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The Internet for Legal Information: The U.S. Experience

Scott Childs

Internet for Legal Information

The U.S. Experience

CLAIRE GERMAIN, PAT COURT, JEAN WENGER AND SCOTT CHILDS[*]

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[*] Claire M. Germain, Edward Cornell Law Librarian and Professor of Law; Pat Court, Head of Public Services; Jean Wenger, Reference Librarian; Scott Childs, Reference Librarian. Cornell Law Library, Myron Taylor Hall, Ithaca, New York.

INTRODUCTION

This empirical study starts from the newest medium, the internet, and explains briefly what researchers can expect to find there in terms of legal information, and how to find the needed information. It focuses on U.S. legal information, but also touches on foreign and international law. It includes comparisons with other legal research platforms and raises a few issues.

I. INTERNET FOR LEGAL INFORMATION: WHAT IS AVAILABLE[1]

A. PRIMARY SOURCES OF LAW

Because of the American principle that citizens should have free access to information, most federal and state government publications are in the public domain, without being subject to copyright, and many official texts and documents are now available on the internet. There is therefore an astonishing and growing number of U.S. legislative, regulatory and case law texts on the internet. Since the internet is decentralized and uncontrolled, there are often several official or private sources for the same text. Certain web sites have loaded the texts themselves. Others provide access to the texts by linking to them. These "gateway" sites have organized the texts by category (e.g., all the cases from the various federal courts of appeals which come from various web sites). Other gateway web sites add value to the raw information by creating indexes and search engines. The web sites mentioned throughout are examples of the best. They are, in general, reliable sites, either governmental (federal or state) or university ones, and now increasingly commercial sites. Most of the sites are currently accessible free of charge, but this is bound to change with the increasing presence of commercial interests.

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[1] The electronic addresses mentioned throughout are only examples of the best in each category. Two guides prepared by the Cornell Law Library staff, *Federal Law Sources on the Internet* by Pat Court and *Foreign and International Law Sources on the Internet* by Jean Wenger can also be consulted with profit. They are updated regularly and also available, with direct hypertext links to the sources, at www.law.cornell.edu/library/#guides.

1. U.S. Treaties, Constitution, Federal and State Legislation

a. Treaties

Treaty information is available on the web. Information includes the text of treaties and a list of signatories.   Two recommended sites for treaty information are the United Nations Treaty Database (**www.un.org/Depts/Treaty**) and the Multilaterals Project at the Fletcher School of Law and Diplomacy at Tufts University (**www.tufts.edu/fletcher/multilaterals.html**). The U.N. Treaty Database contains two components.   The first is the Multilateral Treaties Deposited with the Secretary General which contains the status of more than 470 multilateral treaties. The second component is the UN Treaty Series which consists of over 40,000 treaties registered with the Secretariat, which is currently being converted to electronic format and is expected to be available in the future. The Multilaterals Project has the texts of international multilateral conventions and other instruments arranged by subject. There is also growing number of topical sites which have either the texts loaded or links to texts of treaties and international agreements in that subject field.

b. U.S. Constitution and Constitutions of the World

The text of the U.S. Constitution is available on a variety of sites, including the ones mentioned below (under Federal Legislation).   Constitutions of countries are also available on several web sites. Several well-known sites are the International Constitutional Law (ICL) (**www.uni-wuerzburg.de/law/index.html**), International Association of Constitutional Law - World Wide Constitutions (**www.eur.nl/iacl/const.html**), and Georgetown University's Political Database of the Americas - Latin American Constitutions (**www.georgetown.edu/LatAmerPolitical/Constitutions/constitutions. html**).

c. Federal Legislation

A vast amount of federal legislation is available on the internet, including: the text of the *U.S. Code* (subject compilation of federal laws into 50 titles), the *U.S. Statutes at Large* (chronological compilation of the federal laws, also called *Public Laws*), and federal regulations (chronological in *Federal Register* from 1994 on and subject compilation in *Code of Federal Regulations*); U.S. House and Senate bills, from the 103d Congress on (1993-); legislative history (*Congressional Record*, Congressional reports and documents) from

the 104th congress on (1995-).   For research on federal information mentioned above, the following three sites are recommended:

Thomas: Legislative information on the internet, produced by Congress, **thomas.loc.gov,** focuses on federal bills, public laws, committee reports, and the *Congressional Record.*   It is a first choice for finding recent bills because of its timeliness and easy search mechanisms.

GPO Access from the U.S. Government Printing Office, **www.access.gpo. gov/su_docs/aces/aaces001.html,** provides official text of legislative, executive, and judicial documents, including the most up-to-date web version of the U.S. Code.   Searching is often more efficient by accessing the databases through one of the federal library depository library gateways **(www.access.gpo.gov/su_docs/aces/aaces004.html).**

Cornell Law School Legal Information Institute, **www.law.cornell.edu,** created and maintained by Professor Peter Martin and Research Associate Tom Bruce, is the premier site for U.S. Supreme Court opinions, with specialized indexes to Supreme Court and Circuit Court opinions.   The U.S. Code here is not always as up-to-date as GPO Access but has easy-to-use hypertext links and Public Law updates.

d.   State Legislation

Many states now provide useful information on the internet.   In general, the state web sites include the text of the state constitutions, codes, laws, regulation, bills, and legislative history. The coverage varies depending on the states.   For instance, California, **www.leginfo.ca.gov;** Texas regulations (*Texas Administrative Code*), **(register.sos.texas.gov:80/tac).**

A good gateway site for state information is at Washburn Law School, Topeka, Kansas **(law.wuacc.edu/washlaw/washlaw.html).**

Almost all states have a legislative presence on the web now, and current statutes are usually one of the first databases established.   It is to be expected that no backfiles will be developed, since there is a premium on current information, so coverage begins in the last couple of years.   Legal researchers often need historical documents of past years, but this need is not clearly recognized from the perspective on information of most state governments. In fact, concerns have already developed that states are dropping "older" documents that had been on web sites.   Ongoing discussion in governmental

and academic settings is addressing the archival question, with no commitments for retention yet.

e. Evaluation of Internet for U.S. Legislation

How does the internet compare to Westlaw and Lexis, or even the traditional print products, such as *U.S.C.A. (U. S. Code Annotated)* (West) and *U.S.C.S. (U.S. Code Service)* (Lawyers's Coop., was under Thompson/West, but now sold to Lexis as part of the Department of Justice Antitrust Consent Agreement)?

Legal research on the internet may reveal certain difficulties because the governmental texts are not always up-to-date. For instance, the Thomas site had the U.S. Code version of 1992 until a few months ago, instead of the current version (as of 2/97, the Code is no longer represented on Thomas). The GPO site has 1994 and 1995, depending on the "titles" (the code is organized into 50 titles or subjects; for instance title 42 on Public Health and Welfare). The official print U.S. Code has always lagged behind, and it looks like the electronic version is also lagging. The way to update the code sections is to look up the more recent laws that are published in chronological order. The Cornell LII site provides some help in that regard since it uses the 1994 USC version and links to Thomas for updates with a search engine (Thomas search engine or LII search engine).

For accuracy and convenience, however, many researchers prefer to use the U.S. Code versions on one of the commercial online services, Lexis or Westlaw, which update the code automatically, and are generally considered more reliable and up-to-date. The print version, *U.S.C.A.* or *U.S.C.S.,* have their own advantages. Often, it is more convenient to use a book with a table of contents, an index, annotations under each section, with references to other sections, commentaries, etc. With regard to current legislative information, *Washington Alert* provides a more professional service for current legislative information than GPO Access, if cost is not a factor.

The strength of the internet, however, is that it can be accessed from home or anywhere else, without a password and without costly commercial fees. It offers a good way to get started and see what is available, as long as all the citations are verified for accuracy, authority, and timeliness.

2. Case Law

a. Federal Court Decisions

All the reported decisions of the federal appellate courts are now being made available on the internet. U.S. Supreme Court decisions are available back to 1937 from FindLaw (**www.findlaw.com/casecode/supreme.html**), from Legal Information Institute (**supct.law.cornell.edu/supct**) since 1990 plus 300 older decisions, and on the FLITE system (**www.fedworld.gov/supcourt/ fsearch.htm**) from 1937-1975. The sources that maintain the text and indexing of those decisions include commercial, educational, and government entities.

Federal Courts of Appeals decisions from the 13 Circuits are available from the mid-1990's. Each Circuit has a separately maintained web site for its decisions; however, there is an index for searching across all Circuit decisions on the internet developed by the Legal Information Institute (**www3.law. cornell.edu/Harvest/brokers/circuit-x/fancy.query.html**).

Federal District Courts have not begun the process of web access for trials cases, with the notable exception of the Northern District Court of Mississippi, which offers decisions beginning with 1994 (**sunset.backbone. olemiss.edu/ ~ llibcoll/ndms**) and the District of South Carolina, which offers decisions beginning with 1997 (**www.law.sc.edu/dsc/dsc.htm**). Access to the District Court decisions is primarily through bulletin boards and for a fee of about 60 cents per minute through the PACER (Public Access to Court Electronic Records) system. The Directory of Electronic Public Access Services can be found at **sunset.backbone.olemiss.edu/ ~ llibcoll/ndms**.

The following gateway sites are recommended:

Cornell Law School Legal Information Institute, (**www.law.cornell.edu**) (global search engine), is the premier site for U.S. Supreme Court opinions (which it now receives directly from the Court via Project Hermes, previously hosted at Case Western University), with specialized indexes to Supreme Court and Circuit Court opinions.

Villanova Center for Information Law and Policy, Villanova, Pennsylvania, (**ming.law.vill/edu/VCILP.html**).

b. State Court Decisions

State court decisions are increasingly available on the internet, mainly for recent cases, but not for all the states yet. Two good sites for state information are Emory (**www.law.emory.edu/FEDCTS**) and the Washburn Law School, Topeka, Kansas (**law.wuacc.edu/washlaw/washlaw.html**,) the latter with a search engine. For the State of New York, the efforts of the Cornell LII are noteworthy. LII has loaded the NY Court of Appeals decisions, accompanied by the liibulletin-ny, which includes an analysis of selected decisions by Cornell law students who gain valuable experience from the editing activity, **www.law.cornell.edu**.

c. Comparisons with commercial online services, CD-ROMs, and print sources

Internet is very useful for recent cases or new laws, often faster than Lexis or Westlaw, because the texts are loaded on the same day directly by the court or the federal or state government office. Internet is also useful as a current awareness tool, as the first approach to research if one has the time then to verify the sources. Most lawyers probably would hesitate to cite these documents in court before further verification of the sources.

Certain web sites are now strengthening their quality. One of particular note is LOIS. LOIS (Law Office Information Systems), **www.pita.com**, which advertises itself as the first legal publisher to offer comprehensive full-text, searchable law files of most federal and state legislation and court decisions on the internet. It provides an online service over the internet, as well as CD-ROM (updated weekly with direct online service downloading to your hard disc). There is a special program for academic libraries, with unlimited access for $5 per student and faculty per year, including free CD-ROM (for archival purposes, to keep even if you cancel the subscription).

Another commercial service which proclaims it is "revolutionizing the way America does law" is V. (VersusLaw), (**www.versuslaw.com**). V. provides full-text searchable cases from federal and state appellate courts through a subscription on the web. Daily and annual subscriptions are available to the legal community as well as to the public, and it is available at no charge to law students and law faculty.

B. OTHER SOURCES OF LEGAL INFORMATION

1. Secondary Sources (Scholarly Writings, Law Reviews, etc.)

a. Law reviews

About 195 law reviews and journals currently have sites on the internet. Few provide access to the full text of their articles. Certain sites provide tables of contents, others summaries of articles. Most explain how to submit an article for publication. Among useful sites are the Stanford University Law Review project to provide summaries of articles, (www.lawreview.org); Index of Law-Related E-Journals and Periodicals, (www.findlaw.com/03journals/index.html); and the University of Southern California Law School, (www.usc.edu/dept/law-lib/legal/journals.html).

The law reviews represented on the internet comprise only a small portion of the universe of law reviews. There are about 870 legal reviews in English (as indexed by *Current Law Index/LegalTrac,* including reviews from England, Canada, Australia and New Zealand). The *Index to Legal Periodicals* indexes 720 journals; the *Index to Foreign Legal Periodicals* indexes 590 legal periodicals worldwide in languages other than English. The large number of law reviews in the United States comes from the fact that they are edited and published by law students at each U.S. law school. There are currently 180 law schools accredited by the American Bar Association (ABA) and the American Association of Law Schools (AALS). Each law school often edits several law reviews. For instance, Cornell Law School produces the *Cornell Law Review, Cornell Journal of Law and Public Policy, Cornell International Law Journal,* and *Review of the International Sales Convention.* There are, of course, also reviews edited by professors and law professionals, like the upcoming *Cornell Journal of Empirical Studies.* For the sake of comparison, there are in full text about 150 U.S. legal journals on Lexis. Westlaw boasts 50 complete U.S. law reviews (top ones) and selected coverage of 450 other law reviews. Generally, the large number of U.S. law reviews can be explained by the duty for professors to publish to get their tenure. Certain scholars criticize the current system to publish articles in law reviews under the control of law students. With networked systems, it is also now possible for each author to publish his own articles without ever going through the law review process or the rigor of peer review, as in other professions (see "Last Writes? Re-assessing the Law Review in the Age of Cyberspace," by Bernard J. Hibbitts, University of Pittsburgh School of Law, (www.law.pitt.edu/hibbitts/last.htm).

A commercial site of note is **www.ljx.com**, to keep abreast of current legal news. It provides free access to a few articles from the *New York Law Journal* and *National Law Journal*. Unlimited access is available for $10 per month.

No legal encyclopedias or treatises have appeared free on the internet yet. This is due to the protection of the author's copyright. This situation may change once commerce on the internet is more feasible. Several law schools have now started to put their law reviews on the internet since law reviews are generally not money makers and putting them on the internet widens the audience.

Quite a number of legal encyclopedias and treatises are available on Lexis and Westlaw, including *American Law Reports* (Lawyers' Coop, now under West Publ. Group) (on Lexis and Westlaw) and *American Jurisprudence* (on Lexis). A substantial number of treatises are on Westlaw and Lexis, e.g., on Westlaw, the 31 volume set of *Couch on Insurance*, *Bankruptcy Law Fundamentals* by Richard I. Aaron, and *Handbook of Federal Evidence*, 3d ed. by Michael Graham, to give just a few of the most recent titles.

2. Other Sources

Most federal and state departments and agencies, as well as many universities and professional organizations, now have web sites. Many law schools have created home pages containing very useful information on programs, degrees offered, the library, professors and their publications, etc.

Lawyers' associations are also present on the internet. See the American Bar Association (ABA) at **www.abanet.org**. State bars are also increasingly represented (e.g., *California State Bar* **calbar.org**).

Other categories of sources of information are also worth noting. One is the statistical database on federal courts created by Cornell Professors Eisenberg and Clermont, (**teddy.law.cornell.edu:8090/questata.htm**). That database allows for the manipulation of judicial data to compare, for instance, jury verdicts to judge verdicts (in the United States, citizens are entitled to a trial by jury for civil as well as criminal cases).

The internet also provides access to professional and judicial directories, such as "Want's Federal-State Court Directory" and "Directory of State Court Clerks and County Courthouses," (**www.courts.com/directory.html**).

Many publishers have loaded their catalogs with product information on the web. Some commercial publishers are considering the internet as a show window for their products. They offer free summaries of their products or databases and then request a subscription fee. Right now, payment is made through a credit card over the phone or the internet. Martindale-Hubbell Directory now provides its extensive directory of attorneys free as of June 1, 1996, (www.martindale.com). The West Legal Directory, (www.wld.com), is a free service of the West Group, providing a search form to locate attorneys, government and corporate law offices.

Access to a variety of library catalogs is also very useful for researchers. The gopher service of Yale University links the user to numerous catalogs, (gopher://libgopher.yale.edu:70/11).

The Library of Congress Page provides access to catalogs which use the Z39.50 standard, (lcweb.loc.gov/z3950).

C. HOW TO FIND WHAT YOU WANT ON THE INTERNET

1. Comprehensive Sources

An efficient way to proceed on the internet is to find an electronic address (URL, Uniform Resource Locator) and go directly to a site. The bookmark function of the web browser (Netscape, for instance) is useful to gather a personal list of sources. Another strategy is to connect to a known comprehensive site and find there numerous references to other sites through hyperlinks.

Cornell Law Library has engaged in an effort to integrate major legal research tools in a particular area of the law, irrespective of format, with as many direct links to electronic sources as possible. The *Legal Research Encyclopedia*, (www.law.cornell.edu/library), on the Library web site, presents a compendium of the most useful legal research tools on a particular subject or jurisdiction, incorporating hypertext links to electronic sources. Each subject becomes a roadmap and guide for the researcher. For instance, the *Bankruptcy* guide leads the researcher to useful internet sites, but also points to the Lexis and Westlaw bankruptcy libraries (with direct links once web access is possible), and to the best books on the subject, both in print (with call number references), and in electronic formats. This visionary concept proceeds from the notion that there is more to the world of useful sources than what is available on the internet, but, at the same time, embraces

the concept of as much direct delivery of information in electronic form to the scholar's workstation as possible. Some ongoing topics include securities, bankruptcy, and intellectual property.

Recently, there has been much activity organizing the legal information available on the web. In addition to university sites such as Washburn and Emory, several commercial services have started providing some orientation and organization. They are oriented toward lawyers, and almost exclusively slanted toward what is on the internet. Some good comprehensive commercial legal information web sites include: Hieros Gamos, **www.hg.org**, and Findlaw, (**www.findlaw.com**).

Site annotation services provide useful critical evaluation of new sites. For instance, Cornell Law Library produces the InSITE service, (**www.law. cornell.edu/library**).

2. Search Engines

In some instances, you may also want to start your research from scratch with search engines. These search engines search though the entire web in seconds and are extremely powerful. Although the exact document wanted may not be retrieved, a lot of relevant information is usually found.

There are predominantly two types of search tools available via the internet, search engines and web directories. Search engines with databases that index as many as 55 million web pages are created by automated spider or robot software. Examples of this type include AltaVista (**altavista.digital.com**), Lycos (**www.lycos.com**) and Infoseek (**www.infoseek.com**). There are differences in the content of each of these databases. Lycos, for example, only indexes part of each web site it includes rather than the full text. There are also differences in the way you can search each database. Infoseek, for example, does not allow the user to select boolean operators or proximity operators. Each search engine web site has a link to search tips indicating the strengths of that particular engine. In addition to the individual search engines, there are single search interfaces, such as MetaCrawler (**metacrawler.cs.washington.edu:8080**), that distribute a query to many different search engines simultaneously. Unfortunately, this approach, while convenient, makes it difficult to exploit the particular strengths of each individual search engine.

Web directories, such as Yahoo (www.yahoo.com) and Magellan (www. mckinley.com), organize web sites in subject arrangement much like books cataloged in a library. Although the human beings selecting and classifying these web sites add value and quality, the size of these databases are smaller than the automated search engine databases. Yahoo lists web sites in over 20,000 different categories. Sites are submitted or collected by an automated Yahoo spider before being reviewed by a person. These sites are then categorized and placed in one of the fourteen main subject categories which have several subdivisions. A search function also exists for the Yahoo site to search this relatively small database. From the Yahoo home page, a searcher can also link to national Yahoos in Canada, France, Germany, Japan, the United Kingdom and Ireland.

Perhaps the most important part of the internet is its role as a communication tool, a way to find people and information, through e-mail, usenet groups, and listservs. One of the best lists of listservs is Law Lists--Legal Internet Mailing Lists, by Lyonette Louis-Jacques, (www.lib.uchicago.edu/~llou/ law-lists/info.html).

II. EVALUATION AND ISSUES RAISED BY THE INTERNET

A. WEB VS. OTHER ELECTRONIC SOURCES

1. Lexis and Westlaw

The role of the internet as a major legal research platform is quickly taking hold. However, the context of that role is still very much in development as information on the internet finds its place in relation to other sources and formats.

From the perspective of U.S. attorneys, information on the internet is not a reliable substitute for searching on Lexis and Westlaw. There are several reasons for that conclusion, which have been discussed throughout this article. Overall, the breadth of legal materials on the internet does not compare to Lexis and Westlaw. Most web sites provide information beginning in the 1990's, while Lexis and Westlaw have historical, archival documents (notably court decisions) back to as early as the 1700's. Numerous search engines offer a variety of ways (not always clear) to access internet information, while Lexis and Westlaw each have well-known, reliable search strategies so that legal researchers understand what they have searched. The source and

authenticity of internet documents may not be clear, while Lexis and Westlaw have already established themselves as known resources. None of the platforms can claim to encompass all information provided by the other two, so comprehensive research has to make intelligent use of each.

From the perspective of the public and of attorneys in other countries, however, the internet does open up greatly enhanced opportunities for access to legal information. For many purposes, it is current and recent documents that are needed, the time frame which the internet is best suited to deliver. Documents that have high visibility and import are often provided by organizations and institutions via the web, meaning that the most often needed documents are the ones most likely to be on the internet. While statutes and regulations on the web may not be right up-to-date and court decisions on the web may not be corrected, final versions, the fact that researchers can at least get a very good idea of the law is as crucial as having an authenticated document. Indeed, attorneys in other countries and the general public are much more likely to have access to the web than they are to Lexis and Westlaw subscriptions, so many more people find useful legal information via the internet.

2. CD-ROM

CD-ROMs are a format that are widely used for legal research in law offices, and to a lesser extent in universities. An advantage they offer over internet is the fixed nature of their information, while being limited in their ability to handle instant updates. The long-range portability of the CD-ROM technology is not at all assured, and the technology to deliver the information to multiple and simultaneous users has been difficult in many settings. This is as opposed to internet, which is growing as an accessible platform for more researchers.

B. ISSUES FOR THE FUTURE

1. Free vs. Fee-Based

Much of the information on the web is available with no subscription charges. This includes government and non-governmental information. However, will the federal and state governments continue to offer information free of charge? Even though the publications themselves may be free, the federal and state governments may want to charge an access fee to cover costs associated with the release of these texts.

2. Archives

Legal texts on the internet are still not as reliable as on a commercial service such as Lexis or Westlaw, which are also much better organized. On the internet, which is decentralized and unregulated, texts may appear or disappear suddenly, even on the governmental sites. It is also hard to tell what will be kept, and what will be removed. This leads to the need for a system of archiving of texts. At the federal level, the Government Printing Office plans to disseminate government publications only in electronic form. This electronic distribution system is to replace the current print distribution of U.S. government documents to the 1400 U.S. depository libraries. GPO, however, does not guarantee that it will be the archival library. The archival role may have to be carried by the university libraries themselves.

3. Reliability

The internet is not yet a totally reliable vehicle of information access. One loses much time looking for information and it is sometimes even hard to get connected because of the overloading of the networks. Recently, America Online users encountered problems accessing the service due to a new policy of unlimited usage for a set fee which encourages people to stay on the internet. One has to determine whether the information is up-to-date and if the coverage is exhaustive or partial. Users can not rely on what one sees as being all that exists.

4. Authenticity

The electronic text loses the permanence of the written and printed text. It can be modified very easily. How can one know that it is the correct version? In law, the authenticity of the text is crucial, as well as the means to verify it. Another important factor is the quality of the presentation of the electronic text. ASCII (plain text) may be good enough, but there is sometimes a need for a reader text software (e.g., Adobe Acrobat) which allows the user to view and download the exact facsimile of a print document. A good example is the system already in place by the Internal Revenue Service to download tax forms. *See* **www.irs.ustrea.gov**.

CONCLUSION

As providers and consumers of legal information, it is vital to keep in mind that it is truly the information itself, and not the platform by which it is

delivered, that is the goal of the research. There are advantages to digital information -- ease of re-transmission, integration into existing documents, streamlined storage -- and there are advantages to printed information -- easy to use, ability to scan, take it anywhere. Electronic information broadens our access but has not yet become a substitute for traditional information tools.

The role of the internet among other legal research platforms is in constant flux. The internet represents an incomparable way of exchanging information and research for lawyers and non-lawyers, high school students and commercial entities. The commercial online services (Lexis and Westlaw in particular), law book publishers, and commercial companies want to have a presence on the internet, and draw profit from it once the systems of payment become more reliable.

The transition to electronic information is an irreversible process, because of its broad appeal, budgetary considerations for government agencies, and convenience for the user. The future is both exciting and challenging because of the new questions raised by the reliance on the internet for access to legal information.