Legal Information in U.S. Territories

Access and Preservation

U.S. Virgin Islands

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Introduction

For too long, U.S. Territories have been systematically forgotten when it comes to understanding the challenges and issues regarding access to legal information, availability of reliable and historical legal sources of information, and access to legal services among others.

In this session, attendees will learn from librarians working with these materials every day on how to retrieve this information and what we can all do to improve access and preservation.
American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands — these five localities make up what we know as the U.S. territories.

These unincorporated territories exercise self-governance, while still sitting subject to the U.S. Congress’s plenary power. The territories all have unique histories and political perspectives, and their legal relationships with the United States vary accordingly.

Source: Harvard Law Review
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The Virgin Islands of the United States
Historical Background

- The Ciboney, Arawak, Taino and Carib all inhabited the Virgin Islands dating back to 1700 B.C. or the Pre-Columbian Era.

- On his second voyage to the Caribbean in Nov. 1493, Christopher Columbus landed on Salt River Bay, St. Croix.

- First recorded violent encounter with indigenous people, the Caribs. The Salt River landing site was called Cabo des Flechas, “The Cape of Arrows.”
Danish Colonial Era

Control of the islands in the Lesser Antilles shifted back and forth among European powers in the decades following Columbus' voyages.

In 1672, the Royal Danish West India Company took control of St. Thomas and set up plantations. The company expanded to St. John in 1718 and then purchased St. Croix from France in 1733.

A slave revolt in 1848 led to the abolition of slavery. The sugar industry diminished; the 1878 Labor Riot (The Fireburn) led to further economic deterioration.
The former Danish West Indies was purchased by the U.S. from Denmark in 1917.

Islands under the jurisdiction of the U.S. Navy Department until 1931, then under the U.S. Department of Interior.

Virgin Islanders, like other residents of U.S. Territories, are U.S. Citizens, but cannot vote for President of the United States. One non-voting delegate in Congress.
U.S. Virgin Islands Political Structure and Population

• Population: 106,235 (July 2020 est.) Ethnicity: Black 76%, White 15.6%, Asian 1.4%, other 4.9%, mixed 2.1% (2010 est.) note: 17.4% self-identify as Latino.

• Republican form of government with separate executive, legislative, and judicial branches; unincorporated organized territory of the U.S. with local self-government. Head of government: Governor and Lieutenant Governor (4-year term). Territorial Cabinet appointed by the governor and confirmed by the Senate.

• Unicameral Legislature of the Virgin Islands (15 seats; senators directly elected in single- and multi-seat constituencies by simple majority popular vote to serve 2-year terms).

• Virgin Islanders elect 1 delegate to the U.S. House of Representatives by simple majority vote to serve a 2-year term.
Evolving Laws of the Virgin Islands

- Colonial Laws of the Danish regime.
  I. Danes had no system of records of judicial and legislative proceedings.
- Congress passed the first Act of March 3, 1917, created Municipal Codes of 1921.
  I. Addressed the “Common Law” problem Congress faced after the Transfer.
- The Organic Act of 1936
- The Revised Organic Act of 1954
  I. Established present-day government structure – Elected Governor and Lt. Gov., an elected unicameral legislature and a territorial or state court system.
  II. Created the federal District Court of the Virgin Islands, which consists of two divisions.
  III. Functions as the constitution of the Virgin Islands.
  IV. Authorized the preparation of our current Virgin Islands Code.
The Virgin Islands Code Enacted

- “Chaotic” legal conditions existed prior to and after the Transfer to U.S. rule in 1917.
- 1921 Codes had no printed supplements for 35 years despite amendments. Slips of paper with amendments were stapled to pages of the 1921 Codes.
- Enactment of the Virgin Islands Code in 1957 established a new body of statutory law for the VI and repealed and superseded prior local laws.
- Modeled after the Alaska Codes.
In 1959, the first volume of the Virgin Islands Reports was published. In this publication you will find opinions pertaining to the Virgin Islands out of the District Court, Third Circuit Court of Appeals, Territorial (State) Court and the Supreme Court of the United States.

The V.I. Rules and Regulations, first published in 1959, contained new regulations and amendments to existing regulations for government agencies. The V.I. Register, which ceased in 2015, published new regulations in advance periodically.

The Session Laws of the Virgin Islands, first published in 1960, contained the complete text of all laws and resolutions enacted by the VI Legislature and approved by the Governor.
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Finding Colonial and Historical Archives

- **Danish National Archives** – majority of records during Denmark Colonial Rule – 1733-1917.
- **National Archives** – remaining colonial records and records prior to and following the Transfer – 1917-1933.
- **Enid M. Baa Library and Archives** – The Virgin Islands Public Library System currently holds several collections of colonial records. Currently closed to the public.

The native population, whose ancestors were brought from Africa as slaves, is left without access to the written sources that comprised their history.
Today, legal research of Virgin Islands Territorial and Federal case law is aided by computer assisted legal research databases, but coverage varies:

**Westlaw** – VI (Territorial and Federal) cases from 1960.

**Lexis Advance** – VI (Territorial and Federal) cases from 1959.

**Bloomberg Law** – Primarily VI Federal cases, limited Territorial cases.

**U.S. Courts Library**
St. Croix and St. Thomas.
*(The only law library in the territory)*

VI Statutes and Legislative History

**Virgin Islands Legislature** – Limited history on bills introduced from the 21st Legislature (1995-96) to present.

**HeinOnline** – VI Session Laws, Municipal Council or 1921 Codes (1925-2018)

**VI Supreme Court website** – 1921 Codes (Also called Colonial Codes, Municipal Council)

VI Rules and Regulations

Virgin Islands Rules and Regulations are not being consistently updated on legal research databases or in print. I recently confirmed from LEXIS that the Virgin Island Government has failed to provide the information to the legal publishers.

Some success with reaching out to government agencies directly to find updated regulations and decisions. Finding current and past Governor’s executive orders is also challenge.
Public Records

Virgin Islands Public Records such as driver’s licenses, voter registration, death certificates, etc. are not available on any commercial databases.

Some of this information is published locally on a printed bi-monthly newsletter called the *V.I. Commercial Reporter*. The US Courts Library has a subscription.

Court Dockets Search

Lexis Advance Courtlink, Bloomberg Law do not have access to territorial court dockets at this time.

The Superior Court of the Virgin Islands recently launched its Public Access Portal to Case Information, which provides electronic access to search, view and print case information for the Virgin Islands appellate court and the Superior Court of the Virgin Islands. So there is hope!
The undetermined loss of original legislative records in 2017 Hurricanes will be a problem for researchers looking for legislative history of VI statutes.

For recent requests for legislative records from as early as 1938 and 1992, I was told they were gone.

Source: Cooperative Institute for Research in the Atmosphere, using NOAA GOES-16 satellite imagery.
A way forward …

• VI researchers forge relationships with the National Archives and the Danish Archives for either improved access to historical records (1671-1939) or to facilitate the return of these records.

• Open communication with commercial databases and push for the VI and other territories to be treated more comprehensively.

• Increase awareness of the importance of preserving and digitizing VI records across all branches of VI government. A collaborative relationship between US Courts Library and VI government.

• Seek out grant funding and technical assistance through non-profit organizations (LLMC) to aid territory in digitizing and preserving historical records currently housed in vulnerable facilities.

• Network! Enlist AALL members, Public Libraries, Academic Researchers to call attention to the challenges.
Read more about the territories’ challenges in the Nov-Dec issue of Spectrum Magazine.
The U.S. Virgin Islands has come a long way and has gone from uncertainty to stability in the law. But we cannot afford to undo the work of governors, delegates, lawmakers and esteemed jurists both past and present who tirelessly fought to bring an end to chaos and progress to order, stability and autonomy.
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Questions????
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