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Government Internet Resources: Federal, State and Local

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GOVERNMENT INTERNET SOURCES – FEDERAL, STATE AND LOCAL
By David E. Matchen, Jr.¹

INTRODUCTION

Doing online legal research from government sources elicits a certain dread among researchers who don’t do it as a matter of course, the sort of dread usually confined to preparing your taxes, filing your taxes, or suddenly remembering on April 16 that your taxes are something you have to do every year.² A lot of this dread is a byproduct of the perhaps-well-deserved reputation federal, state, and local government has of being hard to navigate without a map, compass and team of Sherpas. This is why commercial databases have had so much success marketing a kinder, gentler form of access to government information. Of course, this access bears a price—sometimes reasonable, sometimes obscene—that, as a cost-conscious individual in an extremely competitive profession, you’d rather not have to pass on to your clients.

Well, don’t despair, intrepid researcher. For the vast majority of government-related research, the material is readily available online. It may not be pretty, and it probably won’t be annotated, but the raw material won’t cost you a cent, provided you know where to look for it.

My goal within these pages is to provide those of you who do legal research for a living with a set of tools to which you can refer in those times when the managing partner or section chief comes by your office wondering where the EPA gets its statutory authority, or desperately in need of the McCutcheon opinion, or asking you to summarize Obamacare in three pages by 5:00, and do it on the cheap.³

¹ Circulation/Reference Librarian, University of Baltimore School of Law. The author gratefully acknowledges the assistance of Patricia Behles, Government Documents/Reference Librarian, University of Baltimore School of Law, who provided a much-needed editing pass and information about the GPO authentication program.
² I should note that the materials presentation deadline for this conference fell on April 15, which explains my strange preoccupation here.
³ Because this presentation is presumed to be to an audience local to Baltimore, discussion of state/local government will be confined to the State of Maryland, although many states and localities have analogous online resources available.
STATUTES, BILLS AND LEGISLATIVE HISTORY

Statutory research, generally speaking, covers quite a bit of ground, depending on what you’re doing:

- **Pure statutory research** is that in which your end-goal is the statute itself, either in its current form, or as of some particular date. Research into current statutes is the easier of the two to accomplish online, as historical coverage tends not to be complete across all jurisdictions.

- **Bill tracking** involves monitoring the progress of a bill as it wends its way through the appropriate legislative house(s), and/or constituent committees thereof. Again, online coverage may vary widely by state, although federal bill tracking is pretty comprehensive, back to a certain date.

- **Legislative history research** is sort of a combination of bill tracking and pure statutory research in which your goal is to trace the origin and amendments to a particular statute. In certain cases, this may involve identifying predecessor statutes.

**Federal**

As an introductory note, federal documents provided online by the Government Printing Office (GPO) carry a seal of authenticity, an image of an eagle next to the phrase “Authenticated U.S. Government Information.” This is a certification that the document has not been altered from its official form, and gives GPO documents a level of reliability other sources of information lack.\(^4\)

**Pure Statutory Research**

For pure statutory research, federal resources are readily available online, due largely to the efforts of the U.S. Government Printing Office (GPO) and its FDSys

service. FDSys (Federal Digital System, http://www.gpo.gov/fdsys/search/home.action) was launched in January 2009 as a replacement for the old GPO Access site. FDSys serves as the primary point of online access for GPO publications. For pure statutory research, FDSys has two publications of interest to the researcher:

- **United States Statutes at Large**
  The print version of Statutes at Large (Stat.) is legal evidence of the laws of the United States. 1 U.S.C. § 112 (2012). The statutes are compiled and numbered in chronological order of enactment by Public Law Number (P.L. No.), and organized by session of Congress. The contents are unannotated apart from a brief statement of legislative history which provides a research trail, and marginalia tracking the various sections’ eventual location within the U.S. Code. Online coverage of the Statutes at Large goes back to 1951 (82nd Congress, 1st Session, 65 Stat.), and historical coverage for 1789-1845 is offered by the Library of Congress through its American Memory site.5

- **United States Code**
  The United States Code ("U.S. Code" or "U.S.C.") has been published in print format since 1926, and has been reissued every six years since 1934, with annual supplements covering each of the intervening five years. The U.S. Code is a reorganization of the statutes published in the Statutes at Large, organized in 51 titles by subject area. Certain titles have been enacted into positive law and therefore represent legal evidence of the laws of the United States. The remainder ("non-positive law") serves merely as *prima facie* evidence of the law and, for "legal evidence" of those laws, the Statutes at

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Large must be referred to. Online coverage of the U.S. Code goes back to the 1994 Edition.

The publication period for a single edition of the Code is quite lengthy. For example, the GPO has only released through Title 32 of the 2012 Code (the current edition) as of April 2014, and so you may need to consult the 2006 edition of the Code and its annual supplements in order to obtain the most current U.S. Code version of your statute.

**Bill Tracking**

For tracking of current or historical bills, the most authoritative source is the relatively-new website established by the Library of Congress, Congress.gov, which will take the place of its old THOMAS bill tracking website by the end of 2014. Congress.gov provides online access to House and Senate calendars, floor activities, roll call votes, and video of floor proceedings dating back to 2012 in the Senate, and 2009 for the House.

For bill tracking, Congress.gov maintains an archive of all bills introduced in either house of Congress dating back to 1973. Information available includes summaries of the bill, the full text, a list of actions taken on the bill, titles by which the bill has been known, amendments, co-sponsors, committees considering the bill, and related bills, plus a status tracker showing the bill’s progress toward passage.

The Library of Congress is still rolling out Congress.gov throughout 2014, and certain information relating to nominations, treaties and communications still resides on THOMAS.

**Legislative History**

Research into a federal statute’s legislative history usually starts with the U.S. Code, as this is the source cited most commonly in citations. A U.S. Code annotation

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will provide the Public Law number and Statutes at Large citation for the original enactment of the statute, as well as the dates and citations for any amendments up to the date of the Code's publication. Regrettably, a full discussion of the content of the amendments is not contained in the Code; accordingly, for specific identification of the scope of any amendments, you'll need to refer to the various Statutes at Large citations.

Within the Statutes at Large, the legislative history notes at the end of the statutes will typically give a capsule summary of events leading up to the law's passage not unlike that found on Congress.gov. Citations will typically be to the Congressional Record, the official source of floor proceedings for both houses. Congress.gov and FDSys both provide online access to the Daily and Permanent editions of the Congressional Record, the official source of chamber proceedings, dating back to 1994 on FDSys and 1995 on Congress.gov.8

Occasionally, references will appear to other Congressional documents (committee reports, hearing transcripts, House and Senate reports, etc.). These are compiled in print within the U.S. Congressional Serial Set, which has been published since 1817. The Serial Set is not itself available online, but various forms of Congressional documents are available through FDSys.9 Availability is not guaranteed, and, in the case of committee reports, is largely left to the committee's discretion. Committee reports are also available through the bill tracking reports on Congress.gov.


State and Local

Pure Statutory Research

The State of Maryland has two official print codes—Michie’s Annotated Code of Maryland and West’s Annotated Code of Maryland. The two codes are functionally identical, with the exception of the annotations, and which one you use is largely a matter of personal preference, or the fact that one or the other contains references to desired sources from the same publisher.

For Maryland statutes, the Maryland State Law Library has made online access available through free databases provided by the publishers of Maryland’s two official codes. Both databases are searchable, but unannotated apart from a legislative history trail.

The twenty-six counties of Maryland and Baltimore City each provide access to their codes through their websites. The Maryland State Law Library maintains a page linking to all the county codes, making this a convenient first stop for those doing county code research.

Local charters and ordinances are not consistently available online, being dependent largely on municipal funding and demand. Luckily, the Maryland State Law Library also tracks localities that publish codes in print or online.

Bill Tracking

The State of Maryland enacts legislation through a bicameral General Assembly which meets for approximately three months a year in the late winter/early spring. Bill tracking can be done online through the General Assembly’s website. In addition, researchers interested in tracking particular bills can sign up for the General Assembly’s

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10 http://www.lexisnexis.com/hottopics/mdcode/ (accessed Apr. 12, 2014) (Michie’s/LexisNexis);
11 Baltimore City is administered independently from Baltimore County, and is traditionally listed alongside the counties.
notification service, which distributes alerts when action is taken on a particular item while the Legislature is in session. Bills can be searched by number or broad subject area, and date back to 1996.

At the local level, “bill tracking” doesn’t really apply as we discuss it here, although pending proposals can be tracked through hearing transcripts or meeting agendas of the local council. Online availability, however, is not uniform among municipalities for much the same reasons discussed above, so the council website should be consulted to determine whether this information is accessible.

Legislative History

Session laws for the General Assembly are made available online through two sources: the General Assembly website provides access to session laws as part of its bill tracking from 2007 to the present, and the Maryland State Archives\(^{15}\) provides coverage from 1632-2008.

Very often, it will also become necessary to find sections of the Code as of a certain date (“snapshot” research). Access to superseded code sections can be had through the Michie’s online Code (see above) back to 1991, and through the Maryland State Archives\(^{16}\) up to 1939.

Other documents used in legislative history research, such as House and Senate Journals and legislative bill files, are not available online, and will require a trip to the custodial agency, your local law library or the Legislative Services Library in Annapolis.\(^{17}\) For a handy guide to Maryland legislative history research, it’s hard to top that provided by the Maryland State Law Library.\(^{18}\)

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Local "legislative history" research generally takes the form of hearing transcripts and meeting agendas from local council proceedings. As noted above, online availability varies widely for these resources.\(^9\)

REGULATIONS AND AGENCIES

Regulations are promulgated by executive agencies in furtherance of statutory authority to operate in a particular area. Regulations typically go through a public comment period before enactment, and proceedings are tracked in a register publication. In addition, the individual agencies often give public notice of their proposed regulations through their websites, including hearings and public comment periods.

Federal Regulations

At the federal level, enacted regulations are compiled in the Code of Federal Regulations (CFR), which is available online through FDSys in two formats. The annual edition, which tracks the publication of the print volumes, is available from 1996 on, and represents the official version of the CFR. For those who can't wait for the official version, there's the unofficial e-CFR, which is much more timely with updates--usually within two business days.\(^21\)

The Federal Register is the official compilation of regulatory history material, also published by the GPO, and is published daily. It is available online through FDSys back to 1994 and also from the Office of the Federal Register.\(^22\)

Agency Websites

Executive agencies maintain websites designed to improve public access to their services. Although website content is not standardized among agencies, there are common offerings:

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\(^9\) See the links provided in nn. 12-13, supra, for access to local council websites.


• Information on Programs and Services
• News Releases
• Publications, including policy papers, presentations, forms, and factsheets
• Links to divisions within the agency
• Career information, including job postings
• Agency blogs

As you might imagine, there are vast numbers of agency websites—indeed, far too many to list here. Fortunately, a couple of directories exist to point the way to the proper websites. The official directory is maintained through USA.gov, the U.S. Government’s primary public portal, as an A-Z list. Also, the library at Louisiana State University provides a comprehensive agency listing which categorizes agencies by branch of government.

State Regulations

In Maryland, regulations are compiled in the Code of Maryland Regulations (COMAR), which is published by the Division of State Documents (DSD) of the Office of the Secretary of State. DSD provides online access to COMAR through its COMAR Online page.

The state analogue to the Federal Register is the Maryland Register, also published by DSD biweekly. The most-recent eight issues are available free online in either .pdf or html formats, but older issues are only available on order from DSD or from local law libraries.

COURT OPINIONS, FORMS, RULES, AND DOCKETS

As is the case for statutes, access to federal court material is much more comprehensive compared to that for state courts. The Federal Judiciary has gone to some effort since the late 1990s to ensure that federal courts have a substantial web presence, and offerings tend to be uniform throughout the court system. By contrast, state and local courts—although they tend to have websites—vary widely in the types of services available therein. Whether one can obtain online forms, dockets or opinions is a function of funding and demand. In smaller jurisdictions, a full complement of online services simply may not be cost-effective. Maryland has centralized a lot of the document handling under its judiciary website, but certain matters are still left to local handling.

Federal

Recent federal court opinions are relatively easy to acquire online, particularly at the Supreme Court level. When a Supreme Court decision is first issued, it takes the form of a bench opinion, which is distributed to a number of official and unofficial channels for dissemination. After several days, the Court issues a slip opinion—in effect, a second draft. Later, the Recorder of Decisions will edit the slip opinion and publish it, first in the United States Reports Advance Sheets, and then in final form in the bound United States Reports. The Supreme Court makes all slip opinions from 2008 to the present available on its website in .pdf format. The Court also makes available all copies of the U.S. Reports from Vol. 502-554 (1991-2007 Terms). The Court notes that only the printed version of the bound volumes is official, and that, in case of discrepancy between the online and print versions, the print controls. For more comprehensive coverage, Findlaw, a wholly-owned subsidiary of ThomsonReuters, maintains a searchable database of Supreme Court opinions dating back to 1893. Another respected

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free source is the Legal Information Institute at Cornell Law School, which has
distributed free online bench opinions since 1990 through Project Hermes.31

For lower federal courts, there are a few options. FDSys makes the opinions of
the U.S. Courts of Appeal and selected federal district and bankruptcy courts available
through its website, including the District of Maryland.32 The coverage varies by court,
but some go back as far as April 2004. The Federal Judiciary has administered its own
program, Public Access to Court Electronic Records (PACER), since 1988, which
provides digital copies of all documents filed in a pending case, as well as docket
information.33 With the advent of the Judiciary’s Case Management/Electronic Case
Filing system in the late 1990s, the availability of digitized records through PACER has
grown substantially. Although not technically a free service, PACER does not charge for
access to court opinions (although registration is required), and fees for anything else are
held in abeyance until a $15.00-per-quarter threshold is reached (150+ pages, in light of a
$3.00 cap per document).

Finally, individual federal courts generally make current and/or notable opinions
available directly through the court’s website. A directory of federal court websites can
13, 2014). These individual court websites are also the best sources for court rules, local
forms, and daily docket information.

State

The Maryland Judiciary website serves as a central hub for all of Maryland’s
courts, from the Court of Appeals and Court of Special Appeals to the local circuit,
district, and orphans’ courts.34 Both of the state’s appellate courts offer online access to

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2014).
reported opinions back to 1995. Unreported opinions—the majority of which tend to be Court of Special Appeals opinions—are available back to 2003.

Maryland has eight circuit courts and 12 district courts. Each of the circuit courts has a court website and/or a website run by the clerk of the court. The latter tends to be where local forms can be located. Selected forms common to all Maryland courts can be found on the Maryland Judiciary website as well. Traditionally, trial court case documents are not distributed online, but the Circuit Court of Baltimore City has started posting memorandum opinions and orders, mostly of civil matters. Circuit court docket information is handled centrally through the Maryland Judiciary website.

Maryland’s district and orphans’ courts generally do not maintain their own websites. Instead, the Maryland Judiciary maintains separate subpages for each. Although district court dockets can be searched through the Maryland Judiciary Case search, orphans’ court cases cannot. The Judiciary makes district court forms available for download, while the Register of Wills provides for (among other things) orphans’ court proceedings.

CONCLUSION

Anyone can spend money (and has) on legal research. Lawyers are traditionally trained in an environment where the real costs of database access are kept unclear until they emerge, eyes blinking, into the harsh light of the economy of the legal profession. Breaking old habits like jumping to a commercial database for material readily available elsewhere for free will earn you a well-deserved reputation as cost-efficient—and, in a hypercompetitive environment such as ours, you really can’t afford not to be.

40 http://www.mdcourts.gov/district/ (accessed Apr. 13, 2014) (district courts);