



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

July 19, 2018

Honorable Rodney Frelinghuysen
Chairman
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Honorable Tom Graves
Chairman
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Honorable Nita M. Lowey
Ranking Member
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Honorable Mike Quigley
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Dear Chairmen Frelinghuysen and Graves and Representatives Lowey and Quigley:

The explanatory statement accompanying the Fiscal Year 2018 Consolidated Appropriations Act (Pub. Law 115-141) adopted by reference language contained in Title III of House Report 115-234 requiring that the Judiciary provide to the Committees on Appropriations a variety of specified information regarding Public Access to Court Electronic Records (PACER) revenues, expenditures, and program management plans. Enclosed is a report that provides the requested PACER information.

If you have any questions regarding this report, please contact Ed O'Kane, Financial Liaison and Analysis Staff, Administrative Office of the United States Courts, at 202-502-2130.

Sincerely,

A handwritten signature in black ink that reads "James C. Duff".

James C. Duff
Director

Enclosure

FY 2018 Judiciary Reporting Requirement on PACER July 2018

H.Rept.115-234 accompanying the FY 2018 Financial Services and General Government appropriations bill (H.R. 3280) directs the following:

The Judiciary shall provide to the House and Senate Committees on Appropriations a report addressing (1) trends in Public Access to Court Electronic Records (PACER) revenues since passage of the E-Government Act of 2002; (2) sources of PACER revenues broken out by general types of users, such as federal government, corporations, and individuals, over a five fiscal year period; (3) an itemization of how PACER revenues are spent (including the annual cost of operating the PACER Service Center, which performs functions such as billing and customer support) over the same five fiscal year period; and (4) initiatives planned or underway by the Judiciary to improve PACER technology, operations, or management for the purpose of providing greater functionality, an improved user experience, or greater efficiency. This report shall be provided no later than 120 days after the enactment of this Act.

(1) Trends in Public Access to Court Electronic Records (PACER) revenues since passage of the E-Government Act of 2002.

PACER Revenue by Fiscal Year (\$000)				
FY2003	FY2004	FY2005	FY2006	FY2007
\$27,562	\$37,760	\$45,660	\$62,299	\$65,157
FY2008	FY2009	FY2010	FY2011	FY2012
\$77,976	\$88,734	\$102,698	\$113,959	\$124,222
FY2013	FY2014	FY 2015	FY2016	FY 2017
\$146,420	\$144,790	\$144,912	\$146,422	\$145,815

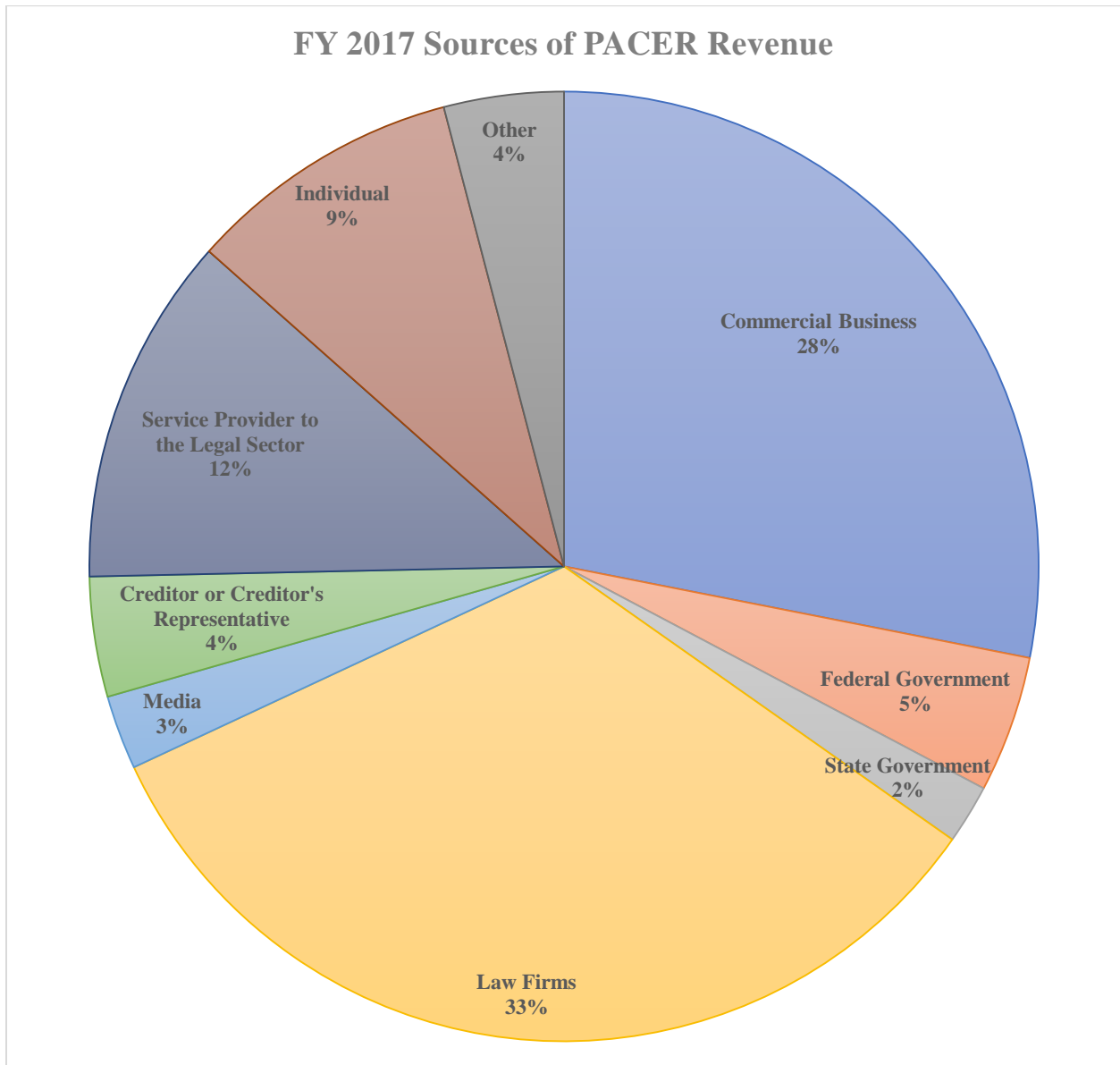
In accordance with Section 303(a) of the Judiciary Appropriations Act of 1991, as amended by Section 205(e) of the E-Government Act of 2002, the Judicial Conference of the United States (JCUS) has set reasonable fees over time, collected by the Judiciary, for electronic public access. In accordance with those provisions, the JCUS also established exemptions to persons or classes to promote public access. *See* 28 U.S.C. § 1913, Note.

In 1998, the JCUS prescribed a \$.07 per-page charge for electronic court data obtained through the online PACER service. In 2001, the Judiciary established a cap such that no fee for accessing PACER data would be owed until an account holder accrued charges of more than \$10 in a calendar year, which was changed in 2010 to \$10 in a quarterly billing cycle. To keep pace with costs associated with maintaining the Judiciary’s Case Management/Electronic Case Files (CM/ECF) and PACER systems, and to ensure that the Electronic Public Access (EPA) program’s obligations did not exceed its revenue, the JCUS approved an increase in the fee to \$.08 per page in 2011 and then to \$.10 per page in 2012. In approving the new fee in 2012, the

JCUS also suspended the application of the increase for three years to local, state, and federal government agencies. Additionally, the JCUS approved an expansion of the waiver threshold such that no fee would be owed until an account holder accrued charges of more than \$15 in a quarterly billing period. This most recent waiver has resulted in 75 to 80 percent of PACER account holders receiving electronic public access for free. The waiver emphasizes the Judiciary's commitment to promoting public access to court documents to the general public in addition to high volume government and commercial users.

The increases in total EPA revenue shown in the table above are attributable to a combination of the fee increases just described as well as significant increases in the total number of PACER users since FY 2003.

2) Sources of PACER revenue by user type over five fiscal years.



The above graph shows the source of PACER revenue by user type. The chart shows actual sources of revenue collected in FY 2017 and is representative of the last five fiscal years as revenue collections have remained flat since FY 2013. The majority of fee revenue comes from

a handful of users, with two percent of accounts generating approximately 87 percent of revenue collected in FY 2017. The top users are major commercial enterprises and large law firms. 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.

Currently, there are over 2.5 million registered PACER users. In any given year, approximately 500,000 users access PACER, resulting in nearly 150,000 users being billed and roughly 350,000 users accessing PACER for free due to a fee waiver or exemption. A fee waiver is granted for electronic access to court data or audio files via PACER until an account holder accrues charges of more than \$15.00 in a quarterly billing cycle. In FY 2017, almost \$3 million dollars in fees were waived. Exemptions from payment of the user access fee are granted to persons or classes of persons. Examples of individuals and groups that a court may consider exempting include: indigents, bankruptcy case trustees, pro bono attorneys, pro bono alternative dispute resolution neutrals, Section 501(c)(3) not-for-profit organizations, and individual researchers associated with educational institutions. In FY 2017, nearly \$24 million dollars were not collected due to exemptions.

3) An itemization of how PACER revenues are spent (including the annual cost of operating the PACER Service Center, which performs functions such as billing and customer support) over the same five fiscal year period.

Utilization and Financing of Electronic Public Access Receipts (\$000)					
Category	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Public Access Services	\$ 13,422	\$ 6,577	\$ 15,650	\$ 12,844	\$ 2,798
PACER Service Center	\$ 6,833	\$ 8,923	\$ 5,777	\$ 11,028	\$ 8,922
CM/ECF Development, Operations, and Maintenance	\$ 32,125	\$ 39,246	\$ 34,194	\$ 39,746	\$ 49,484
Courtroom Technology	\$ 31,530	\$ 26,064	\$ 27,383	\$ 24,824	\$ 21,149
Communications Infrastructure, Services, and Security	\$ 27,501	\$ 38,310	\$ 43,414	\$ 45,922	\$ 38,310
Electronic Bankruptcy Noticing	\$ 12,845	\$ 10,005	\$ 8,091	\$ 7,069	\$ 4,804
Allotments to the Courts for Web Servers, Print Fees, Attorney Training & IT Infrastructure	\$ 15,754	\$ 10,754	\$ 11,059	\$ 7,312	\$ 6,727
Web-based Juror Services	\$ 2,647	\$ 2,451	\$ 1,647	\$ 1,955	\$ 1,706
Violent Crime Control Act Notification	\$ 682	\$ 475	\$ 508	\$ 114	\$ 173
TOTAL	\$ 143,339	\$ 142,805	\$ 147,723	\$ 150,814	\$ 134,073

In March 2018, the U.S. District Court for the District of Columbia issued a ruling regarding the appropriate use of EPA funds in the case of *National Veterans Legal Services Program et al. v. the United States*. The application of this ruling would result in the elimination of EPA support for the Web-based Juror Services and Violent Crime Control Act Notification categories and a reduction of EPA support for the Courtroom Technology category. The Judiciary took steps in its FY 2018 financial plan to begin transitioning disallowed expenditures from the EPA program to courts' Salaries and Expenses appropriated funding. In July 2018, the Department of Justice decided to file an appeal of the District Court's ruling. The AO's Office of General Counsel has advised that, to reduce potential future legal exposure, the Judiciary should continue steps to implement the District Court's ruling on disallowed expenditures pending adjudication of the appeal. Accordingly, beginning in FY 2019, Courtroom Technology, Web-based Juror Services, and Violent Crime Control Act Notification categories will no longer be funded through the EPA program. The Judiciary will instead seek appropriated funds for those categories, as needed, through the FY 2019 budget re-estimate process.

(4) Initiatives planned or underway by the Judiciary to improve PACER technology, operations, or management for the purpose of providing greater functionality, an improved user experience, or greater efficiency.

Through current and future initiatives, the Administrative Office (AO) will provide an enhanced, more efficient experience for its users by modernizing and streamlining PACER websites and applications, such as PACER.gov and the PACER Case Locator (PCL). As part of those initiatives, a redesigned PCL was launched in December 2017 that offers a wide range of new, helpful features for users, including simplified and advanced search capabilities, bookmarking cases, saving frequently used searches, and a responsive design that adjusts pages to fit the screen or window of a user's device. The PCL is a national index used to locate court records across court types which provides hyperlinks to case records in the respective court's PACER site. It is widely used by external users because it allows them to search for case records from a central location, rather than having to individually search each court's PACER site. In the future, the AO plans to further improve the PCL user experience by modernizing backend services and providing a PCL application programming interface to facilitate access to PCL data by external applications and further minimizing possible performance issues experienced by end users and external applications.

The responsive design featured in the PCL, along with an updated interface design, will be enhancements integrated into the other PACER applications, which include centralized authentication (launching fall 2018), account registration and maintenance, and centralized billing. These improvements will create a consistent look and feel across all PACER applications. In addition, the PACER.gov website, which provides a wide range of resources and services to users, will also be redesigned to take advantage of new technologies and design best practices to improve usability and accessibility.

Finally, the AO will soon begin a study to determine the most advantageous technical approach for updating the PACER search and reports interfaces in the CM/ECF system.