

Informal Discovery -Using the Internet to Secure Information/Other Approaches

USING THE INTERNET TO SECURE INFORMATION

In today's world, there is an incredible asset available to fact investigators through the internet. From here we can often locate lost people and find their contact information, search many public records databases for valuable information, learn often startling amount of information about people and get a wealth of information about businesses. It's possible to use paid services for much of this, but valuable information that oftentimes will fulfill your needs is also readily available for free. Here are some basic resources.

Searching for people

Everyone knows about Google (www.google.com) and similar engines like ask.com and yahoo.com and your ability to see what is on the internet about people from these sources by typing in their name and other identifying information, but there are additional search engines specifically focused on finding people and finding out about people that oftentimes will turn up results when Google won't. You should almost invariably start a search with Google, but don't think that this is your only real resource.

To find a person's contact information from the internet, it is generally useful, in narrowing down the result, to know either their date of birth, approximate age, social security number or last known address. The problem isn't in finding likely suspects, it's sorting them out. Because these are the sorts of information that show up in searching, knowing any of this information will help you sort through the possibilities you uncover and get to the most relevant ones, but if you don't have any of this information you can simply explore all of the possibilities to you find the right one.

An effective free tool for internet people locating is www.zabasearch.com. Using this website, you enter the name and the state and the search engine returns possibilities. These possibilities typically include age or date of birth information together with known addresses, phone numbers and the like. You use whatever information you have to narrow from the often large number of possible to get to a set of probables. Because in most cases you have contact information you can then reach out to or further investigate those probables to discover which is your missing person.

You can also use any number of different white pages directories to search for people. Try for example, www.whitepages.com. This service also allows you to find neighbors of the person of interest who might be useful to interview in some situations.

If a person has a higher profile, is involved in business for example, you can often find out more information and get a formatted bio for the person from www.zoominfo.com. This engine does an amazing job of finding relevant info, news clipping and bios of people from anywhere on the internet and then formatting them onto a single page for each person. Particularly useful for business and political people. You'll often find a bio, a picture and all professional and business affiliations.

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You should also check social networking sites like Facebook.com and Myspace.com, particularly for younger people.

Another technique is to use a phone number to conduct a reverse search if you have ever received a call from the subject or have their number but otherwise don't know how to locate them and they won't take your calls. There are a wide assortment of these "reverse phone number" search tools on the internet. You can Google reverse phone search and get a variety of them. Try for example, AT&T's service, www.AnyWho.com, which is also a good person locator service and white pages directory.

Public Records and other useful databases

There are a wealth of public databases on the internet with valuable information. Among them are the following. Beware, however, there are many pay sites for public records searches and many are not reliable. You are generally best off accessing sites directly:

- State web portals – get familiar with your state's basic website, i.e. www.myflorida.com. Look around and see what is available from this portal. Generally you will find some or all of the following, and other things of interest.
- Links to Registries of Deeds – most registries now post at least searchable indexes of their content on line. Many also have direct access to images of the registered documents. Registries of Deeds are most commonly kept by county and, if not linked from the state portal, can be found by searching Google or another general search engine using a search of this sort: Broward County Florida Registry of deeds. Some registries require a subscription fee to get access. Others do not. For most legal services offices a subscription to local registries is probably a worthwhile expense. A registry search will reveal what properties an individual owns and what property transactions they have engaged in over time. This information can be useful in many kinds of cases and in determining whether a potential party has attachable assets that would make suing them worthwhile.
- Corporate records – another handy reference are state sites listing corporate record information. These are typically maintained by the state Secretary of State in most states and accessed from the state website portal. Corporate records can tell you if a business is lawfully doing business, who the owners or officers (if the business is incorporated) are, where its corporate offices are located, the history of the business' structural changes over time and if from out of state, the name and address of their in state agent for service of process in a lawsuit.
- UCC filings – these, typically also available from the state website include financing statements filed by creditors that secure debts. These provide information about what assets people have in much the same way as deeds but these apply to personal property such as cars.

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- Licensing information – many states also have information reflecting the information for licensed entities in a range of different license areas (contractors, doctors, lawyers, etc.) that often permit you to see if an individual is currently licensed and whether they have a history of complaints or discipline. These also typically give locator information for the entities or persons licensed.
- Criminal and Incarceration records - in many states the state portal will also have information about release dates and current location of prisoners which can be useful particularly in the context of domestic violence matters. Often general criminal records that include arrests convictions and sentences and the like are also available with varying protections from state to state.
- Non-profit records – also from the state website provide information about non-profit organizations typically including board members, financial information and information about their stated purpose and activities.
- Guidestar.org – is a website that captures information about non-profits nationally from filing with state agencies (and sometimes information provided by the non-profits themselves) and collects it in searchable form in one place. A wealth of information about non-profits
- Federal records – just as the states maintain database of much of their public information so do does the federal government. Each agency maintains a wealth of information that can be useful.
- Court records – if you are having legal difficulties with someone, it's often useful to know if they have been in this situation before. Most court records, other than family law records, are available to the public. Courts have been slower to computerize their information but many already have, allowing you to run a search on a name and discover information about their involvement in lawsuits. This information can be valuable as it can lead you to others who have had similar problems with the same individual or business who may well have information you don't have.
- Lexis/Nexis and Westlaw – available in many of our offices - have a range of data collected from public and private databases including much of the information mentioned above. Sometimes aspects of these services carry additional charges above the standard fee your organization is paying so be careful before using.

Other Approaches

The internet isn't everything, and much of the work of locating information is likely to happen by other means.

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- *Simply calling leads* to track someone down is often the surest way to find someone or something – taking whatever information we receive from one source and using it to contact another as we get closer and closer to what we are trying to discover. Be sure to remember the earlier proscriptions about identifying ourselves accurately, not withholding information about our allegiances and being scrupulously honest in all of our dealings.
- *Public Records laws* – the vast majority of publicly held information is not available on the internet but is available through a written request to the keeper of records. The laws and regulations governing access to public record is complex and beyond the scope of this discussion. Talk to the attorneys in your program about how to use these resources and search for records the old fashion way. Virtually all publicly held documents are accessible by one means or another, with the likely redaction of some information that may violate a particular individual’s privacy. When operating in the context of a matter involving a governmental agency, much of the evidence may well be available to you from the agencies own records, including highly damaging information.
- *Privacy statutes* – when government entities hold information about individuals, that information is generally available to the individual to review. This is the basis for the right to review many files, like your client’s public benefits file or housing authority file. Generally you will need a release from the client authorizing you to review the information as their representative, but with that, you should have near full access to most records held by governmental entities about your client (or anyone else who authorizes you to access their private information).
- *Create your own evidence* – photographs, videos, scientific tests and the like. In many of our legal services cases, photos and the like that show the current conditions of something at the time the photo was taken are critical pieces of the evidence chain (think housing conditions matters). There are many examples of this from the photo of a hole in the ceiling to a printout of an automatic temperature sensor that shows how cold it gets in the client’s apartment at night, to a video of the landlord throwing the client’s belongings out on the street. Generally, these sorts of items are easily admissible in administrative hearings, more difficult in court. You should review with an attorney before creating the record what your challenges will be in introducing it and then create it in a means that seeks to avoid as many of the potential problems as possible.

A WORD ABOUT CREDIBILITY

All evidence is not created equal. As you are working through your fact investigation plan and checking off items on your chart above, you need to consider what will be persuasive and what will be less so. Your client’s mom’s statement isn’t the same as the statement of a disinterested third party. Much of this is common sense – anyone who has an obvious reason to be biased

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toward your client or lack objectivity is less valuable than someone with no reason to be supportive. By the same token, an ally of your opponent is even stronger than a neutral observer (but be sure you can hold them to the story).

In a legal services environment, one way to think about this is to treat your client's own testimony and that of your client's relatives, friends and direct supporters as of very little persuasive weight. Think about your evidence and where the primary evidence comes from someone who seems credible, consider it less in need of corroboration than when the evidence is coming from the testimony of your client or an ally. A good rule of thumb is to consider it your duty to seek and whenever possible present some independent corroboration of anything your client is presenting by testimony or by their own word or deed. Even if the corroboration only supports a part of what the client is saying, it may well be the thing that takes the client's testimony from being discounted to being given weight. Sadly, many people in our society including many of the decision makers who hear our cases are inclined to discount our client's stories while accepting the word of the more affluent professional who might be on the other side of the case. While there is no doubt this is wrong, we can't afford to ignore that it's a reality. So it is a useful habit to brainstorm means to corroborate anything our client's say and often it's reasonably easy to do so.

Primary Source: Essential Lawyering Skills. 3rd Ed., Krieger and Neumann (Wolters Kluwer 2007)