

Maricopa Lawyer
Clerk's Corner
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The Case for Electronic Public Records

The Clerk's Office started making scanned documents available for the public to view electronically in 2003. Public access terminals are available to view the public record in Superior Court facilities at four locations around the Valley (Downtown Phoenix, Mesa, Surprise and Northeast Phoenix). Starting with the criminal case type and expanding from there, minute entries have been available to view online from the Clerk's website since 2000 and are available at <http://courtminutes.maricopa.gov/>. Remote electronic access to images via the Electronic Court Record Online (ECR Online) for parties and attorneys in their own cases has been available since 2007.

Attorneys and support staff often ask why all public records are not available online. Generally, the question arises as an issue of public records – if the records are public, why aren't they available online? Access at a court facility is open, but remote access is restricted. To further confound the logic behind the distinctions, the federal court's PACER system has allowed online access for several years and minute entries have been available online in Maricopa County for several years.

There are many answers to how access to public records in Maricopa County and Arizona are developing over time. From a policy standpoint, Arizona has a history of allowing public input to records decisions and in moving forward cautiously, always mindful of victim's rights and the balance between the right to access public records and sensitive information that may be within those records, such as information subject to identity theft. The Supreme Court Rule 28 petition process and public meetings in committees that determine court rule and process changes offer opportunities for public input.

From a security standpoint, identity thieves and others with harmful intent are deterred by having to enter a security-staffed court facility or view records remotely under a unique username and password. Opening public records to unrestricted access via the internet multiplies the security concerns with the court record and expands those records from "public" to "universal." While unrestricted internet access to all public records would make it easier for an attorney to research a potential client and decide whether to accept a new case, identity thieves and others would have the same open access from anywhere in the world, and with little concern about accessing records for the purpose of criminal gain.

From a technical standpoint, the records the Clerk's Office can provide and how they can provide them are defined in Supreme Court Rule 123, the Arizona Code of Judicial Administration and by Administrative Orders issued from the Superior Court and Supreme Court. The authority in court rule is designed for public input and modification and applies statewide. As the individual counties and courts obtain better technology,

access to records can be expected to improve and expand, guided by public input, local practice and national standards related to accessing records remotely.

While not perfect, the current systems for accessing public records in the Superior Court in Maricopa County are much improved from just a few years ago. A single paper case file that had to be couriered around the Valley upon request, or that could be with the judge and therefore unavailable to the public at the same time, was a reality not too long ago. Today, the electronic case file makes it possible for the judge, attorneys, parties and court staff to view records from the same case file at the same time. There will no doubt be a time in the future when electronic access to public records is much improved from today's abilities.