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FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1257375-0

Total Deleted Page(s) = 15
Page 7 ~ b3; b6; b7C;
Page 8 ~ b3; b6; b7C;
Page 9 ~ b3;
Page 10 ~ b3;
Page 11 ~ b3;
Page 130 ~ b7E;
Page 131 ~ b7E;
Page 146 ~ b6; b7C; b7E;
Page 147 ~ b6; b7C; b7E;
Page 194 ~ Duplicate - to serial 19;
Page 195 ~ b6; b7C; b7E; b7F;
Page 235 ~ b6; b7C; b7E;
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X For this Page X
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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/02/2008

To: Cyber

Attn: CIU-1, SSA [redacted]

From: Washington Field

CR-17

Contact: SA [redacted]

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: ~~288A-WF-NEW~~ 238943 (Pending)
288-WF-C225856-801 (Pending)

b6
b7C
b7F

Title: UNSUB(S);
US COURTS-VICTIM;
COMPUTER INTRUSION-OTHER

Synopsis: Document case opening.

Details: On September 24, 2008 [redacted] Administrative Office of the United States Courts, [redacted] contacted the Washington Field Office to report a compromise of the U.S. Courts PACER system.

The U.S. Courts implemented a pilot project offering free access to federal court records through the PACER system at seventeen federal depository libraries. Libraries personnel maintains login and password security and provides access only from computers within the library. PACER normally carries an eight cents per-page fee, however, by accessing PACER from one of the seventeen libraries, users may search and download data for free.

Between September 4, 2008 and September 22, 2008, PACER was accessed utilizing login information from two libraries, participating in the pilot program, from computers outside the library. The Administrative Office of the U.S. Courts reported that the PACER system was being inundated with requests, one request was being made every 3 seconds.

The login information that was compromised was that of the Sacramento County Public Law Library and the Seventh Circuit Court of Appeals Library. User name SC5449 was assigned to the Sacramento County Public Law Library in California and WM1788 was assigned to the Seventh Circuit

[redacted]

Please use to

SA [redacted]

Thanks, [redacted]

b6
b7C
b7F

To: Cyber From: Washington Field
Re: 288A-WF-NEW, 10/02/2008

Court of Appeals Library in Chicago, Illinois. The two accounts were responsible for downloading more than 18 million pages with an approximate value of \$1.5 million.

A case will be opened to further investigate this intrusion. The case will be assigned to SA [redacted] [redacted] CCIPS Trial Attorney [redacted] will support the investigation.

b6
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To: Cyber From: Washington Field
Re: 288A-WF-NEW, 10/02/2008

LEAD(s) :

Set Lead 1: (Info)

CYBER

AT CYBER

Read and clear.

♦♦

Precedence: ROUTINE

Date: 10/16/2008

To: Washington Field

From: Washington Field

CR-17, NVRA

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943 (Pending)
288A-WF-238943-GJ (Pending)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: To open the following subfile.

Details: In order to maintain proper case management, it is requested that the following subfile be opened:

288A-WF-238943-GJ Grand Jury material

b6
b7C
b7F

Case ID : 288A-WF-238943
288A-WF-238943-GJ

Serial : 3
1

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/18/2008

On November 4, 2008, CCIPS Attorney [redacted]
provided SA [redacted] and SA [redacted] with
slides titled Open Access to Government Documents, by [redacted]
[redacted]

b6
b7C
b7F

The printed slides are maintained in an FD-340.

[redacted]

Investigation on 11/04/2008 at Washington, DC

File # 288A-WF-238943 -4 Date dictated N/A

by SA [redacted]

b6
b7C
b7F

104.wpd

- 1 -

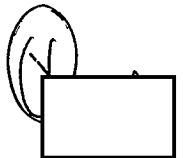
FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/06/2008

On November 4, 2008, [redacted] of The
Administrative Office of the US Courts provided three cd's
containing PACER logs for September 2008 to SA [redacted]
[redacted]

b6
b7C
b7F

The cd's are maintained in an FD-340.



Investigation on 11/04/2008 at Washington, DC

File # 288A-WF-238943-5

Date dictated N/A

by SA [redacted]

b6
b7C
b7F

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

114cd. wpd

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/06/2008

To: Washington Field

From: Washington Field

CR-17, NVRA

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943 (Pending)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: To document meeting at the Administrative Office of the US Courts.

Details: [REDACTED] and [REDACTED] of The Administrative Office of the US Courts (US Courts), CCIPS Attorney [REDACTED] SA [REDACTED] and SA [REDACTED] met on November 4, 2008 to discuss captioned case. [REDACTED] from the PACER Service Center was on conference call during the meeting.

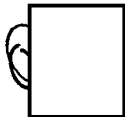
The pilot program included 17 federal libraries where computers were available to the public. The program went live in November 2007. There are 850,000 registered PACER users. US Courts thought people who would not go to the courts to access cases would be willing to go to the libraries.

Each federal court keeps a docket and has a separate server on the public side of the internet. A billing log is created at each court. At the present time, the log is kept locally in each district court. They are moving to a centralized system.

Accessing the PACER system is an internal process. The librarian has to a log the user in and also log the user out at the end of the session. Sign-in sheets were not required. Some libraries keep sign-in sheets, but people use fake names.

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b7F



To: Washington Field From: Washington Field
Re: 288A-WF-238943, 11/06/2008

Users are assigned a terminal in the library. After the user is logged in, they can log in to anywhere in the PACER system.

Passwords were compromised at the Seventh Circuit Court of Appeals (SCCA) in Chicago and the Sacramento Public Law Library (SPLL). SCCA changed their password on September 1, 2008, two weeks prior to the compromise. SCCA is located inside a federal courthouse. SPLL had not changed their password since the pilot program began, which was 11 months prior to the compromise. SPLL is located inside a public library. SCCA and SPLL did not belong to the same institution but both use AT&T DSL service. SCCA and SPLL are not on US Courts' private network.

At SCCA, users were manually logged in by the reference technician with a one hour time limit. At SPLL, a script was used for log in and only four people came in to use the system during the pilot program. The script was developed in Alaska.

The compromise took place from September 8-22, 2008. During this time, 34 district courts were accessed. Over 18 million documents were downloaded with a total cost of \$1.5 million. There was one continuous session with one log in and access was made every one to two seconds. The compromise took place during regular business hours. Data that was exfiltrated went to one of two Amazon IP addresses.

Sequential case numbers were taken, starting with older cases from the 1990's and working forward. Specific types of cases were not targeted, all cases were downloaded. Entire dockets were downloaded, including all corresponding documents. Everything downloaded came from district courts. US Courts was unsure if the cases were civil or criminal. There was no script development so it may have been a PACER customer who already knew how the system worked.

Older dockets may have contained privacy related information. Social security numbers and alien numbers may not have been redacted from the older cases. Cases dating up to 2004 were downloaded from the Colorado District Court.

The Colorado District Court reported their server was running slow and effecting performance. A follow-up to this complaint found that the PACER system was being accessed from outside the libraries. The billing log for PACER logs the IP addresses used for access. Two IP addresses were coming from outside the libraries.

To: Washington Field From: Washington Field
Re: 288A-WF-238943, 11/06/2008

When the compromise was discovered on September 22, 2008, the accounts were disabled. The notice to the public did not mention the intrusion. At a meeting regarding the PACER system, attendees were told that the pilot program was shut down due to a security breach. The librarians present at the meeting did not ask what happened, just if it happened at their libraries.

Theoretically, this could have been someone trying to build their own database and offer the same service as PACER. PACER does not presently have any competition. Other similar services pull their information from PACER so essentially, PACER is behind all other services.

US Courts is concerned for the following reasons: someone was able to get the passwords for SCCA and SPL, a large number of documents were downloaded, the compromise was fairly organized, who ever did this knew the script, and the pilot program was well advertised. US Courts needs to know how the passwords were taken.

Since the pilot program began, there have been two other incidents. In one incident, an intern at the Federal Reserve was looking up accounts based on Social Security Numbers for a project. The intern's laptop was logged onto the system by a librarian, using the library's wireless access. The laptop stored the password and the intern was able to log on outside of normal business hours. The second incident occurred in Texas. The user was accessing the system during normal business hours from a laptop, utilizing wireless access.

♦♦

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/10/2008

On November 7, 2008, [redacted] of The Administrative Office of the US Courts provided library contacts for the Seventh Circuit Court of Appeals in Chicago and the Sacramento Public Law Library.

Library Name: Wm. J. Campbell Library of the U.S. Courts

Library Address: U.S. Court of Appeals for the Seventh Circuit
219 S. Dearborn
Room 1637
Chicago, IL 60604

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Depository
Coordinator: [redacted]

Phone Number: [redacted]

extension [redacted]

Email Address: [redacted]

Library Name: Sacramento County Public Law Library

Library Address: 813 Sixth Street
Sacramento, CA 95814

Depository
Coordinator: [redacted]

Phone Number: [redacted]

Email Address: [redacted]

b6
b7C

Investigation on 11/07/2008 at Manassas, VA

File # 288A-WF-238943-7 Date dictated _____

by SA [redacted]

b6
b7C
b7F

1110 [redacted] wpd

Automated Serial Permanent Charge-Out
FD-5a (1-5-94)

Date: 12/04/08 Time: 12:26

Case ID: 288A-WF-238943 Serial: 8

Description of Document:

Type : INSERT
Date : 11/17/08
To : WASHINGTON FIELD
From : WASHINGTON FIELD
Topic: ATTACHMENT 1: LIBERIAN TIMES ARTICLE WRITTEN BY RODNEY D. SI

Reason for Permanent Charge-Out:

incorrect file number

Transferred to:

Case ID: 288A-WF-239203 Serial: 6

Employee:

b6
b7C
b7F

US Courts -- PACER data compromise

[redacted]

Sent: Tuesday, December 02, 2008 5:19 PM
To: [redacted]
Cc: [redacted]
Attachments: docket.html (11 KB) ; PublicResource_Ltr.pdf (71 KB)

[redacted]

As we discussed, the files on public.resource.org (link below) match our list of compromised courts exactly with one minor exception. There were a few pages downloaded from ILSD not posted there. I have also attached a letter from [redacted] public.resource.org, to the US Courts that discusses an "audit" he is conducting of 32 district courts -- and it would appear that he is auditing the compromised data. Finally, you might find the PACER recycling guide on the website interesting, particularly Q13 about the Thumb Drive Corps (<http://pacer.resource.org/recycling.html>).

We really appreciate your efforts.

Best regards,

[redacted]
Administrative Office of the US Courts
[redacted]

----- Forwarded by [redacted] DCA/AO/USCOURTS on 12/02/2008 05:07 PM -----

[redacted] SAT/AO/USCOURTS

12/01/2008 03:31 PM

To: [redacted]
Cc: [redacted] DCA/AO/USCOURTS@USCOURTS
Subject: Re: Fw: By any chance [Link](#)

Just in case you would like a little more verification, [redacted] pulled this out of the data off that site. Notice the transaction receipt.

[redacted] found the following in the VAED file:

31,998 total transactions for the summary option.

19,890 belonged to wm1788.

12,108 belonged to sc5449.

I think it leaves little doubt about the "who." I am very curious about the "how."

Thanks,
[redacted]

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b7C
b7F

b6
b7C

[REDACTED] DCA/AO/USCOURTS

11/28/2008 02:35 PM

To [REDACTED] SAT/AO/USCOURTS@USCOURTS

Cc [REDACTED] DCA/AO/USCOURTS@USCOURTS

Subject Fw: By any chance

b6
b7C

??

----- Forwarded by [REDACTED] DCA/AO/USCOURTS on 11/28/2008 03:35 PM -----

[REDACTED] DCA/AO/USCOURTS

11/28/2008 03:34 PM

To [REDACTED] DCA/AO/USCOURTS

cc

Subject By any chance

Do the courts with the compromised data correspond to those recently uploaded at:

<http://bulk.resource.org/courts.gov/pacer/>

CM/ECF ?

- [Query](#)
- [Reports](#)
- [Utilities](#)
- [Logout](#)

1:01-mj-00574-TRJ USA v. Jones, et al**Date filed:** 05/30/2002**Date terminated:** 07/05/2001**Date of last filing:** 07/05/2001

History

Doc. No.	Dates	Description
--	<i>Filed:</i> 05/30/2001	Warrant Issued
	<i>Entered:</i> 05/31/2001	
	<i>Docket Text:</i> Arrest WARRANTS issued as to Dwayne Marquell Jones, Khincey Nevell Barnes (avax)	
1	<i>Filed:</i> 05/30/2001	Complaint
	<i>Entered:</i> 05/31/2001	
	<i>Docket Text:</i> COMPLAINT as to Dwayne Marquell Jones, Khincey Nevell Barnes(avax) Modified on 06/15/2001	
2	<i>Filed:</i> 05/30/2001	Affidavit
	<i>Entered:</i> 05/31/2001	
	<i>Docket Text:</i> AFFIDAVIT by USA as to Dwayne Marquell Jones, Khincey Nevell Barnes Re: [1-1] complaint (avax)	
--	<i>Filed & Entered:</i> 06/07/2001	Arrest
	<i>Docket Text:</i> ARREST of Dwayne Marquell Jones, Khincey Nevell Barnes (dana)	
--	<i>Filed & Entered:</i> 06/07/2001	Initial Appearance
	<i>Docket Text:</i> Initial appearance as to Dwayne Marquell Jones, Khincey Nevell Barnes held before Magistrate Judge Thomas R. Jones Jr. (tape 183) USA appeared through: Parker Dft(s) appeared through: w/o counsel. (Defendant informed of rights.) Matter called, govt requested detention- granted, court to appoint counsel as to each deft. Matter cont. until 6/11/01 at 2:00 pm for PH/DH. Deft remanded. (dana)	
--	<i>Filed & Entered:</i> 06/07/2001	Preliminary Examination
	<i>Docket Text:</i> Preliminary Examination as to Dwayne Marquell Jones, Khincey Nevell Barnes set for 2:00 6/11/01 for Dwayne Marquell Jones, for Khincey Nevell Barnes (dana)	
3	<i>Filed & Entered:</i> 06/07/2001	Order
	<i>Docket Text:</i> ORDER OF TEMP. DETENTION as to Dwayne Marquell Jones, Khincey Nevell Barnes Detention Hearing set for 2:00 6/11/01 for Dwayne Marquell Jones, for Khincey Nevell Barnes (Signed by Magistrate Judge Thomas R. Jones Jr.) (dana)	

5	<i>Filed & Entered:</i>	06/07/2001	Warrant Returned Executed
	<i>Docket Text:</i> ARREST WARRANT Returned Executed as to Dwayne Marquell Jones on 6/6/01 (dana)		
7	<i>Filed & Entered:</i>	06/08/2001	CJA 20 - Appointment
	<i>Docket Text:</i> CJA 20 as to Dwayne Marquell Jones Appointment of Attorney Michael S. Arif (Signed by Magistrate Judge Thomas R. Jones Jr.) (avax)		
--	<i>Filed & Entered:</i>	06/11/2001	Preliminary Examination
	<i>Docket Text:</i> Preliminary Examination as to Dwayne Marquell Jones, Khincey Nevell Barnes held before Magistrate Judge Thomas R. Jones Jr. (tape 185) USA appeared through: Parker Dft(s) appeared through: Arif and Amlosh. Matter called, Govt adduced evidence and rested. Argument: PC found as to each defendant. Govt's motion for detention - granted as to each defendant. Defendant's remanded to appear before the Grand Jury as directed. (dana)		
10	<i>Filed & Entered:</i>	06/11/2001	Order
	<i>Docket Text:</i> ORDER OF DETENTION as to Dwayne Marquell Jones (Signed by Magistrate Judge Thomas R. Jones Jr.) (dana)		
--	<i>Filed & Entered:</i>	07/05/2001	Set/Clear Flags
	<i>Docket Text:</i> Magistrate Cases Merged as to defendant Dwayne Marquell Jones, defendant Khincey Nevell Barnes (ctat)		

PACER Service Center

Transaction Receipt

09/13/2008 08:07:57

PACER Login:	wm1788	Client Code:	
Description:	History/Documents	Search Criteria:	1:01-mj-00574-TRJ
Billable Pages:	1	Cost:	0.08



bring the case for...

PUBLIC.RESOURCE.ORG ~ A Nonprofit Corporation

Public Works Projects for the Internet

October 3, 2008

RECEIVED IN CHAMBERS

OCT 9 2008

LEE H. ROSENTHAL
U.S. DISTRICT JUDGE

The Honorable Lee H. Rosenthal
Chair, Committee on Rules of Practice and Procedure
Judicial Conference of the United States
Washington, D.C. 20544

Dear Judge Rosenthal:

I would like to thank you for your letter of July 16, 2008 on the subject of personal identifiers in appellate opinions. Your kind words are very much appreciated and I am pleased to report that the Clerks of the Courts of the Second, Fifth, and Ninth Circuits wrote to me indicating they were in the process of redacting social security numbers.

One issue in regards to appellate opinions that I would like to bring to your attention is the status of Alien Identification Numbers. It is the position of the Clerks of the Courts that Alien Identification Numbers do not fall within the enumerated list of "individuals' Social Security and taxpayer identification numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses." I do understand that a literal reading of the list might preclude Alien Identification Numbers and thus bring it to your attention in case the issue had not been previously considered.

I am also writing to you today to report on preliminary results of an audit of documents submitted to the United States District Courts. A social security number scan of these documents shows approximately 2,282 suspect documents in 32 different districts. The social security numbers are present in documents filed in earlier years, but also in many documents filed in 2008. In some cases, it appears that the social security numbers for attorneys and state employees are being disclosed.

While most documents contain the social security number for a single individual, we have found lists of dozens of individuals. In some cases, the name, date of birth, social security number, and even financial account numbers are present, making this "one-stop shopping" for potential identity theft.

I have enclosed for your reference a DVD of the 2,282 suspect documents. You will find attached to this letter as Appendix A a detailed analysis of 13 of the District Courts based a systematic manual scan of the documents flagged by our program. We will be completing the same detailed analysis of the remaining 19 districts for which we have data, and would be happy to forward that information to you if you wish.

It is worth mentioning that the number of privacy incidents varies widely by district. For example, we were unable to find any social security numbers for the Southern District of Texas or the District of Oregon, and the District of Minnesota had only 6 cases with problems, all from 2005 and 2006.

The Honorable Lee H. Rosenthal, Page 2

After working with government data for two decades, I am always impressed by the impact the Internet has on the dissemination of public data. The process of learning how to disseminate public databases effectively is one of trial and error and of progressively perfecting the process. The rules and procedures to protect personal identifiers developed by the Committee on Rules of Practice and Procedure are, I believe, a very important step in this regard.

Based on our experience with scanning District Court documents, I hope you will permit me to offer three suggestions that might provide additional support to the goal of broad dissemination of public information while protecting the privacy of individuals.

First, there is no obvious way for a member of the public or a nonprofit research group such as ours to alert the Administrative Office of the Courts to privacy issues. No system is perfect, and the feedback from users of the system is an essential step in finding mistakes before they spread. Many organizations have found that appointing a Chief Privacy Officer provides a single point of contact for the public.

Second, when problems are found, there does not appear to be a systematic way of alerting the providers of legal information. Even though the social security numbers from appellate opinions were removed from court web sites, they are still present on West Law and Lexis Nexis. A notification mechanism when cases are withdrawn or changed would be extremely useful. Such a system should go beyond the commercial services to include the large number of nonprofit groups that disseminate the law. Our own computers at Public.Resource.Org, for example, serve 1 million unique visitors per month, and that number is far larger when we include other sites that copy our data.

Third, while the first line of defense for protection of privacy is with the lawyers who file documents in the PACER system, we must assume that no system is perfect. I have attached as Appendix B a simple one-line PERL program based on open source tools which we use to scan for social security numbers. We scan a database for potential hits and then look at each case manually. If we find a social security number, we use redaction tools to remove that information.

There are no doubt far more sophisticated tools available, but I offer this simple mechanism as an example and would be more than happy to discuss these tools with technical staff if that is useful.


Thank you again for your responsiveness and quick action on the matter of Appellate decisions. It is gratifying to see the commitment towards the protection of personal privacy, both in the Judicial Conference and in the day-to-day operations of the Clerks of the Court.

Very truly yours,



Public.Resource.Org

cc:


The Honorable James C. Duff

b6
b7C

Re: Update

[Redacted]
Sent: Monday, December 15, 2008 9:39 AM

To: [Redacted]

Cc: [Redacted]

Attachments: [Redacted].pdf (30 KB)

Thank you [Redacted]

Please not the attached article.

[Redacted]

[Redacted]

12/15/2008 09:30 AM

To [Redacted]

cc [Redacted]

Subject Update

Sorry for the delayed response, I have been out of the division for training.

[Redacted] and I will be traveling to Boston to conduct interviews regarding this case during the month of January. We will provide updates when we return. We have not closed our case at this time.

Thanks.

SA [Redacted]

NVBA CR-17

[Redacted] office
[Redacted] cell

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288A-WF-238943 -10

Newspaper Headlines

Compiled by the AO, Office of Public Access

[Return to J-Net News](#)

[Back to Document List](#)

* Disclaimer

Online Rebel Publishes Millions of Dollars in U.S. Court Records for Free

Wired.com

December 12, 2008

Carl Malamud wants access to all public legal documents in the U.S. to be free to the public.

If you want to search federal court documents, it's not a problem. Just apply online for an account, and the government will issue you a user name and password.

Through the postal service.

And once you log in, the government's courthouse search engine known as Public Access to Court Electronic Records or PACER, will charge you 8 cents a page to read documents that are in the public domain — a fee that earned the federal judiciary \$50 million in profits in 2006.

With its high cost and limited functionality, critics call the system an absurdity in the era of Google, blogs and Wikipedia, where information is free and bandwidth, disk space and processing power are nearly so.

"The PACER system is the most broken part of our federal legal mechanism," says Carl Malamud, who runs the nonprofit open-government group Public.Resource.Org. "They have a mainframe mentality."

Now Malamud is doing something about it. He's asking lawyers to donate their PACER documents one by one, which he then classifies and bundles into ZIP files published for free at his organization's website. The one-year-old effort has garnered him 20 percent of all the files on PACER, including all decisions from federal appeals courts over the last 50 years.

think it should be open source."

[Disclosure: Wired.com nurtures a hefty PACER bill].

Malamud is a man accustomed to finding ways to provide free and easy online access to government documents.

Back in 1995, the Securities and Exchange Committee decided to put corporate filings online only after Malamud essentially shamed them into doing so. For two years he operated a free site that published the filings, then abruptly pulled the plug and directed angry users to the SEC.

He's since won battles freeing the nation's catalog of copyrights, Oregon's book of state laws, and the U.S. Patent and Trademark database. Now, he's after congressional hearing videos, expensive but copyright-free building codes, and the Code of Federal Regulations, in addition to all the court filings in the PACER database.

While Malamud's budget is only about \$1 million annually, he has a matching grant from eBay founder Pierre Omidyar's philanthropy group and help from influential tech friends like Tim O'Reilly, Paul Vixie and Larry Lessig.

Malamud dreams of a day PACER's legal documents are free, so that academics and entrepreneurs can create custom search engines and new tools to make the information available to American citizens.

But that's what PACER does now, counters U.S. Courts spokesman Richard Carelli. "PACER is the greatest technological achievement in the court system in the last 20 years," Carelli says.

The search system has already revolutionized access to court records, Carelli submits, by preventing time-consuming trips to federal courthouses and undercutting photocopy fees. PACER is also experimenting with making digital audio recordings of cases available online, and — at least during the pilot — a copy of an audio file costs just 8 cents, regardless of length.

What's more, PACER already gives its 900,000 users free access to judicial opinions, and citizens don't have to pay if they look at less than \$10 worth of filings a year, Carelli says.

Indeed, PACER is both revolutionary and cheap when compared to the state and local courts that have no electronic records at all, or charge \$5 just to run a record search, even if it comes up empty, as in the case of Los Angeles Superior Court.

But PACER's interface feels like something designed for the Department of Motor Vehicles, and the system lacks any way to search the text of legal documents.

Interested in finding all cases alleging music piracy, or in discovering how often Steve Jobs is mentioned in a court filing? Want to be e-mailed when there's a new filing comes in a specific case? How about an RSS feed of a certain court's decisions? You'll find no help from PACER.

Who wants information like that? Tim Stanley, the CEO of Justia.com, for one.

Justia.com.

"West makes billions of dollars selling stuff we want to give away for free," Stanley boasts.

Justia now lets academics and journalists follow cases of interest for free, and publishes some case files online for everyone to see. His company purchased and digitized all the Supreme Court decisions, put up the first free search engine for them, and donated them to PublicResource.org.

Now Justia's working with Cornell University to throw some Web 2.0 tools into the mix, including wiki pages for decisions, automated tracking of citations to decisions, and tools to track what briefs a particular attorney has written. Other efforts include AltLaw.org, a free legal search engine created by law professors Tim Wu and Paul Ohm, and Ed Walter's comprehensive Public Library of Law, which covers state courts as well.

Some issues have surfaced as old court files migrate online and then get spidered by Google and other search engines. Malamud says he's been contacted by people shocked to find an old lawsuit in which they were named suddenly popping up in search results on their names; he's currently blocking search engines from indexing his PACER files through robots.txt. Malamud says that there are also massive privacy violations lurking inside some court filings, since clerks, judges and lawyers aren't adhering to rules about what can and can't be in legal filings.

PublicResource.org used some primitive software tools to search for social security numbers in court filings from 32 district courts. The results: 1,700 confirmed documents, including one from a Massachusetts court that had a 54-page list of the names, medical problems, Social Security numbers and birth dates of 353 patients.

The fix for these glitches is more sunshine, Malamud argues, not less.

"Public interest groups and the public in general, when given access to these public records, are able to provide the kind of feedback that leads to the correction of these privacy issues," Malamud recently told administrators at U.S. courts. "If we want to be serious about personal privacy, we can only do so if we are also serious about public access."

But the Administrative Office of the U.S. Courts has already experimented with making PACER free to the public, and it found the concept lacking. In 2007, the office launched a trial at 16 libraries around the country that allowed unlimited free access from library computers. The trial was suspended last September, after Malamud encouraged volunteers to visit the libraries and download large numbers of cases to USB drives and donate them to the commons. Carelli won't say why the trial was suspended, or if Malamud's "Thumb-Drive Corps" was a factor in the decision. Malamud won't discuss it either, but noted in a letter to the courts last October that the abortive trial "was run with no written or oral guidelines on appropriate use."

Malamud says he's looking forward to the day he doesn't have to game the system. "If I had \$10 million, I'd make a copy of all the documents and be done."

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Letter #2 from [redacted]
[redacted]

Sent: Friday, December 05, 2008 11:17 AM
To: [redacted]
Cc: [redacted]
Attachments: judge_rosenthal_10242008.pdf (746 KB)

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b7F

[redacted]
Attached is a second letter from [redacted]. We are in the process of obtaining the DVD mentioned in both letters from Judge Rosenthal as we believe the files contained on them will be a perfect match with our stolen files as are the ones on his public resource org website.

Thank you again for your assistance. I look forward to speaking with you soon.
[redacted]

----- Forwarded by [redacted] DCA/AO/USCOURTS on 12/05/2008 10:55 AM -----

[redacted] DCA/AO/USCOURTS

To: [redacted]

cc: [redacted] DCA/AO/USCOURTS@USCOURTS

12/02/2008 05:19 PM

Subject: US Courts -- PACER data compromise

[redacted]
As we discussed, the files on public.resource.org (link below) match our list of compromised courts exactly with one minor exception. There were a few pages downloaded from ILSD not posted there. I have also attached a letter from [redacted] public.resource.org, to the US Courts that discusses an "audit" he is conducting of 32 district courts -- and it would appear that he is auditing the compromised data. Finally, you might find the PACER recycling guide on the website interesting, particularly Q13 about the Thumb Drive Corps (<http://pacer.resource.org/recycling.html>).

We really appreciate your efforts.

Best regards,

[redacted]
Administrative Office of the US Courts
[redacted]

[attachment "PublicResource_Ltr.pdf" deleted by [redacted] DCA/AO/USCOURTS]

----- Forwarded by [redacted] DCA/AO/USCOURTS on 12/02/2008 05:07 PM -----

[redacted] SAT/AO/USCOURTS

To: [redacted]

cc: [redacted] DCA/AO/USCOURTS@

12/01/2008 03:31 PM

2008A-WF-238943

[redacted]

12/16/08

Subject Re: Fw: By any chance Link

Just in case you would like a little more verification, [REDACTED] pulled this out of the data off that site. Notice the transaction receipt.

[attachment "docket.html" deleted by [REDACTED] DCA/AO/USCOURTS]

[REDACTED] found the following in the VAED file:

31,998 total transactions for the summary option.

19,890 belonged to wm1788.

12,108 belonged to sc5449.

I think it leaves little doubt about the "who." I am very curious about the "how."

Thanks,

[REDACTED]

[REDACTED] DCA/AO/USCOURTS

11/28/2008 02:35 PM

To [REDACTED] SAT/AO/USCOURTS@USCOURTS

cc [REDACTED] DCA/AO/USCOURTS@USCOURTS

Subject Fw: By any chance

??

----- Forwarded by [REDACTED] DCA/AO/USCOURTS on 11/28/2008 03:35 PM -----

[REDACTED] DCA/AO/USCOURTS

11/28/2008 03:34 PM

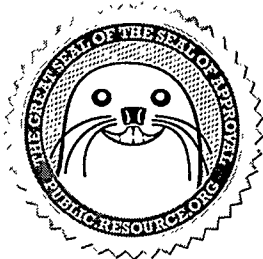
To [REDACTED] CA/AO/USCOURTS

cc

Subject By any chance

Do the courts with the compromised data correspond to those recently uploaded at:

<http://bulk.resource.org/courts.gov/pacer/>



PUBLIC.RESOURCE.ORG ~ A Nonprofit Corporation

Open Source America's Operating System

"It's Not Just A Good Idea—It's The Law!"

October 24, 2008

The Honorable Lee H. Rosenthal
Chair, Committee on Rules of Practice and Procedure
Judicial Conference of the United States
Washington, D.C. 20544

Dear Judge Rosenthal:

Pursuant to my previous letter of October 3, 2008, I am pleased to present to you the audit results for the 32 district courts for which we have been able to examine data. Of the 2,282 suspect files we reported to you in the preliminary findings, we were able to eliminate 613 of the documents as "false positives," leaving 1,669 documents with verified Social Security numbers and other issues.

However, just as our primitive scanning tool yielded false positives, we believe that there are probably a large number of false negatives in the 2,706,431 PDF files we examined. Indeed, often when our tool reported a Social Security number violation, when we looked around the document we also picked up many other Social Security numbers, birth dates, driver license numbers, Alien IDs, and bank account numbers.

We thus consider our work to date to be preliminary, both in thoroughness and scope. In subsequent stages, we hope to be able to use more comprehensive tools to perform a more thorough scan. In terms of scope, of the 32 district courts for which we have data, we do not have the full collection of cases for many of the districts and we thus hope to expand our work to provide more definitive results over the full database.

You will find attached a DVD that has all 1,669 problem files, with both the original document and a redacted version. You may use the "audited.html" summary file to compare the two versions of these documents. Our detailed results are also attached as Appendix A. We have also provided you with this data in spreadsheet format should you wish to perform further statistical analysis.

In Table 1, you will find summary statistics for each of the 32 district courts. We provide the total number of PDF files, HTML files, size of the collection in gigabytes, and the total number of pages. In addition, we list the total number of documents with Social Security numbers and calculate a Privacy Problem Index, which is the number of problem documents found per gigabyte of data. The Privacy Problem Index takes into account the fact that larger district courts will be expected to have a larger number of problems. As an aid to interpretation, we have taken the liberty of assigning letter grades on a curve. Needless to say, the curve might change if we had complete data for all the districts.

On a personal note, in the course of redacting the 1,669 documents in the attached DVD, I was quite struck by how damaging these privacy violations can be. A few of the horror stories I encountered that have kept me up nights include:

- In the District of Massachusetts, a 54-page list filed in June 2008 contains the names, birth dates, Social Security numbers, and medical problems of 353 patients of a doctor.
- In the District of the District of Columbia, an attorney who was not paid in what he considered to be a timely fashion by the District of Columbia schools decided to raise his rate to \$405/hour and bill the schools for the difference. To support his claim, he listed page after page of the names, home addresses, birth dates, and psychological issues for countless minors he saw.
- In the District of Alabama, lawyers seem to feel a need to sign briefs with their Social Security numbers, and the court consistently exposes the Social Security numbers and birth dates of police officers, state employees, and even court administrators.
- In the Central District of Illinois, litigants involving pension funds representing labor unions frequently attach the unredacted list of all union members and their Social Security numbers.
- In a huge number of IRS actions, unredacted tax returns are filed, including a large number where the redaction was performed incorrectly by simply placing a black box on top of the taxpayer ID, leaving the numbers untouched underneath the graphic.

To assist in the analysis and interpretation of this information, we have prepared a set of summary figures:

- In Figure 1, 30 of the districts (excluding Oregon and Northern Mariana Islands) are plotted with the Privacy Problem Index on one axis and the size of the archive on the other. As you can see, the District of Delaware has a very large archive, but a low rate of problems. On the other hand, the Central District of Illinois has a large archive but a very high problem rate.
- In Figure 2, a map is presented that shows color-coding for letter grades by geographic distribution. Needless to say, we were able to only provide this information for 31 of the 94 districts so the map is incomplete.
- In Figure 3, we plot the number of incidents over time, demonstrating that this problem is still ongoing.
- In Figures 4 and 5, we analyze two individual district courts to show that the distribution of privacy issues varies quite a bit by Judge. We realize different judges have different case loads and different kinds of cases, so further analysis of this data would be needed before drawing any conclusions.

On a technical note, a large number of the PDF files we encountered were not valid PDF files. A variety of "tricks" such as redistilling the files were performed to enable us to open them in Adobe Acrobat Professional, the tool we use for redaction. However, the fact that we had issues opening the files means that a large number of users will have similar issues. We would thus recommend a scan for PDF validity be performed. The open source Ghostscript package, in particular the PDF2PS utility, is quite useful for validating PDF content. In addition, there are commercial packages such as Apago's PDF Appraiser for validation and automatic correction of PDF/A compatibility.

The biggest obstacles we have encountered have not been technical, but appear to be administrative barriers imposed to restrict public access. Although the PACER data we have been examining has been online for several years, neither the computer staff of the PACER system nor the commercial retailers such as LexisNexis or Westlaw have taken any steps to either report or redact this sensitive personal information. Indeed, in the case of the commercial sector, the Social Security numbers are considered to be a feature not a bug, enabling the vendors to sell sophisticated personal data mining products.

We bring this point up not to criticize either our commercial cousins or the well-respected staff who operate the computer systems for the courts. They have different objectives and time pressures. However, public interest groups and the public in general, when given access to these public records, are able to provide the kind of feedback that leads to the correction of these privacy issues. As Justice Brandeis said, "sunlight is said to be the best of disinfectants; electric light the most efficient policeman." If we want to be serious about personal privacy, we can only do so if we are also serious about public access.

Public access is a fundamental, enabling characteristic of our judicial system. As the Massachusetts Supreme Court so eloquently put the matter in *Nash v. Lathrop*, 6 N.E. 559 (1886), "every citizen is presumed to know the law thus declared, and it needs no argument to show that justice requires that all should have free access to the opinions, and that it is against sound public policy to prevent this, or to suppress and keep from the earliest knowledge of the public the statutes or the decisions and opinions of the justices."

Unfortunately, it appears that public access is an afterthought on the PACER system. Despite \$60 million/year in revenue with direct expenses of only \$11m (a very healthy 59% gross margin), and an "unobligated balance" of \$146.6 million in the Judiciary Information Technology Fund, the only way members of the public may access PACER is to petition a judge or pay \$0.08/page, a rate that quickly leads to large bills and is a prohibitive barrier for most people. Only this year did the PACER system decide to run a public trial in 17 libraries to "discover if a segment of the public desires access to information contained in the PACER system." That trial was run with no written or oral guidelines on appropriate use, and was then abruptly cancelled.

Public access goes to the heart of the role of the judiciary in our modern society and is an important matter of public policy for the Judicial Conference to consider. As you have seen, when public access is provided, the result is that we are able to take seriously issues such as the protection of privacy, the accountability of our system of justice to the people, and the right of citizens to know the law.

Please let me know if I can provide further information on this report and I look forward to providing you with a full audit of all the data for all 94 district courts.

Respectfully yours,

[Redacted]

Public.Resource.Org

cc: [Redacted]

The Honorable Mr. Duff

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Table 1
Summary of Privacy Issues Found

District	# PDF Files Examined	# HTML Files	Total # Pages	# Gbytes Examined	# Docs With SSNs	Privacy Problem Index	
akd	54,434	15,976	293,045	10.0	58	5.80	D-
almd	139,471	26,719	956,991	39.0	171	4.38	D
azd	67,181	95,927	532,604	16.0	33	2.06	C
cand	192,607	38,105	1,486,510	55.0	30	0.55	D-
casd	90,346	57,666	620,522	21.0	14	0.67	D-
cod	87,134	66,779	609,624	18.0	26	1.44	C+
cofc	85,686	79,216	613,040	27.0	228	8.44	F
ctd	78,158	59,159	546,083	16.0	16	1.00	D-
dcd	220,340	50,460	1,423,178	69.0	145	2.10	C
ded	183,618	81,669	1,225,609	68.0	40	0.59	D-
flsd	36,632	3,081	231,298	5.6	10	1.79	C
gud	32,889	14,223	164,855	6.7	11	1.64	C
hid	47,448	45,977	324,971	12.0	4	0.33	D-
ilcd	193,049	95,843	1,530,197	52.0	299	5.75	D-
ilnd	159,562	25,589	828,186	31.0	26	0.84	D-
laed	6,590	12,365	41,097	1.1	2	1.82	C
mad	217,701	32,139	1,643,126	54.0	124	2.30	C-
mdd	62,038	166,907	553,404	15.0	68	4.53	D-
mnd	43,896	26,118	299,590	8.4	6	0.71	D-
njd	141,041	139,365	1,018,050	46.0	48	1.04	D-
nmid	8,556	5,760	59,064	1.7	34	20.00	F
nysd	238,404	59,001	2,154,572	73.0	82	1.12	D-
ohsd	19,220	11,511	152,009	4.8	29	6.04	D-
ord	0	112,762	112,762	1.2	0	na	S
paed	20,901	7,714	200,630	3.4	8	2.35	C-
pamd	13,423	6,174	118,659	4.2	3	0.71	D-
pawd	18,482	24,706	173,301	5.3	21	3.96	D
prd	19,776	44,713	106,216	2.6	12	4.62	D
rid	90,187	60,890	622,755	20.0	104	5.20	D
txsd	35,279	9,878	239,544	11.0	0	0.00	D+
vaed	2,367	267,111	281,857	3.9	12	3.08	D+
vtd	100,015	69,718	692,811	34.0	5	0.15	D-
Total	2,706,431	1,813,221	19,856,160	735.9	1,669		

Figure 1
Rate of Incidents v. Size of Archive

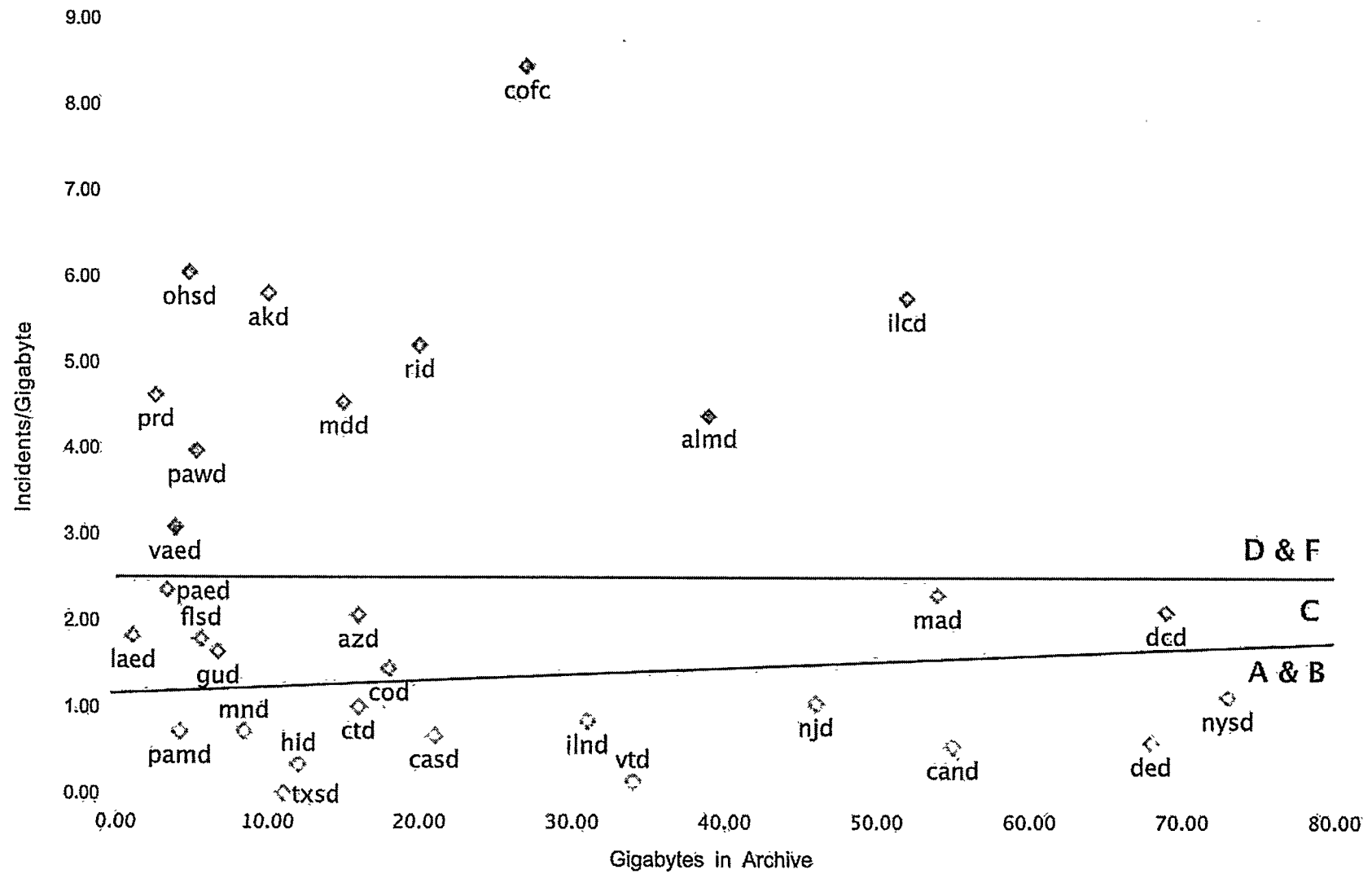


Figure 2
Distribution of Privacy Violations By Geographic Area

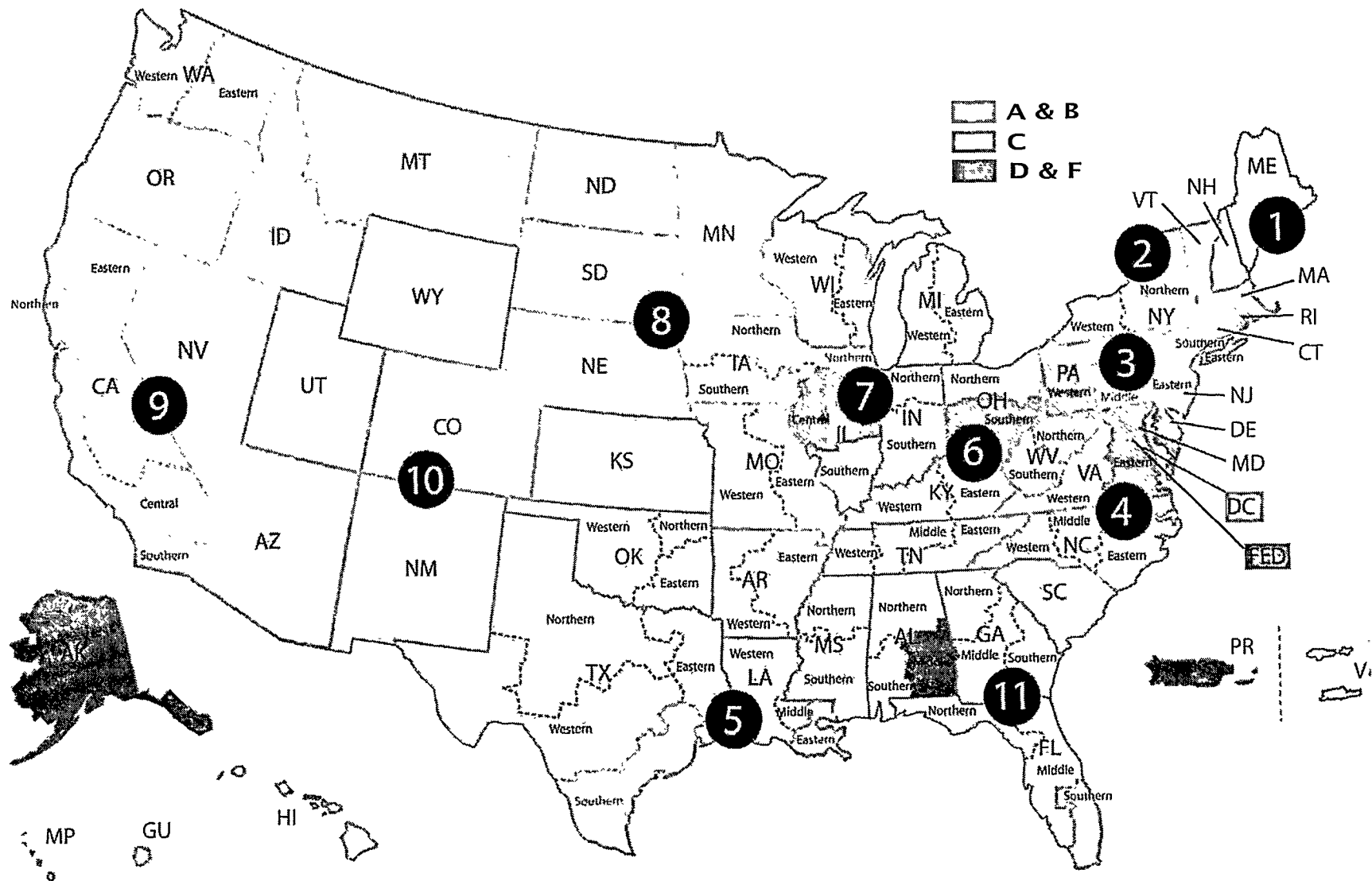


Figure 3
Number of Documents With Social Security Numbers Found By Month Of Filing

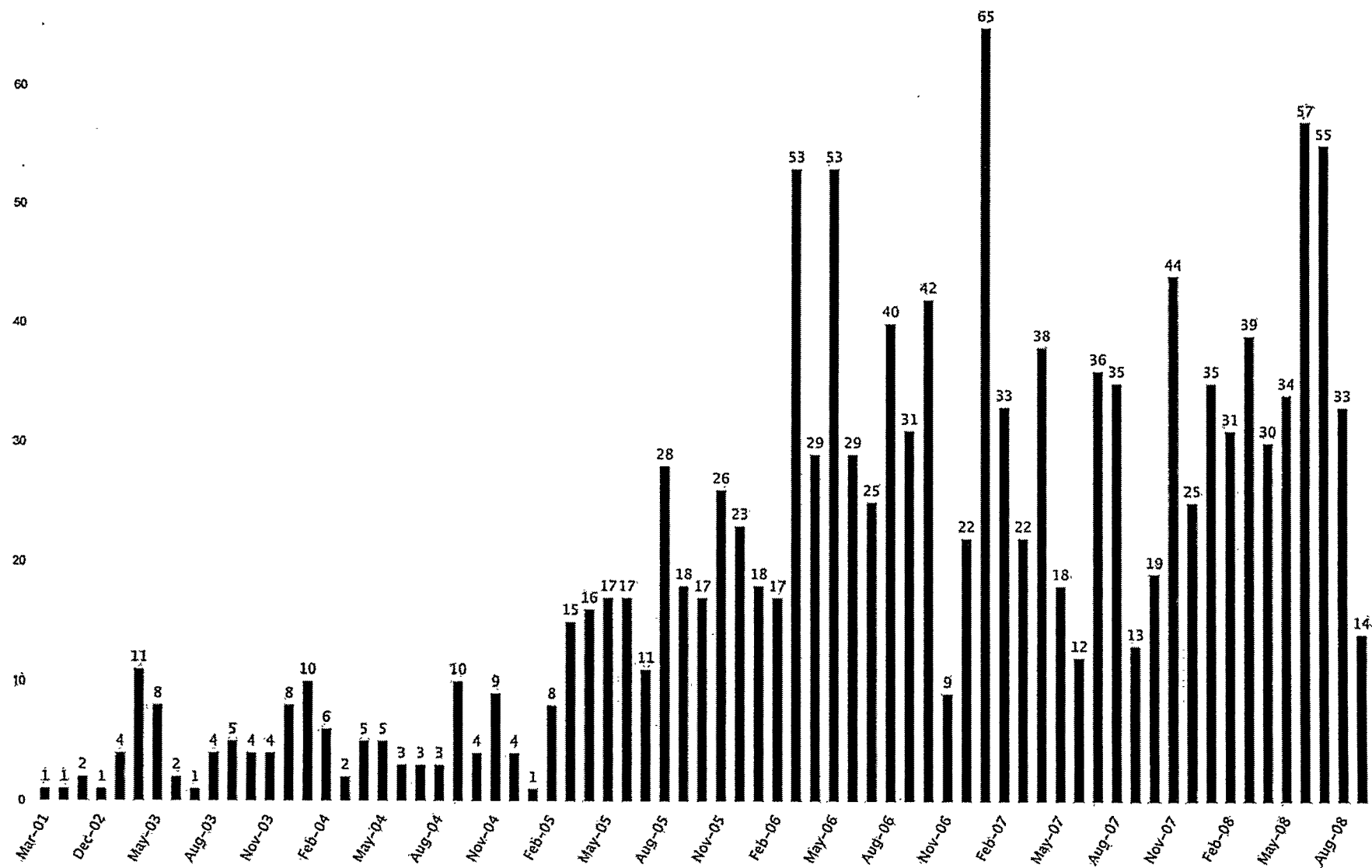
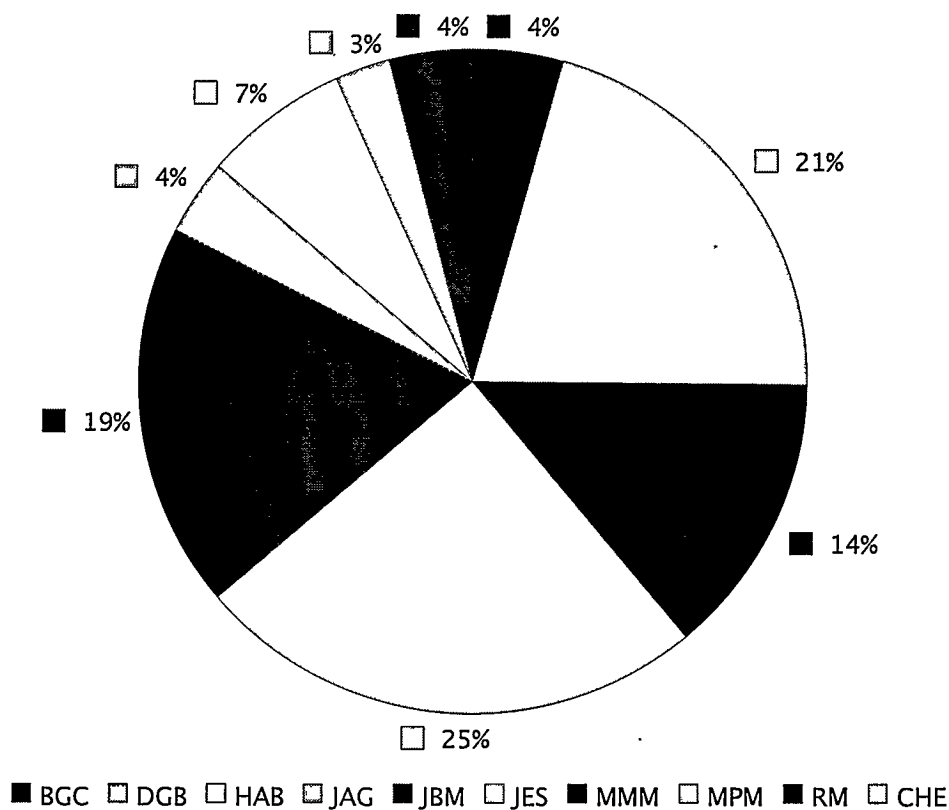
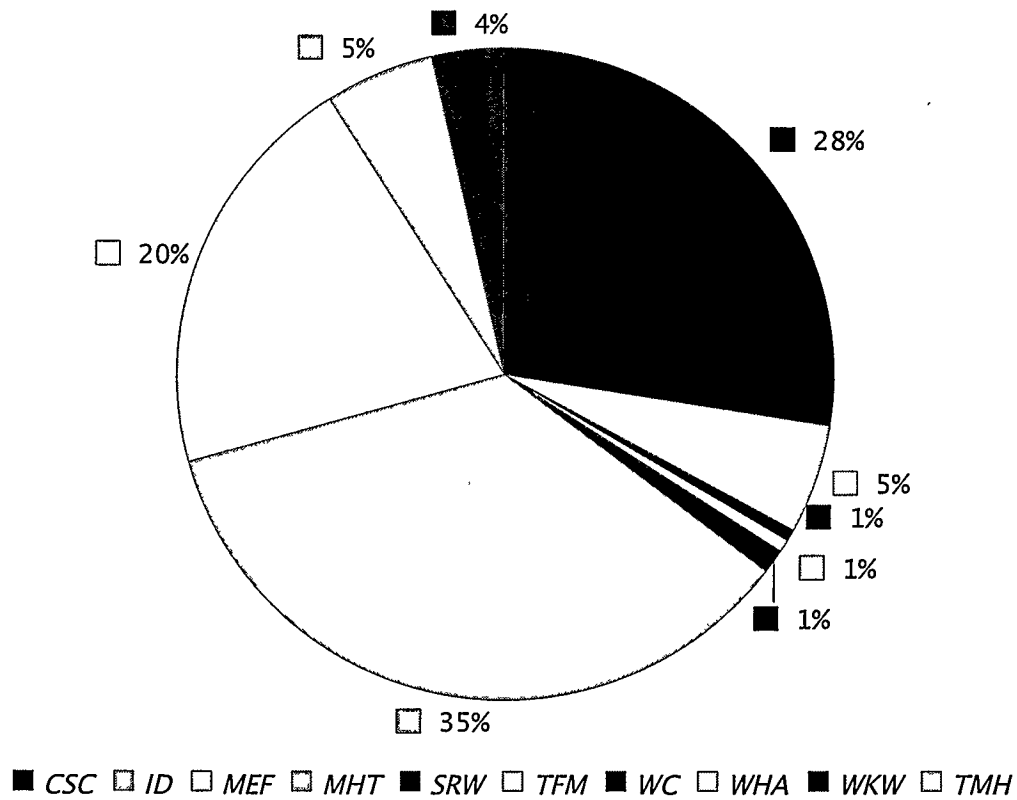


Figure 4
Number of Documents With Social Security Numbers
 District Court of the Middle District of Alabama



Initials	Judge	# of Docs	Percent
BGC	The Hon. Byron G. Cudmore	12	4%
DGB	The Hon. David G. Bernthal	8	3%
HAB	The Hon. Harold A. Baker	21	7%
JAG	The Hon. John A. Gorman	11	4%
JBm	The Hon. Joe Billy McDade	56	19%
JES	The Hon. Jeanne E. Scott	74	25%
MMM	The Hon. Michael M. Mihm	41	14%
MPM	The Hon. Michael P. McCuskey	62	21%
RM	The Hon. Richard Mills	13	4%
CHE	The Hon. Charles H. Evans	0	0%

Figure 5
Number of Documents With Social Security Numbers
 District Court of the Middle District of Alabama



Initials	Judge	# of Docs	Percent
CSC	The Hon. Charles S. Coody	6	4%
ID	The Hon. Ira DeMent	9	5%
MEF	The Hon. Mark E. Fuller	34	20%
MHT	The Hon. Myron H. Thompson	59	35%
SRW	The Hon. Susan Russ Walker	2	1%
TFM	The Hon. Terry F. Mooror	1	1%
WC	The Hon. Wallace Capel, Jr.	1	1%
WHA	The Hon. W. Harold Albritton	9	5%
WKW	The Hon. W. Keith Watkins	46	28%
TMH	The Hon. Truman M. Hobbes	0	0%

File	Case ID	Doc #	Page Number	Date Filed	# of SSNs	SSNs Found
District Court of Alabama						
		57-5	Page 21 of 39	03/04/2008	2	
		57-6	Page 5 of 34	03/04/2008	3	
		57-8	Page 39 of 43	03/04/2008	1	
		57-9	Page 4 of 28	03/04/2008	1	
		57-16	Page 10 of 20	03/04/2008	2	
		4-3	Page 1 of 7	04/25/2006	1	
		21-2	Page 3 of 13	07/21/2006	1	
		51-2	Page 3 of 15	10/02/2006	2	
		52-2	Page 3 of 15	10/03/2006	2	
		82	Page 2 of 10	02/06/2006	1	
		47-2	Page 2 of 2	05/05/2008	2	
		58-2	Page 5 of 23	06/11/2008	1	
		6-2	Page 36 of 45	08/22/2005	1	
		19-6	Page 3 of 22	10/26/2006	1	
		19-14	Page 11 of 14	10/26/2006	2	
		19-16	Page 3 of 19	10/26/2006	10	
		19-17	Page 8 of 26	10/26/2006	15	
		19-18	Page 3 of 20	10/26/2006	15	
		19-20	Page 2 of 11	10/26/2006	1	
		16-6	Page 1 of 1	02/06/2006	1	
		19	Page 2 of 2	03/02/2006	1	
		29-2	Page 1 of 2	07/20/2006	1	
		11-2	Page 1 of 13	12/05/2005	2	
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		72-34	Page 1 of 1	11/16/2007	1	
		72-39	Page 4 of 50	11/16/2007	1	

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		72-66	Page 1 of 2	11/16/2007	1	
		72-91	Page 13 of 32	11/16/2007	3	
		72-122	Page 20 of 86	11/16/2007	1	
		85-5	Page 8 of 202	12/13/2007	1	
		85-7	Page 14 of 181	12/13/2007	1	
		85-25	Page 4 of 7	12/13/2007	1	
		7	Page 2 of 3	02/15/2006	1	
		114-2	Page 13 of 220	12/15/2006	3	
		29-3	Page 2 of 28	03/05/2008	2	
		29-4	Page 2 of 21	03/05/2008	2	
		7	Page 1 of 2	04/10/2006	1	
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		28-5	Page 1 of 1	03/05/2008	1	
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		45-30	Page 1 of 1	04/19/2007	1	
		19	Page 2 of 7	11/14/2006	1	
		36	Page 2 of 8	10/19/2006	1	
		2	Page 1 of 33	06/02/2006	1	
		14	Page 1 of 6	08/03/2006	1	
		53-7	Page 2 of 3	08/30/2007	1	
		30-15	Page 14 of 20	02/28/2007	1	
		9-2	Page 2 of 2	08/15/2006	1	
		39-2	Page 1 of 6	12/28/2007	1	
		98	Page 12 of 12	05/28/2008	1	
		101-2	Page 5 of 7	08/21/2008	2	
		18-3	Page 2 of 2	01/29/2007	1	
		10-3	Page 4 of 61	05/18/2007	3	
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		24	Page 14 of 15	07/31/2007	1	
		26	Page 11 of 12	08/15/2007	1	
		31	Page 3 of 3	10/03/2007	1	
		38-2	Page 4 of 38	11/15/2007	2	

File	Case ID	Doc #	Page Number	Date Filed	# of SSNs	SSNs Found
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		25	Page 1 of 2	10/03/2006	1	
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		14	Page 1 of 1	07/24/2008	1	
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		9-2	Page 7 of 8	11/14/2006	1	
		58-12	Page 4 of 10	04/30/2008	1	
		52-11	Page 40 of 56	11/21/2007	1	
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		58-2	Page 2 of 2	02/28/2008	1	
		32-4	Page 2 of 30	08/24/2007	1	
		52-7	Page 4 of 11	05/15/2008	10	
		33-2	Page 1 of 63	09/06/2007	25	
		93-2	Page 9 of 83	07/28/2008	4	
		41	Page 1 of 3	02/01/2008	1	
		14	Page 1 of 3	08/20/2007	1	
		39	Page 5 of 28	11/16/2007	2	
		22-2	Page 3 of 45	01/14/2008	2	
		1-2	Page 1 of 17	04/16/2007	2	
		1-8	Page 1 of 9	04/30/2007	1	
		2-2	Page 1 of 9	05/01/2007	1	

File	Case ID	Doc #	Page Number	Date Filed	# of SSNs	SSNs Found
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		20-5	Page 19 of 24	07/25/2007	1	
		24-2	Page 3 of 89	06/17/2008	1	
		54-2	Page 4 of 17	10/19/2007	2	
		22-9	Page 1 of 2	04/25/2008	1	
		25	Page 2 of 3	09/06/2007	1	
		26	Page 2 of 13	09/06/2007	2	
		55	Page 3 of 19	12/11/2007	2	
		115-2	Page 18 of 85	05/07/2008	4	
		4-7	Page 3 of 10	07/05/2007	1	
		42-2	Page 8 of 16	08/19/2008	4	
		48-9	Page 1 of 3	02/01/2008	2	
		1-2	Page 1 of 15	07/27/2007	1	
		7-2	Page 1 of 20	08/30/2007	1	
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		9-2	Page 6 of 23	10/29/2007	1	
		13-3	Page 6 of 23	02/19/2008	1	
		28	Page 4 of 6	08/15/2008	1	
		18-11	Page 1 of 2	05/30/2008	4	
		16-2	Page 19 of 53	11/01/2007	2	
		20-2	Page 5 of 36	02/25/2008	8	
		37-5	Page 2 of 21	06/26/2008	1	

File	Case ID	Doc #	Page Number	Date Filed	# of SSNs	SSNs Found
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		37	Page 3 of 28	01/24/2007	1	
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	38-4	Page 38 of 88	06/06/2008	3	
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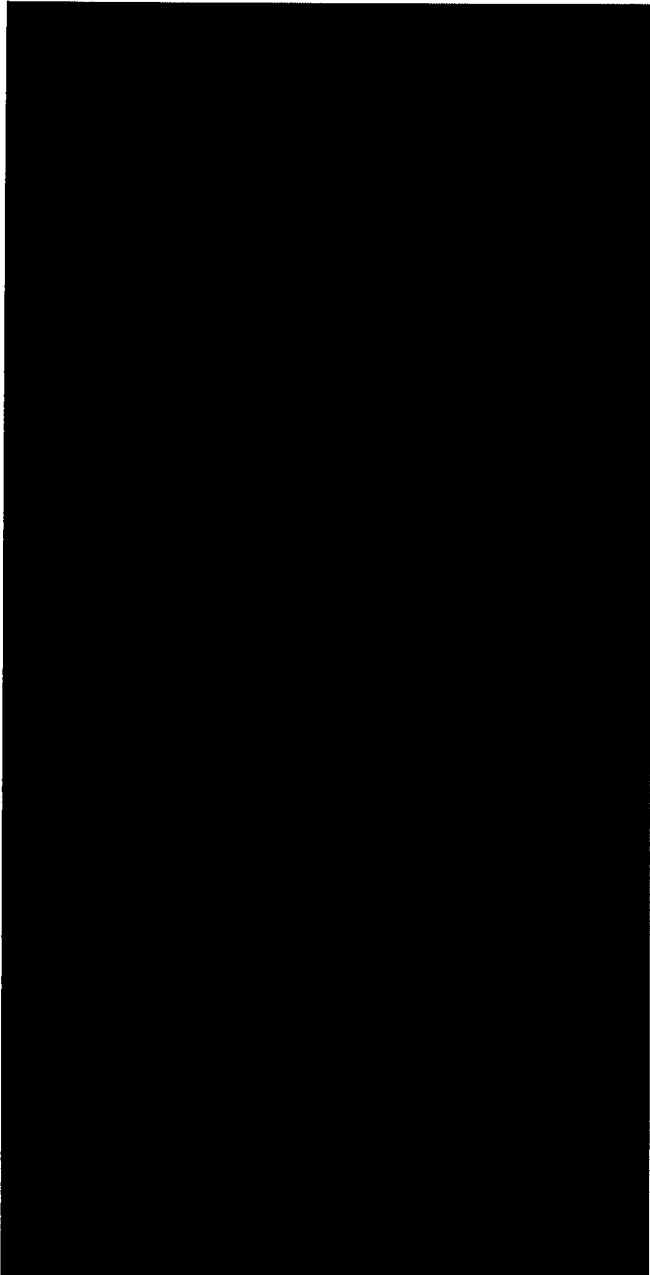
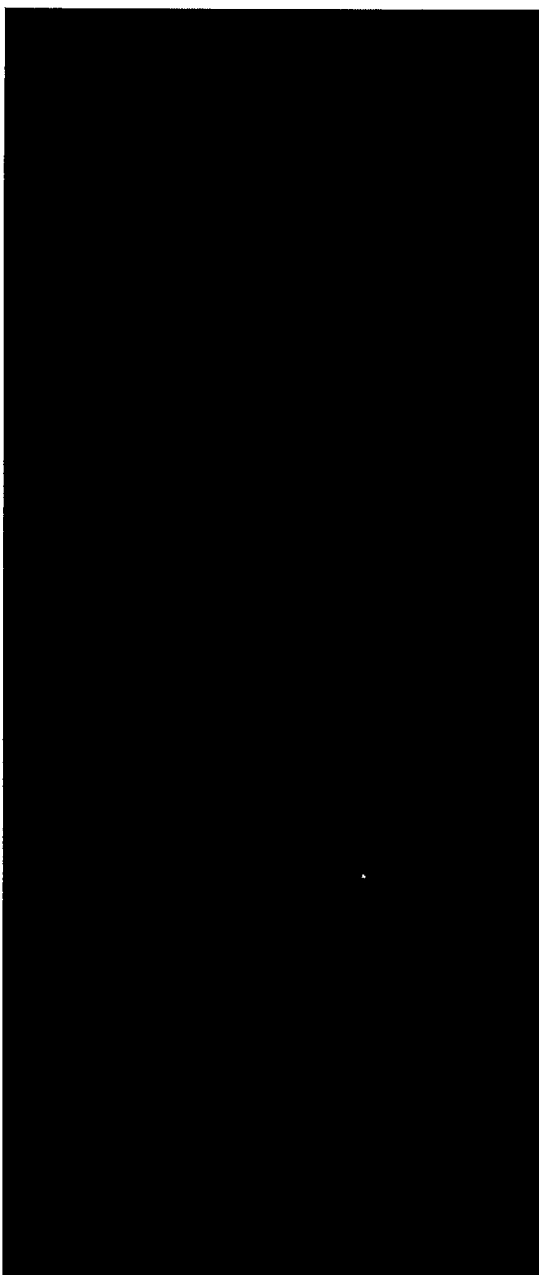
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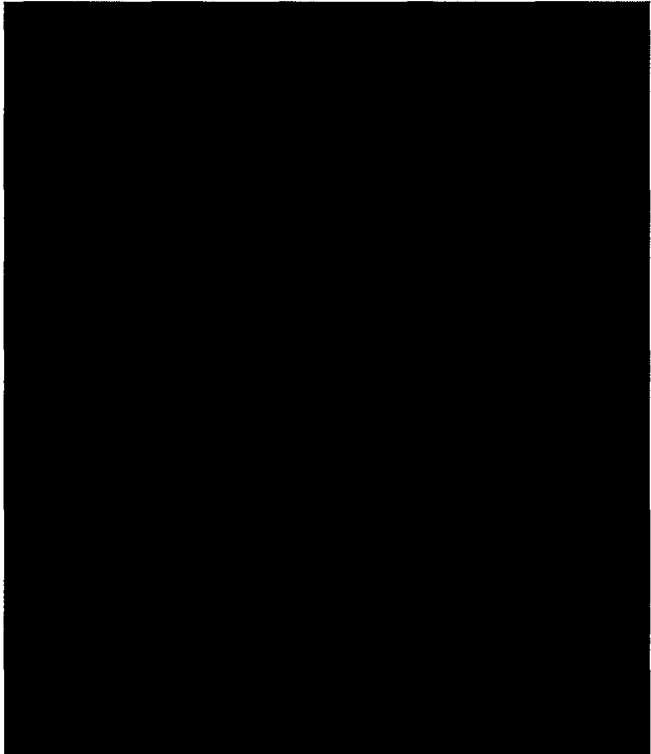
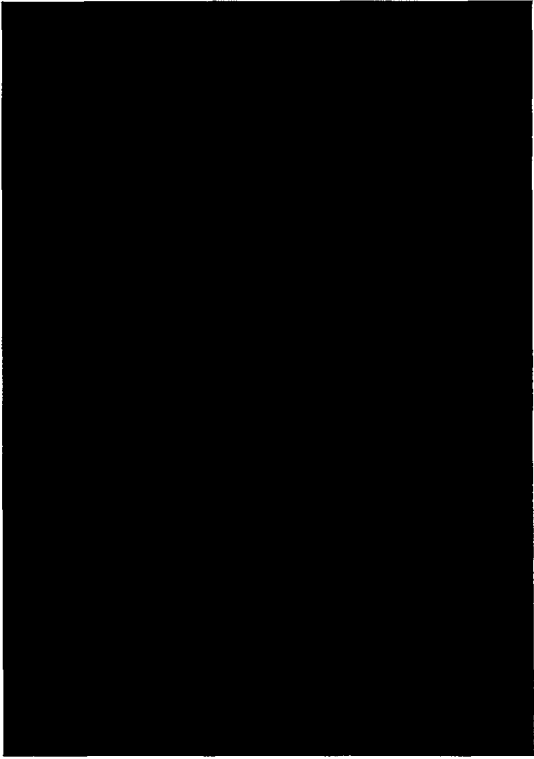
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		42-2	Page 1 of 9	01/20/2004	1	
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		24-6	Page 6 of 30	08/14/2008	2	
		9-5	Page 32 of 35	07/31/2008	17	
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		21-9	Page 1 of 1	06/03/2008	1	
		1-2	Page 2 of 4	06/17/2008	1	
		1-2	Page 2 of 6	07/16/2008	1	
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		39	Page 3 of 3	06/08/2005	1	
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		168	Page 6 of 16	05/01/2008	2	
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		43	Page 1 of 6	11/29/2005	1	
		37	Page 3 of 3	09/23/2005	1	
		13	Page 3 of 3	09/15/2005	1	
		708	Page 4 of 9	04/19/2005	1	
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District Court of Guam						
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		17	Page 2 of 2	07/10/2008	1	
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		221	Page 7 of 13	03/28/2008	2	
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		18-19	Page 8 of 11	unknown	1	
		18-23	Page 1 of 1	unknown	1	
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		12-2	Page 3 of 6	unknown	3	
		3	Page 16 of 16	unknown	1	
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		48	Page 5 of 5	unknown	1	
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		5-4	Page 3 of 30	unknown	1	
		5-6	Page 2 of 6	unknown	1	
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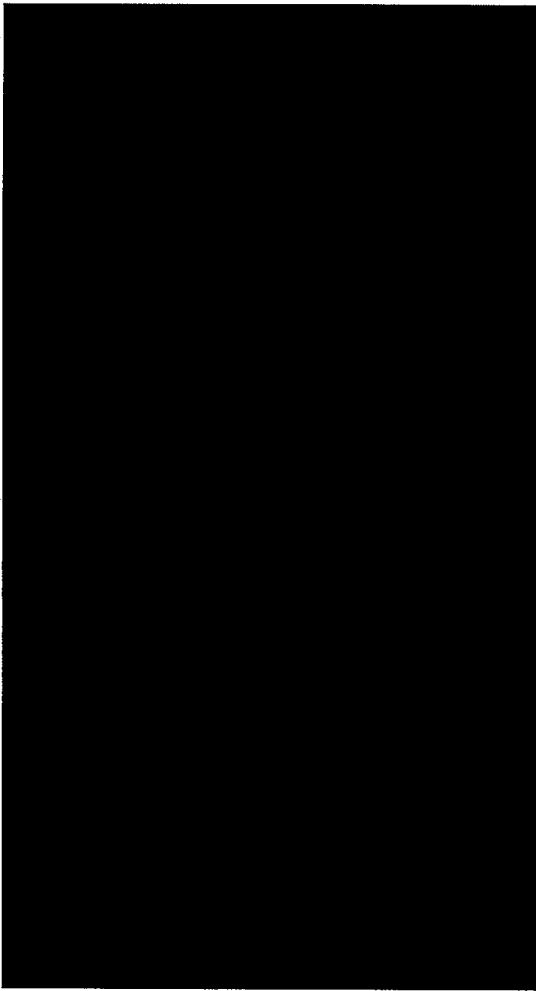
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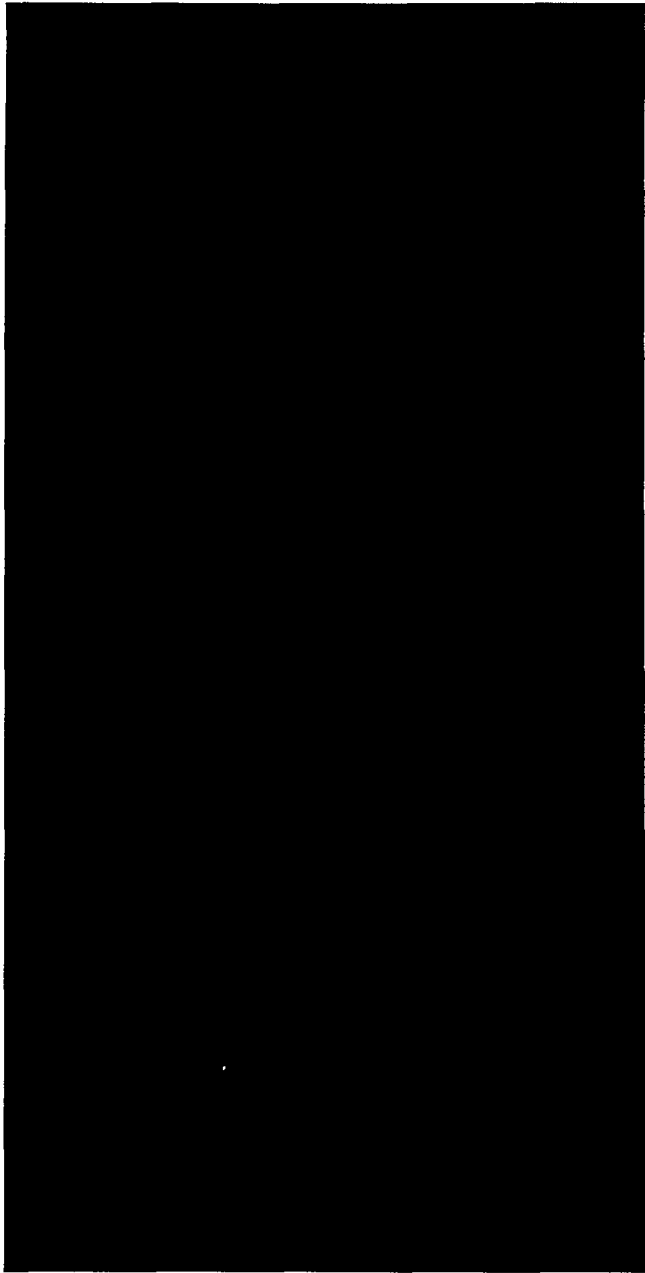
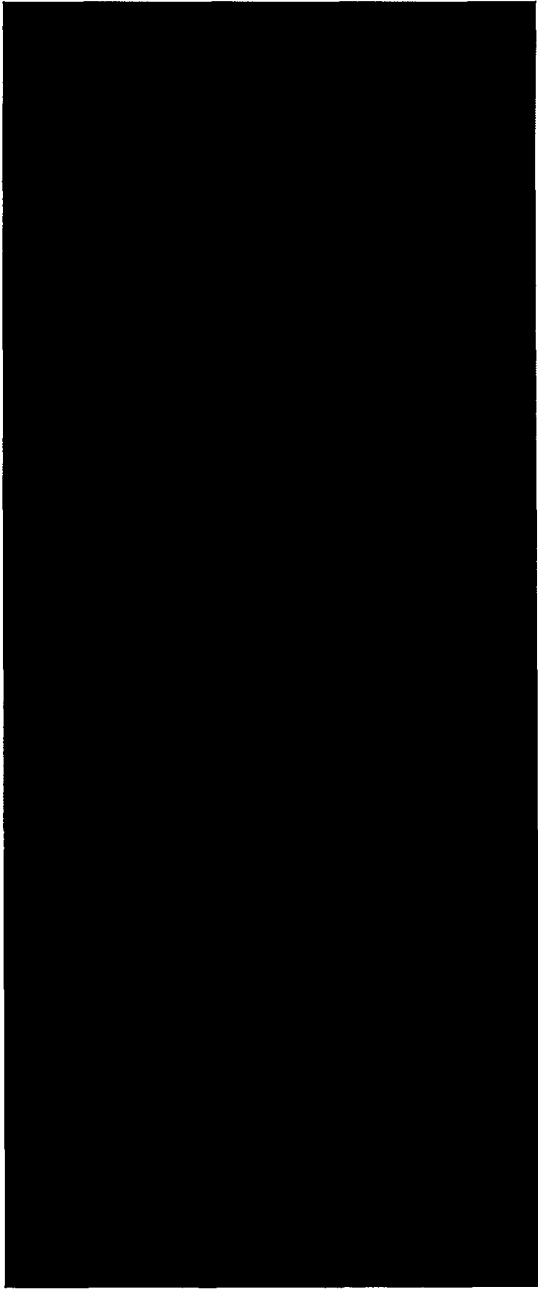
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		21-2	Page 8 of 15	05/14/2008	47	

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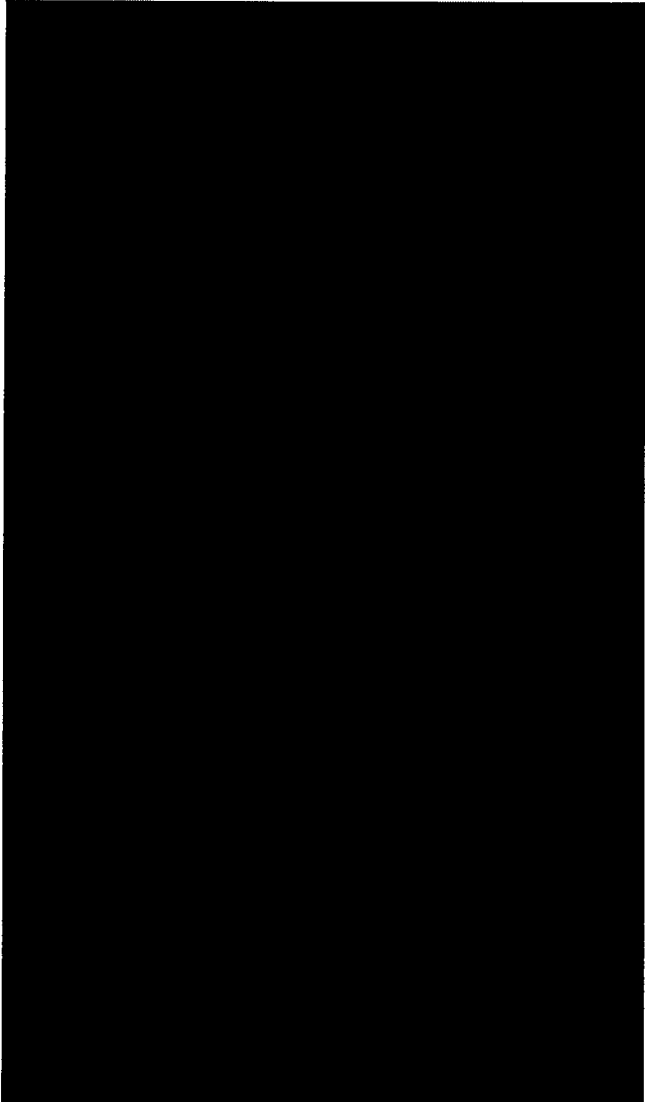
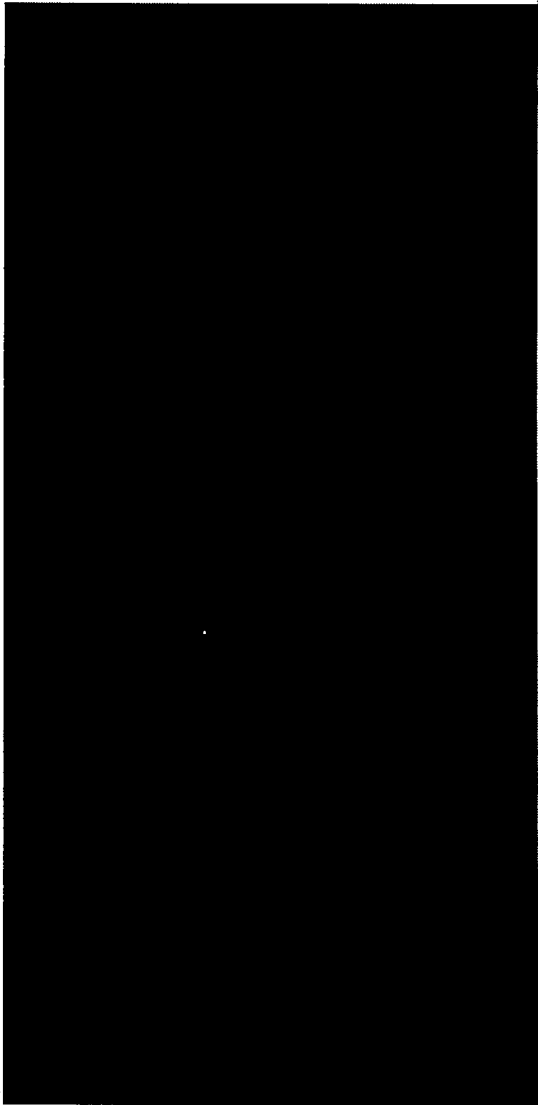
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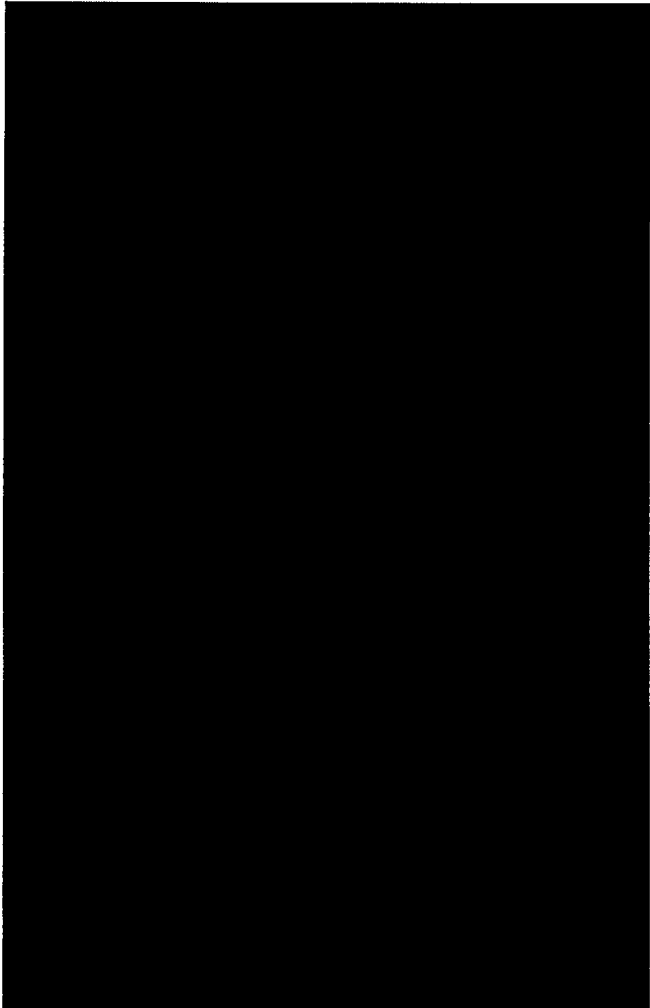
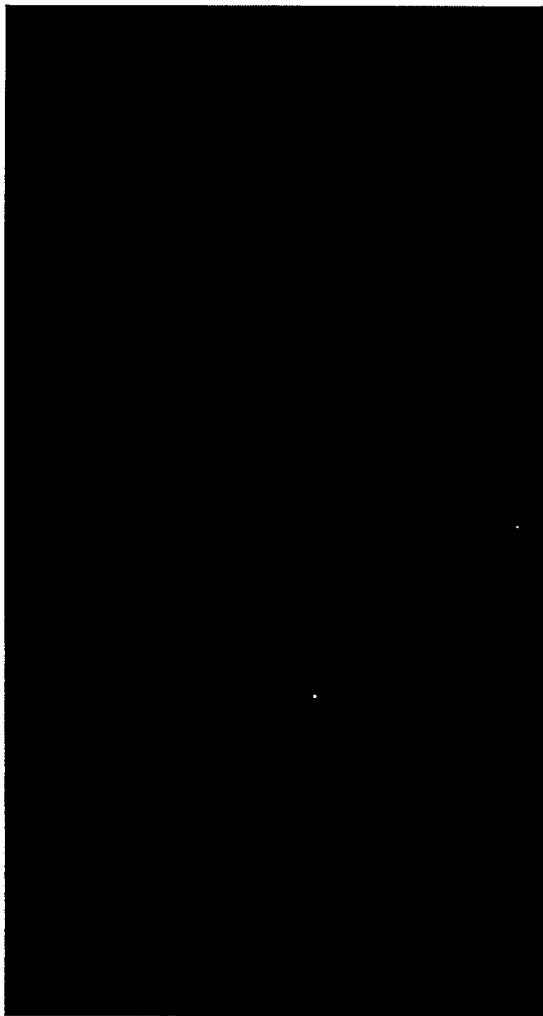
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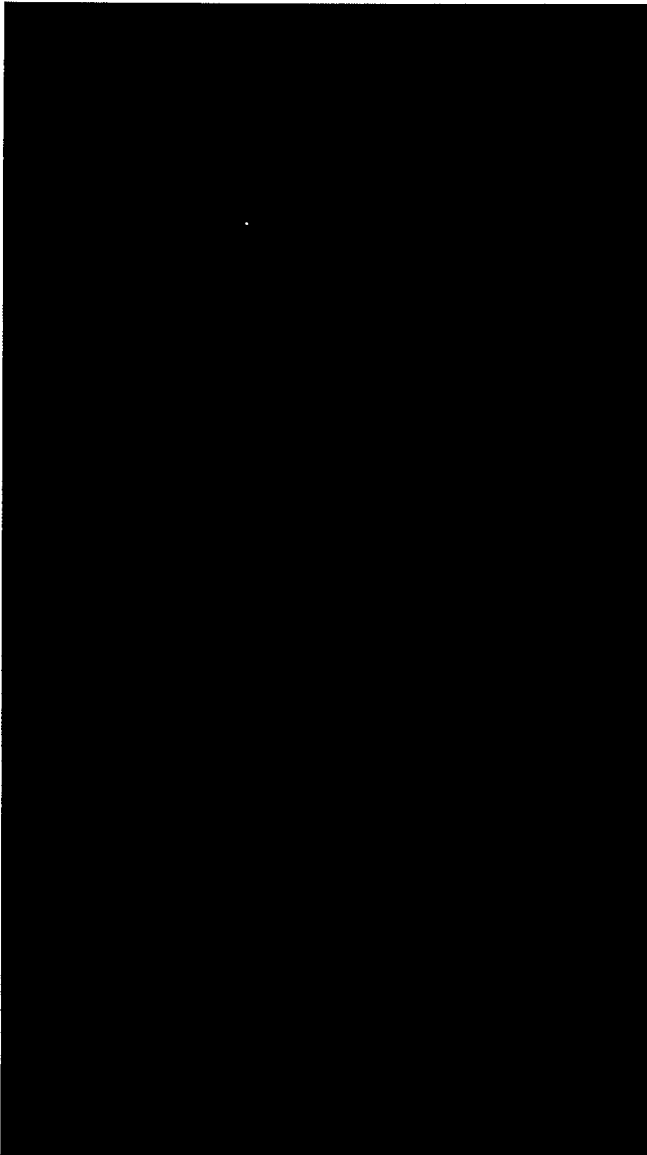
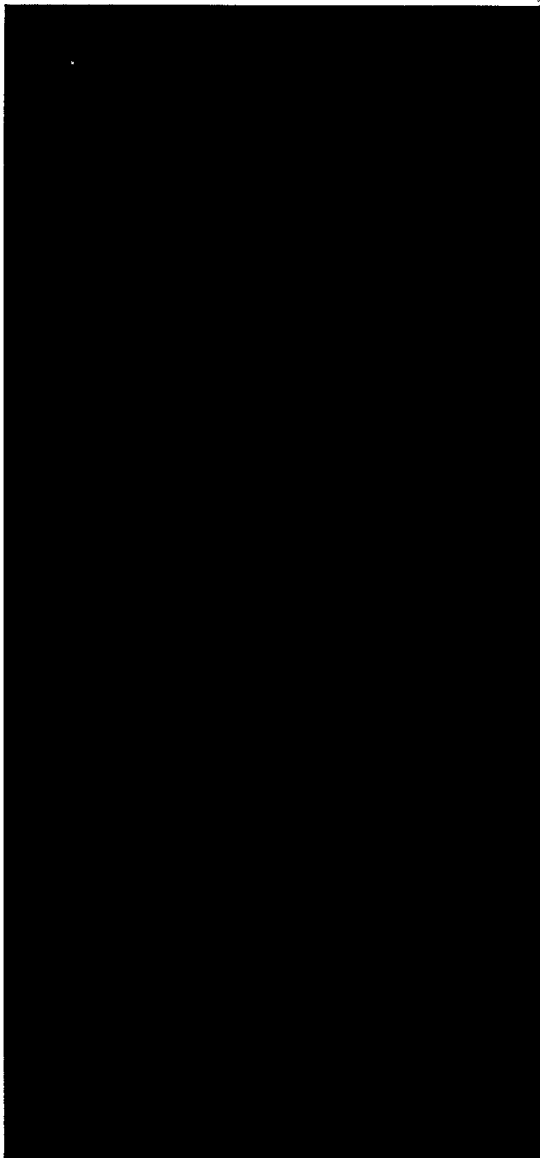
District Court of the Eastern District of Virginia

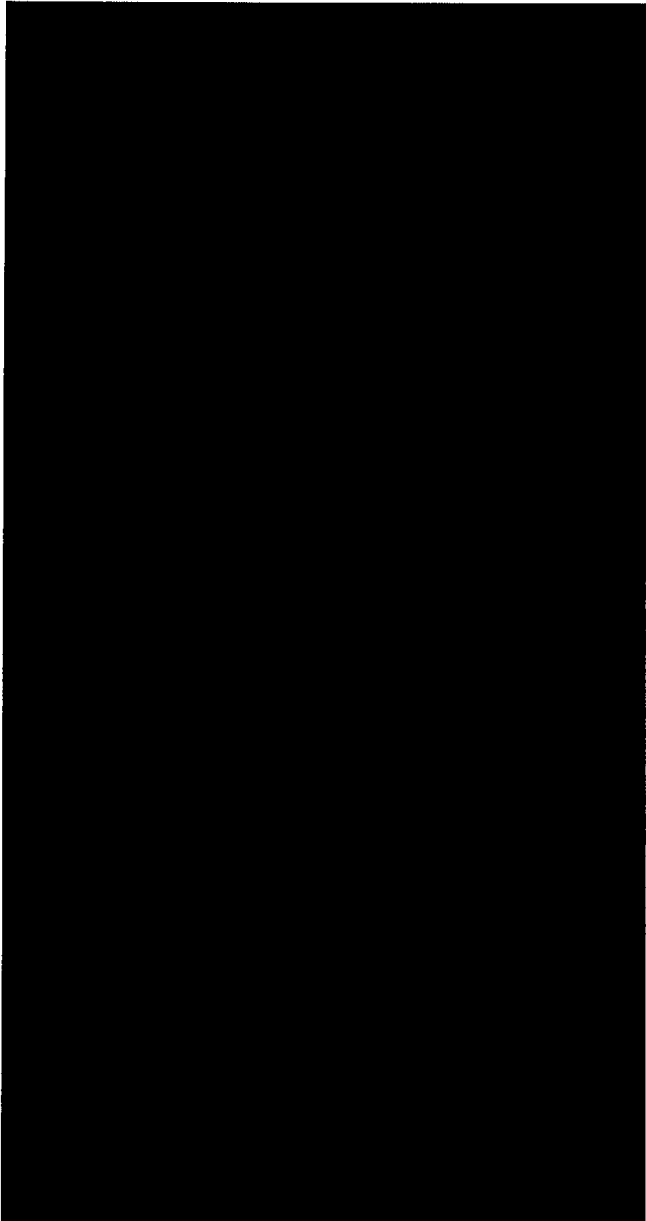
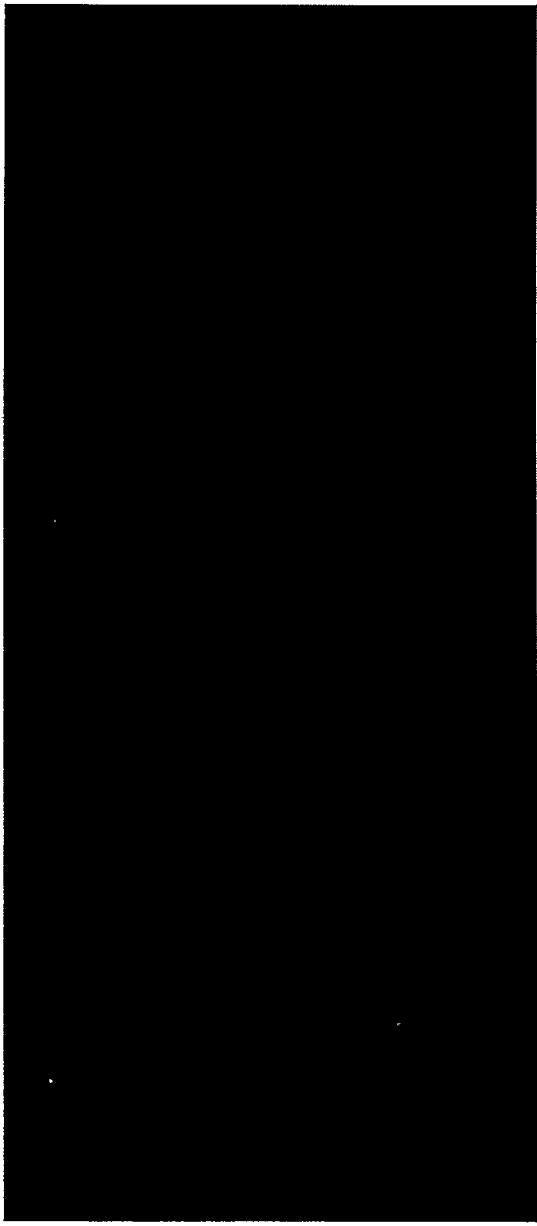
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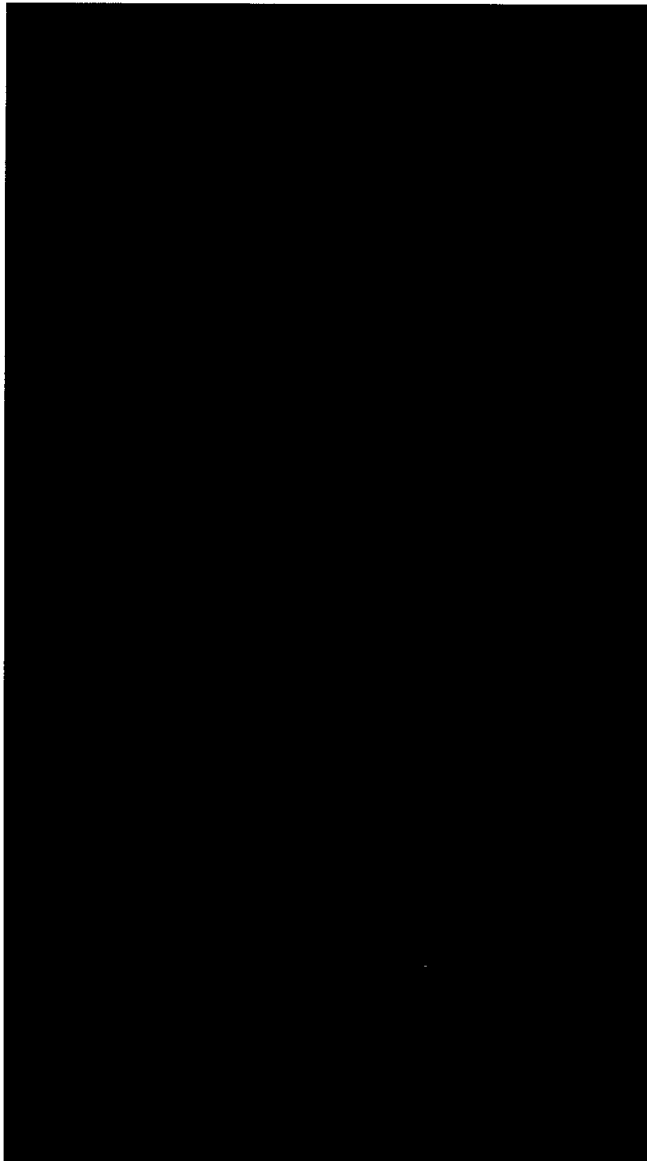
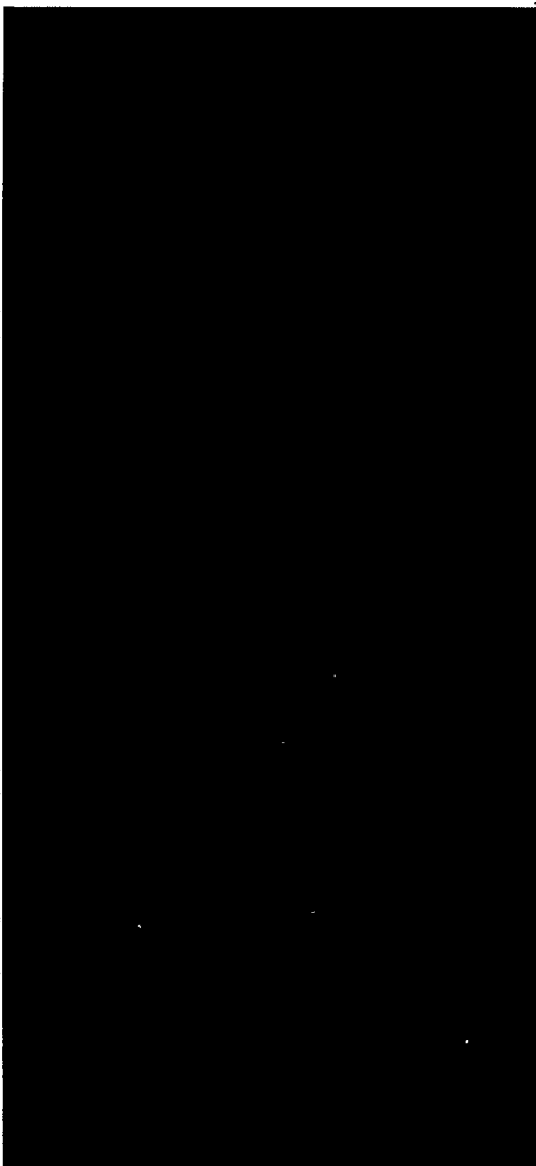
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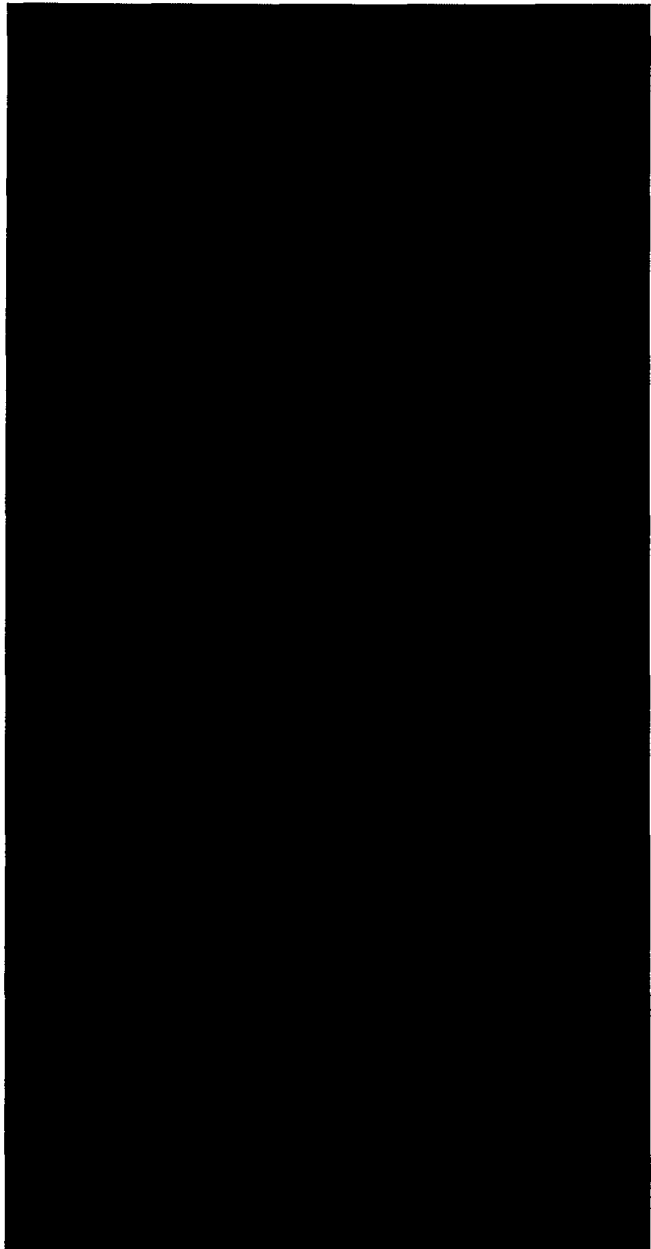
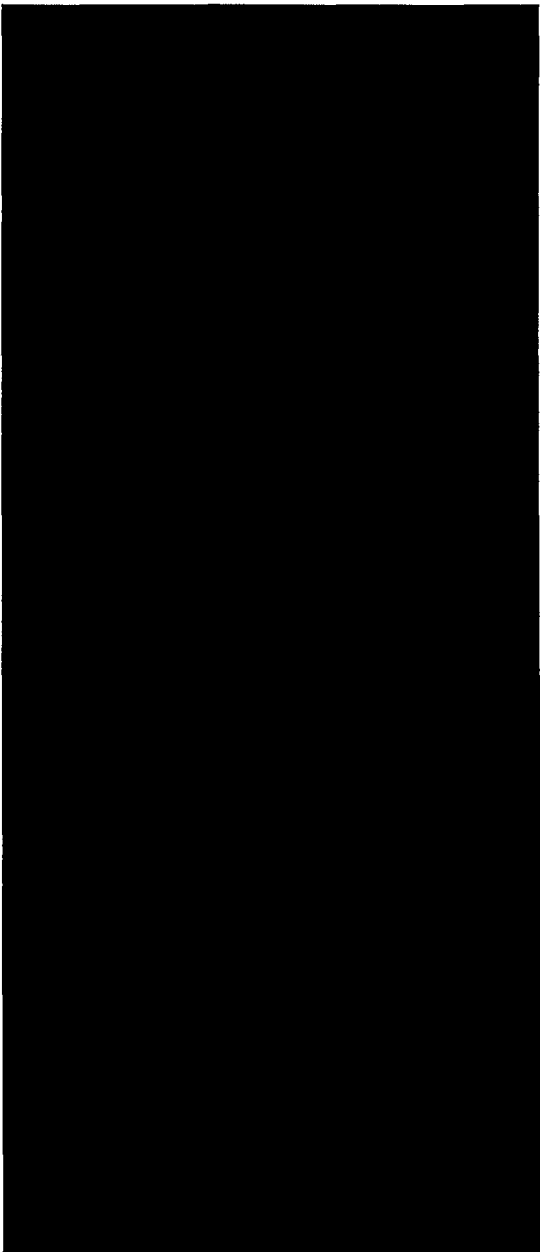
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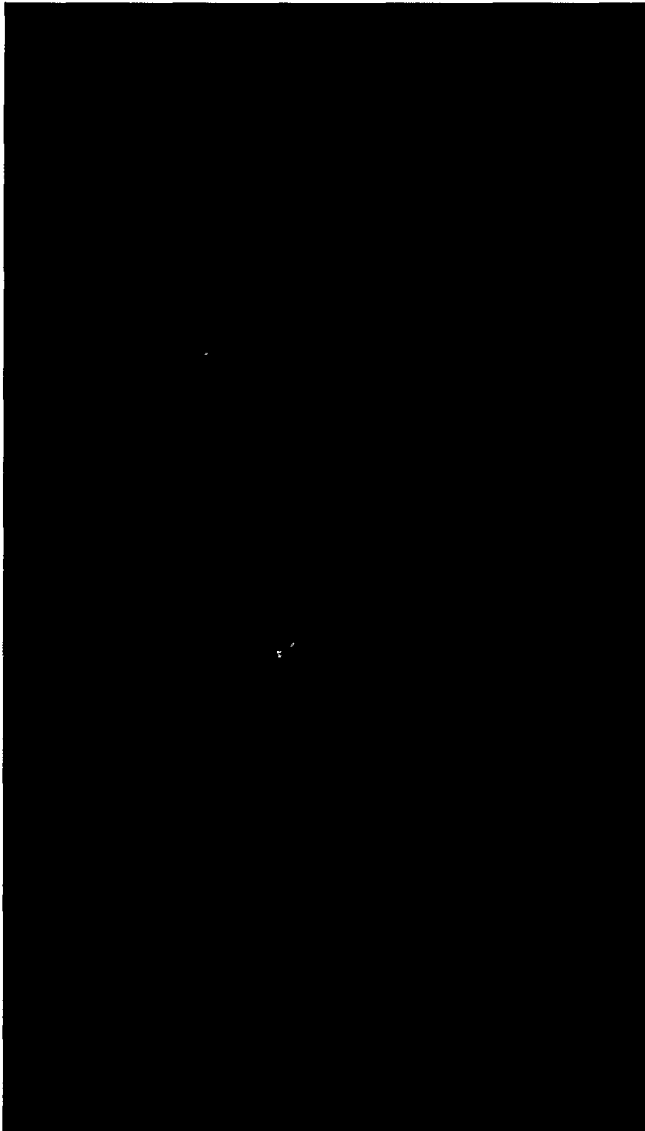
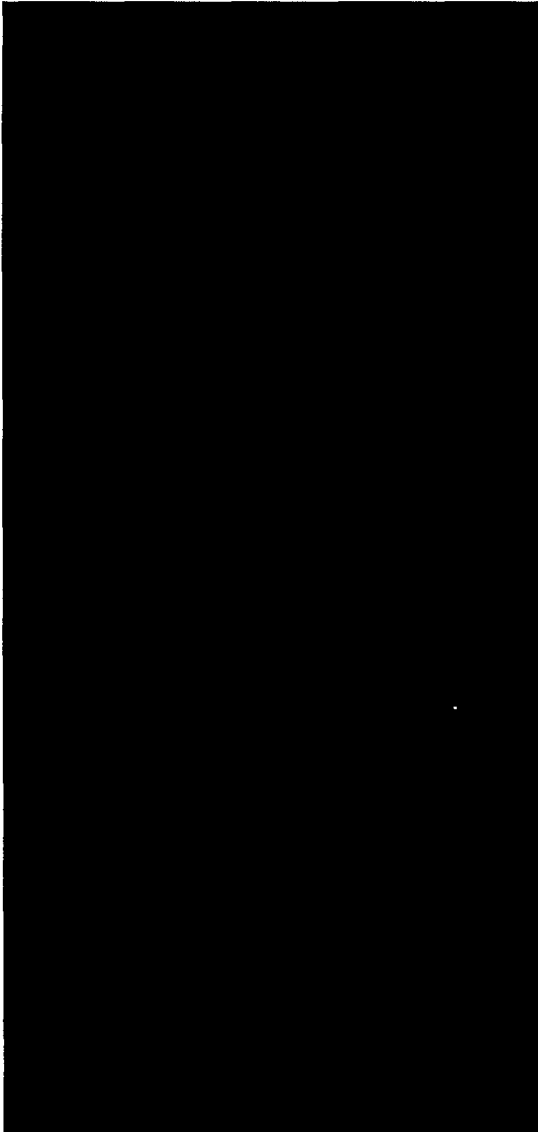
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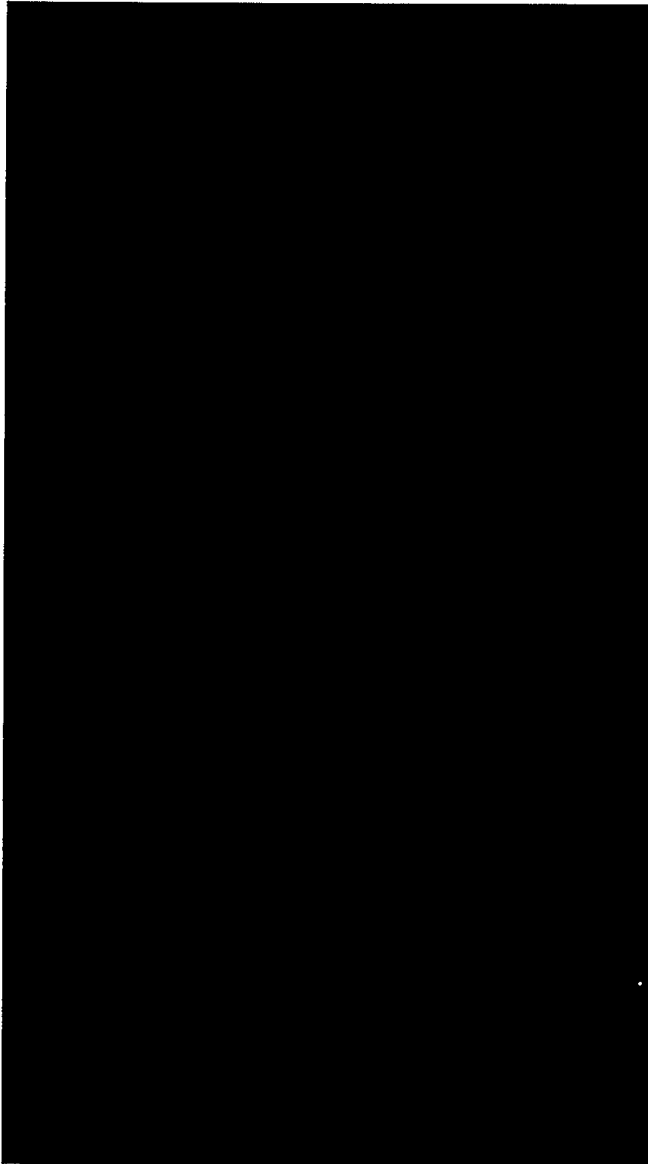
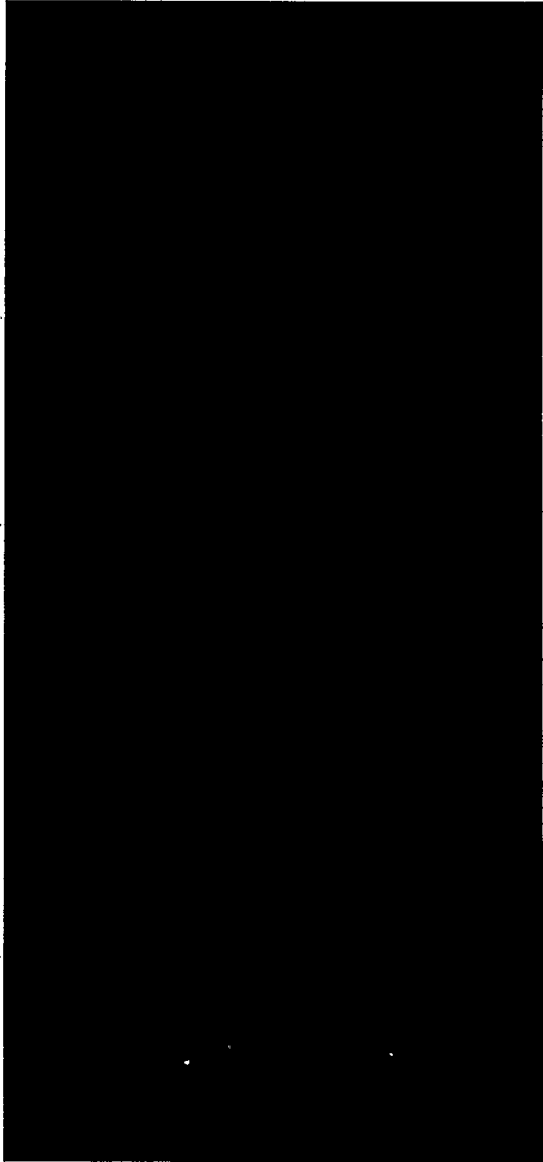
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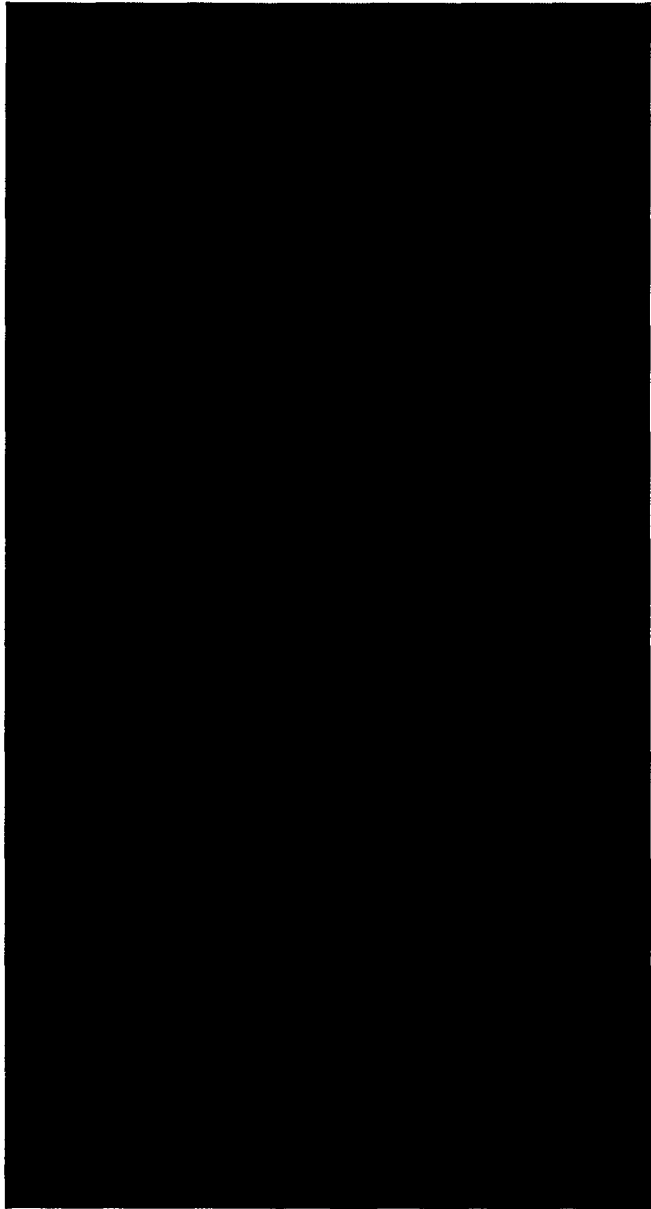
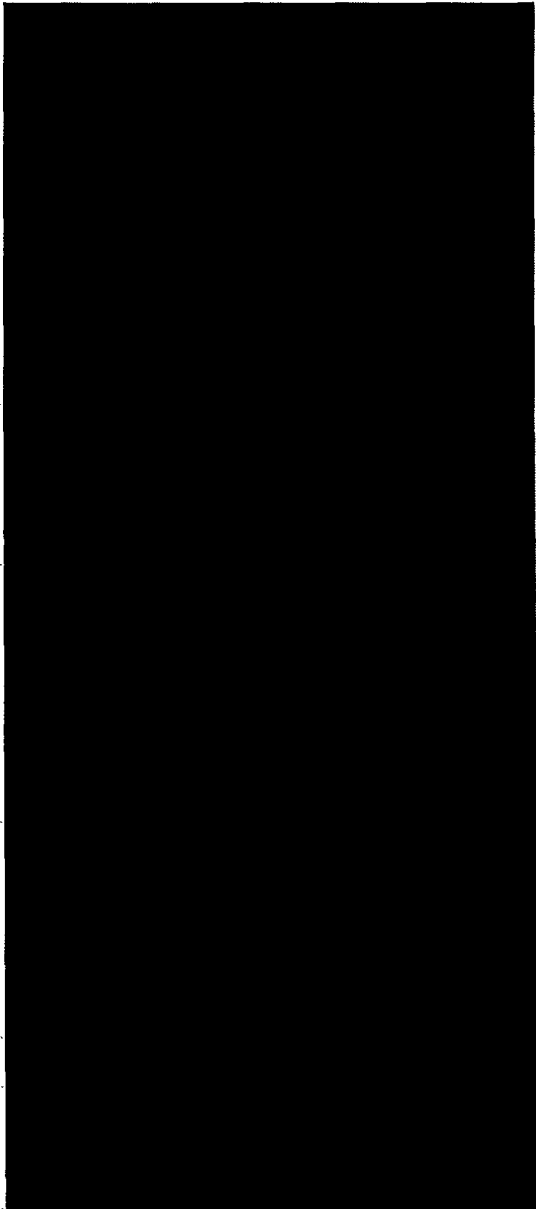
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		9-12	Page 1 of 11	01/12/2007	14	
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File	Case ID	Doc #	Page Number	Date Filed	# of SSNs	SSNs Found
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		8-6	Page 2 of 5	04/16/2007	2	
		8-8	Page 2 of 4	04/16/2007	1	
		14-3	Page 3 of 10	07/02/2007	8	
		14-4	Page 2 of 5	07/02/2007	3	
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File	Case ID	Doc #	Page Number	Date Filed	# of SSNs	SSNs Found
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		14-7	Page 1 of 15	05/16/2008	12	
		14-8	Page 1 of 9	05/16/2008	4	
		7-2	Page 9 of 17	06/18/2008	23	
		12	Page 3 of 14	07/29/2008	5	
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Online Rebel Publishes Millions of Dollars in U.S. Court Records for Free

By Ryan Singel 12.12.08



Carl Malamud wants access to all public legal documents in the U.S. to be free to the public.

Courtesy joi/flickr

If you want to search federal court documents, it's not a problem. Just apply online for an account, and the government will issue you a user name and password.

Through the postal service.

And once you log in, the government's courthouse search engine known as Public Access to Court Electronic Records or PACER, will charge you 8 cents a page to read documents that are in the domain — a fee that earned the federal judiciary \$50 million in profits in 2006.

With its high cost and limited functionality, critics call the system an absurdity in the era of Google and Wikipedia, where information is free and bandwidth, disk space and processing power are

"The PACER system is the most broken part of our federal legal mechanism," says Carl Malamud, who runs the nonprofit open-government group Public.Resource.Org. "They have a mainframe me



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288A-WF-238943-12

http://www.wired.com/print/politics/onlinerights/news/2008/12/open_pacer

Now Malamud is doing something about it. He's asking lawyers to donate their PACER documents one by one, which he then classifies and bundles into ZIP files published for free at his organization's website. The one-year-old effort has garnered him 20 percent of all the files on PACER, including all decisions from federal appeals courts over the last 50 years.

The project is important, he says, because court filings are a part of the fabric of a democracy, and should be freely available to average citizens. "We are going after all primary legal materials in the U.S.," Malamud says. "That's part of America's OS, and we think it should be open source." [Disclosure: Wired.com nurtures a hefty PACER bill].

Malamud is a man accustomed to finding ways to provide free and easy online access to government documents.

Back in 1995, the Securities and Exchange Committee decided to put corporate filings online only after Malamud essentially shamed them into doing so. For two years he operated a free site that published the filings, then abruptly pulled the plug and directed angry users to the SEC.

He's since won battles freeing the nation's catalog of copyrights, Oregon's book of state laws, and the U.S. Patent and Trademark database. Now, he's after congressional-hearing videos, expensive but copyright-free building codes, and the Code of Federal Regulations, in addition to all the court filings in the PACER database.

While Malamud's budget is only about \$1 million annually, he has a matching grant from eBay founder Pierre Omidyar's philanthropy group and help from influential tech friends like Tim O'Reilly, Paul Vixie and Larry Lessig.

Malamud dreams of a day PACER's legal documents are free, so that academics and entrepreneurs can create custom search engines and new tools to make the information available to American citizens.

But that's what PACER does now, counters U.S. Courts spokesman Richard Carelli.

"PACER is the greatest technological achievement in the court system in the last 20 years," Carelli says.

The search system has already revolutionized access to court records, Carelli submits, by preventing time-consuming trips to federal courthouses and undercutting photocopy fees. PACER is also experimenting with making digital audio recordings of cases available online, and — at least during the pilot — a copy of an audio file costs just 8 cents, regardless of length.

What's more, PACER already gives its 900,000 users free access to judicial opinions, and citizens don't have to pay if they look at less than \$10 worth of filings a year, Carelli says.

Indeed, PACER is both revolutionary and cheap when compared to the state and local courts that have no electronic records at all, or charge \$5 just to run a record search, even if it comes up empty, as in the case of Los Angeles Superior Court.

But PACER's interface feels like something designed for the Department of Motor Vehicles, and the system lacks any way to search the text of legal documents. Interested in finding all cases alleging music piracy, or in discovering how often Steve Jobs is mentioned in a court filing? Want to be e-mailed when there's a new filing comes in a specific case? How about an RSS feed of a certain court's decisions? You'll find no help from PACER.

Who wants information like that? Tim Stanley, the CEO of Justia.com, for one.

After Stanley sold his legal-information company Findlaw to one of the nations' top legal-publishing concerns, West Publishing, he started a profitable web-design house for law firms. He uses the revenue to give away legal documents through the legal search engine Justia.com.

"West makes billions of dollars selling stuff we want to give away for free," Stanley boasts.

Justia now lets academics and journalists follow cases of interest for free, and publishes some case files online for everyone to see. His company purchased and digitized all the Supreme Court decisions, put up the first free search engine for them, and donated them to PublicResource.org.

Now Justia's working with Cornell University to throw some Web 2.0 tools into the mix, including wiki pages for decisions, automated tracking of citations to decisions, and tools to track what briefs a particular attorney has written.

Other efforts include AltLaw.org, a free legal search engine created by law professors Tim Wu and Paul Ohm, and Ed Walter's comprehensive Public Library of Law, which covers state courts as well.

Some issues have surfaced as old court files migrate online and then get spidered by Google and other search engines. Malamud says he's been contacted by people shocked to find an old lawsuit in which they were named suddenly popping up in search results on their names; he's currently blocking search engines from indexing his PACER files through robots.txt. Malamud says that there are also massive privacy violations lurking inside some court filings, since clerks, judges and lawyers aren't adhering to rules about what can and can't be in legal filings.

Public.Resource.org used some primitive software tools to search for social security numbers in court filings from 32 district courts. The results: 1,700 confirmed documents, including one from a Massachusetts court that had a 54-page list of the names, medical problems, Social Security numbers and birth dates of 353 patients.

The fix for these glitches is more sunshine, Malamud argues, not less.

"Public interest groups and the public in general, when given access to these public records, are able to provide the kind of feedback that leads to the correction of these privacy issues," Malamud recently told administrators at U.S. courts. "If we want to be serious about personal privacy, we can only do so if we are also serious about public access."

But the Administrative Office of the U.S. Courts has already experimented with making PACER free to the public, and it found the concept lacking.

In 2007, the office launched a trial at 16 libraries around the country that allowed unlimited free access from library computers. The trial was suspended last September, after Malamud encouraged volunteers to visit the libraries and download large numbers of cases to USB drives and donate them to the commons.

Carelli won't say why the trial was suspended, or if Malamud's "Thumb-Drive Corps" was a factor in the decision. Malamud won't discuss it either, but noted in a letter to the courts last October that the abortive trial "was run with no written or oral guidelines on appropriate use."

Malamud says he's looking forward to the day he doesn't have to game the system. "If I had \$10 million, I'd make a copy of all the documents and be done."

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/26/2009

To: Chicago

Attn: Squad CY-1

To: Sacramento

Attn: Squad CY-1

From: Washington Field

CR-17, NVRA

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943 (Pending)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: To set leads to conduct interviews.

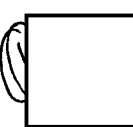
Details: The U.S. Courts implemented a pilot project offering free access to federal court records through the PACER system at seventeen federal depository libraries. Library personnel maintain login and password security and provide access to users from computers within the library. PACER normally carries an eight cents per page fee, however, by accessing from one of the seventeen libraries, users may search and download data for free.

Between September 4, 2008 and September 22, 2008, PACER was accessed by computers from outside the library utilizing login information from two libraries participating in the pilot project. The Administrative Office of the U.S. Courts reported that the PACER system was being inundated with requests. One request was being made every three seconds.

Accessing the PACER system is an internal process. The librarian has to a log the user in and also log the user out at the end of the session. Sign-in sheets were not required. Some libraries keep sign-in sheets, but people use fake names.

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To: Chicago From: Washington Field
Re: 288A-WF-238943, 01/26/2009

Users are assigned a terminal in the library. After the user is logged in, they can log in to anywhere in the PACER system.

The login information was compromised at the Sacramento County Public Law Library (SPLL) and the Seventh Circuit Court of Appeals Library (SCCA). User name SC5449 was assigned to the SPLL in California and user name WM1788 was assigned to the SCCA in Chicago, Illinois. The two accounts were responsible for downloading more than eighteen million pages with an approximate value of \$1.5 million.

SCCA changed their password on September 1, 2008, two weeks prior to the compromise. SCCA is located inside a federal courthouse. As of November 4, 2008, SPLL had not changed their password since the pilot program began, which was 11 months prior to the compromise. SPLL is located inside a public library. SCCA and SPLL did not belong to the same institution but both use AT&T DSL service. SCCA and SPLL are not on US Courts' private network.

At SCCA, users were manually logged in by the reference technician with a one hour time limit. At SPLL, a script was used for log in and only four people came in to use the system during the pilot program. The script was developed in Alaska.

During the compromise, there was one continuous session with one log in and access was made every one to two seconds. The compromise took place during regular business hours. Data that was exfiltrated went to one of two Amazon IP addresses.

Sequential case numbers were taken, starting with older cases from the 1990's and working forward. Specific types of cases were not targeted, all cases were downloaded. Entire dockets were downloaded, including all corresponding documents. Everything downloaded came from district courts. US Courts was unsure if the cases were civil or criminal. There was no script development so it may have been a PACER customer who already knew how the system worked.

Older dockets may have contained privacy related information. Social security numbers and alien numbers may

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To: Chicago From: Washington Field
Re: 288A-WF-238943, 01/26/2009

not have been redacted from the older cases. Cases dating up to 2004 were downloaded from the Colorado District Court.

When the compromise was discovered on September 22, 2008, the accounts were disabled. The notice to the public did not mention the intrusion. At a meeting regarding the PACER system, attendees were told that the pilot program was shut down due to a security breach. The librarians present at the meeting did not ask what happened, just if it happened at their libraries.

The contacts for the compromised libraries are provided below:

Library Name: William J. Campbell Library of
the U.S. Courts

Library Address: U.S. Court of Appeals for the
Seventh Circuit
219 S. Dearborn
Room 1637
Chicago, IL 60604

Depository
Coordinator:

Phone Number:

extension

Email Address:

Library Name: Sacramento County Public Law
Library

Library Address: 813 Sixth Street
Sacramento, CA 95814

Depository
Coordinator:

Phone Number:

Email Address:

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To: Chicago From: Washington Field
Re: 288A-WF-238943, 01/26/2009

LEAD(s):

Set Lead 1: (Action)

CHICAGO

AT SQUAD CY-1

Washington Field Office requests assistance in locating and interviewing [redacted] at William J. Campbell Library of the U.S. Courts, U.S. Court of Appeals for the Seventh Circuit, 219 S. Dearborn, Room 1637, Chicago, IL 60604. Determine if a sign-in sheet for users was maintained and if so, obtain a copy. Determine the log-in process for a user to gain access to PACER and who had access to the password used for log-in. Determine if the passwords were available to the public users, such as posted on or around the computer. Determine if [redacted] knows how the password could have been compromised and if the library had experienced any other computer-related problems. Determine why the password was changed two weeks prior to the compromise on September 1, 2008.

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Set Lead 2: (Action)

SACRAMENTO

AT SQUAD CY-1

Washington Field Office requests assistance in locating and interviewing [redacted] at Sacramento County Public Law Library, 813 Sixth Street, Sacramento, CA 95814. Determine if a sign-in sheet for users was maintained and if so, obtain a copy. Determine the log-in process for a user to gain access to PACER and who had access to the password and script used for log-in. Determine if the passwords and script were available to the public users, such as posted on or around the computer. Determine if [redacted] knows how the password could have been compromised and if the library had experienced any other computer-related problems.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/06/2009

To: Chicago

Attn: North RA

From: Washington Field

CR-17 / NVRA

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943 (Pending)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: To set lead to locate Aaron Swartz.

Enclosure(s): Attached is an [REDACTED] Report for Swartz.

Details: The U.S. Courts implemented a pilot project offering free access to federal court records through the PACER system at seventeen federal depository libraries. Library personnel maintain login and password security and provide access to users from computers within the library. PACER normally carries an eight cents per page fee, however, by accessing from one of the seventeen libraries, users may search and download data for free.

Between September 4, 2008 and September 22, 2008, PACER was accessed by computers from outside the library utilizing login information from two libraries participating in the pilot project. The Administrative Office of the U.S. Courts reported that the PACER system was being inundated with requests. One request was being made every three seconds.

The login information was compromised at the Sacramento County Public Law Library (SPLL) and the Seventh Circuit Court of Appeals Library (SCCA). The two accounts were responsible for downloading more than eighteen million pages with an approximate value of \$1.5 million.

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To: Chicago From: Washington Field
Re: 288A-WF-238943, 02/06/2009

During the compromise, there was one continuous session with one log in and access was made every one to two seconds. The compromise took place during regular business hours. Data that was exfiltrated went to one of two Amazon IP addresses.

Investigation has determined that the Amazon IP address used to access the PACER system belongs to Aaron Swartz.

The following information was provided for the IP address:

Name: Aaron Swartz
Address: 349 Marshman Avenue
Highland Park, IL 60035
Telephone: 847-432-8857

A search in [redacted] and Swartz's personal webpage confirmed this information. Swartz's social security account number is 360-84-0493. The telephone subscriber for telephone number [redacted] is [redacted]

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NCIC report for Aaron Swartz was negative. A search for wages for Swartz at the Department of Labor was negative.

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To: Chicago From: Washington Field
Re: 288A-WF-238943, 02/06/2009

LEAD(s) :

Set Lead 1: (Action)

CHICAGO

AT NORTH RA

Washington Field Office requests that the North RA attempt to locate AARON SWARTZ, his vehicles, drivers license information and picture, and others, at 349 Marshman Avenue, Highland Park, IL 60035. Since SWARTZ is the potential subject of an ongoing investigation, it is requested that SWARTZ not be approached by Agents.

If there are any questions or concerns, please
contact SA

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/06/2009

To: Chicago

Attn: SSA [REDACTED]

From: Washington Field

CR-17 / NVRA

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943 (Pending)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: To set lead to locate Aaron Swartz.

Enclosure(s): Attached is an [REDACTED] Report for Swartz.

Details: The U.S. Courts implemented a pilot project offering free access to federal court records through the PACER system at seventeen federal depository libraries. Library personnel maintain login and password security and provide access to users from computers within the library. PACER normally carries an eight cents per page fee, however, by accessing from one of the seventeen libraries, users may search and download data for free.

Between September 4, 2008 and September 22, 2008, PACER was accessed by computers from outside the library utilizing login information from two libraries participating in the pilot project. The Administrative Office of the U.S. Courts reported that the PACER system was being inundated with requests. One request was being made every three seconds.

The login information was compromised at the Sacramento County Public Law Library (SPLL) and the Seventh Circuit Court of Appeals Library (SCCA). The two accounts were responsible for downloading more than eighteen million pages with an approximate value of \$1.5 million.

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To: Chicago From: Washington Field
Re: 288A-WF-238943, 02/06/2009

During the compromise, there was one continuous session with one log in and access was made every one to two seconds. The compromise took place during regular business hours. Data that was exfiltrated went to one of two Amazon IP addresses.

Investigation has determined that the Amazon IP address used to access the PACER system belongs to Aaron Swartz.

The following information was provided for the IP address:

Name: Aaron Swartz
Address: 349 Marshman Avenue
Highland Park, IL 60035
Telephone: 847-432-8857

A search in [redacted] Swartz's personal webpage confirmed this information. Swartz's social security account number is 360-84-0493. The telephone subscriber for telephone number [redacted] is [redacted]

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NCIC report for Aaron Swartz was negative. A search for wages for Swartz at the Department of Labor was negative.

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To: Chicago From: Washington Field
Re: 288A-WF-238943, 02/06/2009

LEAD(s) :

Set Lead 1: (Action)

CHICAGO

AT CHICAGO, ILLINOIS

Washington Field Office requests that Chicago attempt to locate AARON SWARTZ, his vehicles, drivers license information and picture, and others, at 349 Marshman Avenue, Highland Park, IL 60035. Since SWARTZ is the potential subject of an ongoing investigation, it is requested that SWARTZ not be approached by Agents.

If there are any questions or concerns, please contact
SA

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/20/2009

To: ~~Washington Field~~

Attn: SA [REDACTED]
CR-17, NVRA

From: Sacramento

Squad CY-1

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943-16(Pending)

Title: Unsub(s);
US COURTS - VICTIM;
COMPUTER INTRUSIONS - OTHER

Synopsis: Interviews conducted at Sacramento County Public Law Library (SCPLL). Lead covered.

Reference: 288A-WF-238943 Serial 13

Enclosure(s): The following items are enclosed for Washington Field Office:

1. Two copies of FD-302 documenting interview of [REDACTED] and associated 1A envelope.

2. Two copies of FD-302 documenting interview of [REDACTED] and [REDACTED] and associated 1A envelope.

Details: Per referenced serial, WFO requested FBI Sacramento locate and interview [REDACTED] at Sacramento County Public Law Library (SCPLL), 813 6th ST, Sacramento, CA 95814. WFO specifically requested Sacramento: determine if a sign-in sheet for users was maintained and if so, obtain a copy; determine the log-in process for a user to gain access to PACER and who had access to the password and script used for log-in; determine if the passwords and script were available to the public users, such as posted on or around the computer; and determine if [REDACTED] knows how the password could have been compromised and if the library had experienced any other computer-related problems.

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UNCLASSIFIED

To: Washington Field From: Sacramento
Re: 288A-WF-238943, 02/20/2009

Interviews of [redacted] (Government Documents Librarian),
[redacted] AND [redacted]
[redacted] were conducted on 02/05/2009. FD-302's
documenting the interviews were enclosed. [redacted] provided the
writer with a CD-R containing the PACER login script provided by
[redacted] ALASKA COURT
SYSTEM, 907-264-8200.

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The following answers to WFO's questions were
determined:

- No sign-in sheet for users was maintained.
- Initially the login process was conducted manually by library staff. Once the script was installed on the network server, users clicked a link on the workstation's which initiated the script on the server and were redirected to PACER with the login form completed.
- The entire library staff had access to the password, as it was kept in a Rolodex at the staff desk near the entrance to the library. [redacted] installed the script on the network server identified by IP address 192.168.252.100, which provided access to all network administrators.
- The password and script were not available to library patrons. The password was not posted on or around the computers. The Rolodex with the password was constantly monitored by library staff members stationed at the library entrance, but the Rolodex was within arm's reach of patrons entering the library.
- [redacted] were unaware of how the password may have been compromised.
- The library had not suffered any other computer-related problems.

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The writer conducted a cursory examination of the script provided by SCPLL. The script appears to confirm the number "252" occurs in the IP address hosting the script. The script then redirects to "<https://pacer.login.uscourts.gov/cgi-bin/check-pacer-passwd.pl>" and provides the following input: a "loginid" of "sc5449", a "passwd" of "9saclaw0", a "court_id" of "saclaw", and empty strings (i.e. "") for both "client" and "appurl".

Sacramento considers the referenced lead covered.

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To: Washington Field From: Sacramento
Re: 288A-WF-238943, 02/20/2009

LEAD(s) :

Set Lead 1: (Info)

WASHINGTON FIELD

AT WASHINGTON, DC

SA Information and enclosed documents are provided for
CR-17, NVRA. Read and clear.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/11/2009

On the afternoon of 02/05/2009, [redacted] born [redacted] Government Documents Librarian for the SACRAMENTO COUNTY PUBLIC LAW LIBRARY (SCPLL), 813 6th Street, Sacramento, CA 95814-2403, desk phone [redacted] was interviewed at her place of employment. After being advised of the identity of the interviewing agent and the purpose of the interview, [redacted] provided the following information:

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SCPLL had been involved in a pilot project allowing free access to the PACER System. In order to implement the pilot project, SCPLL librarian's were required to control access via a password. Within a week or two of the pilot program starting, the program was cancelled and SCPLL's access was revoked, due to a compromise resulting in unauthorized access. The GOVERNMENT PRINTING OFFICE, which oversaw the program, scheduled a meeting for April, 2009 to determine if the pilot program would be reinstated. During the pilot program, the library had 13 computers available to the public with PACER access; the library had 16 public computers at the time of the interview.

Initially, SCPLL librarians were required to assist patrons wishing to access PACER, by entering the account name and password at the user's workstation. The password was available to the entire staff of approximately 20 employees. Employees were prohibited from providing the password to library patrons. The password was maintained in a Rolodex behind the counter at the entry to SCPLL. The Rolodex was not available to patrons, since it was continuously monitored by SCPLL staff.

[redacted]
ALASKA COURT SYSTEM, [redacted] 907-264-8200, contacted [redacted] and offered a script that would handle the login in process. [redacted] had already implemented the script at his library. The script was maintained on a local SCPLL network server and was accessed by clicking a link on the screen of each of the workstations. The workstation desktops were set to display an interface similar to a web-page, and the link was one of the tabs available. Once the link was clicked, the patron would be presented with a three questions survey, regarding previous PACER access, and then would be able to access PACER. [redacted] wrote the script himself and modified it for SCPLL's network. [redacted]

b6
b7CInvestigation on 02/05/2009 at Sacramento, CaliforniaFile # 288A-WF-238943-17

Date dictated _____

by SA [redacted]**UPLOADED**

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288A-WF-238943

Continuation of FD-302 of [REDACTED], On 02/05/2009, Page 2

believed that [REDACTED] must have found her contact information from either press releases concerning the pilot project, or from emails. [REDACTED] had not spoken to [REDACTED] since the cancellation of the program and had no other significant contact with the Alaska library.

The link to run the script was removed from the public workstations following the cancellation of the pilot program. The password was also removed from the Rolodex. SCPLL did not have a sign in sheet for individuals who accessed PACER. [REDACTED] did not know the number of individuals who had accessed PACER via SCPLL. [REDACTED] did not know how the PACER system or password were compromised. [REDACTED] was not aware of any unusual computer activity on SCPLL's network during the time of the PACER pilot program.

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SCPLL's internet connection was a T-1. [REDACTED] believed the service had been provided by SBC, but the library had just switched to a different internet service provider.

[REDACTED] had been employed at SCPLL for [REDACTED]

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/11/2009

On the afternoon of 02/05/2009, [redacted]
[redacted] SACRAMENTO COUNTY PUBLIC LAW LIBRARY (SCPLL), 813
6th Street, Sacramento, CA 95814-2403, www.saclaw.org,
[redacted] fax 916-874-5691, email [redacted] and
[redacted] born [redacted]
[redacted] were interviewed at their
place of employment. After being advised of the identity of the
interviewing agent and the purpose of the interview, [redacted] and
[redacted] provided the following information:

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[redacted] installed the script which automated the
workstation log-in process to PACER during the pilot program which
provided free access to library patrons. Someone had assisted
[redacted] in setting up the script. The script was installed on the
intranet web server and was accessed from the internal workstations
available to patrons. [redacted] was informed the script was installed,
but never reviewed the script for any security vulnerabilities.

The PACER program required SCPLL's password and account
name to be entered by library personnel. Initially the password
was entered manually. The password was stored in the Rolodex until
the PACER pilot program was "hacked".

There was no known intrusion activity targeting SCPLL's
network during the time the PACER pilot program was in place.
[redacted] stated there was no known significant intrusions suffered by
SCPLL during his [redacted] of employment. [redacted] stated that there
had been no intrusion or unauthorized access activity originating
from the internal network.

SCPLL had approximately 15 servers, most of which were
located behind the internal firewall, and approximately 70
workstations. [redacted] was aware of at least two servers in the DMZ,
one of which was the IIS 6.0 web-server on which [redacted] had
installed the script. The IIS server was assigned IP address
192.168.252.100 and a subnet mask of 192.168.252.255. The network
within the internal firewall used a subnet mask of 192.168.250.255.
According to [redacted] the script confirmed that the script was on a
server with IP address 192.168.252.100, but [redacted] did not know
exactly how the script worked since it was encoded. [redacted] provided

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Investigation on 02/05/2009 at Sacramento, California

File # 288A-WF-238943-18

Date dictated _____

by SA [redacted]

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288A-WF-238943

Continuation of FD-302 of [REDACTED], On 02/05/2009, Page 2

a compact disc with a copy of the script which was enclosed in a 1A envelope.

SCPLL used WatchGuard x1000 firewall software, but switched to using WatchGuard x750e by the time of the interview. [REDACTED] described WatchGuard as a stateful application layer firewall program. The firewall allowed port 25 (email), port 80 (web), and port 443 (SSL) traffic. SCPLL servers did not support file transfer protocol (FTP). SSL (secure socket layer) was provided to allow secure web access, because the library allowed training videos to be purchased via PayPal. On the internal network, SCPLL used IMAP (Internet Message Access Protocol) to access email. The mail server was located on the internal network. The library's database was accessed via the Horizon Information Portal server. Although the internet service provider had been PacBell, SCPLL switched to SureWest circa Christmas, 2008.

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According to [REDACTED] SCPLL may still have incoming logs to the IIS web server. The login script could only be accessed from internal IP addresses. There were multiple instances of the IIS server software on the system.

[REDACTED] was pursuing a systems security PhD from U.C. Davis. [REDACTED] was from Montenegro.

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/24/2009

To: Washington Field

Attn: CR-17 / NVRA
SA [REDACTED]

From: Chicago

North RA

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943

-19

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: Lead covered by Chicago North RA

Enclosure(s): Illinois DL/ID Image of Swartz and [REDACTED]
[REDACTED]

Details: Attempted to locate AARON SWARTZ, his vehicles, drivers license information and picture, and others at 349 Marshman Avenue, Highland Park, IL 60035.

Successfully located drivers license photo for SWARTZ. Drove by address in an attempt to locate SWARTZ or vehicles related to the residence, but was unsuccessful. House is set on a deep lot, behind other houses on Marshman Avenue. This is a heavily wooded, dead-end street, with no other cars parked on the road making continued surveillance difficult to conduct without severely increasing the risk of discovery. However, drivers license and [REDACTED] information lists address above. Other family members are listed as current residence and four vehicles are currently registered to [REDACTED] who resides at above address. Illinois database checks for SWARTZ yielded negative results. SWARTZ has no arrests, no registered vehicles or property.

UNCLASSIFIED

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b7E

UNCLASSIFIED

To: Washington Field From: Chicago
Re: 288A-WF-238943, 02/24/2009

Chicago considers this lead covered.

UNCLASSIFIED

UNCLASSIFIED

To: Washington Field From: Chicago
Re: 288A-WF-238943, 02/24/2009

LEAD(s) :

Set Lead 1: (Info)

WASHINGTON FIELD

AT WASHINGTON DC

Read and clear.

♦♦

UNCLASSIFIED



DL/ID Image Retrieval

DL-ID Image

Driver License/ID #: 63200886318S

Name: AARON H SWARTZ

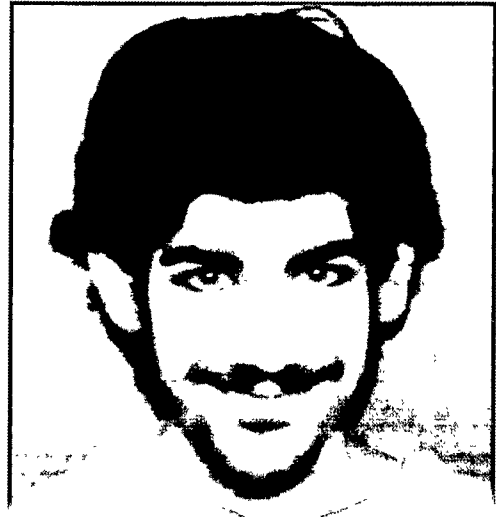
Street: 349 MARSHMAN ST

City: HIGHLAND PARK

Zip: 60035

Date Of Birth: 11/08/1986

Gender: MALE



Close

Print

Only for use as authorized by 625 ILCS 5/6-110.1 and 92 Ill. Adm. Code 1030.140. This information and image cannot be certified to be anything other than the information and image of the individual who presented himself or herself to the Secretary of State's Office with the required forms of identification.

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/19/2009

AARON SWARTZ has a profile on the website LINKEDIN, at www.linkedin.com/in/aaronsw. SWARTZ is listed as a writer, hacker and activist based in the San Francisco Bay Area. SWARTZ's education includes Stanford University, Sociology, 2004. SWARTZ's experience includes the following:

Founder of watchdog.net
2008 - Present

Tech Lead at Open Library
2007 - Present

Co-founder of reddit
November 2005 - January 2007

Metadata Advisor at Creative Commons
2002 - 2004

Member of RDF Core Working Group
1999 - 2000

Member of W3C
1999 - 2000

The website watchdog.net: the good government site with teeth states that "We're trying to build a hub for politics on the Internet". This plan includes pulling all information about politics, votes, lobbying records, and campaign finance reports together under one unified interface. SWARTZ posted blogs on 07/30/2008, 06/16/2008, 05/07/2008, 04/21/2008, 04/16/2008, 04/14/2008.

SWARTZ has a profile on the website FACEBOOK. His networks include Stanford '08 and Boston, MA. The picture used in his profile was also used in an article about SWARTZ in THE NEW YORK TIMES.

SWARTZ's personal webpage, www.aaronsw.com, includes a section titled "Aaron Swartz: a lifetime of dubious accomplishments". In 2007, SWARTZ began working full-time as a

Investigation on 02/15/2009 at Manassas, VA

File # 288A-WF-238943 -20

Date dictated _____

by SA

288A-WF-238943

Continuation of FD-302 of SWARTZ's online profiles, On 02/15/2009, Page 2

member of the Long-Term Planning Committee for the Human Race
(LTPCHR).

Aaron Swartz



writer, hacker, activist

San Francisco Bay Area

- Current**
- Founder at [watchdog.net](#)
 - Tech Lead at [Open Library](#)

- Past**
- co-founder at [reddit](#)
 - Metadata Advisor at [Creative Commons](#)
 - Member at RDF Core Working Group

1 more...

- Education**
- Stanford University

Recommended 1 person has recommended Aaron

Connections 131 connections

Industry Computer Software

Websites • [My Website](#)

Aaron Swartz's Experience

Founder

[watchdog.net](#)

(Non-Profit; 1-10 employees; Computer Software industry)

2008 — Present (1 year)

Tech Lead

[Open Library](#)

(Computer Software industry)

2007 — Present (2 years)

co-founder

[reddit](#)

(Computer Software industry)

November 2005 — January 2007 (1 year 3 months)

Metadata Advisor

[Creative Commons](#)

(Computer Software industry)

2002 — 2004 (2 years)

Member

RDF Core Working Group

(Computer Software industry)

1999 — 2000 (1 year)

Member

W3C

(Computer Software industry)

1999 — 2000 (1 year)

Aaron Swartz's Education

Stanford University

Sociology 2004

Additional Information

Aaron Swartz's Websites:

[My Website](#)

WATCHDOG.NET

THE GOOD GOVERNMENT SITE WITH TEETH

Get information...

Name or ZIP:

Search

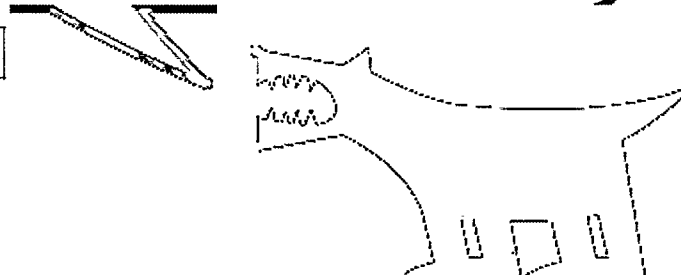
Districts: Enter a zip code, like 90210 or 02138

Politicians: Enter a name, like Pelosi or Ron Paul

Take action...

Sign a petition & Start a petition & Write your rep.

About us...



WATCHDOG.NET

THE GOOD GOVERNMENT SITE WITH TEETH

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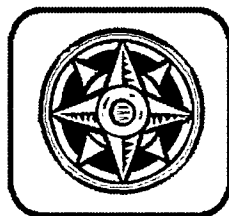
About Watchdog.net

PDF

We're trying to build a hub for politics on the Internet. Our plan has three parts:

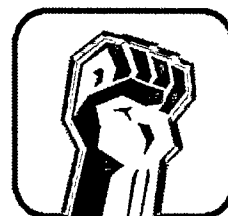
Data. There's a lot of great information out there about politics — votes, lobbying records, campaign

finance reports. Unfortunately, it's split across a dozen different web sites and often hidden behind confusing interfaces. We're pulling all of that together and letting you explore it in one elegant, unified interface. (Plus, we're sharing all the results so you can come up with new ways to explore it.)

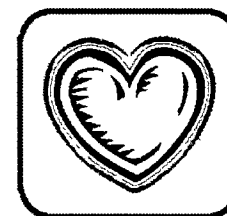


Action. Just giving you information isn't enough. Unless you can *do something* about it, it's just going to get you down. So

we're building a series of first-class tools for getting involved — ways to write and call your representatives, send letters to local media, and figure out who to vote for.



Causes. But politics isn't about people doing things in isolation; it's about coming together around shared causes. That's why we let you start your own causes and campaigns, invite your friends to join them, and let you learn about other causes that could use your help.



How you can help...

What do you think? **Send us your feedback.**



WATCHDOG.NET

THE GOOD GOVERNMENT SITE WITH TEETH

[login](#) [about](#) [blog](#) [feedback](#)

Watchdog Blog

More data!

We've added even more data to the site. Now politician pages feature data from the FEC -- the Federal Election Commission, which tracks all usage of money in politics. FEC data includes things like the amount of money raised, who it was raised from, and so on. We hope to have even more (actually, a lot more) FEC data soon, but hopefully this provides an interesting start.

We've also added some more personal data from our friends over at [Project Vote Smart](#). The data includes things like a politician's nickname and educational history, all of which we now provide on politician pages.

I hope you enjoy the new features and stay tuned for some even more exciting stuff tonight and later this week.

posted by Aaron Swartz on 2008-07-30T00:00:00Z #

Interest Group Alignment

First, let me say welcome aboard to our newest team member, programmer A.S.L. Devi. Devi's already proved herself invaluable by building our latest feature: politician's interest group alignment. It's a terrible name (my fault; let me know if you have a better one) but the idea is simple: go to a page like [Mark Kirk's](#) and scroll to the bottom. There you'll see that Kirk is a big fan of people like the National Association of Home Builders and the National Association of Realtors, but not the American Civil Liberties Union. And for each group you can click and see the votes where they agree and disagree.

Furthermore, if you click on a bill and scroll to the bottom, you can see all the groups that supported or opposed the bill.

It's pretty fun stuff and, in my opinion, awfully exciting. It's all made possible thanks to our partners: [GovTrack.us](#), a fantastic site which



This is where
we post
about site

changes, relevant news, and
other interesting bits of gossip.

(Want to stay up-to-date?

Subscribe to our [feed](#) or our [very low-volume announcement list](#).)

provides data on bills, and [MAPLight.org](#), a Berkeley non-profit which each summer (including right now) brings interns out to search the news to see who is supporting and opposing the bills currently before Congress.

Thanks to everyone who made this happen. I hope you enjoy it!

posted by Aaron Swartz on 2008-06-16T00:00:00Z #

Earmark Info

Thanks to the work of Alex Gourley and data from [Taxpayers for Common Sense](#), politician pages now have basic information about the earmarks they've requested: the size and number requested and the size and number eventually passed.

"Earmark" is the catch-all term for the requests that Congresspeople attach to bills requiring Federal money be given to particular people or places. They've been in the news a lot lately, criticized as a form of corruption in which Congresspeople hand out money to lobbyists or campaign contributors instead of letting civil servants or the bidding process handle it.

As with other Congressional perks, they're not exactly distributed evenly. [Our chart](#) shows how House leaders like [Nancy Pelosi](#) come out on top, with hundreds of millions of dollars in earmarks, while newcomers like [Laura Richardson](#) get only hundreds of thousands.

Whatever your feelings on earmarks, we hope this data is interesting to you. Thanks to Alex and Taxpayers for Common Sense for making it possible.

posted by Aaron Swartz on 2008-05-07T00:00:00Z #

Speech Data

I'm thrilled to say that Thursday, just days after we launched, we got our first volunteer code contribution. Didier Deshommes created [a branch on github](#), added support for parsing some data about speeches politicians have made, and I pulled it and added it to the site.

Now when you visit a page like [Nancy Pelosi](#) you can see how many times she's spoken this session and the average length of her speech.

It's great to see these kinds of contributions and I know there are more in the pipeline! Thanks to everyone who's been pitching in.

On a darker note, apologies for the outages over the weekend. I think I discovered the cause of the problem and it shouldn't happen again.

posted by Aaron Swartz on 2008-04-21T00:00:00Z #

Building Momentum

The response to the announcement of this little site has been bigger than I ever expected. Within hours after I posted about it, I'd received a couple dozen emails of support -- some people asking how they could help, others sending their ideas and suggestions, and many just saying "right on!"

I've launched dozens of sites but I've never gotten a response quite like this. And I think it has to be chalked up to the power of this idea: there are lots of people eager for a way to *get involved*. If you want to do your part, I suggest you sign up for [our volunteer list](#) -- I'll send an email out there when we need help with something.

Perhaps the most helpful -- and most unexpected -- piece has been all the Python programmers who wrote in asking how they could help. The volunteers quickly ran thru everything I could think of off the top of my head and I've had to go thru my todo list and start picking out things I never thought I'd get to. Of course that's a great problem to have and [we could always use more hands](#).

And just a short while ago, I did an interview with XM Satellite Radio about the project. All in all, not bad for a first day.

Thanks to everyone who made it happen. And let's make sure we don't lose this momentum -- together, let's build something great.

posted by Aaron Swartz on 2008-04-16T23:48:00Z #

Welcome to watchdog.net!

It's a big election year in the US, which means a lot of people have been thinking about politics lately. I've been far from immune, signing up for dozens of sites and reading bunches of blogs. But, despite all this, I feel like there's something missing: a way for the average person to actually *get involved* in politics.

Sure, you can be outraged over some factoid you read on a blog or take part in some action campaign started by a nonprofit, but that still feels like being a spectator to me. Instead, I wanted to a site where you could discover the facts for yourself and start your own action campaigns.

Not finding one, I've decided to help build it. [An amazing group of people](#) have signed on with me ([although we're still looking for more](#)) and the Sunlight Network given us a grant to fund it.

You can read more about us and our plans on [the about page](#) but for now let me just say welcome and pardon the mess. We're trying to

develop this site fast and in public, so expect lots of changes. We'll try to keep the public brokenness to a minimum, but there will undoubtedly be some, especially these first few weeks.

And to forestall the inevitable catcalls: yes, there's not much here now. But we literally started officially working *today*. This is just the skeleton of the site we hope to build.

Thanks for bearing with us and let us know what you think.

posted by Aaron Swartz on 2008-04-14T00:00:00Z#

What do you think? **Send us your feedback.**



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Name: **Aaron Swartz**
Networks: Stanford '08
Boston, MA

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Applications



Online Friends (0)



Aaron Swartz: a lifetime of dubious accomplishments

[home page](#) • [life story](#) • [contact info](#)

the early years

Aaron Swartz was born in Chicago, Illinois before his parents quickly whisked him away to the northern suburb of Highland Park, where he was kept safe from the infectious effects of the lower classes for over a decade.

He was enrolled for a short time at the Creative Children's Academy but then was moved the North Shore Country Day School of Winnetka. After providing the correct answers on a standardized test he was offered a scholarship to the same school for high school, which he reluctantly accepted but only for a year.

After a year of high school he found it intolerable and refused to go back. His family told the state of Illinois that they were "homeschooling" him and he enrolled in a handful of classes at nearby Lake Forest College (Physics, Chemistry, Logic, and Number Theory) but spent most of his time on his own.

the middle years

After taking a course from Philip Greenspun, he built his first database-backed web site (based around the same idea as what is now called Wikipedia) and entered it in the ArsDigita Prize, where he received runner-up status. As part of his second project, an early web-based news aggregator, he joined the RSS-DEV working group where he co-authored the RSS 1.0 spec.

RSS 1.0 was based around a technology known as RDF, which was being developed as part of the Semantic Web project at the W3C, the standards body for the Web. Aaron learned more and more about RDF, eventually becoming a member of the RDF 1.0 Working Group, where he wrote RFC3870.

In 2002 he read an article about the Creative Commons project then being started by Lawrence Lessig. He wrote Lessig an email saying that he thought RDF would be appropriate for the project and Lessig invited him to become the project's RDF lead.

In subsequent years he became increasingly interested in the law, the major part of Creative Commons' work, and then in politics. The summer before college he became especially engaged in radical politics.

the recent years

On the recommendation of Lessig, who is a professor of law there, he was accepted to Stanford University, where he planned to study sociology. He documented his first year at Stanford extensively on his blog.

Towards the end of the year, he received an email from Paul Graham who suggested he apply for his Summer Founders Program. With Simon Carstensen, he did, and was accepted, and moved to Cambridge for the summer, where they stayed in beautiful Simmons Hall.

Simon left at the end of the summer to return to school in Denmark but Aaron decided to stay in Cambridge and take a leave of absence from Stanford after receiving several funding offers. However, he spent months trying to find a new partner and close down a funding deal, eventually giving up and merging with Steve Huffman and Alexis Ohanian of Reddit to form Not a Bug.

right now

He was a co-founder of Reddit, whose traffic doubled six times from when he joined in October 2005 to when it was purchased by Condé Nast in October 2006.

He left in early 2007 to work full-time as a member of the Long-Term Planning Committee for the Human Race (LTPCHR).

originally written July 18, 2006

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/19/2009

On February 17, 2008, SA [] received an email from [] Administrative Office of the US Courts, with links to two published articles regarding the compromise of the PACER system.

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On February 12, 2009, [] published an article in THE NEW YORK TIMES titled "An Effort to Upgrade a Court Archive System to Free and Easy". For the article, [] interviewed [] and AARON SWARTZ regarding the compromise of the PACER system.

The following information is found in the article:

[] urged fellow activists to go to the seventeen libraries offering the free trial, download as many court documents as they could, and send them to him for republication on the Web.

SWARTZ read [] appeal and downloaded an estimated twenty percent (20%) of the PACER database.

[] a Government Printing Office official, told librarians that the security of the PACER service was compromised and the FBI was conducting an investigation.

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Lawyers for [] and SWARTZ told them they had broken no laws.

On February 13, 2009, [] and [] published an article in The LEDE, NOTES ON THE NEWS, FROM THE NEW YORK TIMES titled "Steal These Federal Records - Okay, Not Literally".

(X)

The following information is found in the article:

[] published an online manifesto about freeing PACER documents, where he called for a Thumb Drive Corps to go to libraries with small thumb drives, plug them into computers, download as many court documents as they could, and send them to [] so that he can translate them into a format that GOOGLE's search software can read.

Investigation on 02/17/2009 at Manassas, VA

File # 288A-WF-238943 -21 Date dictated N/A

by SA []

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288A-WF-238943

Continuation of FD-302 of [REDACTED], 02/17/2009, Page 2

SWARTZ received software that downloaded documents from the PACER database from [REDACTED] at the BERKMAN CENTER FOR INTERNET AND SOCIETY AT HARVARD. SWARTZ improved this software, saved it on a thumb drive, and had a friend in California take the thumb drive to one of the free libraries and upload the program.

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[REDACTED] When the PACER system was shut down with no notice, [REDACTED] told SWARTZ "You need to talk to a lawyer. I need to talk to a lawyer."

Lawyers told [REDACTED] and SWARTZ that they appeared to have broken no laws. At that point, [REDACTED] sent SWARTZ a text message saying "You should just lay low for a while."

Regarding PACER

Sent: Tuesday, February 17, 2009 1:55 PM

To:

Cc:

[redacted]

[redacted] is out of the office and I am acting in her absence. Some information has recently been published that we thought you may be interested in. There are two articles that were published that reference obtaining information from PACER through the GPO free accounts.

Please let me know if you need additional information. I can be reached at [redacted]

[redacted]

http://www.nytimes.com/2009/02/13/us/13records.html?_r=1&scp=4&sq=John%20Schwartz&st=cse

<http://thelede.blogs.nytimes.com/2009/02/13/steal-these-federal-records-okay-not-literally/?scp=3&sq=PACER&st=cse>

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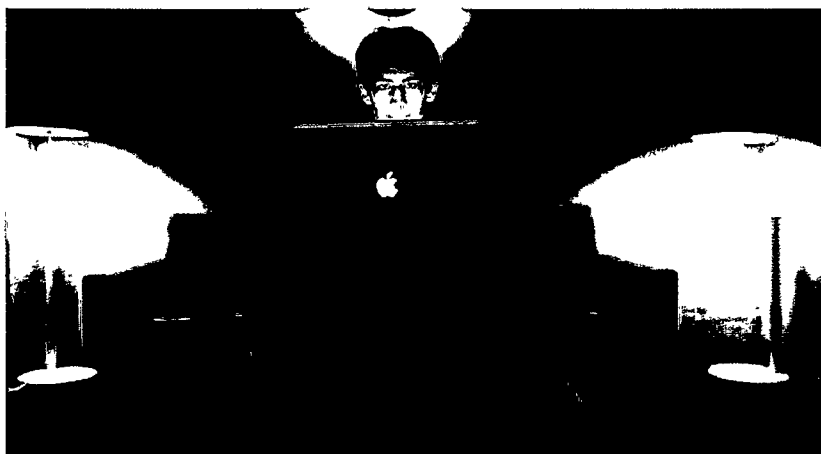
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An Effort to Upgrade a Court Archive System to Free and Easy



Michael Francis McElroy for The New York Times

Aaron Swartz used a free trial of the government's Pacer system to download 19,856,160 pages of documents in a campaign to place the information free online.

By JOHN SCHWARTZ
Published: February 12, 2009

Americans have grown accustomed to finding just about anything they want online fast, and free. But for those searching for federal court decisions, briefs and other legal papers, there is no Google.

Related

The Lede: Steal These Federal Records - Okay, Not Literally (February 13, 2009)

Enlarge This Image



Heldi Schumann for The New York Times
Carl Malamud has been leading the effort to push the court records system into the 21st century.

"Pacer is just so awful," said Carl Malamud, the leader of the effort and founder of a nonprofit group, Public.Resource.org. "The system is 15 to 20 years out of date."

Worse, Mr. Malamud said, Pacer takes information that he believes should be free —

Instead, there is Pacer, the government-run Public Access to Court Electronic Records system designed in the bygone days of screechy telephone modems. Cumbersome, arcane and not free, it is everything that Google is not.

Recently, however, a small group of dedicated open-government activists teamed up to push the court records system into the 21st century — by simply grabbing enormous chunks of the database and giving the documents away, to the great annoyance of the government.

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government-produced documents are not covered by copyright — and charges 8 cents a page. Most of the private services that make searching easier, like Westlaw and Lexis-Nexis, charge far more, while relative newcomers like [AltLaw.org](#), [Fastcase.com](#) and [Justia.com](#), offer some records cheaply or even free. But even the seemingly cheap cost of Pacer adds up, when court records can run to thousands of pages. Fees get plowed back to the courts to finance technology, but the system runs a budget surplus of some \$150 million, according to recent court reports.

To Mr. Malamud, putting the nation's legal system behind a wall of cash and kludge separates the people from what he calls the "operating system for democracy." So, using \$600,000 in contributions in 2008, he bought a 50-year archive of papers from the federal appellate courts and placed them online. By this year, he was ready to take on the larger database of district courts.

Those courts, with the help of the Government Printing Office, had opened a free trial of Pacer at 17 libraries around the country. Mr. Malamud urged fellow activists to go to those libraries, download as many court documents as they could, and send them to him for republication on the Web, where Google could get to them.

Aaron Swartz, a 22-year-old Stanford dropout and entrepreneur who read Mr. Malamud's appeal, managed to download an estimated 20 percent of the entire database: 19,856,160 pages of text.

Then on Sept. 29, all of the free servers stopped serving. The government, it turns out, was not pleased.

A notice went out from the Government Printing Office that the free Pacer pilot program was suspended, "pending an evaluation." A couple of weeks later, a Government Printing Office official, Richard G. Davis, told librarians that "the security of the Pacer service was compromised. The F.B.I. is conducting an investigation."

Lawyers for Mr. Malamud and Mr. Swartz told them that they appeared to have broken no laws, noting nonetheless that it was impossible to say what angry government officials might do.

At the administrative office of the courts, a spokeswoman, Karen Redmond, said she could not comment on the fate of the free trial of Pacer, or whether there had been a criminal investigation into the mass download.

The free program "is not terminated," Ms. Redmond said. "We'll just have to see what happens after the evaluation." As for the system's cost, she said: "We're about as cheap as we can get it. We're talking pennies a page."

Meanwhile, the 50 years of appellate decisions remain online and Google-friendly, and the 20 million pages of lower court decisions are available in bulk form, but are not yet easily searchable. "I want the whole database in 2009," Mr. Malamud said.

Mr. Malamud, 49, has a long record of trying to balance openness with privacy, and has also pushed the Securities and Exchange Commission and the Patent and Trademark Office to put their records online free. But the issue is a thorny one with court documents, which often contain personal information.

Daniel J. Solove, a professor at the [George Washington University](#) Law School, noted that marketers skim court records for personal data, and making records easier to troll will put even more data at risk. "It's taking away this middle ground that offered a lot of protection, practically, and throwing it into this radically wide open box," he said.

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But this argument for what is known as "practical obscurity" does not convince Peter A. Winn, a privacy expert who is an assistant United States attorney in Washington State. Noting that he was speaking only for himself, he argued that the courts developed rules over the last 400 years to protect privacy.

"It worked in the bricks-and-mortar age — it should work in the electronic age," Mr. Winn said. The administrative office of the courts, he said, should take on the role of policing privacy on its databases. "This is going to take focus and a lot of hard work," he said.

Mr. Malamud agrees that the court system needs to do a better job of protecting privacy. He found thousands of documents in which the lawyers and courts had not properly redacted personal information like Social Security numbers, a violation of the courts' own rules. There was data on children in Washington, names of Secret Service agents, members of pension funds and more.

"They're pretty spectacular blunders," he said. He sent letters to the clerks of individual courts around the country. After some initial inaction, and repeated and increasingly spirited notices from Mr. Malamud, most of the offending documents were pulled from the databases to be redacted.

Ms. Redmond, of the administrative office of the courts, said the courts comb through the documents "on a regular basis" and tell lawyers to redact confidential information. The number of violations, she noted, was relatively small.

Mr. Malamud scoffed at that. "This is a large number of transgressions, and this is illegal," he said. "The law doesn't say that you should only publish a small number of Social Security numbers!"

Mr. Malamud said his years of activism had led him to set a long-shot goal: serving in the Obama administration, perhaps even as head of the Government Printing Office. The thought might seem far-fetched — Mr. Malamud is, by admission, more of an at-the-barricades guy than a behind-the-desk guy. But he noted that he published more pages online last year than the printing office did.

Mr. Malamud represents a perspective of openness and transparency that is much in tune with the new administration's, said Lawrence Lessig, a law professor at Harvard who is a leading advocate for free culture. "The principles are those that Carl has been at the center of defining," he said.

The idea also seems to have a measure of appeal for John D. Podesta, a longtime fan of Mr. Malamud and head of the Obama transition team, who stopped short, however, of anything resembling an endorsement. "He would certainly shake things up," Mr. Podesta said, laughing.

Mr. Malamud says he is not counting on the new administration's being quite that bold. Besides, he said, he keeps himself awfully busy doing what he believes the government ought to be doing anyway.

"If called, I will certainly serve," he said. "But if not called, I will probably serve anyway."

A version of this article appeared in print on February 13, 2009, on page A16 of the New York edition.

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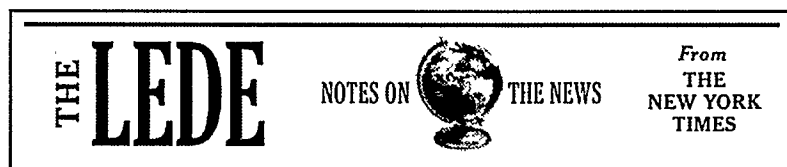
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February 13, 2009, 3:34 pm

Steal These Federal Records — Okay, Not Literally

By [John Schwartz](#) AND [Robert Mackey](#)

Today on The Lede, we have a contribution from John Schwartz, who wrote in Friday's New York Times about Pacer, the Public Access to Court Electronic Records database run by the federal government. Mr. Schwartz focused on efforts by two activists "to push the court records system into the 21st century — by simply grabbing enormous chunks of the database and giving the documents away, to the great annoyance of the government."

Here is more on those efforts, and a look at some of the other kinds of information available through the same Web site, [Public.Resource.org](#):

Carl Malamud has worked crazy hours to push the courts into cleaning up the privacy violations he has found in the Pacer documents he has downloaded. That saga is best told in the exchanges of e-mailed notices, some of them pretty darned testy, that he has published on his Web site.

The site is a trove of other government documents he has made accessible to the public, including an enormous database of tax returns from nonprofit groups, state and local building codes and regulations, images from the Smithsonian Institution, and earlier work he did with material from the Securities and Exchange Commission and the Patent and Trademark Office. Those can all be found through links from the main page of his site, [Public.Resource.org](#).

Also on that site are links to what Mr. Malamud calls FedFlix — a growing archive of many films originally produced by the federal government, which he's been uploading to the Internet Archive and a [YouTube channel](#).

The 524 films in the FedFlix catalogue so far include such gems as "Sludge Management," "Welcome to the Bureau of Prisons!" "Foreign Lottery Scams," "(Motorola Presents) Atomic Attack," battle footage and training films from World War II and Vietnam, and the Cold War classic "Duck and Cover," which is embedded here:



In the article, The Times mentions a Stanford drop-out and entrepreneur by the name of Aaron Swartz. In the technology world, Mr. Swartz is kind of a big deal, as the saying goes. At the age of 14, he had a hand in writing RSS, the now-ubiquitous software used to syndicate everything from blog posts to news headlines directly to subscribers.

Mr. Swartz came across the online manifesto that Carl Malamud published about freeing Pacer documents, in which Mr. Malamud wrote: "The law contains the rules that govern our society. We just want to be able to read our own user manual."

In his call to action, Mr. Malamud pointed to the free trial Pacer was offering and called for a "Thumb Drive Corps" to go to libraries with small-but-capacious "thumb drives," plug them into computers, download as many court documents as they could, and send them to Mr. Malamud so that he could translate them into a format that Google's search software can read and put them on line.

Mr. Malamud's appeal evidently inspired Mr. Swartz to do it one better. (As we said, he knows his way around a keyboard.)

He approached Steve Schultze, a fellow at the Berkman Center for Internet and Society at Harvard who had found Pacer cumbersome to search. "The issue was just sort of a pet peeve in the back of my mind for a while," Mr. Schultze said. He had written a small program that would crawl through the Pacer database and download documents automatically. He showed his bit of software — the code would fit on a single typewritten page — to Mr. Swartz, who set about debugging and improving it.

Then Mr. Swartz had a friend in California take a thumb drive with the "scraping" software on it to one of the free-trial libraries, sign up for an account and upload the program.

And that is how, over the course of six weeks, Mr. Swartz was able to download 780 gigabytes of data — 19,856,160 pages of text — from Pacer. The caper grabbed an estimated 20 percent of the entire PACER network, with a focus on the most recent cases from almost every circuit.

When the government abruptly shut down the free public program, Mr. Malamud saw it as a sign of possible trouble ahead. "Who shuts down a 17-site national program with no notice whatsoever?" he recalled thinking. "I immediately saw the potential for overreaction by the courts."

Mr. Malamud told Mr. Swartz: "You need to talk to a lawyer. I need to talk to a lawyer." Mr. Swartz recalled, "I had this vision of the Feds crashing down the door, taking everything away."

He said he locked the deadbolt on his door, lay down on the bed for a while, and then called his mother.

But when lawyers told Mr. Malamud and Mr. Swartz that they appeared to have broken no laws, Mr. Malamud sent Mr. Swartz a message saying, "You should just lay low for a while."

Mr. Swartz said that he waited for a couple of months, but "nobody came knocking on my door. I started breathing a little more easily."

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2 Comments

1. February 17, 2009 10:35 am [Link](#)

it's amazing that two guys with some time (and incredible computer programming skills) can do in a few hours what the government claims will take them...well, who's really going to wait that long anyway. this is a classic case of how bucking the system can actually make the system MORE efficient. there has to be a way for a democracy to incorporate things like this into the mechanism, so everyone can benefit from the genius (and motivation) of a few.

— Dave

2. February 18, 2009 1:32 pm [Link](#)

The guys are not my heroes. We are not talking about court decisions, which are already available free through numerous websites and in print in many libraries. PACER contains court records: complaints, answers, motions, etc. Should the intimate details of an employment discrimination suit or a bankruptcy be accessible via a quick Google search? Even if these records are scrubbed of Social Security numbers and bank accounts, there is lots of other personal and financial data contained in court records that cannot be redacted.

The federal courts were making an attempt to make this information more accessible by offering free PACER at 17 libraries, so that litigants in federal lawsuits could get access and training in a database they needed to pursue their claims.

Because of this whiz kid the pilot program was shut down and the people who need free access to this database no longer have it. That's a shame. And while the lawyers for these two clowns say no laws were broken (would their lawyers say otherwise?), how about stealing \$2 million worth of electronic services? They violated the conditions of free access pilot program big time. And how about consequential damages to the libraries and the people who needed free PACER access?

— M.L.

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Where Soldiers' Caskets Return in Public

As the Pentagon reviews a ban on media coverage of American soldiers caskets' being returned to the United States, a look at how Canada and Britain handle the return of dead soldiers.

February 19
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Tumblr Lifts Its Ban on Critical Blogs

The blogging platform Tumblr has reversed a new policy against mocking other bloggers, but introduced a new feature that makes it easier for bloggers to block of the noise of the crowd.

February 18
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Israeli Hitler Parody Upsets Holocaust Survivors

An Israeli version of the "Downfall" parodies, in which mock subtitles are inserted in scenes from a German film about Adolf Hitler's last days, has upset people who actually experienced the Nazi regime.

February 18
(165 comments)

Is a Play About Gaza Anti-Semitic? Read the Script.

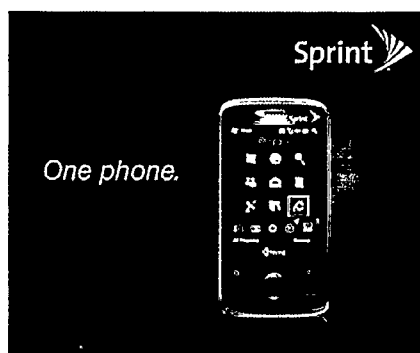
The text of a play inspired by the recent war in Gaza is available online, but reading the script hasn't brought any agreement about whether the play is anti-Semitic, as some critics have charged.

February 18
(28 comments)

Enforcing Manners, Tumblr Shuts Down 5 Blogs

The decision by the blogging platform Tumblr to shut down blogs devoted to criticism of other bloggers has raised the issue of whether online communities are best policed or left alone.

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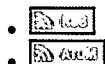
About The Lede

In the news business, the opening sentences of a story are referred to as its "lede" -- spelled that way, journalism lore has it, to avoid confusion with the lead typesetting that once dominated newspaper printing presses. Every sentence in a news story, though, has the potential to spiral off in new directions, and that's where The Lede's mission begins.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/09/2009

AARON SWARTZ posted a weblog titled "NYT Personals" at <http://www.aaronsw.com/weblog>. In the weblog, SWARTZ quotes the NEW YORK TIMES article in which he was interviewed. SWARTZ also posts "Want to meet the man behind the headlines? Want to have the F.B.I. open up a file on you as well? Interested in some kind of bizarre celebrity product endorsement? I'm available in Boston and New York all this month".

(X)

Investigation on 03/09/2009 at Manassas, VAFile # 288A-WF-238943-22 Date dictated N/Aby SA

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NYT Personals

☒ Aaron Swartz used a free trial of the government's Pacer system to download 19,856,160 pages of documents in a campaign to place the information free online.

Michael Francis McElroy for The New York Times

Attention attractive people: Are you looking for someone respectable enough that they've been *personally vetted* by the *New York Times*, but has enough of a *bad-boy streak* that the vetting was because they 'liberated' *millions of dollars* of government documents? If so, look no further than page A14 of today's *New York Times*:

Aaron Swartz, a 22-year-old Stanford dropout and entrepreneur who read Mr. Malamud's appeal, managed to download an estimated 20 percent of the entire database: 19,856,160 pages of text.

Then on Sept. 29, all of the free servers stopped serving. The government, it turns out, was not pleased.

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Continuing on the blog:

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[O]ver the course of six weeks, Mr. Swartz was able to download 780 gigabytes of data — 19,856,160 pages of text — from Pacer. The caper grabbed an estimated 20 percent of the entire PACER network, with a focus on the most recent cases from almost every circuit.

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He said he locked the deadbolt on his door, lay down on the bed for a while, and then called [to warn] his mother.

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Mr. Swartz said that he waited for a couple of months, but "nobody came knocking on my door. I started breathing a little more easily."

Want to meet the man behind the headlines? Want to have the F.B.I. open up a file on you as well? Interested in some kind of bizarre celebrity product endorsement? I'm available in Boston and New York all this month — contact me by [email](#), [Facebook](#), and [web form](#).

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/18/2009

[redacted] Circuit Librarian, Telephone number: [redacted] and [redacted] both of the William J Campbell Library of the U.S. Courts, 219 Dearborn, Chicago, IL, were contacted at their place of business. They were advised of the identity of the interviewing agent and the purpose of the interview and provided the following information:

Users wishing to use the system would request such use at the front desk. Anyone using the library's public computer system would sign in, but identification was not verified. The subset of computer users who wanted to access to PACER were asked to fill out information cards, which were used for statistical purposes only, and did not ask for any identifying information. The passwords were not available to public users and were not posted around the works station. [redacted] and [redacted] did not know how the password could have been compromised. The password to the system was changed shortly before the compromise because it was scheduled to be changed by library policy. Each Summer interns work at the library and are given the password for the system. Each year, the password is changed in late August or early September when the interns leave.

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b7CInvestigation on 03/17/2009 at 219 Dearborn, Chicago, ILFile # 288A-WF-238943-23

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Contact: [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 288A-WF-238943-24 (Pending)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER ✓

Synopsis: To document lead covered for above captioned investigation.

Details: On 03/18/2009, writer interviewed [REDACTED]
Circuit Librarian, Telephone number: [REDACTED] and [REDACTED]
[REDACTED] both of the William J Campbell Library of the U.S.
Courts, 219 Dearborn, Chicago, IL, as requested by WF division.

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UNCLASSIFIED

UNCLASSIFIED

To: Washington Field From: Chicago
Re: 288A-WF-238943, 03/18/2009

LEAD(s) :

Set Lead 1: (Action)

WASHINGTON FIELD

AT CR-17, NVRA

Read and clear.

♦♦

UNCLASSIFIED

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/03/2009

To: Washington Field

Attn: CR-17 / NVRA

From: Chicago

CY-1

Contact:

Approved By:

Drafted By:

Case ID #: 288A-WF-238943-25 (Pending)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: To document lead covered for above captioned investigation.

Enclosure(s): Attached are the requested driver's license information and photos.

Details: On 02/27/2009, writer drove by the home at 349 Marshman Avenue Highland Park, IL 60035. The house was set off of the main road, obscured by a neighboring house. The writer determined that no vehicle information could be obtained without being seen by the occupants of the house.

The writer obtained Swartz's driver's license information and photo as requested.

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062 05-EC

UNCLASSIFIED

To: Washington Field From: Chicago
Re: 288A-WF-238943, 03/03/2009

LEAD(s):

Set Lead 1: (Action)

WASHINGTON FIELD

AT WASHINGTON FIELD

Read and clear.

♦♦

UNCLASSIFIED

[REDACTED] (CG) (FBI)

From: [REDACTED] (CG) (FBI)
Sent: Thursday, February 19, 2009 9:55 AM
To: CG-COMM
Subject: Record Request (FD-125)

To =FBI Chicago (Radio Room)

--

Buded =2/19/2009

--

Return To = [REDACTED]

--

Squad =CY-1

--

File Number =

--

Reply Method =Email

--

Contact Telephone Number = [REDACTED]

--

Precedence =Routine

--

--

--

Deadline Of =

--

Special Handling Instructions =

--

--

--

--

--

--

--

--

--

Vehicle =Requested

--

Other =Requested

--

Other Request Details =ID Photo

--

--

--

--

--

--

Name =Aaron Swartz

--

Spouse's Name =

--

Alias(es) =

--

Date of Marriage =

--

Place of Marriage =

--

Residential Address =349 Marshman Avenue, Highland Park, IL 60035

--

Business Address =

--

Former Address(es) =

--

Race =

--

Gender =Male

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[REDACTED]
2/19/09

--
Age = *

--
Height =

--
Weight =

--
Hair =

--
Eyes =

--
Date of Birth =

--
Place of Birth =

--
Arrest Number =

--
Fingerprint Classification =

--
Criminal Specialty =

--
Social Security Number = 360-84-0493

--
Driver's License Number =

--
DL State =

--
Photo = Requested

--
Other DL Information =

--
License Plate =

--
LP State =

--
Vehicle Description =

--
Specific Information Desired = Registered vehicles, DL information, DL photo /

SOS 02192009 1116

NAME SEARCH RESPONSE NAME SEARCH KEY/SWARTZ AARON
BEGIN PNO/01409242 END PNO/01409243

02 SWARTZ,AARON H HIGHLAND PA 349 MARSHMAN STREE S63200886318
03 SWARTZ,AARON H HIGHLAND PA 349 MARSHMAN ST 63200886318S

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[REDACTED] LZW5.DNW 09.050 11.22.23 DLN/S63200886318.

SOS 02192009 1122

DL/IP STA/EXPIRED
TDL/TIP STA/SEE ILOLNHELP
CDL/CIP STA/SEE ILOLNHELP
SCHLBUS STA/NOT A SCHOOL BUS DRIVER (SEE ILOLNHELP)

SWARTZ AARON H
349 MARSHMAN STREET HIGHLAND PARK 60035
SEX/M DOB/11081986 HGT/5'07" WGT/145 HAI/BRO EYE/BRO
OLN/S632-0088-6318 OLC/D* OLT/IP EXP/07292006 ISS/07292004
RES-PID CLASS/NONE
NO STOPS IN EFFECT
NO CONV LAST 12 MO
END

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[REDACTED]
CHF 021909 1122

DNW NO REC LEADS NAM/SWARTZ,AARON H SEX/M
DOB/110886 DLN/S63200886318

[REDACTED]
1L01 NCIC RESPONSE
ILFBICG00

NO NCIC WANT OLN/S63200886318
NO NCIC WANT NAM/SWARTZ,AARON H DOB/19861108 SEX/M
***MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FELONY RECORDS REGARDLESS OF
EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE EXTRADITION FROM THE
INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED
WITHOUT LIMITATIONS.



DL/ID Image Retrieval

DL-ID Image

Driver License/ID #: S63200886318

Name: AARON H SWARTZ

Street: 349 MARSHMAN STREET

City: HIGHLAND PARK

Zip: 60035

Date Of Birth: 11/08/1986

Gender: MALE

IMAGE NOT AVAILABLE

Close

Print

Only for use as authorized by 625 ILCS 5/6-110.1 and 92 Ill. Adm. Code 1030.140. This information and image cannot be certified to be anything other than the information and image of the individual who presented himself or herself to the Secretary of State's Office with the required forms of identification.

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/23/2009

On March 10, 2009, [redacted] of THE ADMINISTRATIVE OFFICE OF THE US COURTS (US COURTS) provided the following information:

US COURTS was relying on the Notice written on the login page of the PACER webpage, pacer.uscourts.gov, to advise users that unauthorized access to the PACER system is not allowed. When a user goes to the webpage and navigates to the login page, a Notice is shown at the bottom of the page that states "NOTICE: This is a Restricted Government web Site for official PACER use only. Unauthorized entry is prohibited and subject to prosecution under Title 18 of the U.S. Code. All activities and access attempts are logged."

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When asked to clarify how a user knows what constitutes unauthorized access and how a user would have known that they had to be in one of the seventeen libraries to access PACER, [redacted] had [redacted] prepare a response.

[redacted] provided the following information:

AARON SWARTZ would have known his access was unauthorized because it was with a password that did not belong to him.

Library patrons did not sign up for accounts. One login and password were provided to each Federal Depository Library. Each library agreed to not share the password with any organization or individual user. Verification forms were signed by Depository Coordinators at each library and included statements regarding login and password security.

The Seventh Circuit Court of Appeals in Chicago had a one hour time limit on their public access computer and the computer was completely logged off after each session by a staff member.

[PACER homepage and login page print-outs, emails from [redacted] and [redacted] and Federal Depository Library/PACER Verification Forms are attached.]

Investigation on 03/10/2009 at Manassas, VA

File # 288A-WF-238943-27 Date dictated N/A

by SA [redacted]

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M1323 [redacted] upd



Public Access to Court Electronic Records Login Form

● What is PACER?

Public Access to Court Electronic Records (PACER) is an electronic public access service that allows users to obtain case and docket information from Federal Appellate, District and Bankruptcy courts, and from the U.S. Party/Case Index.

A PACER login and password allows access to Federal case and docket information in all approved Federal Judiciary electronic public access programs including PACER, RACER, CM/ECF, and the U.S. Party/Case Index.

● Need More Information? Try these links...

[PACER Frequently Asked Questions](#)

[CM/ECF Frequently Asked Questions](#)

● Need an account id and password?

[Register Now](#)

● Forgot your password?

[Request Forgotten Password](#)

Remember logins and passwords are case sensitive.

Welcome to PACER

United States Party/Case Index

PACER Login:

PACER Password:

Client Code: 

[Verify Login](#)

[Clear Form](#)

Your browser must be set to accept cookies in order to login to this site. If your browser is set to accept cookies and you are experiencing problems with the login, delete the stored cookie file in your PC. Close and reopen your browser before trying again.

NOTICE: This is a Restricted Government web Site for official PACER use only. Unauthorized entry is prohibited and subject to prosecution under Title 18 of the U.S. Code. All activities and access attempts are logged.

[| Top of Page |](#)
[| PACER Service Center Home Page |](#)
[| Register for PACER |](#)
[| Privacy and Security Notice |](#)

For information or comments, please contact:

The PACER Service Center





Administrative Office of the U.S. Courts PACER Service Center

[Home](#) [Register](#) [Links](#) [U.S. Party Case Index](#) [CM/ECF](#) [Miscellaneous](#) [Statistics](#) [Search](#) [Help](#)

The PACER Service Center is the Federal Judiciary's centralized registration, billing, and technical support center for electronic access to U.S. District, Bankruptcy, and Appellate court records.

-  [PACER Overview](#)
-  [Register for PACER](#)
-  [Links to PACER Web Sites](#)
-  [U.S. Party/Case Index](#)
-  [Account Information](#)
-  [PACER Documents](#)
-  [Frequently Asked Questions](#)
-  [PACER Announcements](#)

Featured Links

- [Appellate ECF Filer Registration \(11/03/2008\)](#)
- [CM/ECF Release Notes \(10/20/2008\)](#)
- [Digital Audio Recordings Pilot](#)
- [Credit Card Security Code Required in CM/ECF](#)
- [New Remittance Address](#)
- [EPA Fee Schedule Update](#)
- [Forgotten Password Request](#)
- [Instant Registration Available](#)

[RSS Feed](#) [About RSS](#)

Case Management
CM / ECF
Electronic Case Files

[Click Here for CM/ECF Information.](#)

For information or comments, please contact the PACER Service Center

The PACER Service Center hours are 8:00am to 6:00pm Monday - Friday CST.

PACER Service Center

P.O. Box 780549

San Antonio, TX 78278

(800) 676-6856

(210) 301-6440

Please read our [Privacy and Security Notice](#).

Fw: PACER question

[redacted]
Sent: Tuesday, March 10, 2009 6:54 PM

To: [redacted]

Cc: [redacted]

Attachments: Sacramento-county-public-law.pdf (68 KB) ; 7th_Circuit.pdf (62 KB)

[redacted]

[redacted] prepared a detailed response to your question -- hope this helps as you put the interview questions together. Please let us know if there is absolutely anything more we can give you, including the remainder of the log analysis.

[redacted]

----- Forwarded by [redacted] DCA/AO/USCOURTS on 03/10/2009 06:51 PM -----

[redacted] DCA/AO/USCOURTS

To: [redacted] DCA/AO/USCOURTS@USCOURTS

cc

03/10/2009 06:48 PM

Subject: Re: Fw: PACER question [Link](#)b6
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The way Mr. Swartz would know that his access was unauthorized is that his access was with a password that did not belong to him.

Using a login and password that belongs to someone else to gain access to court computers would by definition be unauthorized.

Contrary to the NYTimes article, library patrons did not sign up for accounts. One login and password was provided to each Federal Depository Library. Each library agreed to not share the password with any organization or individual library user. (the verification forms from Sacramento and the 7th Circuit Court of Appeals Library are attached)

The 7th Circuit Court of Appeals went so far as to have a 1 hour limit on their public access computer and the computer was completely logged off after each session by a staff member. The computer was also re-verified as logged out at the end of each day.

A cursory review of the actual log files from 6 of the courts, show that both the PACER account from the Sacramento County Public Law Library and the PACER account for the 7th Circuit Court of Appeals Library were repeatedly used to pull data from PACER and to send data to ip address 67.202.46.215.

It appears that from the 6 logs I looked at, that each court's PACER system was
accessed from 9/6/2008 through 9/11/2008 using the Sacramento account;
accessed from 9/12/2008 through 9/19/2008 using the 7th Circuit's account,
and accessed from 9/19/2008 through 9/22/2008 using the Sacramento account again.

The systems were constantly being queried every 3-15 seconds.

Below is a breakdown of when access began and stopped for 6 courts. If you would like I can furnish a complete breakdown for each of the 30 plus courts.

SCPL = The Sacramento County Public Law Library PACER Account

7thCir = The Seventh Circuit Court of Appeals PACER Account

Transactions occurred constantly (every 3-15 seconds or so.)

Alabama Middle:

SCPL was used from 9/6/2008 at 8:36:56 PM until 9/11/2008 at 11:36:06 AM.

(7thCir) was used from 9/12/2008 at 11:36:44 AM to 9/19/2008 at 10:44:14 AM.

SCPL account was used from 9/19/2008 at 10:51:16 AM to 9/22/2008 at 3:26:18 PM.

California Northern:

SCPL was used from 9/6/2008 at 6:33:28 PM until 9/11/2008 at 1:29:08 PM.

7thCir account was used from 9/12/2008 at 9:26:44 AM until 9/19/2008 8:44:21 AM.

SCPL was used from 9/19/2008 at 8:48:09 AM until 9/22/2008 at 1:26:05 PM.

California Southern:

SCPL was used from 9/8/2008 at 3:24:53 PM until 9/11/2008 at 1:29:06 PM.

7thCir account was used from 9/12/2008 at 9:44:06 AM until 9/17/2008 4:27:56 AM.

SCPL was used from 9/19/2008 at 8:53:09 AM until 9/22/2008 at 1:25:40 PM.

Arizona:

7thCir account was used from 9/12/2008 at 1:56:19 PM until 9/19/2008 8:44:28 AM.

SCPL was used from 9/19/2008 at 8:54:09 AM until 9/22/2008 at 1:26:15 PM.

Colorado:

7thCir account was used from 9/15/2008 at 6:56:31 AM until 9/19/2008 9:44:25 AM.

SCPL was used from 9/19/2008 at 9:53:02 AM until 9/22/2008 at 2:26:12 PM.

Connecticut:

7thCir account was used from 9/15/2008 at 6:48:34 PM until 9/19/2008 11:44:23 AM.

SCPL was used from 9/19/2008 at 11:53:56 AM until 9/22/2008 at 4:26:47 PM.

[Redacted]

OCA-EPA

[Redacted]

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[redacted] DCA/AO/USCOURTS

To: [redacted] DCA/AO/USCOURTS@USCOURTS

cc

03/10/2009 01:17 PM

Subject Fw: PACER question

[redacted]

Please draft a response.

Thanks,

[redacted]

----- Forwarded by [redacted] DCA/AO/USCOURTS on 03/10/2009 01:17 PM -----

[redacted]

To: [redacted]

cc

03/10/2009 12:58 PM

Subject PACER question

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Hi [redacted] In looking over the "notice" statement you told me about earlier today and talking over it with [redacted] and another agent, we had a couple questions.

Was it stated anywhere on the website or in the library that in order to access PACER for free, you had to physically be in one of the 17 libraries? In the statement, it says "unauthorized entry is prohibited...." Our question concerns whether it says on the website or in writing that unauthorized entry is from anywhere outside of those 17 libraries. Before we question Swartz, we need to be prepared with how he should have/would have known it was illegal for him to access the documents from outside of the libraries.

Thanks.

SA [redacted]

NVRA CR-17

[redacted] office
cell

At its September 18, 2007 meeting, the Judicial Conference approved the pilot project to provide depository libraries no-fee access to PACER (Public Access to Court Electronic Records), a service of the Administrative Office of the U. S. Courts (AOUSC). GPO is pleased to be working with the AO to implement the pilot to expand access to PACER.

- * Promote the PACER service to the public;
- * Have a survey available for PACER users to submit (GPO will provide);
- * Report PACER activities to GPO every two months (GPO will provide report form);
- * Provide access to PACER only from computers within the library and its branches; and
- * Meet other requirements of the pilot, including those related to login and password security.

Please complete the entire form and return it by fax to 202-512-2300. Alternatively, you may scan the form and e-mail it to Cindy Etkin at ceetkin@gpo.gov.

Sacramento, CA 95814

Library Director's Signature:

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Federal Depository Library/PACER Verification Form

Submission of this form is required for an account to be created that will provide you with a login and password to access to PACER, Public Access to Court Electronic Records.

At its September 18, 2007 meeting, the Judicial Conference approved the pilot project to provide Federal depository libraries no-fee access to PACER (Public Access to Court Electronic Records), a service of the Administrative Office of the U. S. Courts (AOUSC). GPO is pleased to be working with the AOUSC to implement the pilot to expand access to PACER.

The goal of the pilot project is to determine if Federal depository library access to PACER expands usage to those who currently do not have it available to them or would be inhibited by going to a court house to use the service. To ensure the goal of the pilot is met, participating libraries are obligated to:

- * Promote the PACER service to the public;
- * Have a survey available for PACER users to submit (GPO will provide);
- * Report PACER activities to GPO every two months (GPO will provide report form);
- * Provide access to PACER only from computers within the library and its branches; and
- * Meet other requirements of the pilot, including those related to login and password security.

The Web site is to be used for free public access under the Federal Depository Library Program (FDLP). Your password and login information are to be shared only with library staff who provide reference service. This information may also be shared with branch libraries that are under the purview of the same library director. It is against AOUSC/GPO policy to give out your login or password to another organization or individual library users. Also, you may not allow organizations outside your library to connect to PACER using your login and password via your library's computer network; public access workstations in the Federal depository library are permissible. Any violation of these terms will result in the termination of your account with the PACER Service Center.

Please complete the entire form and return it by fax to 202-512-2300. Alternatively, you may scan the signed form and e-mail it to Cindy Etkin at etkin@gpo.gov.

Depository Library Number: 0155A

Library Name: Wm. J. Campbell Library of the U.S. Courts

Library Address: U.S. Court of Appeals for the Seventh Circuit

219 S. Dearborn, Room 11637 Chicago, IL 60604

Depository Coordinator (contact):

Phone Number:

E-mail Address:

If you agree to the terms expressed above, please sign below:

Library Director's Signature:

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/14/2009

On 04/14/2009, SA [] called (847) 432-8857 in an attempt to speak to AARON SWARTZ. A female answered the telephone and stated that SWARTZ was not available at that telephone number any longer and that SWARTZ did not have another number where he could be reached. SA [] left a message for SWARTZ to return her call and the female stated that she would email that message to SWARTZ.

SWARTZ called SA [] and left a message on her voicemail stating he could be reached at (847) 877-8895. This number is a T-Mobile cellular number and returned negative []

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SA [] spoke to SWARTZ, at telephone number (847) 877-8895, and explained that the FBI is looking for information on how SWARTZ was able to compromise the PACER system so that the US COURTS could implement repairs to the system and get PACER running again. SWARTZ stated that he would have to talk to his attorney first and would call SA [] back at a later time.

Investigation on 04/14/2009 at Manassas, VAFile # 288A-WF-238943 - 28Date dictated N/A

by SA []

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/15/2009

On 04/15/2009, SA [] returned a telephone call to [] who had left a voicemail message for SA [] telephone number is [] and his email address is []

[] asked if the FBI had an official investigation open or if this was just information gathering. SA [] responded that there was an open investigation. [] asked if he needed an attorney and SA [] responded that she could not advise him on that matter. SA [] told [] that AARON SWARTZ was told in a conversation yesterday that we are looking for information into how the compromise occurred so that the US COURTS can get PACER operational again. [] responded with "I can not tell you how Aaron did it." [] was a [] and understands the security system of PACER and can speak to that.

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b7FInvestigation on 04/15/2009 at Manassas, VAFile # 288A-WF-238943-29Date dictated N/A

by SA []

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- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/16/2009

[redacted] social security number [redacted] date of birth [redacted] California drivers license number [redacted] cellular telephone number [redacted] email address [redacted] work telephone number [redacted] work address 1005 Gravenstein Hwy N., Sebastopol, California 95472, was interviewed at the FBI Washington Field Office. After being advised of the identities of the interviewing agents and the purpose of the interview, [redacted] provided the following information:

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[redacted] a 501c3 non-profit company called public.resource.org. [redacted] has been making government data available online for the past twenty years. In 1994 and 1995, [redacted] the SECURITIES AND EXCHANGE COMMISSION's EDGAR database. [redacted] has worked with the SMITHSONIAN to get more of their data available online. [redacted] stated that he is responsible for changing policies at CSPAN. [redacted] has scanned three million pages of Congressional hearings and made those available online.

In 2007, [redacted] began focusing on primary legal materials that needed attention. In 2008, [redacted] put fifty years worth of COURT OF APPEALS information online. People began writing [redacted] with concern that their social security numbers were posted online in this data. [redacted] was able to get LEXUSNEXUS and WEST to redact social security numbers. [redacted] sent an audit to Judge ROSENTHAL listing the social security numbers posted online and presented a series of recommendations for correcting this issue.

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In mid-2008, [redacted] pacer.resource.org. [redacted] intended for this website to get policy aims across and get PACER documents uploaded for anyone to view. [redacted] does not like the PACER pilot project and made this clear on his website in the seventeen frequently asked questions (FAQ). FAQ number sixteen refers to a thumb drive corps where [redacted] encourages people to go to the seventeen libraries participating in the PACER pilot project and download PACER documents. Then the PACER documents can be uploaded as pdf documents on [redacted] website using an upload button.

Investigation on 04/15/2009 at Washington, DCFile # 288A-WF-238943 -39Date dictated N/Aby SA [redacted]
SA [redacted]b6
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288A-WF-238943

Continuation of FD-302 of _____, On 4/15/2009, Page 2

Although _____ has a PACER account, _____ does not retrieve the documents himself because other people are paying for the documents and are allowed to redistribute them. _____ assumed people who read his FAQ for the thumb drive corps would either obtain the documents by paying for them or go to one of the seventeen libraries and download the documents for free.

One volunteer, AARON SWARTZ, contacted _____ in reference to the thumb drive corps and explained that he had 770 gigabytes of PACER data. _____ gave SWARTZ an account at public.resource.org so that SWARTZ could upload all the data at once, instead of uploading each document using the upload button on the webpage. _____ reviewed the data and was satisfied that it was clean. _____ does not believe what SWARTZ did was illegal and _____ stated that neither he nor SWARTZ were hackers. _____ was now in possession of approximately twenty percent (20%) of all PACER documents. _____ began searching for social security numbers and found 1,700 documents that included social security numbers.

SWARTZ is not employed by _____ and _____ did not pay SWARTZ to obtain the PACER documents. _____ has never paid anyone for bulk PACER data. Users who uploaded PACER documents were never paid by _____ SWARTZ's account at public.resource.org was terminated when _____ discovered that the PACER pilot project had been cancelled.

_____ stated that a user did not have to be physically in one of the seventeen libraries participating in the PACER pilot project to legitimately access PACER documents for free. SWARTZ downloaded PACER documents for approximately six weeks and no one for the ADMINISTRATIVE OFFICE OF THE US COURTS (US COURTS) made a statement regarding this activity. _____ never saw any signs in the libraries that stated that the PACER documents were for personal use. If _____ had seen any indication of that, he would not have released the data but would have still completed the social security numbers audit. _____ reviewed the security language and the announcement for the release of the PACER pilot project and did not see anything stating that a normal user could not access PACER documents in the way that he encouraged the thumb drive corps to do so.

_____ saw the notice on the PACER log-in page prohibiting unauthorized access. _____ stated that this was not unauthorized access because the data was available for users

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288A-WF-238943

Continuation of FD-302 of _____, 04/15/2009, Page 3

to view. [] studied this statement and consulted others to ensure that what he was asking the thumb drive corps to do was not unauthorized access.

[] did not have anyone else supplying large numbers of PACER documents like SWARTZ was able to upload. There were thousands of users uploading small numbers of documents. A total of 80,000 pages has been uploaded through pacer.resource.org. Users who uploaded documents were anonymous. [] did not check the uploaded pages until sometime later to determine if they were real PACER documents.

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The vulnerability of the PACER pilot project was that the cookie used for log-in did not track the user's IP address. [] suggested that a remedy would be to prompt the user to log-in again if the cookie that was originally used to log-in was later used on a different computer with a different IP address. At the time the PACER pilot project was compromised, all a user had to do was log-in, then use that cookie on another computer to gain access to the PACER documents at a later time. The only limit in place was that the cookie lasted for one week.

[] contacted the US COURTS multiple times explaining that he would work with the US COURTS' technical staff to correct this problem, one contact occurring on October 23, 2008. [] contacted the DEPARTMENT OF JUSTICE in Seattle, Washington and explained to Assistant United States Attorney [] that social security numbers were being printed online. [] was told that there was no investigation into this matter. [] worked with Professor [] from CORNELL LAW SCHOOL. Through [] and [] volunteered to help the US COURTS with their computer systems and redacting the social security numbers. [] is frustrated that the US COURTS has never contacted him.

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In late December 2008, [] was contacted by [] from the NEW YORK TIMES. [] wanted information about the PACER compromise. [] had worked with [] previously on articles and gave [] the information. [] stated that the articles written by [] were generally accurate and [] had found no mistakes in them.

[] currently has a request before Judge LAMBERTH for a no fee exemption for PACER. With a no fee exemption,

288A-WF-238943

Continuation of FD-302 of [REDACTED], 04/15/2009, Page 4

users are not allowed to redistribute PACER documents. [REDACTED] is also asking for the no redistribution clause to be waived.

[REDACTED] has paid \$600,000 to purchase circuit court opinion data from vendors. [REDACTED] pays institutions for information, but has never paid individual people.

[REDACTED] the INTERNET SYSTEMS CONSORTIUM. [REDACTED] gets free web hosting and unlimited bandwidth in the Bay area of California.

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[REDACTED] is in Washington, DC during the week of April 13, 2009 to brief the SENATE JUDICIARY COMMITTEE and two other committees and to meet with LAMBERTH. [REDACTED] also had interviews at the White House.

[REDACTED] has known SWARTZ for approximately ten years and they have a long standing relationship. [REDACTED] considers SWARTZ as his colleague. In 2008, [REDACTED] commissioned SWARTZ to perform an audit and sent SWARTZ a check. SWARTZ did not perform the audit and [REDACTED] asked for the money to be returned. SWARTZ returned the uncashed check.

[REDACTED] gave [REDACTED] an account at public.resource.org. SWARTZ and [REDACTED] are the only users who have been given accounts by [REDACTED]

[REDACTED] would like to discuss issues regarding the PACER pilot project with the US COURTS. If the US COURTS wants the access at the libraries participating in the project to be personal access or if they want to impose a download limitation of three pages, [REDACTED] would like to help the US COURTS achieve these goals, even though [REDACTED] might not necessarily agree with them. [REDACTED] believes the fee of eight cents per page is excessive. Based on a letter sent by a Senator, the fee should be two cents per page instead of eight cents. The data also needs to be scrubbed first to remove sensitive information. Unsealed documents need to be checked to ensure that they are properly unsealed. Those that should actually be sealed should be taken off the internet. PACER also needs to be searchable. At the present time, users can not search PACER documents using keywords.

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[Attached are copies of the following documents provided by [REDACTED]

288A-WF-238943

Continuation of FD-302 of , 04/15/2009, Page 5

- A letter to Judge Rosenthal from Joseph I. Lieberman
- A letter to from Royce C. Lamberth
- A letter to from Lee H. Rosenthal
- A letter to Lee H. Rosenthal from Public.Resource.Org
- A letter from Lee H. Rosenthal and James C. Duff

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Also attached is report for NCIC
checks for returned negative results.]

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

February 27, 2009

The Honorable Lee H. Rosenthal
Chair, Committee on Rules of Practice and Procedure
Judicial Conference of the United States
Washington, D.C. 20544

Dear Judge Rosenthal:

I am writing to inquire if the Court is complying with two key provisions of the E-Government Act of 2002 (P.L. 107-347) which were designed to increase public access to court records and protect the privacy of individuals' personal information contained in those records.

As you know, court documents are electronically released through the Public Access to Court Electronic Records (PACER) system, which currently charges \$.08 a page for access. While charging for access was previously required, Section 205(e) of the E-Government Act changed a provision of the Judicial Appropriation Act of 2002 (28 U.S.C. 1913 note) so that courts "may, to the extent necessary" instead of "shall" charge fees "for access to information available through automatic data processing equipment."

The goal of this provision, as was clearly stated in the Committee report that accompanied the Senate version of the E-Government Act, was to increase free public access to these records. As the report stated: "[t]he Committee intends to encourage the Judicial Conference to move from a fee structure in which electronic docketing systems are supported primarily by user fees to a fee structure in which this information is freely available to the greatest extent possible. ... Pursuant to existing law, users of PACER are charged fees that are higher than the marginal cost of disseminating the information."

Seven years after the passage of the E-Government Act, it appears that little has been done to make these records freely available – with PACER charging a higher rate than 2002. Furthermore, the funds generated by these fees are still well higher than the cost of dissemination, as the Judiciary Information Technology Fund had a surplus of approximately \$150 million in FY2006.¹ Please explain whether the Judicial Conference is complying with Section 205(e) of the E-Government Act, how PACER fees are determined, and whether the Judicial Conference is only charging "to the extent necessary" for records using the PACER system.

In addition I have concerns that not enough has been done to protect personal information contained in publicly available court filings, potentially violating another provision of the

¹ Judiciary Information Technology Fund Annual Report for Fiscal Year 2006

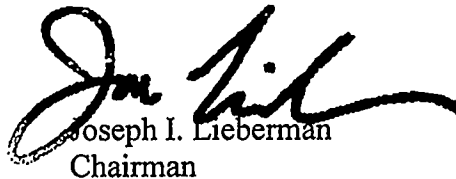
PAGE 2

E-Government Act.² A recent investigation by [REDACTED] of the non-profit Public.Resource.org found numerous examples of personal data not being redacted in these records. Given the sensitivity of this information and the potential for identify theft or worse, I would like the court to review the steps they take to ensure this information is protected and report to the Committee on how this provision has been implemented as we work to increase public access to court records.

I thank you in advance for your time and I look forward to your response.

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Sincerely,



Joseph I. Lieberman
Chairman

² Section 205(c)(3) requires that rules be developed to "protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically."

United States District Court
for the District of Columbia
Washington, DC 20001

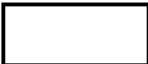
Chambers of
Chief Judge
Royce C. Lamberth
United States District Judge

January 28, 2009



Public.Resource.Org
1005 Gravenstein Highway North
Sebastopol, CA 95472

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Dear Mr. 

This is in response to the your December 30, 2008 letter regarding the audit your organization conducted of our Court's database. Our Clerk's Office confirmed that the documents you cited included social security numbers that should have been redacted by counsel prior to filing. Those documents are no longer available for public viewing. Counsel for the parties have been notified to file redacted documents that are in compliance with the E-Government Act.

Thank you for bringing this to our attention. We appreciate your interest in our Court.

Sincerely,

Royce C. Lamberth
Chief Judge

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

LEE H. ROSENTHAL
CHAIR

PETER G. McCABE
SECRETARY

July 16, 2008

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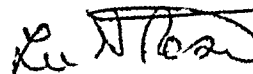
[REDACTED]
Public.Resource.Org, Inc.
1005 Gravenstein Highway North
Sebastopol, CA 95472

Dear Mr. [REDACTED]

Thank you for the materials you provided on personal identifiers in appellate opinions. It is enormously helpful to have the benefit of the empirical research that you have done. As you know, the Judicial Conference Rules Committees and the Committee on Court Administration and Case Management have implemented the E-Government Act requirements by developing rules and procedures to protect personal identifiers from being included in court filings, particularly those that are remotely accessible electronically. We are continuing to work to ensure that this implementation is effective and efficient. I hope you will keep us informed about your ongoing work.

I am sending a copy of your materials to Judge Carl Stewart, Chair of the Appellate Rules Committee, as well. Thank you for your commitment to improving the court system.

Very truly yours,



Lee H. Rosenthal

cc: The Hon. Carl Stewart

[REDACTED]

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b7c



PUBLIC.RESOURCE.ORG ~ A Nonprofit Corporation

Public Works Projects for the Internet

To: The Honorable Lee H. Rosenthal, Chairman
Judicial Conference Committee on Rules and Procedure

Cc: The Honorable Alex Kozinski, Chief Judge, Ninth Circuit
The Honorable Edith H. Jones, Chief Judge, Fifth Circuit
The Honorable Dennis Jacobs, Chief Judge, Second Circuit
The Honorable J.L. Edmondson, Chief Judge, Eleventh Circuit
The Honorable Karen J. Williams, Chief Judge, Fourth Circuit

From: Public.Resource.Org

Date: May 3, 2008

Subj: ~~Confidential~~ - 1,718 Personal Identifiers Found in Appellate Opinions

Examination of appellate decisions reveals 1,718 cases with Alien Numbers or Social Security Numbers published in the opinions. The issue applies across all circuits and many of the opinions in question are still available on court web sites. This memorandum explains the problem and suggests corrective actions to be taken.

Background: Personal Identifiers in Court Opinions

The E-Government Act of 2002 and Appellate Rule 25 "require that personal identification information be redacted from documents filed with the court." While the focus of the Privacy Rules are on lawyers, requiring them to redact personal identification numbers from documents filed with the courts, there is also an obligation for the courts themselves to do their part, particularly when the appearance of personal identification materials in court opinions is the result of the opinion publication process or is inherent in the procedures established by the courts for submitting appeals.

In a recent Memorandum Describing the Privacy Rules and Judicial Conference Privacy Policy issued by the Rules Committee, special note was made of immigration and Social Security cases:

Cases That Are Not Subject to the Redaction Requirement

In addition, the new Civil Rules becoming effective on December 1, 2007, do not apply the redaction requirements to certain categories of cases that are exempted from remote public access. These categories are immigration cases and Social Security cases.

The parties have remote electronic access to filings in these cases, but the public has access to the filings only at the courthouse.

It is clear that Alien Numbers and Social Security Numbers are not meant to be made available for general public access as publication of these numbers poses a substantial and real threat of identity theft for the individuals involved.

Opinions Found Containing Personal Identifiers

Public.Resource.Org is a 501(c)(3) nonprofit corporation dedicated to making public information more readily available on the Internet. As part of our mission, we recently obtained 50 years of Courts of Appeals decisions from a commercial vendor, reformatted this data to be compliant with modern Internet standards such as XML markup, SHA1-based document integrity checks, and explicit labels indicating the public domain status of the underlying data.

We then made this data available in bulk, and it is now being used by numerous for-profit and non-profit organizations providing access to the general public and legal professionals.

In April, we were notified by an individual that his Alien Number, the personal identifier used on the Green Card, had been published on the Internet. We investigated the issue and determined that the Immigration and Naturalization Service routinely used the Alien Number as the Docket Number for their cases, and this information is present in 1,499 published opinions, many of which are currently available on court web sites.

In addition, we scanned the corpus for Social Security Numbers and found those present in 219 published opinions. All told, 1,718 published opinions contain these personal identifiers. These opinions are distributed among all the circuits, as detailed in Table 1.

Court	Number of Cases with Personal Identifiers in the Published Opinion
Ninth Circuit	990
Fifth Circuit	171
Second Circuit	93
Eleventh Circuit	85
Fourth Circuit	81
Seventh Circuit	64
Eighth Circuit	54
Sixth Circuit	53
Third Circuit	42
Tenth Circuit	40
First Circuit	22
DC Circuit	16
Federal Circuit	6
Court of Claims	1

Table 1: Number of Cases by Circuit

The Problem Is Ongoing

Table 2 shows the number of opinions found over time. As can be seen from the continuing high volume of incidents, the problem is ongoing and not just historical.

Year	Number of Cases with Personal Identifiers in the Published Opinion
1949-1979	53
1980-1989	154
1990-1994	210
1995-1999	816
2000-2004	370
2005	60
2006	82
2007	26

Table 2: Number of Cases by Year

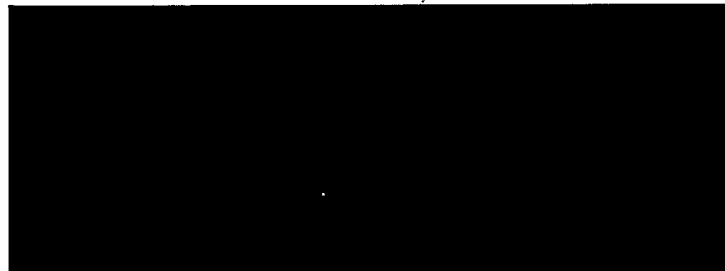
Appendix A contains a detailed listing of each case found. The table contains the citation in the National Reporter Series, any docket numbers found, the date (which in some cases is date submitted and in others is date filed), and indicators if the case contains an Alien Number or a Social Security Number and if the case appears to be accessible via the court's own web site.

We would be happy to make available additional information from our database of cases found, such as names of judges (or *en banc* status), URLs to access the pages, and the specific patterns and resulting matches.

It is important to note that these identification numbers are present in the opinions delivered by the courts, not just in briefs submitted by the appellants. In many cases, the summary information is embedded in the prefatory information generated by the courts. For example, take the case of [REDACTED]

[REDACTED] in the Court of Appeals for the Tenth Circuit:

As can be seen, dire [REDACTED] etitioner and Respondent, the docket number is followed by A73-[REDACTED] Alien Number:



Corrective Steps

A series of specific actions have been mandated for all Executive Branch agencies in OMB Memorandum M-07-16, "Safeguarding Against the Breach of Personally Identifiable Information," where breach is defined as "the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic." That policy goes on to state:

"Safeguarding personally identifiable information in the possession of the government and preventing its breach are essential to ensure the government retains the trust of the American public. ... this memorandum requires agencies to develop and implement a breach notification policy within 120 days." [emphasis in original.]

Upon discovery of a breach of personal identifiers, a series of steps are considered Best Current Practices, both in industry and in government:

1. Mitigate the immediate damage by fixing the breach.
2. Notify upstream sources and downstream users of the data.
3. Investigate the cause and implement corrective steps to prevent reoccurrence.

Upon discovery of breach, Public.Resource.Org took the following steps:

1. We algorithmically scanned all court cases to find Alien Numbers and Social Security Numbers, then individually checked all numbers flagged. We then scrambled the identifiers, substituting random alphabetic characters for the numbers.
2. Bulk users of our data ("downstream users") were notified of the specific cases found. Per this memorandum, we are notifying the courts ("upstream sources").
3. We have implemented a policy of scanning all databases we post for personal identifiers, even if those databases are public records produced by the government. We have also implemented a policy which allows users to notify us if they discover information.

We believe the courts should take a similar set of steps:

1. Active steps should be taken to redact the personal identifiers, particularly the ones found on your web sites, as well as scanning for additional materials such as briefs containing this information.
2. Best Current Practices require the notification of affected parties of the breach. We believe it is incumbent on you to notify all of the individuals who were exposed. In addition you should notify your downstream users, particularly the major legal services such as West, Lexis, and AltLaw.
3. The presence of personal identifiers, particularly in immigration cases, is well known and documented as evidenced by Judicial Conference reports. An investigation as to why that did not translate into concrete actions by the courts and how to prevent further breaches is thus recommended.

We realize that mitigating this breach will require time and money, but this is essential to "ensure the government retains the trust of the American Public," a principle that applies equally to all three branches of our government.

Appendix A: Listing of U.S. Appellate Opinions Containing Personal Identifying Information

Court	National Reporter Citation	Date	Docket Numbers	Personal Identifier Type	On Court's Site?
1st Circuit		04/05/2006		Alien ID	Yes
		05/04/2006		Alien ID	Yes
		11/09/2005		Alien ID	Yes
		10/09/2003		Alien ID	Yes
		12/06/2002		SSAN	Yes
		10/06/2000		Alien ID	Yes
		06/05/2000		Alien ID	Yes
		07/07/1999		SSAN	Yes
		06/10/1999		Alien ID	Yes
		03/19/1999		Alien ID	Yes
		10/23/1998		Alien ID	Yes
		09/09/1996		SSAN	Yes
		02/27/1995		Alien ID	Yes
		06/23/1994		Alien ID	Yes
		01/31/1994		Alien ID	Yes
		08/17/1992		SSAN	
		07/18/1991		SSAN	
		05/02/1991		Alien ID	
		01/24/1990		SSAN	
		06/30/1989		SSAN	
		03/23/1987		SSAN	
		03/08/1982		SSAN	
2nd Circuit		10/30/2006		Alien ID	Yes
		04/18/2007		Alien ID	Yes
		06/05/2007		Alien ID	Yes
		02/13/2007		Alien ID	Yes
		05/16/2007		Alien ID	Yes
		03/16/2007		Alien ID	Yes
		05/10/2007		Alien ID	Yes
		02/13/2007		Alien ID	Yes
		04/12/2007		Alien ID	Yes
		03/28/2007		Alien ID	Yes
		01/19/2007		Alien ID	Yes
		01/24/2007		Alien ID	Yes
		11/29/2006		Alien ID	Yes
		11/15/2006		Alien ID	Yes
		02/22/2007		Alien ID	Yes
		01/18/2007		Alien ID	Yes
		11/01/2006		Alien ID	Yes
		10/06/2006		Alien ID	Yes
		01/22/2007		Alien ID	Yes
		11/18/2004		Alien ID	Yes
		01/12/2007		Alien ID	Yes
		10/30/2006		Alien ID	Yes
		09/12/2006		Alien ID	Yes
		12/08/2006		Alien ID	Yes
		01/06/2006		Alien ID	Yes
		05/18/2006		Alien ID	Yes
		11/17/2005		Alien ID	Yes
		08/10/2006		Alien ID	Yes
		04/20/2006		Alien ID	Yes
		09/19/2006		Alien ID	Yes



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

JAMES C. DUFF
Secretary

March 26, 2009

Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We are responding on behalf of the Judicial Conference and its Rules Committees to your letter to Judge Lee H. Rosenthal dated February 27, 2009. Your letter raises two questions about the Judiciary's compliance with the E-Government Act of 2002: the first involves the fees charged for Internet-based access to court records, to which Director Duff responds; and the second relates to the protection of private information within these court records, to which Judge Rosenthal responds. The Judiciary welcomes the opportunity to address these issues.

User Fees Necessary to Support PACER

You inquired whether the Judiciary's Public Access to Court Electronic Records (PACER) system complies with a provision of the E-Government Act that contemplates a fee structure in which electronic court information "is freely available to the greatest extent possible." We assure you that the Judiciary is charging PACER fees only to the extent necessary. As described below, many services and documents are provided to the public for free, and charges that are imposed are the minimum possible only to recover costs. As such, we believe we are meeting the E-Government Act's requirements to promote public access to federal court documents while recognizing that such access cannot be entirely free of charge.

There are high costs to providing the PACER service. This fact raises an important question of who should pay for the costs — taxpayers or users. Congress initially answered the question in our 1991 appropriations act when it required that improved electronic access to court information be funded through reasonable fees paid by the users of the information, and not through taxes paid by the general public. That requirement is the basis for the current Electronic Public Access (EPA) program, and for the fees charged for access to federal court documents through the PACER system.

The PACER user population includes lawyers, *pro se* filers, government agencies, trustees, bulk collectors, researchers, educational institutions, commercial enterprises, financial institutions, the media, and the general public. The fees are the same for all users of the system. The program does not, however, provide free access to every individual, law firm, or corporation (most notably data resellers and credit reporting firms) that is interested in obtaining vast amounts of court data at no cost.

As noted above, Congress mandated 18 years ago that the Judiciary charge user fees for electronic access to court files as a way to pay for this service. Since that time, various legislative directives have amended the mandate, mostly to expand the permissible use of the fee revenue to pay for other services related to the electronic dissemination of court information, such as the Case Management/Electronic Case Files (CM/ECF) system¹ and an Electronic Bankruptcy Noticing (EBN) system.² Your letter correctly notes that the E-Government Act shifted emphasis by providing that fees “may,” rather than “shall,” be collected, and “only to the extent necessary.” It did not, however, alter Congress’s policy that the EPA program recoup the cost of services provided through a reasonable fee. Indeed, the Conference Report on the Judiciary Appropriations Act of 2004, adopted two years after the E-Government Act, included the following statement: “[t]he Committee expects the fee for the Electronic Public Access program to provide for Case Management/Electronic Case Files system enhancements and operational costs.”³ Consistent with that directive, the Judicial Conference increased the EPA fee by one cent per page accessed.

The Judiciary takes its responsibility to establish the EPA fee very seriously. Since well before the E-Government Act, it has been the Judicial Conference’s policy to set the electronic public access fee to be commensurate with the costs of providing and enhancing services related to public access. In fact, prior to the one-cent per-page increase in 2004, the Conference had a history of lowering the fee. As a result, PACER is a very economical service:

- The charge for accessing filings is just eight cents per page (as opposed to the fees for using commercial services such as Westlaw or Lexis, which are much more);

¹ CM/ECF, the primary source of electronic information on PACER, was developed and is maintained with EPA fees. This system provides for electronic filing of all documents in all 94 district courts and all 90 bankruptcy courts, and currently is being implemented in the courts of appeals.

² The EBN system is funded in its entirety by EPA fee revenue. It provides access to bankruptcy case information to parties listed in the case by eliminating the production and mailing of traditional paper notices and associated postage costs, while speeding public service. Available options include Internet e-mail and fax services, and Electronic Data Interchange for large volume notice recipients. Over 20 million bankruptcy notices were transmitted through the EBN program in fiscal year 2008.

³ See H.R. Rpt. No. 108-401, 108th Cong., 1st Sess., at 614 (adopting the language of H.R. Rpt. No. 108-221, 108th Cong., 1st Sess., at 116).

- There is a \$2.40 maximum charge for any single document, no matter its length; and
- At federal courthouses, public access terminals provide free PACER access to view filings in that court, as well as economical printouts (priced at \$.10 per page).

In addition, contrary to the notion that little has been done to make court records freely available, the Electronic Public Access (EPA) program *does* provide a significant amount of federal court information to the public for free. For example, through PACER:

- Free access to all judicial opinions is provided;
- Parties to a court case receive a free copy of filings in the case;
- If an individual account does not reach \$10 annually (which translates into access to at least 125 pages), no fee is charged at all – in 2008, there were over 145,000 accounts in this status; and
- Approximately 20 percent of all PACER usage is performed by users who are exempt from any charge, including indigents, academic researchers, CJA attorneys, and *pro bono* attorneys.⁴

Nonetheless, the fact remains that the EPA program does require funding, and Congress has never provided appropriations for its support. If the users, the largest of which are finance and information management corporations, are not charged for the services they receive, the Judiciary cannot maintain PACER or other public access facilities unless Congress annually provides taxpayer-funded appropriations to support the program.

Additionally, a misconception about PACER revenues needs clarification. There is *no* \$150 million PACER surplus; the figure referenced in your correspondence was a FY 2006 balance of \$146.6 million in the much larger Judiciary Information Technology Fund (JITF). The JITF finances the IT requirements of the entire Judiciary and is comprised primarily of “no-year” appropriated funds which are expected to be carried forward each year. While fee

⁴ In addition to these examples, the EPA program provides free access to court case information through VCIS (Voice Case Information System), an automated voice response system that provides a limited amount of bankruptcy case information directly from the court’s database in response to touch-tone telephone inquiries. The Judicial Conference also recently attempted to expand free PACER access through a pilot project that provided PACER terminals in Federal Depository Libraries. The purpose of the pilot was to provide access to individuals who would be unlikely to go to the courthouse, have ready access to the Internet, or establish a PACER account. Unfortunately, after only 11 months, the pilot had to be suspended pending an evaluation and an investigation of potentially inappropriate use.

collections from the EPA program are also deposited into the JITF, they are used only to fund electronic public access initiatives and account for only a small portion of its balance.⁵

Finally, the Judiciary is making a serious effort to implement the requirements of the E-Government Act. Section 205(d) directed the Judicial Conference to "explore the feasibility of technology to post online dockets with links allowing all filings, decisions and rulings in each case to be obtained from the docket sheet of that case." In reality, the Judiciary has done much more than "explore" such technology — *we have designed and now implemented in all courts a system that provides nearly one million PACER users with access to over 250 million case file documents at a reasonable fee, and frequently free of any charge at all.* The EPA program was developed as an alternative to going to the courthouse during business hours and making copies at the cost of 50 cents a page.

In contrast, very few state courts have electronic access systems, and none provides as much information as PACER. Many state courts charge several dollars for a single records search. We receive frequent inquiries from state court officials and court administrators from other countries about PACER, which is viewed as an electronic public access model. Taxpayers, who incur none of the expenses associated with PACER, and users of the system, who enjoy rapid access to a vast amount of docket information, are well served by PACER. The PACER system is an on-going success story and the Judiciary remains committed to providing a high level of electronic public access to court information.

Private Information in Electronic Court Records

The Judicial Conference and its Rules Committees share your commitment to protecting private information in court filings from public access. Over a decade ago, before electronic filing was adopted in the federal district and bankruptcy courts and well before enactment of the E-Government Act of 2002, the Conference began developing a policy to protect private information in electronic case files while ensuring Internet-based public access to those files. That policy became effective in September 2001. Changes to the Federal Appellate, Bankruptcy, Civil, and Criminal Rules, largely incorporating the privacy policy and addressing other rules' aspects of protecting personal identifiers and other public information from remote electronic public access, became effective in December 2007, under the E-Government Act and pursuant to the Rules Enabling Act process.⁶

The Judicial Conference has continued to examine how the privacy policy and rules are working in practice. Two Conference committees are reviewing the rules, the policy, and their implementation. The Administrative Office of the United States Courts has also continued

⁵ The carryover JITF balances (including the portion attributable to EPA fee collections) have been substantially reduced since FY 2006 in order to meet the Judiciary's IT requirements.

⁶ Fed. R. App. P. 25(a)(5); Fed. R. Bankr. P. 9037; Fed. R. Civ. P. 5.2; and Fed. R. Crim. P. 49.1.

to reinforce effective implementation. The Federal Judiciary has been in the forefront of protecting privacy interests while ensuring public access to electronically filed information.

In late 1999, a few federal courts served as pilot projects to test electronic filing. In 2009, the Judiciary's CM/ECF system has become fully operational in 94 district courts and 93 bankruptcy courts, and it will soon become operational in all 13 courts of appeals. As courts and litigants have acquired experience with nationwide electronic filing, new issues have emerged on how to balance privacy interests with ensuring public access to court filings.

The Judiciary-wide privacy policy was adopted in September 2001 after years of study, committee meetings, and public hearings. The policy requires that court filings must be available electronically to the same extent that they are available at the courthouse, provided that certain personal identifiers are redacted from those filings by the attorney or the party making the filing. The personal identifiers that must be redacted include the first five digits of a social-security number, financial account numbers, the name of a minor, the date of a person's birth, and the home address in a criminal case. These redaction requirements were incorporated into the Federal Rules amendments promulgated in December 2007 after the public notice and comment period prescribed under the Rules Enabling Act. These rules, which also address other privacy protection issues, meet the requirements of the E-Government Act.

The 2001 Conference policy and the 2007 privacy rules put the responsibility for redacting personal identifiers in court filings on the litigants and lawyers who generate and file the documents. The litigants and lawyers are in the best position to know if such information is in the filings and, if so, where. Making litigants and lawyers responsible to redact such information has the added benefit of restraining them from including such information in the first place. Moreover, requiring court staff unilaterally to modify pleadings, briefs, transcripts, or other documents that are filed in court was seen to be impractical and potentially compromising the neutral role the court must play. For these reasons, the rules clearly impose the redaction responsibility on the filing party. The Committee Notes accompanying the rules state: "The clerk is not required to review documents filed with the court for compliance with this rule. The responsibility to redact filings rests with counsel and the party or non-party making the filing."⁷ The courts have made great efforts to ensure that filers are fully aware of their responsibility to redact personal identifiers. Those efforts continue.

The reported instances of personal identifier information contained in court filings is disturbing and must be addressed. The Rules Committees' Privacy Subcommittee, which developed and proposed the 2007 privacy rules, is charged with the task of examining how the rules have worked in practice, what issues have emerged since they took effect on December 1, 2007, and why personal identifier information continues to appear in some court filings. The

⁷ Fed. R. Civ. P. 5.2 (Committee Note).

Privacy Subcommittee, which includes representatives from the Advisory Rules Committees as well as the Court Administration and Case Management Committee, will consider whether the federal privacy rules or the Judicial Conference privacy policy should be amended and how to make implementation more effective. The subcommittee will review empirical data; the experiences of lawyers, court staff, and judges with electronic court filings; the software programs developed by some district and bankruptcy courts to assist in redacting personal identifier information; and other steps taken by different courts to increase compliance with the privacy rules.

While this work is going on, the Judiciary is taking immediate steps to address the redaction problem. Court personnel have been trained in administering the privacy policy and rules; additional training is taking place. On February 23, 2009, the Administrative Office issued a written reminder to all Clerks of Court about the importance of having personal identifiers redacted from documents before they are filed and of the need to remind filers of their redaction obligations. Court clerks were directed to use a variety of court communications, such as newsletters, listservs, continuing legal education programs, and notifications on websites administered directly by the courts, to reach as many filers as possible, as effectively as possible. Plans are underway to modify the national CM/ECF system to include an additional notice reminding filers of their redaction obligation. In addition, all the courts have been asked to provide information on their experience with the privacy policy and rules. Early responses have included some promising approaches that the Privacy Subcommittee will consider for possible national adoption.

The Privacy Subcommittee does not underestimate the difficulty or complexity of the problems. Court filings can be voluminous. Some cases involve hundreds or even thousands of pages of administrative or state-court paper records that cannot be electronically searched. Redacting personal identifier information in certain criminal proceedings may interfere with legitimate law enforcement prosecutions. Erroneously redacting information can affect the integrity of a court record. The propriety of court staff changing papers filed in private civil litigation is an ongoing concern. Internet access to court filings present other privacy and security issues besides the redaction of the personal identifiers specified in the 2007 rules, and these issues need to be studied as well.


The resolution of these privacy issues will involve important policy decisions that require careful and comprehensive consideration and input from the bench, bar, and public. The Judicial Conference and its Rules Committees look forward to continuing this dialogue with you.

* * *

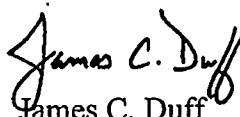
Honorable Joseph I. Lieberman
Page 7

If we may be of assistance to you in either of these areas, or on any other matter, please do not hesitate to contact the Office of Legislative Affairs in the Administrative Office at 202-502-1700.

Sincerely,



Lee H. Rosenthal
Chair, Standing Committee on
Rules of Practice and Procedure



James C. Duff
Secretary, Judicial Conference
of the United States

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/16/2009

On 04/16/2009, SA [] returned a telephone call to [] in Boston, MA. [] wanted assurance that if SWARTZ was interviewed, what he said would not be used to jeopardize him. SA [] explained that assurance could not be given but that we were in an information gathering phase. [] refused the interview without the assurance.

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b7FInvestigation on 04/16/2009 at Manassas, VAFile # 288A-WF-238943 - 31 Date dictated N/A

by SA []

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This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[] 0416.wpd

Fw: Response by Ars Technica re PACER letter to Senator Lieberman

[REDACTED]

Sent: Thursday, April 09, 2009 10:24 AM

To: [REDACTED]

[REDACTED]

Please see the attached article. It goes into some detail about Aaron Schwartz's activities.

Could we talk for a few minutes later this week or on Monday, April 13th?

Thanks,

[REDACTED]

----- Forwarded by [REDACTED] DCA/AO/USCOURTS on 04/09/2009 10:23 AM -----

[REDACTED] DCA/AO/USCOURTS

04/09/2009 09:35 AM

To: [REDACTED] DCA/AO/USCOURTS@USCOURTS

[REDACTED] DCA/AO/USCOURTS@USCOURTS

[REDACTED] DCA/AO/USCOURTS@USCOURTS

cc: [REDACTED] DCA/AO/USCOURTS@USCOURTS, [REDACTED]

[REDACTED] SAT/AO/USCOURTS@USCOURTS, [REDACTED]

[REDACTED] DCA/AO/USCOURTS@USCOURTS, [REDACTED]

[REDACTED] A/AO/USCOURTS@USCOURTS, [REDACTED]

[REDACTED] DCA/AO/USCOURTS@USCOURTS

Subject Response by Ars Technica re PACER letter to Senator Lieberman

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The anticipated article is at <http://arstechnica.com/tech-policy/news/2009/04/case-against-pacer.ars>

[REDACTED] from the Berkman Center is quoted quite heavily.

288A-WF-238943-32

The case against PACER: tearing down the courts' paywall

US law says that federal court records are in the public domain. So why do the courts still lock most of their official documents behind a paywall? Ars investigates.

By Timothy B. Lee | Last updated April 8, 2009 11:30 PM CT

If you want to find out how the Obama administration is spending the stimulus money, you can go to recovery.gov for detailed spending data. Many executive branch agencies provide information about their activities via the government's regulations.gov portal. And the Library of Congress has the Thomas system, which gives the public free, searchable access to information about the activities of the legislative branch. But the judicial branch is a conspicuous laggard when it comes to making public documents available online. Theoretically, public access to federal court records is provided by a Web-based system called PACER. Unfortunately, PACER locks public documents behind a paywall, lacks a reasonable search engine, and has an interface that's inscrutable to non-lawyers.

The courts are coming under increasing pressure to address these flaws, and last year, RSS pioneer Aaron Swartz and open government activist Carl Malamud took matters into their own hands. The courts had launched a pilot program that gave free PACER access to patrons of selected libraries, so Swartz and Malamud went to the libraries with thumb drives and used a Perl script to download as many documents as they could. They got about 20 million documents before the courts abruptly canceled the trial. The documents—about 700 GB in total—are now available from Malamud's website, but there are still terabytes of public documents locked behind PACER's paywall.

On February 27, Sen Joe Lieberman (I-CT) (a consistent advocate of public access to taxpayer-funded documents) sent the courts a letter asking some pointed questions about PACER. Noting that the 2002 E-Government Act had instructed the courts to move toward free public access to court records, and that the judiciary had a \$150 million surplus in its Information Technology Fund, Lieberman asked the courts to justify continuing to charge 8 cents a page for these documents.

On March 26, the courts responded to Lieberman's letter, arguing that the fees it collects are necessary to cover the costs of running the system. It also pointed to a number of steps that have been taken in recent years to make PACER more accessible. As we'll discuss below, some of the claims in the letter were disputed by the experts Ars talked to, and the courts declined to answer our follow-up questions.

In this feature, Ars takes stock of online access to federal court records in the United States. We'll discuss how the system got where it is today, look at where there's room for improvement, and talk to two experts on open government about the prospects for reform. The bottom line is that the courts deserve credit for the progress they made in the 1990s, but a lot more work is needed to bring PACER into the 21st century.

The importance of public access to the law

Public access to court records might seem like something only lawyers would care about, but James Grimmelmann, a professor at New York Law School, disagrees. "If there are secret laws, it's really hard to say that those are laws in any meaningful sense at all," Grimmelmann says. "There are lots of areas of law in which the statute is very short, but the case law is incredibly long and important." For example, the statutory definition of fair use is only about a paragraph long. To understand how the concept will be applied by the courts, you need to review the hundreds of judicial opinions that have defined its contours.

To ensure broad public access, the courts have long held that court records are not subject to copyright.

Grimmelmann also points out that public access to court records keeps courts honest. If court activities are secret, the public will have no way to verify that the court's procedures and decisions are fair and consistent with the law. Public access also promotes equality before the law by ensuring that those of limited means will not be disadvantaged by a lack of access to information.

To ensure broad public access, the courts have long held that court records are not subject to copyright. That means that once a user has obtained a court document, he is generally free to redistribute it without payment. But until the rise of the Internet, practical barriers limited the dissemination of legal records. Courts produce millions of pages of documents every year, and it would have been impractical to distribute paper copies of every document to public libraries. In principle, anyone could have physically driven down to a courthouse and asked to see copies of court records, but practically speaking only practicing lawyers and a handful of sophisticated journalists and academics knew how to navigate this system successfully.

Broader and more convenient access to court records allows greater public understanding and scrutiny of our legal system. As information technology makes broader availability economically feasible, public officials have an obligation to respond by using those technologies to expand public access.

A great leap forward

There is plenty to criticize about PACER, but it's also important to acknowledge what the courts have done right. The initial creation of PACER in 1988 was a huge improvement over the existing system of paper records. Working attorneys found it extremely convenient to be able to monitor the progress of cases they were working on from the comfort of their offices. The system charged per-minute fees for dial-up services, but these were seen as a small price to pay for convenience, and such fees were not unusual for commercial online services at the time.

The courts steadily improved the system during its first decade in existence. Steve Schultze, a fellow at Harvard's Berkman Center, tells Ars that the original dial-up system provided only basic case and docket information; lawyers wanting the full text of documents still had to go down to the courthouse to retrieve them. But during the 1990s, more and more documents were added to the system.

In 1998, the system was moved to the Web. Attorneys could access PACER using a Web browser rather than a proprietary dial-up service. And instead of paying per-minute dialup fees, Web-based PACER users are charged on a per-page basis.

Falling behind

The courts are justifiably proud of the work they did to modernize PACER during its first decade. Creating PACER and then moving it to the Web were great strides for open access to court records. Unfortunately, in the last decade the courts have not been able to keep up with the pace of online innovation. PACER continues to serve legal professionals well enough, but in an age where the rest of us have come to expect easy access to public documents, PACER is looking increasingly anachronistic.

Schultze argues that most of PACER's problems can be traced back to the decision to put federal court records behind a paywall. Before users can log into PACER, they must provide the PACER Service Center with registration information and a credit card number. Users are charged eight cents per page, and HTML documents such as search results are broken up into arbitrarily defined "pages" for billing purposes. Even an empty search result costs eight cents.

Paying eight cents a page is not a major burden for working attorneys, who can often pass these fees along to their clients. But the paywall is a major deterrent to members of the general public who access court records only occasionally and are likely to be intimidated by the system's clumsy search tools. The paywall also makes it difficult for academics to perform comparative research on large numbers of court cases, and it makes it prohibitively expensive for third parties to improve access to the documents. Google, for example, can't index or re-publish these documents (as it has done with the patent database) unless it is willing to pay millions of dollars in PACER fees.

As a result, ordinary users are stuck using the search tools PACER provides. And Schultze points out that those tools leave a lot to be desired. PACER is designed for finding particular cases based on characteristics such as date, case number, or the names of the parties. There's no full-text searching option, and only very limited keyword search. Even worse, every federal court runs its own instance of the PACER software, each with its own idiosyncrasies.

There are alternatives for those willing to pay a premium. Commercial databases such as LexisNexis and WestLaw offer more sophisticated search tools that span multiple courts, but these tools have flaws of their own: access is far more expensive than PACER; the information in these databases may not be as current or as comprehensive; and although their search tools are better than PACER's, they're not nearly as good as the leading Web search engines.

Reading page:

- 1
- 2
- Next >

Serving the technologist for 1.0775×10^{-1} centuries

FW: Regarding instructions given to the pilot libraries

Sent: Friday, April 17, 2009 4:12 PM

To: [REDACTED]

Attachments: Attach-1.pdf (105 KB) ; Attach-2.pdf (96 KB) ; Attach-3.pdf (81 KB) ; Attach-4.pdf (75 KB) ; Attach-5.pdf (9 KB)

FYI

----- Forwarded by [REDACTED] DCA/AO/USCOURTS on 04/17/2009 04:11 PM -----

[REDACTED] DCA/AO/USCOURTS

To: [REDACTED] DCA/AO/USCOURTS@USCOURTS

cc

04/17/2009 11:45 AM

Subject Regarding instructions given to the pilot libraries

[REDACTED]

Attached you will find a three documents outlining the instructions provided to the library pilots.

Attachment #1 contains the e-mail from the GPO with the language they initially suggested and our suggested comments. As this was a joint pilot and these were their libraries, we did not request to see the final solicitation the GPO sent out. I have confidence they included our suggestions. Please note the initial solicitation language states that there will be requirements relating to login and password security.

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Attachment #2 is an e-mail about the questionnaire the pilot libraries will request patrons fill out.

Attachment #3 is a copy of the form that required the Library Director's signature in order to participate. Note it is explicit about the nondisclosure of the library passwords.

Attachment #4 is a copy of the letter the libraries received from the PACER Service Center again reminding them of the need to keep their password secure.


Attachment #5 is guidance provided to the library pilots from both the GPO and from the AOUSC early in the pilot process. It also reiterates the need to keep passwords secure.






In thinking back to the questions that were asked yesterday, our response needs to be crystal clear that when we contacted the FBI we had no clue who was accessing the data, nor where the data was being stored/sent. Our decision to contact the FBI and request an investigation when this initially happened, was in no way impacted, affected, or influenced by where the data ended up, nor by subsequent claims of responsibility through the press.

We decided to suspend the pilot and contact the FBI when we realized there was a tremendous amount of access via a PACER account associated with the joint GPO AOUSC Depository Library Pilot. The usage was not by that library and we had no idea who might be orchestrating the activity or how they were doing so.

[REDACTED]

288A-WF-238943 ✓ 33

 DCA/AO/USCOURTS
09/28/2007 04:20 PM

To: 
cc:  DCA/AO/USCOURTS@USCOURTS 
bcc:  DCA/AO/USCOURTS@USCOURTS
Subject: Re: Call for FDLP/PACER Volunteers 

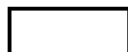


I'd suggest a couple of things:

- 1: replace AOC with AOUSC (Administrative Office of the U. S. Courts)
- 2: PACER is not a database. Pacer is the system for public access to federal court electronic casefile records.
- 3: We way want to add a line that notes there may be additional requirements beyond the advertising, and reporting responsibilities.


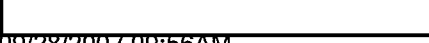
b6
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Thanks,



I've made sample changes below:

-----  wrote: -----

To: 
From: 
Date: 09/28/2007 09:56AM
Subject: Call for FDLP/PACER Volunteers

Hello 

Below is a draft of the call for volunteers. Let me know if you have any changes. I'd like to get this out today, it seems the law library community already knows about this and they are chomping at the bit.

PACER and Depository Library Volunteers

At its September 18, 2007 meeting, the Judicial Conference approved the pilot project to provide Federal depository libraries access to PACER (Public Access to Court Electronic Records), a service of the Administrative Office of the U. S. Courts (AOUSC). GPO is pleased to be working with the AOUSC to implement the pilot to expand access to PACER.

The PACER system can provide remote access to case and docket information from the Federal Courts via the Internet. Records include information from the Appellate, District and Bankruptcy Courts. Users of PACER are able to access information about a case including the names of all the parties, judges and attorneys involved in the case, case history and status as well as many of the documents submitted by the parties to the court.

The goal of the pilot project is to determine if Federal depository library access to PACER expands usage to those who currently do not have it available to them or would be inhibited by going to a court house

to use the service.

GPO is now seeking volunteers to participate in the pilot, which will last up to two years. A limited number of depositories representing different sizes and types will be selected to take part in the pilot. Depository coordinators who are interested in participating should e-mail [redacted] by the close of business Thursday, October 4th. Please be sure to provide your depository number, phone number, and work e-mail address.

To ensure the goal of the pilot is met, participating libraries will be obligated to:

- * Promote the PACER service to the public;
- * Have user survey cards available that will help determine where the user learned of the service and if they have ever used it before;
- * Report PACER activities to GPO every two months;
- * Provide access to PACER only from computers within the library and its branches; and
- * Meet other requirements of the pilot, including those related to login and password security.

GPO will notify the libraries that are selected to participate no later than Friday, October 12th.

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Thanks,



Office of the Superintendent of Documents
U.S. Government Printing Office
732 North Capitol Street, NW (Mail Stop: IDSD)
Washington, D.C. 20401

[redacted]
(phone) [redacted]
(fax) [redacted]



[Redacted]

10/08/2007 10:04 PM

To [Redacted]

cc

bcc

Subject PACER Usage info

History:

This message has been replied to.

[Redacted]

In the announcement we obligated the libraries to have user survey cards available at the computer(s) where PACER is available> GPO is going to provide these. I want to keep it very short. I think with these three questions we can get the info you need to know to determine if access in depositories is indeed expanding access to PACER (received by new audiences). What do you think?

1. Where did you learn of the PACER service? _____
2. Have you used PACER before? Yes/No
3. If you answered yes above, where did you use it?
____ this library ____ another library ____ a court house ____ other

b6
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I will have the list of volunteers to you Tuesday. We had 48 volunteers.

Do you have time to talk Tuesday?

[Redacted]

Office of the Superintendent of Documents
U.S. Government Printing Office
732 North Capitol Street, NW (Mail Stop: IDSD)
Washington, D.C. 20401

[Redacted]

(phone) [Redacted]

(fax) [Redacted]

Federal Depository Library/PACER Verification Form

Submission of this form is required for an account to be created that will provide you with a login password to access to PACER, Public Access to Court Electronic Records.

At its September 18, 2007 meeting, the Judicial Conference approved the pilot project to provide Federal depository libraries no-fee access to PACER (Public Access to Court Electronic Records), a service of the Administrative Office of the U. S. Courts (AOUSC). GPO is pleased to be working with the AOUSC to implement the pilot to expand access to PACER.

The goal of the pilot project is to determine if Federal depository library access to PACER expands usage to those who currently do not have it available to them or would be inhibited by going to a court house to use the service. To ensure the goal of the pilot is met, participating libraries are obligated to:

- * Promote the PACER service to the public;
- * Have a survey available for PACER users to submit (GPO will provide);
- * Report PACER activities to GPO every two months (GPO will provide report form);
- * Provide access to PACER only from computers within the library and its branches; and
- * Meet other requirements of the pilot, including those related to login and password security.

The Web site is to be used for free public access under the Federal Depository Library Program (FDLP). Library login password and login information are to be shared only with library staff who provide reference service. Library login information may also be shared with branch libraries that are under the purview of the same library director. It is against AOUSC/GPO policy to give out your login or password to another organization or individual library users. Also, you may not allow organizations outside your library to connect to PACER using your login password via your library's computer network; public access workstations in the Federal depository library are permissible. Any violation of these terms will result in the termination of your account with the PACER Service Center.

Please complete the entire form and return it by fax to 202-512-2300. Alternatively, you may scan the form and e-mail it to Cindy Etkin at ceetkin@gpo.gov.

Depository Library Number: _____

Library Name: _____

Library Address: _____

Depository Coordinator (contact): _____

Phone Number: _____

E-mail Address: _____

If you agree to the terms expressed above, please sign below:

Library Director's Signature: _____

PACER SERVICE CENTER

U.S. COURTS - PACER • P.O. BOX 70951 • CHARLOTTE, NC 28272-0951

11/14/2007

**THIS ACCOUNT IS EXEMPT
FROM CHARGES. All U. S.
Judiciary agencies are exempt
from access fees.**

Dear

Thank you for your interest in the Public Access to Court Electronic Records (PACER) system. PACER is a service provided by the federal judiciary for electronic access to federal court information. The Judicial Conference of the United States has established a fee to be collected for access to PACER. All registered agencies or individuals will be assessed the charge of \$.08 per page for web access.

Statements will be generated and mailed quarterly for customers accruing usage on PACER a balance due greater than \$10. Please note, customers enrolled with the automatic billing program will receive statements electronically via email. Payment in full of the billed amount is due each quarter or further access to the system will be restricted until outstanding balances are cleared. See the reverse side of this letter for more information.

Your firm's login is:

Your firm's password is:

The login and password listed above allow read-only access to all courts running nationally supported PACER products including CM/ECF. Links to PACER sites can be found at our website: <http://pacer.psc.uscourts.gov>. If you experience login difficulty, ensure your browser is accepting cookies. If you continue to experience problems, log in to the PACER Service Center website. Click on the courthouse in the upper left corner for the login page. Once successful, select the site you want to access. You will bypass the login page if a valid PACER cookie is present. In addition, a PACER manual can be downloaded from the "Documents" section of our website.

A free account information service is available for all customers of PACER at the PACER Service Center website. Customers may update account information, change passwords, view account balances, make an online payment by credit card, sign up for automatic billing, download statements, and sort transactions by client code. To access these options, visit the "Account Information" section at <http://pacer.psc.uscourts.gov>.

By logging into PACER you acknowledge you have read, understood and agree to the terms and conditions on the reverse side of this letter. If you have any questions regarding your account, please contact the PACER Service Center by phone at (800) 676-6856 or email at pacer@psc.uscourts.gov, and a member of our staff will assist you.

Sincerely,



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Guidance provided by the GPO on 2/6/2008.

Several of you have asked about embedding the PACER login into existing menu options in your library.

You are welcome to do this if:

- > The user name and password are secure and not visible to users;
- > You are still able to collect the survey data; and
- > You can limit this access to computers in your library and branches.

Guidance provided by AOUSC on 2/7/2008. In response to question raised by a pilot library. The question and answer were sent to all pilot libraries.

Question:

This is just a hypothetical question. Are there limitations to how many records an individual can extract from PACER? What if a small business person used PACER at my library to generate their mailing labels and downloaded a lot of personal information? Would that be a violation of privacy? Do we have to police it? If so, we don't have the time to do this.

Response:

This hypothetical question, and answer highlight part of the reason to do this pilot. I'll try to quickly address each of the questions you raise.

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1) Are there limitations to how many records an individual can extract from PACER?

No. The library patron would be limited only by the amount of time a library allows on the computer and by the amount of printing the library allows. Some libraries charge for printing, others require patrons to provide their own paper. In addition, we will be looking at the total amount of usage during the pilot, and if we see usage that looks excessive, we might ask a library to work with us to validate the usage.

2) What if a small business person (someone) used PACER at my library to generate their mailing labels and downloaded a lot of personal information.

The personal information available on PACER is public information. Social Security numbers, and other personal identifiers are redacted from the court pleadings. Most of the personal information available through PACER is also available via other easier means such as finding names and addresses in a phone book. We do not restrict how the PACER information is used. To do so would be a prior restraint.

3) Would downloading names and addresses be a privacy violation?

No. The information is publicly available. Downloading thousands of pages at a time might be beyond the intended use of free access, but that should show up in the monthly reports, rather than be a privacy concern in using the system.

4) Do we have to police use of the system?

No. At least not any more than you would police the use of any other library resource, in terms of making sure usage is shared and not monopolized by any one individual or group. (In some libraries, computer usage is limited to 30 minute blocks, to ensure the computers are a shared resource.) The library does however have a responsibility to safeguard its PACER password.

5) What if a library finds participation in the pilot is too resource intensive? (paraphrasing of the last sentence)

If a library finds it needs to withdraw from the pilot, that is a valid finding and part of the reason to do a pilot. (To find out how much of a burden it places on the participants) We appreciate each of the libraries that volunteered to participate, but no library should feel obligated to continue participating if it finds it needs to withdraw. We selected only 1/3 of the libraries which volunteered, so we should be able to find a replacement if needed.

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/20/2009

To: Cyber

Attn: CIU-1/SSA [redacted]
SSA [redacted]

Washington Field

From: Washington Field

CR-17 / NVRA

Contact: SA [redacted]

b6
b7C
b7F

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: 288A-WF-238943 (Closed)

Title: UNSUB(S);
US COURTS - VICTIM;
COMPUTER INTRUSION - OTHER

Synopsis: To close case.

Details: For background, the U.S. Courts implemented a pilot project offering free access to federal court records through the PACER system at seventeen federal depository libraries. From September 4 - 22, 2008, PACER was accessed by computers from outside the library utilizing login information from two libraries participating in the pilot project. The login information was compromised at the Sacramento County Public Law Library and the Seventh Circuit Court of Appeals Library. The two accounts were responsible for downloading more than eighteen million pages with an approximate value of \$1.5 million.

Investigation determined that the Amazon IP address used to access the PACER system belongs to Aaron Swartz. Swartz refused an interview with the FBI. [redacted]

[redacted] Swartz on his website pacer.resource.org, was interview by the FBI on April 15, 2009. Both Swartz and [redacted] were interviewed by the New York Times, regarding the compromise of the PACER system.

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UNCLASSIFIED

04/21/2009
[signature]

UNCLASSIFIED

To: Cyber From: Washington Field
Re: 288A-WF-238943, 04/20/2009

CCIPS Attorney [REDACTED] closed the office's case. Based on the CCIPS closing, Washington Field is closing this case as of this communication.

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UNCLASSIFIED

UNCLASSIFIED

To: Cyber From: Washington Field
Re: 288A-WF-238943, 04/20/2009

LEAD(s) :

Set Lead 1: (Info)

CYBER

AT CIU-1

Read and clear.

♦♦

UNCLASSIFIED