

Preserving and Accessing Maryland's Archival Heritage

Testimony before Health and Human Services Subcommittee
Budget and Taxation Committee
Maryland State Senate

by Dr. Edward C. Papenfuse, Jr.,
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On the Proposed Budget Maryland State Archives, Fiscal Year 2008



Mr. Chairman, Members of the Subcommittee:

My name is Ed Papenfuse, State Archivist and Commissioner of Land Patents. With me today is my Deputy, Tim Baker; Van Lewis, the Director of Fiscal Administration; and Nassir Rezvan, the Deputy Director of Fiscal Administration for the State Archives. We appreciate the thorough analysis of our budget by Chantelle Green and have no issues with her assessment of our budget. We also would like to acknowledge Ms. Green's thoughtful and insightful "Issues" brief and have addressed those items at the end of this testimony.

For your reference and further reading, our annual report is provided on our website in the form of the minutes and agenda of the Hall of Records Commission, which we publish electronically following each meeting, at www.mdarchives.state.md.us/msa/intromsa/hrc/html/hrc.html.

The State Archives is, and ought to be, the informed and accurate record of Maryland Government, as well as a maintained resource for the study of our rich and diverse past. "It is the ultimate repository of the peoples' record" to quote a dedicated court clerk and friend of the

archives. Through the records we preserve and the web-based publications we provide, the State Archives should be an authoritative place where anyone can find reliable information about Maryland's nearly 375 years of chartered existence.

Over the past several years, the State Archives has been forced to manage with no significant increase in support from the General Fund. As a result of cost constraint measures imposed upon the Archives between Fiscal Years 2002 and 2004, for example, the agency lost approximately one half of a million dollars in General Fund support, while struggling to cope with the advent of an increasing number of records that exist only in electronic form.

In place of General Fund support, we have drawn on our Archives of Maryland publications program and the fee-setting powers of the State Archivist to develop our Electronic Archives program and to add from the fees charged for those publications to the Archives Endowment, the income from which aids our internship program, and other educational and public outreach services of the Archives. While our success with regard to our entrepreneurial activities is remarkable (Maryland is the only state in the union with all of its land records on line and accessible via the web, and only one of two states to develop a program for a permanent electronic archives), it is not sufficient to meet our legal mandates and the informational needs of our citizenry. To be effective, our Endowment should be at least ten times its current level, and the archival program of the Archives should be supported by the redirection to the Archives of a percentage of the income from any recordation fee charged the public.

Sadly, with the possible exception of the Circuit Court Real Property Records Improvement Fund, never has the State adequately provided for the cost of maintaining permanent records. It is only prudent that we provide from the creation of a permanent record, the cost of maintaining it in a permanent archival setting. I can think of no better, less expensive way of providing disaster recovery and security copies of permanent records, not to mention the long-term benefits of having readily available, accurate information. The present practice of permitting State agencies to backup their computer systems on proprietary tape or disk backup systems (often in out-of-state depositories) that are almost obsolete the day the tapes or disks are made, on machinery that fails and disappears rapidly from the marketplace (rendering the tapes or disks virtually useless over time), is certainly not the answer.

As an example of the problem, I would look to your own electronic records, and ask how are they are to be preserved permanently. What is the Legislature's plan for the care, preservation, and access to the public record of its proceedings, its journals, its votes, and its committee deliberations? Since the outset of the Maryland Legislative Information System (MLIS) not a single electronic legislative record has been delivered to the Archives. What will the record be in five or ten years? Where will it be found, or more to the point, will it be accessible at all? The same holds true for the electronic publications of all State agencies. All branches of government are increasingly providing the public with critical information and in-depth studies of critical issues only in electronic form, but they provide no systematic delivery to a permanent electronic archives of such publications, and express no apparent concern that all that hard, important, and expensive work is simply set to evaporate into electronic 'ether.' At the Archives, we do what we can to capture what we find or what we are asked for, but the one person assigned, even if she worked at it 24 hours a day, with a legion of interns and volunteers, could

not master the flow. To effectively manage just government publications and reports we must mandate that agencies routinely direct their publications to the Archives and that they deliver them in a single output file format such as the portable document format (pdf). We also must ensure that there is adequate financial support for the Archives to take on and make accessible these important documents.

If we are to continue on our current course of preserving and making accessible the electronic records of Government and provide even minimal standards of care for the storage of permanent paper records, we need to increase the base-line funding for qualified archival and records managers, create a permanent public source of definable income for records preservation, and provide (through the capital budget) additional archival storage facilities. With regard to the last, this budget sets back for another year the planning money for a proper storage facility for electronic and paper records at a time when we have three unsecured and archivally unsound warehouses containing the majority of our archival holdings. Yet, right now, we know what we need, and could either build or renovate such a facility from plans in hand, if only we had the capital funds. New schools are necessary, but so are facilities for caring for the historical and administrative records upon which a well educated public plans its future and reflects constructively on its past.

In sum, I hope consideration will be given in the immediate future to the following:

- 1) capital facilities well maintained for the care and preservation of Maryland's archival heritage
- 2) a fee, definable and persistent, that secures the care and preservation of, as well as the access to, permanently valuable public records
- 3) a legislative mandate that requires all branches of government to ensure that their permanently valuable electronic records begin their life at mirror sites at the State Archives where long after they outlive the immediate need for agency management, they will be accessible in a permanent, nonproprietary, publicly accessible format.

Maryland State Archives

As the memory of Maryland government, the State Archives is its conscience as well, and serves as the protector of the collective memory of our triumphs and failures as a society. On a fundamental level, the Archives must be the repository for security copies of the records which constitute that collective memory in whatever form they exist. We also are the custodial agency for the State's fine arts collections and the chief advocate for the appropriate superintendence of the crown jewel of Maryland's historic structures, the Maryland State House.

Permanent Electronic Records Initiative

Land Records

This past year was one of maturation and refinement for our electronic archives program. Supported almost entirely by the Judiciary, and in particular the Circuit Court Real Property Records Improvement Fund, we have been able to complete much of the infrastructure requirements for our server rooms in Annapolis to accommodate the *mdlandrec.net* initiative. Now, online are nearly 157,000,000 land record and index images. For more than 99% of all existing land records and indices ever created in Maryland a representative image now is available online, most taken from the archival security microfilm. The public and the title community have responded with praise and in near overwhelming numbers. As of the end of last month, 28,280 individuals were accessing *mdlandrec.net* from outside a courthouse (nearly six times the number of users accessing the system a year ago). In the first seven months of Fiscal Year 2007, system users have viewed 44,554,034 land record instruments through *mdlandrec.net* (nearly three times the total number accessed during all of Fiscal Year 2006).

Plats

The *plats.net* project continues to be a success story as well. By the end of this past year, the Archives had made available 1,036,772 images on-line for the use of court staff, title professions, private researchers, and the general public. System users accessed 459,074 plat images during the second quarter of Fiscal Year 2007. Significantly, 96% of all images accessed during that time were from the homes and offices of the interested public.

All of this has been achieved within the original budgetary parameters laid out three years ago. Unlike any other contract or memoranda of understanding for a public service, we have not deviated from the estimated costs I provided both legislative committees at the outset of the project. In fact, more has been accomplished within that estimate than initially envisioned. At the outset, we thought only 10 years of image back-file could be converted, but instead the scope was expanded to include images of all land records, without increase in the total cost encompassed by the Memorandum of Understanding (MOU) with the Judiciary.

While the record of achievement and public acceptance is impressive, much remains to be done. Some materials recorded prior to 1945 are not yet available. The Archives, working closely with the individual clerks' offices, must continue to improve the quality and completeness of the digital public record over the next year to raise the quality of the digital representations of the recorded instruments on line. This "phase II" of *mdlandrec.net* will be completed by the end of Fiscal Year 2008, in accord with original projections. In the event of natural or other calamity, the Archives also needs to complete planning and implementation of a disaster recovery and business continuity plan, and to ensure maximum up-time for this important application.

You can monitor our progress on the *mdlandrec.net* project by visiting the web-site that we set up for a group of the clerks of court referred to as the Land Records Access Committee. The website is www.lrac.us (username: *guest* password: *guest!*). The introductory page to the website, and the summary table taken from the site, describing current status is attached to this testimony.

The *mdlandrec.net* and *plats.net* initiatives illustrate both the challenges and benefits of developing a process for the ongoing, timely transfer of permanent electronic records into permanent, secure and accessible storage at the State Archives. Working closely with the Maryland Judiciary, the State Archives has pioneered the development of the Electronic Archives. In particular, *mdlandrec.net* provides a model for the ongoing daily transfer of “born digital” permanent electronic records into the Electronic Archives. Given their highly perishable nature, permanent electronic records need to be placed into secure, accessible archival storage as soon after their creation as possible. Nonproprietary file formats and system architecture must be used to ensure the accessibility of electronic records over time. Finally, there is a clear need for an authentication process, a reliable, tamper-proof method to guarantee that the electronic record received by the Archives is identical to that created by the originating agency. The *mdlandrec.net* initiative has enabled the Archives to test and refine those concepts in a real-world setting.

This timely transfer of permanent electronic records into accessible archival storage, the use of nonproprietary file formats and systems, and the need for a method for authenticating records so received, are issues central to the Judiciary’s pilot program on electronic filing currently under development. But the need for government to provide for the transfer, authentication, and accessibility of permanent electronic records in the Electronic Archives as quickly as possible after they are created is by no means limited to the Judiciary. At a time when public records increasingly are created, maintained, and made accessible only in electronic form at all levels of government, it is vital that standards and procedures be established to ensure that “born digital” records of permanent historical, administrative, fiscal, legal or other archival value are identified and preserved from the start in order to avoid their loss or unintended destruction. Working with agencies to make their permanent electronic records accessible to government and to the public in perpetuity, the Archives must play a central role in this process in order to safeguard government’s legal and fiscal accountability through the preservation of important records, and to document the administrative history of government by preserving those records that illustrate individual agency goals and accomplishments.

Artistic Property

The Maryland Commission on Artistic Property is the official steward of all valuable paintings and other decorative arts that comprise the state-owned art collections. Since its first acquisition in 1774, the collections have evolved into an historically and artistically important body of paintings, decorative arts, and sculpture with national and international significance. The Commission provides for the acquisition, location, proper care, custody, restoration, display, and preservation of these paintings and decorative arts.

In the FY 2007 budget, the Commission on Artistic Property received funding to coordinate several significant conservation projects to enable objects to be put on public display or remain on public display. Notable on-going conservation initiatives include:

- Portrait of *Leonard Calvert* (MSA SC 1545-3294), the first colonial governor of Maryland. One of the most recent accessions into the State’s collection, it is believed to

be a 17th century work. The portrait was purchased from Tudor Place with a generous private donation to the Friends of the Maryland State Archives which then transferred it to the Commission on Artistic Property. Before and after photographs document the significant conservation treatment made to the canvas. The frame, also 17th century, is now undergoing conservation treatment. When complete, this portrait will be a very significant addition to the State's art collection.

- Portrait of *William Paca* (Charles Willson Peale, c. 1772) [MSA SC 4680-10-0083]. The FY 2007 budget allocation included contractual funds for conservation treatment for this portrait, along with Peale's portrait of *William Pitt*, and the Thurgood Marshall Memorial. This funding has allowed for a thorough examination of the condition of the portrait of Paca which is one of Peale's most historically significant works, providing the visual documentation for the restoration of the Paca House garden here in Annapolis. This examination shows that there are a number of tears and distortions in the canvas that left untreated would have led to serious damage and loss of Peale's original paint.
- Canvas and frame from portrait of *George Washington* (Rembrandt Peale, c. 1800) [MSA SC 4680-10-0078]. This portrait is one of the iconic images of George Washington, painted from a sitting during his presidency in 1795. Originally displayed in the Peale Museum in Baltimore, it became part of the Peabody Collection. The work retains its original frame, a highly ornate example of early nineteenth century design chosen by the Peale family specifically for this portrait. It is unusual that an original frame from this period survives as they often are disposed of and replaced over time. Unfortunately, this frame is in such poor condition that it cannot be safely exhibited, and a temporary replacement frame is currently shown with the portrait in the State House. Conservation of the original frame would allow for the portrait to be returned to its original decorative context.
- *Overmantle mirror* (MSA SC 1545-3242). Recently "rediscovered" in the basement of the State House, this overmantel mirror was used in the Governor's Office from approximately 1905 until the early 1960s. The mirror is scheduled to be removed from the State House in early February 2007 and will be taken to a conservator's studio to receive significant treatment for ornamental details and gilding. After completion of this conservation, the mirror will be displayed publicly in the State House.

Recently, the staff of the Commission worked to publicize and promote the visibility of the collection by publishing articles in scholarly journals. In February 2007, articles by Curator Elaine Rice Bachmann and Assistant Curator Sasha Lourie will appear respectively in *The Magazine Antiques* and *American Furniture 2006*.

Although we have a number of very positive things to report today, I also would like to address, in brief detail, where the State specifically is falling short in the areas of :

- 1) Records Management,
- 2) Electronic Records Management
- 3) Records Storage

Records Management

There are a number of functions of government so basic and so essential that successful performance in those areas is key to the success of public governance and the provisioning of essential services. Sound financial accounting is one such critical function. Basic records management is another. For far too long the records management function for Maryland agencies and local government has been dormant. Inaccurate, incomplete or non-existent record retention schedules have become commonplace. While records management is not the responsibility of the State Archives, a sound archival program begins with basic records management.

Recommendation: Transfer the responsibility for records management to the State Archives and fund it by attaching a small fee (between 25 and 50 cents) to all instances where a fee already is in place to generate a record. Applying to everything from fishing licenses to birth certificates, the funds generated could support an ongoing records management program for State agencies and a grant program for local governments. We also recommend that State law be changed so that the requirement for a comprehensive records inventory not be conducted every five years, but rather be developed on an ongoing basis in a web-enabled database system managed by the Archives.

Electronic Records Management

Nowhere is the problem of inadequate records management more prevalent than in the area of electronic records. Problems are multifaceted.

- o Some agencies recognize that records management pertains to the electronic world as well as to paper
- o Often, computer systems and applications are created in proprietary formats that cannot easily and economically be exported
- o Consequently, software that manages State data becomes incompatible or obsolete over time: systems no longer can access the data; knowledge of programmers and database managers is lost
- o Keeping data accessible over time is inherently problematic. Many agencies deal with this by trying to maintain at the agency data that should be retired in an archival system
- o Agency records retention schedules often call for “periodically” transferring records, but as a practical matter this is used as an excuse to never retire data that should be transferred to the Archives
- o Media that stores data quickly becomes obsolete or deteriorates much faster than paper

Recommendations:

1. Agencies should be encouraged to more thoroughly use the scheduling process and to inventory electronic records regularly
2. An enforcement mechanism is needed to ensure agency compliance with records

- management schedules
3. The proposed Department of Information Technology should scrutinize IT projects / procurements and require data exportability and open source systems
 4. The Office of Legislative Audits should consider incorporating a review of record retention schedules as a routine part of agency fiscal compliance audits
 5. A security copy of records that are designated as permanent should be transferred to the Archives upon creation and verification

Records Storage

The most basic requirement for record preservation is to move records from a costly (often destructive) office environment to the secure and environmentally stable custody of the State Archives. A huge obstacle to achieving this primary objective is the lack of space in which to safely house archival material. Presently, in addition to the state archives building in Annapolis, three adjunct facilities hold government records. Together, these facilities store 274,251 cubic feet of permanent record material. Significantly, nearly half of that amount is held in substandard, rented facilities. The lack of temperature and humidity controls in the rented spaces threatens the longevity of these permanent records. In addition, we have well documented the inadequate temperature and humidity controls in our only State-owned facility here in Annapolis.

Recommendations: Accelerate the capital program to build an Archives storage facility and to renovate the current facility. Have DGS conduct a comprehensive analysis of the temperature and humidity controls (HVAC) for the state archives building in Annapolis.

Responses to Legislative Analyst Issues and Commentary

Once again we would like to thank the Legislative Analyst for her thoughtful review. Below are the Maryland State Archives' responses to the issues discussed.

DLS recommends that MSA review other archival agencies in other states to determine what threshold is used for acceptable percentages of scanned images. Additionally, MSA should consider including positive and negative vendor incentives in its scanning contracts, when appropriate. MSA should comment to the committees on its current use of performance contracting and the feasibility of including additional vendor incentives in its scanning contracts going forward.

Response: MSA has consulted with other archival institutions and, in fact, asked the only other state that has a comparable program in place to visit the Maryland State Archives to conduct an informal peer review. It must be pointed out that our reviewer (Washington State) was quite impressed with our progress, but they had only put on-line a fraction (approx 30,000 images) of what MSA has made accessible. The program in Maryland really has no rival anywhere in the Country.

Nevertheless, the analyst's points are well taken. MSA concurs and will consider both incentives as well as imposing liquidated damages, performance bond requirements, and the like.

On the whole, we have found our experience with performance-based contracting to be efficient, productive and quite necessary to accomplish such a vast amount of work in a short period of time.

MSA should comment to the committees on the feasibility of absorbing expenditures associated with performing criminal background checks for DPSCS with existing resources.

Response: MSA has in the past and will continue to absorb whatever costs are necessary to perform these services.

MSA should comment to the committees on the status of the Annapolis and Peabody collections and how realistic its conservation goal of 2009 and 2010 are for its collections.

Response: In FY 2000 and FY 2001, the General Assembly appropriated funds for the Commission on Artistic Property to conduct comprehensive condition surveys of the Annapolis and Peabody Art Collections. This survey included both paintings and their frames as well as decorative arts (primarily furniture and sculpture). Subsequent appropriation requests and the MFR numbers were based on the total number of hours the various conservation experts estimated would be required to restore the objects to good condition multiplied by an average hourly rate for conservation services.

Since then, the curator of the collections has undertaken to prioritize the needs of the collections, based on the historical and artistic significance of each work of art. This has enabled us to significantly focus our budget requests to concentrate our resources on the most important paintings, frames and objects.

The State may never be in a position to conserve each and every piece of art in our collections. Nevertheless, the condition surveys authorized by the General Assembly do offer a reasonable benchmark and point of departure. Further, our approach in prioritizing the most valuable treasures is also quite reasonable and sensible.

Thank you for your time. We respectfully request your favorable consideration of our budget. I would be happy to answer any questions.

Portrait of George Washington [MSA SC 4680-10-0078]



Before conservation



Detail of frame showing losses to ornamental foliage in corner, and separations at corners—contribute to instability of the frame.



Details showing extent of losses to gilding and ornament on all elements of the frame.

Portrait of *Leonard Calvert* [MSA SC 1545-3294]



Before conservation



After conservation



Detail of head before conservation



Detail of head after conservation



Details of the frame awaiting conservation treatment

Overmantle Mirror [MSA SC 1545-3242]



Mirror in situ, office of the governor, State House, circa 1929-1934



Mirror in State House basement, 2007



Detail of bottom edge showing extent of damage to gesso and gilding caused by moisture and contact with concrete floor



Detail of upper left corner showing loss to ornament and gilding of frame

Portrait of William Paca [MSA SC 4680-10-0083]



Before conservation



Before conservation detail showing pockmarks from the mattress ticking support



Detail of vest with raised paint, flaking, striations, and unmatching retouches



MARYLAND Real Property Records Improvement Oversight Committee Land Records Access Committee

At its regular monthly meeting held November 1, 2006, the Chairman of the Land Records Access Committee proposed five goals for the upcoming year. These five objectives were unanimously endorsed by the Committee and will provide the framework within which all our efforts are to be focused throughout 2007.

The clerks, the Administrative Office of the Courts, and the Archives all pledged to work together throughout 2007 . . .

1. to make *mdlandrec.net*, acknowledged by the Committee as the primary land records retrieval system in Maryland, the best system it can be;
2. to make sure that *mdlandrec.net* index data is in synchronization with mainframe index data;
3. to make our respective help desks more responsive to user concerns;
4. to update the LRAC pages more frequently and make that site more responsive in addressing clerk concerns, and;
5. to clarify and codify the procedures for providing replacement CDs when books are sent repeatedly from court to Archives via SAIC.

The Land Records Electronic Archives and Disaster Recovery Initiative: Status Reports

Acquisition of 60-Year Back File Status as of February 6, 2007

County	Total Books 1945-2005	Books Online 1945-2005	Books Missing 1945- 2005	Percent Completed	Completion Date
Allegany	1,585	1,585	0	100%	Done
Anne Arundel	16,973	16,973	0	100%	Done
Baltimore City	24,224	24,224	0	100%	Done
Baltimore	21,722	21,722	0	100%	Done
Calvert	2,707	2,707	0	100%	Done
Caroline	729	729	0	100%	Done
Carroll	4,561	4,561	0	100%	Done
Cecil	2,541	2,541	0	100%	Done
Charles	13,444	13,444	0	100%	Done
Dorchester	890	890	0	100%	Done
Frederick	5,334	5,334	0	100%	Done
Garrett	1,051	1,051	0	100%	Done
Harford	6,211	6,211	0	100%	Done
Howard	9,547	9,547	0	100%	Done
Kent	836	836	0	100%	Done
Montgomery	30,603	30,603	0	100%	Done
Prince George's	22,684	22,684	0	100%	Done
Queen Anne's	1,589	1,589	0	100%	Done
St. Mary's	3,207	3,207	0	100%	Done
Somerset	516	516	0	100%	Done
Talbot	1,148	1,148	0	100%	Done

Washington	2,663	2,663	0	100%	Done
Wicomico	2,289	2,289	0	100%	Done
Worcester	4,600	4,600	0	100%	Done

This web site, updated in part on a weekly and over all on a monthly basis, is provided for the Land Records Access and Land Records Improvement Fund Oversight Committees of the Maryland Judiciary, the Maryland Conference of Court Clerks, and the Court Clerks' Association, in partnership with the Maryland State Archives.

The Maryland Judiciary, the 24 elected Court Clerks of Maryland, and the Maryland State Archives have joined in partnership to provide a disaster recovery, on line accessible Archive of all land records in Maryland that encompasses up to date indexing and all verified recorded land instruments. The goal is to provide the clerks of the court with the capacity for, as one clerk put it, "our office" to be "looking at our work," online and locally with no indexing or image differences and no gaps in the verified record as it appears in the courthouse and on MDLandRec.Net.

When phase one is completed in the Fall of 2006, all available indexing covering the period 1634 to the present will be on line with at least 60 years of retrievable land record instruments for each jurisdiction, a total of 160 million images. Phase two, to be fully operational by 2008, will encompass all remaining land records and land record related material (such as shall be determined by the Clerks and title searching community) essential for accurate title searching in Maryland.

The Archives' IT Database and Development Team is working with JIS to resolve any anomalies between the main frame and the MDLandRec.Net presentation of data. As of April 2006, the sychronization between the JIS mainframe and mdlandrec.net index information is reported at 100%.

This web site is designed to provide detailed monthly reporting on the progress of implementing this initiative by jurisdiction.

- [60-year back file - status updated weekly](#)
- [Reports](#)
- [View most recent general summary and status of image acquisition for MDLandRec.Net](#)
- [JIS Data Error Reports](#)
- [View revised MDLandRec.Net installation schedule](#)
- [Eastern Shore 7-County Project](#)

See also

- [Fully executed Memorandum of Understand between the Judiciary and the Archives](#)
- [ELROI/mdlandrec.net/Plats.net Work Plan, November 1, 2005 to December 31, 2006 \(draft\)](#)
- [Master Contract for Microfilm Scanning Services](#)
- [Master Contract for Paper Scanning Services](#)
- [Set-Aside for Maryland Works Rehabilitation Employment Program \(iScan\)](#)

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