

Student Features Issue

- **NASA: The Original Secret Civilian "Space Force"**
- **Supreme Court Confirmation of Amy Coney Barrett: A "Blatant Act of Bad Faith"?**
- **Shenandoah National Park: The Human Cost of Conservation**
- **Is Open Access Equal Access? PACER User Fees and Public Access to Court Information**
- **Wildfires and the Dissemination of Information in Oregon**
- **Improving the Freedom of Information Act Through the Office of Information Policy**

DttP

Documents to the People

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DttP

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Howdy everyone,

This is my last issue as lead editor of *DttP*. I am turning over the lead editorship to Jennifer Castle. Jennifer and I have been working together on the last couple of issues and I know she is going to be a great editor and I look forward to reading her issues. I have really enjoyed serving as editor and working with this fantastic community.

I could not have done this alone, and I would once again like to thank the columnists, editors and reviewers who helped me manage the journal, and to all the authors who submitted manuscripts as well as the library school faculty who submit student papers. I also would like to thank Tim Clifford who makes *DttP* look fantastic year after year. Final shoutouts go to the Chairs of GODORT and members of GODORT's Publication committee during my tenure as lead editor.

In this last editorial I would like to celebrate some of *DttP*'s accomplishments. I acquired statistics for the top twenty article views of all time. Now this count is since *DttP* moved online, but I am still impressed with the numbers. It is also interesting that a lot of these articles are from our Student Papers' issues.

1. Investigating a Serial Killer: The Development of the FBI's Role Told Through Public Documents
15873 views: <https://journals.ala.org/index.php/dttp/article/view/6892>
2. Privately-Held Companies: Legislation, Regulation, and Limited Dissemination of Financial Information
14159 views: <https://journals.ala.org/index.php/dttp/article/view/7215>
3. A Citizen's Guide to the Second Amendment
10173 views: <https://journals.ala.org/index.php/dttp/article/view/6890>
4. Science, Agriculture, and Nutrition: The Government Documents that Influenced a Nation's Food and Diet
6630 views: <https://journals.ala.org/index.php/dttp/article/view/6072>
5. By the Numbers: Election Data
3750 views: <https://journals.ala.org/index.php/dttp/article/view/6383>
6. "Hidden Collections" in your Collection: World War II Depository Maps at Texas A&M University Libraries
3274 views: <https://journals.ala.org/index.php/dttp/article/view/6982>
7. By the Numbers: DAP: Digital Analytics Program
3267 views: <https://journals.ala.org/index.php/dttp/article/view/6057>
8. "The Truth is Out There": UFO's and Government Disclosure—A Brief Look into Exploring Recently Declassified Government Documents
2875 views: <https://journals.ala.org/index.php/dttp/article/view/6568>
9. Tuskegee Syphilis Study of 1932-1973 and the Rise of Bioethics as Shown Through Government Documents and Actions
2296 views: <https://journals.ala.org/index.php/dttp/article/view/7213>
10. Creating Grand Teton National Park: A Case Study in Honor of the National Park System's Centennial
1942 views: <https://journals.ala.org/index.php/dttp/article/view/6119>
11. Ten Years of TRAIL
1645 views: <https://journals.ala.org/index.php/dttp/article/view/6070>
12. "Don't Drink the Water": The Camp Lejeune Water Contamination Incident
1586 views: <https://journals.ala.org/index.php/dttp/article/view/6223>
13. GovDocs to the Rescue! Debunking an Immigration Myth
1552 views: <https://journals.ala.org/index.php/dttp/article/view/6655>
14. Government Information and Linguistic Minorities: A Case Study of Forest Finns in Varmland, Sweden, and Hedmark, Norway
1482 views: <https://journals.ala.org/index.php/dttp/article/view/6487>
15. Basic Project Management for Weeding Government Documents Collections
1282 views: <https://journals.ala.org/index.php/dttp/article/view/6120>
16. Preservation of Federal Government Publications in Multiple Formats Proposal
1263 views: <https://journals.ala.org/index.php/dttp/article/view/6122>
17. Unspooling the Legacy of Submarine Cables
1234 views: <https://journals.ala.org/index.php/dttp/article/view/6826>

18. Military Bands and Government Documents
1233 views: <https://journals.ala.org/index.php/dttp/article/view/6227>
19. Understanding Controversy: Government Information on Dietary Sustainability
1156 views: <https://journals.ala.org/index.php/dttp/article/view/6225>
20. The Equal Rights Amendment in the Twenty-First Century: Ratification Issues and Intersectional Effects
1155 views: <https://journals.ala.org/index.php/dttp/article/view/7216>

Again, it was a joy to serve as editor and I look forward to seeing you, hopefully next year in person, at ALA or DLC meetings.

Laura Sare (lsare@tamu.edu), Government Information and Data Librarian

Join GODORT!

Become part of the Government Documents Round Table (GODORT)!

Membership in ALA is a requisite for joining GODORT.

Personal and organizational memberships are invited to select membership in GODORT for additional fees of \$20 for regular members, \$35 for organizational members, and \$10 for student members.

For information about ALA membership see <http://www.ala.org/membership/joinala>.

For information about GODORT visit <http://www.ala.org/rt/godort>.



The fiftieth anniversary of GODORT will be marked in 2022, which allows me the privilege of serving as GODORT chair through much of our organization's golden year. Some in our membership are intimately connected to the origins and history of our round table while even more are new to our membership and are unfamiliar with our beginnings. I do not plan to recount the origin story in this column—I'm sure others will do that in these pages over the coming year. Instead I would like to highlight one piece of the origin story that I think still holds true to our current membership and their commitment to getting the word out about government information.

In "A History of the Government Documents Round Table of the American Library Association," a founding member of GODORT, Joyce Ball, noted that "documents should be a concern of members of all divisions" (pg. 2). I see this value embodied in our current leadership and membership. The work that our committees do to build LibGuides, develop programs, and teach the next generation of government information library professionals communicates the importance of government information to the broader ALA community and library profession.

In the same GODORT History, it was noted "members no longer want to sit around and listen to speeches, they want to do" (pg. 2). Round tables are still the units within ALA that get the work done. I recently attended the ALA Round Table Fair during which an ALA staff member said that only 17 percent of ALA membership belongs to a round table. She went on to say that round tables allow members to explore areas of interest that may not be directly related to their careers. GODORT is just

such a round table. It is true that many of our members work directly with government information collections. However, our programs and outreach efforts illustrate to a much broader community the impact government has on the communities served by their libraries and how an understanding of government and the information it produces (both good and bad) can impact their lives directly and indirectly.

As we embark on our fiftieth year, I encourage you to think about how we can spread the word that documents, or their born digital counterparts, are a concern to all ALA members. I also encourage you to think about your history with GODORT, whether it's fifty years or five months. Past chair Susanne Caro is coordinating efforts for the GODORT fiftieth anniversary celebration. If you have memories, photos, or the long-lost GODORT gavel, please send these to Susanne. We plan to share these memories over the coming year through social media, perhaps in the pages of *DttP*, and hopefully at an in person gathering in Washington, DC, in 2022. GODORT's success to this point is due to the commitment of its membership. As I see it, we are in a good place to carry on for another fifty years.

Robbie Sittel (roberta.sittel@unt.edu), Department Head, Government Information Connection

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Get to Know . . .

Shari Laster

Megan Graewingholt



For government information professionals in libraries, it is sometimes difficult to say which is more rewarding: engaging with the collection or engaging with people in support of the collection. For library professionals like Shari Laster, there is often ample opportunity to do both. Advocating on behalf

of users as well as collections is a natural part of Shari's work, including in her tenure as Head of Open Stack Collections at Arizona State University (ASU).

My first time meeting Shari was at the Federal Depository Library Conference in Arlington, Virginia in the fall of 2016, when she worked as the Government Information Librarian & Data Services Librarian at the University of California Santa Barbara. At that time, I was a newly appointed Government Documents Librarian and first-time attendee at the conference. I was fortunate to attend her educational workshop, "Reaching Out by Reaching In: Government Information Stacks Mayhem."¹ I distinctly recall Shari's enthusiasm for teaching users how to feel comfortable locating materials in the government documents depository collection, literally, using fun and games. Years later, this seems to me the perfect introduction to Shari as a colleague and library professional. Her passion for government information infuses her library work in exceptionally wonderful ways that engage people with collections and encourage their use. Being employed in a specialization that can sometimes feel isolating, I was thrilled to meet a colleague with creative approaches and genuine excitement around government information literacy, advocacy, and use.

Shari continues to serve as a leader within the government information librarianship professional community, including a tenure as chair of the Depository Library Council in 2012-13 and as chair of the Government Documents Round Table in 2017-18. Shari is currently an active member of the GODORT Legislation Committee and the Preservation of Electronic Government Information (PEGI) Project Steering Committee. She has been instrumental in furthering professional scholarship on government information advocacy, open stacks library design, and collection development. Most recently, Shari served as an editor for *Transforming Print: Collection Development and Management for our Connected Future*, now available from ALA

Editions, which showcases the unique and diverse potential of library collections in print.² Discussing this latest work, Shari emphasized that "Rather than looking at just the physical footprint or the dollars spent on e-resources, which are all things that go into collection management, co-editor Lorrie McAllister and I wanted to bring together perspectives that are forward-thinking and engaged with print as having viable futures in academic libraries." Correspondingly, navigating conversations around space and tips for advocating on behalf of large historic print collections are uniquely relevant concerns to the government documents community and will certainly be of interest.

Even now, Shari still finds the most exciting part of library work is managing collections. In her words, "Collections are central to what libraries collectively are. It's not that any one institution can or should have everything, or even close to everything. In a lot of cases, a smaller collection is what institutions should have. Still, libraries are responsible for providing, managing, curating, and preserving collections for user communities—if we're not doing these things, we're doing a lot of other work that may be important, but we're not fully serving as a *library*." While her role at ASU expanded her collections work beyond government information, Shari continues to advocate for access and preservation in areas like shared print programs for journal archiving. "Whether managing open stacks or specialized collections, it's important to look at the network level of who has what, who is managing what for the long term, and how these resources are being made accessible. This is what helps library preservation efforts at a collective scale." In line with this work, Shari has served on the Western Regional Storage Trust's (WEST's) Operations and Collections Council since 2019. Part of her work with this group envisions new areas of opportunity for the future of this shared print program. In many ways, traditional library objectives of ensuring information access and long-term preservation are well aligned with the purposes of shared print programs. Shari agrees, "It's intriguing to think about how institutions that are otherwise very different can work together within a geographic region toward shared collection goals."

Considering the big picture is not only crucial for decision making in managing library collections, but for future growth and succession planning within a specialized field. Library scholarship supports the use of mentorship to help fill critical

gaps in knowledge and provide encouragement for those entering the profession, particularly for new librarians. Studies also show that while satisfaction may be a natural part of librarianship as a profession, “evidence suggests connections to library community are an essential function of the mentoring relationship.”³ Reflecting on her experiences, Shari agrees that “both formal and informal mentorship are essential within the library professional community. Sharing our stories along the way is a big part of why I like being a part of this particular community. I’ve been very fortunate that mentorship has been mutually supportive.”

Naturally, government documents gurus willing to serve as mentors become even more necessary as library roles evolve in order to prevent the loss of institutional knowledge and expertise. As Shari observes, “The profile of who is working with government information changes all the time. Moving into management positions is sometimes easier for those working within government information, since the work engages with so many areas of the library.” It is not a stretch to say that building connections within the profession and among the broader community helps to empower voices critical to the future of government information work. As Shari notes, “It’s fundamental to support the development of skills and expertise to improve how government information collections and specializations align with broader library work. Doing both of these things has a strong connection with becoming a more inclusive and welcoming community.” Considering concepts of critical librarianship,⁴ analyzing government documents in open dialogue offers opportunities to discuss structures of power and

privilege in society. In Shari’s view, “We can’t look at government information in isolation. We have to look at it in terms of power, agency, and collective issues like equal and equitable access. This is an essential part of why our work matters.” It is a joy to participate in such a supportive community of peers, like Shari, as a member of GODORT. I think I can safely say she is still up to mayhem in the stacks.

Notes

1. Shari Laster, “Reaching Out by Reaching In: Government Information Stacks Mayhem” (educational workshop at the Federal Depository Library Conference, October 19, 2016), <https://www.fdlp.gov/file-repository/outreach/events/depository-library-council-dlc-meetings/2016-meeting-proceedings/2016-dlc-meeting-and-fdl-conference/2752-preliminary-detailed-agenda-for-the-fall-2016-dlc-meeting-fdl-conference/file>.
2. Lorrie McAllister and Shari Laster, *Transforming Print: Collection Development and Management for Our Connected Future* (Chicago: ALA Editions, Core Publishing, 2021).
3. Ava Iuliano et al., “Reaching Out to Minority Librarians: Overcoming Diversity Challenges through Mentorship,” in *ACRL 2013 Conference Proceedings* (2012), 483–90.
4. Kenny Garcia, “Keeping Up With . . . Critical Librarianship,” Association of College and Research Libraries, June 19, 2015, http://www.ala.org/acrl/publications/keeping_up_with/critlib.

TRAIL Spotlight

Ionospheric Radio Propagation

Scott Curtis

How can our radios receive signals from stations beyond our line of sight? One common mode of transmission and reception of radio waves is “skywave,” or ionospheric propagation. In skywave transmission, a radio station transmits medium or high frequency (MF or HF) radio waves away from the Earth and toward the ionosphere, an atmospheric layer extending from approximately 50-400 miles (approximately 80-640 km) above the ground.¹ The ionosphere gets its name from the high concentrations of charged ions and free electrons present at this altitude. These charged particles act as a mirror for the transmitted radio waves, reflecting them back toward Earth. The skywave can bounce once, or many times, between the ionosphere and the Earth, before reception by a radio receiver. We experience skywave reception with long-distance AM radio reception, as well as for shortwave radio and many of the radio bands used by amateur radio “hams.”

When Guglielmo Marconi claimed the first successful radio transmission and reception across the Atlantic in 1902, many scientists doubted the achievement, arguing the Earth’s curvature prevented such a contact.² The ionosphere was not then known to exist, and the presence of ionized elements in the upper atmosphere was not scientifically established until the 1920s (pp. 6–10). By the 1920s, Marconi advanced radio technology by recording longer distance contacts using higher transmission frequencies (pp. 6–10).

After the Second World War, the United States Department of Commerce, National Bureau of Standards (NBS) published NBS Circular 462, entitled *Ionospheric Radio Propagation* to respond to a need to “...present the elementary principles of sky-wave or ionospheric radio-wave propagation at high frequencies and their practical application to the problems of radio communication.”³ *Ionospheric Radio Propagation* helped radio operators, technicians, and lay people who had not studied advanced electrodynamics to understand what happens when radio waves interact with the ionosphere. With this knowledge, technicians, engineers, and radio operators could better use other government information resources like *Ionospheric Predictions*, produced by the Central Radio Propagation Laboratory of the National Bureau of Standards.⁴ *Ionospheric Predictions* provided data on predicted ionospheric conditions to allow calculations about the proper frequency to use for a transmission to reach the desired distance.

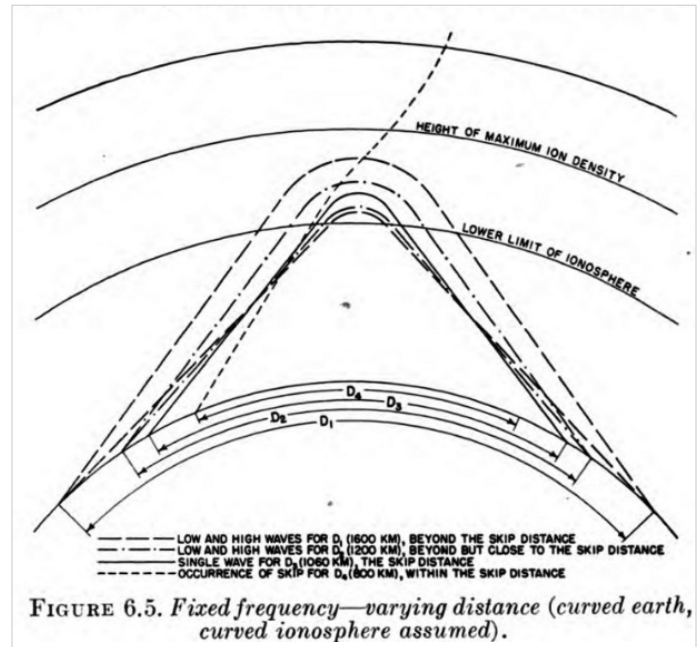


Diagram illustrating how received distance varies for fixed transmission frequencies for a given angle of reflection off the ionosphere. Central Radio Propagation Laboratory (US), *Ionospheric Radio Propagation*, National Bureau of Standards, Circular 462 (Washington, DC: Government Printing Office, 1948), 71.

Major international scientific collaborations such as The International Geophysical Year (1957-58) and The International Year of the Quiet Sun (1964-65) advanced scientific understanding of the ionosphere and necessitated an update to *Ionospheric Radio Propagation*.⁵ A substantially revised and rewritten book appeared in 1965 as NBS Monograph 80, also entitled *Ionospheric Radio Propagation*, this time with primary author Kenneth Davies. NBS Monograph 80 has been cited almost 700 times in Google Scholar, and its 1990 revision has been cited nearly 1,800 times.

Find more technical reports using TRAIL, the Technical Report Archive and Image Library, at www.technicalreports.org.

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Notes

1. “Ionosphere or Thermosphere,” in *Funk & Wagnalls New World Encyclopedia*, 2018.
2. J. Bach Andersen, “History of Communications/Radio Wave Propagation from Marconi to MIMO,” *IEEE Communications Magazine* 55, no. 2 (February 2017): 6–10, <https://doi.org/10.1109/MCOM.2017.7841460>.
3. Central Radio Propagation Laboratory (US), *Ionospheric Radio Propagation*, National Bureau of Standards, Circular 462 (Washington, DC: Government Printing Office, 1948), <http://www.technicalreports.org/trail/detail/15727/>.
4. *Ionospheric Predictions* succeeds *Basic Radio Predictions* (April 1963–), Central Radio Propagation Laboratory, National Bureau of Standards, US Department of Commerce, TB 11-499-1/TO 31-3-28, <http://www.technicalreports.org/trail/detail/66272/>.
5. Kenneth Davies, *Ionospheric Radio Propagation*, National Bureau of Standards Reports Series, Monograph 80 (Washington, DC: Government Printing Office, April 1, 1965), <http://www.technicalreports.org/trail/detail/75933/>

Designing and Marketing a LibGuide for Presidential Papers

A. Blake Denton

When I joined the faculty at the Fred J. Taylor Library at the University of Arkansas at Monticello (UAM) in July 2019, I became the coordinator of our institution's Federal Depository Library Program and Arkansas Documents repositories. As I began inspecting our collections, I discovered that documents were dispersed throughout the library. Though the library has a designated Government Documents Collection cataloged under the SuDoc classification scheme, numerous documents were cataloged under the Library of Congress classification as well. Compounding this issue, documents classified under LC were distributed across various collections. The distribution of government documents across multiple collections is not unique to UAM, and is a common problem among FDLP depositories.¹ Having government documents classified under different schemes and shelved in multiple collections can lead to discrepancies in cataloging, particularly as personnel change over time. Finding multiple split-cataloged series in our collections convinced me that, with rare exception, documents should be consolidated into a revamped Government Documents Collection.

Reintegrating the *Public Papers of the Presidents* from the Main Collection into the Government Documents Collection was supposed to be a simple part of this ongoing consolidation project.² Unforeseen issues arose, however, that transformed this seemingly straightforward task into a side project within this greater overhaul effort. The first hitch emerged when I realized that I could not transfer President Franklin D. Roosevelt's public papers to the Government Documents Collection because they were published privately.³ Our thirteen-volume set of public papers for one of America's most consequential presidents would remain in the Main Collection.⁴

Furthermore, I discovered that our ten-volume set of public presidential papers from George Washington to Grover Cleveland, published in the late nineteenth century, was still shelved in our Main Collection.⁵ I decided against transferring them to our Government Documents Collection due to the age and condition of the volumes. Instead, I transferred them to our Special Collections department to ensure long term preservation. These unanticipated problems meant that our public *Presidential Papers* could not be conveniently and clearly cataloged and shelved in the same collection as originally planned, but instead would remain distributed across three collections:

the Main Collection, the Government Documents Collection, and the UAM Special Collections.

While I was not pleased that these circumstances hindered our consolidation policy for the documents collection, the primary concern was how this would affect our patrons. How do we avoid confusion and misunderstanding with shelving these papers in three different locations? How do we prevent a patron from assuming our library does not have Roosevelt's public papers when they notice that the *Public Papers of the Presidents* skips from Hoover to Truman? Similarly, any user casually browsing the Government Documents Collection might infer that our library does not have public papers of presidents that served before Hoover, since Taylor Library's pre-twentieth-century collection is not on the open floor with the others. I concluded we needed a new LibGuide specifically for the presidential papers so patrons would know which collection they need to explore depending on the commander-in-chief they are researching.

I created the LibGuide for presidential papers in January 2021 and completed it over the course of the spring semester while volumes were re-cataloged and transferred to their new locations. I initially envisioned a simple guide that would direct patrons to the collection that held their volumes of interest. During the brainstorming process, however, I concluded that this research aid should offer much more. In addition to directing users to the appropriate collections for access to the print volumes, this new guide also provides access to digital versions and other relevant resources.⁶

The "Public Papers" tab is divided by collection: The Government Documents Collection, Main Collection, and Special Collections. Under each collection, the guide lists series or titles with brief descriptions, provides call numbers for print editions, and information on whether these items are eligible for checkout. Where possible, links are included for digital versions available through GPO or HathiTrust. For inquiring minds, I subtly address the issue of Roosevelt's papers in my description of *The Public Papers of the Presidents*, writing "series includes the public papers of every president from Hoover to Obama, except for Franklin D. Roosevelt (published privately)."⁷

Under the "Searching Public Papers" tab, the guide explains that volumes of the *Public Papers of the Presidents* include indices, and it notes that the digital versions linked on our LibGuide



Figure 1. Other Presidential Documents Tab

are keyword searchable. While this basic research information might seem unnecessary to include, I have found that it is best to avoid making assumptions about patrons. A good LibGuide not only provides access to great resources but meets users in their research abilities and equips them with the knowledge to use those resources. For more comprehensive searching, I included a link to the *American Presidency Project*, hosted at the University of California, Santa Barbara.⁸ This superb website provides a database for presidential public documents searchable by keyword, document category, or president.

Though I did not originally intend to include personal presidential papers, the “Personal Papers” tab emerged as a natural extension of this LibGuide, which evolved into a resource that offers access to primary sources about the American presidency. This tab is organized into two categories: the Main Collection and Digital Collections. Readers might be surprised to learn that none of our relevant print volumes are listed under the Main Collection. Instead, it provides a link to our library’s catalog and instructs patrons how to conduct author and keyword searches by president. When I searched through our catalog for personal papers of our presidents, I realized that our library held multiple titles for several of our presidents. An author search for Washington and Jefferson, for example, revealed five or more results for each.

I wrestled with an age-old dilemma for information professionals: comprehensiveness versus usability. A comprehensive list with call numbers offers researchers one convenient location to see what is available. However, this list might turn others away who do not want to scroll through a seemingly endless webpage to find the resources they need. After considering the needs of our campus community, I decided it was best to instruct students how to search for these papers in the catalog as opposed to providing a comprehensive list of our print volumes.

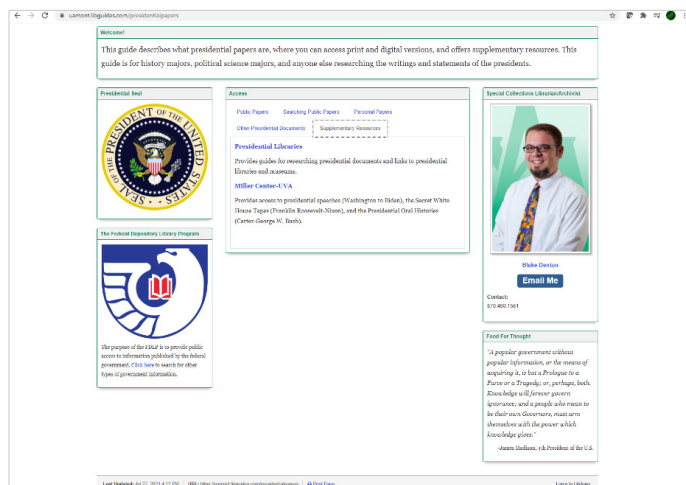


Figure 2. Supplementary Resources Tab

The “Personal Papers” tab also provides access to digital copies and transcripts of the personal papers for several early commanders-in-chief, specifically though the Library of Congress’ digitized collection of papers from twenty-three various presidents spanning Washington to Coolidge.⁹

LibGuides are wonderful resources, but they are only useful if patrons know they exist. It is not sufficient to add new guides to your website—you have to market them! I employed three strategies for increasing our patrons’ chances of exposure to this new LibGuide. First, I added a “Presidential Papers” tab within our Government Information, History, and Political Science guides. When users click on those tabs, they are greeted with the Seal of the President of the United States and a quick blurb that links to this new research guide: “Need to access presidential writings, addresses, or remarks? Check out our presidential papers guide!” This way, students who are browsing one of those other guides may stumble upon the Presidential Papers guide.

Second, I designed a physical sign and strategically placed it with our holdings of the *Public Papers of the Presidents* in the Government Documents Collection (see figure 3). The sign is designed to be distinctive and minimalist to catch and hold a browser’s attention. Many of our students enjoy navigating the world through their smart phones, so I created a QR code through a free online generator and included it on the sign. Anyone passing through can instantly access the Presidential Papers LibGuide with a simple scan of their phone camera. For patrons who prefer to view content on larger screens, concise instructions are provided detailing how they can access the guide from our website.

My last strategy for raising awareness of the new LibGuide was through word-of-mouth. After I finished the guide and published it on April 28th, I emailed our history and political

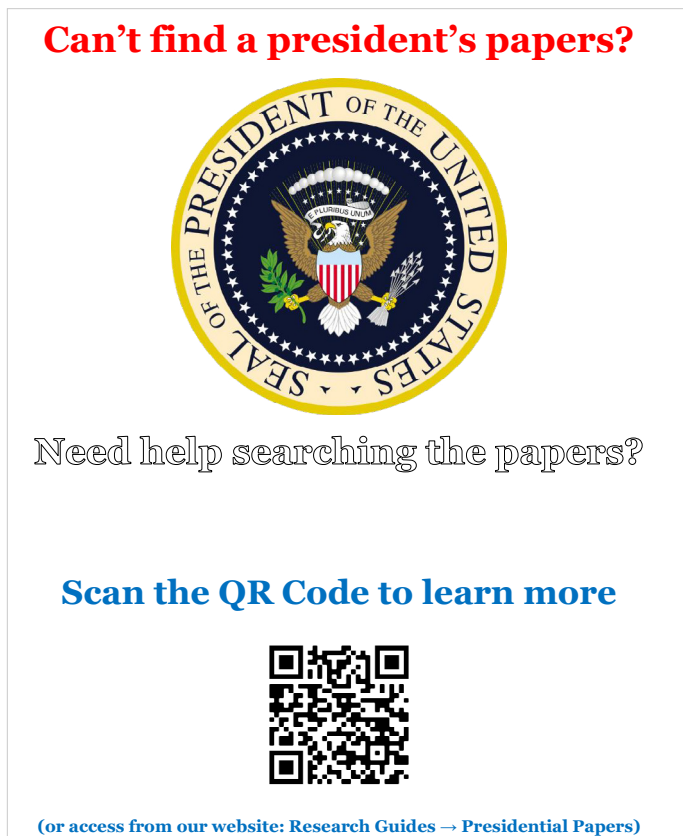


Figure 3. Physical sign located in Government Documents Collection

science faculty to inform them of this new resource. My director and I received compliments and expressions of appreciation from multiple colleagues for this new resource. According to our website's statistics, the guide enjoyed dozens of views within three months of going live. The results of actively marketing our new Presidential Papers LibGuide speak for themselves.

Taylor Library's government information consolidation project is an ongoing process. As a new FDLP coordinator, I did not anticipate the issues I would face when beginning this ambitious undertaking, particularly those concerning presidential public papers. While the circumstances described above prevented me from seamlessly transferring all presidential public papers to the Government Documents Collection, these challenges provided an invaluable opportunity for me to learn more about the nature of government information and digital resources available to patrons beyond the walls of Taylor Library. Most significantly, these complications ultimately led to the creation of a new research guide for faculty, students, and members of the public that reinforces the FDLP's vision to "provide Government information when and where it is needed in order to create an informed citizenry and an improved quality of life."¹⁰ Considering our new LibGuide's "food for thought" quote (see figures 1 or 2), I think Mr. Madison and other like-minded presidents would heartily approve.¹¹

Notes

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Web Archiving Local Election and Government Websites

Julia Ezzo, Ed Busch, Elisa Landaverde, Jessica Martin, Lydia Tang

Local election and political websites are highly ephemeral due to their nature, especially for losing candidates. Thus, they are highly vulnerable to loss from the historical record. A survey during Spring 2019 of previously captured web archives on the Archive.org website showed a scarcity of captured websites for local governmental and political elections in Michigan. The University of Michigan's Bentley Historical Library currently captures websites related to the Governor, Michigan senators, and some congress members. However, less high-profile candidates were not being captured. As such, many websites from the 2018 midterm elections are vulnerable to loss. Furthermore, 2020 held a presidential election as well as many local elections, and with these campaigns, political websites hosting valuable candidate information were put up on the web for a limited time. Preserving content from these websites could be of great value for future researchers.

This project, funded by a microgrant provided by the Michigan State University (MSU) Libraries, explored the capture and curation of local political and election websites using an existing Archive-It (<https://archive-it.org/>) subscription. For this project, we had a commitment to both internal and external collaboration. We collaborated in the early site identification with the Library of Michigan staff to coordinate collection development. Internally, we also hosted a focus group consisting of faculty, graduate students, and local government administrators to help define our target areas.

The Internet Archive defines web archiving as “a series of steps that work together for an end goal: to interact with a website as it looked on the day that it was archived.”¹ The process of web archiving can be a time-consuming endeavor depending on the complexity of the website, such as the inclusion of embedded content like PDFs and videos, as well as other factors such as if the site was built using website development services

such as Wix, which uses customized themes and captures are often incomplete or embedded content does not replay. Typically, web archiving is conducted by librarians and archivists. However, as the nature of web archiving is time-consuming, in order to alleviate some of this strain on professional staff we explored the use of a non-librarian/archivist to conduct and verify the technical aspects of web capturing under staff supervision.

Focus Group Session

An important aspect of our project design was collaboration, both outside the MSU Libraries through our partnership with the Library of Michigan, and internally through collaborative collection development and a facilitated focus group. Rather than solely choosing the websites to be archived ourselves, we desired to bring together stakeholders from various communities to help guide our collection development strategy. Stakeholder participation helped to confirm that the sites identified by members of the microgrant team had research value, though some sites were excluded due to a variety of technical issues discussed later in this article. This proved to be a fruitful method, which generated a productive conversation and useful feedback for both this pilot phase and future web archiving initiatives.

The focus group was held on September 12, 2019 at the MSU Main Library. Email invitations were sent to 29 stakeholders, including faculty and graduate students from Political Science and History, staff from the MSU Libraries and Library of Michigan, and stakeholders from local government. Box lunches were provided to the participants as an incentive for participating in the focus group.

In addition to the five members of the microgrant team, nine stakeholders were able to attend the focus group, including five faculty members (three from Political Science and two from

History), one participant from local government, two representatives from the Library of Michigan, and one stakeholder from MSU Libraries (not inclusive of the microgrant team). Every member of this group was actively engaged in conversation and the activity, described below.

After a brief introduction to the project and web archiving, the group engaged in a conversation facilitated by Jessica Martin, addressing the following questions:

1. What are your current research and/or future research plans?
2. How might you use political websites in your research?
3. How might you use political websites in your teaching?
4. What kind of content matters now/in the future? Campaign promises? Policy platforms? Propositions?
5. What is most important to you: what politicians are saying or what politics are like in 2019? Does format matter?
6. What are the value of social media crawls to your research/teaching?
7. Are there other information streams you'd like us to capture?
8. Is it important to capture commentary about the politicians in addition to their campaign programs? (ethics? copyright?)
9. What would be the easiest way for you to access this material?

From this conversation, we took notes on key points raised by the group. Some salient points include:

- Information on ballot initiatives and millages is important and difficult to find at the local level.
- There is interest in the websites of both the candidates (demographics, personal history, policies) and policy advocacy groups.
- Social media plays an important role in political communication today, and capturing that information should play a role in collection development.
- Commentary also matters, in social media and in local media, as this is where citizens communicate their views as well.
- Digging deeply into websites is important, as meeting minutes and other documentation are often found as attached PDFs.
- There are courses at MSU that would directly benefit from access to this content, including the Master's in Public Policy capstone class, which is particularly interested in local data from the Detroit area.

- Participants were familiar with and happy to use an interface like the Wayback Machine, with additional requests made for value added services like text mining, mapping, etc.

Following the group conversation, lasting about 45 minutes, the group participated in an activity to brainstorm collection development priorities for the project. We began by placing sticky notes of the sites we already planned to crawl on a board, giving sticky notes and markers to the group to add notes related to specific sites, or types of sites, they believed we should consider. From this, we gathered well over one hundred suggestions, which we then organized into categories. These categories included Advocacy Organizations, General Election Information, Government Information and Sites, Ingham County, Media, Meetings, Proposals, and State. The collated information was then captured through photographs and added to a shared folder for later analysis.

Site Identification

Prior to the focus group, grant team member and subject matter expert Julia Ezzo developed a list of possible websites by utilizing 2018 and 2019 ballot information from the Ingham County clerk. Candidate and proposition names were searched on Google and Facebook to determine if there was a web presence for the campaigns. These URLs were presented as capturing options at the focus group, and participants were able to rank their importance, as well as suggest other potential sites. Participant-recommended sites were searched and if a URL was available, these sites were added to a spreadsheet for future capturing. Sites were then searched within the Internet Archive's Wayback Machine to determine if and how frequently these websites may have been archived to allow the grant team to prioritize those sites that were either never captured, were captured only a few times, or were missing content due to the limitations of the web archiving tool, such as difficulty preserving embedded content such as PDFs on webpages.

Additionally, based on focus group feedback, the scope of this project was adjusted from narrowly focusing on election candidates in Ingham County to also include the websites for the mayors of Detroit and Flint, as well as local government meeting sites (such as city councils and board of trustees) within Ingham County.

Crawling

Crawling is a process of activating web crawlers or robots (software that identifies and captures web content) and telling these crawlers what site to crawl (capture) and how frequently to

perform this task.² Within the Archive-It subscription for MSU Libraries (MSUL), a Michigan Politics Web Crawling Project collection was created. A total of 110 sites were entered into the collection, but only 96 were considered active at the time this microgrant ended. Crawls were executed primarily between October and December 2019. Refined crawls were executed in January, February, and March 2020 to fill in missing content from the original crawls due to technical scoping issues. A total of 65.8 GB were captured during this initial stage of the microgrant.

The identified sites were added to this collection and assigned to eight Archive-It groups. These were:

- County Commissioners
- City Council
- Advocacy
- Judges
- Mayors
- School Board
- Propositions
- Meetings

Archive-It provides several frequency options for scheduling crawls. For this project, we selected a “One-Time Crawl” frequency in order to evaluate the quality of the crawl before deciding if further adjustments in the crawl’s scope were necessary or if it could be saved after one attempt. Archive-It has two types crawls, One-Time crawls and Test crawls. The major difference between the two is that Test crawls can be deleted if deemed unsatisfactory. All crawls were run as type Test Crawl and used the Brozzler experimental Crawling Technology, which provides enhanced media capture capabilities and mimics how a human user interacts and experiences web browsing.³ Data limits and Time limits were set in accordance with Archive-It’s recommendations.

Metadata

Metadata for the collection was added at two levels, the collection level and the seed level. Seeds are URLs “with a unique identifier in the Archive-It backend.”⁴ Seeds can be the URL to the full website, the URL to a specific part of a website, or the URL to a specific document on the website. The Archive-It application supports Dublin Core (<https://dublincore.org/>) as a schema, providing 15 standard elements as well as custom fields. The application contains no required fields, however, we devised a set of recommended fields based on metadata practices previously established for collections archived by the MSU University Archives and Special Collections. MSUL

Special Collections had previously developed an internal manual for creating metadata that included recommended fields as well as recommendations for the use of Library of Congress Subject Headings and other formatting specifications. At the collection level, the elements selected included title, subject, description, rights, collector, language, and genre. These elements reflected an overall introduction to the collection, along with broad subject headings.

At the seed level, elements included title, subject, description, language, coverage, format, rights, collector, contributor, URL, and when available, creator. URLs were added as a custom field in order to preserve the original URL used to archive the website. Titles were often taken verbatim from websites, but on occasion they were adapted for consistency. An example of one of the seeds is provided in figure 2. We used Library of Congress Subject Headings, shown in figure 3, and made the geographical coverage in figure 4 as specific as possible to maximize the use of the facet feature shaped by the captured metadata.

Training

The graduate student assistant (Daniel Fandino) for this microgrant was provided with a login for MSU’s Archive-It account, the MSU Archive-It and metadata manuals, as well as information on how to access online training materials provided by Archive-It. After a review of these materials, we did a brief walkthrough with the graduate assistant in order to make him more comfortable with the tool.

The team used a spreadsheet crawl log for manually documenting work accomplished, information regarding crawls, and what types of information to record. During the crawling phase of the microgrant, we modified the log to suit our needs. The final columns headers for the log were:

- Category
- Number of sites
- Crawl ID#
- Crawled?
- Type of crawl
- Sites crawled
- Facebook sites?
- Data Limit
- Time Limit
- Technology
- Date
- Notes
- Facebook added
- FB ID#

Michigan Politics Web Crawling Project

Collected by: [Michigan State University](#)

Archived since: Aug, 2019

Description: This collection is mostly focused on the Greater Lansing political and election websites. The collection is part of an MSU Libraries pilot grant to archive highly ephemeral Greater Lansing elections and political websites in order to support the Library's mission of preservation, creation, transmission and application of knowledge.

Subject: [Politics & Elections](#), [Government - US States](#), [Society & Culture](#), [Circuit courts](#), [City council members](#), [City councils](#), [County government](#), [Elections](#), [Judges](#), [Mayors – Michigan](#), [Michigan politics](#), [Municipal government](#), [Political campaigns](#), [Referendum – Michigan](#), [School board members](#)

Rights: Educational use only, no other permissions given. Copyright to this resource is held by the author and is provided here for educational purposes. It may not be reproduced or distributed in any format without written permission.

Language: [English](#)

URL: <https://www.archive-it.org/collections/12662>

Collector: [Michigan State University Libraries](#)

Genre Form: [Web archives](#)

Title: Kath Edsall For East Lansing School Board of Education 2018

URL: <http://kathedsall.com/>

Description: Web site for Kath Edsall's campaign for East Lansing School Board of Education.

Captured 2 times between Oct 15, 2019 and Dec 27, 2019

Subject: [Elections](#), [School board members](#), [Michigan politics](#), [Political campaigns](#)

Group: [School Board](#)

Language: [English](#)

Coverage: [North America – United States – Michigan – East Lansing](#)

Format: [Web archives](#)

Rights: Educational use only, no other permissions given. Copyright to this resource is held by the author and is provided here for educational purposes. It may not be reproduced or distributed in any format without written permission.

Collector: [Michigan State University Libraries](#)

URL: <https://kathedsall.com/>

Contributor: [Committee to elect Kath Edsall East Lansing School Board of Education 2018](#)

Figure 1. Collection Example

- FB sites
- Scope
- Total sites crawled
- QA
- Complete
- Date complete
- Status
- Notes

Once the seed list was finalized, the graduate assistant was oriented to the basics of entering metadata for collections and seeds and how to execute crawls. As crawls completed their runs, the graduate assistant was trained on reviewing crawls and how to troubleshoot challenging scenarios such as missing images and videos, or page formatting.

Archive-It requires a significant amount of training time, advising, and experience to acquire a good working basis for the full scope of work (seed selection, metadata, crawling, and quality assurance). As part of a continued project, it may be worth the time to provide advanced training opportunities in the use of “regular expressions” to help refine scoping. Regular Expression (also known as reggex) is a sequence of characters that specifies a search pattern.

Quality Assurance and Scoping

Quality Assurance (QA) for web crawling is not a simple task and requires significant time and manual effort. Decisions need to be made on how extensive (follow every link) or what percentage of a website to check. The types of seeds crawled for this microgrant were, for the most part, not overly complex and most site links could be visually verified with just a few clicks.

Figure 2. Example of what a seed looks like, including descriptive elements related to its capture

Archive-It provides some high-level help on the QA process (via their Help Center) and a Wayback QA Tool. Once a crawl is saved, the tool scans your currently viewed web crawled page and identifies links not captured due to blocks or scope. This information can then be used to run a “patch crawl” but is also useful in identifying scoping issues such as missing images. More information about the QA process we followed can be found at the University of Michigan’s website at <https://sites.google.com/a/umich.edu/bhl-archival-curation/web-archiving/05-quality-assurance>.

After an initial crawl, several seeds, such as mcrgo.org, progressmichigan.org, aclumich.org, mcfn.org, were noted as having good crawls already completed by the Internet Archive (<https://archive.org/web/>) and were removed from this microgrant work by marking them as inactive in the Archive-It administrative user interface. These seeds can be activated later for future crawls if necessary.

During QA playback of captured crawls, some web pages would come up blank. Playback is a tool that allows to see if a captured URL (seed) is displaying correctly or as close to the original page as possible; it’s links are traversed (played back) by following them to see if captured.) A review of the page’s source code often revealed this to be due to its web host and technology. A number of these sites were created with the Wix cloud-based website builder. Unfortunately, this builder notoriously creates websites with “crawler traps” (endless invalid URL links) and playback issues. Some of these issues can be alleviated with various scoping techniques such as:

- entering explicit seeds for a site’s menu pages or a needed external URL,

<u>Subject</u>	Sort By: Count	(A-Z)
Michigan politics (84)		
Political campaigns (61)		
Elections (46)		
Municipal government (30)		
City councils (23)		
City council members (16)		
School board members (16)		
Referendum -- Michigan (11)		
County government (8)		
Mayors -- Michigan (7)		
Judges (3)		
Circuit courts (1)		
District courts (1)		
Probate courts (1)		

Figure 3. Library of Congress Subject Headings used for this project

- using the Brozzler crawler,
- testing crawls using different browsers during playback,
- or simply reloading a page in the browser.

Examples of added seeds include the URL for the About page or Publication's page of a website.

Another consideration is the fact that social media sites change with great frequency and the quality of captured Facebook sites can vary considerably. Archive-It provides some default scoping rules for platforms like Facebook but, in some cases, the sites just don't playback well even with added scoping.

An area that was not addressed during the active crawling period was a review of the public collection page (<https://archive-it.org/collections/12662>) and correcting issues here such as multiple seeds for the same page and bad links. A final review indicated that some crawl scoping was done at the collection level and might be better accomplished at the seed level. This will need to be reviewed when the project goes forward.

Access

While access to the archived websites is available through Archive-It (<https://archive-it.org/collections/12662>), the organization of the content and ease of understanding the scope of

<u>Coverage</u>	Sort By: Count	(A-Z)
North America -- United States -- Michigan -- Lansing (26)		
North America -- United States -- Michigan -- East Lansing (18)		
North America -- United States -- Michigan (11)		
North America -- United States -- Michigan -- Williamston (7)		
North America -- United States -- Michigan -- Mason (5)		
North America -- United States -- Michigan -- Meridian Township (4)		
North America -- United States -- Michigan -- Okemos (4)		
North America -- United States -- Michigan -- Bath Charter Township (3)		
North America -- United States -- Michigan -- Flint (2)		
North America -- United States -- Michigan -- Ingham County (2)		
North America -- United States -- Michigan -- Webberville (2)		
North America -- United States -- Michigan -- Delhi Charter Township (1)		
North America -- United States -- Michigan -- Detroit (1)		

Figure 4. Geographic headings used to allow for more precise faceting by location

the collection could be challenging to some users. To create an easier to use access point a LibGuide (<https://libguides.lib.msu>

.edu/MI-Politics-Archive) was created. This LibGuide provides a brief overview of the project, along with tabs for City Council, County Commissioner, Judges, Mayors, Meetings, Proposals, and School Board. Each tab then includes category boxes, such as election year and geographic delineation, with each box containing the name of the candidate or topic with a direct link to the Archive-It landing page to the web captures. Since some websites required multiple captures, taking users to an intermediate page to see all crawl dates available made the most sense.

In April 2020, links to the LibGuide and to the Archive-It page were shared via email with the focus group participants and they were asked to provide feedback. The responses we received were positive and supportive, with no suggestions for improvement provided. The LibGuide was set up to include contact information to allow any researcher to submit questions, concerns, or other comments to one of the team members.

2020 Election

The goals stated in our grant proposal were to: explore the capture and curation of local political and election websites, commit to both internal and external collaboration, host a focus group meeting, and create a LibGuide to access the archived sites. Having met the goals of the initial pilot, the team decided to expand web archiving from the grant-funded scope of the 2018/2019 election cycle and work to capture the sites for the 2020 election. However, unlike the pilot project, the team did not have funding to hire a graduate assistant due in part to the COVID-19 pandemic. The subject librarian identified possible websites; crawls and QA was done by the project librarians and the graduate student and metadata was added by one of the archivists. Additional categories were added which include Register of Deeds, County Clerk, Drain Commissioner, Prosecuting Attorney, Sheriff, Williamstown Supervisor, Treasurer, and Trustee. In all, 97 websites were crawled at least once for the 2020 election cycle.

Challenges

During the pilot aspect of this project, the graduate student assistant was not hired until October 2019 and some sites had already gone offline, further underscoring the transitory nature of these websites. Due to other commitments, the graduate student assistant's time to devote to this project was limited, which made it challenging to balance capturing as many sites as possible and ensuring the captured sites and their content were successfully archived—which proved to be a particularly time-consuming task for sites with a lot of media items and complex sites with a lot of subpages and embedded content.

City government sites, in particular, proved to be the most complicated to crawl and required more in-depth QA since they tend to contain a large variety of content types, such as video, PDF documents, images, and other materials, and were thus more time-intensive to capture than the election-related websites. Due to the complex nature of these sites, they also used more of the Archive-It data allotment.

While candidate election websites were generally more straightforward in terms of crawling and QA, certain platforms added additional complications. Sites built using Wix.com, for example could be crawled successfully, but the content would not play back successfully. Crawling Facebook pages also proved to be problematic, as it would often take multiple crawl attempts, with each attempt producing different results. The web browser used when crawling and doing QA does make a difference, with Google Chrome being the better choice for these tasks.

One area outside of our control, but a deficit worth noting, is that in these smaller, local elections, not all candidates have a web presence for their campaign. If a researcher uses the archived websites that we created to try to get a full picture of the campaign, there are many candidates who are not represented and for whom we were unable to gather digital information regarding their platforms, policies, and even their candidacy. For full candidacy information, researchers still need to reference the election information archived through the county clerk.

Recommendations

Although we found that it is possible to conduct this sort of web archiving project using available staff, an ideal scenario would be to hire a digital archivist, who would be willing to assume primary responsibility for web archiving activities. However, understanding budget constraints an alternative solution is to dedicate staff members for web crawling. This could include creating one or more web crawling assistantship positions or possibly centralizing web crawling into a staff or librarian position(s). Using dedicated workers would free up staff for other duties and also ensure that we fully utilize our annual allotted storage that we pay for in Archive-It subscription fees. This would allow archivists and librarians to focus on establishing thoughtful and ambitious web archiving goals and further collection development and seed selection. Consideration should be given to creating a committee comprised of archivists, subject librarians, and other stakeholders to recommend future web archiving initiatives and select the seeds to crawl. A committee could establish clear collection development guidelines

for future local election archiving, including assessing the frequency of crawling websites to capture changes over time.

Periodic review and reconciliation of existing Subject terms and other metadata used by other collecting institutions on Archive-it Home (the central Archive-It public interface portal) to enhance discoverability of collections should be considered as part of a web archiving workflow. For example, we used the subject “Elections,” while other institutions have used “Local elections.” The State Elections Web Archive (<https://archive-it.org/collections/10793>) created by the Ivy Plus Libraries Confederation could be a good model to follow.

Since crawling Facebook was especially problematic, exploring niche tools for archiving social media such as ArchiveSocial, Social Feed Manager, and other tools should be investigated. There are many technical and ethical implications for capturing social media, and these tools are able to preserve social media better than Archive-It. Archiving social media accounts is especially important with local elections, because many candidates might only create a Facebook page as opposed to an actual website, but one should consider whether a candidate’s Facebook account is dedicated to their campaign or if they are using their own personal Facebook page and be considerate of the person’s privacy if the latter is used.

Further thought should be put into the use of an Archive-It subscription for capturing a website’s extensive video versus using an offline capture tool (such as youtube-dlG) and preserving using other in-house workflows. Using the latter approach would extend the subscription allotment for Archive-It to crawl websites, with the drawback that researchers would need to access downloaded video using multiple tools and portals.

Conclusion

Through this web archiving project, 187 domains were crawled and preserved on Archive-It. Following the 2020 election, team members intended to do an end of election crawl after the results of November 3, however it was discovered that many of the sites had already been taken down, thus emphasizing the transient

nature of this content. While this type of web archiving project will not be able to completely fill in the historical record since not all candidates choose to have a web presence, it does fill the gap and will allow future researchers to analyze aspects of local political platforms and discourse between the public and candidates on Facebook. Local politics may not be as scintillating as state and national politics, but it is impactful nonetheless and worth considering capturing for the future.

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More Than a Domain

An Approach to Embedding Government Information Within the Instruction Landscape Using Active and Passive Collaboration

Sarah Simms and Hayley Johnson

While the state of government information librarianship continues to evolve alongside the libraries in which those librarians work, there remains a consistent lack of full integration of government information into the instruction landscape. The reasons for this have been covered within the literature as well as suggestions on how to overcome those barriers. Even with this literature, a gap in implementation remains. This article highlights the collaborative partnership between a government information librarian and student success librarian that attempts to bridge the gap between scholarship and practice in the hopes of creating a more robust government information presence in the academic instruction landscape at their university both in the classroom and beyond.

A Review of the Literature: Government Information within the Classroom

There are a few reasons as to why academic librarians choose not to include government information in their routine information literacy (IL) instruction sessions. One major reason is that IL instruction is typically focused on “topic refinement, general use of the library catalog, varieties of databases and their searches, Internet use, citation styles, access of non-local materials, and general student research concerns.”¹ As most instruction takes the form of one-shots, there are “restrictions of time and numbers of exposures” with which librarians must contend when attempting to integrate government information into their IL instruction.²

Another reason librarians avoid utilizing government information within the academic classroom deals with their own low comfort level surrounding government information. This “fear or intimidation” of government information is due to its organization by agency, multiplicity of formats, perceived specialization and difficulty, and more.³ This leads both subject specialists and general librarians with a “lack of confidence” surrounding utilizing these resources when teaching information

literacy classes.⁴ According to a questionnaire done by Rogers, this lack of confidence surrounding the teaching of government information during IL instruction extended across the board of librarians surveyed with all librarians, despite their experience levels, indicating that they “would benefit from additional training in or experience with government information.”⁵ We would add that another factor in the decision to avoid teaching government information in IL instruction stems from liaisons feeling overwhelmed with staying current within their own subject areas and the prospect of taking on an additional knowledge base feels both burdensome and outside of their role. Also, it can be difficult for librarians who are unfamiliar with government information to fully understand where it resides within the scholarly discourse as there is no common discourse. Ultimately, librarians lacking sufficient confidence to tackle government information solo in an instruction session tend to leave this material strictly to the government information librarians as their responsibility.

In a 2019 study of the duties found in government documents librarian job advertisements posted between 2010-2016, Sproles and Clemons found that “85 percent of the total of government documents job advertisements required reference or information literacy duties.”⁶ While this focus on reference and information literacy duties is not surprising, that same study found that only 26.7 percent of that pool of advertisements required the librarian serve as an internal liaison, meaning they liaised internally within the library or to faculty in other university departments.⁷ This is noteworthy as many requests for IL instruction originate from the liaison relationships built by that designated specialist. Without the attachment of liaison duties to the position, it becomes infinitely more difficult to break into instruction as the government information librarian can become a sort of default liaison to all but the go-to liaison for none.

Because of this broad role, the opportunity for government information librarians to get into the classroom can be tricky given the rarity of an instruction session that focuses solely on the use of government information. According to Downie, integrating government information into instruction does not need to be a solitary effort: “Creativity and collaboration between individuals and teams are key tools to removing barriers to information access and government documents literacy.”⁸ In past professional literature, it has often been suggested that government information librarians should simply teach subject specialists how to integrate government information into their classroom instruction. And while this seems like a simple solution, oftentimes, factors come into play that inhibit this from happening. These factors can include demands on time, decreased capacity to learn new resources outside of one’s area, or even misunderstanding of the applicability and potential scholarly impact of government information within the classroom. Collaboration between librarians is an extremely effective solution that is often overlooked. Government information librarians are eager to help, though this might be lost to the larger population of librarians as noted by Downie: “Librarians who serve as government information specialists are concerned with collaboration and information literacy as much as their colleagues as they see a useful role for government information in information literacy instruction. This concern has been addressed primarily in the government specialist literature, creating a closed conversation of government specialists ‘talking amongst themselves.’”⁹

As all government information librarians know, “government information is one area that touches all disciplines [...]”¹⁰ And as such, government information can easily find its way into any instruction session focused on information literacy. Although over 30 years old, a survey investigating the use of government documents and information by undergraduates found that “the largest single influence on student awareness of the value of [government] documents... is their faculty.”¹¹ For anyone who has been in the classroom, we know this rings true for any information source. Legitimizing the use of government documents in the classroom is an important step to teaching students not only how to access them, but how to use them effectively.

A team can take two approaches to teaching government information in the classroom. The first is subject based wherein the various agencies creating the information take a backseat to the actual information. The other is agency based where explanation and exploration of the various governmental agencies and the information they produce take center stage. In our own experience, each has its own merits when working

with undergraduate students. When teaching introductory IL classes, especially freshmen seminars and general education courses, subject based searching through a focused Google search has been our method of choice. This allows us to introduce the idea of government information and meet students where they are in their current search strategies, such as Google. The Google approach is one that makes searching government information easier for students just learning about research. As a participant in Trujillo and Tallman’s study noted, directing the patron to the library catalog would be best for the library, but they recognize it as an unnecessary step to get the patron the information they need.¹² Agency based instruction comes into play when teaching a more discipline-specific class. This type of instruction is born from close reading of the syllabus and assignment materials to be able to curate specific sources from various governmental agencies that will support students’ research.

In our own experience and in either instruction scenario, the authors have historically utilized collaborative teaching to bring “testimony” as described by Braunstein and Fontenot into the classroom from two perspectives: one from a government information specialist and another from someone who has learned the value of government information.¹³ This testimony of a non-government information specialist at the helm of the class can entice those unfamiliar with government information to utilize them for research. “A positive user experience in working with government information will increase the likelihood of repeated use once search techniques are mastered.”¹⁴ Thus, setting the stage for both faculty and students to become not only knowledgeable about government information resources, but competent and comfortable in their use both in and outside of the classroom, is our primary objective.

However, the road map laid out for us in the professional literature only takes collaboration so far—the pinnacle being the invitation into a one-shot for those librarians without liaison areas. But through our experience, we believe we can push past this seemingly intermittent and sporadic collaboration to more fully embed government information into the academic discourse through a combination of active and passive collaboration that moves instruction *and* government information beyond the confines of the classroom.

Our Experience

As with any good case study, in order to write about where we are and where we are going, the authors first need to address where we started. We both started our academic careers at the same time at a small regional university. As mentioned previously, we followed the collaborative model as outlined in the

literature by the book—co-teaching classes, for example dietetics, where government information as a reference source was an easy fit. Through this, we began to speak one another’s librarian language—that of instruction and that of government information to create our own common discourse. As our collaboration in the one-shot model became more standard, we found ourselves working together on more than just classroom collaboration. We began pursuing opportunities beyond the normal scope of a government information librarian and instruction librarian to include exhibits and grants. As we expanded our outreach efforts together, we began a multi-year research project, the foundation of which was built upon historic government documents. Being able to fully articulate the value of government information beyond the normal classroom dialogue came into focus through this research project. During the project, we both moved to our state’s flagship university and the opportunities for collaboration—both creative and unique—greatly increased. Having the experience of breaking through personal thresholds through our research, we recognized an opportunity to recast government information as not only a special collection in terms of its unique historical materials, but a “special” collection because of its audience and ability to serve beyond the campus community. This inspiration concerning how to package and promote government information is also greatly informed by the information needs of graduating students as well as community members whose access to the university’s library materials is limited.

The behind-the-scenes reality of the information landscape often remains hidden to our students. Upon entering the scholarly confines of the university, resources for their research appear to be limitless due in part to library subscriptions paired with the magic of interlibrary loan. But as they cross the threshold from student to graduate, this access dissipates and yet their research needs continue. This abrupt loss of access is an example of information “*underprivilege*,” a term and situation that is directly related to information privilege.¹⁵ This concept was coined by Char Booth to describe the access inequities rife within the information landscape, from academia and beyond. Scales and Von Seggern recognize the inaccessibility of the tools librarians often promote to students, mainly commercial databases, to conduct research after graduation, and they posit that government information should be both taught and promoted to students to ease their transition after graduation.¹⁶ A student’s information needs don’t end with the conferred degree at graduation, but rather continue as they enter the workforce and live their lives as informed citizens.

And while our primary focus is on students and faculty at our university, it is imperative to note that information privilege

is not just an issue facing graduating students. “Transfer that concept to the area of information access, and people who are poor, people who are minoritized, people who are incarcerated, people who don’t have institutional affiliation with a particular school, or have a public library close to them that offers anything like free interlibrary loan: these people are information underprivileged, information impoverished.”¹⁷ Integrating government information into the instruction landscape is one way to help mitigate issues of information access for these populations.

Beyond the One-Shot Model: Active Collaboration

At our current institution, traditional one-shot instruction opportunities are still available to utilize as a co-teaching model. We have had the opportunity, however, to bring the discussion of government information outside the traditional classroom and into other arenas through larger campus collaborations due to the work of the Undergraduate & Student Success Librarian. This position focuses on identifying and solidifying collaborative partnerships throughout the campus community in order to increase the visibility of the library to undergraduate departments and students. As a champion of government information, they have made it a point to create opportunities that allow for government documents to not only share the spotlight, but also take center stage. Through the University Honors College, we have partnered to present research workshops which are held outside of the classroom as independent workshops for undergraduate students and are scaffolded throughout the semester to mirror the research process students experience in the classroom. These workshops introduce students to the various stages of the research and writing process with each workshop focused on one particular stage. Example stages include how to identify a topic of interest, how to get to a *researchable* question, and how to navigate the information landscape to find sources. This scaffolded approach to teaching information literacy allows for government information to be fully integrated into the discussion throughout the research process through an intentional approach to government information as a natural part of the information landscape (and not just for demographics, etc.). This approach also allows us to show a large group of students the applicability of government information to their studies no matter how varied the field. The Honors College connection has afforded opportunities to create specialized bibliographies for courses in addition to being asked to consult for resources and instruction for a new Delta Studies minor focused on both the human and built history of the Mississippi River Delta, an opportunity we have taken to promote government information

to Honors faculty as a special collection. Our teaching collaboration has expanded to co-teaching and incorporating government information into Dual-Enrollment classes to increase the scholarship available to students who are not on campus and therefore unable to utilize on-campus resources. Outside of the university, we've partnered to co-teach AP Research Seminar classes with a local high school. While government information is shared alongside other resources, our teaching and pedagogy has morphed into a model whereby we each bring a certain expertise into the classroom that is not necessarily subject- or material-based, but instead allows for *each* of our theoretical and practical expertise to shine through.

To further broaden our reach, we are in the planning stages to create an independent workshop series focused on government information as the primary teaching material through which we can recast these source materials through a more critical lens. Different audiences such as undergraduates, faculty, or the general public, will inform the content matter. Admittedly, this might be a steep hill to climb with wavering trust, and often deep mistrust some individuals have, of the government. Despite these obstacles, what better time for librarians to help students navigate this information landscape? "Academic librarians have the opportunity to counter student skepticism and lack of evaluative skills through critical information literacy instruction using government information. While trust in the government has declined in recent years, trust in libraries and librarians has increased."¹⁸ These workshops are one small effort to continue our relationship with students and participants in an environment that promotes trust, discussion, and exploration while underscoring the applicability of government information in academia and beyond.

Borrowing from Melanie Maskin, different approaches to government information will be utilized in these proposed workshops, such as close and lateral readings of documents and information to explore issues of context, authority, and bias in government information, breaking through any assumptions that this material is apolitical.¹⁹ Additionally, this workshop model allows for these government sources to be examined through the ACRL Framework's new Companion Document created by the Politics, Policy, and International Relations Section, and also as described by Gregory and Higgins who mapped social justice issues found in the Core Values of Librarianship to the Framework.²⁰ Gregory and Higgins, in their Appendix, shared material with learning outcomes, values mapped to the Framework including democracy, diversity, social responsibility, education and lifelong learning to name but a few. By viewing government information through these critical lenses, we hope to create a dialogue with students as well as open a

pathway for them to become engaged with government, information consumption, and larger social justice issues.

Advocacy through Online Promotional Tools: Passive Collaboration

Promoting and advocating on behalf of government information is an essential part of whether the collaboration and instruction efforts will be sustainable and effective long-term. A first step in promoting government information is the creation of an informational online presence to which students, faculty, and fellow librarians can refer when looking for government information resources. The use of LibGuides within academic libraries is a widespread means of compiling and sharing library resources. While guides focused on government information abound, the guides typically include a general overview of what government information is followed by resources on broad topics such as census, laws and legislation, congressional materials, data and statistics, etc. Naomi Lederer notes that the creation of topical guides that include government information is one way to combat the reluctance some librarians have to using government sources.²¹

For the LibGuide, it was decided to make the homepage a visual match to the university's page where students explore all the colleges which are a part of the university's academic offerings.²² For example, a student that is part of the College of Humanities and Social Sciences can click on that college's icon and is brought to a guide that corresponds to the major degree programs within that college such as anthropology, communication sciences, economics, English, gender studies, etc. Each major has a page dedicated to an overview of the types of government information relevant to that discipline prompting students to consider the ways government information can support their research needs. It is also important to make this type of LibGuide as multi-layered as possible to demonstrate the variety of resource types available including artwork, images, videos, gifs, and apps.²³ While creating these college-specific guides, subject liaisons were asked to review the guides in their discipline and provide feedback. Additionally, they were encouraged to link to or copy sections of information into their own guides used during instruction. Since the creation of the college-specific LibGuide hub, subject liaisons have linked to the guides and have incorporated information from the guides into their course or program-specific guides. The guides have proved to be a successful outreach and collaboration tool to employ with subject liaisons as it takes the pressure of curation off their plate. This college-specific approach is a daunting undertaking which takes time to slowly build, refine, and revise as necessary. This could be why guides of this type are not as prevalent. We

believe, however, that it is a worthwhile endeavor and can move the discussion of government information beyond the expected subject areas making it more accessible and relevant to subject liaisons with limited instructional time as well as to students by catching them at their point of need.

Integration and a Look Toward the Future

“Integration” is meant to describe the moment that government information comes to the forefront of actions and conversations. One way this can happen is through situating government information as a visible stakeholder in the open access (OA) and open educational resource (OER) movement. Government information has been relegated to the sidelines of the movement and should be explored as a more integral component as it can be argued that government information and its foundation upon the ideal of open access to information for all is the backbone and precursor to the modern open access movement.

We are currently participating as librarian leads in a statewide effort led by the Louisiana Library Network (LOUIS) as a grantee in the Department of Education Open Textbook Pilot program. This program “create[s] new open textbooks and expand[s] the use of open textbooks in courses that are part of a degree-granting program, particularly those with high enrollments. This pilot program emphasizes the development of projects that demonstrate the greatest potential to achieve the highest level of savings for students through sustainable, expanded use of open textbooks in high-enrollment courses or in programs that prepare individuals for in-demand fields.”²⁴ This project taps into the expertise of various academic librarians across the state to create and curate easily accessible collections of open materials aligned to statewide curriculum and learning objectives targeted to students interested in dual enrollment. The inclusion of a government documents librarian in this effort is noteworthy. Being selected to work with the American Government cohort allows the government information librarian to enter the OER creation process at the ground level while actively working with faculty from across the state in the curation of OER materials, including curated government documents, within these resources. This project presents an opportunity to situate government documents at the forefront of OER/OA in a way that other subject liaisons cannot in terms of the materials they steward. As OER continue to gain traction, both within and outside academia, government information can provide a much-needed resource that can assist in growing the OER catalog.

Participation in this statewide pilot has opened the door within the university as well, finally prompting the inclusion of government information within the university’s own open

access initiative. Working with the library’s Director of Open Scholarship & Affordable Learning, government information now has a seat at the “open” table. Our first project is a survey of faculty regarding their perceptions and use of OER and government information in an effort to create a multi-disciplinary promotion strategy focused on these types of materials.

Conclusion

Integrating government documents into the curriculum and positioning them within large-scale projects, such as OER initiatives, is one way to ensure their utilization in research in the academic setting and beyond. By introducing these resources early, students can become familiar with sourcing, evaluating, and effectively utilizing these sources in their research. Even more importantly, this introduction to students helps to fill the resources gap that may occur once students graduate. At the heart of this information is the creation of an informed citizenry and “opens a doorway to a lifetime of involvement with the democratic process.”²⁵ And while open access, OER, and government information are just one small piece of the open movement, giving students agency is a powerful tool, especially when confronted with issues of information privilege.

Accomplishing the above is no easy task but beginning with identifying an instruction colleague with whom you can strategically explore options beyond typical IL instruction sessions is one way to gain traction outside of the restrictive roles and duties present within the academic library. One small change can set you on a trajectory towards more robust opportunities and can even lead to the reimagining of government information as a “special collection” which can resonant more readily with faculty, librarians, and students research needs.

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NASA: The Original Secret Civilian “Space Force”

Jason Campbell and Bryn Horwege

“The Congress hereby declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.”

—National Aeronautics and Space Act of 1958, 72 Stat. 426¹

On December 20, 2019, a new branch of the US Armed Forces was established to great fanfare and critique amongst both comedy and science fiction enthusiasts.^{2,3,4} The US Space Force was established within the Department of the Air Force to protect US interests in space and to provide space-based support to the other branches of the military.

The Space Force was not as revolutionary as it might seem. The National Aeronautics and Space Administration (NASA) has been like a “Space Force” since its inception, despite its civilian nature and congressional mandate. This paper explores the close relationship between NASA and the Department of Defense (DOD) through government documents, many of which were “classified” or “secret” at the time of their creation.

This is not to say that NASA was or is an offensive military force, but instead that NASA has played a strong role in supporting DOD programs, including classified missions. The DOD and NASA budgets have long been closely related, such that increases or decreases in NASA’s budget often had a direct inverse effect on the DOD’s budget.

The relationship between the agencies has not always been smooth and not without competition, but there is a longstanding history of collaboration from the very earliest days of NASA.

Origin of NASA

NASA was created by the passage of Public Law 85-568 on July 29, 1958, “[to] provide for research into problems of flight within and outside the earth’s atmosphere, and for other purposes.”¹ Congress’s declared intent was that US “activities in space should be devoted to peaceful purposes for the benefit of all mankind.”⁵

Congress enumerated eight objectives for the US in Pub. L. 85-568:

- The expansion of human knowledge of phenomena in the atmosphere and space;
- The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles;
- The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space;
- The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes;
- The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere;
- The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries which have value or significance to that agency;
- Cooperation by the United States with other nations and groups of nations in work done pursuant to this Act and in the peaceful application of the results thereof; and
- The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication of effort, facilities, and equipment.⁶

In addition to the eight enumerated objectives, however, Congress also included provisions for the general welfare and security of the United States. As NASA was intended to be a civilian organization with a high level of transparency, Congress explicitly gave NASA control of aeronautical and space activities, except those peculiar to or associated with the development of weapons systems, military operations, or defense.⁷

NASA and the Department of Defense: The Early Years

From the very beginning of the Agency, NASA had a close working relationship with the Department of Defense. An October 3, 1958, General A.J. Goodpaster Memorandum of Conference shows that President Dwight Eisenhower suggested that the Army Ballistic Missile Agency (ABMA) be transferred to NASA. This move occurred less than two years later, on July 1, 1960, with the creation of the Marshall Space Flight Center in Huntsville, Alabama.⁸ More of the early relationship between NASA and the DOD was discussed in detail at a June 30, 1959, meeting of the National Aeronautics and Space Council (NASC). President Eisenhower was particularly concerned about the “unnecessary duplication of effort”⁹ and he “had no objection to the National Aeronautics and Space Administration and the Department of Defense sharing this area, provided their programs are well coordinated.”¹⁰ It was also noted that “Department of Defense and the National Aeronautics and Space Administration are going to re-examine the National Space Vehicle Program” and “are currently developing a set of long-range objectives against which plans for definitive programs for the next few years are being prepared.”¹¹

There was also discussion on how NASA and the DOD should administer ground support facilities required by the space program. The Deputy Secretary of Defense, Thomas S. Gates, Jr., proposed that a special task force operation be created within the DOD to provide ground support facilities to NASA’s project Mercury. The President “stressed his desire for coordination and the avoidance of duplication in these ground support operations and expressed his approval of the idea of a single point of management for them.”¹²

David Beckler,¹³ a member of President Eisenhower’s President’s Science Advisory Committee (PSAC) wrote a document titled *Comments on Lord’s Memorandum re NSC Planning Board Briefing on DOD Space Activities*, November 4, 1960, in which he discusses NASA-DOD responsibilities and collaborations. Beckler provides background information regarding a presentation by Assistant Secretary of Defense and Deputy Director of Defense Research and Engineering, John H. Rubel.¹⁴ Rubel had “pointed out that regardless of where the program responsibility

lay, the Defense Department had a range of involvements in NASA programs from providing the astronauts and launching vehicles for Mercury and other NASA space vehicles to gaining from NASA environmental information that would assist in the design of military space vehicles.”¹⁵ Ruben went on to argue that “the interface between the agency interests could not be sharply drawn and that there needed to be the closest cooperation and communication.” Beckler discussed nine special problem areas in the relationship between NASA and the DOD, including various rockets, booster technology, facilities, and communications satellites.¹⁶

On May 3, 1963, Secretary of Defense Robert S. McNamara authored a particularly interesting memorandum for Vice President Lyndon Johnson. Mr. McNamara attempts to measure the benefits of NASA programs by determining the increased spending the DOD would have to take on if NASA were not funding various programs. McNamara estimates that for Fiscal Year 1964, the DOD would have to increase spending on space research by \$20 million; Exploratory and Advanced Development, \$100 million; manned spacecraft similar to the Project Gemini program, \$150–200 million; unmanned spacecraft, \$0.00, but only because the DOD was already active in this area; mission applications, \$25–50 million.¹⁷ These estimated expenditures indicate the importance of NASA to the DOD as early as the mid-1960s.

Secretary McNamara goes on to summarize a May 8, 1961, report he co-authored, saying:

Clearly, then, the future of our efforts in space is going to depend on much more than this year’s appropriations or tomorrow’s new idea. It is going to depend in large measure upon the extent to which this country is able to establish and to direct an Integrated National Space Program. . . . In my view, it is essential that all major space programs be integrated with military requirements in the early stages of their development.¹⁸

Project Gemini, one of NASA’s signature programs of the 1960’s, is an intriguing case of overlap with the DOD. The US Air Force (USAF) ballistic missile family of Titan rockets was utilized by every Gemini mission launch throughout the duration of the project. After the program’s conclusion in 1966, Gemini’s technology was assimilated by the USAF and modified for their Manned Orbital Laboratory (MOL) project. Renamed Gemini B, this spacecraft was once again launched by a member of the USAF rocket family, Titan III-M.¹⁹

The Space Transportation System (Space Shuttle)

The Space Transportation System (STS), later known as the Space Shuttle, is another area of intense cooperation between NASA and the DOD. In 1980, they signed a joint NASA/DOD Memorandum of Understanding on Management and Operation of the Space Transportation System. The memorandum explained that the STS was “a national asset designed to serve both civil and defense users,”²⁰ and, while NASA was responsible for the overall management of the STS, the DOD was “the agency within the U.S. government with the responsibility to represent national security interests in the STS and therefore is participating as a partner in the development, acquisition, and operations.”²¹ The memorandum delineated roles each agency would play, including the DOD “providing the requirements and funds for unique facilities and equipment required for national security space operations, and ensure their compatibility with the STS.”²²

The Space Shuttle is an example of how the collaboration between the DOD and NASA resulted in a major failure. The requirement to meet both NASA and DOD requirements greatly increased the difficulties and costs associated with the design, build, and operation of the Shuttle. But more importantly, after the Challenger disaster the Shuttle program was grounded, resulting in the DOD being unable to “launch critical national security satellites.”²³

Air Force Space Command

The Air Force established Air Force Space Command on September 1, 1982, which would become the forerunner of the US Space Force. Space Command and NASA would continue the history of collaboration between the DOD and NASA. On April 16, 1997, they announced an agreement to work together on several projects of mutual interest, including exploring the possibility “of launching defense satellites from the Shuttle; the use of the Shuttle for U.S. Air Force technology payloads; and development of a plan to meet the dual space needs of NASA and the U.S. Air Force.”²⁴

In spite of the long history of working together, cooperation between the agencies has not always been as intended. A US General Accounting Office Performance and Accountability Series report titled *Major Management Challenges and Program Risks: National Aeronautics and Space Administration* published January of 1999 discusses failures of a 1996 agreement to form joint work groups to coordinate aerospace test facilities to prevent duplication of investments and work. The report explains that:

the agencies’ promise of closer cooperation and the development of a national perspective on aerospace test facilities remains largely unfulfilled because NASA and DOD (1) have not convened most joint test facility working groups on a regular basis, (2) have competed with each other to test engines for new rockets, and (3) have not prepared a congressionally required joint plan on rocket propulsion test facilities.²⁵

Point 2 is especially striking. Rather than cooperating, the agencies were directly competing against one another in an area specified as one to collaborate on—testing engines for new rockets.

Space Force

On February 25, 2019, the Federal Register printed a Presidential order *Establishment of the United States Space Force* (USSF).²⁶ The new Space Force was statutorily authorized with the passage of Public Law 116-92, the National Defense Authorization Act for Fiscal Year 2020,²⁷ as the United States’ newest branch of the armed forces. The creation of the USSF gave notice of the United States’ intent to have an overt military presence in space. It remains to be seen what level of cost-saving and efficiency-increasing collaboration NASA and the new Space Force will have, if any.

Conclusion

While NASA was a civilian organization established for peaceful purposes, it has worked closely with and supported the DOD since its inception. The relationship was grounded in the interests of efficiency, but at times conflicting requirements caused increased costs and less effective programs. Perhaps these problems will be more easily avoided with the creation of the US Space Force and a clearer delineation of their separate roles. However, there is a risk for NASA, as it has often relied heavily on funding benefits from joint programs with the DOD. If Space Force independently fulfills many of the duties NASA once performed for the DOD, it is possible that these joint funding opportunities for NASA will diminish or end entirely, risking the agency’s ongoing civilian mission of discovery.

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Supreme Court Confirmation of Amy Coney Barrett

A “Blatant Act of Bad Faith”?

Connie Chang and Josh Freeman

In the Senate proceedings on Amy Coney Barrett’s nomination to the Supreme Court, Senate Democrats (and at least two Republicans) claimed that a confirmation of Supreme Court Justice in a presidential election year would be a break with Senate tradition—a violation of the mythologized “Thurmond Rule.” Named for Senator Strom Thurmond, the scope of the rule and its origins are murky. The rule likely originated in Thurmond’s campaign against President Jimmy Carter’s judicial nominees of 1980, when Thurmond served as ranking minority member of the Senate Judiciary Committee. This article discusses the Supreme Court confirmation process, Barrett’s background and nomination, the speed with which she was confirmed to the nation’s highest Court, and the conclusion of the nonpartisan Congressional Research Service on whether the Thurmond Rule truly exists. Senate Minority Leader Charles Schumer declared the Barrett confirmation a “blatant act of bad faith” by the Republican majority in the Senate, which in 2016 invoked the Thurmond Rule to defer Senate action on President Barack Obama’s nomination of Merrick Garland to the Supreme Court. As detailed by the Congressional Research Service, the Thurmond Rule has been invoked inconsistently by both parties at politically convenient times.

On October 26, 2020, the Senate voted fifty-two to forty-eight to confirm Amy Coney Barrett to the US Supreme Court to fill the vacancy created by the death of Associate Justice Ruth Bader Ginsburg on September 18, 2020.¹ All Democratic Senators voted against confirmation. The media noted the speed of Barrett’s confirmation and how close it occurred to an upcoming presidential election “just about a week before Election Day” on November 3, 2020.² In his remarks on the Senate floor immediately before the confirmation vote, the Senate minority leader, Charles Schumer (D-New York), described the confirmation vote as a “blatant act of bad faith” because it deprived voters of the opportunity to participate in the selection

of the next Supreme Court Justice through their votes in the upcoming presidential election.³ His assertion was based on an unwritten tradition in the Senate—known as the Thurmond Rule—that is sometimes invoked to defer Senate action on judicial nominations during a presidential election year. This article discusses the invocation of the Thurmond Rule with respect to the Barrett nomination.

Overview of the Supreme Court Confirmation Process

The “Appointments Clause” of the Constitution provides for the president to nominate Supreme Court Justices “by and with the Advice and Consent of the Senate.”⁴ Under this clause, the president selects a nominee and the Senate determines whether to confirm the nominee. Within the Senate, the Senate Judiciary Committee has come to play an important role in the confirmation process: “Specifically, the Judiciary Committee, rather than the Senate as a whole, assumes the principal responsibility for investigating the background and qualifications of each Supreme Court nominee, and typically the committee conducts a close, intensive investigation of each nominee.”⁵

President Donald Trump’s Nomination of Barrett

President Trump nominated Barrett to the Supreme Court on September 29, 2020.⁶ Born on January 28, 1972, Barrett is a graduate of Rhodes College and Notre Dame Law School. She served as a law clerk for Laurence H. Silberman of the US Court of Appeals for the District of Columbia Circuit and for the late Associate Justice Antonin Scalia, during the 1998 term of the Supreme Court. She taught as a faculty member of Notre Dame Law School before being selected for a seat on the Seventh Circuit Court of Appeals by President Trump in 2017.⁷

Barrett's confirmation to the Seventh Circuit in 2017 was contentious, as was her confirmation to the Supreme Court.⁸ As part of the pre-hearing stage of a federal judicial nomination, the American Bar Association's Standing Committee on the Federal Judiciary renders an impartial evaluation of each nominee's professional qualifications, including "integrity, professional competence, and judicial temperament."⁹ During both the 2017 and 2020 confirmation processes, a majority or a substantial majority of the Committee rated Barrett "Well Qualified" to serve as a federal judge.¹⁰ Despite this qualification from the American Bar Association, both of Barrett's confirmation hearings engendered significant controversy, with criticisms targeting her religious and political beliefs, as well as her personal life and education.¹¹

Barrett was confirmed to the Seventh Circuit on October 31, 2017.¹² Seventeen days later, on November 17, 2017, she was added to President Trump's "Supreme Court List" (along with Brett Kavanaugh).¹³ This early transparency in selecting Barrett as a potential Supreme Court nominee and the information that Senators already had about Barrett from her 2017 confirmation are factors that likely allowed Republican Senators to move quickly after the president announced on September 26, 2020 that he intended to nominate Barrett to the Ginsburg vacancy.¹⁴ The next day, the White House announced support for Barrett's confirmation from forty-eight Republican Senators, including all twelve Republican members of the Senate Judiciary Committee.¹⁵

One of the Fastest Confirmations in Recent History

Barrett was nominated to the Supreme Court on September 29, 2020 and confirmed on October 26—twenty-seven days from nomination to confirmation. Since 1975, only Justice Paul Stevens was confirmed in a shorter amount of time—nineteen days from nomination to confirmation.¹⁶ Barrett's confirmation was also eight days before Election Day on November 3, the shortest time period in history between a confirmation of a Supreme Court Justice and an upcoming presidential election.¹⁷

The reason for rushing the confirmation process seems obvious: The party in control of the Senate wanted to ensure the appointment of their nominee as the next Supreme Court Justice. With so much Republican support for the nominee early in the confirmation process (before Barrett was even formally nominated), perhaps the only strategy for those opposing the nomination to pursue was the Thurmond rule.

The Democrats and two Republican Senators urged the Senate to defer action on the Barrett nomination until after the presidential election, as was done in 2016 when President

Barack Obama nominated Merrick Garland to the Supreme Court.¹⁸ Garland was nominated on March 16, 2016 to replace Justice Scalia, who died a month earlier.¹⁹ Even before Garland was nominated, an opinion piece by Senators Mitch McConnell (R-Kentucky) and Chuck Grassley (R-Iowa) argued:

Rarely does a Supreme Court vacancy occur in the final year of a presidential term, and the Senate has not confirmed a nominee to fill a vacancy arising in such circumstances for the better part of a century. So the American people have a particular opportunity now to make their voice heard in the selection of Scalia's successor as they participate in the process to select their next president — as they decide who they trust to both lead the country and nominate the next Supreme Court justice. How often does someone from Ashland, Ky., or Zearing, Iowa, get to have such impact?

We don't think the American people should be robbed of this unique opportunity. Democrats beg to differ. They'd rather the Senate simply push through yet another lifetime appointment by a president on his way out the door. No one disputes the president's authority to *nominate* a successor to Scalia, but as inconvenient as it may be for this president, Article II, Section 2, of the Constitution grants the Senate the power to provide, or as the case may be, *withhold* its consent.²⁰

Ultimately, no Senate action was taken on the Garland nomination before Election Day in 2016.²¹ The Senate instead returned the nomination to the president on January 3, 2017.²² A Congressional Research Service report explains that the Thurmond Rule was the apparent reason for the deferral of Senate action on the Garland nomination:

No hearings were held on the nomination after the Senate majority leader [Mitch McConnell] and chairman of the Senate Judiciary Committee [Chuck Grassley] both took the position that the person to fill the Scalia vacancy be one selected by the next president taking office on January 20, 2017.²³

With respect to the Barrett nomination in 2020, Senate Minority Leader Charles Schumer called out the Republican majority for invoking the Thurmond Rule in 2016 but ignoring it in 2020. In his final remarks on the Senate floor before the Barrett confirmation vote, he stated: "After refusing

a Democratic nominee to the Supreme Court because an election was eight months away, they will confirm a Republican nominee before an election that is eight days away. . . . This hypocritical, 180-degree turn, is spectacularly obvious to the American people.”²⁴

Senate Majority Leader Mitch McConnell responded:

Our colleagues cannot point to a single Senate rule that has been broken—not one. . . . The process comports with the Constitution. We don’t have any doubt, do we, that if the shoe was on the other foot, they would be confirming this nominee? Have no doubt, if the shoe was on the other foot in 2016, they would have done the same thing. Why? Because they had the elections that made those decisions possible.²⁵

As a result of the Senate’s *inaction* on the Garland nomination in 2016 and the Senate’s *action* on the Barrett nomination in 2020, President Trump appointed three Supreme Court Justices during his term in office: Neil Gorsuch in 2017, Kavanaugh in 2018, and Barrett in 2020.²⁶ This is remarkable given that Supreme Court appointments “are usually infrequent, as a vacancy on the nine-member Court may occur only once or twice, or never at all, during a particular president’s years in office.”²⁷

Is There a Thurmond Rule?

The Thurmond Rule is sometimes stated as the principle that “the Senate, after a certain point in a presidential election year, would generally no longer act on judicial nominations, or act only on uncontroversial consensus nominees supported by the Senate leaders of both parties.”²⁸ However, it is not a written or established rule.²⁹ In fact, Senators disagree on what the rule says, when and how it originated, and whether it is a tradition or a practice that is to be followed today.³⁰ One account is that it originated in 1980 when former Senator Strom Thurmond, then ranking minority member of the Senate Judiciary Committee, insisted that judicial vacancies in the last year of a president’s term remain vacant in order to be filled with the nominations of the next president.³¹

The Thurmond Rule has been said to apply to all judicial nominations received by the Senate, not only Supreme Court nominations.³² Nominations to the Supreme Court are of particular significance, however, due to “the enormous judicial power the Supreme Court exercises as the highest appellate court in the federal judiciary.”³³

In 2008, the Congressional Research Service published an extensive report (the “2008 report”) discussing whether the

Senate customarily observes the Thurmond Rule with respect to judicial nominations to federal courts other than the Supreme Court.³⁴ The report concluded that “no bipartisan agreement has ever been reached, or any Judiciary Committee or Senate vote taken, regarding a Thurmond Rule or the practices for which it is said to stand.”³⁵ Rather, the report noted the following pattern during presidential election years:

Senators of the president’s party supported processing as many judicial nominations as possible in the year, and as late in the year as possible, and they looked for examples of earlier presidential election years when relatively large numbers of nominations were processed or when nominations were processed relatively late in the year. On the other hand, Senators of the opposition party cited other presidential election years when relatively few nominations were processed, or when the processing of nominations stopped relatively early in the year, to put a slowdown in the current Congress in a more favorable perspective. Examples of presidential election years, in other words, could be found helpful to either party, with or without reference to the Thurmond Rule.³⁶

This dynamic was in play in 2016, when Republican Senators—then *not of* the president’s party—were successful in their efforts to defer Senate action on the Garland nomination, and in 2020, when Republican Senators—now *of* the president’s party—insisted that the Thurmond Rule applied only when the Senate majority and the president were not of the same party.

The 2008 report also discusses policy reasons to follow or not follow the Thurmond Rule. For example, some Senators might view judicial nominations “as having less legitimacy to the extent that they were regarded as among the last acts of a departing administration.”³⁷ On the other hand, “[s]ome Senators might be inclined to regard their ‘advice and consent’ responsibility under the Appointments Clause of the Constitution as obligating them to consider a president’s judicial nominations whenever possible.”³⁸

With respect to Supreme Court nominations, the only nominations that were considered during presidential election years after 1980, when the Thurmond Rule may have first originated, were in 1988 with the nomination of Anthony Kennedy, in 2016 with the Garland nomination, and in 2020 with the Barrett nomination.³⁹ Kennedy was confirmed before Election Day in 1988 with “unanimous” support (fifty Democrats and forty-seven Republicans in favor and three Senators sitting out).⁴⁰ Because Kennedy had the support of both parties, the

Thurmond Rule might not have applied. Thus, his confirmation in 1988 does not tend to prove or disprove the existence of the Thurmond Rule or the extent to which it is followed.

Was the Senate Majority's Disregard of the Thurmond Rule during the Barrett Nomination a "Blatant Act of Bad Faith"?

Senator Schumer described the Senate majority's disregard of the Thurmond Rule with respect to the Barrett nomination as a "blatant act of bad faith."⁴¹ As described by the Congressional Research Service in the excerpt from the 2008 report above, however, the Thurmond Rule seems to be invoked by Senators of one party or another whenever it is politically convenient to do so.

In the 2020 Barrett nomination, the Senate proceedings and mainstream press appeared to focus on the Senate's apparent flip-flop on the Thurmond Rule (compared to the Garland nomination in 2016) and on Barrett's judicial philosophy and likely rulings on controversial social issues if appointed to the Supreme Court.⁴² This article does not attempt to debate or determine whether the Thurmond Rule was disregarded in bad faith during the Barrett nomination. This article also does not attempt to address Barrett's past rulings or how she would likely rule on social or other issues as a Supreme Court Justice. Those wishing to investigate those questions could begin with the Congressional Research Service reports on Barrett and her likely rulings.⁴³

As of December 9, 2020 (when this paper was originally written), Barrett had participated in one Supreme Court case so far—and hers was the deciding vote. In *Roman Catholic Diocese of Brooklyn v. Andrew M. Cuomo*, two religious organizations petitioned the Supreme Court to temporarily enjoin the Governor of New York from enforcing his Executive Order restricting in-person attendance at certain religious services due to the COVID-19 pandemic.⁴⁴ The petitioners argued that the restrictions violated religious freedoms protected under the Constitution and that the Supreme Court should grant the temporary injunction while the lawsuit proceeded in the lower appellate court. The Court ruled in favor of the religious organizations, with Barrett joining the five-Justice majority and four Justices dissenting. As expected, Barrett sided with the conservatives on the Court, at least on this issue.

It remains to be seen how Barrett will rule in cases dealing with other issues over the long term. In March 2021, the press reported that some conservatives were disappointed that Barrett "aligned herself more with the moderate Chief Justice John G. Roberts and Justice Brett M. Kavanaugh than with more conservative colleagues such as Justices Neil M. Gorsuch, Samuel

A. Alito Jr., and Clarence Thomas."⁴⁵ In May 2021, another news article discussed that Barrett "has aligned most often with Clarence Thomas and Neil Gorsuch in her first months on the bench," but noted that in one death penalty case, "Barrett broke from her colleagues on the right, as she signed an opinion by liberal Justice Elena Kagan that prevented Alabama from executing a condemned man without his pastor present."⁴⁶ In July 2021, Barrett was described as "blaz[ing] her own path during her rookie term on the U.S. Supreme Court," with her record on the Supreme Court at that time suggesting that "she has joined the center of a court with a 6–3 conservative majority rather than its right flank."⁴⁷

What is the Future of the Thurmond Rule?

Will Senators continue to invoke or disregard the Thurmond Rule when politically convenient to do so as they seemed to do in 2016 and 2020? Probably, but we can always hope for a future like the one that was expressed by the late Senator Arlen Specter (R-Pennsylvania) as follows: "We ought to try to move, I suggest, away from positions where we articulate a view when it suits our purpose and then articulate a different view later."⁴⁸

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Shenandoah National Park

The Human Cost of Conservation

Christine Homa

Shenandoah National Park

Located in the Blue Ridge Mountains of Virginia 75 miles from Washington D.C., Shenandoah National Park is a popular tourist destination known for its dense wilderness, abundant wildlife, and breathtaking vistas. From a description on the National Park Foundation's website, it is where the "nation's most special places are just outside your backdoor."¹ It offers 500 miles of trails, four campgrounds, and the scenic roadway Skyline Drive, which winds its way 105 miles through the park.² What people might not know about this idyllic landscape is that the creation of this protected area involved the condemnation of homes and the eventual eviction of local families and inhabitants.

One of the first national parks was Yellowstone National Park, situated in the territories of Montana and Wyoming. Established by an act of Congress on March 1, 1872, it was touted as "a public park or pleasuring-ground for the benefit and enjoyment of the people."³ In the following years, more parks were authorized by the United States, created from the expansive federal lands that made up a large portion of the West. These early national parks were administered by either the Department of the Interior, the War Department, or the Forest Service of the Department of Agriculture. On August 25, 1916, President Woodrow Wilson signed the Organic Act of 1916, establishing the National Park Service, which would control and manage the increasing number of national parks in the new system. At the time the NPS was created, there were 35 national parks and monuments, and all of them were west of the Mississippi River.⁴ When Stephan Mather was appointed director of the National Park Service, he decided the southeastern United States would be the next location. A park located in the Blue Ridge Mountains would provide easier access for the urban populations of the eastern United States.⁵

The Blue Ridge Mountains

In an act of Congress approved February 21, 1925, the Secretary of the Interior was authorized to determine the boundaries in a portion of the Blue Ridge Mountains of Virginia that could be attained and administered as a national park. He was also instructed to receive donations of land or money and "to secure such options as in his judgment may be considered reasonable and just for the purchase of lands within said boundaries."⁶ In order to carry out these instructions, the Secretary of the Interior, Hubert Work, appointed a commission of five members to research the area and create a report on the suggested boundaries of the new park. Over the course of a year, this group known as the Southern Appalachian National Park Committee would explore this area, receive monetary donations, and gather signed options for a sizable amount of land.⁷

During a meeting of the House of Representatives on February 20, 1926, a representative from Virginia, Joseph Whitehead, read from the report made by the committee in which they noted, "The site in the Blue Ridge Mountains selected by the committee is within a three-hour ride of the National Capital and readily accessible to a population of 40,000,000 people."⁸ The report also mentions a "possible skyline drive," describing it as "the single greatest feature."⁹ When reflecting on the National Park System, Whitehead alludes to the fact that so many of the nation's parks are located in the west because the government owns large tracts of land "which could be easily converted into parks."¹⁰ However, in this same meeting, he attests to the local Virginians' excitement and willingness to donate the land needed.

My information is that the Old Dominion is arousing herself rapidly to the realization of the importance of this wonderful opportunity. The valley counties and

northern Virginia have naturally been more active and enthusiastic than other parts of the State, but other sections and localities are becoming more and more interested as the time draws near for the report of the Secretary of the Interior. . . . Committees are being formed in the counties and cities of the several congressional districts throughout the State for the purpose of converting this proposal into an assurance of success.¹¹

These local Virginians would become a significant driving force and many Shenandoah Valley residents welcomed the boost in tourism a park would bring.

In 1924, when the Southern Appalachian National Park Committee had first started gathering information for their report, an additional one thousand locals formed their own group, Shenandoah Valley, Inc., whose slogan was “A National Park Near the Nation’s Capital.”¹² Trying to gain attention and support for the area, the group inaugurated an Apple Blossom Festival in nearby Winchester. Another member, Harry Byrd, invited the committee to visit his Skyland resort in the Blue Ridge mountains. Later, in a show of solidarity, more than five hundred local residents went to Washington, DC, to show their support for the park.¹³ In May 1926, President Calvin Coolidge signed the act that would establish Shenandoah National Park.¹⁴ However, because the bill specified that no federal funding could be used to buy the land, it would be up to Virginia to obtain it. When members in charge of the land acquisition worried that purchasing it from the owners would cause delays, they turned to other methods.¹⁵

In 1926, the Virginia Assembly created the State Commission on Conservation and Development to help with the land acquisition.¹⁶ To give them the power to acquire any land condemned, in 1928 the Virginia Assembly passed the Public Park Condemnation Act and the National Park Act. With the National Park Act, the commission was to “have full power and authority to acquire by gift or transfer property or funds to be so expended” as well as “vested with the power to give, grant, convey and transfer to the United States of America, for national park purposes, all right, title, and interest . . . it may acquire.”¹⁷ With these acts, Virginia now had the authority to take the land needed from those mountain residents.

The Mountain People

Accordingly, those residents living in the proposed boundaries would be the most affected by these acts. They also would become fodder for a massive land grab campaign. Officials began claiming that condemning the land and relocating the

people would be to their benefit. Starting in the early 1920s, reports and accounts began to surface detailing what life was like in the remote hollows of the Blue Ridge Mountains. The locals were not portrayed in a favorable manner. An article from the Evening Star, dated September 3, 1929, described the people living in those parts as undernourished, lazy, and illiterate. When a social worker visited to assess the living conditions, they described the area as worse than a New York City slum. Their social structure was determined to be “broken down” with people living in small isolated groups spread out through the different hollows. Their homes were described as being without basic furniture like chairs or tables and even lacking cutlery. One visitor observed the mountain people as “modern day Robinson Crusoes without his knowledge of civilization.”¹⁸

Corbin Hollow, an area located within the proposed park boundaries, was singled out as having particularly bad conditions with no roads and a lack of transportation creating even more difficulties. One trip was reported when the Director of the National Park Service, accompanied by Secretary of the Interior, Dr. Ray Lyman Wilbur; a social worker, Miriam Sizer; and a physician, visited the hollow in 1932. According to an article, they described instances of intermarrying, a strange, unintelligible “Chaucerian English,” and a “lack of soap or basic hygiene.”¹⁹ While visiting, a plan was organized by federal and state officials to help relocate the people of Corbin Hollow. As they discussed the plans for relocation, Secretary Wilbur was quoted as saying, “No matter what is done with these people, they will be better off. They have nothing to lose.”²⁰ George Freeman Pollock, the owner of the nearby Skyland Resort, employed many of the locals at his establishment and would sometimes send doctors to make house calls. When reflecting on the residents of the “hollows,” Pollock commented on their simple way of life and remarked they would be “unequipped to make adjustments when the time comes for their removal from the park area.”²¹ Later accounts would dispute these allegations of extreme poverty and blame the owner of the Skyland resort, Pollock, for exaggerating his claims and manipulating authorities.²²

Displacement

From the creation of the State Commission of Conservation and Development in 1926, it took Virginia more than nine years to acquire and clear the land for the park. Starting in 1929, over 141,000 acres were condemned and purchased without appeal. Any homes or structures were often demolished. Over the course of the 1930s, large swaths and sections of private land were either purchased or, in some cases, condemned under the new laws. This land was then presented to the Federal

Government by the Commonwealth of Virginia. In this way, Shenandoah National Park was slowly pieced together from more than three thousand individual tracts of land. With this land, about five hundred families were displaced from their homes.²³

In July of 1931, court proceedings had begun in Albemarle County to condemn several parcels of land under the 1928 Public Park Condemnation Act. One of those parcels belonged to Robert Via, a wealthy landowner and resident of Pennsylvania whose land was appraised at \$2,320 and set to be taken. On November 10, 1934, after his land was condemned and he was to be evicted, Via filed a suit against the State Commission on Conservation and Development of the State of Virginia. In his suit he claimed that the Acts of the Virginia Legislature of March 22 and 23, 1928—The National Park Act and the Public Park Condemnation Act—were unconstitutional, depriving his right to due process, and therefore in violation of the Fourteenth Amendment.²⁴ By this time 130 landholders of 19,000 acres had challenged the appraisals, causing the process of obtaining land titles to come to a standstill for the Commonwealth.²⁵ This not only led to frustration for the park officials but for the landowners who were still hoping to remain on their properties.

By 1934 the National Park Service had enacted a “total removal” policy in order to clear out the last of the residents.²⁶ It was during these years, 1934 to 1938, that the families without the means to relocate got left behind while the park was developed around them. Some of these residents either didn’t have an alternate home to go to or needed assistance. In some cases, the residents no longer had the deeds for their land and were waiting in limbo, hoping for a miracle.²⁷ The park’s superintendent at the time, James Lassiter, was put in charge of managing this group of residents and all the issues they and park officials were dealing with. In letters from many of these local inhabitants, there is a surprising lack of resistance to the park officials. Most were often asking for assistance or more information.²⁸ In one letter sent by missionary Wiley R. Mason, he requests he be able to remove dead and down wood from the property. This was a question often asked because rules in a national park are strict when dealing with cutting or removing wood; one of the many changes that residents had to endure when their private land became federal land.²⁹ Many of the letters asked if they could take their building materials with them so they wouldn’t be destroyed by the Civilian Conservation Corps. Others asked if they would be able to harvest crops before leaving. All of these questions hinted at the feeling of uncertainty as to what the future would bring.³⁰

Shenandoah National Park is Established

Shenandoah National Park was formally established December 26, 1935, with just over the minimum amount of land required by Congress. The park comprised a narrow and jagged strip of land with a boundary that ran unevenly along a mountain ridge. The final product was not what the National Park Service had envisioned.³¹ In a dedication ceremony on July 3, 1936, President Franklin Delano Roosevelt spoke about the need for recreational areas and parkways and the importance of a national park system. He noted that the system was established not only for preservation and conservation but for creating useful work during the difficult times of the Great Depression.

“The creation of this Park is one part of our great program of husbandry—the joint husbandry of human resources and natural resources. In every part of the country, local and State and Federal authorities are engaged in preserving and developing our heritage of natural resources; and in this work they are also conserving our priceless heritage of human values by giving to hundreds of thousands of men the opportunity of making an honest living.”³²

After the opening and dedication, the park continued to acquire more lands to try and fill out the originally intended boundaries. In August 1937, the United States assumed police jurisdiction over the national park and an act was established directing the Secretary of the Interior to send notification if any other lands were ceded to the United States.³³ Shenandoah National Park was still claiming land more than a decade after the act establishing it was passed.

Remembering the Displaced

Nowadays, groups like Children of the Shenandoah and The Blue Ridge Heritage Project are working to educate the public on Shenandoah National Park and how it was pieced together from the land of local inhabitants. Created by descendant Lisa Custalow, Children of the Shenandoah is a committee dedicated to sharing news and stories related to Shenandoah National Park’s history. They also work to bring awareness to the history of the mountain people and their way of life. On the group’s Facebook page, Custalow describes members as “former Park residents, descendants, and other like-minded individuals who support the preservation of human history inside Shenandoah National Park.”³⁴

This passion for preservation isn’t just relegated to sharing stories though. A lot of time and energy is put towards holding the park accountable for their less favorable interpretations of events in their exhibitions and displays. Anger at the “whitewashing” of the park’s history has led to numerous complaints and accusations of incorrectly portraying the mountain

families. One such incident arose over a welcome video made by the National Park Service called *The Gift*, which is shown to two million visitors each year at Big Meadows visitor center.³⁵ In the movie, the displaced residents are generally shown in a demeaning manner, rustic and poor. Even the title itself seems to suggest that the park was given willingly as a “gift.” From the movie, lines reference the evictions but do so lightly without any in-depth explanation.³⁶

The Blue Ridge Heritage Project is also shedding light on the park’s less than ideal history. Established in July of 2013, the nonprofit organization aims to bring awareness to the story of the displaced through memorials. From their website, the mission is “to honor and memorialize the families displaced from the Blue Ridge Mountains when Shenandoah National Park was established in the 1930s.”³⁷ Their goal is to erect memorials in each of the eight counties that had land taken and used for the park: Albemarle, Augusta, Greene, Madison, Page, Rappahannock, Rockingham, and Warren. As part of the memorial: a plaque listing the surnames of all the families and landowners evicted from the land along with a monument. One monument was chosen to be used in all eight locations; a single stone chimney, often all that remained of the condemned homes so many years ago.³⁸

With the help of government documents, letters, and thorough research, the complex history of Shenandoah National Park can be uncovered and remembered. Today, those interested in the histories of places like national parks can find those stories, and it is my hope that this paper provides a window into the wide variety of information waiting to be discovered.

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Is Open Access Equal Access?

PACER User Fees and Public Access to Court Information

John L. Moreland

Our country has a long history of striving for openness and transparency in government processes. In 1978, the United States Supreme Court held, “It is clear that the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.”¹ Long before America’s high court recognized this common law principle, court records were historically accessible for inspection by lawyers, journalists, land title companies, credit agencies, academics, and members of the general public.² These individuals were also permitted to take notes as a part of their right to inspect court documents.³ Having free access to copies (i.e. reproductions), however, was a completely different matter. Unlike the right of free inspection, the right of free copies did not exist, and copies of court records could be extremely expensive to citizens seeking the information. For example, in 1853, a copy of a court document was ten cents a page, a steep price for the mid-nineteenth century.⁴ One could even make an argument that the right to simply inspect court documents was not actually “free” for many, due to the associated travel costs of physically going to the courthouse in an era before mass transportation and the internet.

Thus was the state of public access to court documents for several generations. However, with the advent of computers and the internet came new implications for information dissemination to the public and the judiciary. Today, US federal court documents are publicly accessible through PACER (Public Access to Court Electronic Records), the online access portal that “provides electronic public access to federal court records. PACER provides the public with instantaneous access to more than 1 billion documents filed at all federal courts.”⁵ These publicly available court records include dockets, court opinions, searches of case-related information, information about the status of a case, and audio files of court hearings.⁶ Despite the free accessibility of PACER to the public, registered users are charged ten cents per page.⁷ Another barrier is that one has to register to even search PACER’s records.⁸

In 2010, Adrienne A. De Witt, then an MLS candidate at Indiana University School of Library and Information Science, published an article for DttP: Documents to the People in which she introduced PACER and its access fees, gave a brief explanation as to why the controversy is relevant to government documents librarians, and considered potential privacy issues surrounding the topic.⁹ While questioning whether PACER’s fee-based system constitutes free public access to court documents, De Witt argued that there needs to be a balance between “the right to full and open electronic access and the right to protect personal information” but “perhaps the paywall is [the] most effective means of protecting private information.”¹⁰

The purpose of this paper is to build upon De Witt’s 2010 article and consider the litigation and legislative efforts that have since been made to reduce or even eliminate PACER’s fee policies. It will trace the history of the US government’s Electronic Public Access program and the creation of PACER, the legislative history of PACER’s fees, the Electronic Court Records Reform Act of 2018, and the Electronic Court Records Reform Act of 2019, both designed to eliminate PACER’s fees, and various class action suits filed against the Administrative Office of US Courts. This paper strikes at the heart of our country’s long history of striving for permanent public access to government information by examining how courts and lawmakers have defined, and often limited, what “public access” really means in the context of disseminating court information to the public.

Electronic public access to court documents began with the Electronic Public Access (EPA) program in September of 1988. The Judicial Conference of the United States, which oversees the administration of judicial courts, “authorized ‘an experimental program of electronic access for the public to court information in one or more district, bankruptcy, or appellate courts in which the experiment can be conducted at nominal cost.’ A dozen courts signed up for the pilot Public Access

to Court Electronic Records (PACER) system.”¹¹ In short, the intent of the program was to allow anyone with internet access to view court case documents.

A couple of years later, the Judicial Appropriations Act of 1991 provided funds to the federal judiciary for the purposes of establishing a system that provided “access to information available through automatic data processing equipment” and instructed the Director of the Administrative Office of the United States Courts to “prescribe a schedule of reasonable fees for electronic access” to court documents.¹² Congress did not, however, appropriate any revenue for the start-up costs associated with this project. What resulted was a dial-in bulletin board service that charged one dollar a minute for public access to court documents.¹³ In comparison to the ten cents per page of the nineteenth century, not much progress had been made and financial barriers to full and open public access to court records still exist.

The Electronic Public Access program began in a select few federal courts but as the idea caught on, more and more courts started to provide public access to their records. In a 1993 report, the House Appropriations Committee, urged the judiciary to “equip all courts, as rapidly as is feasible, with the capability for making such records available electronically and for collecting fees for doing so.”¹⁴ As a result, by the mid-1990s, approximately 180 federal courts offered fee-based public access to their court records.¹⁵ However, by 1995, the fees had decreased to 75 cents per minute, and then to 60 cents per minute in 1996.¹⁶ While attorneys could have passed this cost on to their clients, *pro se* litigants may not have been able to afford these rates.

Because users were required to find case records on a jurisdiction-by-jurisdiction basis, and many non-lawyers did not necessarily have this information, searching the system was extremely difficult. In response, the Administrative Office of the United States Courts went to work in 1995 to construct a national index for records housed in individual courthouses. In 1997, the US Party/Case Index was completed and launched online.¹⁷ PACER finally went online in 1998, along with the new Case Management/Electronic Case Files (CM/ECF) system. This new filing system expanded the types of publicly available court records from simply docket sheets to petitions, motions, orders and other documents.¹⁸ The Judicial Conference set an access fee of seven cents per page for the new online version of PACER.¹⁹ While this rate seems reasonable when compared to the former ten cents per page, the length and number of documents in any given court case had increased over the previous decades and seven cents was likely cost prohibitive for many people.

With this explosion of internet access came unprecedented public access to government documents. Both the public’s expectation that official information would be available online and the judiciary’s long-standing policy of providing open access to its records led to a rapid growth in the use of PACER. However, this increase in users also led to an increase in complaints over PACER’s fees. In 2001, to quell dissatisfaction among the public, the Judicial Conference passed a provision stating, “attorneys of record and parties in the case shall receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer.”²⁰ Over the next two years, the Judicial Conference added a 30-page cap on the seven-cents-per-page fee. This cap was eventually expanded in 2003 to include all case documents including dockets sheets and case-specific reports but excluding transcripts.²¹

These efforts by the judiciary did not placate PACER users, and more disaffection by the public grew. Finally, in 2002, Congress passed the E-Government Act which primarily concerned non-judicial agencies. Section 205 of the act, however, established the requirements for electronic dissemination of federal court records. It mandated court websites containing courthouse location and contact information, local court rules, docket information, and “access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.”²² Congress further declared that “each court shall make any document that is filed electronically publicly available online.”²³ Notably, the act did not eliminate PACER’s fee system, but rather eliminated the policy that access to court documents be conditioned on fees by setting those fees “only to the extent necessary.”²⁴ The Judicial Conference took one step further in 2003 and issued fee exemptions for “indigents, bankruptcy case trustees, individual researchers associated with educational institutions, courts, section 501(c)(3) not-for-profit organizations and pro bono ADR neutrals.”²⁵ Two years later, however, the PACER fees were increased from seven cents per page to eight cents per page.²⁶

In 2006, the American Association of Law Libraries (AALL) drafted a document titled “Resolution on No-Fee FDLP Access to PACER” imploring the GPO to work with the Administrative Office of US Courts in providing free access to PACER for users of federal depository libraries.²⁷ This led to a pilot program offering free access to PACER in seventeen depository libraries starting in 2007.²⁸ Unfortunately, the pilot program was terminated in September of 2008 after activist Aaron Swartz, working with Public.Resource.org, downloaded about 20 million PACER documents from various FDLP libraries and made them publicly available for free online.²⁹

Since De Witt's 2010 article, PACER has gone through additional changes regarding fees, often not in the interest of better accessibility. In 2011, the Judicial Conference authorized an increase in the PACER fee from eight cents per page to its current rate of ten cents per page.³⁰ Yet, in the proceeding years, activists and lawmakers would continue to lead the charge for tangible and permanent change in permanent public access to court records.

PACER Fees and Forces of Change Litigation Over Fees

Multiple legal challenges have been made regarding various aspects of PACER's user fees. A 2015 class action lawsuit in the US Court of Federal Claims alleged a systematic error in PACER's programming that overcharged users by billing by bytes rather than page number.³¹ As of March 9, 2021, the case was still pending and awaiting trial.³² A 2016 class action lawsuit in the US District Court of the District of Columbia alleged that the access fees were being used to purchase audio and video equipment for courtrooms instead of maintaining the PACER system in contravention of the E-Government Act of 2002.³³ The trial court indeed found a misappropriation of funds and held that this was not a permissible use of PACER fees.³⁴ The judgement was subsequently affirmed by the Court of Appeals.³⁵

More pertinent to the actual elimination of PACER fees was a 2016 class action lawsuit filed in the US District Court for the Southern District of Florida claiming that PACER failed to provide its users with free access to court opinions in violation of PACER's policies and the E-Government Act of 2002.³⁶ In September 2017, Judge Robert N. Scola, Jr. dismissed the case stating, "The E-Government Act neither mandates free access to judicial opinions nor creates a remedy for the return of monies purportedly paid to access such documents. The Court does not believe that Congress intended the term "access" to mean "free access" with respect to judicial opinions."³⁷ The Plaintiffs appealed the decision of the trial court, but the Court of Appeals for the Federal Circuit affirmed the dismissal on June 15, 2020.³⁸

Proposed Legislation

The Electronic Court Records Reform Act of 2018 was introduced by Congressman Doug Collins of Georgia on September 6, 2018. The bill primarily directed the Administrative Office of the US Courts to consolidate the Case Management/Electronic Case Files system into a singular system, but it also established certain requirements for PACER, namely that its documents be made available to the public and case parties free of charge.³⁹ It

was referred to the House Committee on the Judiciary where it was never passed.⁴⁰

In February of the following year, Congressman Collins once more attempted to force the Judicial Conference to provide court documents to the public for free by introducing H.R. 1164, the Electronic Court Records Reform Act of 2019.⁴¹ It was again referred to the House Committee on the Judiciary but never enacted.⁴² A companion bill, S. 2064, was introduced in the Senate by Robert J. Portman of Ohio on July 9, 2019.⁴³ It was referred to the Senate Committee on the Judiciary and likewise was never enacted.⁴⁴ In a letter dated December 2, 2019 to members of the House Committee on Appropriations, the Judicial Conference expressed its opposition to H.R. 1164 and S. 2064. In particular, the Judicial Conference opposed the elimination of the Judiciary's statutory authority to charge user fees for PACER without providing an alternative funding mechanism to finance the system.⁴⁵

The most recent legislative effort to eliminate the PACER fees was the Open Courts Act of 2020. Introduced as H.R. 8235 by Congressman Henry Johnson of Georgia on September 14, 2020, this proposed law required the Administrative Office of the US Courts to establish a single electronic system for all public court records that would be freely available to the public, thereby eliminating the pay wall and user registration requirement currently established by PACER.⁴⁶ As a mechanism for eliminating the PACER paywall, H.R. 8235 allowed the Judicial Conference to annually collect from federal agencies an amount equal to that which those agencies paid in PACER fees in 2018, adjusted for inflation.⁴⁷

The Judicial Conference submitted a letter dated December 7, 2020 to the House Majority Leader, Steny Hoyer, once again objecting to the legislative attempt to eliminate PACER's fee system, as it would in the words of the Judicial Conference, "force the Judiciary to slash funding for staff and other critical operations. Moreover, the Judiciary's backbone case management system, and therefore the Judiciary itself, could grind to a halt."⁴⁸ The Judicial Conference's concerns can be seen as either disingenuous or uninformed. A 2019 CRS Report titled "Economics of Federal User Fees," stated, "federal courts collect more in PACER fees than is needed to maintain the underlying computer system, with excess fees being earmarked for other court improvements."⁴⁹

On December 8, 2020, during floor debate on H.R. 8235, Congressman Collins argued that wealth should not prohibit individuals from accessing the courts and that compelling the public to pay for access to court records constituted an unnecessary and unconscionable burden on those who are exercising their constitutional rights. Collins declared, "Transparency

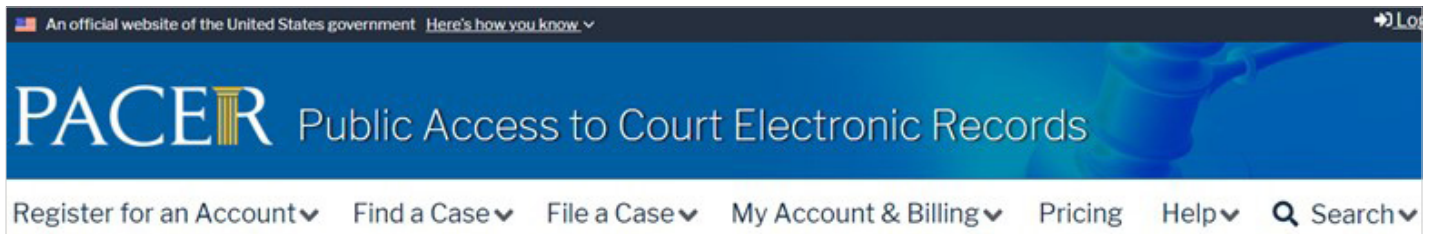


Figure 1. ACER homepage menu, <https://pacer.uscourts.gov/>

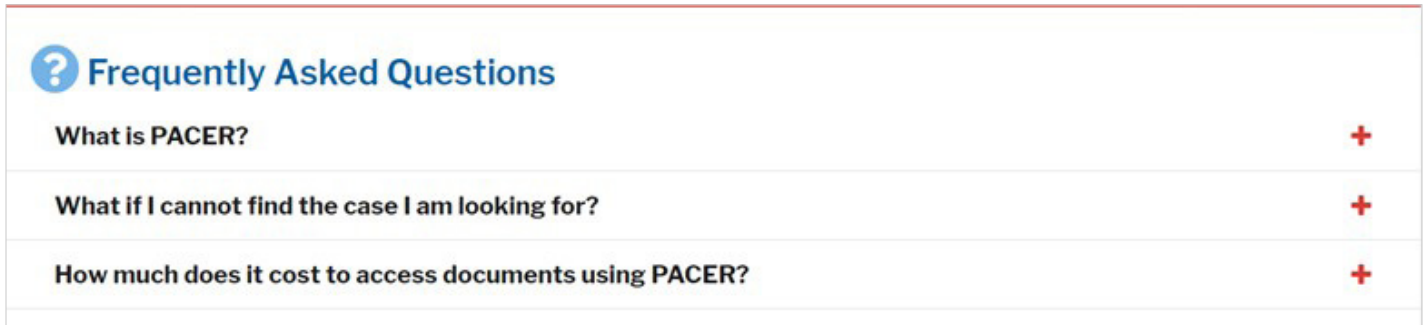


Figure 2. PACER FAQs, <https://pacer.uscourts.gov/>

and accessibility should be our goal, not profits and limited access. Court records should be as easy to access as legislation is on Congress.gov. Convenient access to public records in public courthouses shouldn't be a privilege for the few who can afford it."⁵⁰ Co-sponsor Congressman Armstrong took the floor next and noted, "The reforms contained in the Open Courts Act are not new ideas. Advocates of judicial transparency have long supported efforts to make court records free to the public. The Open Courts Act makes long overdue, common sense reforms."⁵¹

Rising in opposition to the bill, Congressman Andy Barr from Kentucky echoed the concerns of the Judicial Conference over the bill's alleged budgetary impact. Citing the December 7 letter from the Judicial Conference, Barr stated, "This bill has a \$2 billion price tag, and the entire budget of the Federal judiciary is only \$8 billion, annually."⁵² In rebuttal, Congressman Johnson called the \$2 billion figure preposterous, especially in light of the Congressional Budget Office's estimate of the cost of the Open Courts Act, which came to \$46 million over 10 years.⁵³ "That is a drastic difference than a \$2 billion cost estimate submitted at the last minute to confuse and try to derail passage of this very common sense, necessary legislation that brings judicial records into the 21st century," declared Johnson.⁵⁴ After 40 minutes of debate, H.R. 8235 was passed as amended by voice vote.⁵⁵ On December 9, 2020, the bill was sent to the Senate, read twice, and referred to the Committee on the Judiciary. It was never enacted.

Recent Developments

On June 26, 2020, the Administrative Office of the US Courts announced it would be launching a redesigned website for PACER. According to the news release, "The new PACER website includes features that will make it easier for users to learn how to navigate the system, find what they are looking for more quickly, and understand the fee structure for downloading records."⁵⁶

While screenshots of the old PACER website are difficult to locate online, the author has experience working with the pre-2020 PACER website and can verify that there was nothing obvious on the homepage outlining access fees. The redesigned website, however, makes certain that users have access to the fee system. (See figure 1.)

At the top of PACER's new homepage, users immediately have access to not only pricing, but account management and billing, two topics that were not readily accessible on the pre-2020 PACER website.

Towards the middle of the homepage are excerpts and links to the FAQ page. One such FAQ that was prominently placed on the homepage was, "How much does it cost to access documents using PACER?" It appears from all the references and links to PACER's access fee system, the Administrative Office wanted to make it abundantly clear to the public that they would indeed be charged for accessing court documents. (See figure 2.)

Clicking on the "Pricing" tab on the homepage menu takes users to an entire page on PACER pricing and how fees work. The layout on the page is very easy to read and contains

Cost for Accessing PACER

\$0.10 per page:

THE DIFFERENT TYPES OF PAGES

Document, such as a docket, motion, order, judgement or brief in a case. **You won't be charged more than \$3 per document.**

PACER Search Results – Anytime a search is performed you are charged a fee based on the number of pages generated in the search, even if the search displays “no matches found.” There is no maximum fee for these searches.

Reports that are not case-specific, such as the cases report. There is no maximum fee for these reports.

Transcript of court proceedings are added to PACER 90 days after they are produced. There is no maximum fee for transcripts in PACER. [Learn more.](#)

Figure 3. PACER rates, <https://pacer.uscourts.gov/pacer-pricing-how-fees-work>

several individual information boxes that break up the reading for users. One of the first boxes is titled, “Cost for Accessing PACER.” It makes it very clear as to the current ten cents per page fee and breaks down the different types of pages that are and are not included under this rate. It is interesting to note that users are explicitly told that there is a \$3 cap on document fees. (See figure 3.)

The “Pricing” page also informs users that if they spend \$30 or less on court records in a quarter the fees are waived. Additionally, users are advised that PACER access is free if you are a party in a case, you review court documents at a physical courthouse location, you were granted a fee exemption, or you are requesting court opinions. Links to fee exemptions are also provided.⁵⁷ Another aspect to the new generation of PACER that was not present on the old website, is an information box on the “Pricing” page titled, “Tips for Limiting Fees.” (See figure 4.)

Dissemination of Information/Access Issues

The recent legislative and litigation efforts over PACER’s access fees tell a story with two opposing viewpoints. On one hand, members of the public expect and demand access to federal court documents free of charge. On the other hand, while the judiciary recognizes the users’ constitutional right to open and permanent public access to these documents, it nonetheless maintains that the system which provides such access cannot be financially maintained without charging fees. This controversy

TIPS FOR LIMITING FEES	
Search by Case Number instead of Party Name	+
Use Docket Report Filters	+
Search by a Specific Court vs. Using the PACER Case Locator	+

Figure 4. Reducing fees, <https://pacer.uscourts.gov/pacer-pricing-how-fees-work>

is at the heart of permanent public access to government information, and in this context, court records.

Perhaps the biggest underlying dissemination issue here is that the judiciary did not establish PACER to provide the public better access to court records. It was created for the administrative benefit of judges, court staff, and attorneys.⁵⁸ Yet, the principle remains—the majority of court documents are a matter of public record and should be accessible to the public. Anytime a paywall or any other barrier, no matter how insignificant it may seem to the information purveyors, calls into question the extent to which the documents are, in reality, publicly accessible.

Opponents of this financial barrier have taken up the mantle of disseminating federal court records for free when the judiciary refused to do so. Special interest groups such as RECAP (PACER spelled backwards) have led an effort to make PACER documents available free online. RECAP is a software program which allows users to search for free copies of documents found in PACER. Activist Aaron Swartz was investigated by the federal government for downloading activities connected to RECAP. Swartz had committed no crime, the government did not file charges, and the FBI eventually dropped the investigation. On January 11, 2013, Swartz committed suicide.⁵⁹

Conducting the research for this paper brought to the forefront the many issues surrounding PACER, its access fees, and aspects of permanent public access to federal court documents. The irony in relying on PACER to obtain court documents for the purposes of discussing the cases outlined above is not lost on the author. Not only did the fees present a challenge in gaining access to these records but being forced to create an account did as well. Like many public users of PACER, I eventually turned to public interest websites, such as *Court Listener*, which includes RECAP archived court documents.

Conclusion

It has been 43 years since the US Supreme Court explicitly stated that the public has a general right to have open access to court documents. Yet, this principle of law was born in a pre-internet world in which access to such documents at the click of a button could not have been imagined. As we all know, aspects

of technological advancement come with both great benefits and daunting challenges. PACER is one such advancement. While it has dramatically expanded public access to court documents by removing the physical barriers of the courthouse, it no less is obstructive. Herein lies the question—Does open access mean equal access?

Even though ten cents per page is a comparatively small amount of money, having an access fee at all can have detrimental and deterring effects on certain users; particularly those who may not be computer savvy and may not know what constitutes a page, thereby inadvertently running up their PACER bill. This calls for not only continuing education and awareness among the public, but also additional legislative and litigation efforts to eliminate the PACER access fees and find alternative methods of funding. Moreover, the GPO program providing free access to PACER documents to FDLP libraries should be reinstated. When it comes to court documents, equal financial access must be a part of open access. Without it, effective public awareness, criticism of, and confidence in, the judicial process will be compromised.

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Wildfires and the Dissemination of Information in Oregon

Bruce Wardlow and Alice Perez Ververa

Authors' note: This article was originally written on December 10, 2020, and some of the information, specifically about congressional legislation, may be out of date.

Wildfires have the reputation for being fast and unpredictable, government documents tend to be the opposite. So, what happens when the two meet? The 2020 Oregon wildfire season was one of the most destructive in the state's history. We examined the 2020 Oregon wildfires and relief, specifically the Mount Hood fires and witnessed how the world of government publications responded. Wildfires are also very labor-intensive natural disasters to manage in a normal year, and 2020 was even worse. Due to labor constraints of the pandemic, the Oregon 2020 wildfire season was particularly bad. A wide array of federal government organizations quickly got involved, ranging from the IRS to the USDA, as well as state and local agencies. We also learned some specific senators and representatives were quick to respond, although the House and the Senate, as well as the president, were much slower to respond. This is the story of a collection of four distinct fires just outside of Portland, Oregon, that grew to become one large fire control effort, and the governmental responses to this natural disaster. The four wildfires in Oregon we will focus on are the Riverside Fire, Beachie Creek Fire, Lionshead Fire, and P515 Fire.

In the past hundred years, while the scale and devastation of wildfires have grown, the number of casualties from these conflagrations has dropped dramatically, from the thousands in the early 1900s, to less than a hundred in recent years. Much of this has to do with the flow of information, and the active role that the government takes in propagating fire information. In this article we will examine the footprint in the world of government publications that is created by these fire events. Specifically, we will examine the dissemination of information in Oregon in the wake of the 2020 wildfires, using the Riverside Fire, Beachie Creek Fire, Lionshead Fire, and P515 Fire as our representative sample of wildfires.

The response was examined on three different levels: first looking at the federal level, including the responses of various federal

agencies, then the president himself, and then at Congress. The state level response was examined next, starting with the various State-level agencies, then the Governor's Office, State Legislature, and ultimately the Oregon State Department of Justice. The final examination was the information response of the local County level.

A unique situation for wildfires in the western states of Oregon, Washington, and California occurred in 2020. In that year's fire season, more than five million acres burned—an area roughly the size of New Jersey. Much of the intensity comes from factors including climate change, forest management, and labor limitations due to the COVID-19 Pandemic. The Riverside Fire, Beachie Creek Fire, Lionshead Fire, and P515 Fire were four fires that were independently ignited; however they grew into a single, concentrated firefighting effort in the Mount Hood National Forest and surrounding area near Portland.⁵

The P515, Lionshead, and Beachie Creek fires were ignited on the night of August 16, by a series of lightning strikes. Among the three initial fires the P515 fire grew the fastest. Not long after, however, the Lionshead Fire's spread accelerated until it burned into the P515 Fire. During this time, the Beachie Creek Fire sat, growing very slowly until September 7th, when a straight-line wind event increased the intensity of the flames, causing a rapid spreading of all of the fires in the area. On the same night as the wind event, the Riverside Fire ignited through unspecified human causes. Over the next two weeks the fires grew almost unchecked, with the Beachie Creek Fire burning into the Lionshead Fire. The Riverside Fire was less than a mile from the Beachie Creek Fire when rain events finally stalled out the blaze and allowed mop-up operations to begin.⁹ At the height of the blaze 10 percent of the population of Oregon, upwards of 500,000 people, were either evacuated or under some sort of evacuation warning. Fire operations were projected to cease on October 31 for all fires.⁸

Part 1: The Federal Response

The federal response was well-represented by the executive agencies and the interagency response groups, however the presidential response, as commonly noted by news media, was scarce. Congress also started off very slowly with little evidence of the fires in the *Congressional Record*, however references to the fires are growing in frequency, and the full response will not be known until after the writing of this article. There were no records of the federal courts being involved in response to the Oregon wildfires from 2020 as of the writing of this article, and given that it may be years before the litigation is resolved, this is to be expected.

Executive Agencies

The executive agencies, on the other hand, were fastest to provide a singular source of information for the public. They accomplished this through the use of the InciWeb page of the National Wildfire Coordinating Group (NWCG).⁹ The NWCG is an interagency cooperation, originally between the US Department of Agriculture (USDA) and the Department of the Interior, to create a standards organization for wildland fire-fighting.²⁶ It has expanded to include many more agencies, so it is a logical choice to host interagency information. InciWeb performs a minimum of information synthesis, instead operating more like a social media page for wildland fires. It includes news, announcements, maps, photos, and is constantly changing for the life of specific fires. Unfortunately, a fire needs to be considered a large incident to warrant its own InciWeb page. The P-515 and Riverside fires received InciWeb pages within days of their ignition, whereas Lionshead and Beachie Creek, on the other hand, had 20 and 23 days, respectively, between ignition of the fires and the creation of their InciWeb pages. InciWeb linked to multiple different agencies on multiple levels. They included both links to specific information, maps, and press releases, as well as to the public affairs sites of the fires for each of the agencies. Agencies included the United States Department of Agriculture (USDA), the United States Forest Service (USFS), the Bureau of Land Management (BLM), the National Park Service (NPS), the Federal Aviation Administration (FAA), the Federal Emergency Management Agency (FEMA), the Internal Revenue Service, (IRS), the Oregon Department of Transportation, the Oregon Department of Public Health, and the Oregon Department of Environmental Quality, as well as many of the County Sheriffs' offices, such as Lynn County, Clamack County, and Marion County. Overall, if you knew about InciWeb, or were linked to InciWeb from

one of the other associated agencies, there was plenty of up-to-date information during the active fire suppression period.⁹

Presidential Response

The presidential response, while not immediate to the fires themselves, was immediate to the Oregon's Governor's request for aid. On September 10, the president declared a state of emergency for Oregon¹⁰ at the Governor's request. The Oregon Gubernatorial office issued a press release for a Presidential Disaster Declaration on September 15, the same day as the presidential release.¹¹ After that, however, the presidential record stops mentioning the Oregon Wildfires, although many controversial comments are made by the president in regard to the California Wildfires.

Congressional Response

Congress, in the beginning, was very slow to take any meaningful action in response to the Oregon wildfires. As early as September 16 there were many remarks made thanking and honoring firefighters and first responders, with the Senate even going as far as to passing *S.Res.766—A resolution honoring the individuals fighting and the individuals who have fallen responding to wildland fires during the ongoing 2020 wildfire season*.¹² This resolution acknowledged the first responders who participated in the fire suppression effort. Additionally, the resolution honored those who died, but not by name, and the various countries and agencies they partnered with. This resolution lacks an actionable agenda. These remarks constitute the first six of the fourteen entries in the *Congressional Record* that mention the Oregon wildfires as of the writing of this article. One exception, however, were some personal remarks from Congressman Peter DeFazio of Oregon, who was absent from Congress for a period due to fires in his district. He commented on what his voting decisions would have been up until Sept. 23, 2020.³

The next entries form a sort of transition, where the Oregon and other western wildfires were mentioned in requests for additional time to prepare remarks,³⁰ or extensions of remarks.²⁹ The first of the actionable bills that saw action directly in response to the fires occurred on November 17, approximately a month after the fires started burning, and about two weeks after the cessation of fire suppression efforts. These were the *HOUSING SURVIVORS OF MAJOR DISASTERS ACT OF 2020*,¹³ the *FEMA ASSISTANCE RELIEF ACT OF 2020*,¹⁴ and the *RELIABLE EMERGENCY ALERT DISTRIBUTION IMPROVEMENT ACT OF 2020*.¹⁵ Another two bills related to the fires were introduced into Congress, however, these have not appeared on congress.gov as of the writing of this article.

Part II: State Response

In comparison with the Federal information response to these wildfires, the State-level response focused on providing people with resources to support in a more general manner. Their primary wildfire information center, the Oregon Wildfire Response & Recovery website (wildfire.oregon.gov), focused only on current information, and did not differentiate between the fires. The Oregon Governor was outspoken and active on the subject of wildfires; however the legislature was not. On the other hand, the Oregon Department of Justice produced wildfire-related material.

State Organizational Responses

The one-stop shop for the state-level organizations is the Oregon Wildfire Response & Recovery website. Oregon Wildfire Response & Recovery is an interesting comparison to InciWeb, as InciWeb preserves links and press releases, whereas Oregon Wildfire Response & Recovery's links are removed without any way to find them again later. When examining the site through the Internet Archive's Wayback Machine for September 15, updated information from September 14 and 15 is available, however when reexamined on December 6, 2020, an entirely different set of links could be found.¹⁷ In fact, much of the site looks very different, and only some of the links previously available were still there. Additionally, wildfire.oregon.gov does not specify different information for different wildfires, instead serves as a state-wide catch-all for information. Interestingly, I was unable to find any links to the InciWeb page for any of the fires, and the only link to federal agencies were for FEMA. wildfire.oregon.gov links to many other Oregon state agencies, such as the Oregon Department of Transportation, the Oregon Office of Emergency Management, the Oregon Water Resources Department, Business Oregon, the Oregon Department of Forestry, the Oregon Health Authority, and the Oregon Department of Justice, as well as the American Red Cross, and FEMA.¹⁶

Gubernatorial Response

The Oregon Governor has been very outspoken about the wildfires. There were 29 press releases from the Governor's Office related to the wildfires, however only a handful were about our "representative" fires, most notably *Governor Kate Brown Invokes the Emergency Conflagration Act in Response to Beachie Creek*,¹⁸ *Lionshead*, and *Holiday Farm Fire*, *Governor Kate Brown Requests Presidential Disaster Declaration for the Ongoing Wildfires in Oregon*,¹⁹ and *Governor Kate Brown Visits Clackamas County, Sees Devastation Caused by Wildfires*.²⁰

State Legislative Response

The Oregon State Legislature's search tool is problematic, as it does not allow you any ability to sort or filter by date; because of this, the information from Oregon's State Legislature may be incomplete or incorrect. As the Oregon State Legislature is typically in session in the first half of the calendar year, there was no impact in the legislative record from these wildfires at the time this article was written, however there will likely be a significant impact the next time that the State Legislature is in session. There is one misleading entry however, as the Governor's Office released a press release titled *Governor Kate Brown Issues Vetoes to Preserve Over \$65 Million for Wildfire Response, Maintain Balanced Budget*.²¹ While this is a fire-related entry during the period of our fires, it refers to a HB4304, a bill that was entered and acted upon during the Second Special Session from the period of August 8 through 13, days before the fires started, and does not actually reference these fires.²⁷

State Judicial Response

Interestingly, the Oregon Department of Justice had four articles referencing the wildfires. Three were from the Consumer Protection Division and warned against wildfire-related scams while the fourth was from the Child Support Division providing a point of contact for those whose ability to make or receive child support has been impaired by the loss of home or work as a result of the wildfires. These ranged in date from September 15 to September 28, although two have no announcement dates.^{22,23}

Local Level Response

The local level contained the greatest shift in information sources. While the fires were actively burning, the primary source for fire information was on dedicated sections of the local sheriff's office's websites.²⁴ This information focused primarily on road closures, evacuation information, and various ways to contact the local authorities based on your needs. After fire operations ceased the go-to source for information became a dedicated space on the county website.²⁵ Unfortunately as neither of these sites identify when new things are added, it is difficult to know when this shift occurred. Much of the information on the county site, however, are links to information at both the state and federal level.

Conclusion

Today, the Oregon wildfires are still considered an active disaster according to some of the government and federal agencies we've researched. Government publications within the

state-level are still being updated and wildfire relief deadlines are continuing to be extended. The latest state-level government information regarding the wildfires has to do with a free government-led wildfire debris removal program within the eight counties affected by wildfires. It was also reassuring to find that Oregonians could still get relief from the wildfires and to see how aid has been dispersed to wildfire victims. Some of the dedicated wildfire websites were difficult to navigate, however some public libraries did jump in and gather relief aid information to make it easier for Oregonians to find direct links.²⁸ Overall, the most useful resources were from NWCG's InciWeb, as it is the most comprehensive source of wildfire information, while the Governor's Office was also very useful in its transparency and its ease of finding information. Given changing climate conditions, wildfires are only expected to grow in number and intensity, so connecting people with the information that they need is more important than ever.

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Improving the Freedom of Information Act Through the Office of Information Policy

Chelsea Webb

Government transparency is a modern expectation of the United States of America's government operations. Information transparency can be found from presidential records to congressional hearings and can be found in places such as the Congressional Record, GPO databases and programs, and many other databases that house or link to government information. The Freedom of Information Act does well to ensure that citizens are able to stay informed and have the ability to request access to some federal agency information. In addition to this, the DOJ has the Office of Information Policy (OIP) that has set focus on continually improving the FOIA by launching an Open Government Initiative in 2010 and releasing three additional revisions by 2016. All plans continue to increasingly evolve the OIP, while dissecting the efficacy of the Open Government Initiatives across agencies that are required to disseminate information to the public. Exploration of dissemination of information relating to the OIP and the prevalence of access issues are discussed.

The United States has seen periods of intense government secrecy that many feared was a huge threat to democracy and a precursor to a dictatorship. It increased especially during the Cold War which had heightened tensions from fears of communism inside the federal government. One of the biggest champions for government transparency, a Democrat in Congress by the name of John Moss, made it a point to gather his fellow politicians to pass the Freedom of Information Act that was signed by Lyndon B. Johnson in 1966.¹ Since being passed the act has continued to get support through new amendments.

To understand the need for the Office of Information Policy it is important to understand what they are being tasked with overseeing. That is the Freedom of Information Act (FOIA) which was created in 1967 to explicitly give the public access (regardless of US citizenship) to request a variety of

records from any of the federal agencies.² Requests are placed with the relevant agency's FOIA office and are processed in the order they are received. Depending on how complex the request is and whether there is a current backlog, this may affect how quickly each can be processed. While the agency is required to respond to requests for records, they have the ability to exempt themselves from releasing specific information and can even partially release or redact documents. There are currently nine different exemptions from release in the FOIA: information pertaining to classified national security, internal personnel rules and practices of a specific agency, federally prohibited by law, trade or commercial secrets, privileged communications of agencies, individual personal privacy, law enforcement, financial institution supervision, and well geography.³

Creation/Role of OIP

Following the passing of the FOIA there remained a gap that needed to be filled for the legislation to be effective. It was not until December 8, 1969 that the Freedom of Information Committee was established to assist and advise agencies on the new act.⁴ Once the FOIA started receiving more traction the committee found itself transformed and shifted a few more times before settling as an independent section of the Department of Justice (DOJ) on May 14, 1993.⁵ The current mission of the OIP is to "provide legal and policy advice to all agencies on administration of the FOIA."⁶

All agencies are required to annually report their POIA activities to the Attorney General and OIP spearheads the policy for reporting and evaluating an agency's progress in FOIA compliance. The office, which reports to the DOJ's Office of the Associate Attorney General, has responsibility for the department's own litigation and compliance reports and handles judgments for FOIA administrative appeals. Senior leadership

offices like the Attorney General also task the OIP with handling FOIA requests for them. While they take a lot of action for the DOJ, they must continue to make it easy for the public to get FOIA information that has been released and that is done by updating the FOIA.gov website. Finally, the office provides agencies with legal or policy advice alongside training programs to improve FOIA compliance and implementation. It is evident from the requirements of duty for the Office of Information Policy that they handle a large amount of government transparency oversight together with the Department of Justice's FOIA responsibilities. Even though they create guidelines and instruct on how to be FOIA compliant, they are still subject to new Attorney General guidelines and Presidential Memorandums that may influence their operations.

Open Government Initiatives

The Freedom of Information Act has seen multiple modifications over the years that have contributed to the strengthening of the act and a lot of substantial changes can be seen in just the last decade. One of former president's Obama's earlier memorandums clearly state directions towards the heads of all executive departments and agencies informing them and the public his intentions to have a new and "unprecedented level of openness in Government."⁷ The biggest takeaways from that memorandum were that the government should explicitly be three things: transparent, participatory, and collaborative. The Chief Technology Officer, Director of the Office of Management and Budget (OMB), and Administrator of General Services were expected to get together with the necessary executive departments and agencies in order to develop an Open Government Directive within 120 days from the issuance of the memorandum. The Open Government Directive (M-10-06) detailed four goals to increase government transparency. The goals identified were making sure government information was published online, quality of government information will be increased and abide by OMB standards, breed a culture of open government through an open government plan in each agency, and invest in policy framework that allows for advancing technology that can help with open government.⁸

In November 2011, it was followed by another presidential memorandum titled Managing Government Records that addresses the heads of executive departments and agencies, but this time for the topic of reforming records management and policies.⁹ This memorandum attempts to reform records management policies and practices for the rapid increase of technological advances that directly affect agency operations. It also attempts to hold agencies accountable through their heads and requires the Director of OMB and Archivist of the United

States to create a records management directive to focus on a government wide records framework that will increase accountability and public access to government records. Former President Obama followed up with an executive order in 2013 that directly addresses openness of the government and creation of an Open Data Policy to ensure that government information remains accessible and exponentially increases government transparency.¹⁰ Motivation behind increasing government transparency through new memorandums can be attributed to classifying government data as an asset that has the potential to propel job growth and contribute to social advancements.

Prompted by President Obama's leadership and the Open Government Directive, the Department of Justice released a comprehensive Open Government Plan to address the new directive. The US Department of State also published their own plan detailing their new, expanded, and ongoing initiatives that include open data, records management, and FOIA requests. The Department of Justice's own version of their Open Government Plan from its inception on April 2, 2010, has been updated four times and the newest edition was released on September 15, 2016.¹¹

A big update was also seen with the FOIA Improvement Act of 2016. In line with the prior initiatives, the public should be able to inspect in electronic format each agency's opinions, policy, interpretations, and copies of all records that have been released. Agencies also have the ability to withhold information only if disclosure is prohibited or could cause harm to a protected interest and should determine if partial disclosure is possible.¹² Agencies must also submit to the Attorney General and Director of the Office of Government Information Services the number of times they deny a records request and how many records they have made available in electronic format.

Initiative Success

To decide if the initiatives set forth have been successful one can take a look at whether or not the prior mentioned goals were accomplished. President Obama wanted to make the federal government even more accessible to the public than the prior administrations by developing consistent policies and promoting the same culture of openness. Different agencies were forced to work together from the start to create the Open Government Directive that made it easy to have standards to use when creating policy framework for each department. The Office of Information Policy has been able to work from the initiatives set forth by the former president and that has influenced the creation of a DOJ Open Government Plan that would not have existed otherwise. OIP creates guides to help agencies become more FOIA compliant, they work on standardizing

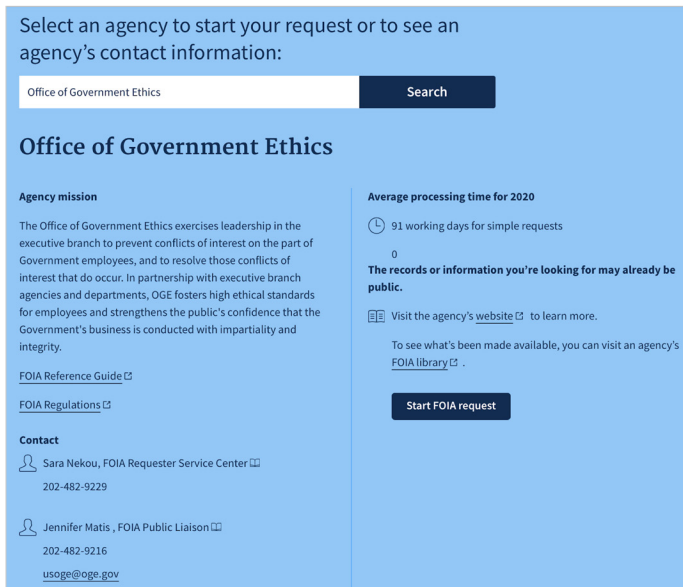


Figure 1. Screen capture of starting an FOIA request for the Office of Government Ethics on FOIA.gov. <https://www.foia.gov/?id=5e5084cd-5047-4fd9-8d19-4af473b24796&type=component>.

FOIA regulation through the use of a template agencies use to develop their own FOIA regulations.¹³ They continue to be the vehicle for the DOJ and issue guidance for the reports submitted by an agency’s Chief FOIA Officers for assessment of their progress in order to identify areas to improve to increase efficiency as well as decrease backlog.

In 2011, the DOJ with the OIP launched FOIA.gov which provides individuals with information on how to submit a FOIA request and the ability to start a FOIA request directly on the site. They have so far been able to partially deliver on that promise and have some offices such as the Office of Government Ethics which is pictured in Figure 1 that allow that to be an option.

The page even details the average processing time from 2020 which shows as ninety-one working days for this chosen office. Numbers and names for FOIA contacts in that office are also provided.

The OIP also provides a clear assessment of how well agencies are keeping up with FOIA requests and discusses this in their *Summary of Agency Chief FOIA Officer Reports*. Looking at the most recent one published in 2020, 36 medium and high-volume agencies reduced their backlog or there was none to reduce. Shown in Figure 2, it was found that 26 agencies were actually increasing in a backlog of more than five requests, and seven were finding themselves with a slight increase (parameter of five) or a constant backlog.¹⁴ However, findings show that the number of requests is increasing in 10 of the agencies found to be backlogged. Agencies are reducing their backlog, so it is showing proof that government transparency is increasing.

COMPARISON OF BACKLOG FY18 - FY19

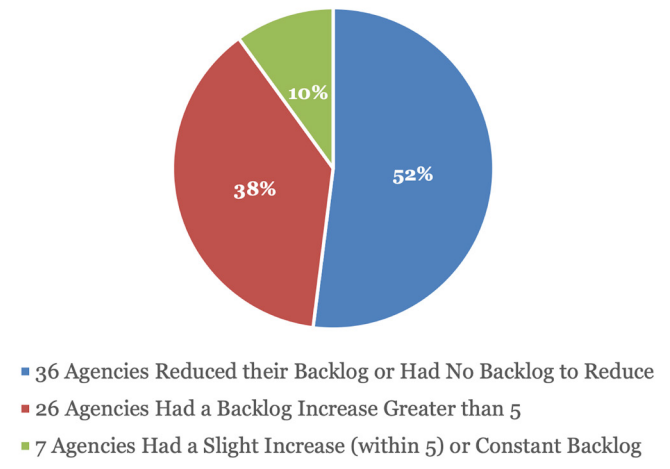


Figure 2. Pie chart comparing agency increase or reduction in FOIA requests backlog in the financial year 2018-2019. <https://www.justice.gov/oip/page/file/1319661/download>.

The OIP has done an excellent job of stating in their summary that agencies who are spending more than 20 days with simple requests need to review their current FOIA processes and finish up the oldest requests. With ten agencies still backlogged, the OIP will need to continue to guide and support these agencies to identify inefficiencies to reduce their respective backlog and increase FOIA compliance.

Dissemination of Information/Access Issues

Finding information detailing the Office of Information Policy’s history and present-day functions is not overly complex. The Office of Information Policy has a very extensive website that is easily accessible through public channels such as the search engine Google. There may be some difficulty if an individual is not aware that the office falls underneath the Department of Justice’s website and jurisdiction. However, once they navigate to the main section of the Office of Information Policy’s website the most important information is streamlined. Historical information on the FOIA is plainly presented as well as the more up to date changes that were implemented by President Obama. The main mission of OIP’s efforts, which is to help with government transparency, is highlighted and the DOJ’s Open Government Plans from the past to most current is clearly linked. A user does not have to navigate any of the more complex databases such as govinfo.gov that may return too little or too many results based on parameters set by the user. Summary reports of each agency’s success with FOIA requests and backlog can also be located on the OIP website.

All executive orders and memorandums are also available on the [obamawhitehouse.archives.gov](https://www.obamawhitehouse.archives.gov) websites that have been archived but warn they may link to broken pages.¹⁵ Only one document was not found through the titled archived pages, and it is the M-10-06 Memorandum to Agency and Department Executive Heads by Peter R. Orszag that referenced the open government directive set forth by President Obama. That memorandum is hosted on the [whitehouse.gov](https://www.whitehouse.gov) website but is difficult to locate through the page's search function. This shows that there is an overall ease of finding presidential memorandums and executive orders, but the other communication between departments remains harder to find.

Conclusion

Attempts for greater government transparency have been increasing substantially within the last decade after more than 50 years of the Freedom of Information Act's passage. The FOIA passed in the 1960s has presented a lot of government information to the public throughout the years, even with the ability for agencies to claim exemptions from doing so. President Obama ushered in a new lease on improving government transparency with multiple executive orders and memorandums that helped to detail the transition. The Office of Information Policy has done an exceptional job in keeping up with cataloging all of this information for the general public in an easy to navigate website through the Department of Justice page and the [FOIA.gov](https://www.foia.gov) website. While information on the Office of Information Policy's guidelines and reviews was particularly easy to find, the search showed that finding communications between the OIP and each agency's FOIA office can be difficult to locate. Documents from the executive branch or OIP are easier to find than the work that is done before an agency presents their final FOIA regulation. Since the public may have an interest in these documents, it is important that communications and policy development of each executive agency are easier to find. Overall, the OIP does an excellent job of allowing their information to be incredibly easy to access and provide an exceptional model of the government transparency they wish to promote government wide.

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Interview with Incoming GODORT Chair

Robbie Sittel, Government Information Librarian, University of North Texas

Favorite Spot in Denton, Texas

Clear Creek Natural Heritage Center ([https://www.cityofdenton.com/en-us/all-departments/quality-of-life/parks-recreation-\(1\)/parks-trails/clear-creek](https://www.cityofdenton.com/en-us/all-departments/quality-of-life/parks-recreation-(1)/parks-trails/clear-creek)). I love Clear Creek because of the many natural environments it contains and how different it is from season to season. While walking the trails, I've seen snakes, deer, herons, all kinds of bugs in and among swamp, forest, and an upland prairie covered in wildflowers. All of this within a stone's throw of town.

Favorite Pastime/Hobby

I like to try my hand at sewing. This year I'm attempting to sew Clarice Louisba Scott's Shopper's Coat (<https://www.nal.usda.gov/exhibits/ipd/apronsandkitchens/exhibits/show/the-bureau-of-home-economics/item/22>).

I've also expanded my efforts in developing a City Home Garden (<https://digital.library.unt.edu/ark:/67531/metadc96642/>). For anyone with a not-so-green thumb and a square foot of yard, I recommend planting okra. Everyday brings a small harvest, giving one a sense of resounding success as an urban farmer; plus, grilled okra is among the best summer foods.

Favorite TV Shows

I like to watch documentaries and true crime. I tend to land mostly on the Netflix documentaries and docudramas. So many choices, so little time.

Favorite Book

I can't say that I have a favorite book; I can say that I'll read anything written by Ann Patchett. I'm also a fan of non-fiction. I like to read books that show

me a new way of looking at things and that challenge my understanding of the world.

Favorite Government Document

This is a hard question for me. I'm always a little envious when someone immediately spouts out an answer to this question. Despite that envy, I'm not sure I can say I have a favorite government document. Instead, I think I'm passionate about *all* the government documents and am ignited when I hear other people get excited about this or that government document.

Favorite Movies

I tend to watch more television series than movies, but have always loved Wes Anderson movies. *Rushmore* is probably my fave.

On Your Reading List Now

I want to visit Eudora Welty's house and garden this summer so I'm rereading some of her novels and short stories. Also, on my list (in my Audible queue) is *Caste* (Isabella Wilkerson), *The Poison Squad* (Deborah Blum), *Red Comet* (Heather Clark), *We Had a Little Real Estate Problem* (Kliph Nersteroff), *Franchise* (Marcia Chatelain), and a few others.

Music on Your Phone

Honestly, I don't listen to that much music on my phone. If I'm listening on my phone it's an audio book or podcast. I tend to take a lot of walks and will choose a podcast that fits the proposed length of my walk. Some of my favorite podcasts include 99% Invisible, Conan O'Brien Needs a Friend, NPR's Throughline, The

Experiment from The Atlantic, All my Relations, Side Door from the Smithsonian, and The Sporkful.

Favorite Drink

Nonalcoholic beverage of choice is a soda water. I'm always looking for new brands and new flavors of sparkling/soda water. Thus far, Big Swig out of Austin might be the most interesting I've tried. They have a jalapeno-pineapple flavor.

For alcoholic beverages, I love a gin-based cocktail. This year my sister and I made our own Orgeat and bitters that resulted in an amazing Army Navy cocktail. If ever you're in the Denton area, let me know and I'll shake up a batch.

Favorite Type of Food

This question is always the toughest, because I love to eat and cook . . . just about anything! It might be easier to ask my least favorite type of food and still it would be hard to say.

Favorite Conference City

Washington, DC. Maybe it's the gov docs in me, or the politics junkie, but I do love DC. Every spot seems historic, and on every visit, I try to visit or see something new. Plus, it's super easy to get around, good food and fancy cocktails are easy to find, and I get to see all of my favorite friends and colleagues when I'm there for conference.

Favorite Vacation Spot

This is another tough question. I would say my favorite vacation spot is where ever I happen to be vacationing. I have a goal to fill up my National Parks Passport (<https://shop.americasnationalparks.org/product/22515/Pass>

port-To-Your-National-Parks%C2%AE-Classic-Edition/) with stamps so I tend to gravitate to national parks or national historic sites. I'm also hoping to fill my Passport to Presidential Libraries (<https://www.archives.gov/presidential-libraries/visit/passport.html>), which also puts these on my list as vacation destinations or diversions along the way.

Historical Figure You'd Like to Meet

My thoughts on who I'd like to meet probably change over time. Coming off the hundredth anniversary of the nineteenth, I'd like to meet Alice Paul, the steadfast leader of the American suffragists, community organizer, and advocate for women's rights. And though I say Alice Paul, there are countless other women involved in the suffrage movement that I'd also like to meet—Jovita Idar, Zitkala-Sa, Ida B. Wells, Lucy Burns, Nina Allender, Carrie Chapman Catt, and others. Ask me again in a year

who I'd like to meet and it could be a completely different answer.

Pet Peeve

Hmmm, another hard question. If I had to say, I suppose it would be beating around the bush or hemming and hawing, both from me and toward me. I try to be straightforward, while not being brutal. I also hope others will be straightforward with me. That is, if I drop the ball, act poorly, or am doing something wrong, please tell me. The realization might sting at first but I'd rather be told so I can correct things rather than continue to do the wrong thing or nothing at all.

What Inspires You about Your Job?

I'm inspired by my coworkers and colleagues in my own library and across the country. Government information stalwarts who possess unmatched enthusiasm for our collections and the need to share them with others. These folks

work to promote government information collections and draw connections between other disciplines and resources. I'm inspired by their dedication to collect, preserve, and ensure access to this information. I'm hopeful I can pass this enthusiasm on, even just a little.

Many library-folk talk about their communities within libraries, and I know I'm preaching to the gov docs choir, but there is something different about the gov docs community... the mention of a specific government series that sparks cries of excitement and fire in eyes, or the compassion behind connecting patrons with the government resources or agency that can help with whatever life problem they're facing, the passion to ensure access to the information of the government. There is something a little bit different about this community. I'm glad I found my way to it and am, every day, grateful for and inspired by my government documents community of mentors, friends, and colleagues.