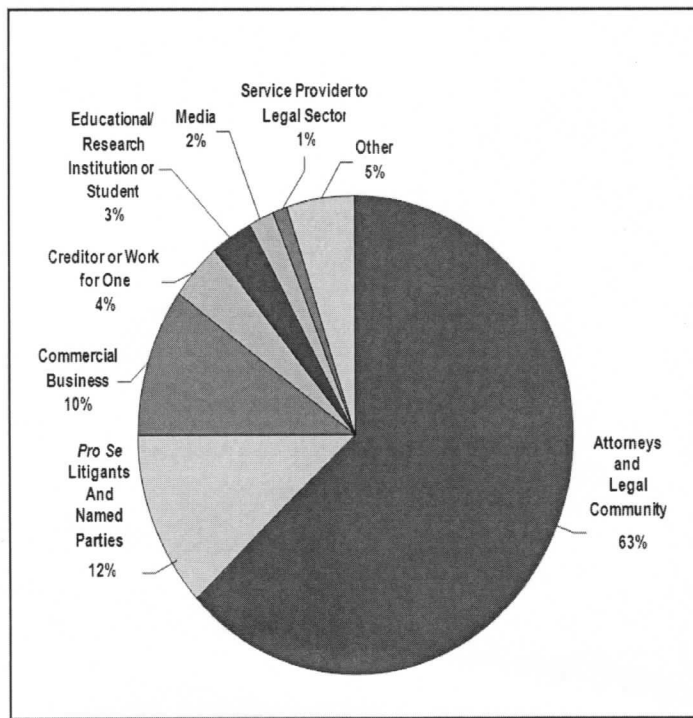


Electronic Public Access Program (EPA)

The PACER user base is broad, including: members of the bar and litigants; commercial enterprises; academia; media; and the general public. The chart below illustrates a breakdown of the proportion of PACER accounts by user category. The majority of “other” users are background investigators.



PACER Fees

The Judiciary does not charge for access to judicial opinions through PACER.

The majority of fee revenue comes from a handful of users, with 2.7 % of accounts generating more than 87% of revenue collected in FY 2015. The top users (other than DOJ) are major commercial enterprises, large law firms, and financial institutions. These users collect massive amounts of data, often for aggregation and resale – which is permissible – meaning those users may actually generate profits for themselves using PACER data.

The vast majority of PACER accounts pay no fee whatsoever. Of those who do pay, most pay small amounts; fewer than 5% of accounts incur more than \$500 in fees over the course of a year. This is a long-established pattern.

Fee Exempt Users

If an individual account does not exceed \$15 quarterly, no fee is charged at all. In FY 2015, approximately 80% of active accounts had a fee waiver for at least one quarter, and 59% of active accounts paid no fees.

No fees are charged to federal agencies or programs which are funded from Judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A, and bankruptcy administrator programs.

Consistent with Judicial Conference policy, courts may, upon a showing of cause, exempt indigents, bankruptcy case trustees, individual researchers associated with educational institutions, Section 501(c)(3) not-for-profit organizations, pro bono attorneys, and pro bono ADR neutrals from payment of these fees. A fee exemption applies only for limited purposes. Any transfer of data obtained as the result of a fee exemption is prohibited unless expressly authorized by the court. The prohibition on transfer of information received without fee is not intended to bar a quote or reference to information received as a result of a fee exemption in a scholarly or other similar work.

The large number of fee waivers and exempt users generated about 16% of PACER usage.

This table provides a breakdown of revenue collected for FY 2015:

PACER Collections

Usage	Number of Accounts	Amount
Less than \$500	119,519	\$12,541,396
\$500 - \$1,000	8890	\$6,220,558
\$1,000 - \$2,000	5,281	\$7,361,417
\$2,000 - \$5,000	3,509	\$10,801,491
\$5,000 - \$10,000	1,309	\$9,168,062
\$10,000 - \$15,000	476	\$5,764,066
\$15,000 - \$20,000	263	\$4,498,697
\$20,000 - \$100,000	655	\$26,594,346
\$100,000 - \$500,000	114	\$20,646,606

\$500,000 and above	24	\$41,358,158
Total Collected	140,040	\$144,954,795

From 2013-2016, total fees collected have remained roughly steady, at around \$145M per year.

PACER Fee Basis Background

In 1988, the Judiciary sought funding through the appropriations process to provide electronic public access services. Rather than appropriate funds for this purpose, Congress specifically directed the Judiciary to fund electronic public access services through the collection of user fees. As a result, the electronic public access program relies exclusively on fee revenue. The statutory language specifically requires that the fees be used "to reimburse expenses incurred in providing these services."

A study of policies and practices regarding use, release, and sale of data, recommended that the level of fees for a service should sustain the cost of the service. In 1991, an initial fee of \$1.00 per minute for access to electronic information, via a dial-up bulletin board service, was set for the district and bankruptcy courts. Four years later, the fee was reduced to \$0.75 per minute, and one year after that it was reduced to \$0.60 per minute.

In 1998, the Judiciary adopted a per-page fee, as it was determined to be the simplest and most effective method for charging for public access via the Internet. The \$0.07 per page electronic access fee was calculated to produce comparable fees for large users in both the Internet and dial-up applications and thus maintain the then current public access revenue level while introducing new technologies to expand public accessibility to the PACER information. For infrequent PACER users, costs were reduced considerably by using the Internet.

In 2003, in the Conference Report that accompanied the Judiciary's FY 2004 Appropriations Act, Congress expanded the permitted uses of EPA funds to include Case Management/Electronic Case Files (CM/ECF) system operational costs. In order to provide sufficient revenue to fully fund currently identified CM/ECF system costs, in September 2004, the Judicial Conference approved an increase in the electronic public access fee from \$0.07 to \$0.08 per page, effective January 1, 2005.

In September 2011, the Judicial Conference approved an increase in the fee from \$0.08 to \$0.10 per page, effective April 1, 2012. The fee had not been increased since 2005 and for the previous three fiscal years, the public access program's obligations had exceeded its revenue. The fee increase is being used to fund the Next Generation of CM/ECF and PACER.

At the same time, however, the waiver threshold was increased from fees of \$10 or less in a quarterly billing cycle to \$15 or less per quarter, so that approximately the same percentage of users (more than 70%) still receive fee waivers. Moreover, in recognition of the tight fiscal environment facing government agencies, the Conference suspended fees for local, state, and federal government entities for three years.

How PACER fees serve the taxpayers and users:

There is a high cost to providing electronic public access, and Congress decided over 25 years ago that the funds needed to improve electronic access to court information were to be provided by the users of this information through reasonable fees rather than by all taxpayers through appropriated funds.

Fee revenue also allows the Judiciary to pursue new technologies for providing public access, develop prototype programs to test the feasibility of new public access technologies, and develop enhancements to existing systems. By authorizing the fee, Congress has provided the Judiciary with revenue that is dedicated solely to promoting and enhancing public access.

Both taxpayers and users are very well served by the electronic public access program, which includes the PACER service. Taxpayers bear none of the expenses associated with the program, and users enjoy rapid access to a vast amount of court information and case documents.

The Judiciary is proud of this success story and remains committed to providing a high level of electronic public access to court information. The Administrative Office's ongoing efforts to reach out to users directly will ensure even greater access in the future.

It is important to emphasize the seriousness with which the Judiciary manages its electronic public access program to ensure that court and case information, including documents, are readily available to all members of the public, regardless of their ability to pay fees. For example:

- The Judiciary does not charge for access to judicial opinions through PACER. Moreover, in September 2012, the Judicial Conference of the United States approved national implementation of the program to provide access to court opinions via the Government Printing Office's Federal Digital System (FDSys) and agreed to encourage all courts, at the discretion of the chief judge, to participate in the program. One hundred and four courts are live, with over 1.5 million individual court opinions available on FDSys. The GPO reports that federal court opinions are one of the most utilized

collections on FDsys, which includes the Federal Register and Congressional bills and reports. This program has proved to be extremely popular with the public, and is available free of charge via the Internet at www.gpo.gov. Registration is not required.

- Every courthouse has public access terminals in the clerk's office to provide free access to PACER and other services. The \$0.10 per page fee is not charged for viewing case information or documents on PACER at the public access terminals in the courthouses.
- The Judicial Conference has a fee exemption and waiver policy in place. As a result, approximately 16% of all PACER usage is by users who are exempt from any charge – including indigents, case trustees, academic researchers, CJA attorneys, and pro bono attorneys. In addition, if an individual account does not exceed \$15 quarterly, no fee is charged at all.
- Parties to a court case receive a copy of filings in the case at no charge.
- In addition to PACER access, which allows users to "pull" information from the courts, almost all of the appellate courts, approximately 75 district courts, and 92 bankruptcy courts are using a common, free internet tool, RSS, to "push" notification of docket activity to users who subscribe to their RSS feeds, much like a Congressional committee might notify its RSS subscribers of press releases, hearings, or markups.

Uses of EPA Revenue

The table below shows the uses of EPA revenue in fiscal year 2015:

Category	FY 2015 Actual (\$000)
Public Access Services	21,427
CM/ECF Development, Operations, and Maintenance	34,194
Courtroom Technology	27,383
Communications Infrastructure, Services, and Security	43,414
Electronic Bankruptcy Noticing	8,091
Allotments to the Courts	11,059
Web-based Juror Services	1,647

Violent Crime Control Act Notification	508
TOTAL	147,723

Table A-2.1 Utilization and Financing of Electronic Public Access Receipts & Prior Year Recoveries (\$000)

Category	FY 2015 Actual	FY 2016 Plan 1/	FY 2017 Request 2/
Public Access Services	21,427	25,189	24,519
CM/ECF Development, Operations, and Maintenance	34,194	39,927	38,283
Courtroom Technology	27,383	28,452	24,535
Communications Infrastructure, Services, and Security	43,414	43,969	40,146
Electronic Bankruptcy Noticing	8,091	7,097	5,323
Allotments to the Courts	11,059	13,585	12,731
Web-based Juror Services	1,647	2,059	2,155
Violent Crime Control Act Notification	508	493	545
TOTAL	147,723	160,771	148,237
Unobligated Balance Start of Year	42,573	40,973	3,037
Estimated Receipts	146,123	145,200	145,200
Unobligated Balance, End of Year	-40,973	-3,037	0

1/ Excludes \$22.3 million in encumbered carryforward (slippage).

2/ Actual requirements reduced to stay within the estimated resource level.

Electronic Public Access (EPA) Programs Funded by PACER Revenue

- **Communications Infrastructure, Services, and Security** for PACER and CM/ECF provides the telecommunications services necessary for internet access to court documents. Security expenditures protect the Judiciary's websites and case files from external threats. Costs are shared between PACER revenue and appropriated funds (PACER revenue pays 38 percent of these costs).
- **CM/ECF Development, Operations and Maintenance** is the case-management system that enables litigants to file case documents electronically. It supplies the documents available via PACER. CM/ECF is undergoing a nationwide Next Generation update that will improve efficiency and integration among the appellate, district, and bankruptcy systems, and achieve greater consistency especially for external users.
- **Public Access Services and Applications** enable the public to read, download and print federal court documents. PACER provides access to the information and documents stored in each court's CM/ECF system. User support is provided by the PACER Service Center in San Antonio, Texas.
- **Allotments to Courts** enable federal courts to provide and maintain public PACER terminals and court websites that serve as public portals for case and court information.
- **Courtroom Technology** enhances access to electronic information to litigants and observers by sharing case evidence when it is presented electronically and becomes an electronic court record.
- **Electronic Bankruptcy Noticing** provides noticing in bankruptcy cases to creditors and other parties, eliminating the production, mailing, and postage required for hard copy notices, and expediting the delivery of notices. Costs for the Bankruptcy Noticing Center is split between PACER revenue and appropriated funds (PACER revenue pays about one-third of total bankruptcy noticing costs). The Center is located in Herndon, Virginia.
- **Web-Based eJuror Services** provides online juror notification and processing giving jurors the flexibility of responding online to their jury qualification questionnaire as well as the ability to update personal information, check when they need to report for jury service, submit a request for an excuse or deferral, and select an alternate time to serve.
- **Violent Crime Control Act Notification** provides electronic noticing to federal, state, local, and/or tribal authorities regarding individuals convicted of violent crimes being released from federal prison.