

Federal Judicial Center  
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# ORIENTATION MANUAL

## FOR SECRETARIES TO

## FEDERAL TRIAL COURT JUDGES

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The Federal Judicial Center

Washington, D.C.

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## FOREWORD

The Federal Judicial Center is committed to providing the highest quality of training, education and career development activities for all members of the federal judicial system. These efforts are founded on the concept that no organization is any more effective than the people in it.

We believe that the strength and effectiveness of the federal judiciary depends upon the availability of competent personnel to carry out these complex functions and duties, which present day conditions impose.

This text is a part of our overall effort to provide guidance and assistance to every employee in the system. We have published it in loose-leaf form with the hope that the reader will make improvements, inject ideas and otherwise contribute material that we might use in the next issue of this manual.

While this booklet was written under the auspices of our Continuing Education and Training Division, the lion's share of the credit must go to H. Stuart Cunningham, Clerk of the United States District Court for the Northern District of Illinois, who has contributed so much to our educational programs. To Mr. Cunningham, and the many secretaries who commented on the draft we are truly grateful.

We hope you will find this guide to be helpful. If it is, it will have served its purpose.

Alfred P. Murrah  
Director  
The Federal Judicial Center

## I. INTRODUCTION

The purpose of this manual is to assist secretaries to United States Judges in the performance of their duties by suggesting methods by which the duties generally assigned to them can most efficiently be performed. Although the manual is intended primarily to assist the newly appointed secretary, it is hoped that it will also be an aid to the more experienced secretary.

The manual should be used in conjunction with the Guide to the Administrative Organization of the United States Courts published by the Administrative Office of the United States Courts. The Guide is issued to each Federal Judge at the time of his appointment and is regularly updated. It contains much useful information such as personnel procedures, the names and addresses of members of Committees of the Judicial Conference of the United States, inventory and supply procedures, and procedures for ordering law books.

The range of duties assigned to Judges' secretaries varies considerably depending on the judge, ability of the secretary, and even size of the court. As a result, there are items included in this manual referring to duties which some secretaries do not perform, while other duties performed by some secretaries are not included at all. The manual attempts to cover those duties performed by all or most secretaries.

Although the manual includes many suggestions for ways of doing things, it is not intended to be authoritative in the sense that things must be done as described by the manual. In selecting any of the suggestions included in the manual the secretary must always keep in mind the guidelines established by the judge for whom she works.

## II. THE COURT ENVIRONMENT

The efficient secretary needs an excellent working knowledge of the environment within which she must operate. The United States Courts are complex organizations which regularly come into contact with many other government and private organizations. Included as an appendix to the manual is a reprint of the pamphlet "The U.S. Courts--Their Jurisdiction And Work" which details a comprehensive description of the court system in broad perspective.

### A. EXTERNAL COURT ORGANIZATIONS

Among the Court organizations with which a secretary will frequently have to deal or about which the secretary will have to obtain information are the following:

1. The Judicial Conference of the United States;
2. The Judicial Council of the Circuit;
3. The Judicial Conference of the Circuit;
4. The Administrative Office of the United States  
Courts; and



## 5. The Federal Judicial Center.

A brief summary of the functions of each of the first four is included in the Guide. The Guide also contains a listing of members of the various committees and subcommittees of the Judicial Conference of the United States and of the personnel of the Administrative Office. The fifth organization, the Federal Judicial Center, was established in 1967 to serve as the research, development and training arm of the United States Courts. Its functions include (a) the research and study of the operation of the courts of the United States, (b) the development of recommendations for the improvement of the administration and management of the courts and the presentation of these recommendations to the Judicial Conference; (c) developing and conducting educational and training programs for personnel of the courts; and (d) providing staff, research, and planning assistance to the Judicial Conference of the United States (28 USC 620).

Other sources for names and addresses of persons and organizations within the Court system are the United States Court Directory, Directory of United States Magistrates, Directory of Bankruptcy Judges, and the U.S. Probation Officers Directory, each of which is published annually by the Administrative Office. A volume published by the U.S. Government Printing Office entitled REGISTER Department of Justice and the Courts of the United States contains most



of the information found in the Directory but also includes dates of appointments of the various officials included, territorial limits of the courts; e.g., states for circuit courts, counties for district courts, and places of holding court. The Register is updated approximately every eighteen months. A copy of the Register is mailed to each Clerk of Court by the Administrative Office and should be available on a loan basis from the Clerk.

#### B. INTERNAL COURT ORGANIZATION

Departments, of the court with which the judge will have business are:

1. U.S. Magistrate(s);
2. Clerk of Court;
3. Bankruptcy Judge;
4. Probation Office; and
5. Judges' Library, if central library provided.

Auxiliary to the operation of the court, but existing as divisions of the executive branch of government, are:

1. U.S. Attorney;
2. U.S. Marshal; and
3. General Services Administration.

In acquainting oneself with the internal organization of the court, first consideration should be given to a comprehensive, instructed tour of the office of the Clerk of Court including detailed description of the functions

performed therein and of the duties of the deputy clerks; use of dockets, blotters, indices, files; forms available; how to find and where to go for various categories of information. If a court directory is not furnished, then the secretary should enlist the aid of the Clerk's Office in compiling one.

Likewise, visits should be made to the other departments listed above to become familiar with their functions.

The secretary should enlist the aid of the Clerk's Office in compiling a list of persons to contact in the various departments. In many Clerk's Offices a sheet giving information such as telephone and room numbers of Judges, their staffs and the Clerk's Office staff is prepared and updated regularly. Similarly, many U.S. Attorney's Offices prepare comparable lists for their staff. Examples of such lists are included in the appendix to the manual.

The secretary should take the time to meet with the supervisory personnel of the various court offices, particularly the Clerk of the Court and the Chief Probation Officer. She should ask them for information regarding the operations of their offices which might make it easier for her to find out whom to call about various problems. This tends to be more of a problem in the case of large Clerk's Offices or Probation Departments than where the offices are small, but a great deal of time can be saved if the secretary knows

exactly who to call in particular situations. In many instances the Clerk or the Chief Probation Officer can designate someone to act as a "liaison officer" so that the secretary can call upon one person for any information she might need.

#### C. PRECEDENCE OF JUDGES

As the new secretary will quickly learn, courts can be very formal organizations. One facet of that formality is the establishment of precedence among judges. Title 28 of the United States Code established the basic rules for determining precedence (Supreme Court, §'s 1,3,4; Courts of Appeal, §45; District Courts, §136; Court of Claims, §172; Court of Customs and Patent Appeals, §212; and Customs Court, §253).

Within any given court the order of precedence is as follows:

1. the chief judge
2. the other judges in regular active service by seniority of the date of their commissions, i.e., the judge having the commission with the earliest date is next in precedence to the chief judge. Where two or more judges have commissions of the same date, their ages determine their precedence, the oldest having precedence over the youngest;

3. senior judges follow the chief judge and any judge in regular active service, the order of precedence among senior judges being determined by date of their commissions or when the commissions bear the same date, their age; and
4. U.S. Magistrates and Bankruptcy Judges rank coequally just below District Judges by date of commission.

The exceptions to the above are as follows:

1. in courts of appeals the circuit justice has precedence over all circuit judges, including the chief judge;
2. where the commission of a district court judge extends over more than one district, he shall be junior to all district judges except in the district in which he resided at the time of his commission; and
3. judges assigned to a court other than the court to which they were originally commissioned are junior to all judges of that court.

The foregoing are the easy rules for determining precedence. The secretary is more likely to run into difficulty in areas such as typing a list of all the judges attending a circuit conference, or a committee meeting involving judges from various courts. In such instances the following guidelines appear to be reasonable in preparing lists including judges from different courts:



1. The Judicial Conference of the United States:
  - a. the Chief Justice of the United States;
  - b. circuit and district judges are listed in numerical order of circuits with the chief judge of the circuit being listed first followed by the district judge of the circuit;
  - c. the chief judge of the circuit and the district judge from Washington, D.C.;
  - d. the chief judge of the Court of Claims; and
  - e. the chief judge of the Court of Customs and patent appeals.
2. Committees and Subcommittees of the Judicial Conference of the United States:
  - a. the chairman of the committee or subcommittee;
  - b. circuit judges listed alphabetically;
  - c. senior circuit judges listed alphabetically;
  - d. district judges listed alphabetically;
  - e. senior district judges listed alphabetically;
  - f. judges of any of the special courts listed alphabetically; and
  - g. any non-judicial personnel listed alphabetically.
3. Judicial Conferences of the Circuit:
  - a. the circuit justice;
  - b. other associate justices;
  - c. the chief judge of the circuit;

- d. circuit judges in regular active service in accordance with the method of determining precedence within the court;
- e. senior circuit judges in accordance with the method of determining precedence within the court;
- f. district judges listed either
  - (i) by district in accordance with the regular order of precedence within that district and the districts listed alphabetically first by state then by district, or
  - (ii) alphabetically by group, i.e., chief judges arranged alphabetically followed by judges in regular active service arranged alphabetically, followed by senior judges arranged alphabetically.

In general, persons who are not judges are assigned an order of precedence following that of judges. The exception to this involves certain special committees, such as those concerned with the federal rules. In such instances the chairman of the committee is listed first and the members, judicial and non-judicial, are then listed alphabetically.

Within any court, a committee established to handle a particular segment of the administration of the court may be chaired by a judge who is junior in commission to one or

more members of the committee. In listing the committee the chairman is shown first and then the other members of the committee in normal order of precedence.

#### D. THE JUDGE'S STAFF .

As most judges employ law clerks for only one or two years at a time, even the relatively new secretary quickly becomes one of the 'old hands' on the judge's staff. Generally, the secretary is responsible for the preparation of the paper work involved in hiring new law clerks. The procedures to be followed in this process are detailed in the Guide. A checklist of the proper forms involved and transmittal designation is included as item C of the attached appendix.

In courts where the Clerk of Court is the payroll certifying officer, the appointment form, AO-79, and other papers relating thereto are to be forwarded to the Clerk after complying with the "Procedure for Appointment" in the Guide. The Clerk generally maintains a personnel file on individuals on judges' staffs.

A judge's personal staff generally consists of a secretary, law clerk, and court crier or crier-law clerk, as set forth in Title XII of the Guide. In many courts a court reporter, deputy clerk and deputy marshal are regularly assigned to a judge.

The inter-relationship of the judge's personal staff with the court aides assigned to the judge should be one of open discourse. The court aides have considerable duties aside from those in the courtroom and should be kept informed of the judge's schedule so that they may arrange their own schedules accordingly. If the deputy clerk performs calendaring functions, he or she must be advised by the secretary, well in advance, of the days and hours that the judge will be on the bench. A secretary, in arranging appointments for the judge, must permit easy access for other staff members and court aides who have court business with the judge.

The judge will wish to establish his guidelines for the division of responsibilities among his staff members. A detailed discussion of the secretary's duties follows in Section G. The law clerk may be expected to perform legal research; drafting of memoranda, opinions and orders; assist in the handling of visitors and telephone calls; and assist in the maintenance of the judge's library under the supervision of the secretary. The crier, in addition to courtroom duties, may be assigned office duties under the secretary's supervision. This individual can be of great assistance in filing, xeroxing, control of supplies, performing messenger services and a myriad of other helpful duties.

It cannot be overemphasized that the judge's staff is a team whose single goal should be to maximize the efficiency



of the judge for whom they work. This requires constant communication and cooperation among the members of the staff.

#### E. VISITORS

A prime responsibility for a judge's secretary is to evaluate, channel, and control the many external forces which may encroach upon the judge's busy hours. Recognition must be given to those individuals who rightly require access to the judge and those who do not; or whose business can be disposed of by the secretary, law clerk, or another office of the court.

The judge is the authority on how accessible he or she wishes to be, and appointments, of course, must be scheduled accordingly. Some judges wish specific appointments made for visitors during out-of-court hours, and other judges set aside a 30 or 45 minute period each morning before court for seeing visitors on a "first come-first served" basis. The latter system avoids many scheduling problems and most attorneys can be accommodated during that time.

Attorneys form the largest group of persons seeking appointments with a judge. Scheduled matters such as pre-trial proceedings are set well in advance. Other court-related business is dealt with and appointments given according to their importance and urgency. A secretary should ascertain from an attorney the nature of the matter

on which he wishes to confer, as well as the case name and number, and have the court record available on the judge's desk at the time of the conference. The decorum of a judge's chambers requires strict impartiality toward counsel, especially when both sides to an action are present. The avoidance of effusive attention, even to close friends under these circumstances, is particularly important.

The press will form another group which will seek access to a judge, and the secretary's guidance in this area will emanate from the judge.

Members of the public, including criminal defendants or their relatives, are also persons who will seek appointments. In some instances requests for appointments will come from persons whom it would be improper, according to judicial etiquette, for a judge to meet. The law clerk can be enlisted to assist in handling visitors, and the secretary will find it possible to interview some of these individuals, answer their questions, or route them to a division of the court where they can find help. The secretary must exercise great discretion with a view toward conserving the judge's time without offending the would-be visitor while seeing to it that questions, problems, and requests for information are handled promptly and efficiently.

#### F. OTHER JUDGES' SECRETARIES

In multi-judge courts the new secretary will find that the best sources of information on handling those problems which arise in the performance of her duties are other judges' secretaries. One of the first things a new secretary should consider is calling upon the secretaries located closest to her in the courthouse and asking for any helpful hints they are willing to give.

#### G. DUTIES

Here follows a sampling of responsibilities commonly assigned to most judges' secretaries:

1. Maintains the judge's master calendar, which is kept in chambers; establishing priorities, setting-up, shifting or refusing appointments; accepting or declining invitations after consultation with the judge; advising the deputy clerk of continuances given in the chambers so that this officer will be fully advised and can adjust the court calendar accordingly. (Likewise, the deputy clerk should advise the secretary of continuances granted in court.)
2. Takes and transcribes dictation from the judge.
3. Receives incoming telephone calls, determining the identity of the caller and nature of the call.

Judgment must be exercised as to which calls are to be directed to the judge, which the secretary can handle personally, and which may be referred to a law clerk or a department of the court. When the telephone call involves matters which require background information, the secretary should quickly obtain such information from chambers or the court records and present it to the judge when the pending call is announced. The secretary will find it possible to shield the judge from calls which can be answered by other staff members. In addition, the secretary will make telephone calls on her own initiative to effectuate various duties which are within her area of responsibility.

4. Receives incoming mail and determines that which she or the law clerk can handle, or that which can be referred to another office of the court, and presents the remainder to the judge.
5. Prepares letters for the judge's signature on her own initiative and, in some instances, prepares a response over own signature, (within the judge's guidelines).
6. Prepares orders ruling on pending cases.
7. Acts as liaison between the judge and court aides informing them of his decisions on pending



matters and instructions of a course to be followed; acts also as liaison between the judge and other offices of the court, of the government, and between the judge and the public and press. These contacts require knowledge of past and present policies and procedures, skill in judgment, tact and accuracy.

8. Arranges meetings and conferences when required, making provisions for space, time and people, informing participants of topics to be discussed and providing background information as required. In the instance of a luncheon meeting, arranges details of menu, seating arrangement, guest speaker, and makes provision for protocol requirements.
9. Attends meetings and takes notes, or is briefed afterward so that the secretary is informed of commitments made and developments that have occurred. Composes summary accounts of a meeting as a memoranda to file. Arranges for the implementation of the commitments entered into.
10. Develops material for the judge's use in public speaking engagements, obtaining background information and preparing drafts of speeches or parts thereof.
11. Maintains files and is responsible for filing all material either by personal performance or supervision.

12. Maintains the judge's library--ordering books and pamphlets, shelving personally or supervising the shelving, keeping pocket parts and Rules Service current, placing prints of Public Laws which amend the Code in the section amended (these are removed when pocket parts are received).
13. Orders office supplies and fixtures, arranges for typewriter repairs, prepares requisition forms, acknowledges receipt vouchers and forwards to the Administrative Office.
14. Trains the law clerk in chambers and court procedures.
15. Types draft opinions prepared by the law clerk, and after approval by the judge, retypes and forwards to the Clerk for filing.

#### H. THE LANGUAGE OF THE COURTS

The new secretary, particularly if she has had only a limited exposure to the various aspects of Federal law will soon find that one of the problems facing her is the necessity of acquiring a new and specialized language. An excellent glossary of terms frequently used in Federal Courts has been compiled by Ms. Loretta Whyte, Pro Se Deputy Clerk, under the direction of the Clerk United States District Court for the Eastern District of Louisiana. A copy is included as item B.

The glossary is in two parts, a narrative section in which terms are placed in context by giving brief synopses of a civil and criminal case (item B 1) and an alphabetical listing of terms with definition (item B 2). Despite the excellence of the glossary, some of the terms adopt local nuances. The secretary should be on the lookout for such unique usages.

### III. INFORMATION RETRIEVAL

Perhaps the most frustrating task facing any secretary is the establishment and maintenance of files. It is not the filing that gives rise to the difficulty; rather it is the need to locate information filed away weeks, months, or even years earlier. In terms of efficiency, the ease of maintaining any system is generally offset by the ease of access to information in the system; i.e., a completely cross-indexed filing system takes a relatively great amount of time to maintain but it permits easy access to anything filed; whereas a big box into which everything is thrown takes relatively little to maintain but is not a useful system if the things thrown into the box are needed periodically.

#### A. COURT FILES

The Clerk of the Court is the official charged with the responsibility of the court files. A file should be

kept in the Clerk's Office except when specifically requested by the judge or his staff. Where a deputy clerk is assigned to the judge on a regular basis a good policy is to make the deputy responsible for all court files in the judge's chambers.

Should a document, which is to be filed in a case, be received by the secretary or another member of the judge's staff, provision should be made for date stamping the document filed and transmitting it to the Clerk's Office for docketing at the earliest possible time. Again, where a deputy is assigned to the judge it is a good policy to make him or her responsible for seeing to it that the document is properly and promptly processed.

In districts in which the judge travels to hold court sessions, especially where he holds court in a town where there is no divisional office of the Clerk's Office, files often have to be transported or mailed ahead. In general, this should be the courtroom deputy's concern. Special care should be taken to make certain that court files and documents are not left at any of the outlying places of holding court. They should all be returned to the appropriate divisional section of the Clerk's Office.

For secretaries to judges of the courts of appeal the most important part of the case file is often the record prepared by the clerk of the district court. When dictating the judge will frequently simply refer to something on a



given page of the record and the secretary will be expected to find the appropriate item cited. The record consists of "the original papers and exhibits filed in the district court, the transcript of proceedings, if any, and a certified copy of the docket entries \* \* \*" [F.R.A.P., 10(a)]. The physical arrangement of the record varies from circuit to circuit; however the two most commonly used formats are as follows:

1. (a) Clerk's certificate followed by (b) a listing of each of the documents included in the record showing the page number of each document and (c) the documents themselves. In this system individual pages are generally numbered as part of the record.
2. (a) Clerk's certificate followed by (b) a copy of the docket sheets with the documents included in the record indicated on the docket sheet (items not included are lined out) and a number assigned to each document and (c) the documents themselves. In this system individual pages of the record are not generally numbered.

In both systems, the transcripts of proceedings filed by the official court reporter and the exhibits are generally filed as separate documents and are not bound into the records. A separate certificate from the clerk, itemizing the unbound

documents, is also filed.

In addition to the record, there is the printed appendix to the briefs. The appendix contains "(1) the relevant docket entries in the proceedings below; (2) any relevant portion of the pleadings, charge, findings or opinion; (3) the judgment, order, or decision in question; and (4) any other parts of the record to which parties wish to direct the particular attention of the court." [F.R.A.P. 30 (a)]. The appendix may range from a complete duplicate of the actual record to, in effect, a brief synopsis of the most relevant portions. The requirements for physical arrangement of the appendix are set forth in F.R.A.P. 30(d).

#### B. NAMES, NUMBERS AND SOURCES

Every secretary should have a listing of the names, addresses and telephone numbers for persons most frequently contacted by the judge. These items are best listed alphabetically by last name. The method of organizing them can vary depending on the quantity. For a relatively small number, a desk telephone index with a letter indicator and button will be sufficient. As the number grows, a small loose leaf binder tabbed alphabetically may prove helpful. Where the numbers approach those attained by some judges who are extremely active on various committees, etc., the most reasonable way to keep track of the information is by a card

index file, either in a file box or on the convenient Rolodex. Each of these items is available from the G.S.A. supply catalogue.

In addition to the collection of frequently used names and addresses the secretary should also have any generally available directories. These should include the following:

1. UNITED STATES COURT DIRECTORY (published annually by the A.O.)
2. local directory of lawyers (e.g., in Illinois, SULLIVAN'S LAW DIRECTORY or ILLINOIS LEGAL DIRECTORY)
3. where the court does not have a central switchboard for handling FTS calls the current FEDERAL TELECOMMUNICATIONS SYSTEM: TELEPHONE USERS' GUIDE
4. The Register: Department of Justice and the Courts of the United States may also prove helpful
5. If the judge is active in a particular association, any directory of officers and members of the association
6. It is assumed that each secretary will have a regular telephone directory covering the geographic region of the court.

#### C. DICTIONARIES AND REFERENCE WORKS

Although it is not often considered as such, a dictionary is possibly one of the finest examples of an efficient filing system. Unfortunately alphabetical listing is not appropriate to all filing systems. Dictionaries can be ordered through the Administrative Office. In addition to the dictionary the secretary might also find a thesaurus or a dictionary of synonyms useful. The New Roget's Thesaurus

and The Merriam-Webster Pocket Dictionary of Synonyms are both useful and have the added advantage of being available in inexpensive paper-cover editions.

Additional reference books are:

1. Black's Law Dictionary
2. The Secretary's Handbook (a manual of correct usage) by Taintor & Monro (This is govt. issue and can be ordered through A.O.)
3. Uniform System of Citation, 11th Ed. (pub. by The Harvard Law Review Association). (This is govt. issue and can be ordered through A.O.)

To the extent that the secretary is required to actively participate in editing for grammatical errors, a standard guide to English usage is a useful tool. Sir Ernest Gower's The Complete Plain Words (Pelican Books) and Strunk and White's The Elements of Style (Macmillan Paperbacks) are two current works available in inexpensive editions, the former being without doubt the more erudite of the two. Higher up the price scale is Fowler's Guide to English Usage (Oxford) and a companion guide to American usage.

A guide to forms of address may also prove useful. Some dictionaries include such a guide in the various tables found at the end of the book.

The Government Printing Office Style Manual contains a great deal of helpful information on everything from punctuation to footnotes. It is available in both a hard and a soft cover edition from the Government Printing Office.



Another convenient work published by the Printing Office is its list of 30,000 words. This little book is helpful as a guide to both spelling and hyphenization. Because it is a mere listing of words it lacks the bulkiness of a dictionary.

A handy additional reference work for any secretary is an almanac such as the New York Times Encyclopedic Almanac. Information from postage rates to time zones to the names and addresses of Congressmen and even occasionally a good recipe can be found in such works.

To the extent that the secretary is given responsibility for preparing form orders and seeing to it that orders, opinions, etc., meet required form, one of the standard form books will be helpful. These can be found in most large law libraries and may be part of the judge's own library. The most exhaustive work is probably the multi-volume Bender's Federal Practice Forms [Matthew Bender] which is organized to follow F.R.C.P. numbers. The judge or law clerk can recommend more convenient one volume works as useful guides for preparing forms.

#### D. THE JUDGE'S FILES

The judge's files include everything from draft and completed memoranda and opinions to personal correspondence. The secretary is often called upon to find something in the

files with little more than a hint, such as: "We did something like this a few years back, can you find it?" If a file system is to serve as an active reference system obviously mere alphabetical filing will not suffice. The first task in designing a file system which can be used as an active reference system is to break down its contents into clearly recognizable units.

In addition to determining categories it is important to determine how long the information to be filed is to be kept. In general, correspondence relating to cases before the court should be retained for 10 years. Records relating to assignment of cases and calendaring, including diaries showing case schedulings, should also be kept for 10 years. A complete list of disposition schedules of court related papers is included in Chapter 13 of Manual for Clerks, United States District Courts. That same chapter also deals with the area of transferring documents to the Federal Records Center for storage. A copy of the schedules is included in the Appendix as item F. If the secretary wishes to transfer any records to the Records Center she should turn them over to the Clerk of the Court for transferral.

It is a good practice to start new files annually of those categories which have little permanent value or do not need to be used with any frequency such as correspondence.

Combining the criteria suggested above leads to the following example\* of a filing system for papers generated by the judge and his staff:

1. Reading File:

The secretary should maintain a chronological file of copies of all correspondence she has typed for the judge. This can be kept on a six month basis, the items being Acco-fastened in the file with the most recent on top.

2. Personal Correspondence of the Judge (General):

File alphabetically and create a new file annually. The secretary should check with the judge as to his wishes regarding the ultimate disposition of such files.

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\*An alternative sample system is described below:

Each secretary must establish a filing system which most effectively serves her judge. The system usually consists of individual files and a card index. Once a workable system is established and maintained, it is a timesaver not only for the secretary, but for whoever needs access to the files.

Material can be filed in four main categories, i.e., (1) Administrative; (2) Cases; (3) Legal Subjects (or Law Clerk's file); and (4) Personal.

To be filed under (1) Administrative would be individual files relating to matters dealing specifically with court related activities, such as Administrative Office memos; Judicial Conferences; Memoranda between Judges; Assignments; Requisitions, etc., and the subject matter to be filed under the remaining three is self explanatory.

A master index is kept (e.g., loose-leaf notebook) with each file designated in one of the above categories. Though this system is tedious to set up if there is no system, once done the effort to keep it current is minimal.

3. Personal Correspondence of the Judge (Special):

If the judge is actively involved in one or more organizations and the activity results in a fairly steady stream of correspondence, make up a separate file for correspondence relating to each organization. Depending on the volume of these files it may be more advantageous to keep them for two year periods before starting a new file. As with the general personal correspondence of the judge the ultimate disposition of these files depends on the directions of the judge.

4. Case Related Correspondence:

File by case number, starting a new file annually.

5. Miscellaneous Correspondence With Lawyers and the Public Not Directly Related to a Specific Case:

File alphabetically by name of correspondent, starting a new file annually.

6. Correspondence With Other Judges:

Create a file for each judge with whom the judge regularly corresponds, and one file for all judges with whom the correspondence is not frequent. These files, depending on volume can be kept on a two-year basis. File matters chronologically within the files.

7. Correspondence with Court and Court Related Organizations:

Create a file for each organization, e.g., Administrative Office, Clerk's Office, U.S. Attorney's Office, with which the judge regularly corresponds and a miscellaneous file for those organizations with which correspondence is infrequent. These files, depending on volume, can be kept on a two year basis. Contents should be filed alphabetically by subject matter.

8. Vouchers, Requisitions and Other Correspondence Relating to Travel and Supplies:

In general, one annual file for these matters will suffice. Arrange chronologically.



9. Special Projects:

From time to time the judge will find himself assigned to do considerable work on a particular topic, as when he is designated a member of a committee of the Court or one of the Conferences. It is more convenient to file all correspondence, working papers, and other related matters in a specially designated file. Any files so created should be retained in the active file until the completion of the project where the project is scheduled for completion in less than two years. If it runs over two years a second file should be created. File the items chronologically.

10. Memoranda, Opinions, Orders of the Judge:

Many judges wish a file kept of the decisions they have rendered. These should be filed annually by case number. Where the past decisions are used regularly as reference works by the law clerks and the judge an annual alphabetical listing of the cases by party names (both plaintiff(s) and defendant(s)), showing date of entry of the order, opinion, etc., and case number is helpful. In some instances, especially where the use of this material is heavy, it is advisable for the secretary to have the law clerks provide head notes for each of the opinions, etc. These can then be placed on index cards and a card index maintained. This latter index file is a moderately time consuming process and should be undertaken only with the judge's express approval.

11. Bulletins, Memoranda, and Other Routine General Transmittals from the Administrative Office:

A chronological file of all such information received from the Administrative Office which is headed TO UNITED STATES JUDGES should be maintained. Where the heading indicates that the information was also distributed to the Clerk of the Court, the Secretary should check with the Clerk to ascertain how well his office keeps track of the A.O. transmittals. If an organized and complete set of the transmittals is maintained in the Clerk's Office, and if the set is readily available to the Secretary, it would appear that the duplicate effort required for her to maintain a separate set is not easily justified.

12. Standing Orders, Form Orders, Form Letters:

A separate file should be maintained in which a copy of all standing orders, form orders, and form letters pertaining to the procedures required by the judge are kept. Where form orders, e.g., pre-trial order, and letters are routinely delivered to counsel by the courtroom deputy (or even where they are delivered by the secretary) the supply of blank forms should be kept elsewhere as a form of inventory. Where Xeroxing is used as a method of preparing the blank forms the copies in the file should be good, clear copies from which reasonably clear Xerox copies can be made. Not only does such a file permit easy access to those items of procedure special to judge, but where Xerox copies are distributed it cuts down on the amount of re-typing of forms made necessary by the illegibility of fourth or fifth generation copies.

Once having established a file system, the secretary is faced with its care and maintenance. Where annual files are maintained, the current year's files should be kept in the most convenient drawer. When a new year's files are prepared, the previous year's files are shifted to a lower drawer. This process can be repeated until the fourth year at which time the files made up four years before should be shipped to the record center. Where they may ultimately be destroyed, the destruction date should be indicated. It is reasonable in such instances to have the files called back at the time they are old enough to be destroyed and make a final check of them before authorizing destruction.

Although the filing system outlined might appear complex compared with the traditional system of filing everything alphabetically, it has a great deal more flexibility. The

combination of subject matter filing, chronological filing (reading file), and alphabetical filing assures at least two independent methods of finding a document in the file. This should be sufficient to enable prompt retrieval of the balance of the items required.

#### E. PRESENTENCE INVESTIGATION REPORTS

Practice varies from court to court on the handling of presentence investigation reports. In most instances they are not made part of the official court file and are not generally available to anyone without the judge's express permission. Where they are not part of the file the secretary should check with the judge to see how long he wishes to keep the report in his own files. Once the retention date is determined the secretary should check with the chief probation officer and find out if he would prefer her to (a) return the report (if the judge permits) or (b) destroy the judge's copy when the retention period has lapsed.

#### IV. SOME MISCELLANEOUS DUTIES OF THE SECRETARY

##### A. HANDLING INCOMING MAIL

One of the jobs that the secretary will have to perform at least once a day is that of receiving, opening up and sorting the mail. One of the guidelines the judge can establish for the secretary is the manner in which he

wishes to have his mail handled. Many items of "junk mail" can be deposited immediately in the waste-paper basket. With certain inquiries, it is often helpful for the secretary to provide background information for the judge and give him the information along with the letter. Some letters can be answered by the secretary without disturbing the judge. Some letters should be re-routed to the Clerk's Office. In general, the amount of mail transmitted to the judge should be kept to a minimum consistent with the judge's directions.

#### B. KEEPING TRACK OF THINGS

Very few projects in which the judge is involved will occur in such a fashion that he can receive and dispose of them in one session. More often than not he will be working on several things at once and have a stack of materials which he will have to work on by some specific date, but which have a sufficiently low priority that they can be put off for a short while. To facilitate the efficient disposition of these items, it is helpful to keep a tickler-file listing these items and date by which some action must be performed.

#### C. INVENTORY AND SUPPLIES

The procedures for ordering supplies are listed in the Guide. As these orders are ordinarily placed twice a year,



the secretary should attempt to determine the number of units of each item that will be utilized during each six month period. This process can work effectively provided that a reserve inventory of two to three months is maintained.

In multi-judge courts, the government can reduce costs if supply orders for several judges are made together. This can be done either by several secretaries getting together and agreeing to place one combined order, or by the Clerk of the Court if he assumes the responsibility of ordering for the judge's secretaries.

When ordering supplies, the secretary should be careful to list the correct item number. Even where the written description of the item is included on the order, the item received is more likely to correspond to the number utilized, particularly when an incorrect number was included. Care should also be taken to check the standard unit of supply for each item ordered. [e.g., If the standard unit is a box containing a dozen of the items to be ordered and the secretary wants three items, the correct way to order is 1/4 box, not 3, as the latter will be interpreted as 3 boxes, i.e., 36 items.]

The secretary should keep a reasonable supply of non-franked envelopes on hand if messages are hand carried on a regular basis [as is the case in most multi-judge courts]. The courts pay the Postal Service for the frank at the time

of printing. A regular envelope costs approximately eight cents, a 9 1/2" by 11 7/8ths" manila envelope costs forty-two cents and a franked mailing label costs a dollar and a half. These amounts are paid to the Postal Service in addition to the actual cost of the envelope or label. The secretary should, therefore, use franked envelopes only for items which are to be mailed under the penalty franking privilege and use non-franked envelopes for any other situation requiring an envelope. Similarly, the franked mailing labels should not be used on anything other than relatively bulky packages or objects which do not easily fit into an envelope (e.g., mailing tubes). The labels should never be used to mail envelopes. Where use of a label is preferred, a regular plain mailing label should be used on a franked envelope\*.

#### D. CALENDAR CONTROL

Secretaries become involved, to varying degrees, in the process of monitoring cases, briefing schedules, motion completion schedules and the various other systems relating to calendar control. On the district court level the

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\*Franked envelopes used by the courts bear the legends "Postage and Fee Paid - United States Courts" and "Official Business: Penalty for Private Use \$300"

practice, especially in individual calendar courts, is to assign a deputy clerk, usually called the courtroom deputy, responsibility for most or all of the aspects of the calendaring process. The extent to which the secretary enters into the calendaring process will depend largely on the system used by the judge in controlling cases. (Attached as an appendix to the manual are two flow charts outlining the progression of typical criminal and civil actions.)

The basic system of calendaring requires the following components:

1. A case status record: various kinds are used. One is the status card provided by the Administrative Office and described in Chapter XIV of the Manual for Clerks: United States District Courts.

Another common method of control is a loose leaf binder with the front part of the docket for each pending case on which notes pertaining to the current status of the case may be written.

2. Prompt notification of the assignment of a case to a judge; regular listing of cases assigned:

The judge's staff should be notified promptly of the assignment of a case to a judge. Effective calendar control dictates that the judge should take control of the case as soon after filing as is possible (either by setting a status hearing

or pre-pre-trial hearing shortly after the filing of the answer or by automatically setting a status hearing for a certain number of days following the filing of the case), and once a hearing has been held in the case it should always have a set date for the next stage of the proceedings. Prompt notification of the judge's staff permits the judge to take hold of the case promptly. Similarly, periodic listings of cases pending before a judge are important so that the danger of a case remaining inactive because a status card or other control document is inadvertently misfiled can be avoided. These pending lists should be checked by the judge's staff to make certain their records agree. Any discrepancies should be quickly adjusted.

3. Diary: this basic document contains a list of all matters set for a particular day indicating the time of the hearing, etc.
4. Calendar: this word is one of the more ambiguous commonly used members of the courts' lexicon. In some courts it means nothing more than the collection of cases pending before the court or a particular judge. In many courts it refers to the published listing of events scheduled to occur before a particular judge during a particular period.

Where calendars (using the latter definition) are prepared, they should not be prepared too far in advance, since the longer the period, the more likely that the event listed will have to be modified before it is reached.

5. Briefing/motion control systems: The use of a fixed briefing schedule and specific directives to law clerks to have either the draft findings or the necessary memorandum for the judge is fairly common. If close control is not maintained it is fairly easy for a particular motion to be overlooked and head into the 60 day range. This situation requires that the matter be reported as a matter under advisement for more than sixty days. The actual manner in which the motions/briefs are processed and controlled will depend largely upon the manner in which the judge wishes to utilize the various staff members. Examples of the different ways in which this area may be handled are as follows:
  - a. the judge gives guidelines requiring the law clerks to submit draft orders, memoranda, etc., within a certain number of days after the final brief is submitted. The courtroom deputy keeps control cards on all items being briefed. When the final brief is in, he turns over the



briefs and the motion to the law clerks with a note indicating the date set by the judge for final ruling. The law clerks notify the courtroom deputy when they have completed their work. If he does not receive notification within a specific number of days prior to the date for final ruling he reminds them of the due date.

b. the secretary keeps a file on all pending matters under advisement arranged according to the date set for final ruling, and for matters not worked on within a specific number of days prior to the final ruling date, she notifies the law clerks or the judge depending on the judge's guidelines.

6. Standing orders/forms: many judges have standing orders and standard pre-trial orders which are to be mailed to counsel. Packages of these should be maintained either by the courtroom deputy, or the secretary, for mailing to counsel when appropriate.
7. Miscellaneous statistics: in many courts the Clerk's Office prepares monthly or quarterly case statistical reports showing the number of cases pending before each judge at the beginning of the period, the number of new, reopened, reassigned, remanded cases added during the period, the number terminated, reassigned

or otherwise removed from the judge's calendar, and the number pending at the end of the period. The pending figure in these reports should be checked periodically by the judge's staff. Other statistical reports in which the judge's staff may be involved are: determining the number of hours spent by the judge in hearing certain matters (required by monthly A.O. report J.S.-10), some aspects of juror utilization (required for A.O. report J.S.-11), checking statuses of cases for completing annual reports on status of civil cases pending three years or more and bi-annual reports on criminal cases pending 18 months or more, compiling data for matters pending under advisement for over 60 days, statistical reports relating to patent cases.

8. Three judge cases: where a case is assigned to a judge in which a three judge court is requested, and if the judge allows the request, he must notify the Chief Judge of the Circuit so that the other two members of the court can be appointed.

The above is only the briefest excursion into the area of calendar control. For secretaries interested in further information concerning calendaring, the following items are available from the Federal Judicial Center:

1. Seminar for Courtroom Deputies: Outline of Presentations;

2. Calendar Control by A. Morsch; and
3. a lecture by A. Morsch on calendar control available in cassette form.

In many instances the courtroom deputy assigned to the judge for whom the secretary works will have attended one of the seminars for courtroom deputies. In such instances the deputy may have either or both of the publications mentioned above.

## APPENDIX

DIRECTORY - UNITED STATES ATTORNEY'S OFFICE - Outside Federal Agency Party Must Use Prefix 353-

JAMES R. THOMPSON, UNITED STATES ATTORNEY

ADMINISTRATIVE ASSISTANT.....	5302	LIBRARY .....	5333
RABBITT, F. ....	5282	LOWERY, M. B. ... (Collections & Adm.)...	5302
BERG, A. R. ... (Administrative, Civil).....	5312	LYDON, M. A. ....	5327
BERLAND, M. G. ....	5314	MAIL ROOM .....	5328
BERMAN, M. H. ....	5356	MARCUS, J. I. ....	1413
BREEN, J. M. ....	4097	MARRS, M. D. ....	4690
BURNS, J. B. ....	5340	MARTIN, R. B. ....	5320
CHIEF, APPELLATE DIVISION .....	5339	MEYER, J. A. ....	4086
CHIEF, CIVIL DIVISION .....	5312	MOGSTAD, L. C. .. (Sec'y - US Attorney)...	5333
CHIEF, CRIMINAL DIVISION .....	5307	MONTANA, J. S. ....	6341
CHIEF, SPECIAL INVESTIGATIONS DIVISION .....	5319	MORA, S. H. ....	5345
CIECKA, R. J. ....	4127	MULLEN, M. P. ....	5321
CIARELLI, C. .... (Librarian).....	5338	MULROY, T. R. ....	1414
COHEN, L. J. ....	5337	MURRAY, J. C. ....	5354
COLE, J. N. ....	5311	MURTHA, F. J. ....	4128
CONNELLY, D. A. .... (Chief, Criminal).....	5307	NASH, G. B. ....	5360
CUSHNER, M. P. ....	5359	RECEIVING UNIT..... (Civil).....	5312
DENT, T. G. ....	5330	RECEIVING UNIT..... (Criminal).....	5307
DOCKET ROOM ..... (General Index Files).....	5346	RECEPTIONIST ... (M. Schmidt).....	5300
DUSBERGER, R. H. ....	5322	SCHAEFER, R. B. ....	5347
ERENS, M. G. ....	4064	SCHILLING, W. J. ....	5358
ELSBURY, W. ....	5266	SCUDDER, T. T. ....	1412
FAHNER, T. C. ....	5326	SEEMER, R. F. ....	4086
FILE ROOM .....	5315	SFASCIOTTI, M. L. ....	5309
FILPI, R. A. ....	5362	SHELDON, A. P. ....	5342
FIRST ASSISTANT U. S. ATTORNEY .....	5331	SHINE, D. C. ....	5317
FLAUM, J. M. .... (FIRST ASSISTANT).....	5331	SIMON, J. B. .... (Chief, Civil).....	5312
FREEMAN, G. ....	1415	SKINNER, S. K. .... (Chief, S.I.D.).....	5319
GENERAL CLAIMS SECTION .....	5336	SKRETTY, W. M. ....	5351
GILKERSON, C. N. ....	4045	SPRAGUE, R. F. ....	1416
GORDON, T. ....	1415	SPURLOCK, O. ....	5358
GRIFFIN, F. J. ....	5324	STACK, P. F. ....	5362
HOFFMANN, H. M. ....	5306	SPARKMAN, G. L. ....	5329
HOLDERMAN, J. F. ....	5350	SPASIEK, J. H. ... (Adm. Assistant).....	5302
HUYCK, W. T. .... (Chief, Appellate).....	5339	STEVENSON, M. D. ....	4085
JONES, G. ....	8038	STONE, H. L. ....	5321
KADISON, S. J. ....	4129	THOMPSON, J. R. .... (U.S. ATTORNEY).....	5300
KANTER, A. ....	5342	TILLOTSON, E. C. ....	5353
KEAR, F. E. ....	4690	TOOHEY, J. K. ....	5349
KENNELLY, D. J. .. (Asst. to US Attorney).....	5302	VALUKAS, A. R. ....	5335
KIPPERMAN, C. A. ....	6332	WALAVICH, J. .. (Adm. Criminal).....	5307
KOCORAS, C. P. ....	5361	WAXMAN, S. R. ....	5341
KURACKI, S. D. ....	6117	WEBB, D. K. ....	1598
LAPIDUS, A. E. ....	5352	WESOKY, J. M. ....	5371
LE CESNE, A. T. ....	5318	WILLIAMS, R. M. ....	4149
LEMKER, G. M. .... (Grand Jury - Payroll).....	5305		

DEPARTMENT OF JUSTICE - CHICAGO STRIKE FORCE

BURKE, J. J. .... (I. & N. Service).....	5367	KING, M. H. .... (J-Atty).....	5355
CALLAGHAN, C. T. ... (A. T. & P.).....	5368	LORD, T. R. .... (J-Atty).....	5365
COHARD, J. V. .... (I.R.S. - Intelligence).....	5370	MALAN, R. .... (Postal Service).....	5270
COZZA, J. M. .... (U.S.S.S.).....	5373	MASSE, T. D. .... (J-Atty).....	5344
DAVIDSON, S. .... (CHIEF, STRIKE FORCE).....	5267	ROLLER, D. P. .... (J-Atty).....	5269
DOW, J. B. .... (B.N.D.D.).....	5372	ROZETKA, E. .... (I.R.S. - Audit).....	5369
HASLINGS, J. R. .... (J-Atty).....	5366	SERRA, F. .... (Customs).....	5367
HERNDON, J. D. ... (J-Atty).....	5348		



UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

JUDGE	SECRETARY	EXT.	CTM.	CHMBRS.	MINUTE CLERK	LAW CLERK - COURT CLERK	COURT REPORTER
1. EDWIN A. ROBSON, Chief Judge	A. Balogh	231-2	2541	2548	J. Borris	L. Roberts(233) & L. Mallon 246, Room 2538	C. Youker, Jr.
2. RICHARD B. JUSTIN	H. Hilstrom	332-3	2503	2588	R. Kuus (AA), ext.	G. Davis & K. Schultz	R. Comeau
3. JAMES B. PARSONS	V. Donnelly	236-7	2303	2388	H. Winscott	I. Royner	J. Betz
4. HUBERT L. WILS	R. Carroll	234-5	2341	2346	J. Dziedzic	P. McAlleer & M. Allen	D. Brennan
5. HERFORD M. DECKER	H. Murray	234-5	2341	2346	J. Kuchta	J. Rosenbloom	R. Betz
6. ABRAHAM L. MAROVITZ	S. Schroeder	238-9	1925	1956	W. Keeley	M. Rosenbloom & W. Seltz	K. Arboit
7. WILLIAM J. LYNCH	A. Jensen	361-2	1903	1988	B. Szczerbowski	M. Rosenbloom & K. Cunniff	M. Kusidab
8. FRANK J. MCGARR	F. Moran	371-2	2325	2356	R. Walsh	R. McFadden & R. Lesman	M. Epp & R. Lesman
9. THOMAS R. MCWILLEN	B. Benzel	367-8	2103	2188	G. Butcher	M. Epp & R. Lesman	M. Smollar & J. Ropiequet
10. WILLIAM J. BAUER	W. Bertoglio	248-9	2125	2156	K. Branch	M. Smollar & J. Ropiequet	R. Melin & J. Spicotto
11. RICHARD W. McLAREN	P. Spratt	363-4	1919	1978	D. Ekstrom	C. Emerson & R. Watson	C. Emerson & R. Watson
12. PHILIP W. TONE	M. Stock	365-6	2319	2378	C. Anderson	J. Gleason & R. Herbst	T. Campbell
SENIOR JUDGE	S. Aleksunas				J. Knox		
13. WILLIAM J. CAMPBELL	I. Mulville	244-5	2568	2570		P. Carey	C. Williams
14. J. SAM PERKY	R. Zimmermann	336-7	2525	2560		J. Carlson	J. Kwiatkowski
15. JULIUS J. HOFFMAN	P. Mendrala	228-9	1719	1764	E. Koike	J. Diener & L. Slutzky	A. Thorne

MAGISTRATE					CLERK'S OFFICE	ROOM	EXT.
1. JAMES T. BALOG	N. Balogh	224	2494	2490	H. STUART CUNNINGHAM, Clerk	Judith Hanson (AA)	2074 321-2
2. OLGA JURCO	L. Radzicki	260	2496	2402	CHARLES W. VAGNER, Chief Deputy	Sue Hubbard	2074 323-4
3. CARL B. SUSSMAN	T. Rice	240	2344-X	2342			

REFERRED					DEPARTMENTS		
1. LAWRENCE J. MILLER	M. Howe	307-8	1644	1642-A	WAYNE NERSON (Bankruptcy Case Closing Department)	2036	326
2. ELMER P. SCHAEFER	E. Ruszkowski	302-3	1646	1648	Closing.....328 Distribution...327 Final Meetings...327		
3. ROBERT TIEREN	H. Miller	304-5	1656	1650	EARL O. BAKER (Docketing Department)	2008	354
4. CHARLES B. MCCORMICK	M. Murphy	311-2	1690	1688	Bankruptcy...343-4 Criminal...341-2		
5. EDWARD B. TOLES	J. Scherer	315-6	1602	1604-B	Civil.....345 Claims.....343-4		
6. THOMAS W. JAMES	J. Stone	313-4	1678	1686	MCCLENDON GRICE (Files & Administrative Services)	2038	351
7. LAWRENCE FISHER	S. Daldone	318-9	1670	1662	Assignment Desk...349 Certified Copies...350		
8. RICHARD N. DUGUNTER, Rockford, Ill. (815)			964-1921		JOHN E. PANEK (Fiscal, Jury & Naturalization)	2054	379
					Cashier's cage...378 Naturalization	2062	355

UNITED STATES ATTORNEY				
James Thompson	353-5300	1500		

COURT OF APPEALS				
Kenneth J. Carrick, Clerk	212	2722		
Thomas F. Strubbe, Chief Deputy	212	2722		

UNITED STATES MARSHAL, J.C. Weisner				
353-5290	2444			

FEDERAL DEFENDER PROGRAM				
Terrence F. MacCarthy, Director	358	1744		
Thomas Decker, Deputy Director	357	1744		
PROBATION DEPARTMENT, Ben S. Meeker, Chief				
251	2200			

LIBRARY				
PRISONER CORRESPONDENCE CLERK (H. Cheng)	2008	330		
LIBRARY, Frank DiCanto, Librarian	1448	317		
JURY ROOM, Walter T. Shanahan	1621	331		
GRAND JURY CLERK, George Staunton	2054	377		
JURY EXCUSES, etc., Jo Coari	2054	377		
BUILDING GUARD'S OFFICE	353-5714			
DATA PROCESSING	347			
Dated: 17 November 1972				

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

SUPREME COURT BUILDING  
WASHINGTON, D.C. 20544

RECEIVED

JAN 12 1973

ROWLAND F. KIRKS  
DIRECTOR

WILLIAM C. FOLEY  
DEPUTY DIRECTOR

December 15, 1972

H. STUART CUNNINGHAM, CLERK  
UNITED STATES DISTRICT COURT

VTD

TO : All Clerks of Court  
U. S. Magistrates  
Circuit Executives

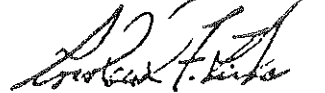
SUBJECT: Glossary of Terms Frequently Used in the Federal  
District Court System

As you undoubtedly know, my staff and I have been visiting the courts with the hope that each year we can cover all of them with a helping visit. We have found in these visits many ideas and suggestions which provide us with a better overall understanding of the problems that you face on a day-to-day basis.

Recently, one of our staff visited the Eastern District of Louisiana where the enclosed Glossary had been developed for the use of the deputy clerks. It was brought back to Washington and it was deemed a most helpful document. We are happy then to pass on to you this Glossary prepared under the direction of Mr. Ben Reisch by his Pro Se Deputy Clerk, Loretta Whyte.

Additional copies of this Glossary can be obtained by writing the Division of Information Systems.

Sincerely yours,



Rowland F. Kirks  
Director

Enclosure

GLOSSARY OF TERMS  
FREQUENTLY USED IN THE  
FEDERAL DISTRICT COURT SYSTEM

This glossary is designed for use in the Office of the Clerk of Court, for the benefit of new deputy clerks and clerical assistants who come to us with no previous experience or knowledge of the operations and terminology of the court. It is necessarily written on a very elementary level. We feel that once the new employee is introduced to the language, he will be equipped to go on, either independently or with the aid of more advanced training, to a knowledge and understanding which are essential to the efficient and intelligent operation of this office.

Prepared by: LORETTA WHYTE,  
Pro Se Deputy Clerk,  
under the direction of the Clerk,  
United States District Court for the  
Eastern District of Louisiana

## The Language of the Court

This narrative is intended to be an introduction to some of the terms most commonly used in the Office of the Clerk of the United States District Court. It is not a complete or literally accurate explanation of the law or the rules of procedure. Its sole purpose is to render somewhat less painful and time consuming, particularly for the newcomer, the task of becoming familiar with the unique language of the Court.

Let us begin with the example of a man who has been injured in an auto accident. He feels, and rightly so, that the person who ran into him ought to pay the expenses involved. The law provides that whoever by his fault causes damage to another should pay for the damage he has caused. Of course, the other driver may have a different view of the matter. Most of all, he is likely to think the accident was not his fault in the first place, and that there is no reason why he should have to pay for it. So we have an important difference of opinion, a dispute or controversy. The law provides for certain machinery- procedure -for settling such disputes. This machinery is the Court or Judicial System. The rules for making it operate as smoothly and as fairly as possible are the PROCEDURE, in this case the FEDERAL RULES OF CIVIL PROCEDURE. The dispute brought before the Court is called the CASE, SUIT, ACTION, CAUSE or CONTROVERSY. The injured party, the one who complains or sues, is the PLAINTIFF or COMPLAINANT. He begins by filing the COMPLAINT- the

formal written statement in which the plaintiff presents the facts as he believes them to be, and demands the relief to which he believes he is entitled. This begins the suit. (Actually, the plaintiff probably goes to his lawyer, who draws up the complaint and files it in the Clerk's Office of the proper court.) At this time we might stop and discuss the term FILE. To file a paper or other document is to place it in the official custody of the Clerk. The Clerk then is required to indorse upon it the date of its reception, and to retain it in his office, subject to inspection by whomsoever it may concern. It becomes a part of the record of that case.

The driver who ran into the plaintiff, the one whom the plaintiff claims should pay the expenses of the accident, is the DEFENDANT. He is required to file an ANSWER to the complaint. The answer is the defendant's version of what happened. Generally he will deny all or part of what the plaintiff has claimed.

The plaintiff and defendant are the PARTIES to the suit; they are called opposing parties or adversaries because they are, in this matter at least, claiming against each other. They are sometimes called LITIGANTS and the proceedings in Court LITIGATION.

Now let us back-track just a little. We said that the defendant is required to answer. How does he know he has been sued? There is a special procedure designed



for notifying a person that he has been sued and that he must file an answer within a given time. This is accomplished by means of the SUMMONS, which is a WRIT (a formal command from the Court), directed to the Marshal, requiring him to notify the person named that an action has been begun against him in the Court and that he is required to appear and answer the complaint.

We say the defendant has been SERVED with the Summons or that there has been SERVICE OF PROCESS. This means that the necessary papers have been formally delivered to the defendant. He has been officially notified of the Action. When the papers have been served the Marshal makes a RETURN to the Court. That is, he reports back to the Court giving an account of his doings under the Writ-- the time and manner of service or the reason why he was not able to serve it, if that was the case.

Now we have the Complaint, giving the plaintiff's view of the situation, and the Answer, giving the defendant's version. Together these make up the PLEADINGS-- the formal allegation of the parties of their respective claims and defenses for the judgment of the Court. From these pleadings it is possible to tell just what the dispute is about. Generally there will be one or more points of disagreement -- called the ISSUE, the real heart of the dispute.

Once the Answer is filed, we say ISSUE HAS BEEN JOINED, which means that the parties have agreed on what the issue actually is. To us it means the Case is ready to be set for trial.

Between the time a case is begun by the filing of the Complaint and the time it comes to trial in Court, a great many things have to be done. Through hundreds of years of trial and error it was decided that things work out better and more fairly if both sides have as much information as possible to work with. So we have what is known as DISCOVERY. If the defendant driver is the employee of another person or company, if his brakes were defective, or if his driver's license has been suspended, the plaintiff should know this. In the same way the defendant is entitled to know that the plaintiff was injured in another accident the day before this one, or that he has trouble seeing well in bright sunlight if that is the case. He is entitled to know what his income is, if this is going to be part of the expense he will be expected to pay. The procedure for obtaining from the opposing party information necessary for the proper conduct of the case goes by the general name of DISCOVERY. Discovery can be obtained either by interrogatory, deposition or motion for production of documents.

INTERROGATORIES are written questions served on an adversary, who is required to serve written answers, under oath.

A DEPOSITION is usually an oral statement made by a person under oath, before an officer of the Court, but not in Open Court, taken down in writing (usually by a court reporter). The attorney for the opposing party is notified to attend and he may cross-examine the deposed party. Anyone may be deposed, the parties to the suit, witnesses, etc. The deposition is most often a means of obtaining discovery but under certain conditions it may be read aloud at the trial.

MOTION TO COMPEL PRODUCTION OF DOCUMENTS: If one party knows or has reason to believe that the opposing party has in his possession some document such as an insurance policy, or a statement made by a witness at the time of the accident, or perhaps pictures or anything else that he feels he needs in his case, he must ask this party to let him see these documents. If he is refused, he then asks the Court to compel his opponent to show him these documents. He does this by bringing a Motion to Compel the Production of Documents. If the Court decides that he is entitled to see them, the Judge will order them produced.

MOTION is a term that comes up probably more frequently than any other. It is nothing more than a request that the Court order some particular thing. Some motions can be granted as a matter of course. Some can be granted only after the opposing party is given notice and an oppor-

tunity to be heard.

Typically, one part files a Motion, asking the Court to order some action; at the same time he notices it for hearing on the next day the Judge will be hearing Motions. NOTICE is the information or warning given to a person about something he is entitled to know. In our example, the opposing party is entitled to know that his adversary is asking the Court to compel him to produce some statement or picture. He may well feel that the moving party (the party who brought the Motion) has no right to see the papers he wants. He has a right to ask the Court not to compel the production of the document. We say that he opposes the Motion. A hearing is set on the next Motion day. A HEARING is a relatively formal proceeding, generally in Open Court, in which both sides have an opportunity to be heard. After the Judge has heard the arguments of both sides and has studied the memoranda, he will either GRANT the Motion, (order what was asked) or DENY it, (refuse to order it). He may take it under submission, that is, he will set it aside for the present time, consider the matter further, and either grant or deny it (the motion) at a later date.

There is no limit to the number of things that can be asked for by Motion. Before the day of trial arrives, the parties may have made any or all of the following:

MOTION TO AMEND THE COMPLAINT: asking the Court for

permission to correct an error in the Complaint;

MOTION TO DISMISS: asking the Court to dismiss the case altogether for any of a number of reasons; for example, the mover alleges that the Court does not have jurisdiction over the person of the defendant, or there is not a jurisdictional amount of money in dispute;

MOTION FOR JUDGMENT ON THE PLEADINGS: if the Pleadings alone show that one party is entitled to judgment without the necessity of any trial at all;

MOTION TO PRODUCE: anything the mover needs and thinks he has a right to have, such as insurance policy, statements taken from witnesses at the time of the accident, etc.;

MOTION FOR CHANGE OF VENUE: if the defendant has been sued at a place distant from his residence he may ask the Court to transfer his case to a more convenient location. The Court will weigh the problems and inconvenience to both parties and decide in favor of what is most convenient to both and to the Court;

MOTION TO EXTEND TIME: some things must be done within a certain number of days; for example, the defendant must answer the complaint within twenty days- but the Court may for good cause extend the time allowed;

Etc.

Somewhere along the line the defendant may decide that he is injured too, and in his opinion the whole accident



was caused by the plaintiff, who should pay not only his own expenses, but those of the defendant as well. He therefore files a COUNTERCLAIM. Actually he sues the plaintiff just as the plaintiff sued him, but it is all contained within the same suit.

Or instead, the defendant may know that the plaintiff was probably not at fault, that it was he who ran into the plaintiff and caused the damage. However, he may feel that the accident was a result of the bad brakes on his auto, a condition about which he knew nothing, but which he feels was the fault of the repairman who recently checked them and guaranteed that they were in good order. So he sues the repairman, who becomes the THIRD PARTY DEFENDANT, which only means that he is a THIRD PARTY to the suit, an outsider who is brought in as a defendant.

Another way a third party can come into the suit is by way of INTERVENTION. For example, suppose the plaintiff's employer was required to give him sick pay while he was unable to work as a result of the accident. The employer may INTERVENE in the suit; that is, make himself a party to the suit. In this case he would be seeking to have the defendant pay his expenses along with those of the plaintiff. By an intervention, a third party may join with the plaintiff seeking what is sought in the complaint, or with the defendant, resisting the claims of

the plaintiff, or he may demand something adverse to both of them.

During this time also the Judge may call a PRE-TRIAL CONFERENCE. This is a somewhat informal meeting between the attorneys for both sides with the Judge acting as moderator. They will stipulate those things on which they can agree. For example, both will probably agree on the location of the accident, who was driving which auto, the direction in which each was going and possibly even the extent of injury. There is no need to waste time and energy to prove anything that both parties agree on-- instead these things are stipulated and the parties can direct their attention to those things that are in dispute.

It is the function of the Pre-Trial Conference to lay bare the heart of the dispute-- to narrow the issue as much as is possible. In our case probably the main issue will be whether it was the plaintiff or the defendant who had the obligation to stop to allow the other to pass. The attorneys for both sides will also indicate what witnesses they will call at the trial and what exhibits they will present-- such as medical reports, pictures, insurance policies, etc.

These agreements, etc., are set out in the PRE-TRIAL ORDER, which is then signed by the attorneys and the Judge.

We come now to the day set for TRIAL of the case. Generally the parties are entitled to trial by jury. If a jury has not been demanded or the case is not one triable by jury, it is tried by the Court; that is, by the Judge alone, without a jury.

The JURY TRIAL is basically a proceeding in which each side presents its case to a group of disinterested, impartial and qualified persons, in the presence and under the supervision of the Judge, who rules upon many questions and instructs them in the law.

The jurors are selected from the jury venire, which is made up of about thirty people whose names have been selected at random, and who have been ordered to come into Court to serve as jurors on the day of trial. From this jury venire, six will be selected to try the case (formerly the jury was made up of twelve persons). The Judge will ask each of them his or her name and occupation and will ask certain other questions to determine whether they are qualified and whether any of them is likely to be prejudiced in favor of or against either party. This questioning is called the VOIR DIRE. If, for example, one of the prospective jurors is a relative or close friend of one of the parties such a person obviously could not be considered disinterested and impartial, and he should not serve on the jury which will decide this case. The opposing party is entitled to CHALLENGE any prospective juror who

has reason to be other than disinterested and impartial. This is CHALLENGE FOR CAUSE. The Judge rules on whether or not there is sufficient reason to exclude this person from the jury, and if he decides there is, that person is excused and another is called in his place. Each side is also allowed a limited number of PEREMPTORY CHALLENGES. By use of the peremptory challenge, the party can have a person excluded from the jury even without cause -- for no particular reason. This is consistent with the ideal of a jury trial -- each person should be able to be satisfied, within reason, that his case has been tried by a jury made up of a disinterested and impartial group drawn from a fair cross section of the population.

NOTE: Distinguish the Petit Jury, which we are speaking about here, from the Grand Jury. The Petit Jury hears and decides a case (whether civil or criminal) and renders a verdict. A Grand Jury, although selected in much the same manner -- at random from a fair cross-section of the population -- has a different function. The Grand Jury is asked to decide only whether there is enough evidence to cause a person to be brought to trial for a crime. They hear only one side of the case -- the government's -- and they do not render a verdict; their decision is an indictment, which is merely an accusation,

or a decision that the person in question should stand trial to determine his innocence or guilt.

The Plaintiff must prove that he is entitled to have the Defendant pay for the damage. We say he has the BURDEN OF PROOF. It is not sufficient for him to explain to the jury why he thinks he is right. He must prove it. He does this by presenting EVIDENCE; that is, he calls upon witnesses who may have seen the accident to tell what they saw; he presents doctors to establish the extent of the injury; he shows pictures of the scene, medical bills, auto repair bills, city ordinances regarding traffic regulations, and any other evidence that will tend to prove to the jury that he is entitled to recover.

TESTIMONY is the oral evidence given by a witness as distinguished from that derived from writings and other documents.

The Defendant then has the task of rebutting the proof offered. He may attempt to IMPEACH one or more of the witnesses or to present other witnesses whose testimony may contradict what the plaintiff's witnesses have said. To impeach a witness is to discredit him -- to induce the jury not to believe him, possibly because he is not truthful, or is prejudiced, but just as possibly for other reasons such as that he does not see well, his view is obscured, he had been drinking, etc.

The attorney presents testimony of a witness by means of Examination. He asks questions, the answers to which are likely to bring out the facts he wants to establish. After the examination, the opposing attorney cross-examines the witness. He asks the witness questions designed to test the truth of his testimony or to bring out other facts.

Of course, witnesses to an accident may not want to take a day away from their work to come to Court to testify in a case that doesn't concern them. Attendance of witnesses at trial is secured by means of the SUBPOENA. A subpoena is a command that a person appear in Court to testify. A subpoena is issued by the Clerk, under the seal of the Court; it is served by the Marshal or by any adult not a party to the suit. When the subpoena is served it must be accompanied by tender of witness fee (\$20.00) and mileage. (10 cents per mile from the witness's home to the Court).

A SUBPOENA DUCES TECUM commands a person to appear in Court to testify and also to bring with him certain books or records which he has in his possession or under his control. For example, a subpoena duces tecum might be issued to the Plaintiff's employer commanding him to bring to Court the payroll ledger of his company to prove that the Plaintiff was earning as much as he claims to be.



The jury hears all the evidence offered by both sides -- listens to what the witnesses say, looks at the pictures, letters, records or other documents offered, hears the arguments of the attorneys and the jury charge, which is the Judge's instruction on the law as it is to be applied in the case, then retires to deliberate. They think about what they have heard and discuss it among themselves, then agree among themselves upon a verdict, which is their formal decision. It may be a general verdict, indicating only whether the decision is for the plaintiff or the defendant; or it may be a special verdict, answering certain specific questions.

If the case has been tried by the Court (the Judge without a jury), the Judge makes findings of fact and conclusions of law. In either event the next step is the ENTRY OF JUDGMENT.

The Judgment is separate from the verdict of the jury or the written Opinion of the Judge. It is the final decree or order of the Court in the case. The judgment is effective when it is entered on the docket sheet by the Clerk.

There are a few other terms which are related to this area of the case that we might discuss here.

**MOTION FOR A DIRECTED VERDICT:** When the plaintiff has presented all his evidence to the jury, the defendant

may feel that he has not proved enough to entitle him to recover. For example, he may have proved abundantly the fact that he was badly injured. Many doctors, hospital reports, etc., may substantiate this. But he may have failed to present any evidence to show that it was the defendant's fault. In this case, the defendant would make a Motion of a directed verdict. This asks the Court to direct the jury that there is only one possible verdict they can return and that is a verdict for the defendant.

Or, after the jury has returned its verdict, either party may feel that the verdict is obviously wrong and may make a Motion for Judgment N O V, Judgment notwithstanding the verdict -- asking the Court to render judgment different from the jury's verdict. This can be granted only if there was no evidence presented which would support the verdict of the jury.

If one party feels that the trial was grossly unfair because of something that was done wrong (for example, if one of the jurors slept or if the Judge or one of the lawyers inadvertantly said something which is likely to prejudice the jury unfairly during an important part of the trial), he may make a motion for a new trial. If this motion is granted, everything is begun again from the selection of a new jury.

Of course, if either party is aware that there is

some wrong being done during the course of the trial, there is no need to wait until the end of the trial to move for a new trial. At the time the wrong occurs or becomes known, either party may call it to the attention of the Court (the Judge), who will declare a MISTRIAL. The trial is immediately stopped, the jurors are excused, and a complete new trial is scheduled for a later date.

Most often, at the end of the trial, judgment is entered, the motion for a new trial is denied and the parties go on to the next step. If the plaintiff has prevailed, he has obtained a judgment entitling him to recover from the defendant a certain amount of money. This is supposed to represent the value in dollars of the damage he has suffered from the accident. Generally he will also be awarded interest and COSTS. The costs awarded are certain very limited expenses of the trial, such as the witness fees and mileage, which were paid at the time the witnesses were subpoenaed, certain of the expenses involved in taking depositions, etc. The attorney fees, which are usually the biggest expense the parties bear in a trial, are not included in the Costs which the losing party must pay to the winner.

After a certain number of days has passed, the plaintiff is entitled to collect his judgment. If the defendant has not willingly paid him the amount he may ask for

a Writ of Execution, which is merely an order that it be paid. Armed with this Writ, he can enforce his judgment in any of the various ways available to him.

## APPEAL

Even with all the safeguards to fairness that the rules of procedure provide, there may be reasons - good reasons - why one party might feel that he didn't get a fair trial. Perhaps he thinks the Judge, in his Charge to the Jury, gave an incorrect interpretation of the law to be applied, or that some evidence was presented to the jury which the rules prohibit, or even that the evidence simply does not justify the verdict the jury reached. In these cases the law provides for a review by a higher court - the Court of Appeals - of those problem areas where the dissatisfied party feels there was error. Generally he must have made known his objection to the supposed error at the time it was committed in order to be allowed to appeal it after the trial.

Within the time allowed the party who wants to appeal (the APPELLANT) files the NOTICE OF APPEAL. This lets everyone concerned know that the case is not over. If the defendant is appealing from a judgment ordering him to pay the plaintiff, he may obtain a STAY OF EXECUTION by giving a SUPERSEDEAS BOND. This stay will prevent the plaintiff from collecting the judgment until the case has been review-

ed on appeal. A supersedeas bond must be of a sufficient amount to insure that the judgment can and will be paid at the proper time. If the appellant does not ask for a stay of execution, he need only give a Bond for Costs, which is a much smaller amount, just enough to insure that the Costs of the appeal will be paid.

The Court of Appeals does not try the case again. It reviews the case from the record. The original papers and exhibits filed in the district court, the transcript of proceedings, if any, and a certified copy of the docket sheet entries constitute the record on appeal. The parties designate which parts of the record they want the appeal court to review. The clerk prepares the record, a filing fee is paid and the record is TRANSMITTED to the Court of Appeals. The whole thing, or such parts as are designated by the parties are physically sent to the Clerk of the Court of Appeals. This court will study the record and consider the objections or alleged errors that they are called upon to review. The attorney for each side will submit a printed BRIEF -- which is his attempt to persuade the court of the correctness of his position by explaining his position and by citing authorities which support it. They may be allowed to present oral arguments as well, if the court considers it necessary.

The Court of Appeals will render a judgment either

Affirming the judgment of the District Court (they agree that it is correct) or Reversing it, (they say it is wrong and order it changed). If it is reversed it may also be REMANDED; that is, sent back to the District Court for the taking of further evidence.

In a rare case, the parties may feel that the Court of Appeals has not correctly interpreted the law as it applies to their case, and that it is so important that it should be reviewed by the Supreme Court of the United States. The parties do not have a right of appeal to the Supreme Court, but they may ask for a WRIT OF CERTIORARI, (literally - to be made certain). If the Supreme Court wants to hear this particular case because it feels there is some point of law that ought to be clarified, or for some other reason, the Court will grant the Writ, which orders the lower court to send up the record to them for further review. Once the Supreme Court has ruled on a case, or refused to grant the Writ of Certiorari, the process is usually complete.

#### RECORD KEEPING

Everything that happens in a case is written down in one form or another. When the complaint is first filed, it is given a number, which is stamped on it, and it is put into a folder stamped with the same number.



Every document filed thereafter, the answer, motions, orders, subpoenas, etc., have the same number on them and they are put into the same folder, (which is informally called the record). Any proceeding in Open Court is noted in writing by the Clerk. This written notation is called a Minute Entry and it is also put into the record folder.

Besides being included in the record folder, each activity that occurs in a case is noted briefly, in one line or so, in the DOCKET BOOK, or on a DOCKET SHEET. By looking at the docket sheet it is possible to know immediately just exactly what has taken place in any given case.

There is another concept which properly belongs at the very beginning of this discussion, but which perhaps will be better understood at this point, and that is the concept of JURISDICTION. Jurisdiction denotes power or authority. In order for a judgment of a court to have any value, that court must have the authority or jurisdiction to decide the case. For most purposes, the United States District Court for the Eastern District of Louisiana (the court by which we are employed) has jurisdiction to settle disputes only between persons who are residents of Louisiana, or who have some connection or relationship with this

state. If you want to sue a resident of California, for example, you would have to sue him in a court which has jurisdiction over the residents of California. Our court here in Louisiana simply has no authority to decide or determine his rights or obligations. This is called JURISDICTION OVER THE PERSON.

A court must also have jurisdiction over the subject matter. If you have a squabble with your next door neighbor over his burning trash in his yard in violation of a city ordinance, or over the exact boundary line between your respective properties, or even if he crashes into you with his automobile, your suit will probably belong in the State Court or the City Court. Federal Court simply does not have jurisdiction over the subject matter of these disputes.

Only when there is what we call a federal question or diversity of citizenship do we have a case for the Federal Courts. A federal question means the dispute arises out of a violation of the United States Constitution or some federal law. Diversity of citizenship means the plaintiffs are citizens of a different state from that of the defendants. In the automobile accident case we considered in this discussion, the plaintiff would have been entitled to sue in Federal Court, rather than in State Court only if the defendant were a resident of

Louisiana and the plaintiff a resident of some other state.

Except in certain situations that are especially provided for, (such as Civil Rights suits and Seamen's suits), the dispute must involve more than \$10,000.00 to come within the jurisdiction of the Federal Court. This is sometimes referred to as "the jurisdictional amount".

Up to this point we have traced the steps in one kind of case -- an ordinary tort case. There are a few other types of cases with their own peculiar terminology.

#### INJUNCTION

An injunction is an order of the court prohibiting a person from doing something. For example, if a person is about to be evicted from his home in what he believes to be violation of a federal law, he may apply to the court for an injunction -- an order prohibiting the landlord from evicting him. The judge will probably set the case for a hearing within a few days -- as soon as everyone can be notified and a place made on the judge's calendar. But it may be that the landlord intends to put him out today, and even a few days' delay in obtaining the injunction will result in great harm to him and his family. In this case he may apply to the Court for a TEMPORARY RESTRAINING ORDER, by which the Court orders the party against whom it is obtained to wait -- not evict him until a hearing can be held. The Court can issue this order

even without hearing the reasons the landlord might have for wanting to evict the tenant.

### THREE JUDGE COURT

If the injunction is to prohibit the enforcement of a state law or an act of Congress on the grounds that such law is unconstitutional, then a three judge court must hear and decide whether to grant it. The three judge court is made up of the judge to whom the case was originally allotted and two other judges appointed by the Chief Judge of the (5th) Circuit, at least one of whom must be a circuit judge. Two judges must agree in order to grant the injunction.

### HABEAS CORPUS

A Writ of Habeas Corpus is an order of the court commanding someone who has a person in custody to bring that person before the court. The most common type of habeas corpus petitions that come to us are from prisoners in jail under sentence of State Court. The person who brings this action is called the PETITIONER rather than the plaintiff as in most other civil actions. The petitioner alleges (claims) that he is held in custody in violation of the Constitution of the United States, and he wants the Federal Court to examine the grounds of his complaint and, upon finding that the custody is illegal, to order his immediate release.

If a petitioner alleges, for example, that he was convicted without a trial, or that he pled guilty because he was physically forced to do so, or was tricked to do it, or that he had no lawyer to represent him and he did not understand what he was doing when he confessed, etc., the Court will order the Warden (or other person holding him in custody) to show cause why the Writ should not be granted. The warden will make a return showing the cause of the detention. The judge will study these documents, set a hearing if necessary, and will dispose of the matter as law and justice require.

"2255"

A prisoner convicted in a Federal Court, who feels that he was sentenced in violation of the Constitution of the United States, has a similar remedy which is even simpler and easier to use. He makes a motion in the same court which sentenced him, to vacate, set aside, or correct the sentence. This is informally known as a 2255 because it is provided for in Section 2255 of that part of the U.S. Code which deals with judicial procedure.

#### IN FORMA PAUPERIS

Both of these actions are often brought "in forma pauperis" (though any kind of case may be brought in forma pauperis). This means the petitioner declares

ORIENTATION MANUAL  
FOR SECRETARIES TO  
FEDERAL TRIAL COURT JUDGES

- ERRATUM -

The section on BANKRUPTCY in Appendix B, at pages B1-25 and B1-26 should read as follows:

BANKRUPTCY

The Bankruptcy Act is an important federal law codified as Title 11 of the United States Code. Under the constitutional provision that Congress shall have the power to establish "Uniform laws on the subject of bankruptcies throughout the United States" (Article 1, Section 8), four national bankruptcy laws have been enacted. The fourth, and present, bankruptcy act was passed July 1, 1898. It has been amended a number of times. It was substantially amended in 1938, by the Chandler Act, giving debtors an alternative to bankruptcy by paying their creditors at least a percentage of monies owed them from future earnings under the protection and supervision of the federal bankruptcy courts.

The purposes of bankruptcy are twofold: (1) to grant to the honest debtor who is overwhelmed by his debts a chance to make a fresh start in life and remain a useful member of society by relieving him of the oppressive burden of his debts; and (2) to provide for an orderly liquidation of the assets of the bankrupt not exempt under state law from the benefit of his creditors.

The REFEREE IN BANKRUPTCY is a judicial officer who presides over the administration of all bankruptcy proceedings referred to him. Under Rules of Bankruptcy Procedure, approved by the Judicial Conference of the United States, the Supreme Court of the United States, and by the Congress, which became effective October 1, 1973, the referee in bankruptcy is referred to as a bankruptcy judge. The reason for the change in title from referee to bankruptcy judge is to impress upon the seven million plus bankrupts and creditors who are involved in these proceedings each year that they are in effect involved in a court proceeding. Referees in bankruptcy are appointed by the U. S. District Judges in the districts in which they serve for a term of six years.



The TRUSTEE IN BANKRUPTCY is an important court officer in bankruptcy proceedings. Creditors have a statutory right to elect a trustee. If they fail to do so, the bankruptcy judge (referee) normally appoints one. The trustee, by operation of law, takes title to all property of the bankrupt which is not exempt to him under state law. The trustee, under the supervision of the bankruptcy judge, has the duty of liquidating all non-exempt assets of the bankrupt for the benefit of creditors.

under oath that he is a pauper -- unable to pay the costs of the suit. By the Court's permission his suit will then be filed as a pauper suit -- he need not pay a filing fee, he may obtain authorization of the court to obtain necessary subpoenas without payment of the marshal's fee and even obtain necessary transcripts of the proceedings in which he was convicted, at the expense of the government. At the discretion of the judge, a lawyer may also be appointed to represent him at government expense.

#### BANKRUPTCY

When a person or a corporation does not have enough money and other assets to meet its obligations, it may go into bankruptcy -- voluntary, if it chooses to file the bankruptcy proceedings itself, or involuntary, if one or more of the creditors petitions to have it declared bankrupt. A REFEREE IN BANKRUPTCY is an officer of the Court, appointed by the Court, who acts somewhat as a judge to determine the rights of the various creditors and to try to protect them and the stockholders as much as possible.

The TRUSTEE IN BANKRUPTCY is a person appointed by the Referee to take over the assets of the bankrupt and handle them during the time the case is in litigation. Bankruptcy proceedings are governed by a separate set of rules and follow a procedure which in some respects differ

from what we have discussed previously in regular civil action cases.

#### ADMIRALTY AND MARITIME

Admiralty cases are those which pertain to seamen and vessels which ply the navigable waters of the United States. Admiralty cases are civil actions, and for the most part follow the rules of civil procedure. There are a few specialized features, however, and a few specialized terms.

Action IN REM -- Rem is a latin word which means "thing". An action in rem is an action against a thing rather than against the person who owns it. For example, if a vessel causes damage -- rams another vessel, or if it owes a debt for food and provisions for a voyage, the party who has suffered the loss, or to whom the debt is owed, may, of course, sue the owner of the ship, but under certain circumstances he may also sue the ship directly. A warrant for the arrest of the ship is issued. The ship is arrested and possibly released by the posting of a bond. The owner or whoever appears to have an ownership interest in the vessel is summoned or noticed to file a claim or answer or the vessel may be sold for payment of the debt. After public notice according to the rules, it is sold by the marshal and the proceeds of the sale paid into the registry of the court to be disposed of according to law.

LIMITATION OF LIABILITY - There are certain instances when a shipowner is liable for damages only to the extent of the value of the ship. That is, he is not personally liable to pay the additional amount if the sale of the vessel is not sufficient to take care of the damages the vessel has caused. When such damage occurs, the shipowner petitions the court to declare the limit of his liability. If the Court decides that he is entitled to have his liability limited to the value of the ship, the ship is appraised and the owner's interest in it valued and weighed against the claims, and the claims are paid off pro rata; that is, the money is divided among them in proportion to the size of the various claims.

CRIMINAL ACTIONS

A criminal case runs along somewhat the same lines as a civil case, though there are many respects in which they are different and many instances in which different terms are used. In this discussion we will mainly touch on the points of difference, in order to bring out the different terms which ought to be explained.

For a criminal case to be in Federal Court, it must involve a violation of a federal law; it is an offense against the United States and it is prosecuted by the United States Attorney. The title of the case will be "U.S.A. versus (the defendant)".

PRELIMINARY PROCEEDINGS - those which begin the criminal prosecution.

The COMPLAINT - a written statement of the essential facts constituting the offense, made before the Magistrate. The Complaint may be made by anyone, but it is usually made by the U.S. Attorney.

If it appears that there is probable cause to believe that the defendant has committed a crime, a WARRANT FOR ARREST is issued by the Magistrate. The warrant names the defendant, describes the crime, and orders the marshal to arrest him.

Instead, the Magistrate may, at the request of the U.S. Attorney, issue a SUMMONS, which orders the defendant to appear at a stated time and place, rather than hav-

ing him arrested and brought there.

The person making the arrest must bring the defendant before the Magistrate without unnecessary delay, and the defendant is informed of his rights. He is not called upon to plead innocent or guilty at this time. He may retain counsel (call in his own attorney whom he will pay himself), or if he cannot afford to pay an attorney, he may have counsel appointed for him at the expense of the government.

There may be a PRELIMINARY EXAMINATION at which evidence is presented. If it does not appear from the evidence that there is probable cause to believe that the defendant has committed the crime, he is discharged and the papers in the proceeding are forwarded to the Clerk. If there appears to be probable cause, the defendant is held to answer in the District Court and bail may be set according to the rules. Bail is an amount of money which must be put up, or at least guaranteed, to assure that the defendant will be present at the time set for trial. Cash or a bond may be given. Bond, as we have discussed earlier, is basically a promise to pay a certain amount of money if the conditions of the bond are not met -- in this instance, if the defendant does not show up for trial. Bonds may be given by a commercial bonding company or by a private individual who owns sufficient property to be



able to pay the amount promised. In either case there are special rules which govern the acceptability of Bonds and only those which meet the requirements of the rules can be given to procure the defendant's release pending trial. The formal accusation, known as the indictment, is brought by the grand jury.

We have spoken of the grand jury before. Here we will only say that the jurors are summoned to hear the evidence presented to them by the U.S. Attorney; they may subpoena witnesses and ask for whatever additional information they need. They do not determine the innocence or guilt of the accused, nor even hear his side of the story. They merely decide whether there is enough evidence to cause him to be tried. If they decide the evidence is sufficient the grand jury returns an INDICTMENT - a formal written accusation which charges the defendant with the commission of a crime. The indictment states the facts constituting the crime and cites the statute, rule or regulation which the defendant is alleged to have violated.

Not every accusation must be brought by way of an indictment. All but the most serious may be brought by way of what is known as an INFORMATION, which is about the same thing, except that it is not found by a grand jury, but merely made by the U.S. Attorney.

The next step in the process is the ARRAIGNMENT. The defendant is called into open court, the indictment or information is read to him and he is given a copy of it; then he is required to enter his plea. He may plead not guilty, guilty, or nolo contendere. (Nolo contendere, or no contest, means the defendant does not plead guilty but he will receive the sentence of the court just as though he were guilty. The judge has the right, in his own discretion, to accept a plea of nolo contendere or to refuse it.)

If the defendant has pled not guilty he is returned to custody or allowed to go free on bail while awaiting the day set for trial. In all cases, except those punishable by death, the defendant has a right to have bail set.

#### PRE-TRIAL MOTIONS

During the time before the trial there are various motions which are likely to be brought; for example:

**MOTION TO DISMISS:** The defendant asks the Court to dismiss the charges against him altogether, because of some defect. He may claim that the indictment was not brought according to the rules, or that the court has no jurisdiction over the offense with which he is charged, or any other fact which would cause the court to dismiss the indictment or information against him.

**MOTION TO SUPPRESS EVIDENCE:** The defendant asks the

Court not to allow certain evidence to be admitted against him at the trial because it was obtained illegally. For example, police may have searched his home without a search warrant, and as a result of such a search, obtained narcotics, or burglary tools, or checks stolen from the U.S. mail. According to the U.S. Constitution, a person has a right to enjoy the privacy of his home without fear of unreasonable searches. To insure that this right will be respected, the law provides that anything obtained as a result of such a search can be excluded from evidence in a criminal case. This motion is used to exclude this evidence.

MOTION TO SEVER: In a case where two defendants are being tried together, one of them may feel that he will be prejudiced by the bad reputation of the other or by the strength of the evidence against the other; for whatever reason he may ask the Court to separate the two and try them separately.

MOTION FOR A BILL OF PARTICULARS: The defendant asks the Court to order the attorney for the government to state the details of the alleged crime, the time and place at which it is supposed to have been committed, etc.

MOTION FOR DISCOVERY AND INSPECTION: Asks the Court to order the attorney for the government to permit the defendant to inspect and copy certain documents or information which the defendant has a right to know about; for

example, any statements or confessions of the defendant, reports of physical or mental examinations, and under certain circumstances, other papers, documents, or objects which are in the possession of the government.

**MOTION FOR CHANGE OF VENUE:** Generally a defendant is to be tried in the district in which the crime is alleged to have been committed. The defendant may move for a transfer to another district if there appears to be such prejudice that he could not obtain a fair trial in the district where the case is pending. Venue is the geographical location in which a case is tried.

During this time before trial, depositions may be taken, witnesses will be subpoenaed, etc. The rules are sometimes different from the same procedures when used in a civil case, but basically the processes are the same.

The selection of the trial jury is also about the same, except that a greater number of peremptory challenges are allowed.

At the trial itself, evidence is presented by way of examination and cross examination of witnesses. Rules of evidence - what is admissible and what is not - are somewhat different in order to protect the right of the defendant not to be required to incriminate himself. The attorneys make closing arguments and the judge charges the jury on the law involved in the case.

After all the evidence of one or both sides has been presented, the defendant may bring a Motion for Acquittal. Acquittal is equivalent to a legal decree of the innocence of the defendant.

If the jury returns a verdict of Guilty, the Court may, on motion of the defendant, set aside the verdict and enter a judgment of acquittal. The verdict of the jury must be unanimous, and upon return of the verdict the jury may be polled (each juror asked individually whether that is his verdict) to assure that there is unanimous concurrence.

A judgment of conviction shall set forth the plea, the verdict of the jury (or findings of the Court, if the case was tried without a jury) and the adjudication (pronouncement of the judgment) and sentence.

Before sentencing, the probation office of the court may make a pre-sentence investigation and report which will be helpful to the court in imposing sentence or granting probation. Probation is allowing a convicted person to go at large, his sentence being suspended as long as he behaves properly and observes certain conditions. It is often given in cases of minor offenders or first offenders who appear to deserve it. The Court informs the defendant of his right to appeal and the sentence usually will be stayed-(stopped; temporarily suspended) - if an appeal is

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taken and the defendant is admitted to bail. A sentence of death will, of course, be stayed pending appeal.





GLOSSARY (Black's Law Dictionary - 1968 Ed.)

**ABET.** A French word combined of two words "a" and "beter" - to bait or excite an animal. It includes knowledge of the wrongful purpose of the perpetrator and counsel and encouragement in the crime. To encourage, incite, or set another on to commit a crime. This word is always applied to aiding the commission of a crime. To abet another to commit a murder is to command procure, or counsel him to commit it; To facilitate the commission of a crime, promote its accomplishment, or help in advancing or bringing it about. It includes knowledge of wrongful purpose of perpetrator. "Aid" and "abet" are nearly synonymous terms as generally used; but, strictly speaking, the former term does not imply guilty knowledge or felonious intent, whereas the word "abet" includes knowledge of the wrongful purpose and counsel and encouragement in the commission of the crime.

**ABETTOR.** In criminal law. An instigator, or setter on; one who promotes or procures a crime to be committed. One who commands, advises, instigates, or encourages another to commit a crime; a person who, being present or in the neighborhood, incites another to commit a crime, and thus becomes a principal.

**ABSCOND.** To go in a clandestine manner out of the jurisdiction of the courts, or to lie concealed, in order to avoid their process. To hide, conceal, or absent oneself clandestinely, with the intent to avoid legal process. Fleeing from arresting or prosecuting officers of this state.

**ACCESSORY.** Anything which is joined to another thing as an ornament, or to render it more perfect, or which accompanies it, or is connected with it, as in incident, or as subordinate to it, or which belongs with it; for example, the halter of a horse, the frame of a picture, the keys of a house. (Criminal Law: Contributing to or aiding in the commission of a crime. One who, without being present at the commission of a felonious offense, becomes guilty of such offense, not as a chief actor, but as a participator, as by command, advice, instigation, or concealment; either before or after the fact of commission. An accessory to a crime is always an accomplice.

**ACCOMPLICE.** In criminal law. A person who knowingly, voluntarily, and with common intent with the principal offender unites in the commission of a crime. An "accomplice" is one who is guilty of complicity in crime charged, either by being present and aiding or abetting in it, or having advised and encouraged it, though absent from place when it was committed, though mere presence acquiescence, or silence, in the absence of a duty to act, is not enough, no matter how reprehensible it may be, to constitute one an accomplice. Knowledge and concealment not enough.

**ACCUSE.** To bring a formal charge against a person, to the effect that is guilty of a crime or punishable offense, before a court or magistrate having jurisdiction to inquire into the alleged crime.

**ACCUSED.** "Accused" is the generic name for the defendant in a criminal case, and is more appropriate than either "prisoner" or "defendant". The term cannot be said to apply to a defendant in a civil action. (EDITOR'S NOTE: The word, "defendant" is in common usage in D.C.)

**ACQUIT.** To set free, release or discharge as from an obligation, burden or accusation. To absolve, one from an obligation or a liability; or to legally certify the innocence of one charged with crime. Acquittal discharges from guilt, pardon only from punishment.

**ACTION.** The legal and formal demand of one's right from another person or party made and insisted on in a court of justice. An ordinary proceeding in a court of justice by which one party prosecutes another for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense.

**AD DAMNUM.** In pleading. "To the damage". The technical name of that clause of the writ or declaration which contains a statement of the plaintiff's money loss, or the damages which he claims.

**AD HOC.** For this; for this special purpose

**AD INFINITUM.** Without limit; to an infinite extent; indefinitely.

**AD LITEM.** For the suit; for the purposes of the suit; pending the suit. A guardian ad litem is a guardian appointed to prosecute or defend a suit on behalf of a party incapacitated by infancy or otherwise.

**ADJUDGE.** To pass on judicially, to decide, settle, or decree, or to sentence or condemn.

**ADJUDICATE.** To settle in the exercise of judicial authority. To determine finally. Synonymous with adjudge in its strictest sense.

**ADMINISTRATOR.** A person to whom letters of administration, that is, an authority to administer the estate of a deceased person, having been granted by the proper court. A representative of limited authority, whose duties are to collect assets of estate, pay its debts, and distribute residue to those entitled. He resembles an executor, but, being appointed by the court, and not by the deceased, he has to give security for the due administration of the estate, by entering into a bond with sureties, called the administration bond.

**ADMIRALTY.** A court which has a very extensive jurisdiction of maritime causes, civil and criminal, controversies arising out of acts done upon or relating to the sea, and questions of prize. Also, the system of jurisprudence relating to and growing out of the jurisdiction and practice of the admiralty courts.

**AFFIDAVIT.** A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath. A statement or declaration reduced to writing, and sworn to or affirmed before some officer who has authority to administer an oath or affirmation.

**AFFIRM.** To ratify, make firm, confirm, establish, reassert. In the practice of appellate courts, to affirm a judgment decree, or order, is to declare that it is valid and right, and must stand as rendered below; to ratify and reassert it; to concur in its correctness.

- AID AND ABET.** Help, assist, or facilitate the commission of a crime, promote the accomplishment thereof, help in advancing or bringing it about, or encourage, counsel, or incite as to its commission. Implies knowledge. At common law it consisted in being present at the time and place, and doing some act to render aid to the actual perpetrator of the crime, though without taking a direct share in its commission. It comprehends all assistance rendered by words, acts, encouragement, support, or presence, actual or constructive, to render assistance if necessary.
- ALIAS SUMMONS.** A summons issued when original has not produced its effect because defective in form or manner of service, and when issued, which supersedes the first writ.
- ALLEGE.** To state, recite, assert, or charge; to make an allegation. To affirm, assert, or declare.
- AMANUENSIS.** One who writes on behalf of another that which he dictates.
- AMICUS CURIAE.** A friend of the court. Also a person who has no right to appear in a suit but is allowed to introduce argument, authority, or evidence to protect his interest. Implies friendly intervention of counsel to remind court of legal matter which has escaped its notice, and regarding which it appears to be in danger of going wrong.
- ANCILLARY ADMINISTRATION.** Administration in state where decedent has property and which is other than where decedent was domiciled.
- APPEAL.** In civil practice. The complaint to a superior court of an injustice done or error committed by an inferior one, whose judgment or decision the court above is called upon to correct or reverse. In general terms a resort to an upper court or tribunal.  
(EDITOR'S NOTE: See also, F.R.App.P.)

**APPEAL IN FORMA PAUPERIS.** A privilege given indigent person to prosecute an appeal, otherwise and independently allowable, without payment of fees and costs incident to such prosecution.

**APPEARANCE.** A coming into court as party to a suit, whether as plaintiff or defendant. The formal proceeding by which a defendant submits himself to the jurisdiction of the court. The voluntary submission to a court's jurisdiction. An appearance may be either general or special; the former is a simple and unqualified or unrestricted submission to the jurisdiction of the court, the latter a submission to the jurisdiction for some specific purpose only, not for all purposes of the suit. A special appearance is for the purpose of testing the sufficiency of service or the jurisdiction of the court; a general appearance is made where the defendant waives defects of service and submits to the jurisdiction. An "Answer" constitutes an "appearance".

**APPELLANT.** The party who takes an appeal from one court or jurisdiction to another.

**APPELLEE.** The party in a cause against whom an appeal is taken; that is, the party who has an interest adverse to setting aside or reversing the judgment.

**ARGUMENT.** An effort to establish belief by a course of reasoning.

**ARRAIGN.** In criminal practice. To bring a prisoner to the bar of the court to answer the matter charged upon him in the indictment. The arraignment of a prisoner consists of calling upon him by name, and reading to him the indictment, and demanding of him whether he be guilty or not guilty, and entering his plea.

**AT ISSUE.** Whenever the parties come to a point in the pleadings which is affirmed on one side and denied on the other, they are said to be at an issue.  
(EDITOR'S NOTE: When a civil action is at issue in U.S.D.C. for D.C., the Clerk makes an entry on the Docket, "CALENDARED" and notifies the Calendar Division.

**ATTACHMENT.** The act or process of taking, apprehending, or seizing persons or property, by virtue of a writ, summons, or other judicial order, and bringing the same into the custody of the law; used either for the purpose of bringing a person before the court, of acquiring jurisdiction over the property seized, to compel an appearance, to furnish security for debt or costs, or to arrest a fund in the hands of a third person who may become liable to pay it over. Also the writ or other process for the accomplishment of the purposes above enumerated, this being the more common use of the word.  
The purpose is to take defendant's property into legal custody, so that it may be applied on defendant's debt to plaintiff when established.

**AUDITOR.** A public officer whose function is to examine and pass upon the accounts and vouchers of officers who have received and expended public money by lawful authority. An officer who examines accounts and verifies the accuracy of the statements therein.

**BAIL,v.** To procure the release of a person from legal custody by undertaking that he shall appear at the time and place designated and submit himself to the jurisdiction and judgment of the court. To deliver the defendant to persons who, in the manner prescribed by law, become security for his appearance in court. To set at liberty a person arrested or imprisoned, on security being taken for his appearance in court on a day and a place certain, which security is called "bail", because the party arrested or imprisoned is delivered into the hands of those who bind themselves for his forthcoming in order that he may be safely protected from prison.

**BAIL,n.** The surety or sureties who procure the release of a person under arrest, by becoming responsible for his appearance at the time and place designated. Those persons who become sureties for the appearance of the defendant in court.

**BENCH.** A seat of judgment or tribunal for the administration of justice; the seat occupied by judges in courts; also the court itself or the aggregate of the judges composing a court, as in the phrase "before the full bench".



**BENCH WARRANT.** Process issued by the court itself, or "from the bench," for the attachment or arrest of a person; either in case of contempt, or where an indictment has been found, or to bring in a witness who does not obey the subpoena. So called to distinguish it from a warrant, issued by a justice of the peace, alderman, or commissioner.

(Editor's Note: In the U.S.D.C. for D.C., the court may direct the issuance of a BENCH WARRANT which commands the arrest of a defendant in a criminal case, OR, the court may direct the issuance of an ATTACHMENT FOR CONTEMPT which commands the arrest of one personally served with a subpoena to appear as a witness who has failed to respond to the subpoena and has not therefore obeyed the process of the court. There is a form BENCH WARRANT prepared by the Clerk and generally taken to the Warrant Squad in the Marshal's Office. There is a form for an ATTACHMENT FOR CONTEMPT that is filled out by the clerk and taken to the Marshal for execution.)

**CHALLENGE.** (To the array= An exception to the whole panel in which the jury are arrayed, or set in order by the sheriff in his return, upon account of partiality, or some default in the sheriff, coroner, or other officer who arrayed the panel or made the return. A challenge to the form and manner of making up the panel. A challenge that goes to illegality of drawing, selecting, or inpaneling array.)  
 (General challenge= A species of challenge for cause, being an objection to a particular juror, to the effect that the juror is disqualified from serving in any case.)  
 (Peremptory Challenge= In criminal practice. A species of challenge which the prosecution or the prisoner is allowed to have against a certain number of jurors, without assigning any cause.)  
 (Principal challenge= A challenge of a juror for a cause which carries with it, prima facie, evident marks of suspicion either of malice or favor...; that he has an interest in the cause. A challenge based on alleged facts from which, if proven to be true, incapacity to serve is conclusively presumed.)

(EDITOR'S NOTE: SEE ALSO, TITLE 28, U.S.C. 1870 and TITLE 18 U.S.C. 3442 (F.R.Cr.P. #24).

**CHANGE OF VENUE.** Properly speaking, the removal of a suit begun in one county or district to another county or district for trial, though the term is also sometimes applied to the removal of a suit from one court to another court of the same county or district.

**CHARGE, n.** (General charge= The charge or instruction of the court to the jury upon the case, as a whole, or upon its general features and characteristics.)  
(Special charge= A charge or instruction given by the court to the jury, upon some particular point or question involved in the case, and usually in response to counsel's request for such instruction.)

**CIVIL ACTION.** An action wherein an issue is presented for trial formed by averments of complaint and denials of answer or replication to new matter; an adversary proceeding for declaration, enforcement, or protection of a right, or redress, or prevention of a wrong. Every action other than a criminal action. Both actions at law and actions in equity. Civil suits relate to and affect only individual rights whereas criminal prosecutions involve public wrongs.

**CLASS ACTION.** An action brought on behalf of other persons similarly situated.

**CLERK OF COURT.** An officer of a court of justice who has charge of the clerical part of its business, who keeps its records and seal, issues process, enters judgments and orders, gives certified copies from the records, etc.

(EDITOR'S NOTE: Please refer to Orientation Manual for a more complete description of the function and powers and duties of the Clerk of Court!)

**CODE.** A collection, compendium or revision of laws. A complete system of positive law, scientifically arranged, and promulgated by legislative authority. Any systematic body of law.

**COMMON LAW.** As distinguished from the Roman Law, the modern civil law, the canon law, and other systems, the common law is that body of law and juristic theory which was originated, developed, and formulated and is administered in England, and has obtained among most of the states and peoples of Anglo-Saxon stock.

As distinguished from law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs; and, in this sense, particularly the ancient unwritten law of England.

As concerns its force and authority in the United States, the phrase designates that portion of the common law of England (including such acts of parliament as were applicable) which had been adopted and was in force here at the time of the Revolution. This, so far as it has not been expressly abrogated, is recognized as an organic part of the jurisprudence of most of the United States.

**CONDEMNATION.** (In real property law= The process by which property of a private owner is taken for public use, without his consent, but upon the award and payment of just compensation, being in the nature of a forced sale and condemner stands towards owner as buyer toward seller.)

**CONSERVATOR.** A guardian; protector; preserver. "When any person having property shall be found to be incapable of managing his affairs, ... it shall appoint some person to be his conservator, who, upon giving a probate bond, shall have the charge of the person and estate of such incapable person."

(EDITOR'S NOTE: See also, TITLE 21, SECTION 1501, DISTRICT OF COLUMBIA CODE, 1967 Ed. concerning Conservators in the District of Columbia)

**CONTEMPT OF COURT.**

Any act which is calculated to embarrass hinder, or obstruct court in administration of justice, or which is calculated to lessen its authority or its dignity. Committed by a person who does any act in willful contravention of its authority or dignity, or tending to impede or frustrate the administration of justice, or by one who, being under the court's authority as a party to a proceeding therein, wilfully disobeys its lawful orders or fails to comply with an undertaking which he has given.

**CLASSIFICATION.** Contempts are of two kinds, direct and constructive.

Direct contempts are those committed in the immediate view and presence of the court (such as insulting language or acts of violence) or so near the presence of the court as to obstruct or interrupt the due and orderly course of proceedings. These are punished summarily. They are also called "criminal" contempts, but that term is better used in contrast with "civil" contempts.

Constructive (or indirect) contempts are those which arise from matters not occurring in or near the presence of the court, but which tend to obstruct or defeat the administration of justice, and the term is chiefly used with reference to the failure or refusal of a party to obey a lawful order, injunction, or decree of the court laying upon him a duty of action or forbearance.

Contempts are also classed as civil or criminal. The former are those quasi contempts which consists in the failure to do something which the party is ordered by the court to do for the benefit or advantage of another party to the proceeding before the court, while criminal contempts are acts done in disrespect of the court or its process or which obstruct the administration of justice or tend to bring the court into disrespect. A civil contempt is not an offense against the dignity of the court, but against the party in whose behalf the mandate of the court was issued, and a fine imposed for his indemnity. But criminal contempts are offenses or injuries offered to the court, and a fine or imprisonment imposed.

**COUNTERCLAIM.** A claim presented by a defendant in opposition to or deduction from the claim of the plaintiff. A species of set-off or recoupment introduced by the codes of civil procedure in many of the states, of a broad and liberal character.

A counterclaim must be a cause of action, and seeks affirmative relief, while a defense merely defeats the plaintiff's cause of action by a denial or confession and avoidance, and does not admit of affirmative relief to the defendant.

(ALSO, SEE F.R.CvP. #13: In part, Rule 13 states: "(a) Compulsory Counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence what is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon his claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this Rule 13."

(b) PERMISSIVE COUNTERCLAIMS. "A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim."

(f) OMITTED COUNTERCLAIM. "When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may be leave of court set up the counterclaim by amendment."

**CROSS-CLAIM.** EDITOR'S NOTE: See Federal Rule of Civil Procedure (F.R.CvP.#13(g): Cross-claim Against Co-Party. A pleading may state as a cross-claim any claim by one party against a co-party arising out of the same transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to

the cross-claimant for all or party of a claim asserted in the action against the cross-claimant."

**CROSS-EXAMINATION.** In practice. The examination of a witness upon a trial or hearing, or upon taking of a deposition, by the party opposed to the one who produced him, upon his evidence given in chief, to test its truth, to further develop it, or for other purposes.

**CUM TESTAMENTO ANNEXO.** L. Lat. With the will annexed. A term applied to administration granted where a testator makes an incomplete will, without naming any executors, or where he names incapable persons, or where the executors named refuse to act. If the executor has died, an administrator de bonis non cum testamento annexo (of the goods not (already) administered upon with the will annexed) is appointed. Often abbreviated D.B.N.C.T.A.

**DAMAGES.** A pecuniary compensation or indemnity, which may be recovered in the courts by any person who has suffered loss, detriment, or injury, whether to his person, property, or rights, through the unlawful act or omission or negligence of another.  
(Compensatory damages - are such as will compensate the injured party for the injury sustained, and nothing more; such as will simply make good or replace the loss caused by the wrong or injury.  
(Exemplary damages - are damages on an increased scale awarded to the plaintiff over and above what will barely compensate him for his property loss, where the wrong done to him was aggravated by circumstances of violence, oppression, malice, fraud, or wanton and wicked conduct on the part of the defendant, and are intended to solace the plaintiff for mental anguish, laceration of his feelings, shame, degradation, or other aggravations of the original wrong, or else to punish the defendant for his evil behavior or to make an example of him, for which reason they are also called, "punitive" damages.  
(Also, see many other definitions by Black, pp. 466 et seq. (1968 Ed.).

**DE BONIS NON ADMINISTRATIS.** Of the goods not administered. When an administrator is appointed to succeed another, who has left the estate partially unsettled, he is said to be granted "administration de bonis non", that is of the goods not already administered.

**DE MINIMIS NON CURAT LEX.** The law does not care for, or take notice of, very small or trifling matters. The law does not concern itself with trifles.

**DEFAULT.** By its derivation, a failure. An omission of that which ought to be done. Specifically, the omission or failure to perform a legal duty.  
In practice: Omission; neglect or failure of any party to take step required of him in progress of cause.  
(EDITOR'S NOTE: SEE, ALSO, FRCvP 55)

**DEFENDANT.** The person defending or denying; the party against whom relief or recovery is sought in an action or suit.

**DEPONENT.** In practice. One who deposes (that is, testifies or makes oath, now in writing) to the truth of certain facts; one who gives under oath testimony which is reduced to writing; one who makes oath to a written statement. The party making an affidavit is generally so called, though in the U.S. the term "affiant" is also used....

**DEPOSITION.** The testimony of a witness taken upon interrogatories not in open court, but in pursuance of a commission to take testimony issued by a court, or under a general law on the subject, and reduced to writing and duly authenticated and intended to be used upon the trial of an action in court.  
(EDITOR'S NOTE: See, also, FRCvP 30, 31, 32)

**DEVISEE.** The person to whom lands or other real property are devised or given by will.



**DIRECT EXAMINATION.** In practice. The first interrogation or examination of a witness, on the merits, by the party on whose behalf he is called.

**DISMISSAL.** An order or judgment finally disposing of an action, suit, motion, etc., by sending it out of court, though without a trial of the issues involved. Although use of the term frequently signifies that it was not decision on merits.  
(EDITOR'S NOTE: See also, FRCvP #41)

**DISMISSAL WITH PREJUDICE.** An adjudication on the merits, and final disposition, barring the right to bring or maintain an action on the same claim or cause. It is res judicata as to every matter litigated. A judgment of dismissal and a judgment of nonsuit have the same legal effect.

**DISMISSAL WITHOUT PREJUDICE.** Dismissal, as of a bill in equity, without prejudice to the right of the complainant to sue again on the same cause of action. The effect of the words "without prejudice" is to prevent the decree of dismissal from operating as a bar to a subsequent suit.

**DISMISSED.** A judgment of "Dismissed", without qualifying words indicating a right to take further proceedings, is presumed to be dismissed on the merits.

**DOCKET.** A minute, abstract, or brief entry; or the book containing such entries. A formal record, entered in brief of the proceedings in a court of justice. A book containing an entry in brief of all the important acts done in court in the conduct of each case, from its inception to its conclusion.  
(EDITOR'S NOTE: See FRCvP 79(a) and FRCrP 55)

**DUCES TECUM.** (Lat. Bring with you.) The name of certain species of writs, of which the SUBPOENA DUCES TECUM is the most usual, requiring a party who is summoned to appear in court to bring with him some document, etc.

**ET AL.** An abbreviation for ET ALII, (and others). The singular is "et alius" It may also mean "and another" in the singular. Where the words "et al." are used in a judgment against defendants, the quoted words include all defendants.

**EXECUTOR.** A person appointed by a testator to carry out the directions and requests in his will, and to dispose of the property according to his testamentary provisions after his decease.

**FIAT.** (Lat. "Let it be done.") In English practice, a short order or warrant of a judge or magistrate directing some act to be done; an authority issuing from some competent source for the doing of some legal act.

**FINDING OF FACT.** A determination of a fact by the court averred by one party and denied by the other, and founded on evidence in the case. A conclusion by way of reasonable inference from the evidence.

(EDITOR'S NOTE: See also, FRCvP 52)

**FORTHWITH.** Immediately; without delay, directly, hence within a reasonable time under the circumstances of the case; promptly and with reasonable dispatch.

**FORUM NON CONVENIENS.** The doctrine is patterned upon the right of the court in the exercise of its equitable powers to refuse the imposition upon its jurisdiction of the trial of cases even though the venue is properly laid if it appears that for the convenience of litigants and witnesses and in the interest of justice the action should be instituted in another forum where the action might have been brought. The doctrine presupposes at least two forums in which the defendant is amenable to process and furnishes criteria for choice between such forums.

**GARNISH, v.** To warn or summon. To issue process of garnishment against a person.

**GARNISHEE.** One garnished; a person against whom process of garnishment is issued; one who has money, or property in his possession belonging to a defendant, or who owes the defendant a debt, which money, property, or debt is attached in his hands, with notice to him not to deliver or pay it over until the result of the suit be ascertained.

**GARNISHMENT.** A warning to a person in whose hands the effects of another are attached, not to pay the money or deliver the property of the defendant in his hands to him, but to appear and answer the plaintiff's suit.

(EDITOR'S NOTE: See also, Title 16, Section 541 et seq., D.C. CODE, 1967 Ed. for information re: ATTACHMENTS)

**HABEAS CORPUS.** (Lat. (You have the body.) The name given to a variety of writs having for their object to bring a party before a court or judge. In common usage and whenever these words are used alone, they are understood to mean the HABEAS CORPUS AD SUBJICIENDUM.

**HABEAS CORPUS AD SUBJICIENDUM.** A writ directed to the person detaining another, and commanding him to produce the body of the prisoner, (or person detained,) with the day and the cause of his caption and detention to do, submit to, and receive whatever the judge or court awarding the writ shall consider in that behalf. This is the well-known remedy for deliverance from illegal confinement, called by Sir William Blackstone as the most celebrated writ in the English law, and the great and efficacious writ in all manner of illegal confinement. The sole function of the writ is to release from unlawful imprisonment.

The office of the writ is not to determine prisoner's guilt or innocence, and only issue which it presents is whether prisoner is restrained of his liberty by due process.

**HABEAS CORPUS AD PROSEQUENDUM.** A writ issuing when it is necessary to remove a prisoner in order to prosecute in the proper jurisdiction wherein the fact was committed.

**HABEAS CORPUS AD TESTIFICANDUM.** At common law, the writ, meaning "you have the body to testify", used to bring up a prisoner detained in a jail or prison to give evidence before the court.

**HOSTILE WITNESS.** A witness who manifests so much hostility or prejudice under examination in chief that the party who has called him, or his representative, is allowed to cross-examine him, i.e., to treat him as though he had been called by the opposite party.

**HUNG JURY.** A jury so irreconcilably divided in opinion that they cannot agree upon any verdict.

**ID EST.** Lat. That is. Commonly abbreviated "i.e."

**IDEM.** Lat. The same.

**IGNORAMUS.** Lat. "We are ignorant," "We ignore it". Formerly the grand jury used to write this word on bills of indictment when, after having heard the evidence, they thought the accusation against the prisoner was groundless; but now they write in English the words "Not a true bill" if that is their verdict; but they are still said to IGNORE the bill.

(EDITOR'S NOTE: Where the Grand Jury "IGNORES" a charge after considering all the evidence presented to it by the U.S.

Attorney, a formal document is prepared and transmitted to the Clerk's Office, Dockets Division, Criminal Branch, for filing and appropriate action. (If the defendant is in jail in this case and the matter is ignored by the Grand Jury, the Clerk shall then issue two release forms and take them to the Cell Block for the D.C. Jail.)

Where the Grand Jury "IGNORES AND REFERS" a charge presented to it by the U.S. Attorney, the matter is handled by the Grand Jury section of the U.S. Attorney's Office. The defendant is referred to the Superior Court of the District of Columbia for prosecution of a misdemeanor. If the defendant is in jail, the Superior Court issues a commitment bearing its own case number and thereupon the U.S. Attorney transmits the Grand Jury's Ignoramus and Referral to the Clerk's Office, U.S.D.C. for D.C. for filing. Whereupon the Clerk in District Court here issues appropriate releases in the District Court case only.)

IN CAMERA. In chambers; in private. A cause is said to be heard in camera either when the hearing is had before the judge in his private room or when all spectators are excluded from the courtroom.

IN FORMA PAUPERIS. In the character or manner of a pauper. Describes permission given to a poor person to sue without liability for costs.

IN PROPRIA PERSONA. In one's own proper person.

INDICTMENT. An accusation in writing found and presented by a grand jury, legally convoked and sworn, to the court in which it is impaneled, charging that a person therein named has done some act, or been guilty of some omission, which, by law, is a public offense, punishable on indictment.

INFORMATION. An accusation exhibited against a person for some criminal offense, without an indictment. An accusation in the nature of an indictment, from which it differs only in being presented by a competent public officer on his oath of office, instead of a grand jury on their oath.

**CRIMINAL INFORMATION.** A formal accusation of crime, differing from an indictment only in that it is preferred by a prosecuting officer instead of by a grand jury.

(EDITOR'S NOTE: In this jurisdiction, an Information may be filed as a new criminal case with a new number assigned or it may be filed in an existing criminal case, at the direction of the Court.)

**INTERLOCUTORY.** Provisional; temporary; not final. Something intervening between the commencement and the end of a suit which decides some point or matter, but is not a final decision of the whole controversy.

**INTERPLEADER.** When two or more persons claim the same thing (or fund) of a third, and he, laying no claim to it himself, is ignorant which of them has a right to it, and fears he may be prejudiced by their proceeding against him to recover it, he may file a bill in equity against them, the object of which is to make them litigate their title between themselves, instead of litigating it with him, and such a bill is called a "bill of interpleader"

**INTERVENOR.** An intervenor is a person who voluntarily interposes in an action or other proceeding with the leave of the court.

**INTERVENTION.** In the civil law. The act by which a third party demands to be received as a party in a suit pending between other persons. The intervention is made either for the purpose of being joined to the plaintiff, and to claim the same thing he does, or some other thing connected with it; or to join the defendant, and with him to oppose the claim of the plaintiff, which it is his interest to defeat. . In practice. A proceeding in a suit or action by which a third person is permitted by the court to make himself a party, either joining the plaintiff in claiming what is sought by the complaint, or uniting with the defendant in resisting the claims of the plaintiff, or demanding something adversely to both of them.  
(EDITOR'S NOTE: See also, FRCvP #24)

**JUDGMENT.** The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit thereon litigated and submitted to its determination.  
 (final determination of rights of the parties in an action or proceeding; final determination or action of the court; formal expression and evidence of the actual decision of a lawsuit; judicial determination of guilt based upon a verdict or a plea of guilty; law's last word in a judicial controversy; a decree is a judgment; As used in some statutes, judgment and decree are synonymous; An allowance or disallowance of a claim may be a judgment; An order may be a judgment; Commitment to institution etc. as a judgment; The words "decision" and "judgment" may be used interchangeably, but in a different context may not be synonymous; They are not the same thing under federal rules; A written decision that finally determines rights of parties is a "judgment"; Decisions of administrative boards are not "judgments".  
 (EDITOR'S NOTE: See also, FRCvP #54, 55, 56 & Black's Law Dictionary, pp. 977, 978, 979, 980.)

**JURISDICTION.** The word is a term of large and comprehensive import, and embraces every kind of judicial action. It is the authority by which courts and judicial officers take cognizance of and decide cases. the legal right by which judges exercise their authority; It is the authority, capacity, power or right to act. (See Black's Law Dictionary, pp. 991, 992.)

**JURISPRUDENCE.** The philosophy of law, or the science which treats of the principles of positive law and legal relations... Jurisprudence is more a formal than a material science. It has no direct concern with questions of moral or political policy, for they fall under the province of ethics and legislation; but, when a new or doubtful case arises to which two different rules seem, when taken literally, to be equally applicable, it may be, and often is, the function of jurisprudence to consider the ultimate effect which would be produced if each rule which, when so applied, will produce the greatest advantage to the community.



**MIRANDA RULE.** Prior to any custodial interrogation; that is, questioning initiated by law enforcement officers after a person is taken into custody or otherwise deprived of his freedom in any significant way, the person must be warned:

- (1). That he has a right to remain silent.
- (2). That any statement he does make may be used against him as evidence.
- (3). That he has a right to the presence of an attorney.
- (4). That if he cannot afford an attorney, one will be appointed for him prior to any questioning if he so desires.

Unless and until these warnings or a waiver of these rights are demonstrated at the trial, no evidence obtained in the interrogation may be used against the accused.

**MISTRIAL.** An erroneous, invalid, or nugatory trial; a trial of an action which cannot stand in law because of want of jurisdiction, or a wrong drawing of jurors, or disregard of some other fundamental requisite.

**MOOT, adj.** A subject for argument; unsettled; undecided. A moot point is one not settled by judicial decisions.

**MOTION.** Practice. Primarily an application for a rule or order made viva voce to a court or judge, but the term is generally employed with reference to all such applications, whether written or oral.

(EDITOR'S NOTE: See also, FRCvP 7(b) and Local Court Rule 9.)

**NON COMPOS MENTIS.** Lat. Not sound of mind; insane.

**NON OBSTANTE VEREDICTO.** Notwithstanding the verdict. A judgment entered by order of court for the plaintiff, although there has been a verdict for the defendant, is so called. Judgment non obstante veredicto in its broadest sense is a judgment rendered in favor of one party notwithstanding the finding of a verdict in favor of the other party.

(EDITOR'S NOTE: See FRCvP #50)

**NUNC PRO TUNC.** Lat. Now for then. A phrase applied to acts allowed to be done after the time when they should have been done, with a retroactive effect, i.e., with the same effect as if regularly done.

**OMNIBUS.** For all; containing two or more independent matters.

**OPENING STATEMENT OF COUNSEL.** Outline of anticipated proof. Its purpose is to advise the jury of facts relied upon and of issues involved, and to give jury a general picture of the facts and the situations so that the jury will be able to understand the evidence.

**OPINION.** The statement by a judge or court of the decision reached in regard to a cause tried or argued before them, expounding the law as applied to the case, and detailing the reasons upon which the judgment is based. The words "decision" and "opinion" do not have the same meaning, a "decision" of a court being its judgment, and its "opinion" being reasons given for the judgment.

**PER CURIAM OPINION.** One concurred in by the entire court, but expressed as being "per curiam" or "by the court", without disclosing the name of any particular judge as being its author.

**ORDER.** Every direction of a court or judge made or entered in writing, and not included in a judgment. An application for an order is a motion.  
(Final Order. One which either terminates the action itself, or decides some matter litigated by the parties, or operates to divest some right; or one which completely disposes of the subject matter and the rights of the parties.  
(Interlocutory order. An order which decides not the cause, but only settles some intervening matter relating to it.  
(Restraining order. An order which may issue upon filing an application for an injunction forbidding the defendant to do the threatened act until a hearing on the application can be had...intended only as a

upon the defendant until the propriety of granting an injunction, temporary or perpetual, can be determined, and it does no more than restrain the proceedings until such determination.

**ORDER NISI.** A provisional or conditional order, allowing a certain time within which to do some required act, on failure of which the order will be made absolute. (EDITOR'S NOTE: See Local Court Rule #28(c)(4).

**PENDENTE LITE.** Lat. Pending the suit; during the actual progress of a suit; during litigation.

**PER CURIAM.** Lat. By the court. A phrase used in the reports to distinguish an opinion of the whole court from an opinion written by any one judge.

**POLLING THE JURY.** A practice whereby the jurors are asked individually whether they assented, and still assent, to the verdict. To poll a jury is to call the names of the persons who compose a jury and require each juror to declare what his verdict is before it is recorded.

**POWER OF ATTORNEY.** An instrument authorizing another to act as one's agent or attorney.

**PRAYER.** The request contained in a bill in equity that the court will grant the process, aid, or relief which the complainant desires. (EDITOR'S NOTE: See also, FRCvP 8(a). (The prayer of a complaint is called a demand for judgment.)

**PRIMA FACIE.** Lat. At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to contrary.

**PRIMA FACIE CASE.** Such as will suffice until contradicted and overcome by other evidence. A case which has proceeded upon sufficient proof to that stage where it will support finding if evidence to contrary is disregarded.

**PRO HAC VICE.** For this turn; for this one particular occasion.  
(EDITOR'S NOTE: At a hearing in open court, a member of the local bar may orally move the court to admit an individual's appearance pro hac vice, said individual being from another jurisdiction qualified to practice law there.)

**PRO SE.** For himself; in his own behalf; in person.

**PROBATE.** Originally, relating to proof; afterwards, relating to the proof of wills. The act or process of proving a will....

**PROSECUTOR.** One who prosecutes another for a crime in the name of the government; one who instigates a prosecution by making affidavit charging a named person with the commission of a penal offense on which a warrant is issued or an indictment or accusation is based. One who takes charge of a case and performs functions of a trial lawyer for the people.

**QUID PRO QUO.** What for what; something for something. Used in law for the giving one valuable thing for another. It is nothing more than the mutual consideration which passes between the parties to a contract, and which renders it valid and binding.

**REBUT.** In pleading and evidence. To defeat or take away the effect of something.

**REBUTTAL.** The introduction of rebutting evidence; the showing that statement of witnesses as to what occurred is not true; the stage of a trial at which such evidence may be introduced; also the rebutting evidence itself.

**REFEREE IN BANKRUPTCY.** An officer appointed by the courts of bankruptcy under the act of 1898(11USCA1)

... having administrative and quasi-judicial functions under the bankruptcy law, and who assists the court in such cases and relieves the judge of attention to matters of detail or routine, by taking charge of all administrative matters and the preparation or preliminary consideration of questions requiring judicial decision, subject at all times to the supervision and review of the court.

**REGISTER OF WILLS.** An officer in some of the states, whose function is to record and preserve all wills admitted to probate, to issue letters testamentary or of administration, to receive and file accounts of executors, etc. and generally to act as the clerk of the probate court.

**REMAND.** To send back.  
(EDITOR'S NOTE: In the language of criminal dockets the word, "remanded" means that the defendant has been sent back whence he came (i.e., jail).)

**REMITTITUR DAMNA.** Lat. In practice. An entry made on record, in cases where a jury has given greater damages than a plaintiff has declared for, remitting the excess.

(EDITOR'S NOTE. If a verdict of a jury in a civil action appears to be grossly excessive the defendant may move for a new trial or in the alternative for a remittitur. If the motion is granted by the court, it means there shall be a new trial unless the plaintiff agrees to remit that portion of the verdict in excess of an amount fixed by the court.)

**RETURN.** The act of a sheriff, constable, or other ministerial officer, in delivering back to the court a writ, notice, or other paper, which he was required to serve or execute, with a brief account of his doings under the mandate, the time and mode of service or execution, or his failure to accomplish it, as the case may be.  
(EDITOR'S NOTE. See also, FRCvP 4(g).)

**RIOT ACT.** A celebrated English statute, which provides that, if any twelve persons or more are unlawfully assembled and disturbing the peace, any sheriff, under-sheriff, justice of the peace, or mayor may by proclamation, command them to disperse, (which is familiarly called "reading the riot act") and if they refuse to obey, and remain together for the space of one hour after such proclamation, they are all guilty of felony. The act is 1 Geo.I, St. 2, c.5.

**SENTENCE.** The judgment formally pronounced by the court or judge upon the defendant after his conviction in a criminal prosecution, awarding the punishment to be inflicted. Judgment formally declaring to accused legal consequences of guilt which he has confessed or of which he has been convicted. In civil cases, the terms "judgment", "decision", "award", "finding", etc. are used.

**SINE DIE.** Without day; without assigning a day for a further meeting or hearing.

**STARE DECISIS.** Lat. To abide by, or adhere to, decided cases. Policy of courts to stand by precedent and not to disturb a settled point. Doctrine that when court has once laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle, and apply it to all future cases, where facts are substantially same.

**STATUS QUO.** The existing state of things at any given time.

**STATUTE.** An act of the legislature declaring, commanding, or prohibiting something; a particular law enacted and established by the will of the legislative department of the government; the written will of the legislature solemnly expressed according to the forms necessary to constitute it the law of the state. This word is used to designate the written law in contradistinction to the unwritten law.

**SUBPOENA.** (Lat. Sub, under, poena, penalty). A process to cause a witness to appear and give testimony, commanding him to lay aside all pretenses and excuses, and appear before a court or magistrate therein named at a time therein mentioned to testify for the party named under a penalty therein mentioned. This is a subpoena ad testificandum. (EDITOR'S NOTE: See RULE 45,

F.R.Cv.P.

**SUBPOENA DUCES TECUM.** A process by which the court, at the instance of a suitor, commands a witness who has in his possession or control some document or paper that is pertinent to the issues of a pending controversy, to produce it at the trial.

(EDITOR'S NOTE: See, FRCvP #45.)

**SUMMONS.** A writ, directed to the sheriff or other proper officer requiring him to notify the person named that an action has been commenced against him in the court whence the writ issues, and that he is required to appear, on a day named, and answer the complaint in such action.

Under code procedure a summons is not process, but is a notice to defendant that an action against him has been commenced and that judgment will be taken against him if he fails to answer the complaint.

(EDITOR'S NOTE: SEE, ALSO, F.R.Cv.P. #4)

**TAXATION OF COSTS.** The process of ascertaining and charging up the amount of costs in an action to which a party is legally entitled, which are legally chargeable.

(EDITOR'S NOTE: See 28 U.S.C. 1920 et seq.)

**TESTIMONY.** Evidence given by a competent witness, under oath or affirmation; as distinguished from evidence derived from writings, and other sources.

**TORT.** A private or civil wrong or injury. There must always be a violation of some duty owing to plaintiff, and generally such duty must arise by operation of law and not by mere agreement of the parties. Three elements of every tort action are: Existence of legal duty from defendant to PLAINTIFF, breach of duty, and damage as proximate cause.

(EDITOR'S NOTE: See Black's Law Dictionary, 1968 Ed. Pages 1660, 1661 for more complete definitions)

**TRIAL.** A judicial examination, in accordance with law of the land, of a cause, either civil or criminal, of the issues between the parties, whether of law or fact, before a court that has jurisdiction over it. ... For purpose of determining such issue. And in its strict definition, the word "trial" in criminal procedure means the proceedings in open court after the pleadings are finished and the prosecution is otherwise ready, down to and including the rendition of the verdict.

**TRUE BILL.** In criminal practice. The indorsement made by a grand jury upon a bill of indictment, when they find it sustained by the evidence laid before them, and are satisfied of the truth of the accusation.

**UXOR.** Lat. In the civil law. A wife; a woman lawfully married. ET UXOR = And his wife. Often abbreviated "et ux."

**VENUE.** A neighborhood; the neighborhood, place, or county in which an injury is declared to have been done, or fact declared to have happened. ... It relates only to place where or territory within which either party may require case to be tried. "Venue" does not refer to jurisdiction at all. "Jurisdiction" of the court means the inherent power to decide a case, whereas "venue" designates the particular county or city in which a court with jurisdiction may hear and determine the case.

**VERDICT.** From the Latin "veredictum", a true declaration. The formal and unanimous decision or finding made by a jury, impaneled and sworn for the trial of a cause, and reported to the court (and accepted by it), upon the matters or questions duly submitted to them upon the trial.

**VOIR DIRE.** L. Fr. To speak the truth. This phrase denotes the preliminary examination which the court may make of presented as a witness or juror, where his competence, interest, etc. is objected to.  
(EDITOR'S NOTE: Note examination of prospective jurors by either counsel for both parties and/or by the court which occurs before jury is selected in your visit to courtroom proceedings during orientation program.)



**WITH PREJUDICE.** The term, as applied to judgment of dismissal is as conclusive of rights of parties as if action had been prosecuted to final adjudication adverse to the plaintiff.

**WITHOUT PREJUDICE.** Where an offer or admission is made, "without prejudice", or a motion is denied or suit dismissed "without prejudice", it is meant as a declaration that no rights or privileges of the party concerned are to be considered as thereby waived or lost except in so far as may be expressly conceded or decided.  
A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

**WORDS OF ART.** The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it.

**WRIT.** (See pages 1783 et seq., Black's Law Dictionary, Rev. 4th Ed., 1968)

A precept in writing, couched in the form of a letter, running in the name of the king, president, or state, issuing from a court of justice, and sealed with its seal, addressed to a sheriff or other officer of the law, or directly to the person whose action the court desires to command, either as the commencement of a suit or other proceeding or as incidental to its progress, and requiring the performance of a specified act, or giving authority and commission to have it done.  
A mandatory precept issuing from court of justice.

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END

EDITOR'S NOTE: The above definitions are either complete or partial and taken from BLACK'S LAW DICTIONARY, Fourth Revised Edition, 1968, West Publishing Co.

Prepared as an Exhibit to Orientation Manual for New Employees,  
Clerk's Office, U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.  
(1971)

## CHECKLIST OF FORMS DEALING WITH EMPLOYEES OF JUDGES' STAFFS

Complete addresses of the various divisions of the Administrative Office referred to under the heading "Disposition of Completed Forms" are as follows:

Administrative Office  
of the United States Courts  
Supreme Court Building  
Washington, D.C. 20544

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1. Division of Personnel

Mr. William T. Barnes,  
Chief of Division

2. Retirement, Insurance & Payroll (R.I.P.)  
Division of Business Administration

Ms. M. Patricia Carroll,  
Chief, Retirement, Insurance &  
Payroll Section

3. Audit Section - Division of Business Administration

Mr. Glenn Goetz,  
Chief Auditor

The address of the Civil Service Commission is:

United States Civil Service Commission  
Bureau of Retirement, Insurance and Occupational Health  
Washington, D.C. 20415

Prepared 22 June 1973

## CHECKLIST OF FORMS TO BE FURNISHED TO NEW EMPLOYEES ON JUDGES' STAFFS

<u>FORM NUMBER AND TITLE</u>	<u>DISPOSITION OF COMPLETED FORMS</u>
<u>APPOINTMENT</u>	
AO 79 Appointment, Oath of Office, Personal History, Experience and Qualifications Statement	2 copies to Personnel Division; 1 retained by Clerk's Office.
AO 195 Notice of Entrance on Duty <i>(This is the authority for adding a new employee to the payroll. New employees will not be paid until this form, in addition to the appointment, insurance, etc., has been received by the A.O.)</i>	1 copy to Retirement, Insurance & Payroll; 1 copy to Clerk's Office
<u>TAX WITHHOLDING</u>	
W-4 Exemption Certificate	1 copy to R.I.P.; 1 copy to Clerk's Office
State Exemption Withholding Certificate (if required)	1 copy to R.I.P.; 1 copy to Clerk's Office
<u>HEALTH BENEFITS</u>	
SF 2809 Health Benefits Registration Form <i>(This form must be completed within 31 days of entrance on duty or employee must wait until open season, which is held at least once a year, to elect health insurance coverage.)</i>	1 copy to Personnel Division; Xerox copy to Clerk's Office
BRI 41-24 Indemnity Benefit Plan Brochure (AETNA)	Copy retained by employee
BRI 41-25 Service Benefit Plan Brochure (Blue Cross/Blue Shield)	Copy retained by employee
<u>GROUP LIFE INSURANCE</u>	
SF 176 Election, Declination or Waiver of Life Insurance Coverage <i>(Non-refundable salary deductions for REGULAR insurance are made from the date of entrance on duty for all new employees unless BOX C (waiver of life insurance coverage) of the form is checked and the completed form returned to the Clerk's Office during the new employee's first pay period. If a new employee wishes to waive life insurance coverage he or she should be</i>	Original to R.I.P.; duplicate retained in Clerk's Office

## CHECKLIST OF FORMS TO BE FURNISHED TO NEW EMPLOYEES ON JUDGES' STAFFS

<u>FORM NUMBER AND TITLE</u>	<u>DISPOSITION OF COMPLETED FORMS</u>
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## GROUP LIFE INSURANCE, CTD...

*informed that to cancel the waiver and elect insurance the employee must wait one year from the date the waiver went into effect, must at that time be under 50 years of age and to be considered for insurance must submit an SF 51 (Request for Insurance), which can be obtained from the Administrative Office and which requires the employee have a physical that the employee must pay for. If the Office of the Federal Employees Group Life Insurance approves the SF 51, the employee must then submit an SF 176.)*

SF 176 A Federal Employees' Group Life Insurance Program (brochure)	Retained by employee
SF 54 Designation of Beneficiary, Federal Employees' Group Life Insurance Program <i>(Check form SF 54 for order of precedence where no beneficiary is designated. Unless employee wishes to establish a different order of precedence, it is not necessary to file this form.)</i>	Original and duplicate to R.I.P.; Xerox copy to Clerk's Office
G 3385-F Federal Employees' Group Life Insurance Program Certificate - Regular Insurance - if appropriate	Retained by employee
G 3385 OPT Federal Employees' Group Life Insurance Program Certificate - Supplement - Optional Insurance, if appropriate	Retained by employee

SAVINGS & ALLOTMENTS

SF 1192 U.S. Savings Bonds Authorization for Purchase & Request for Change	Original to R.I.P., Xerox copy to Clerk's Office
SF 1189 Request by Employee for Payment of Salaries or Wages by Credit to Account at a Financial Organization	Original to R.I.P., 3 copies; 1 to employee, 1 to organization, 1 to Clerk's Office
SF 1198 Request by Employee for Allotment of Pay for Credit to Savings Account with a Financial Organization	Original to R.I.P.; 3 copies; 1 to employee, 1 to organization, 1 to Clerk's Office

## CHECKLIST OF FORMS TO BE FURNISHED TO NEW EMPLOYEES ON JUDGES' STAFFS

<u>FORM NUMBER AND TITLE</u>	<u>DISPOSITION OF COMPLETED FORMS</u>
<u>MISCELLANEOUS</u>	
SF 1152 Designation of Beneficiary, Unpaid Compensation of Deceased Civilian Employee <i>(Unless employee wishes to establish an order of precedence other than the one given on the back of form SF 1152, it is unnecessary to submit this form.)</i>	Original and duplicate to Audit Section, A.O.; Xerox copy to Clerk's Office
SF 2808 Designation of Beneficiary, Civil Service Retirement System <i>(Unless employee wishes to establish an order of precedence other than the one given on the back of form SF 2808, it is unnecessary to submit this form.)</i>	Original and duplicate to Civil Service Commission, Xerox copy to Clerk's Office

CHECKLIST OF FORMS DEALING WITH EMPLOYEES OF JUDGES' STAFFS  
PAPERS RELATING TO RETIREMENT, RESIGNATION, ETC.

FORM NUMBER AND TITLE	DISPOSITION OF COMPLETED FORMS
<u>SEPARATION</u> - RESIGNATION, RETIREMENT, TRANSFER, TERMINATION, DEATH	
AO 197 Notice of Separation <i>(This form is used to report all separations for any reason. It should be forwarded to the Personnel Division as soon as possible after an employee has been separated (the Clerk's Office usually sends the form at the close of business on the same day as the actual separation). This form is the authority for the Administrative Office to remove an employee's name from the payroll. Failure to promptly submit this form can result in overpayment of salary.)</i>	Original to Personnel Division; 1 copy to Clerk's Office
SF 2810 Notice of Change in Health Benefits Enrollment <i>(This form is issued by the Administrative Office and never by the Clerk's Office. SF 2810 is sent automatically by R.I.P. to every separated employee who is eligible to convert his health insurance from the group plan to an individual one. Usually the address used by R.I.P. is the one which appears on the AO 197, Notice of Separation. When an employee enrolled in any of the government health benefits programs transfers from one agency to another without a break in service of more than three days, his coverage continues in the new agency unless he cancels it. Health benefits enrollment terminates the last day in the pay period for any enrolled employee who 1) transfers to a position in which he is not eligible for enrollment; 2) dies without a survivor eligible to continue enrollment; 3) separates except for transfer, retirement, or compensable disability under the Federal Employees Compensation Act. Health benefits coverage continues temporarily for 31 days after termination of enrollment without cost to employee to allow him to convert to an individual contract should he wish to do so.)</i>	Original to nearest office of plan (payment of premium should be included) within 31 days of date of termination of enrollment.
SF 55 Notice of Conversion Privilege SF 56 Agency Certification of Insurance Status) - <u>LIFE INSURANCE</u>	
<i>(When group insurance stops for any reason other than by waiver, an employee is entitled to convert to an individual policy without medical examination, provided he does not transfer within 3 days to a position in which he would be eligible to reacquire insurance. Protection is automatically extended 31 days on optional as well as regular insurance to allow for such conversion. The conversion privilege extends to the usual form of life insurance only: not term insurance and without accidental death or dismemberment clause. When his insurance terminates,</i>	

CHECKLIST OF FORMS DEALING WITH EMPLOYEES OF JUDGES' STAFFS -  
PAPERS RELATING TO RETIREMENT, RESIGNATION, ETC.

<u>FORM NUMBER AND TITLE</u>	<u>DISPOSITION OF COMPLETED FORMS</u>
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LIFE INSURANCE - NOTICE OF CONVERSION PRIVILEGE,  
AGENCY CERTIFICATION OF INSURANCE STATUS, CONTINUED.

*the Administrative Office sends the employee either SF 55, Notice of Conversion Privilege, or SF 56, Agency Certification of Insurance Status, depending on the circumstances. If the employee receives an SF 55 and wishes to convert to an individual policy, he requests SF 56 from the Administrative Office. He should complete the form and send it promptly to the Office of Federal Employees' Group Life Insurance (OFEGLI), 4 East 24th Street, New York, New York 10010. OFEGLI notifies the employee of further procedures and details of conversion. Payment of the first premium on converted insurance should be made within 31 days of the date of separation.<sup>1)</sup>*

SF 2801	Application for Retirement <i>(The AO 197 stating the reason for retirement and certifying the hours of annual leave for lump-sum payment and unused sick leave should be submitted with the SF 2801.)</i>	Original to Personnel Division eight weeks prior to the proposed retirement date; copy to Clerk's Office
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SF 2802	Application for Refund of Retirement Deductions <i>(This form is automatically forwarded by the Administrative Office to a separated employee on receipt of the AO 197. Supplies of this form are not distributed to the Clerk's Office. To be eligible for a refund, the employee must not be employed in a position subject to the Retirement Act for at least 31 days from the date of his separation, and he must not be eligible for an immediate annuity. If an employee receives a refund he waives all right to annuity unless he is again employed in a position under the retirement system, in which case he may redoposit his deductions plus the interest so that the period of service covered by the refund can be used in computation of annuity or survivor benefits. It usually takes about six weeks to receive the refund. 3% interest compounded annually is paid by the government on civil service retirement deductions for not less than two nor more than five years service. For further information see "Your Retirement System: Questions and Answers Concerning Your Retirement System: Pamphlet 18".)</i>	Original to Bureau of Retirement and Insurance, U.S. Civil Service Commission, Washington, D.C. 20415
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1. Manual for Clerks of United States District Courts,  
prepared by the Administrative Office of the United  
States Courts, Chapter 16, Personnel, p. 81, C-1606.6,  
B and C, Termination and Conversion or Continuance.

SUMMARY OF SOURCES FOR VARIOUS KINDS OF INFORMATION

A) Matters Relating to Personnel:

1) General.

In many instances the person handling personnel in the Clerk's Office should be able to give information concerning routine problems. The following are two sources of written information which cover the procedures used in processing paper work related to personnel:

- a) Title XII of the Guide to the Administrative Organization of the United States Courts;
- b) Chapter 16 of the Manual for Clerks - United States District Courts.

The primary statutory source for matters relating to personnel is Title 5 of the United States Code. However, various Civil Service regulations and policies of the Judicial Conference are not included in Title 5.

In the Administrative Office the place to call for general personnel matters is the Division of Personnel. Mr. William T. Barnes is the Chief of the Division and Mr. David M. Croyle and Ms. Marjorie K. Grannell are personnel officers.

2) Health and Life Insurance and Retirement.

The health insurance companies administering the various government programs have a designated representative who can help with problems dealing with health insurance. The representative usually checks with the Clerk's Office at least annually so that the Office should know the name and location of the representative.



As with general personnel matters the Clerk's Office is often a good source of information for matters relating to insurance. Additional written information can be found in the following publications:

- a) BRI 41-24 Indemnity Benefit Plan Brochure (Aetna);  
BRI 41-25 Service Benefit Plan Brochure (Blue Cross/  
Blue Shield)

These pamphlets list the various benefits of the two health insurance programs. The pamphlets are distributed by the insurance company representative. Generally he or she has them delivered to the Clerk's Office. Copies are usually available there. As the policies tend to change over time the secretary should check that her copy of the brochure is the current one.

- b) Your Retirement System: Questions and Answers  
Concerning the Federal Civil Service Retirement  
Law; (March, 1971 - Pamphlet No. 18)

This pamphlet is available through the Government Printing Office. It sells for 30 cents. The Clerk's Office may have a copy of the pamphlet.

In the Administrative Office the place to call for information on insurance and retirement is the Retirement, Insurance and Payroll Section of the Division of Business Administration. Ms. M. Patricia Carroll is the Chief of the Section.

For questions relating to the Judicial Survivors Annuity see Title IX of the Guide.

#### B) Furniture, Space, Heating, Lighting

General Services Administration (GSA) is responsible for handling the furnishing and housing of the courts and their supporting personnel. Each court has a designated liaison officer, usually a member of the supporting personnel, for dealing with GSA on matters relating to space and furnishings. The secretary should

find out the name of the liaison officer in her court and discuss any problems relating to furniture, cleaning drapes, carpets, etc., with him or her. Title VIII of the Guide to the Administrative Organization of the United States Courts gives further information on furniture. Title VII of the Guide gives information on telephone services and intercom systems. On a daily basis problems involving air conditioning or heating or lights or such items as ash trays which were not emptied by the building's cleaning staff should be brought to the attention of the building manager. In larger federal buildings the manager will belong to GSA staff, in some installations he or she may be on the staff of the Postal Service.

Again the Clerk's Office can often prove helpful in this area. This is especially true where the court location is such that although a permanent Clerk's Office is maintained, a judge does not permanently sit in that location. In such instances the staff of the Clerk's Office may have 'insiders' knowledge of the workings of the building's staff which may be helpful to the secretary.

### C) Inventory and Supplies

Title XIV of the Guide covers stationery and Title XV covers supplies, equipment and transcripts. The instructions for completing the requisition forms are contained in the U.S. Courts' Supply Catalogue which can be obtained from the Procurement and Property Management Section of the Division of Business Administration of the Administrative Office.

Instructions on the use of SF-44's, purchase order vouchers, are contained in Title XV of the Guide.

Any inquiries on inventory, orders of supplies, etc., should be

made of the Procurement and Property Management Section.

D) Travel Regulations, Vouchers, etc.

Title XVI of the Guide outlines the travel regulations and use of T.R.'s and vouchers. Information pertaining to travel regulations is updated through supplements to Bulletin No. 392 issued periodically by the Administrative Office. The contents of the supplements are usually given in brief in Title XVI of the Guide, however, until the update sheets for the Guide covering a certain supplement to Bulletin 392 are issued the secretary may find it helpful to put a copy of the supplement in question in the Guide for reference.

If any members of the judge's staff travel on official business within the district on a regular basis, an A.O. 20 should be submitted to the Administrative Office sometime between April and June requesting approval for travel during the next fiscal year (1 July - 30 June). The amount requested should be a reasonable estimate of the total amount that will be reimbursed to staff members covered by the A.O. 20 during the year. A copy of the A.O. 20 as approved by the Administrative Office can then be attached to each travel voucher to be submitted to the marshal.

In general vouchers for travel by the judge can be submitted to the U.S. Marshal. The main exception to this is for travel under the auspices of the Federal Judicial Center, e.g., seminar for newly appointed judges. In such instances a travel authorization is mailed to the judge directing that the voucher should be submitted to the Administrative Office. For supporting personnel vouchers for travel within the district based on an approved A.O. 20 should be submitted to the marshal together with a copy of the

A.O. 20. Vouchers for travel outside the district should be submitted to the Administrative Office together with a copy of the document authorizing the travel. The same general rules apply to judges and supporting personnel of the Courts of Appeal. The marshal in such instances will probably be the one headquartered in the district in which the judge or staff member is headquartered.

Questions concerning travel vouchers and travel regulations should be directed to the Audit Section of the Department of Business Administration of the Administrative Office. Mr. Glenn Goetz is the Chief Auditor.

E) Locating Publications

For information concerning publications covering specific subject matters try the court's librarian if there is a central library. Ms. Alice L. O'Donnell, Coordinator, Inter-Judicial Affairs, and co-editor of The Third Branch and Ms. Sue Welsh, Information Specialist, both of the Federal Judicial Center may also be able to assist in this area. The Third Branch carries a column called The Source which lists selected publications which may be of interest to judges and their staffs.

CHAPTER 13 EXHIBIT 1

Ref. 1301.3

GENERAL SCHEDULE FOR DISPOSAL OF BANKRUPTCY RECORDS  
OF THE UNITED STATES COURTS OF BANKRUPTCY

Schedule No. 6

Item No.	Title and Description	Period of time to be retained
	Kind of Copies	
	<p>APPLICABILITY OF THIS SCHEDULE: This schedule applies to records of United States courts of bankruptcy: district courts of the United States and of its possessions (other than appellate courts), and the District Court of the United States for the District of Columbia.</p> <p><u>NOTE:</u> This schedule authorizes the disposal of the bankruptcy records described in the items numbered 1 through 10 below. But these items are not to be construed as applying to any of the following bankruptcy records of enduring value:</p> <p>(a) Docket books, minute books, order books, and similar records of clerks of court, registers and referees in bankruptcy containing records of filings, proceedings, and actions taken in cases, and indexes thereto.</p> <p>(b) Registers' and referees' claims registers and dockets, and similar summary records in variant form, showing the filing and allowances of claims and the distribution to creditors.</p> <p>(c) Recorded copies of trustees' deeds, resolutions on composition, and assignments of bankrupts' effects.</p> <p>(d) Indexes in book or other form to bankruptcy cases and proceedings.</p> <p>(e) One copy of creditors' or debtors' petitions for bankruptcy and one copy of each amendment and of each demurrer, plea, or answer thereto, except in no-assets cases.</p> <p>(f) One set of debtors' schedules of assets and liabilities and one copy of each amendment thereto, except in no-assets cases.</p> <p>(g) Decrees of adjudication of bankruptcy and orders of reference, except in no-assets cases.</p> <p>(h) Records directly pertaining to the title of real estate in cases involving any interest in real estate (including homesteads, dower and the like), including, but not limited to, all orders for the sale of real estate and orders of confirmation of such sales.</p>	

CHAPTER 13 EXHIBIT 1

GENERAL SCHEDULE FOR DISPOSAL OF BANKRUPTCY RECORDS  
OF THE UNITED STATES COURTS OF BANKRUPTCY

Schedule No. 6

Item No.	Title and Description Kind of Copies	Period of time to be retained
	<p>(i) Orders of discharge of bankrupts, except in no-assets cases.</p> <p>(j) Testimony of bankrupts and witnesses before referees or equivalent predecessor officials, or other officials, except in no-assets cases.</p> <p>(k) Summary reports of trustees, auditors, and appraisers in bankruptcy on the administration, liquidation, and distribution of bankrupts' estates.</p> <p>(l) Papers in case files pertaining to litigation in bankruptcy trial courts, consisting of one record copy of each of the following individual papers: specifications of objections to discharge of bankrupts; reports of referees as Special Commissioners on issues of specifications, applications and orders of trial; statements of facts, briefs, testimony, and depositions; and final decrees, orders, or opinions.</p> <p>(m) Papers in case files in bankruptcy proceedings appealed from courts of bankruptcy, consisting of one record copy of each of the following individual papers: petitions on appeal; writs of error or bills of exception; copies of transcripts of record (when available); mandates of appellate courts; and orders and notices of settlement of district courts.</p> <p>*****</p>	
1.	Creditors' proofs of claims and debts and supporting papers in all cases. All record copies.	10 years after close of case
2.	Cancelled checks and vouchers in payment of dividends to creditors and of official fees, costs, and expenses of bankruptcy proceedings in all cases. All record copies.	10 years after close of case
3.	Duplicates of papers filed in all case files. Duplicate record copies.	10 years after close of case
4.	Papers in bankruptcy case files (other than those covered by items 1-3 above), EXCLUDING files and papers in proceedings for a composition or extension, for the reorganization of a corporation, for an arrangement, for a real property	10 years after close of case



CHAPTER 13 EXHIBIT 1

GENERAL SCHEDULE FOR DISPOSAL OF BANKRUPTCY RECORDS  
OF THE UNITED STATES COURTS OF BANKRUPTCY

Schedule No. 6

Item No.	Title and Description Kind of Copies	Period of time to be retained
	<p>arrangement, for a railroad adjustment, in proceedings under Sections 12, 74, 77, 77B, and Chapters IX, X, XI, XII, and XV of the Bankruptcy Act of 1898, as amended; and papers directly pertaining to real estate in cases involving any interest in real estate, including homesteads. All record copies. These papers normally consist of:</p> <p>Affidavits and orders to show cause.  Allowances, Affidavits for petitions for.  Appraisers, Oaths of.  Appraisers, Orders approving reports of.  Appraisers, Orders to pay.  Appraisers, Petitions and orders for appointment of.  Assignees, <u>see</u> Trustees.</p> <p>Bankruptcy, Affidavits and orders staying proceedings of.  Bankrupts, Certificates of proceedings for discharge of.  Bankrupts, Notices of appearance in opposition to discharge of.  Bankrupts, Oaths of, taken before final discharge.  Bankrupts, Orders for the examination of.  Bankrupts, Orders to show cause against discharge of.  Bankrupts, Petitions for discharge of.  Business, Petitions and orders to continue.</p> <p>Cause, Orders to show.  Common orders.  Creditors, Applications and orders for meetings of.  Creditors, Notices of meetings of.</p> <p>Debtors, Orders of default of, and extending time to file.  Dispossession proceedings, Orders staying.  Dispossession proceedings, Petitions and orders to show cause why, should not be stayed.  Dividends, Notices of declarations of.</p> <p>Letters and powers of attorneys.</p> <p>Messengers, Warrants to and returns of.  Monies, Certificates for balance of, deposited with clerks of court.  Motions, Notices of.  Motions, Orders denying.</p> <p>Newspapers, Orders designating, for publication of notices  Notices, Affidavits and proofs of publication of.  Notices, Affidavits of mailing of.</p>	

CHAPTER 13 EXHIBIT 1

GENERAL SCHEDULE FOR DISPOSAL OF BANKRUPTCY RECORDS  
OF THE UNITED STATES COURTS OF BANKRUPTCY

Schedule No. 6

Item No.	Title and Description Kind of Copies	Period of time to be retained
	<p>Petitions, Pleas for dismissal of, and orders overriding pleas.</p> <p>Process, Marshals' affidavits of service of.</p> <p>Proofs of claims and debts with security, Depositions for.</p> <p>Receivers, Petitions and orders authorizing, to retain counsel.</p> <p>Receivers, Petitions and orders directing, to deliver property.</p> <p>Receivers, Petitions for and orders of appointment of.</p> <p>Receivers, Orders for discharge of.</p> <p>Referees, Certificates of, for extra allowances.</p> <p>Referees' certificate of bankrupts' conformity with the law and title to discharge.</p> <p>Referees, Consent of petitioners to payment of fees and cost of.</p> <p>Referees, Motions to set aside reports of.</p> <p>Referees, Orders denying motions to set aside reports of.</p> <p>Referees, Orders concerning fees of.</p> <p>Registers, <u>see</u> Referees.</p> <p>Specifications, stipulations and orders extending time to file.</p> <p>Subpoenas.</p> <p>Trustees, Acceptances of appointment by.</p> <p>Trustees, Acceptances of bankrupts' effects by.</p> <p>Trustees, Assignments of bankrupts' effects to.</p> <p>Trustees, Notification of appointment of.</p> <p>Trustees, Notices of filing and settlement of final accounts of.</p> <p>Trustees, Orders allowing accounts and discharge of.</p> <p>Trustees, Orders approving bonds of.</p> <p>Trustees, Orders granting allowances for attorneys of.</p> <p>Trustees, Petitions and orders appointing attorneys for.</p> <p>Trustees, Petitions and orders appointing.</p> <p>Trustees, Petitions of, for compensation of services.</p> <p>Trustees, Petitions to, to examine bankrupts.</p> <p>Trustees, Receipts of, for documents and papers delivered by referees.</p> <p>Trustees, Reports and returns of, when no assets were found.</p> <p>Witnesses, Affidavits for orders and subpoenas for the examination of.</p> <p>This authorization applies to the stated types of records of officials having titles other than those listed but performing the same functions.</p>	



CHAPTER 13 EXHIBIT 1

GENERAL SCHEDULE FOR DISPOSAL OF BANKRUPTCY RECORDS  
OF THE UNITED STATES COURTS OF BANKRUPTCY

Schedule No. 6

Item No.	Title and Description	Period of time to be retained
	Kind of Copies	
5.	Files and papers in proceedings for a composition or extension, for the reorganization of a corporation, for an arrangement, for a real property arrangement, for a railroad adjustment, in proceedings under Sections 12, 74, 77, 77B, and Chapters IX, X, XI, XII, and XV of the Bankruptcy Act of 1898, as amended; EXCLUDING records covered by items 1-3 above; and all records of enduring value, listed above under (e) through (m). All record copies.	30 years after close of case
6.	Debtors' and creditors' petitions for bankruptcy and debtors' schedules of assets and liabilities in no-assets cases. All record copies.	30 years after close of case
7.	Rough minutes, order books, and other book records preliminary in form which have been transcribed in finished form in other book records which are retained. All record copies.	10 years after transcription
8.	Bankruptcy "tickler" files or volumes showing current status of bankruptcy cases. All record copies.	10 years after close of case or date of last entry
9.	Judges' bankruptcy dockets, when duplicated by official court dockets. All record copies.	10 years after date of last entry
10.	Calendars of bankruptcy proceedings. All record copies.	10 years after date of last entry
	The following added by Bulletin 340 Supp. 4 dated September 28, 1954.	
11.	Bonds of receivers in bankruptcy cases.	10 years after discharge of receivers
12.	Bonds of trustees in bankruptcy cases	10 years after discharge of respective trustees

CHAPTER 13. EXHIBIT 1

GENERAL SCHEDULE FOR DISPOSAL OF BANKRUPTCY RECORDS  
OF THE UNITED STATES COURTS OF BANKRUPTCY

Schedule No. 6

Item No.	Title and Description Kind of Copies	Period of time to be retained
	The following added by Bulletin 340 Supp. 5	
13.	Bonds of receivers, trustees, disbursing officers or other persons appointed to receive and distribute moneys and consideration, if any, in bankruptcy arrangements cases [11 USC 737].	10 years after discharge of officer
14.	The following added by Bulletin 340, Supp. 6	
15.	The following added by Bulletin 340, Supp. 7 Cases with nominal assets, EXCLUDING orders affecting title to any real estate involved in these cases.	Dispose 30 years after close of case
	Cases with assets of under \$500 distributed to secured, priority, and unsecured creditors EXCLUDING orders affecting title to any real estate involved in these cases.	Dispose 30 years after close of case
16.	The following added by Bulletin No. 340, Supp. 14 Violation notices issued by U.S. Magistrates for minor parking and traffic violations received from the violator with the fine, in cases not contested or heard by the Court [44 USC 3303a]	Retire to FARC 90 days after case is closed and payment of any fine is recorded in the docket - Dispose of 10 years after receipt by FARC
17.	The following added by Bulletin 340 Supp. 15 Case files relating to appeal, criminal, juvenile, and probation-parole cases, documenting legal services provided poor persons, by the Federal Public Defenders, authorized 10-14-70, effective 2-11-71. unique significance or (d) cases excepted by Fed.	Retire to FARC 2 years after closed. Dispose 15 years after closed EXCEPT (a) precedent cases (b) cases reflecting handling of poverty cases (c) cases of historical interest or Public Def. for administrative

## CHAPTER 13 EXHIBIT 1

GENERAL SCHEDULE FOR DISPOSAL OF BANKRUPTCY RECORDS  
OF THE UNITED STATES COURTS OF BANKRUPTCYSchedule No. 6

Item No.	Title and Description	Period of time to be retained
	Kind of Copies	

## CHAPTER 13 EXHIBIT 2

Ref. 1301.4

GENERAL RECORDS SCHEDULE FOR RETENTION AND DISPOSAL OF  
CRIMINAL AND HABEAS CORPUS RECORDS IN THE CUSTODY  
OF CLERKS OF UNITED STATES DISTRICT COURTS

January 1954

Introduction.

Except for cases involving ambassadors, other public ministers, and consuls, original jurisdiction over crimes was vested in the circuit and district courts by the Judiciary Act of 1789. This concurrent jurisdiction was maintained until the circuit courts were abolished in 1911. Prior to 1912, judges of the two courts frequently occupied the same chambers and made use of the same clerk, who sometimes maintained a single sequence of files for the two courts. Until 1891 the circuit courts maintained appellate jurisdiction over the district courts. In cases appealed the clerk frequently used the original trial record as the record on appeal and filed it with the appeals case or filed the judgment on appeal with the case in the lower court. Resultant confusion in the files of the two courts makes it necessary to retain all basic records of trial proceedings before the old circuit court was abolished in 1911. Except as indicated in specific items providing for the retention of records created before 1912, the provisions of this schedule cover all records of original criminal proceedings in United States district courts created since 1912 but none created before then.

Criminal laws are administered by a total of 91 district courts, 86 in areas where the governmental power is shared with State or territorial governments and 5 in areas where only Federal law is administered (District of Columbia, Alaska, Canal Zone, Guam, and the Virgin Islands), and by approximately 700 United States commissioners and magistrates, including national park and territorial commissioners and magistrates vested with powers of an inferior magistrate. Each district court has its office of clerk with as many deputies as its business warrants and, in some districts, supplementary officials are provided to aid in processing the business of the court, such as, for example, the Jury Commission of the District of Columbia appointed under statute to to facilitate the preparation of a jury list.

January 1954

## CHAPTER 13 EXHIBIT 2

The United States District Court is a court of record, its proceedings being "enrolled" or recorded. Its essential records are its case files and its docket and minute entries. Docket and minute entries should be sufficient to answer most inquiries relating to abridgment of substantive rights of defendants.

Most papers accumulated in processing criminal cases, whether procedural or substantive, are filed with the case, the principal purpose of which is to insure the safety of the record and preserve the validity of the proceedings. A sufficient record of the case must be preserved as long as the judgment of the court is subject to attack by the defendant. Under the Federal Judicial Code [28 USC 2255] the constitutional or legal validity of a sentence may be attacked at any time during the custody of the prisoner. After expiration of the term of probation or imprisonment imposed, the court is no longer concerned with substantive rights in the case but, as a court of record, it is inherently obligated to retain enough of the record to satisfy individual rights of inquiry and to maintain a perpetual memorial.

The dockets and minutes of the court and the dockets of the commissioners and magistrates and of the grand juries, as arms of the court, provide a complete summary of criminal proceedings and should in no case be disposed of. To secure a more complete picture of proceedings and incidence of crime than is afforded by the docket and minute entries, in those cases involving crimes of significance in the history of the country a full record of the case should be retained. This schedule provides for the retention of cases of continuing value as documentation of significant historical movements in the country and of the development of and variations in judicial procedures in the criminal area of the trial courts. It provides for the disposal of all other cases filed since December 31, 1911.

As an inquisitorial body the grand jury may initiate its own investigations into conditions surrounding law enforcement and make its own presentments to the court. Its special reports document its findings. To secure proper general direction and to insure the validity of all actions of the grand jury and the court, executive sessions of the court are held. Minutes of these meetings, executive orders of the court, and correspondence and reports of the clerk which relate to matters of general organization and procedure should be retained as documentation of this executive function.

## CHAPTER 13 EXHIBIT 2

Except for the original docket entries of the United States commissioner, or magistrate, the disposal provisions of this schedule cover all criminal records of these officials, without regard to their location. While the principal function of the commissioner, or magistrate, is to serve as a hearing officer, he may under the general laws be designated to sit as a court for the trial of petty offenses and administer punishment not to exceed a fine of \$500 or 6 months imprisonment, or both. Under the laws of special territorial application, use of a jury may be prescribed and power to punish will vary, but it does not exceed that provided under the general statutes. Other duties of a ministerial character and duties relating to preservation of the peace of his community are imposed upon the commissioner, or magistrate. His actions in these and all other matters are entered on his docket.

Numerous incidental records are created by the court as a result of its administration of justice under the criminal laws. These have immediate and transitory values in the processing of cases and in preserving the legal validity of the proceedings. They are brought under the disposal provisions of this schedule and may be classified as (1) procedural and auxiliary records, not of a substantive nature but accumulated in the organization of the court, the operation of its procedures, and in the execution of its judgments; (2) ministerial records, such as orders and process relating to the release, transportation, and subsistence of convicts, and papers relating to the extradition of fugitives from justice; (3) posting media, such as rough notes of trial clerks and stenographic notes of court reporters; (4) case control records, such as court calendars and assignment records; and (5) duplicate records created to meet temporary needs, such as transcripts of docket entries of commissioners or magistrates, original docket and minute entries in cases filed since 1911, when recorded on film, and special dockets or case summaries when created since 1911.

The provisions of this schedule are, of course, permissive, and courts having a local jurisdiction not common to all district courts (District of Columbia, Alaska, Canal Zone, Guam, and Virgin Islands) may wish to retain certain case records of local historical significance that are designated by this schedule as disposable. Selection of such cases can best be made in cooperation with local historical groups.

## CHAPTER 13 EXHIBIT 2

ITEM NO.	DESCRIPTION OF RECORDS	SCHEDULE RECOMMENDED METHOD OF FILING	AUTHORIZED DISPOSITION *
<u>RECORDS OF CONTINUING VALUE:</u>			
1.	Reports of grand jury on special investigations.	By term of court.	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after related term of court.
2.	Correspondence and special reports pertaining to formulation of criminal procedures, court organization, and precedent decisions, memorials, and special oaths and appointments.	Alphabetically by subject; start a new file every 5 years.	Disposal not authorized by this schedule. Transfer to Federal Records Center 5 years after close of file.
3.	Dockets and minutes or journals of criminal and habeas corpus proceedings before United States district courts and former circuit courts, United States commissioners, or other committing officers, and grand juries (without regard to whether record is maintained on paper or on film). (For paper copies disposable after microfilming, see Item 24.)	File separately; numerically by case number (for dockets) and chronologically (for minutes or journals).	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after date of closing entry.
4.	Case index (without regard to whether index is maintained on cards or in a record volume).	Alphabetically by defendant; if card index is maintained, start a new file every 20 years.	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after closing entry.
5.	Minutes and orders of court in executive session (not covered elsewhere in this schedule). (For paper copies disposable after microfilming, see Item 24.)	Chronologically by term of court.	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of related term of court.
6.	Case papers and documentary exhibits filed with cases of crimes or conspiracies to commit crimes, including related misprisons and accessories after the fact and court reporters' transcripts of	Numerically by criminal case number. Stamp folder "Retain."	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.

## CHAPTER 13 EXHIBIT 2

## SCHEDULE

ITEM NO.	DESCRIPTION OF RECORDS	RECOMMENDED METHOD OF FILING	AUTHORIZED DISPOSITION
	proceedings whether filed in or outside the case file, consisting of items a-k below. (For criminal cases and case papers not to be retained permanently see Items 37-38 below):		
	<p>a. Crimes involving the President and Vice President of the United States, members of and delegates to Congress, judges and other officers appointed by the President, States, and territorial governors and cabinet officials, agents of foreign states, prisoners of war, internees, alien enemies, and persons aiding in the escape of or harboring internees, prisoners of war, or enemy aliens.</p> <p>b. Crimes of treason, insurrection or rebellion, sedition, subversive activity, sabotage, espionage, officers aiding the importation of treasonous literature, concealing escaped prisoners and persons from arrest, and flight to avoid prosecution or to give testimony in cases involving these crimes. (18 U.S.C. 371-372 when pertinent, 552, 791-794, 798 enacted Oct. 31, 1951, 1071-1073 when pertinent, 2151-2156, and 2381-2390; Internal Security Act of 1950, 64 Stat. 987.)</p> <p>c. Unlawful service in transactions with or as agent for foreign government, illegal possession or misuse of foreign diplomatic codes and correspondence, unlawful correspondence with or false statements influencing foreign governments, violations of neutrality, illegal possession of property in aid of or conspiracy to injure property of foreign governments, and willful exportation of war materials, liquors, and narcotics to areas prohibited by law or proclamation of</p>		



## SCHEDULE

ITEM NO.	DESCRIPTION OF RECORDS	RECOMMENDED METHOD OF FILING	AUTHORIZED DISPOSITION
	the President. (18 U.S.C. 371-372 when pertinent, and 951-969; Neutrality Act of 1939, 54 Stat. 4.)		
d.	Crimes of piracy, privateering, and receipt of pirate property, mutiny or inciting to mutiny, shanghaiing, malicious abandonment of seamen, drunkenness or neglect of duty, or cruelties by ship's officers or seamen resulting in death or loss of vessel and firing or destruction of or conspiracy to destroy vessel. (18 U.S.C. 371-372 and 1115 when pertinent, 1651-1661, 2191-2197, and 2271-2275.)		
e.	Crimes of peonage and slavery; conspiracy against free exercise of rights of citizens, deprivation of rights under color of law, and discrimination on account of race or color (or previous condition of servitude); and interference in elections by armed forces, use of troops at poll, excessive political contributions and purchases by individuals, committees, banks, corporations, or labor unions, threats or promises by candidates for elective office, and mailing, publication, or distribution of forged or unidentified political statements concerning candidates for elective office. (18 U.S.C. 241-244, 371-372 when pertinent, 591-593, 599, 601 when pertinent, and 608-612.)		
f.	Crimes of racketeering, transportation of strikebreakers, and interference with foreign commerce by violence; and unlawful interference with picketing, organizing, or bargaining rights of employees and labor unions, refusal to bargain collectively, engaging in unlawful strikes or encouraging employees		

## CHAPTER 13 EXHIBIT 2

ITEM NO.	DESCRIPTION OF RECORDS	SCHEDULE	RECOMMENDED METHOD OF FILING	AUTHORIZED DISPOSITION
	<p>to strike unlawfully, coercing employer to recognize non-representative union or to grant unfair assignments of labor, and refusal to file affidavits required by laws governing labor relations. (18 U.S.C. 371-372 when pertinent, 1231, 1364, and 1951; Labor Management Relations Act of 1947, 61 Stat. 136.)</p> <p>g. Mutinies and riots at penal or correctional institutions; and kidnaping or receipt, possession, or disposal of ransom money when ransom demands are involved or when action accompanies mob violence. (18 U.S.C. 1201-1202 and 1792.)</p> <p>h. Evasions of or conspiracies to evade Federal internal revenue and liquor laws, food and drug and narcotics laws, custom laws, white slave traffic laws, and lottery laws involving syndicate actions crossing international, State, or territorial boundaries or officials of States, territories, or the District of Columbia, and offenses growing out of anti-trust proceedings involving combinations, contracts, or agreements in restraint of trade. (18 U.S.C. 371-372 and pertinent United States statutes.)</p> <p>i. Criminal contempt for disobedience or resistance to lawful process or judgments in proceedings covered by subitems a-h, for disobedience to injunctions and restraining orders involving or growing out of labor disputes, and for willful default or refusal to testify before committees of Congress or administrative agencies when subject of inquiry relates to</p>			

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
	crimes covered by subitems a-h. (18 U.S.C. 3691-3693; 2 U.S.C. 192; and such statutory provisions for punishment of contempt as provided in Administrative Procedures Act of 1946, 5 U.S.C. 1005(c), 60 Stat. 237.)		
	j. Destruction or removal of property to prevent authorized seizure and rescue of seized property in cases relating to crimes covered by subitems a-i. (18 U.S.C. 2232-2233.)		
	k. Perjury and subornation of perjury when action on account of which perjury was committed constitutes an offense covered by subitems a-j. (18 U.S.C. 1621-1622.)		
7.	Habeas corpus proceedings initiated by Federal prisoners charged with crimes listed under Item 6 of this schedule and proceedings initiated by State prisoners when writ of habeas corpus issues. (For disposable habeas corpus cases see Item 39.)	Numerically by habeas corpus case number. Stamp folder "Retain."	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.
8.	Criminal cases in which an appeal is filed or a writ or certiorari is petitioned and an opinion is rendered by the higher court.	Numerically by criminal case number. Stamp folder "Retain."	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.
9.	Criminal cases cited in the <u>Annual Report of the Attorney General of the United States.</u>	Numerically by criminal case number. Stamp folder "Retain." When Attorney General's report is not circulated the Administrative Office will supply a list of cited cases.	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.

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ITEM NO.	DESCRIPTION OF RECORDS	SCHEDULE	RECOMMENDED METHOD OF FILING	AUTHORIZED DISPOSITION
	<p>to strike unlawfully, coercing employer to recognize non-representative union or to grant unfair assignments of labor, and refusal to file affidavits required by laws governing labor relations. (18 U.S.C. 371-372 when pertinent, 1231, 1364, and 1951; Labor Management Relations Act of 1947, 61 Stat. 136.)</p> <p>g. Mutinies and riots at penal or correctional institutions; and kidnaping or receipt, possession, or disposal of ransom money when ransom demands are involved or when action accompanies mob violence. (18 U.S.C. 1201-1202 and 1792.)</p> <p>h. Evasions of or conspiracies to evade Federal internal revenue and liquor laws, food and drug and narcotics laws, custom laws, white slave traffic laws, and lottery laws involving syndicate actions crossing international, State, or territorial boundaries or officials of States, territories, or the District of Columbia, and offenses growing out of anti-trust proceedings involving combinations, contracts, or agreements in restraint of trade. (18 U.S.C. 371-372 and pertinent United States statutes.)</p> <p>i. Criminal contempt for disobedience or resistance to lawful process or judgments in proceedings covered by subitems a-h, for disobedience to injunctions and restraining orders involving or growing out of labor disputes, and for willful default or refusal to testify before committees of Congress or administrative agencies when subject of inquiry relates to</p>			

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
	crimes covered by subitems a-h. (18 U.S.C. 3691-3693; 2 U.S.C. 192; and such statutory provisions for punishment of contempt as provided in Administrative Procedures Act of 1946, 5 U.S.C. 1005(c), 60 Stat. 237.)		
	j. Destruction or removal of property to prevent authorized seizure and rescue of seized property in cases relating to crimes covered by subitems a-i. (18 U.S.C. 2232-2233.)		
	k. Perjury and subornation of perjury when action on account of which perjury was committed constitutes an offense covered by subitems a-j. (18 U.S.C. 1621-1622.)		
7.	Habeas corpus proceedings initiated by Federal prisoners charged with crimes listed under Item 6 of this schedule and proceedings initiated by State prisoners when writ of habeas corpus issues. (For disposable habeas corpus cases see Item 39.)	Numerically by habeas corpus case number. Stamp folder "Retain."	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.
8.	Criminal cases in which an appeal is filed or a writ or certiorari is petitioned and an opinion is rendered by the higher court.	Numerically by criminal case number. Stamp folder "Retain."	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.
9.	Criminal cases cited in the <u>Annual Report of the Attorney General of the United States.</u>	Numerically by criminal case number. Stamp folder "Retain." When Attorney General's report is not circulated the Administrative Office will supply a list of cited cases.	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
10.	Documentary exhibits not physically filed with the case and not claimed by parties to the case, in cases covered by Item 6 of this schedule. (For case exhibits not retained see Item 40.)	Numerically by criminal case number. Stamp exhibit "Retain."	Disposal not authorized by this schedule. Transfer to Federal Records Center 10 years after close of case.
<u>RECORDS OF TEMPORARY VALUE:</u>			
11.	Papers relating to preliminary proceedings before United States commissioners, or other committing officers, in which complaint is dismissed or defendant is discharged, removed to other district, or ignored by grand jury, and grand jury ignorant, and other papers relating to cases ignored.	Numerically by committing officer's case number. Enter number on grand jury docket, when pertinent.	Dispose 10 years after discharge of grand jury.
12.	Papers in offenses tried before United States commissioners, or other committing officers; designated for trial of offenses committed within the exclusive or concurrent Federal jurisdiction.	Numerically by committing officer's case number.	Dispose 10 years after final judgment or expiration of term of sentence or probation imposed, whichever is longest.
13.	Papers relating to proceedings before United States commissioners, or other committing officers, for extradition of fugitives from foreign countries. (18 U.S.C. 3184-3186.)	Numerically by committing officer's case number.	Dispose 10 years after case is closed or certified to the Secretary of State (or other designated authority).
14.	Correspondence, case reports, canceled or voided warrants, and other papers of United States commissioners, or other committing officers, relating to criminal proceedings before them and including papers in cases closed by forfeiture (not covered elsewhere in this schedule).	Conform to court practice.	Dispose 10 years after close of related term of court.
15.	Transcripts of docket entries of criminal proceedings before United States commissioners, or other committing officers.	Separately; numerically by committing officer's case number.	Dispose 10 years after close of case.

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
16.	Fees and costs accounting records.		
a.	Claims for fees and supporting papers of United States commissioners, or other committing officers, periodic accounts of clerks for fees and emoluments and deposits, schedules of collections, and periodic reports on fees and costs (maintained in Office of Clerk).	Separately and chronologically.	Dispose 10 years after date of document.
b.	Copies of claims for fees, workpapers, and related correspondence (maintained by United States commissioners, or other committing officers).	Chronologically.	Dispose 10 years after account is settled.
c.	Daily records of cash receipts (such as cash blotters, pad or machine receipts, and case cards when summarized on other record).	Chronologically; by reporting period and case number thereunder for case cards.	Dispose 10 years after clearance by administrative audit.
d.	Cash books, or other summary record, of fees and cash deposited.	Chronologically.	Dispose 10 years after final entry.
17.	Questionnaires, police reports, and other records relating to the determination of juror qualifications.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
18.	Juror ballots and certified lists of jurors drawn.	By term of court.	Dispose 10 years after close of related term of court.
19.	Correspondence and related papers pertaining to the selection of juries and foremen and juror qualifications and service and oaths of bailiffs, secretaries, and interpreters taken in writing.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
20.	Petitions, motions, and orders relating to the mechanics of jury selection, accommodation, and discharge.	By term of court.	Dispose 10 years after close of related term of court.

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
21.	Jury panels, and records of attendance and payment of jurors, jury commissioners and witnesses.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
22.	Notices, praecipes, subpoenas, warrants, contempt attachments, and other process used in summoning and compelling attendance of jurors and grand jury witnesses.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
23.	Reports of grand jury on polls of indictment. (Rule 6(c) of Federal Rules of Criminal Procedure.)	In accordance with instructions of Administrative Office of United States Courts (4.34 Clerks' Manual, 1950).	Dispose 10 years after discharge of grand jury.
24.	Dockets and minutes or journals of criminal proceedings before United States district courts and former circuit courts and dockets of United States commissioners, or other committing officers, and grand juries, which have been recorded on film. (For copies to be retained see Items 3 and 4.)	Separately.	Dispose of paper records created since 1911, at appropriate time after recording on film. Transfer earlier records to Federal Records Center.
25.	Recorded copies of final orders and judgments in criminal proceedings (when separately maintained on paper or on film).	Chronologically.	Dispose of records created since 1911, 10 years after date of closing entry. Transfer earlier records to Federal Records Center.
26.	Correspondence and other papers relating to criminal proceedings, transfer and assignment of cases, representation of counsel, payment and forfeiture of bail, service and execution of process, orders and judgments, and commitment, probation, and release of defendants and prisoners.	Alphabetically by subject; start a new file every 2 years.	Dispose 10 years after close of file.



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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
27.	Warrants of removal for defendants and prisoners and petitions, motions, orders, and other papers relating to the discharge of indigent prisoners and to the transportation and subsistence of discharged defendants and prisoners.	Separately.	Dispose 10 years after date of removal or discharge.
28.	Case control records, such as trial calendars, motion cards and calendars, dismissal calendars; judges' assignment books, case control cards, docket status reports, and copies of blotter sheets used for case assignment or purpose other than as docketing media.	Separately.	Dispose 10 years after close of related term of court.
29.	Notes on proceedings taken by clerks and court reporters and blotter sheets used as media for docketing or posting purposes.	Chronologically.	Dispose 10 years after date of closing entry.
30.	Statistical reports of trial clerks and copies of statistical and case reports submitted by the clerk to other Government agencies, and work papers. (When maintained.)	Chronologically by report.	Dispose 10 years after date of report.
31.	Summary records of criminal proceedings, duplicated or summarized in the dockets and minutes or journals (not covered elsewhere in this schedule).	Separately.	Dispose of records created since 1911, 10 years after date of closing entry. Transfer earlier records to Federal Records Center.
32.	Requisitions of State Governors or other competent executive authority, for apprehension and delivery of designated persons, and papers supporting the requisition, arrest, detention, and hearing on the requisition. (18 U.S.C. 3182, 3184-3186, and 3188-3191.)	Numerically by requisition case number.	Dispose 10 years after date of return on requisition or discharge of prisoner.

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
33.	Rejected applications of persons in custody for leave to proceed <u>in forma pauperis</u> on appeal, to vacate or modify sentence, for writ of habeas corpus, or other remedial proceeding, and related correspondence and papers. (Not to be confused with habeas corpus cases, under Items 7 and 39.)	Alphabetically by name of petitioner.	Dispose 10 years after date of last related communication.
34.	Personal recognizances and bonds for appearance of defendants and witnesses, security of the peace, and security of fines and costs on appeal, and related records and indices.		
	a. Personal recognizances.	By case number.	Dispose 10 years after close of case.
	b. Bonds.	By case number; make separate chronological file of satisfied and canceled bonds.	Dispose 10 years after exoneration of obligor.
	c. Record of securities deposited as collateral on bonds.	Chronologically.	Dispose 10 years after exoneration of obligor.
35.	Orders authorizing and revoking authority of designated persons to take bail or collateral and oaths of persons designated.	Alphabetically by designated person.	Dispose 10 years after termination of authority.
36.	Applications to engage in bonding business and supporting papers, court orders of authorization, certificates of authority issued to process agents (when applicable), and related indices.		
	a. Rejected applications.	Chronologically.	Dispose 10 years after date of rejection.
	b. Accepted applications.	Alphabetically; place in chronological file when authority is terminated.	Dispose 12 years after termination of authority.

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
37.	Papers of procedural rather than substantive nature, in cases not designated for permanent retention (Items 6-9), consisting of but not limited to:	Chronologically; place in temporary section of folder.	Dispose 10 years after close of case.
	a. Papers relating to preliminary hearings (whether filed in or outside the case file).		
	b. Summonses, praecipes, subpoenas, warrants, commitments, and other process used for securing the custody and presence of defendants and witnesses and for procurement of evidence.		
	c. Petitions, motions, and orders relating to the admission, revocation, continuance, alteration, deposit, and remission of bail, and to the custody or discharge of defendant or witness on recognizance or bail.		
	d. Notices of appearance and motions and orders relating to the appointment and withdrawal of counsel.		
	e. Applications, motions, and orders on enlargement of time, release of defendant, correction of error, and <u>forma pauperis</u> proceedings, and clerks' certificates of oral motions and orders of court (when prepared).		
	f. Probation service reports on investigation, applications for relief pending appeal, statements of docket entries, designations and transcripts of record on appeal, and writs of appellate court to compel transmittal of papers relating to the appeal.		

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
38.	Case papers and documentary exhibits filed with cases of crimes and conspiracies to commit crimes, except cases covered by Items 6, 8, and 9 of this schedule and cases filed before 1912.	Numerically by criminal case number.	Dispose 30 years after final judgment or expiration of term of probation or sentence of imprisonment imposed, whichever is longest. Transfer to Federal Records Center 10 years after close of case.
39.	Case papers and documentary exhibits filed with cases of habeas corpus proceedings instituted by persons under criminal charge, except cases covered by Item 7 of this schedule and cases filed before 1912.	Numerically by habeas corpus case number.	Dispose 10 years after final judgment.
40.	Case exhibits not physically filed with the case and abandoned by parties to the case, including all physical exhibits other than documentary and all documentary exhibits not covered by Item 10 of this schedule.	Numerically by criminal case number.	Dispose in accordance with local court rules.

NOTES.

Item 1. These are official returns on grand jury investigations into conditions surrounding law enforcement. Presentments and changes in procedures or in the substantive law may result.

Items 2 and 5. These records provide important documentation for procedural and organizational developments in the trial courts and biographical data regarding court officials.

Item 3. Docket entries and minutes provide a summary of all proceedings in criminal and habeas corpus cases. Practice, in some courts, has been to combine minutes with recorded copies of orders and judgments in the form of a journal. Since 1948, six district courts have adopted a current microfilming program, which continues the practice of combining minutes (through the medium of a clerk's certificate) with recorded copies of orders and judgments, in the form of a journal recorded on film. Since the recorded copies of orders and judgments are inseparable from the minutes, in these instances, it becomes necessary to retain both. Grand juries and United States commissioners, or other committing officers, do not usually keep minutes of proceedings. Hence, their dockets afford the only collected summary record of proceedings and cover all cases before them, whether dismissed or bound over and whether ignored or indicted, and facilitate later reference to actions taken in all cases. Actions in habeas corpus proceedings are usually entered in separate habeas corpus or miscellaneous dockets and, while regarded as civil in nature, these pro-

ceedings are complementary to those regarded as purely criminal proceedings. These docket entries complete the summary picture of actions taken in criminal cases.

Item 4. The case index is essential to the use of the dockets and minutes. The traditional practice of maintaining book-form indexes, whether in the individual record volume or in separate index volumes, has been displaced, in most courts, by some form of card index. The Administrative Office of the United States Courts recommends use of a general card index system for all cases (Paragraphs 4.25-4.28 of the Clerks' Manual, 1950).

Item 6. These cases are retained for documentary evidence of movements of historical forces in the country and for their biographical data on elective and appointive officers and candidates for elective office. They include all cases covering certain specified crimes, all cases involving certain public officials, foreign officers and agents, and other persons of foreign nationality over whom diplomatic complications might arise, cases of widespread conspiracy to evade certain laws and evasions of those laws when officials of the State, territory, or the District of Columbia are involved (subitem h), and certain cases relating to or growing out of the listed offenses, and cases of perjury when statutory limitations prevent prosecution for the listed offenses (subitems i-k). For persons interested in social, economic, and political research, these cases reflect, in variable detail, on many significant and sensitive movements in the history of this country, some long quiet and others of growing intensity. The legal status of slavery no longer exists but occasional cases of involuntary servitude do arise. Issues of civil rights become more acute and central controls over elections are expanding. Security and labor relations problems are increasing and attitudes on neutrality find variable expression. These cases contain a certain, although variable, evidence of "movement" and so provide historical materials. Students of penology will search the smallest file on a case of prison mutiny as students of corporate enterprise search the volume of evidence in criminal prosecutions growing out of anti-monopoly proceedings.

Item 7. While habeas corpus is not regarded as a criminal proceeding its action is directly related to the case history of the prisoner, who uses this method to challenge the propriety of his confinement. Cases retained include those directly relating to offenses listed under Item 6 and proceedings initiated by State prisoners claiming violations of rights on constitutional grounds. Due process of law requires a State to give defendant ample opportunity to meet an accusation but direct recourse to Federal district courts is rare since application can be made in the first instance only where there is no adequate remedy available in the State courts and, it has been held, State remedies have not been exhausted until review by the United States Supreme Court has been sought (*Gordon v. Scudder*, 163 F. 2nd 518; C.C.A. 9th 1947).

Item 8. These cases are retained for their documentary evidence of the development of substantive and adjective law. A recent precedent ruling of the United States Circuit Court of Appeals for the District of Columbia granting an appeal from a lower court order allowing a motion to suppress evidence in a narcotics case (No. 10899, decided Nov. 6, 1952), effected an important amendment to adjective law and gave evidence of the value of papers in the case for legal research. Since the opinion in this case widens the ambit of appeals, it should be noted that the number of criminal appeals has varied between one and two percent of the original proceedings, of which about twenty-five percent are dismissed without an opinion being

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rendered. (Cf. Annual Report of the Director of the Administrative Office of the United States Courts for the years 1941-1952). Moreover, it should be noted that a higher proportion of appeals will be found among the cases listed under Item 6 of this schedule.

Item 9. These cases are retained for their precedent character and because of the problems they set up in the administration of justice. In most instances they will be covered by Items 6 - 8 of this schedule.

Items 10 and 11. Case exhibits impounded by the court or voluntarily submitted as evidence include all types of physical and documentary items, which normally remain the property of parties to the case but which may be ordered filed with the case or held temporarily pending appeal. Local rules of many courts provide for their return to parties and for the disposal of unclaimed exhibits. Physical exhibits usually lack records value while documentary exhibits may prove to be of value commensurable with the related cases. Unclaimed documentary exhibits relating to cases designated for permanent retention are retained. All others are disposable by action of the court.

Item 11. These papers are of transitory value. They relate to proceedings in which the charge is not substantiated or in which the defendant is removed before indictment or information issues, the case being recorded in the district of prosecution. Rule 5(c) of the Federal Rules of Criminal Procedure requires all papers in preliminary proceedings to be transmitted to the clerk of the district court. Outside the continental United States, this procedure varies. In Alaska, the commissioner transmits his file in all cases where a hearing is held, including his hearings held as conservator of the peace (Manual for United States Commissioners in the Territory of Alaska, 1950, p. 15; sections 66-22-26, 66-22-27, and 66-22-33 of Alaska Compiled Laws Annotated, 1949). In the Canal Zone, the magistrate, committing officer, transmits his papers in the case to the district attorney, when the defendant is held to answer in the district court. If no information is filed in the case by the district attorney, the papers are returned to the magistrate, where they are retained and deposited with his successor in office (Title 6, sections 114 and 119 of the Canal Zone Code, enacted June 19, 1934; 48 Stat. 1122). Since these proceedings are entered on docket, the papers are held for sufficient time to satisfy normal reference needs; without regard to their location.

Item 12. These are misdemeanor offenses triable before United States commissioners, designated by the district judge for trial of "petty offenses," without a jury and involving offenses of a maximum possible sentence of 6 months imprisonment or fine of \$500, or both (18 U.S.C. 1 and 3401-3402), or triable before commissioners or other designated officers in the territories, with or without a jury, as statutes of special application may prescribe. On appeal to the district court a transcript of the trial record is submitted and the case is tried on some point of law in the case. There appears to be no provision for the transfer of these cases to the clerk's office. Under the 1934 Canal Zone Code they are retained in the magistrate's office (Title 6, section 114). Within the United States, some commissioners have transferred the cases by term of court, under a misconception of criminal Rule 5(c), while others have transferred them on leaving office or left them with a successor in office. Since these proceedings relate to minor criminal offenses and are entered on docket, 10 years appears to be sufficient time to satisfy normal reference needs, without regard to the location of the papers.

Item 13. These are preliminary proceedings in cases documented in the files of the Secretary of State and are entered in the commissioner's docket. They are held for sufficient time after final action to satisfy normal reference needs.

Item 14. These papers relate to administrative details of criminal matters and to petty offenses and are summarized in docket form. They are held for sufficient time after final action to satisfy normal reference needs, without regard to the location of the papers.

Item 15. These duplicates of docket entries are submitted to the Clerk of Court for his information under direction of the Administrative Office of the United States Courts. Original dockets of United States commissioners, to be retained under Item 3 of this schedule, are turned over to the district courts at the conclusion of the Commissioner's service (Bulletin Nos. 314, Supplement 2, Nov. 14, 1946, and 328, July 10, 1947). Not all subordinate magistrates follow this procedure (Item 11, appraisal note), but their dockets are retained in all cases and are accessible to the Clerk. Since the principal reference to these transcripts is made during the current sessions of the grand jury and the court, they are held for sufficient time to satisfy normal reference needs.

Item 16. These papers are accumulated in the process of collecting and accounting for case money accruing to the United States from fees, fines, penalties, costs, and monetary restitutions in favor of the United States and cover such records items as receipts for money paid over the counter to final summaries of these transactions. Case monetary transactions are entered in the docket in ledger form. Accounts are rendered by commissioners and clerks of court under regulations prescribed by the Director of the Administrative Office of the United States Courts (28 U.S.C. 636 and 751(e)), originals and duplicates of which are filed with that office. Congressional approval for this disposal has been secured (H. Rept. No. 1145, 81st Cong., 1st Sess.).

Items 17-22. Papers accumulated in the operation of procedures for impaneling and discharging juries, securing grand jury witnesses, and compensation for services of witnesses and jurors. They do not relate directly to cases. Congressional authorization for disposal of precepts and subpoenas, writs of venire facias, jury panels, and pay and attendance records of jurors and witnesses has been secured (H. Rept. No. 1145, 81st Cong., 1st Sess.; items 9-12 of paragraph 4.70, Clerk's Manual, 1950). The disposal provisions of this schedule incorporate these disposal authorizations except for certain items where the retention period has been extended for better security of individual rights under the change in the criminal rules which extends the time limit for motions for new trial on the ground of newly discovered evidence from 60 days to 2 years (Rule 33, Federal Rules of Criminal Procedure, 18 U.S.C.A.). These papers are held for sufficient time to safeguard individual rights and to satisfy normal reference needs.

Item 23. This is the official report of the grand jury on the number of jurors concurring in the indictment. It is held for sufficient time to safeguard individual rights and to satisfy normal reference needs.



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Item 24. These are original paper entries microphotographed in accordance with Regulations of the General Services Administration (Sec. 105.00 of Title 3, Federal Records), Congressional authorization for disposal of which has been secured (H. Rept. No. 1146, 81st Cong., 1st Sess.; Administrative Office of the United States Courts, Bulletin No. 340, Supplement 1, Sept. 20, 1949). This disposal provision incorporates the original authorization, except for records created before 1912. At this time the old circuit court system was abolished and its original jurisdiction vested in the district courts. Since the same clerk frequently served both courts, it was not unusual for him to keep a single sequence of files. Since many important case files of the earlier period have been lost, these original entries of proceedings covering cases filed before 1912 are held for transfer to the Federal Records Center.

Item 25. Originals of these recorded copies are found in the case files and are of value commensurable with other basic papers in the case file. Except for cases filed before 1912 (which are not covered by this schedule), a period for which many important case files appear to have been lost, these duplicate copies are held for sufficient time to satisfy all normal reference needs.

Item 26. These are routine papers accumulated in processing criminal cases. They are held for sufficient time to complete actions in the case and to satisfy all normal reference needs.

Item 27. Papers accumulated in the routine operation of procedures for removal of prisoners and for the discharge of indigent convicts, by judge or commissioner (18 U.S.C. 3049 and 3569). In most cases these actions are entered in case or miscellaneous dockets and the papers are held for sufficient time to satisfy normal reference needs.

Item 28. These records are accumulated in the routine operation of procedures set up by the court for the expedition of justice and for the control of its docket. Their values are transitory and they are held for sufficient time to satisfy normal reference needs.

Item 29. These initial notes, without regard to form, serve as docketing media and are held for sufficient time to satisfy inquiries concerning accuracy of entries and other reference needs. This provision incorporates a Congressional disposal authorization previously secured (H. Rept. No. 1145, 81st Cong., 1st Sess.).

Item 30. These papers are accumulated in the operation of reporting procedures and are held for sufficient time to satisfy normal reference needs. The Administrative Office of the United States Courts coordinates and publishes cumulative statistical case data and discourages the filing of copies of statistical reports sent to it.

Item 31. These records are accumulated because of circumstances peculiar to particular districts or because of reluctance to depart from practices long followed in the particular court. They are held for sufficient time to satisfy immediate reference needs. Because of the loss of many original records of proceedings in earlier years, these "duplicates" may contain the only record, now extant, of lost cases of historical significance. In this respect, attention should be called to the "Final Record" of proceedings kept by the clerks for fee accounting purposes



until salaries became fixed by statute on July 1, 1919 (40 Stat. 1182) and afterwards, in some courts, when a final record was ordered by the court and when it suited the convenience of the clerk. Except for records created prior to 1912, these records are held for sufficient time to satisfy all reference needs.

Item 32. These are papers in requisition cases accumulated in the operation of extradition procedures, based on proof of complaint or indictment in State or territorial jurisdictions or in foreign countries. In the case of foreign nationals, the proceedings are reported to the Secretary of State. Requisition proceedings are docketed and papers in the cases are held for sufficient time to safeguard all rights of parties and to satisfy normal reference needs.

Item 33. These are, primarily, letters of persons seeking relief from confinement through some remedial proceeding, and technically constitute requests for permission to sue in forma pauperis for writs of habeas corpus. They disclose no ground for remedy and hence no writ issues. In most cases subsequent letters can be answered by the clerk without reference to a motions commissioner or judge. They are held for sufficient time to insure individual rights and to satisfy normal reference needs.

Item 34. A personal recognizance is an obligation of record to appear before the court or commissioner or meet such other stipulated condition as to "keep the peace" and is enforceable on motion and order of court for apprehension. A bond is a contract under seal with one or more sureties, properly justified, into whose custody the defendant is committed. On breach of condition of the bond the court enters judgment of default on which execution may issue, the liability of obligors being enforceable on motion without the need of independent action (Rule 46, Federal Rules of Criminal Procedure, 18 U.S.C.A.). When the condition of the bond has been satisfied or the penalty met, it has served its purpose and ceases to have validity. These actions are docketed and most courts maintain separate records of monetary judgments. The bonds and recognizances are maintained for sufficient time to safeguard rights of parties and to satisfy reference needs.

Item 35. These records serve as proof of authority for taking bail and protect the rights of the individuals concerned. Accounts are audited periodically and sureties on the bond of the clerk, the accountable officer, are protected against suits not instituted within 5 years of an auditor's statement of indebtedness (6 U.S.C. 5). The records are held for sufficient time to meet legal situations which might arise.

Item 36. These records serve as proof of qualification and authority for writing bonds. Bonding companies file copies of their charters and quarterly statements of qualification with the Secretary of the Treasury (6 U.S.C. 8 and 9). Laws of the State or territory (or District of Columbia), in which the offense was committed, determine sufficiency of steps to enforce forfeited bonds and limit actions on sealed instruments. These records are held for sufficient time to meet the various limitations imposed and to satisfy normal reference needs.

Item 37. These papers are accumulated in the operation of routine processes and relate to actions entered on the docket or in the minutes. They include some papers duplicated elsewhere, as the clerk's certificates of oral motions and orders recorded on film (appraisal note, Item 3) and copies of probation service reports. These papers have a transitory value and are held for sufficient time to safeguard the preservation of individual rights. Rights of appeal and new trial are governed by

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the Federal Rules of Criminal Procedure, which place time limits on their exercise. For example, Criminal Rule 33 permits the filing of a motion for a new trial based on the ground of newly discovered evidence "only before or within two years after final judgment." (See Rules 7(c), 12(b)(2), 30, 33, 37(a)(2) and (b)(2), and 52; for defendants whose mental incompetency was not disclosed during the trial, see 18 U.S.C. 4245.) The defendant may protect his constitutional rights at any time, but in the determination of error affecting the substantial rights of defendants under section 2255 of Title 28, U.S.C., all circumstances in the record are considered and to substantiate a motion to vacate or modify sentence, under this section, the record in the case must be proved manifestly prejudicial to the defendant. This disposal authorization provides for the disposal of a majority of the papers in many case files prior to their transfer to the Federal Records Center.

Item 38. Except for case files of enduring value, retained under Items 6 - 9 of this schedule, provision for the disposal of criminal cases is based on several factors: the retention of the docket analysis and minute entries in each case, the availability of statistical summaries and analyses reported by the Administrative Office of the United States Courts and the Department of Justice, the availability of current newspaper accounts of the crimes, and the absence of any further administrative or reference value in the cases, which are no longer needed for the protection of individual rights or for execution of monetary judgments and which are held for sufficient time to satisfy personal reference needs. Because of their nature and repetitious character many thousands of cases arising under the criminal and regulatory statutes have no lasting research value or historical significance. Examples such as the evasions of price and selective service regulations of the emergency and war years and ordinary motor vehicle thefts are numerous and of no enduring value. At its October meeting in 1946, held at Washington, D. C., the Judicial Conference of Senior Circuit Judges heard and adopted the report of a committee on the disposition of old files. This committee, reporting to the Chief Justice and members of the Judicial Conference in May 1946, recommended the disposal of all "files and papers" in criminal cases, not deemed worthy of further preservation by the court, 30 years after final judgment or the expiration of the term of probation or sentence of imprisonment imposed, whichever is longest. (Report of the Judicial Conference of Senior Circuit Judges bound with the Annual Report of the Director of the Administrative Office of the United States Courts, 1946, p. 24; Reports of the Committee on the Disposition of Files in Bankruptcy and Other Cases, May 1946, p. 15.) A total of 35,000 to 40,000 criminal cases are filed annually. About 12 percent of these are dismissed or quashed or tried and found not guilty. In cases of conviction the court may impose only sentence of fine or imprisonment or probation, including the probationary custody of the Attorney General as provided by the Federal Youth Corrections Act, as amended, Sept. 30, 1950 (18 U.S.C. 5010), or both. It is estimated that less than 2 percent of convictions result in imprisonment of 5 years or longer. It appears that 98 percent of the volume of criminal case files are disposable within 35 years of conviction. About 20 percent of the records of the district courts fall into the criminal area of those courts and case files make up the bulk of these records. Of the total volume of criminal records those designated for permanent retention make up about 2 percent.

Item 39. A civil proceeding invoked by persons in custody to challenge the legal validity of their custody. The court's judgment is not appealable and is not subject to review. The proceedings are entered on docket and these cases, not relating to criminal cases of enduring value, are held for sufficient time to satisfy normal reference needs.

GENERAL RECORDS SCHEDULE

## RECORDS OF UNITED STATES DISTRICT COURTS

Civil Jurisdiction  
and  
General Administration

## Introduction

This disposal schedule covers records documenting both civil proceedings and administrative or housekeeping functions accumulating in United States district courts and their divisions since January 1, 1912, except when a later date is indicated. The district courts, the lowest United States courts where cases are initially tried and decided, were established in the Federal judicial system by the Act of September 24, 1789 (1 Stat. 73) under the constitutional provision that the judicial power is "vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Article III, Section 2, of the Constitution provides that the judicial power extends "to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority" and "to all Cases of admiralty and maritime Jurisdiction."

Each of the district courts prescribes its own rules for the conduct of its business, but these rules must not be inconsistent with Acts of Congress and rules of practice and procedure prescribed by the Supreme Court (28 U.S.C. 2071). Rules of Civil Procedure for the District Courts of the United States (28 U.S.C. 2072), effective September 16, 1938, currently govern the procedure in district court suits of a civil nature, whether cognizable as cases at law or as cases in equity. They do not apply to certain proceedings as set forth in Rule 81. Cases arising under acts such as the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301) are not governed by the Rules of Civil Procedure except as to appeals and except as it is customary for them to be handled like civil actions. Proceedings such as habeas corpus actions are regulated by statute (28 U.S.C. 2241-2255). Admiralty suits are governed by Rules of Practice in Admiralty and Maritime Cases (28 U.S.C. 2073). All of these and other designated proceedings, however, are reported statistically as civil actions.

This schedule also covers records documenting civil proceedings in the "old circuit courts" which existed between 1789 and 1912. An act of 1891 (26 Stat. 826) transferred the appellate jurisdiction of these old circuit courts to the newly created and presently constituted United States Courts of Appeals. When the old circuit courts were finally abolished, January 1, 1912 (36 Stat. 1167), their remaining original jurisdiction and their records were turned over to the district courts.

The types of original civil cases decided by the district and old circuit courts changed from time to time. In general, the district courts had a narrow jurisdiction and the circuit courts had a wide jurisdiction and accumulated more records. Admiralty cases were usually decided in the district courts but these courts shared the original cognizance in many other types of cases. The



plaintiff brought suit in the court in which he thought he could prevail or from which he could most easily appeal to the Supreme Court.

Both district and circuit courts are courts of record required to keep a full and complete permanent record of all cases tried by them and their disposition of them. The record of the clerk as the recording officer is the authoritative evidence of the proceedings and of the judgments rendered. The same person served as clerk of both the district and circuit courts, except in North Carolina (1 Stat. 76; 2 Stat. 163), and in some cases he maintained case files of both courts in one sequence. The most important records in the custody of the clerk are the case records which consist, in the civil jurisdiction, of the pleadings, process, written orders and judgments of the court and such other papers as pertain directly to the case. Since September 16, 1938, most clerks have docketed civil cases in one sequence, whether the case is an action at law, in equity, or in admiralty, with a "miscellaneous docket" for papers not appropriate for the regular dockets, but needing to be controlled.

This schedule does not cover bankruptcy and criminal records of the United States district and circuit courts. They are covered by other schedules approved by the Congress (H. Rept. 743, 80th Cong., 1st sess. and H. Rept. 1110, 83d Cong., 2d sess.). Provisions for certain records created under the general administrative functions of these courts and certain book records contained in two other disposal schedules (H. Repts. 1145 and 1146, 81st Cong., 1st sess.) have been incorporated in this schedule. Items 30, 34-37, covering discontinued records, are the only items in those schedules which have not been superseded.

The basic justification for the disposal of the records described in this schedule is the retention of certain other records created by the courts. Among these are:

- A. Dockets and minutes or journals of proceedings before the court (in either paper or microfilm form).
- B. Case and subject indexes.
- C. Orders, reports, rules and other papers relating to the organization and procedures of the court, memorial proceedings and oaths and appointments not in cases.
- D. Roll of attorneys practicing before the court.
- E. Registry ledger, summary and detailed entries of deposit and disbursement of funds in the custody of the court.

In addition, this schedule does not authorize the disposal of any case file papers except the less important papers covered by item 4. Many of the case files do not warrant indefinite retention, but pending the development of practical criteria for segregating those of enduring value no effort is made to evaluate them. Similarly, no effort is made to evaluate the court records relating to naturalization, pending a critical study of the relative values of naturalization files of the Justice Department and those of the courts.

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## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
1.	Dockets, minutes or journals and order books of civil proceedings after September 16, 1938, before United States district courts or equivalent inferior courts which have been recorded on film, provided film copy is retained.	Separately.	Dispose of paper records after microfilming.
2.	Summary or "final" record of civil proceedings after December 31, 1920, duplicated or summarized in the dockets, minutes, registers or order books.	Separately.	Dispose 10 years after closing entry.
3.	Case control records, such as daily, individual or general trial calendars, assignment sheets, control cards, lists of cases ready for trial, docket status reports, and other records used for the control of the docket and to facilitate the execution of the business of the court.	Separately.	Dispose 10 years after close of related term of court.
4.	Case papers:		
	a. Papers of minor or lesser procedural rather than substantive nature, including but not limited to:	Numerically by docket number; chronologically thereunder.	Dispose 10 years after case is terminated.
	(1) Appearances;		
	(2) Claims for jury trial;		
	(3) Witness certificates and other papers relative to costs;		

## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
	(4) Letters requesting general information regarding a case or regarding minor procedural matters;		
	(5) Notices and advice of actions taken by the court and parties to a case, precepts requesting issuance of summons, transmittal letters, and records relating to processing of a case before the court;		
	(6) Petitions, motions and orders relating to the assignment and calendaring of cases, extensions of time, designation of counsel, withdrawal of exhibits or of a case;		
	(7) Requests for rulings;		
	(8) Fee bills.		
b.	Case exhibits, except log books and other documentary items, not physically filed with the case and abandoned by parties to the case.	Numerically by case number.	Dispose in accordance with local court rule.
c.	Papers and documentary exhibits filed with cases of habeas corpus proceedings, in which writ of habeas corpus has not been issued.	Numerically by docket number.	Dispose 10 years after final judgment.

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## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
5.	Rejected applications of persons in custody for leave to proceed in <u>forma pauperis</u> on appeal to vacate or modify sentence, for writ of habeas corpus, or other remedial proceeding, and related correspondence and papers.	Alphabetically by name of petitioner.	Dispose 10 years after date of last related communication.
6.	Correspondence and related papers pertaining generally to minor administrative details.	Alphabetically by subject; start a new file each year.	Dispose 10 years after close of file.
7.	Judgment index.	Chronologically if a bound record; alphabetically if card record; place in inactive file when satisfied.	Dispose 10 years after satisfied or when superseded.
8.	Applications, writs of survey, reports on condition of vessels and related orders of court not relating to specific suits, which have accumulated since December 31, 1920 (without regard to location of papers).	By term of court.	Dispose 10 years after close of related term of court.
9.	Reports received from consular offices, Coast Guard officials, shipping commissioners or others relating to wages and effects of deceased and deserting seamen.	Conform to local practice.	Dispose 10 years after date of report.
10.	Correspondence and other papers of United States Commissioners relating to the settlement of disputes between master and seamen.	Conform to local practice.	Dispose 10 years after close of case.



## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
11.	Semi-annual statements to the Secretary of the Treasury and the Secretary of the Navy relative to prize money transactions.	Chronologically.	Dispose 5 years after period covered by statement.
12.	Notice of tax liens filed with the clerk by the Internal Revenue Service.	Alphabetically by name; separate file for satisfied or canceled liens.	Dispose 10 years after lien is satisfied or canceled, or when superseded.
13.	Bonds and undertakings.	Separately; thereunder by case number; make separate chronological file of terminated bonds.	Dispose 15 years after conditions are satisfied, penalty is met or case is closed.
14.	Vouchers, exhibits and related papers filed with reports of masters.	Numerically by case number.	Dispose 10 years after close of case.
15.	Orders of court not in cases, when recorded or summarized in minutes or journals.	Chronologically.	Dispose 5 years after close of related term of court.
16.	Transcribed notes on proceedings.	Separately.	Dispose 10 years after date of notes.
17.	Records relating to admission of attorneys to practice before the court (except roll of attorneys or its equivalent):		
	a. Application files or certificate of status.	By term of court; alphabetically thereunder.	Dispose 60 years after date of admission.
	b. Motions and orders relating to admission of attorneys to practice (when taken in writing).	Chronologically.	Dispose 10 years after related term of court.

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<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
18.	Disbarment proceedings.	Numerically by case number.	Dispose 60 years after termination of proceedings.
19.	Assignment of judges.	Chronologically.	Dispose 10 years after close of related term of court.
20.	Personnel records created since January 1, 1921:		
	a. Correspondence and other papers relating to personnel administration.	Alphabetically; begin a new file every 5 years.	Dispose 1 year after close of file.
	b. Personnel folders (official personnel files are maintained in the Administrative Office of the United States Courts).	Alphabetically; maintain separate file of inactives.	Dispose 1 year after transfer or separation of employee.
	c. Rejected applications for employment and related correspondence.	Chronologically.	Dispose 1 year after date of application.
	d. Applications for leave and supporting papers.	Alphabetically; begin new file every year.	Dispose 1 year after close of file.
	e. Summary leave records (final summary of leave reported to Administrative Office of the United States Courts).	Alphabetically.	Dispose 5 years after audit of related pay records.
	f. Payrolls and payroll certification sheets.	By pay period.	Dispose after 10 years.
	g. Withholding tax exemption certificates, individual authorization cards and record of payroll allotments.	Alphabetically.	Dispose 5 years after certificate or authorization is voided.

## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
21.	Jury records:		
a.	Questionnaires, police reports, and other records relating to the determination of juror qualifications.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
b.	Juror ballots and certified list of jurors drawn.	By term of court.	Dispose 10 years after close of related term of court.
c.	Correspondence and related papers pertaining to the selection of juries and foremen, juror qualifications and service, and oaths of bailiffs, secretaries, and interpreters taken in writing.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
d.	Petitions, motions and orders relating to the mechanics of jury selection, accommodation and discharge.	By term of court.	Dispose 10 years after close of related term of court.
e.	Jury panels, and records of attendance and payment of jurors, jury commissioners and witnesses.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
f.	Notices, praecipes, subpoenas, warrants, contempt attachments and other papers used in summoning and compelling attendance of jurors.	By term of court; alphabetically thereunder.	Dispose 10 years after close of related term of court.
22.	Requisitions for authority to incur expense.	Chronologically.	Dispose 5 years after date of request.

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## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
23.	Records accumulated in the processing of deposit fund accounts, general and special fund accounts and registry accounts (but not including registry ledger):	Separately; conform to court practice.	Dispose 10 years after close of term of court or of last entry in book records.
	a. Records of clerk's account with United States Treasury, Federal Reserve Bank or Branch or General Depositary, including certificates of deposit, statements of account, passbooks, checkbook stubs, paid or canceled checks and orders of court relating to disbursements from registry fund (28 U.S.C. 2042).		
	b. Daily records of cash transactions, including cash blotters, window sheets, pad and machine receipts and case cards maintained for reporting purposes.		
	c. Analysis of collections register.		
	d. Ledgers used in lieu of record on docket sheets.		
	e. Cash books.		
24.	Bonds and statements of qualification of local depositary banks, orders of designation, and book records of individual depositaries.	Alphabetically.	Dispose 15 years after termination of bond.

## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
25.	Bonds of referees in bankruptcy and of U. S. Marshals.	Chronologically.	Dispose 10 years after termination of service.
26.	Term reports of registry funds made to the court.	Chronologically.	Dispose 5 years after close of term of court.
27.	Records relating to the settlement of accounts.	Chronologically.	Dispose 4 years after final clearance with General Accounting Office.
28.	United States Commissioners' quarterly accounts.	Chronologically.	Dispose 5 years after date of filing.
29.	Statistical reports required by the Administrative Office of the United States Courts or by statute, and related work papers (when required to be maintained).	Separately.	Dispose 10 years after date of report.
30.	Correspondence, reports and other papers relating to the procurement of office services and supplies, space and equipment, including requisitions, authorizations, bids and contracts for any local purchases and services supervised by the clerk, copies of leases, purchase orders, invoices, vouchers, and other papers relating to individual transactions, and related indexes and daily record of transactions.	Conform to court practice.	Dispose 3 years after completion of transaction.
31.	Requisitions for searches and related general correspondence.	Chronologically, start a new file every year.	Dispose 3 years after close of file.



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## SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION OF RECORDS</u>	<u>RECOMMENDED METHOD OF FILING</u>	<u>AUTHORIZED DISPOSITION</u>
32.	Property inventories and invoices of non-consumable property.	Chronologically.	Dispose 1 year after administrative clearance of subsequent inventory.

NOTES.

Item 1. These are original paper entries microphotographed in accordance with Regulations of the General Services Administration (Sec. 105.00 of Title 3, Federal Records). Congressional authorization for disposal of these records has already been secured (H. Rept. 1156, 81st Cong., 1st sess.). This disposal provision incorporates the original authorization, except for records created before 1939. On September 16, 1938, Rules of Civil Procedure for the District Courts of the United States became effective, resulting in one form of civil action and procedure for both law and equity cases. Filing and other practices prior to that time varied from court to court. Many important case records of the period before 1939 and especially before 1912 have been lost. The original entries of proceedings covering cases for the earlier period are needed for convenience of reference. They may be transferred to the Federal Records Center.

Item 2. These records were originally maintained by the courts for ready reference and for fee accounting and reporting purposes. They are essentially duplicated in the dockets, minutes, registers or other records to be retained. Because original papers are missing for some of the cases in the early years, these papers may contain the only record now extant of such civil proceedings prior to 1921.

Item 3. These records are accumulated in the routine operation of procedures established by the courts. The retention period is more than sufficient to satisfy normal reference needs. Congressional authorization for disposal of court calendars has already been secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 4.

a. Papers which pertain to the progress of a case through the court and papers which document unsuccessful petitions add nothing to the record of the case. No question of law is raised in such documents and they have no bearing on the essential issue of the case.

b. Case exhibits voluntarily submitted as evidence or impounded by the court include all types of physical and documentary items, and normally remain the property of parties to the case. However, they may be ordered filed with the case or held temporarily pending appeal. Local rules of most courts provide for their return to their owners and for the disposal of those that are unclaimed. Physical exhibits usually lack records value whereas documentary exhibits may be of value commensurable with the related case papers.

c. These papers document civil proceedings invoked by persons in custody. The judgment of the court is not appealable and is not subject to review. The proceedings are entered on docket, do not relate to criminal cases identified for retention, and have no reference needs after the retention period. This provision incorporates a Congressional disposal authorization previously secured (H. Rept. 1110, 83d Cong., 2d sess.).

Item 5. These are, primarily, letters of persons seeking relief from confinement through some remedial civil proceeding, and technically constitute requests for permission to sue in forma pauperis for writs of habeas corpus. They disclose no ground for remedy and hence no writ issues. This provision incorporates a Congressional disposal authorization previously secured (H. Rept. 1110, 83d Cong., 2d sess.).

Item 6. These files include, but are not limited to, records relating to minor administrative details regarding the filing and processing of civil law and equity, admiralty and related libel proceedings, habeas corpus and naturalization proceedings, motions, service on documents and requests for certified copies of documents, handling of passport applications, required bonds, fees and costs, and transfer of cases. They are routine papers accumulating each term of court. Correspondence relating to substantive actions in cases, without regard to location, are indicated in the dockets and minutes of the court and are usually filed in the related case file.

Item 7. This record is needed administratively only until the judgment is satisfied. The disposal time is adequate for protection of the rights of the individual.

Item 8. These papers relate to the examination of ships for seaworthiness. They consist of the application for the examination, orders directing the examination, reports on the condition of the ship, its food and quarters, and its general sanitary and safety conditions, and the judgment of the court. These actions are documented in the minutes and recorded copies of the decrees of the court.

Item 9. The United States district courts are responsible for the final distribution of wages and effects, or proceeds from the sale of effects, of deceased and deserting seamen. Reports on wages and effects are received from American consuls abroad and from Coast Guard officials. The court may direct the sale of unclaimed effects. Any funds unclaimed for six years are deposited in the United States Treasury. It is wholly within the discretion of the court to allow or refuse claims made six years after receipt of seamen's wages and effects (46 U.S.C. 628). All transactions are entered in the registry ledger. These reports are held for sufficient time to safeguard individual rights in each case.

Item 10. These papers, accumulated by United States Commissioners in the performance of certain admiralty functions, primarily relate to preliminary actions in wage suits and to the enforcement of awards of foreign consuls or commercial agents. They consist of complaints, summonses and other processes necessary to

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these ends and correspondence relating thereto. The actions are indicated in dockets of the Commissioners and any resulting suits are filed in a United States district court. These papers are of transitory value only and are held long enough to satisfy normal reference needs.

Item 11. These reports show sums paid to prize Commissioners for services, and include copies of all final decrees and orders of the court for payment of costs and allowances and for disposition of residue (34 U.S.C. 1152).

Item 12. In 1943 the filing of tax liens in the United States district courts was discontinued except for District of Columbia, Connecticut, Michigan, Minnesota, and New York. The retention period of 10 years is adequate for legal use to be made of the tax liens.

Item 13. These documents are in effect contracts under seal. When the conditions have been satisfied or any imposed penalties met, they have served their purpose and cease to have validity. These actions are shown on the minutes and separate judgment indexes, when maintained. They are held for sufficient time to safeguard the rights of parties under privilege of review petitions and to satisfy normal reference needs.

Item 14. Vouchers, exhibits and related papers are filed with the court or with masters, referees, auditors, examiners, commissioners or other designated officers of the court and are submitted to the court in support of formal reports. This item also covers related correspondence and papers (except depositions and documents in proof of title or interest in vessels or other property or in proof of death that are ordered filed as evidence in the case, proofs of claims filed in suits involving deceased or deserting seamen, and limited liability proceedings).

These papers consist of various notes and bills of obligations, copies of agreements and contracts, depositions, paid checks, receipts, and other papers submitted in proof of obligation or satisfaction of obligation. Claims proved before commissioners are reported to the court and when confirmed by the court, they, as well as claims found by the court, are satisfied pro rata from funds in custody of the court. Reports on distribution and orders of confirmation form a part of the case file and are retained. Funds are distributed under order of court, which is entered on the docket and in the minutes and a recorded copy is retained in the order book or its equivalent.

Item 15. Orders not in cases, usually recorded in the minutes or journal, are chiefly administrative in nature. The record in the minutes or journals will adequately serve reference needs. Congressional authorization for the disposal of these records has already been secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 16. These are notes taken by clerks, deputy clerks or court reporters on blotter sheets used as media for docketing or posting purposes, or in rough minute books, order books or other book records preliminary in form which have been transcribed in finished form in other book records which are retained. The



initial notes, made without regard to form, serve as docketing media for proceedings before the court. They are held for sufficient time to satisfy inquiries concerning accuracy of entries and other reference needs. This provision incorporates a Congressional disposal authorization previously secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 17. Each court prescribes the qualifications and rules for admission to the bar of the court. The practices generally reflect the attitude of the local court and bar. Each clerk drafts forms to meet the requirements of the court. Few records are created in this function. The motion for admission and a written application, or a certificate of status or index card, all lack administrative value once the person has ceased to practice before the court. The names of attorneys admitted are recorded in the minutes and the signatures are available on the roll or its equivalent, both of which are retained. Congressional disposal authorization was previously secured for similar records in the United States Courts of Appeals (H. Rept. 1161, 84th Cong., 1st sess.).

Item 18. Case papers in disbarment proceedings have administrative value during the life expectancy of the person disbarred. Proceedings are entered in the docket and the minutes of the court. Congressional disposal authorization was previously secured for similar records in the United States Courts of Appeals (H. Rept. 1161, 84th Cong., 1st sess.).

Item 19. The administrative needs of the court will be met by the minute entry of assignments to the courts.

Item 20. The personnel records in the office of the clerk of the court are needed to support the payroll but are subordinate to the permanent papers maintained in the official personnel folder in the Administrative Office of the United States Courts. The clerk and members of his staff receive annual and sick leave in accordance with regulations of the United States Civil Service Commission. When an employee is separated from the service the final summary of leave is sent to the Administrative Office where the lump sum leave payment is figured (Administrative Office Bulletin No. 274, January 23, 1945). Pay information is posted to centralized pay cards in the Administrative Office of the United States Courts. The withholding tax exemption certificates (such as Internal Revenue Form W-2) and individual authorization cards and record of payroll allotments accumulate in the course of processing and preparation of the payroll are generally disposable after administrative, Treasury, and audit needs have been met. The Bureau of Public Debt, Treasury Department, maintains extensive bond history files. The Department of Justice examiners audit leave records at least every five years. Congress has approved disposal of similar records in the United States Courts of Appeals (H. Rept. 1161, 84th Cong., 1st sess.).

Item 21. These records do not relate directly to cases. They are accumulated in the operation of procedures for impaneling and discharging juries, securing grand jury witnesses, and compensation for services of witnesses and jurors. Congressional authorization for disposal of praecipes and subpoenas, writs of

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venire facias, jury panels, and pay and attendance records of jurors and witnesses as well as the other jury records has been secured (H. Rept. 1145, 81st Cong., 1st sess. and H. Rept. 1110, 83d Cong., 2d sess.). These papers are held for sufficient time to safeguard individual rights and to satisfy normal reference needs. The docket shows whether a jury was used in a civil case and the minutes contain the names of those serving on the jury.

Item 22. These records are identically duplicated, or summarized or duplicated in substance, in records in the files of the Department of Justice in Washington or in the Administrative Office of the United States Courts. Congressional authorization for the disposal of these records has already been secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 23. Most of these records are disposable under General Records Schedules. The data in them are posted to summary fiscal records of the court which are not scheduled for disposal (registry ledger and docket sheets). Congressional authorization for disposal of similar records has been secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 24. Records relating to bonds and the bonding business have legal value until the exoneration of the obligor or cancellation of the bond. Once the rights of parties have been secured and right of action against the bond or other document under seal has expired, no further legal value attaches. Similar records in the Courts of Appeals have been authorized for disposal by the Congress (H. Rept. 1161, 84th Cong., 1st sess.).

Item 25. Congressional authorization for the disposal of bonds of referees in bankruptcy has already been secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 26. Reports presented by the clerk to the court at each regular session of the court on the amount of registry funds remaining in the registry of the court or subject to its orders. The registry ledgers, which are retained, contain the same information. Congressional authorization for the disposal of these records has already been secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 27. These records are disposable under General Records Schedules.

Item 28. The clerk of the court receives the accounts of the United States Commissioners on a quarterly basis (28 U.S.C. 636). He forwards the original and one copy to the Administrative Office of the United States Courts. The Audit Section of the Administrative Office of the United States Courts maintains a card record on earnings of commissioners. The clerk's copy of the accounts is used by the Department of Justice examiners. Congressional authorization for disposal of these records has already been secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 29. These records consist of reports made monthly to the Administrative Office of the United States Courts regarding cases initiated and terminated, summary statistical and analytical reports of clerks, reports submitted to

other Government agencies, such as Patent Office, and work papers, including records received by the clerk from deputy clerks and referees in bankruptcy (when maintained). They are held for sufficient time to satisfy normal reference needs. The Administrative Office of the United States Courts coordinates and publishes cumulative statistical case data and discourages the filing of copies of individual case statistical reports sent to it. The Department of Justice maintains certain statistics regarding both civil and criminal cases in litigation. The Congress has already authorized the disposal of certain of these reports (H. Rept. 1145, 81st Cong., 1st sess.). Similar records in the criminal jurisdiction have been authorized for disposal (H. Rept. 1110, 83d Cong., 2d sess.).

Item 30. Records relating to routine procurement transactions lack administrative value after final payment has been made. Control over all transactions is maintained in the Administrative Office of the United States Courts. Congress has already authorized the disposal of requisitions for supplies (H. Rept. 1145, 81st Cong., 1st sess.).

Item 31. Requisitions are received by the clerk for searches to be made of the records of the court. The judgments, decrees, other instruments, suits pending, bankruptcy proceedings and related correspondence are searched and the results certified by the clerk. This provision incorporates a Congressional authorization previously secured (H. Rept. 1145, 81st Cong., 1st sess.).

Item 32. Property inventories and invoices of non-consumable property provide administrative control over non-consumable property while they are current and have value for only a brief period of time after they are superseded. Congress has already approved disposal of similar records in the United States Courts of Appeals (H. Rept. 1161, 84th Cong., 1st sess.) and in the District Courts (H. Rept. 1145, 81st Cong., 1st sess.).



## RECORDS DISPOSAL SCHEDULE

for

Clerks of all United States District Courts

Item  
No.

## Title and Description

Certain fiscal, accounting, statistical and other records consist of:

(Items 1 to 8 and 15 to 29 and 31 and 32 deleted as superseded by the Civil and General Administrative Records Schedule given in Chapter 13 Exhibit 3.)

(Items 9 to 14 superseded by Criminal Records Disposal Schedule given in Chapter 13 Exhibit 2.)

- 30 United States marshals' quarterly accounts. Retain 5 years.
- 34 Clerks' quarterly reports of constructive earnings for services performed on behalf of the United States. (Discontinued by Bulletin No. 57 of the Administrative Office of the United States Courts, supplement dated September 15, 1941). Disposable immediately.
- 35 Clerks' term reports (Solicitor of the Treasury Form No. 7) of judgments, decrees and fines in United States cases. (Discontinued about July 1, 1933). Disposable immediately.
- 36 Clerks' annual reports of monies in cases, other than registry fund. (Discontinued by Department of Justice Circular No. 2850, June 3, 1936). Disposable immediately.
- 37 Clerks' quarterly reports (Standard Form 1026) of deposits to the credit of the Treasurer of the United States. (Discontinued by Department of Justice Circular No. 2850, June 3, 1936). Disposable immediately.

## CHAPTER 13 EXHIBIT 4

## RECORDS DISPOSAL SCHEDULE

for

Clerks of all United States District Courts

Item  
No.

Title and Description

The following records in the offices of the Clerks of Court, including those of the former circuit and territorial courts, to be retained until microphotographed in accordance with regulations of the National Archives Council:

- 1 Docket books of the Clerks, of Referees in Bankruptcy, and of United States Commissioners.
- 2 Minute books.
- 3 Civil order books.
- 4 Journals.

The schedule, shown above, covering docket books, minute books, civil order books, and journals, provides that these records may be disposed of after being microfilmed in accordance with regulations of the National Archives Councils. These regulations have been temporarily rescinded by GSA, because of the discovery of blemishes on negative microfilm. Consequently the schedule presently is inoperative.

## CHAPTER 13 EXHIBIT 5

Ref. 1302.2

## GSA FEDERAL RECORDS CENTERS

## A. NATIONAL

GSA region	Area served	Mailing address
	Entire Federal Government (for personnel records of separated Federal employees; pay records of all Federal employees; and medical records of civilian employees of the Army, Navy, and Air Force). Designated records of the Department of Defense and the U.S. Coast Guard.	Federal Records Center, GSA 111 Winnebago St. St. Louis, Mo. 63118  Military Personnel Records Center, GSA 9700 Page Blvd. St. Louis, Mo. 63132

## B. REGIONAL

1.....	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.	Federal Records Center, GSA Section A, 8th Floor * Boston Army Base Boston, Mass. 02110
2.....	New York, New Jersey except areas south of Trenton, Puerto Rico, and the Virgin Islands.  New Jersey south of Trenton, Delaware, and Pennsylvania east of Lancaster.  Pennsylvania except areas east of Lancaster.....	Federal Records Center, GSA 641 Washington St. New York, N.Y. 10014  Federal Records Center, GSA 6000 Wissahickon Ave. Philadelphia, Pa. 19144  Federal Records Center, GSA Naval Supply Depot, Bldg. 808 Mechanicsburg, Pa. 17055
3.....	District of Columbia, Maryland, West Virginia, and Virginia.	Federal Records Center, GSA Cameron and Union Sts. Alexandria, Va. 22314
4.....	North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, and Florida.	Federal Records Center, GSA 1537 St. Joseph Ave. East Point, Ga. 30044
5.....	Kentucky, Illinois, Wisconsin, Michigan, Indiana, and Ohio.	Federal Records Center, GSA 7201 South Leamington Ave. Chicago, Ill. 60638
6.....	Kansas, Iowa, Nebraska, North Dakota, South Dakota, Minnesota, and Missouri except greater St. Louis area. Greater St. Louis area (Missouri only).....	Federal Records Center, GSA 2300 East Bannister Rd. Kansas City, Mo. 64131  Federal Records Center, GSA 111 Winnebago St. St. Louis, Mo. 63118
7.....	Texas, Oklahoma, Arkansas, and Louisiana.....	Federal Records Center, GSA 4900 Hemphill St. Post Office Box 8216 Fort Worth, Tex. 76115
8.....	Colorado, Wyoming, Utah, Arizona, and New Mexico.	Federal Records Center, GSA Building 48, Denver Federal Center Denver, Colo. 80225
9.....	Nevada except Clark County, California except Southern California, and Pacific Ocean areas.  Clark County, Nevada, and Southern California (Counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Riverside, Orange, Imperial, Inyo, and San Diego).	Federal Records Center, GSA Building 1, 100 Harrison St. San Francisco, Calif. 94105  Federal Records Center, GSA 5555 Eastern Ave. Bell, Calif. 90201
10.....	Washington, Oregon, Idaho, Montana, and Alaska....	Federal Records Center, GSA 6125 Sand Point Way Seattle, Wash. 98115

\* Change Region 1 address to: 380 Trapelo Rd.  
Waltham, Mass. 02154



## THE WORK OF THE UNITED STATES DISTRICT COURTS

The work of the United States district courts is partly reflected in the statistics on the types of cases which are filed every year. In the fiscal year ended June 30, 1972, exactly 96,173 civil cases were filed in these courts. Of these 26,729 involved the United States either as a party plaintiff or party defendant. The United States as plaintiff commenced about 845 cases under the food and drug laws, 2,615 cases to collect money due on promissory notes, 2,530 civil commitment proceedings under the Narcotic Addict Rehabilitation Act, and about 8,230 other cases. The United States was a defendant in about 1,370 habeas corpus cases and 1,590 cases involving motions to vacate criminal sentences, 1,750 Tort Claims Act cases, 1,170 tax cases and many others. These figures show the important role the district courts play in enforcing Federal statutes and in achieving justice even when the United States Government is involved in a law suit.

Private parties brought into the district courts during the 1972 fiscal year 69,444 cases of which 41,547 involved questions arising under Federal laws. The largest category of these cases (about 11,900) was that involving petitions for writs of habeas corpus by persons held in custody who have alleged violations of Federal constitutional rights. About 24,100 cases came into the district courts in suits between private persons from different States. Of this number about 6,600 were concerned with personal injuries arising out of motor vehicle accidents. An additional 3,800 civil cases of a local nature were filed in the District Court for the District of Columbia and in the territorial courts.

Of the 47,043 criminal cases brought into the district courts during the year ended June 30, 1972, 4,550 involved embezzlement or fraud, 4,685 forgery and counterfeiting, 2,350 the interstate transportation of a stolen automobile, 1,250 failure to pay the tax on alcoholic beverages and 5,140 the violation of the Selective Service laws. The remainder involved the violation of a host of other laws. In these criminal cases the United States courts share with the officers of the law and the United States attorneys the enforcement of criminal laws for the protection of all citizens.

An important work performed by the United States district courts is the supervision by probation officers of persons convicted of crime, but placed on probation rather than sent to prison. During the fiscal year 1972 over 18,251 persons were placed on probation by the district courts. Thus, the Federal prisons were relieved of an expensive burden and these persons were afforded a greater chance of "going straight" away from contaminating prison influences. In addition, during the year the probation officers received for supervision from prison authorities 5,264 persons released on parole, or other release procedure. On June 30, 1972, the probation officers had under supervision over 49,000 persons. The work of the probation officers also includes an investigation of almost every person convicted of crime in a district court and the submission to the court of a report to be used by the judge in determining the sentence to be imposed.

During the fiscal year 1972 the referees in bankruptcy attached to the district courts undertook the administration of the property of approximately 182,869 persons unable to pay their debts, for the purpose of enabling creditors to receive a proper share of the money due to them.

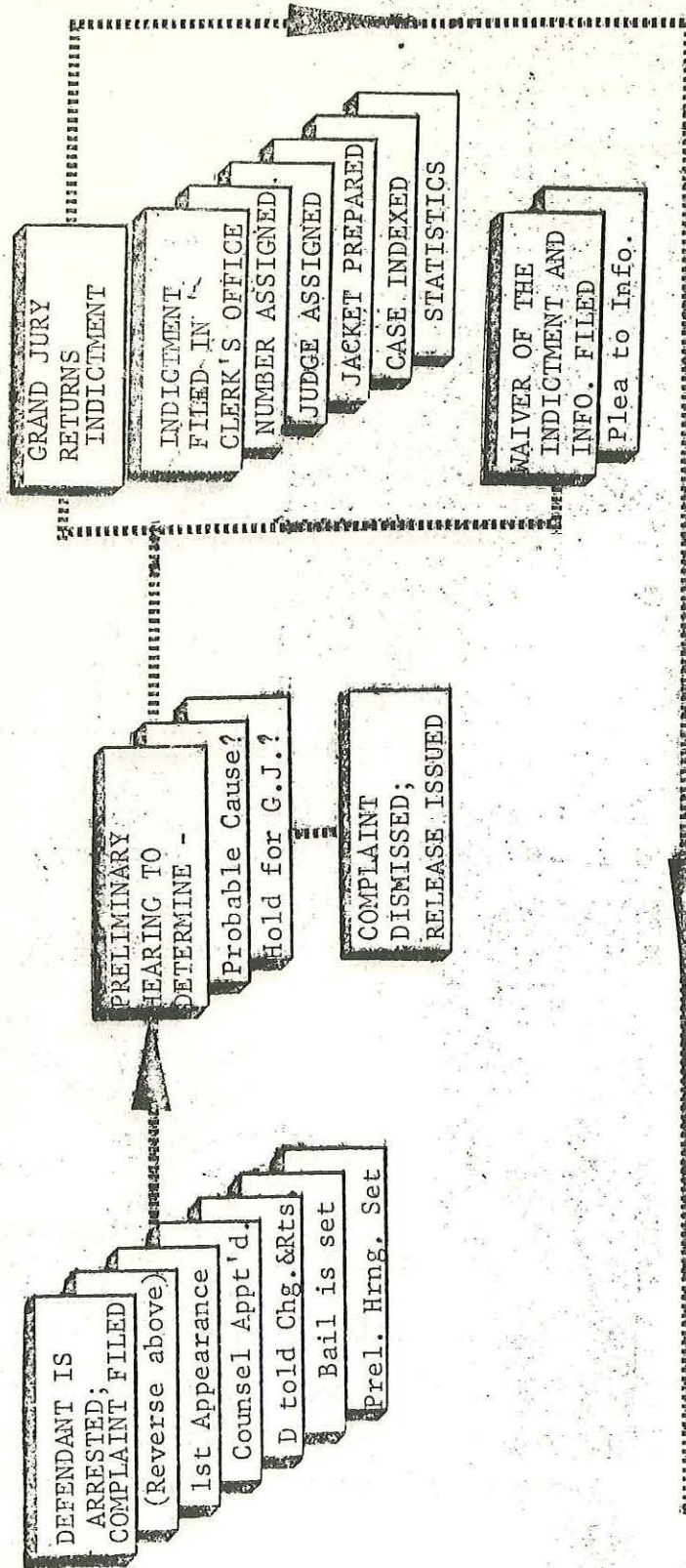


In its work of enforcing the Federal laws, deciding controversies between citizens, sentencing convicted criminal defendants, distributing the estates of debtors and rehabilitating violators of the law, the United States courts perform an essential and vital function in the American pattern of democratic government.

Joseph F. Spaniol, Jr.,  
Assistant Director for Legal Affairs,  
Administrative Office of  
the United States Courts

Washington, D.C., May 1, 1973

EXHIBIT F - TYPICAL CRIMINAL ACTION PROGRESSION - United States District Court  
For the District of Columbia  
(Page 1 of 3 pages)



**ARRAIGNMENT:**

- Copy of Indictment (Information) handed to D
- Charge read to D
- Plea
  - Guilty
  - Not Guilty
  - Nolo contendere
  - Stand mute
- Bail may be re-examined

**MOTIONS FILED:**

- Attacking indictment sufficiency
- Relating to indigency
  - Investigator
  - Experts
- Mental Condition
  - at time of offense
  - now
- Other

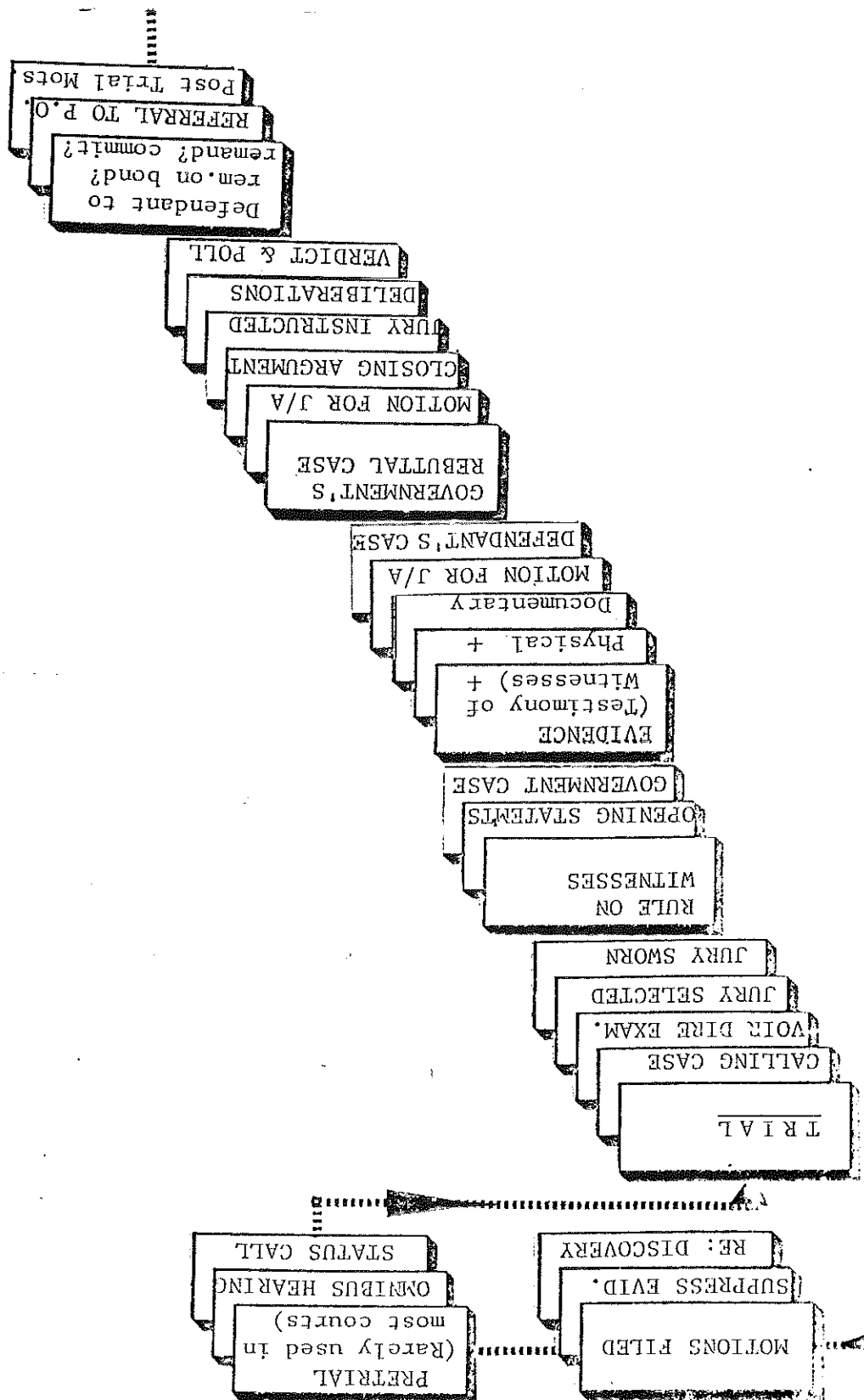




EXHIBIT F (Page 3 of 3 pages)

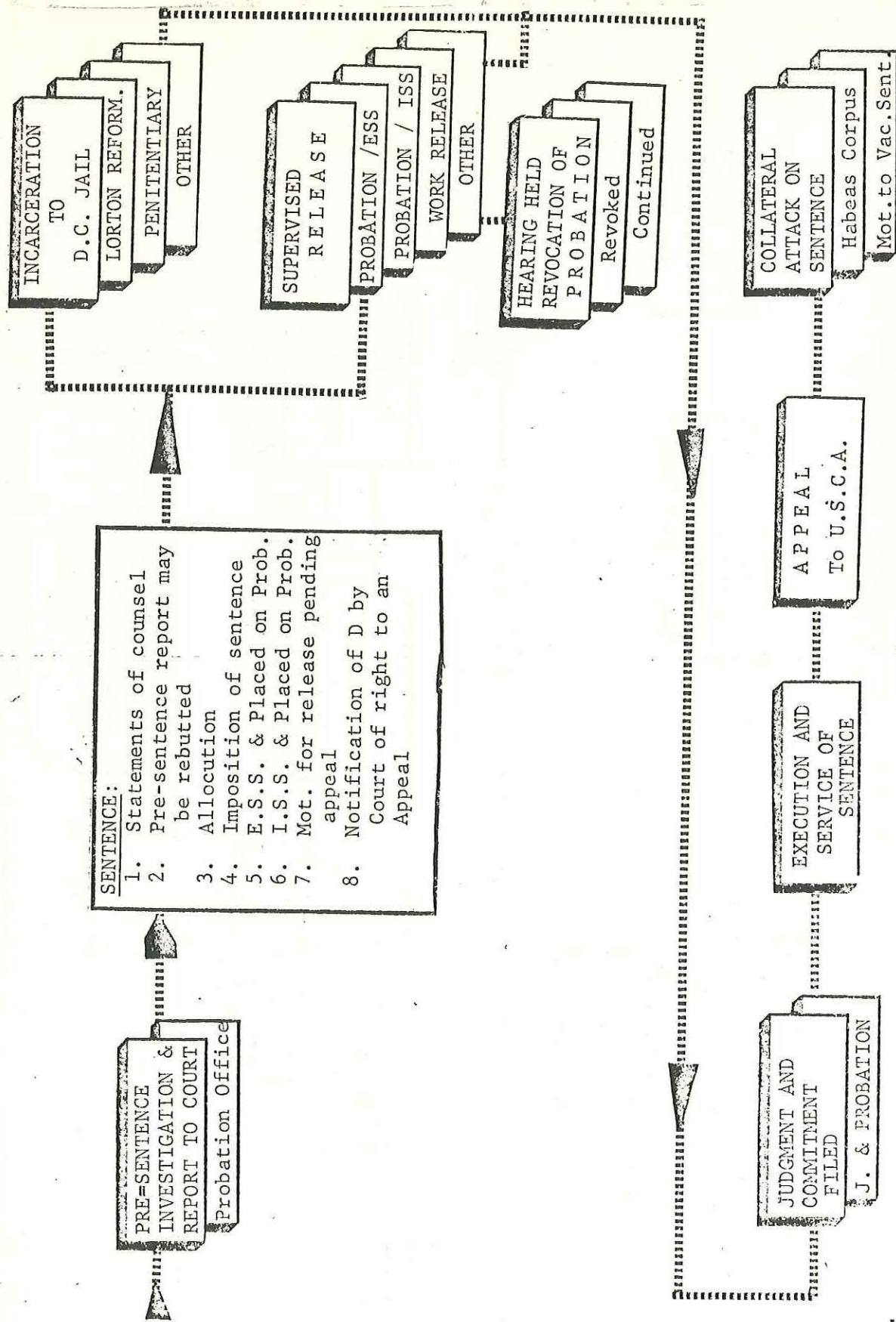


EXHIBIT E - TYPICAL CIVIL ACTION PROGRESSION - United States District Court  
For the District of Columbia

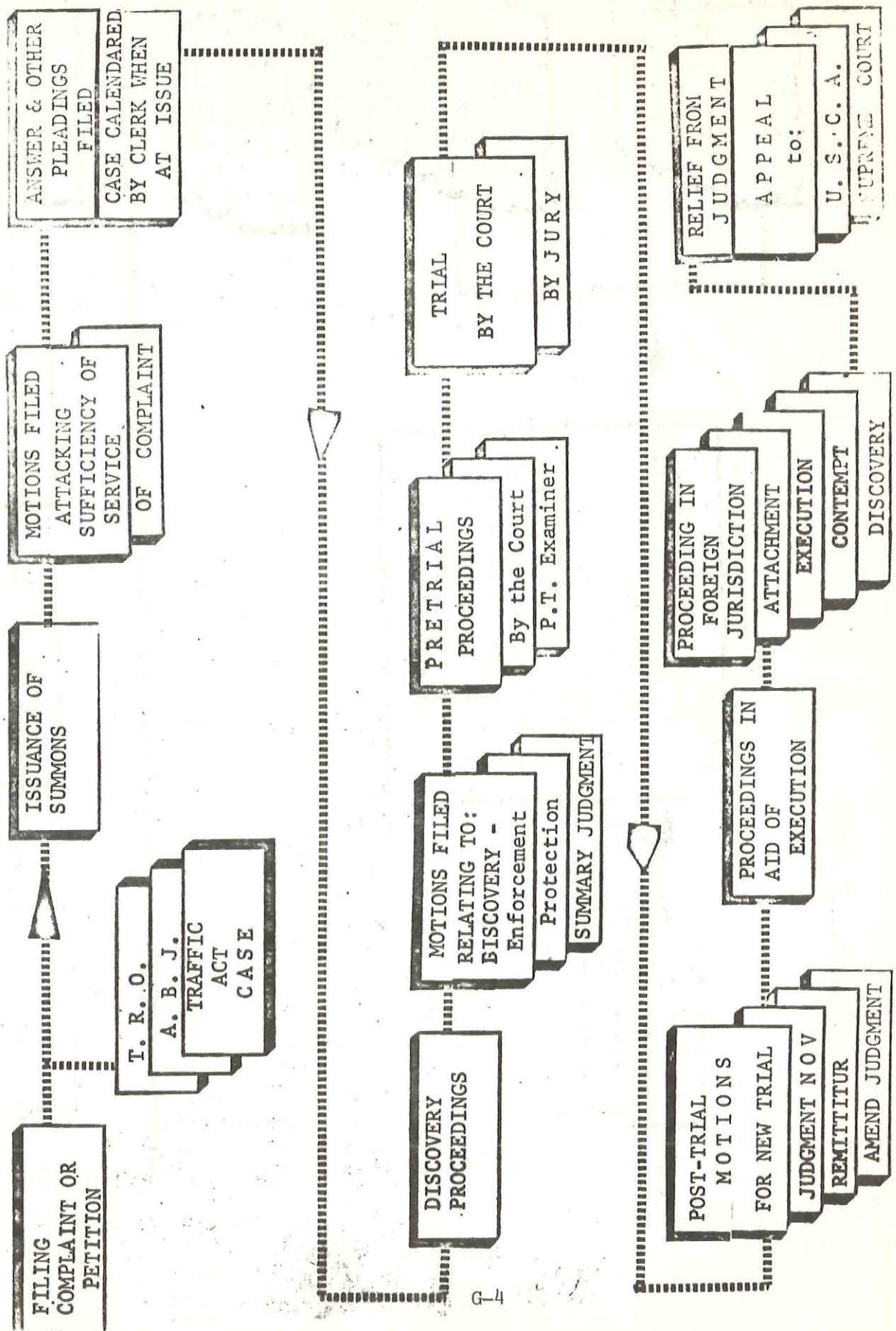




EXHIBIT E - TYPICAL CIVIL ACTION PROGRESSION - United States District Court  
For the District of Columbia

