18 to 20, and juveniles. Most adult felony pot offenses were reclassified as misdemeanors punishable by up to six months in jail, including possession with intent to distribute (without a license) and the sale or transport of marijuana. Possession of more than the permitted amount of marijuana remains a misdemeanor.

Prop. 64 also carves out a new criminal infraction—punishable by a fine of up to \$100—for smoking in public. (Before, anyone caught doing so could be cited for possession.) Only two offenses—selling weed to minors and manufacturing synthetic marijuana—are still felonies. But conduct that is legal for adults 21 and older will be a ticketable offense for adults 18 to 20. The same penalties apply to both groups for any illegal conduct.

Another recent California law makes it a ticketable offense to consume cannabis while driving or to drive with an “open container” of marijuana—essentially, any weed receptacle

(a blunt or a vape pen would qualify) or consumable weed product—in the car. But California’s DUI laws are the same as they ever were, which means you’ll still be in serious trouble if you’re caught driving while intoxicated—on weed or anything else.

Among the most important Prop. 64 changes is that people charged with certain pot offenses will no longer be burdened by the same consequences that plagued them in the past. “A marijuana conviction or even just an arrest can really prevent people from receiving employment or public housing or access to [federal] student loans... So certainly the removal of that conviction or the lessening of that conviction can make a whole host of opportunities available to people that weren’t available before,” says Jolene Forman, an attorney at the Drug Policy Alliance, a policy reform group that spearheaded efforts to pass Prop. 64. “Even if you have other felonies, drug convictions are treated differently by a lot of private employers.”

So, people locked up for stuff that’s now legal will get out?

Not immediately, but, yes—many of them could be released earlier than their original dates. Prop. 64 created a process through which anyone incarcerated or serving a term on probation, parole, or

community supervision for a weed-related offense can petition a judge to have their sentence reduced if the previous conduct now classifies as a lesser offense. The law requires judges to resentence any such applicant, except in instances where it is determined that the applicant might commit a serious, violent felony upon release.

So if, for example, you were convicted of illegally selling pot—once a felony—you could petition to have the charge reduced to a misdemeanor, and your sentence reduced accordingly. If you were convicted of now-legal conduct, you could ask a judge to throw out your conviction and end your sentence. People who have already served sentences for pot-related crimes can petition to have the conviction redesignated, making it easier for them to get a job, for instance.

To ensure some of the profits from legal weed will benefit the communities most hurt by the war on drugs, some cities—including Los Angeles, Oakland, and San Francisco—are prioritizing dispensary licensing applicants with past pot-related convictions, or who live in communities with high arrest rates for weed.

How many people will be affected by these changes?

Pot arrests, after peaking in the early 1970s at hun-

dreds of thousands of annual arrests, waxed and waned over the years, but dropped precipitously with decriminalization in 2011. Yet a 2015 Drug Policy Alliance report estimated that more than 6,500 people were incarcerated solely for a marijuana offense in California that year—or for multiple charges of which the pot-related charge was the most serious. The average sentence was less than six months for people jailed solely for a marijuana offense.

The number of people who have finished serving sentences but could still have weed-related offenses scrubbed from their criminal records could range from several hundred thousand to nearly a million, says Holcombe. Courts began accepting applications for resentencing and conviction redesignation immediately after Prop. 64 passed. As of December 14, more than 4,800 people have applied for one or the other, according to the Judicial Council of California. The application process could take three to six months, maybe longer, depending on the county, Holcombe says.



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Urban Slang: Criminalistic

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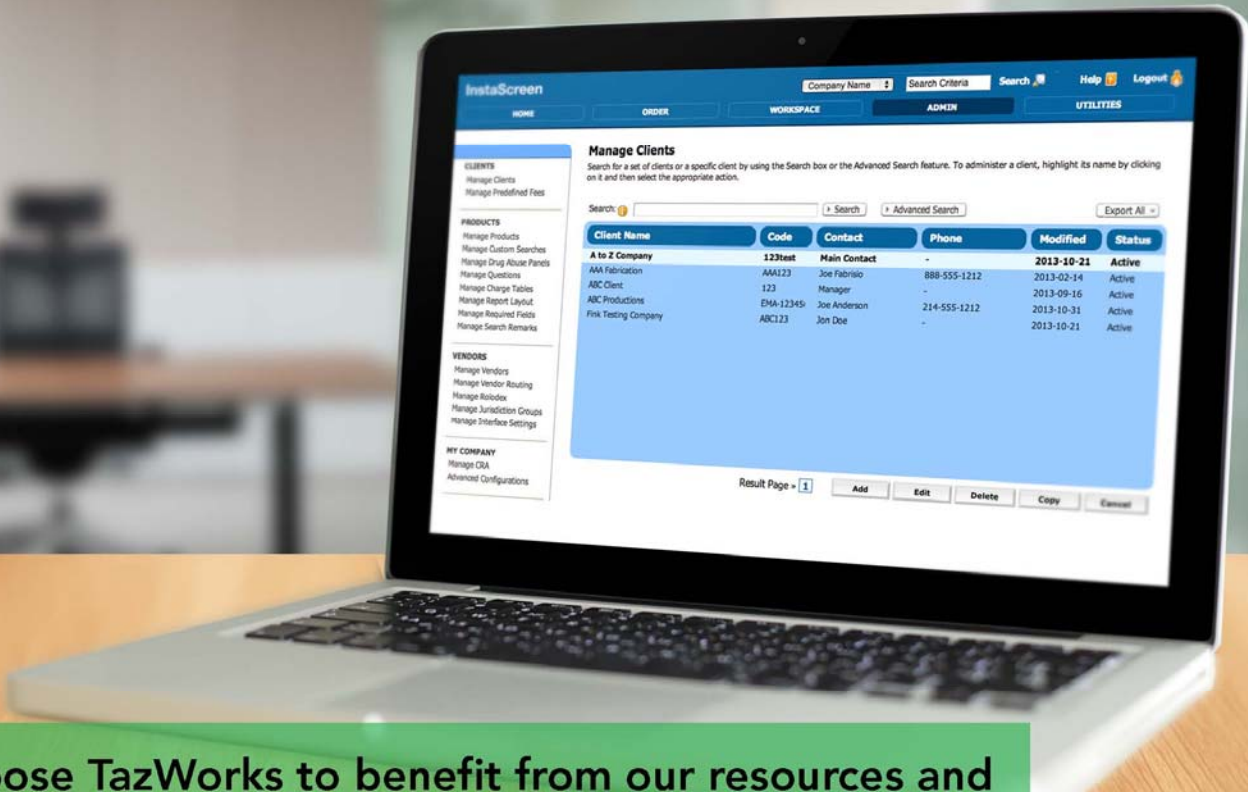


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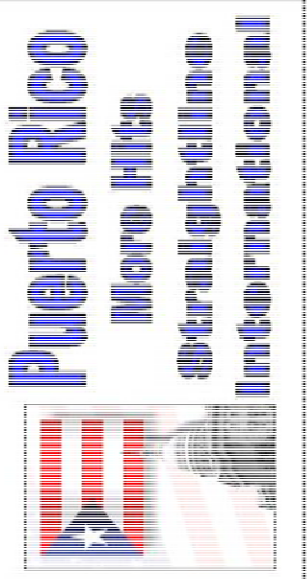


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