

MichALL 2008 Spring Meeting

Authentic Legal Information in the Digital Age: Is Online Legal Information Trustworthy?

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Questions for this Session

- How trustworthy are state-level primary legal resources on the Web?
- How will the public, courts, attorneys and others (including librarians) deal with non-authenticated and “unofficial” legal information?
- Are states and the federal government doing anything to authenticate and designate as official primary legal resources?
- Where do we go from here? How can you help advance these issues in Michigan?

AALL's Vision and Core Values

- To ensure equitable and permanent public access to authentic legal information.
- Government information:
 - A valuable public good created at taxpayer expense
 - Comprehensive
 - Trustworthy and reliable
 - Accessible to all people
 - “Official” and designated as such by statute or rule
 - Preserved and permanently accessible.

Importance of Electronic Life Cycle Management

- What is “e-life cycle management”?
 - Creation
 - Version control
 - Finding tools (cataloging, metadata)
 - Permanent public access
 - Authentication
 - Preservation
- Who’s responsible for ensuring “e-life cycle management”?



AALL Reports on the Electronic Life Cycle

- 2003 AALL 50-State Report on Permanent Public Access to Electronic Government Information (PPA).
- 2007 AALL 50-State Report on Authentication of Online Legal Resources.

2006 State Authentication Survey

- Goal: to determine which states, if any, have adopted website versions of primary legal resources as *official* and/or *authentic*.
- Six online state sources checked:
 - administrative code
 - administrative register
 - session laws
 - statutory code
 - state Supreme Court
 - intermediate appellate court information, including opinions

What is *Official*?

- Mandated or approved by statute or rule.
- An online official legal resource has the same status as a print official legal resource.
- The fixed nature of print, plus multiple copies and wide distribution, ensure that the print official legal resource is an authentic resource.



GPO's Definition of *Authentic*

- Content verified by a government entity to be complete and unaltered when compared with the version approved or published by the content originator.
- Authentic text will typically bear a certificate or mark that conveys information as to its certification.
- Encryption, digital signatures, PKI & “chain of custody” planned for GPO's Federal Digital System (FDsys).



Key Finding # 1

- ***States are discontinuing print official resources and substituting online official sources.***
- This is a crisis, and the trend will continue.
- State agencies believe they are serving citizens best by providing online access to legal sources.
- State agencies save print and distribution costs by publishing only online.

Online Versions Are the Sole *Official* Resource

- 5 states – Alaska, Indiana, New Mexico, Tennessee and Utah – give official status to their online legal resources.
- None are authenticated and only Utah requires PPA.
- The disappearance of print *official* legal resources without an *authentic* online substitute threatens trustworthiness of the resources.

Key Finding # 2

- *Ten states & D.C. have designated as official one or more of their online primary legal resources.*
- Alaska, Indiana, Maryland, Michigan, Minnesota, New Mexico, New York, Tennessee, Utah and Virginia & the District of Columbia.
- 23 sources of law (primarily regulatory) are available in online repositories that are considered *official*.

Key Finding # 3

- ***Eight states have “official traits,” but evidence as to the actual status of the resources is conflicting.***
- The word “official” is not always used on a resource; or,
- “Official” is there, but the online resource isn’t considered as *official* as the print version; or,
- The *official* status is noted with no information as to why it is *official* (e.g., statutory authority or court rule).

Key Finding # 4

- *States have not been sufficiently deliberate in their policies and practices.*
- States have not acknowledged important needs of citizens and researchers who seek government information.
- States have not considered the issues raised when their only legal resources are not authenticated.
- ARJD Principles for “Official” On-line Documents parallel our findings.

Our Recommendations

- Provide a clear statement of the *official* status and source of authority for same.
- Use the designation *official* with care, to avoid confusion.
- Titles for online and print should be consistent.
- Identify print *official* sources and tell where to find them.
- Resolve and communicate differences in currency between print and online.

Our Recommendations (cont'd)

- Identify source of data, its “chain of custody” and relevant processes.
- Prominently display any representations and disclaimers, and provide the specific scope of such.
- Develop thorough policies, procedures and rationales.
- Address *official* status, authentication and PPA for online resources.



Key Finding # 5

- ***No state's online primary legal resources are authenticated or afford ready authentication by standard methods.***
- Minnesota, Ohio, Vermont, and Virginia are beginning to address the problem.
- Eight other states – Alabama, Arkansas, Connecticut, Maryland, Montana, Ohio, South Carolina, and Tennessee – perceive authentication as a specific concern that warrants attention.

Key Finding # 6

- *Since our 2003 report, nine states have joined CO in providing for PPA to one or more of their online primary legal resources.*
- AK, CA, IN, MN, MT, OH, PA, TX and UT
- Typically, laws mandate PPA “regardless of format or medium.”
- “The state library shall coordinate with state agencies and depository libraries to ensure permanent public access to state publications.”

Conclusions

- Online legal resources are increasingly the sole *official* published source.
- *Official* status requires authentication procedures (encryption, digital signatures, PKI, “chain of custody” information).
- The goal is that online legal resources will be as trustworthy as print.



AMERICAN ASSOCIATION OF LAW LIBRARIES

AALL

Authentic Legal Information in the Digital Age: A National Summit

*Renaissance Schaumburg Hotel & Convention Center
Schaumburg, IL
April 20-21, 2007*



National Summit on Authentication of Online Legal Resources

- Convened by AALL, April 20-21, 2007.
- 50 delegates from ABA, NCSL, NCCUSL, state courts, state archives, state legislative IT services & federal officials.
- Sessions on Authentication Report and findings, technological and legal challenges.
- Breakout sessions on challenges and on building alliances.
- A great success, but just the beginning!



Where Do We Go From Here?

- Education and outreach – articles, programs.
- Technology initiatives – develop standards; possible state initiatives in CT, DE, MN, NM, WA.
- Legal initiatives – NCCUSL study committee; changes to court rule; “best practices” manual.
- Advocacy – build alliances at state, national and international levels.
- More on Summit & follow-up at:
<http://www.aallnet.org/summit/>



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AALL Leadership on Authentic Legal Information in the Digital Age

State-by-State Report on Authentication of Online Legal Resources

Are government-hosted legal resources on the Web *official* and capable of being considered *authentic*? The groundbreaking [State-by-State Report on Authentication of Online Legal Resources](#), published by AALL in March 2007, reveals that a significant number of state online legal resources are considered to be official but that states have not yet implemented ready authentication by standard methods. States are increasingly moving to an online only environment for some of their core legal resources, which makes these findings particularly alarming.

[State-by-State Report on Authentication of Online Legal Resources Full Report \[PDF\]](#)

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Authentic Legal Information in the Digital Age: AALL National Summit

To address the authentication issue, AALL convened a National Summit on Authentication of Digital Legal Information in Chicago on April 20-21, 2007.

Progress Since National Summit

- U.S. Government Printing Office
 - Authenticated collection of “Public and Private Laws of the 110th Congress”;
 - Authenticated “*2009 Budget of the U.S. Government.*”
- Law Revision Commission’s new Study Committee on Online Authentication of Legal Materials.

Michigan Examples

- No crisis yet ~ legal titles still published in print.
- Online admin code and state legislative information easy to locate, but not official or authentic.
- Some online opinions are *official* but none are authenticated.
- And what about PPA?



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MCL Key Word Search

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What's The Urgency?

- CTC10 Question from Judge:
 - “Important Issue, but why is this such a crucial issue for the courts and the community, including librarians, to be addressing now?”
- Response from another Judge:
 - Confidence and trust in the legal community.
 - Disclaimers/warnings on websites.

Your Help Is Needed!

- To create a robust alliance in Michigan to educate, promote solutions and provide grassroots support.
- To work together to overcome technological obstacles in Michigan.
- To seek legislative changes to ensure that digital authentication and permanent public access of online government information become a reality in Michigan.