



# CRIMINAL RECORDS AND WHAT IMPACTS TURNAROUND TIMEFRAMES

## What Can Impact Turnaround Times for Criminal Records?

### How Is Turnaround Time ("TAT") Calculated?

TAT for each search or service that in a background check report is calculated by taking the difference between the time ClearStar receives all the information necessary to perform the search or service in question, including the subject's written authorization, and then when it passes quality control ("QC"). In the QC process, we make sure the record belongs to the subject and that it is legally reportable under federal and state laws.

It is unrealistic to count TAT from the time the order is placed because that does not include the time it takes the candidate to respond and log into the ClearStar Online Solution applicant facing portal to and supply the required information. Importantly, ClearStar cannot legally begin processing the background check until we have the subject's written authorization.





### Where are Records Being Searched?

ClearStar performs a number of services on directly with the primary source of information, and in other cases, we use a network of professional researchers to obtain criminal records directly from the primary source. ClearStar does not rely on incomplete and often inaccurate database records – all of our information comes from the primary source. With over 3,000 counties in the U.S., no background screening firm can cover them all with their own personnel, which is why research networks exist.

### Step by Step – Life Cycle of a Criminal Search

The steps required to deliver a reportable background screening report for a criminal search are as follows. When a record is found, a secondary process for quality control is triggered, which can impact TAT – regardless of whether or not the record is ultimately reportable by ClearStar.

1. ClearStar Client submits a background check request by sending an applicant background check email invite through our ClearStar Online Solution.
2. When the background check subject logs into the ClearStar Online Solution, they are provided with all the legally required disclosures, and we obtain the subject's written authorization, and all the information necessary to perform the requested services.
3. When the subject completes the online session, the search or service request is automatically distributed in real-time to ClearStar's internal fulfillment team and/or to our researcher network for the jurisdiction(s) in question.
4. ClearStar's internal or external source queries the appropriate federal, state and/or county court system for a subject's criminal history using the search method prescribed at each court. Some jurisdictions have court clerks look up records; in other courts, records are searched via a public terminal.
5. ClearStar's external researchers look for a name and other matching identifiers and send all exact, and certain partial match results are sent to ClearStar electronically via secure server-to-server exchange. Fax machines and emails are never used in this process.
  - Clear results (no records returned from the court) requires no further processing.
  - Results that include criminal records found go through Quality Control (QC) to make sure the record belongs to the subject and that it is legally reportable under federal and state laws.





1. ClearStar processes its internal source results and supplier responses through QC, and when passed, closes search as “complete.”

- Clear results (no records found at court)
- Records found at the court are evaluated for permissible report-ability and to confirm a definitive match to the person being searched.

### Permissible Report-ability

- Based on local, state and federal law.
- **Confirming a Match to Your Candidate**
- Subject’s name and date of birth are the primary identifiers used in court records research.
- Other identifiers that may be found include residential addresses, driver’s license numbers, and SSN numbers. These are helpful in determining if a court record is a definitive match to the subject.
- Evaluations of records returned from courts for common names take the most time to review as it is more challenging to discern whether they are truly associated with the subject of ClearStar’s client’s search.

### Search Methodology:

The search method at the court will be one of the following:

- **Electronic Query**

Secure online inquiries that are made directly with the legislatively mandated primary source of information – third-party sources are never used.

- **Public Access Terminal Access (PAT)**

Court researcher makes queries through an onsite public access terminal, which determines if the subject has a record, and if so, it generally provides the complete docket or case information. Some PATs return only exact matches, while others return records with similar names and dates of birth.

- **Clerk Searches**

A number of counties require that all searches go through their court clerks. Some courts process on the spot, other have the researcher leave a list of names and identifiers and are told to come back later that day, the next day, and in limited cases a number of days or even weeks. TAT in clerk searched counties varies widely.

- Factors impacting clerk TAT include
  - **Staffing levels at the courts.**



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- Court imposes daily search volume restrictions (i.e., only the first 25 search requests are run daily).
- Lack of technology capabilities can also delay processing time.

Bottom line - ClearStar is at the mercy of the court's schedule and/or the court's record processing limitations and can identify help identify counties where these delays are common.

### Why Does TAT Vary from the Same Court or County?

Good question! Clients often wonder why some results marked "clear" from a certain court take longer than other results marked "clear" from the same court. There are a number of factors that can cause this variance. Importantly, ClearStar has a legal obligation under the Fair Credit Reporting Act that dictates a maximum possible accuracy standard as to the identity of the subject and what we include in reports about them.

### Insufficient Identifiers

There may not be sufficient identifiers in the court docket to make a definitive match, and the case file has to be ordered which takes at least an additional day. It may be that the case file does not have what we need and we then move to other resources that are available to us. From time-to-time we will get a record where the name is different, but it appears to be simply misspelled by the court. In these cases, we need to determine the full legal name of the subject, which for example can be done through a driver's license check. In cases where despite all of our efforts we cannot make a definitive match to the subject, or there are insufficient facts in a court record, we must close that search as no reportable records found.

### Unrepeatable Records

A similar question is when a client has information that there is a record known to them in a certain jurisdiction, yet we close the report with no reportable records found. This usually happens in states and/or counties that have time limits on reporting and/or offense-based reporting limits. Even in states without time limits, a variety of diversion program dispositions cannot be reported. The additional research must still be undertaken for possible hits to determine report-ability of a record, even if the result ClearStar reports is clear. Sourcing a criminal record may seem like a simple thing to do when in fact it can be quite complicated. Regardless of the steps required, ClearStar takes whatever steps are necessary to ensure accurate results are delivered as timely as possible.





### Other Impacts to Turnaround Time and Redaction of Identifiers in Court Records

There has been a recent spate of county and state courts in the United States (including California and Michigan) that are redacting identifiers from court records, such as dates of birth (DOBs). Since criminal cases are filed by name and date of birth, not having it makes it all but impossible to accurately match a criminal case to a candidate for background screening purposes. Due to FCRA accuracy standards that ClearStar is required to meet as a consumer reporting agency, ClearStar is required to meet as a consumer reporting agency, we cannot report cases where we cannot definitively match the candidate to a criminal case using unique identifiers.

Delays have been occurring in these jurisdictions where the court researcher must undertake added steps to complete the additional required research with the court clerk to attempt to verify the case using a full date of birth of the subject of the background check.

### COVID19 Impacts

COVID19 continues to have ripple effects across the United States. Due to reduced staffing at the courts, limited in person access and new policies for court researchers visiting courts, delays attributed to COVID continue to occur in some jurisdictions.



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