COVID-19:
THE PERFECT STORM
OF ISOLATION & LACK
OF REPRESENTATION

The United States 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, among others, legal services. With the advent of the COVID-19 pandemic crisis in the island protectorates, the situation has become a perfect storm of isolation and lack of representation.

American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands are the five permanently inhabited U.S. territories. They are classified by incorporation and whether they have an organized government in place through an organic act passed by Congress. In this article, we focus on the U.S. Virgin Islands, Guam, and Puerto Rico.

How law librarians can respond to help improve access to legal materials in the U.S. territories.

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U.S. Virgin Islands (VI)
The U.S. Virgin Islands, located about 45 miles east of Puerto Rico and about 1,000 miles southeast of Miami, Florida, were still recovering from the wrath of Hurricanes Irma and Maria in September 2017 when the coronavirus pandemic struck earlier this year. Like libraries everywhere, the law libraries of the U.S. Courts Library of the District Court of the Virgin Islands closed, and librarians began teleworking and responding to legal research queries via email and Skype and hosting training sessions using Microsoft Teams, Zoom, and other platforms.

Prior to the storms, the records of the Legislature of the Virgin Islands were being stored on the island of St. John. When Hurricane Irma plowed through St. John and St. Thomas on September 5, 2017, the facility where the records were being stored was damaged by flood waters, and the records were later discarded. Those records, which included original copies of legislative acts, hearing testimony, and other reports, were never digitized. It is unclear how much was damaged, but an official in the Legislature’s Archives division confirmed that several years’ worth of legislative documents were lost.

A recent research request from a Virgin Islands attorney for the legislative history of Virgin Islands Act 5649 is one example. This statute, signed into law on November 9, 1990, established penalties for illegal drug and narcotic offenses, authorized electronic surveillance, and created the territory’s own Criminally Influenced and Corrupt Organizations Act. The attorney wanted to know if the law library had hearing testimony and voting records for that bill. It did not. And neither did the VI Legislature. Those records were among the undetermined number of documents lost in the 2017 storms.

The U.S. Courts Library is the only law library in the Virgin Islands. It is imperative that there be increased awareness of the importance of preserving and digitizing legal records, developing collaborative relationships with the National Archives (which has some Virgin Islands historical documents), and building commercial databases for improved availability of Virgin Islands records.

Guam
The island of Guam is an unincorporated territory of the United States, but it’s very likely that many people have never heard of the island nor could find it on a map. (It’s that dot between Hawaii and the Philippines.)

Guam became part of the United States in 1898 at the end of the Spanish-American War, and for the next five decades was wholly under the purview of the naval commander who served as governor. Post-World War II Guam saw the end of military governance and the establishment of a civilian government by the Organic Act of Guam of 1950, a federal law and the source of the island’s three-branch government.

Guam’s unique history poses significant challenges when researching Guam’s legal resources. This is especially true for executive orders issued during the Naval administration, as original publications are placed in off-island federal and military institutions. Moreover, Guam’s first official codification of U.S.-based law—the Civil, Penal, Civil Procedure, and Probate Codes published in 1933—aren’t readily available on government websites or commercial research databases. Researchers must make an in-person visit to the Guam Law Library to view photocopied or digitally scanned versions. However, when the library was closed to the public during the height of Guam’s coronavirus pandemic, access to these historic codes was impossible.

The U.S. Territories are American Samoa, Guam, the Northern Mariana Islands (in the Pacific Ocean), the Commonwealth of Puerto Rico, and the U.S. Virgin Islands (in the Caribbean). There are several other protectorates in the Pacific included among the U.S. territories. These unincorporated territories exercise self-governance, while still sitting subject to the U.S. Congress’ plenary power. The territories all have unique histories and political perspectives, and their legal relationships with the U.S. vary accordingly.
ADDITIONAL RESOURCES

GUAM
- Guam Compiler of Laws — The official online publication of the Guam Code Annotated, Guam Administrative Rules & Regulations, Supreme Court Opinions, and court rules. It also includes links to Executive Orders, Legislative Session Laws, and Attorney General Opinions. bit.ly/ND20Guamcourts
- Guam Legislature — Legislative material for the sitting legislature, including session laws, bills, resolutions, and committee reports. bit.ly/ND20Guamlegislature
- Guam Legislature Archives Website — Historical legislative material, including session laws from the first Guam Legislature. bit.ly/ND20Guamlegindex

U.S. VIRGIN ISLANDS
- Legislature of the Virgin Islands Bill Tracking — This page allows you to locate bill and amendment text for current and past legislation. bit.ly/ND20govtrack
- VI Legislature (homepage of the Legislature of the Virgin Islands) — Use this page to locate recent legislation, identify legislators, view the legislative calendar, access VI statutes and livestream legislative hearings. bit.ly/ND20legVI
- Judicial Branch of the Virgin Islands (home for the U.S. Virgin Islands judicial system) — Includes links to the Supreme Court of the Virgin Islands and the Superior Court of the Virgin Islands. It also includes a unified docketing system for the appellate and territorial courts, as well as VI judiciary annual reports, opinions, and legal news. bit.ly/ND20judicialVI
- District Court of the Virgin Islands — A federal court that has jurisdiction over the territory of the Virgin Islands of the United States. It was established by the Organic Act of 1936. It is comprised of two divisions: the St. Thomas-St. John Division and the St. Croix Division. Appeals of the court’s decisions are heard by the United States Court of Appeals for the 3rd Circuit. bit.ly/ND20districtVI

HISTORICAL RECORDS
- Danish National Archives — Search the records of the Danish West Indies. bit.ly/ND20Danish
- National Archives — Search the records of the Government of the Virgin Islands. bit.ly/ND20archivesVI

VIRGIN ISLANDS RESEARCH GUIDES
- Georgetown Law Library — Virgin Islands Resources bit.ly/ND20GeorgetownVI

VIRGIN ISLANDS STATUTES
- Virgin Islands Session Laws — LLMC Digital bit.ly/ND20LLMCVI
- Colonial Laws (Coverage 1925-1936) — Virgin Islands Supreme Court website bit.ly/ND20coloniallaws
- Code — Virgin Islands Supreme Court bit.ly/ND20codeVI
- Bill Tracking — Virgin Islands Legislature bit.ly/ND20billVI

FREE ACCESS
- Laws of Puerto Rico (must be updated with supplements or commercial services) bit.ly/ND20casetextPR
- Articles of Interest
Lessons learned from the temporary closure have led the Guam Law Library to take a multi-pronged approach. Library management and staff can critically analyze the materials that were most in-demand during the closure and make them available in different formats, including digital, to send by email, to post online for download from the library’s website, and to even print copies for users without internet service.

But real progress can happen by working with outside entities. By collaborating with Guam’s Office of the Compiler of Laws, the official publisher of Guam’s primary laws, and the non-profit LLMC, more historical materials can be made available online.

Further, American Association of Law Libraries (AALL) members can be more vocal about including territorial material in commercial databases. Although the Guam Law Library has been a longtime subscriber of both Westlaw and LexisNexis, coverage of Guam materials is limited to statutes, rules, and court opinions; neither vendor includes legislative session laws, even though the Compiler’s Office regularly sends this material.

**Puerto Rico**

Like the U.S. Virgin Islands, when the pandemic hit, Puerto Rico was still recovering from damage caused by Hurricanes Irma and Maria in 2017, and it is still reeling from the continuous seismic activity that began on December 28, 2019, and peaked with a 6.4 earthquake on the island’s southwest coast on January 7, 2020. The region continues to experience tremors daily.

In these last three years, the Judicial Branch of the Commonwealth of Puerto Rico has had to close several courthouses, mitigate flood and earthquake damage, overcome extended power outages, and manage partial closures to prevent contagion. The Court never shutdown completely. In response to the COVID-19 outbreak, the Court continues to conduct essential hearings, maintain auxiliary services, and provide in-house trainings by utilizing online collaboration technology and implementing a telework protocol.

Law librarians and other researchers can also support these efforts by demanding that larger legal databases increase their coverage to meet the needs of users, and to make sure that national coverage really means national by including the U.S. territories.

As the only law library system serving the public, the Court library system provides access to legal materials for self-represented litigants, students, researchers, and attorneys who are increasingly unable to afford private access. While the 15 courthouse libraries did not lose significant material due to the disasters, these essential materials have become inaccessible to all but the Court’s internal users due to the partial shutdown.

Early lessons learned during the pandemic include persuading database providers to create Spanish-language online support for the Court’s internal users, extending patron access to off-site external users, and modifying guides to include instructions in Spanish now that users cannot receive in-person librarian support. The database companies should expand on these initiatives and examine the gaps in coverage for Puerto Rico and all other U.S. territories. These gaps are especially problematic when access to libraries is more limited, since users may not know how to mitigate shortcomings by using other online services, which, in Puerto Rico, include local companies such as Microjuris and LexJuris. These services provide access to hyperlocal materials such as municipal regulations, administrative norms, and legislative histories, as well as civil law material from Spain.

**Looking Ahead**

Although government entities should provide access to these materials from their websites, the lack of funding, continuity, and accessibility standards renders materials inaccessible. By supporting local companies, territorial law libraries can help to ensure the availability of these essential materials. Law librarians and other researchers can also support these efforts by demanding that larger legal databases increase their coverage to meet the needs of users, and to make sure that national coverage really means national by including the U.S. territories. In short, claims to “national coverage” of the law are not meaningful until databases include material from the territories.