

A Guide to the Preservation of Federal Judges' Papers

Second Edition

Federal Judicial History Office
Federal Judicial Center 2009

This Federal Judicial Center publication was undertaken in furtherance of the Center's statutory mission to "conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States government." While its publication signifies that the Center regards the information herein as responsible and valuable, it does not reflect official policy or recommendations of the Board of the Federal Judicial Center.

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Preface

A Guide to the Preservation of Federal Judges' Papers was first published in 1996 and has proved to be one of the most frequently requested publications from the Federal Judicial Center's History Office. Many judicial biographies and court histories rely on the collections of judicial papers that federal judges donate to research libraries and archives. From these scholarly works come the educational materials that contribute to public understanding of the federal judiciary. This guide is designed to help judges when they are considering the historical value of their chambers papers and selecting a repository for donation of their personal records.

Since 1996, the nature of judges' "papers" has changed as more and more of the work of the federal courts is documented in electronic records. The record-keeping practices of the courts have also changed. This second edition discusses the preservation challenges of new media, the protocols surrounding sensitive and classified documents, and the range of access restrictions that might be appropriate for a collection of judicial papers. This edition includes updated samples of donor agreements and inventories of judicial collections.

I believe that judges who are interested in preserving their personal papers will find this publication to be extremely valuable. I urge anyone with additional questions to contact the staff of the Federal Judicial History Office at the Federal Judicial Center.

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Director, Federal Judicial Center

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Introduction

The preservation of a judge's chambers papers and other personal records establishes a foundation for historical studies that document the role of the federal judiciary in American life. The personal papers of a judge offer a perspective and a level of detail not available in the official records of the courts. Research collections based on judges' papers are often the most valuable source for illuminating the judicial process. Yet all too often this critical portion of the historical record of the federal courts has been lost, and with it a full appreciation for the contributions of individual judges.

The chambers papers of a federal judge remain the private property of that judge or the judge's heirs, and it is the prerogative of the judge or the judge's heirs to determine the disposition of those papers. Neither federal statute nor the policies of the Judicial Conference of the United States make any provision for the preservation of federal judges' papers. Judges' staffs or the clerks of court cannot determine where the papers go, and the National Archives cannot accept the collections as part of the records of the courts. Nor are court funds available for the preservation of judges' papers, and the federal records centers do not provide temporary storage of judges' chambers papers.

Judges can preserve their personal papers and make them available for eventual study by donating the materials to a library or archival repository. In response to frequent requests for information about the disposition of the papers of federal judges, the Federal Judicial Center offers this publication to answer questions regarding the preservation of personal papers and the process of making those materials available for research. This publication encourages all federal judges to consider the historical value of their personal papers and explains how students of the federal courts use judges' research collections. The guide offers recommendations for the management of noncurrent records, and it suggests guidelines for the selection of a proper repository for a collection of a judge's papers.

Judges will find numerous advantages in contacting repositories. Discussions with a potential repository will offer judges an understanding of the kinds of documents that will make a collection valuable and contribute to public understanding of the federal judiciary.

Staff from the repository will also inform the judge of the types of personal and nonjudicial papers that can enhance a research collection. Before the transfer of documents, archivists can meet with the judge's staff and work with them to devise an efficient system for the organization of noncurrent materials. A repository may then accept the transfer of noncurrent records and relieve the court or the judge of the burden of storing and maintaining those files.

This guide should help federal judges take the first step in preserving their chambers papers. The staff of the Federal Judicial History Office at the Federal Judicial Center is available to answer any questions regarding the papers of a federal judge and can assist in locating a manuscript repository that might be interested in accepting a judge's collection.

The Federal Judicial History Office maintains a listing of all manuscript collections related to federal judges. The Office has identified manuscript collections with papers of nearly 750 federal judges, including more than 550 personal collections of judges. A complete description of these collections was published in *A Directory of Manuscript Collections of Federal Judges* (Washington, DC: Federal Judicial Center, 1998). Research collections identified since that publication are regularly added to individual judges' entries in the Biographical Directory of Federal Judges on the Federal Judicial Center's website, at <http://www.fjc.gov>.

Anyone with questions about the donation of judges' papers or who wishes to report the location of recently donated collections is encouraged to contact the Federal Judicial History Office at the Federal Judicial Center. The Office may be reached at (202) 502-4180, uhistory@fjc.gov, or Federal Judicial Center, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20002-8003.

Completing the Historical Record: The Significance of Judges' Papers

Among the most valuable of a judge's personal records are chambers papers, which are the case-related documents, correspondence, and documentation of court administration distinct from the official record of the court. Most judicial collections donated to research institutions will include these and other personal papers documenting a judge's professional career on and off the court. In ways not duplicated by the official case files, chambers papers help to explain the internal work of the federal courts and the process of judicial deliberation. Chambers papers are also a source for understanding a judge's interaction with the bar, and with the public and the press in high-profile cases. These kinds of documents form the foundation of an historical narrative that can bring judicial history alive for students of the courts.

Chambers papers frequently include predecisional material, such as case notes, orders, jury instructions, draft memorandums, draft opinions, correspondence, and research. Chambers papers might include documents relating to court administration, service on the Judicial Conference or circuit councils, and membership on the Board or committees of the Federal Judicial Center and other agencies of the judiciary. Media reports concerning the judge or specific cases, personnel files, and miscellaneous records of the judge's activities, such as speeches, awards, and photographs, are also valuable parts of a judge's chambers papers. These materials are a critical source for learning about the judicial service of individual judges and for documenting a judge's professional career. Chambers papers also reflect the diverse backgrounds and experiences of judges who make up the judiciary at any given time and, in the final analysis, promote a broad public understanding of the judicial process and the men and women who carry out the responsibilities of the federal courts.

The significance of these materials is not always apparent to those involved in the daily work of the federal courts. Students of the courts, however, recognize the unique perspective offered in a judge's chambers papers and personal papers. Recent scholarship on the history of the federal judiciary, briefly reviewed below, offers abundant examples of the richness of detail and context to be found in research collections

donated by federal judges. From this scholarship, in turn, comes the foundation for educational materials and popular understanding of the history of the federal courts. Educators who teach the history of our court system report that a full appreciation of the judiciary's role in public life requires the study of diverse sources that tell us not just about official actions but also describe the individuals who participate in the judicial process, including the citizens who approach the courts, the lawyers involved in cases, and, of course, the judges. And it is the judges' personal papers that often are the richest single source for illuminating the human aspects of the judicial process.

While judges' manuscript collections have potential value for the study of a broad range of topics dealing with public life and the judiciary, judicial collections are particularly valuable for three general areas of research: biographical studies; institutional histories of a single court or the courts of a circuit; and more general studies of legal history.

Biographical Studies

Chambers papers and other personal papers will enrich a judge's biography. The papers created by a judge are often a key to understanding that individual's distinct impact on the work of the courts. Files maintained in chambers chronicle professional and community relationships as well as the work of jurisprudence. Interest in biographical study extends beyond the well-known figures in the history of the federal courts. Many trial and appellate judges who may not be nationally known play significant roles in the legal affairs of their districts, circuits, or states. Their papers offer valuable insights into the history of those jurisdictions. The availability of personal papers from a cross section of judges also makes possible collective biographies, which are an important way of studying the development of the federal judiciary and the diversification of the bench.

Judicial biography has attracted increased attention in recent years, as demonstrated by the growing number of scholarly publications not only on Supreme Court justices, but also district and appellate court judges, such as Learned Hand, Sarah T. Hughes, Willis Ritter, Edward Weinfeld, and John Minor Wisdom.¹ These biographies rely in part on

1. Gerald Gunther, *Learned Hand: The Man and the Judge* (Cambridge, MA: Harvard University Press, 1994); Darwin Payne, *Indomitable Sarah: The Life of Judge Sarah*

personal papers, which bring life and texture to the official records of those judges' courts. In his study of Judge Weinfeld, William Nelson found that only "an unusually rich collection of personal papers" enabled him to trace the challenges that Weinfeld faced in establishing his professional career. The authors of Judge Ritter's biography acknowledged that their book "would be seriously deficient" without access to the judge's papers. The "voluminous" papers of Judge Hughes allowed the biographer to recount the full career of one of the most important women leaders in Texas public life during the mid-twentieth century.

The presence or absence of a judicial collection can determine the historical legacy of a judge. In his recent history of the Supreme Court during the Franklin Roosevelt era, William Wiecek found that "Owen Roberts remains an enigma today, in some measure because he destroyed all his personal papers," while "the extensive collections of [Felix] Frankfurter's papers at the Library of Congress and the Harvard Law School disclose a man of prodigious industry, with an incisive mind and nearly omnivorous interests."²

Institutional Histories

In his history of the U.S. Court of Appeals for the First Circuit, George Dargo found that a single judge's collection "documented the history of the court . . . in ways that could not be duplicated." Discovery of the collection "proved to be a turning point in [the] search for a First Circuit history."³ Since the publication of the First Circuit history, recent circuit and district court histories have drawn on judicial collections to enrich their narratives. Histories of the district courts for the Northern District of Illinois, the Southern District of Indiana, the Southern District of Ohio, the District of New Jersey, the Eastern District

T. Hughes (Dallas: Southern Methodist University Press, 2004); Patricia F. Cowley and Parker M. Nielson, *Thunder Over Zion: The Life of Chief Judge Willis W. Ritter* (Salt Lake City: University of Utah Press, 2007); William E. Nelson, *In Pursuit of Right and Justice: Edward Weinfeld as Lawyer and Judge* (New York: New York University Press, 2004); Joel William Friedman, *Champion of Civil Rights: Judge John Minor Wisdom* (Baton Rouge: Louisiana State University Press, 2009).

2. William M. Wiecek, *The Birth of the Modern Constitution: The United States Supreme Court, 1941–1953* (New York: Cambridge University Press, 2006), 63, 89.

3. George Dargo, *A History of the United States Court of Appeals for the First Circuit: Volume 1, 1891–1960* (Boston: U.S. Court of Appeals for the First Circuit, 1993), 217.

of Tennessee, and the Southern District of Texas all rely on research collections documenting the careers of judges on those courts. Peter Fish's history of the early years of federal courts in the current Fourth Circuit draws from the private correspondence of judges who served on those courts.⁴

In a model study of the early federal courts in one state, Mary K. Bonsteel Tachau used the personal papers of judges to analyze the role of the federal judiciary in Kentucky. In one of the most thorough investigations of the relationship between judicial appointments and partisan politics, Kermit L. Hall examined the personal correspondence of numerous judges appointed to the federal bench during the mid-nineteenth century. Peter Fish's study of the origins of modern judicial administration examines the papers of judges who served on the Judicial Conference of the United States in the 1930s.⁵

Recent court histories also make clear the challenge of writing a narrative history without access to judges' personal papers. In his history of the U.S. District Court for the District of New Jersey, Mark Lender noted that the "dearth" of papers for a prominent early judge made it difficult to reconstruct the judge's extensive legal career. Ro-

4. Richard Cahan, *A Court That Shaped America: Chicago's Federal District Court from Abe Lincoln to Abbie Hoffman* (Evanston, IL: Northwestern University Press, 2002); George W. Geib and Donald B. Kite, Sr., *Federal Justice in Indiana: The History of the United States District Court for the Southern District of Indiana* (Indianapolis: Indiana Historical Society Press, 2007); Roberta Sue Alexander, *A Place of Recourse: A History of the U.S. District Court for the Southern District of Ohio, 1803–2003* (Athens: Ohio University Press, 2005); Mark Edward Lender, "This Honorable Court": *The United States District Court for the District of New Jersey, 1789–2000* (New Brunswick, NJ: Rutgers University Press, 2006); Patricia E. Brake, *Justice in the Valley: A Bicentennial Perspective of the United States District Court for the Eastern District of Tennessee* (Franklin, TN: Hillsboro Press, 1998); Charles L. Zelden, *Justice Lies in the District: The U.S. District Court, Southern District of Texas, 1902–1960* (College Station: Texas A & M University Press, 1993); Steven Harmon Wilson, *The Rise of Judicial Management in the U.S. District Court, Southern District of Texas, 1955–2000* (Athens: University of Georgia Press, 2002); Peter Graham Fish, *Federal Justice in the Mid-Atlantic South: United States Courts from Maryland to the Carolinas, 1789–1835* (Washington, DC: Administrative Office of the U.S. Courts, 2002).

5. Mary K. Bonsteel Tachau, *Federal Courts in the Early Republic: Kentucky, 1789–1816* (Princeton, NJ: Princeton University Press, 1978); Kermit L. Hall, *The Politics of Justice: Lower Federal Judicial Selection and the Second Party System, 1829–1861* (Lincoln: University of Nebraska Press, 1979); Peter Graham Fish, *The Politics of Judicial Administration* (Princeton, NJ: Princeton University Press, 1973).

berta Alexander found that the scarcity of judicial collections for the Southern District of Ohio forced her to dig into “the pigeon holes of musty archives” to find the history of the court.

Wider availability of judges’ papers would enrich future court histories with more individual perspectives and give these institutional studies a broader importance for understanding the legal culture of the districts and circuits. A judge’s personal files give a broader dimension to an institutional history by offering what is often the only documentation of the public response to a case before the courts. The chambers papers of judges who broke barriers of gender or race on their courts may provide a unique resource for study of the diversification of the bench.

Legal History

Perhaps the greatest potential contribution to be made by judges’ papers is toward broad studies of legal history. The papers of federal judges can help to explain a wide variety of topics related to law and public life, including the evolution of legal doctrine, court enforcement of federal legislation, and popularly organized litigation campaigns. Judges’ papers can also be useful for analyzing a specific case or related cases.⁶ Unfortunately, the relative scarcity of judges’ collections in repositories, and the difficulty in locating these scattered papers, have deterred many researchers from taking advantage of this kind of historical resource. The preservation of more collections from a wider variety of judges and the availability of guides, such as the listings of research collections in the Federal Judicial Center’s “Biographical Directory of Federal Judges” (available at <http://www.fjc.gov>), are supporting further examination of aspects of judicial history that are relevant to cultural, political, and economic histories. As a personal record of service on the federal bench and a unique indicator of the judiciary’s interaction with other public institutions, the collections of federal judges attract researchers who might not consult the official court records. Judges’ papers are excellent sources for integrating the

6. See, e.g., John Henry Schlegel, *American Legal Realism and Empirical Social Science* (Chapel Hill: University of North Carolina Press, 1995); Robert J. Kaczorowski, *The Politics of Judicial Interpretation: The Federal Courts, Department of Justice and Civil Rights, 1866–1876* (1985; reprint, New York: Fordham University Press, 2005).

history of the federal judiciary and legal culture into broader studies of American government and public life.

The Organization of Chambers Papers: What to Save and How to Save It

Federal judges and their staffs frequently inquire about which materials among judges' papers merit preservation. The most valuable judicial research collections are those that complement rather than duplicate the case files, administrative records of the courts, or published sources. Those documents unique to a judge's chambers will be the most illuminating about the court, the particular accomplishments of that judge, and the era and region in which the judge served. Documents, such as memorandums between judges or between the judge and staff, that explain the process of judicial deliberation, and other predecisional materials that illuminate the judge's formulation of opinions, management of cases, or approach to court administration, will contribute to a better appreciation of the responsibilities of federal judges.

For judges who wish to provide their staffs with some specific guidelines concerning categories of materials to preserve, the following section offers some brief recommendations. Following that is a section providing guidance for staff implementing a records-management program for chambers. Such a system will help staff to keep files orderly and accessible to others. It also will facilitate the transfer of personal or chambers papers to a repository for preservation. Whether a judge adopts these records-management suggestions or relies on another system, the organization of chambers papers itself becomes an important record of the work of the judge. Repositories that accept judicial collections will usually be interested in maintaining the same organizational structure used in the judge's chambers.

Repositories vary in their policies about retaining different categories of materials, and each collection of judges' papers presents different issues. A judge who decides to preserve chambers papers will find it helpful to consult with the archivists of a potential repository to make sure that they agree about issues each considers important. Archivists will welcome the opportunity to meet with judges and their staffs so that valuable records will be preserved in chambers. An archivist's visit to chambers will be invaluable for later processing of the collection. Judges may use the lists below as a basis for discussion with archivists

and for instructions for staff who will be responsible for managing the records. In addition, judges may wish to consult the inventories of other judges' collections already in the possession of repositories. (See sample inventories in Appendix C.)

Identifying Documents for Preservation

Papers routinely found in the chambers of a federal judge fall into the following categories:

- case-related correspondence and background material, including but not limited to memorandums between judges and law clerks, memorandums between judges on an appeals panel, drafts of orders and opinions, and letters from the public;
- records of court administration and governance;
- documents related to participation on judicial committees;
- communications between judges and members of the bar concerning legal activities in the community;
- correspondence concerning public affairs;
- papers related to nonjudicial activities of the judge, such as service to non-law-related organizations and participation in civic affairs; and
- personal papers related to the judge's private life.

Chambers papers might be organized in three series:

1. Case-related files.
2. Other court-related activities.
3. Nonjudicial activities.

Series 1. Case-Related Files—Separating the Case Files and Chambers Papers

Practice varies among courts and chambers regarding the contents of case files and files that the judge maintains separately in chambers. In some instances, local rules specify those materials that are to be placed in the case file. Federal records statutes obligate courts to “preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions” of the court (44 U.S.C. § 3101). Therefore, all materials filed officially with the court in support of litigation belong in the

court's case file—such materials include briefs, depositions, and exhibits made part of the record. The District Court Clerks Manual⁷ lists the types of documents usually included in case files:

- Form JS-44, Civil Cover Sheet, and any local cover sheets
- Pleadings (e.g., complaint, answer) as defined in Federal Rule of Civil Procedure 7(a), and exhibits attached to the pleadings
- Indictment, information, or other initiating documents
- Warrants
- Motions, other documents, and exhibits attached to the motions and other documents
- Certificates of service
- Orders
- Depositions and interrogatories (e.g., papers, audiotapes, videotapes), if required by the local rules
- Exhibits made part of the record (e.g., papers, audiotapes, videotapes)
- Courtroom minute sheets
- Jury instructions
- Transcripts and recordings (audio and video) of proceedings
- Briefs
- Judgments
- Correspondence (if important)

For their own reference, judges may wish to instruct staff to include in the chambers files copies of documents from the case files. The other documents in the case files retained in the judges' chambers will differ considerably, both in size and content, according to the type of court. The criteria for preservation, however, are the same. The documents that make a judge's case-related files historically valuable are those that provide information not available in the court record and those that illustrate the decision-making process of the judge or panel of judges.

The following suggestions, listed according to type of court, offer guidelines for the organization and preservation of judges' case-related files.

7. Guide to Judiciary Policies and Procedures, Vol. 4—District Court Clerks Manual, Ch. 21, Records Management, § 21.02 “Records Which the Clerk's Office Must Keep.”

District Courts

Each district court judge usually maintains a series of chambers case files. If the judge maintains files of predecisional material, these items will offer insight into the judge's work that is not conveyed in the court record. It is the work files that will make a district court judge's papers an interesting and important part of the historical record. Judges may also choose to retain duplicates of the original documents filed in the court's case files. These copies of documents will help to explain the other material in the chambers papers and will assist researchers who may not have easy access to the original case files at the National Archives, although some repositories may not be interested in case files that only contain information that is also available elsewhere.

Arrangement by docket number will permit cross-referencing to the court's permanent case files. Some judges' staffs create name indexes to permit easy access, and these would be helpful for repositories and researchers as well. The following table lists the suggested disposition of a judge's case-related documents.

<i>Type of Document</i>	<i>Disposition</i>
Judge's memorandums to law clerks or motions clerks	Preserve permanently.
Law clerk memorandums related to the specific case	Preserve permanently.
Judge's notes on oral argument	Preserve permanently.
Draft opinions or orders	Preserve permanently.
Opinion galleys and proofs	Retain those with revision of contents noted; discard unmarked proofs upon receipt of slip opinion.
Slip opinions	Preserve permanently; file one copy in chambers case file and one copy in judge's opinion file (if separate opinion file is maintained).
Correspondence with the public	Preserve permanently; if voluminous, file separately from other case-file material and label with case name, noting "public correspondence."

Courts of Appeals

Like district court judges, appellate judges routinely maintain a series of case files. These files are usually arranged by docket number. Any indexes created by the judge or staff will facilitate use of the collection. The chambers case files of appellate judges are likely to include a different kind of predecisional material because of the frequency of communications between judges serving on a panel. Judges concerned about the preservation and donation of confidential communications may refer to the discussion of restrictions on access that are discussed below (see *infra* pages 25–28).

The following table lists the suggested disposition of appellate court judges' case-related documents:

<i>Type of Document</i>	<i>Disposition</i>
Judge's notes on oral argument	Preserve permanently.
Judge's memorandums to law clerks or motions clerks	Preserve permanently.
Legal research; related opinions	Save memorandums; discard photocopies of cases and law review articles after case is closed, provided that the cases and articles are cited in the judge's opinion. If they are not cited, archivists will be interested in a list of consulted authorities.
Bench memorandums	Preserve permanently.
Voting memorandums	Preserve permanently.
Conference notes	Preserve permanently.
Draft opinions with the judge's notes	Preserve permanently.
Judicial correspondence	Preserve permanently.
Opinion galleys and proofs	Retain those with revision of contents noted; discard unmarked proofs upon receipt of slip opinion.
Correspondence regarding publication	Preserve permanently.

Slip opinions	Preserve permanently; file one copy in chambers case file and one copy in judge's opinion file (if separate opinion file is maintained).
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Note on Bankruptcy and Magistrate Judges

As with the chambers papers of district and appellate judges, the records of bankruptcy and magistrate judges distinct from the official case files will be the records of the greatest historical value. Although the court record generally encompasses a higher proportion of the documents created by the work of bankruptcy and magistrate judges than of those created by district and appellate judges, bankruptcy and magistrate judges will have files containing internal memorandums, documents related to court governance, and records of judicial committee work. These chambers papers remain the responsibility of the judges, and for these papers to be preserved for research a judge needs to donate them to a repository.

Closing a Case File

When a case is closed, the closing date should be clearly identified, and the case should be filed separate from pending cases—this will keep these records in order until their transfer to a repository.

If the judge's file contains any original documents that belong in the court's case file, such as briefs and exhibits, the clerk will accept these records for completion of the official record. Copies for the chambers file will provide convenient reference for the judge and staff.

If a file contains material that a judge wishes to keep confidential, either because of agreements between the parties or to protect the personal privacy of third parties, the file should be flagged and marked with the date when it may be opened. Filing such materials in a separate box marked "confidential records" will further ensure security. (For a discussion of confidential communications among judges, see *infra* page 27.)

Once the records of closed cases are filed separate from open case files, the boxes should be labeled with the docket numbers and closing dates of the enclosed cases.

Sealed and Classified Records

A judge's chambers papers may contain materials of a sensitive nature, including documents from a sealed case or classified materials. The sealing of cases or case papers is in some matters pursuant to statute and more frequently governed by judicial discretion or the rules of each judicial district or circuit. Classified materials, by contrast, are closed to public inspection by a department or agency of the executive branch and must be declassified by the agency or department that classified the documents, or they may be declassified by the staff of the National Archives and Records Administration, before they can be made available to researchers.

Judges whose papers contain notes or documents from sealed cases ought to consult their local court rules, and the access restrictions on the chambers files should parallel those imposed on the case files. Some courts specify that sealed records must remain sealed for a set amount of time, while others leave the time of sealing to the discretion of the judge or clerk of court. The Federal Judicial Center has compiled a survey of local court rules relating to records sealing in *Sealed Settlement Agreements in Federal District Court*, Appendix B (2004), that judges and archival repositories can use as a guide to the various ways of handling sealed case materials.⁸

Most classified records handled by the federal courts are now turned over to the Department of Justice's Security and Emergency Planning Staff (SEPS) upon the termination of a classified case. SEPS holds classified materials, as well as judges' notes from classified trials, in perpetuity. Some judges designate their notes and papers from classified cases for destruction upon receipt by SEPS, while other judges make no such determination. Classified materials, however, occasionally remain in the chambers papers of some judges, particularly those who served before this transfer process was established.

Classified materials must be held at a facility and under conditions approved by the U.S. Department of Defense or another authorized government agency. The Library of Congress and the presidential libraries are equipped to hold classified materials, although many libraries and archival repositories are not. After materials are declas-

8. Robert Timothy Reagan, Shannon R. Wheatman, Marie Leary, Natacha Blain, Steven S. Gensler, George Cort, and Dean Miletich, *Sealed Settlement Agreements in Federal District Court* (Washington, DC: Federal Judicial Center, 2004).

sified, they may be transferred with the rest of the judge's papers to a private repository.

The staffs of SEPS and the National Archives are available to answer the questions of judges and their staffs regarding classified materials in their collections. SEPS can be reached by phone at (202) 514-9016. The Initial Processing and Declassification Division at the National Archives can be reached at (301) 837-0584, and the Information Security Oversight Office (ISOO) at the National Archives can be reached at (202) 357-5250, or online at <http://www.archives.gov/isoo/>. In 2007, the Federal Judicial Center published *Keeping Government Secrets: A Pocket Guide for Judges on the State-Secrets Privilege, the Classified Information Procedures Act, and Court Security Officers*, which may be a useful guide for handling classified materials at the courthouse prior to delivery to an archival repository.⁹

Opinions and Orders

Some judges keep comprehensive files of their orders and opinions separate from the specific case files. Whether a judge maintains such a file or not, copies of orders and opinions placed in the chambers case files would be helpful for archivists and researchers. If a judge creates a separate file of opinions and orders, a repository may wish to accept the file intact, even if a significant proportion of the writings have already been published. Repositories will also be interested in preserving all unpublished opinions. Indexes and finding aids for these files are an important addition to the collection.

Public Correspondence

Judges involved in a high-profile case may receive letters from the public commenting on the case. This public correspondence can be some of the most valuable documentation of the impact of the work of the federal judiciary. The papers of J. Skelly Wright at the Library of Congress include extensive public correspondence from the late 1950s to early 1960s regarding the New Orleans school desegregation case that Wright presided over while he was a district judge. The collection maintains the judge's arrangement of the letters in files marked "favorable" and "unfavorable," and the correspondence offers a vivid sense of

9. Robert Timothy Reagan, *Keeping Government Secrets: A Pocket Guide for Judges on the State-Secrets Privilege, the Classified Information Procedures Act, and Court Security Officers* (Washington, DC: Federal Judicial Center, 2007).

the conflicts surrounding the case and of the challenges facing a lone district judge. Even in less controversial cases, public correspondence can offer researchers and educators one of the few sources explaining reaction to the work of the courts. Public correspondence can be kept in the case-related files or organized, as Wright's chambers did, in general correspondence files.

Series 2. Other Court-Related Activities

Federal judges participate in numerous activities related to judicial business, including work on committees, court governance, personnel matters, and bar functions. The documentation of these activities illustrates an important dimension of a judge's career and may enhance the collection of papers.

Judges who retain these kinds of materials may wish to establish sub-series of such files in whatever arrangement they find suitable. Chronological filing will allow documents arranged by year to be retired to off-site storage after suitable intervals.

Administrative Papers and Office Files

The administrative papers of a judge can be a valuable documentation of institutional history as well as the history of judicial administration. The files of a chief judge will probably hold the richest documentation in this area, but the files of other judges are likely to contain valuable administrative material. Records may include correspondence, printed policy papers, memorandums, studies, minutes, and committee reports. Additional papers may relate to Judicial Conference and judicial council activities, committee service, and extrajudicial activities. A judge may also preserve the following: general correspondence, office personnel files, travel vouchers, appointment books, diaries, speech files, seminar files, news clippings, biographical files, and law clerk files.

Documents that illuminate court administration and operations—particularly interactions between chief judges and the other judges on the court, or between the court and the Administrative Office, the Federal Judicial Center, and the circuit judicial council—will make a valuable addition to the historical record. As with the case files, the most significant documents within a judge's collection are those not found in published form or included in the records of a judicial agency. Printed materials received from the Administrative Office, the

Federal Judicial Center, the Judicial Conference, or other agencies will be a part of the respective agency's permanent record, although those materials that pertain to an area in which the judge was active will help to explain documents unique to the judge's collection. Papers relating to circuit judicial conferences and judicial council business usually duplicate materials saved by the clerk or circuit executive, but again those papers related to activities or subjects in which the judges were directly involved, particularly policy documents they helped draft or minutes of committees on which they played a substantive part, will be a helpful addition to a manuscript collection.

Papers that document a judge's service on the Judicial Conference or its committees, the Board or committees of the Federal Judicial Center, or other judicial branch advisory boards also will be of research value. Although most such materials will be preserved by the respective agencies, those general records that illuminate the unique documents and correspondence among a judge's papers will be of interest, particularly any such documents containing the judge's annotated comments.

Appointment Books and Calendars

Appointment books and calendars of official responsibilities can be important reference sources that will help make sense of other parts of a collection.

Biographical and Clippings Files

Files that contain updated résumés, copies of entries in various biographical sources, clippings of biographical articles, newspaper and journal articles related to cases, and financial disclosure forms often make a valuable addition to a manuscript collection. The access restrictions that a judge applies to the broader collection can keep financial records confidential for a stipulated period of time.

Invitations and Trip Files

Judges receive invitations to a wide array of professional and community events, and the invitations are one way of documenting events in which a judge has participated. Routine materials related to trips—such as correspondence concerning transportation and local arrangements, and vouchers—are less likely to provide information not available elsewhere in the collection. Materials such as speeches,

background materials for meetings, agendas, and lists of invited guests, however, are useful sources documenting the judge's role in professional activities.

Photographic Files

Photographs are valuable sources of historical information if they are labeled with the names of the participants, the dates of the photographs, the locations, or the events.

Speeches and Writings Files

Speaking engagements may constitute a significant part of a judge's interaction with the bar and the public. A collection of the judge's speeches as well as a file of articles or other writings, will be an informative and convenient resource. If the sources the judge relied on are documented in the text of the speech, basic reference materials will be redundant. If the judge keeps notices concerning press coverage of the speech, either in the speech files or in a separate set of scrapbooks, such material will offer an extra dimension to these materials.

Files on Law Clerks

If judges maintain files on law clerks and preserve correspondence or other documents that go beyond typical personnel information, the files will help to explain the working relationship between judges and their law clerks, and any continuing correspondence will document the judge's role as a mentor to the clerk.

Series 3. Nonjudicial Activities

This series should include files related to nonjudicial activities of the judge, such as service to organizations or participation in civic affairs. It also could include personal correspondence and documents such as diaries. Judges who keep diaries create an important historical record of an individual's service on the federal bench and a source that offers a personal perspective on the court's broader work.

The files relating to nonjudicial activities will include correspondence and papers related to the judge's professional and private life. The papers documenting earlier as well as subsequent professional activities can illuminate the relationship between judicial service and other career work, particularly that related to the law. The gathering in

one repository of all of the historically significant materials created by an individual greatly enriches a collection. A repository interested in the papers of a federal judge will want to know of all personal papers that might be available for donation.

Managing Chambers Documents for Preservation

If a judge's staff has instituted a chambers filing system or uses the judiciary's filing scheme, that system is itself a document of the court's work and will help a manuscript repository to process and catalog the collection. The Administrative Office of the U.S. Courts has developed a sample filing system for materials in chambers and district judges' offices. For information on the system, contact the Judiciary Records Management Program, in the Department of Program Services, Court Services Office, Programs Division, (202) 502-3400.

When files are no longer needed in chambers, a judge may choose to transfer them from chambers to a repository and permit the archivists to process the material, disposing of papers that in the judgment of the archivist have no historical significance. Most repositories do not require donors or their staffs to select files prior to transfer to the research facility, and many archivists encourage donors to consult with the repository staff before making any decisions about destruction of materials. Archivists will also welcome the donor's clear instructions about the preservation of materials that might otherwise be discarded.

Whether a judge or staff arranges for the regular transfer of files or retains files in chambers until the end of the judge's career, a few special preservation measures are suggested for chambers staff apart from the standard record-keeping practices necessary for the usual conduct of business. Such measures include the following:

- noting the date a document is created and the person who created it;
- keeping papers in clearly labeled folders that are later boxed as they were filed in chambers;
- maintaining an inventory that lists files by name and describes their arrangement; and
- photocopying newspaper clippings and older fax papers so that they will prove more durable.

Electronic Records

The chambers “papers” of federal judges are becoming increasingly full of “documents” that are “born digital”—records such as emails, electronic calendars, word-processing files, computer-based presentations, and websites. Such records, which have complicated the archival process, raise issues that potential donors should consider when discussing their personal collections with an archivist at a research institution. Because office systems vary so widely, archivists will benefit from a visit to a judge’s chambers to see how electronic records are created and maintained and to offer suggestions for archiving such records.

Judges and chambers staff who take an active role in the accessioning and processing phases of the donation can help ensure that electronic records are organized and cataloged properly. Some donors add a sentence or two to the beginning of each “born digital” record to provide context, such as where a speech was given or the circumstances under which an email was written. When a collection includes both paper and electronic copies of the same documents, donors may be able to advise the archivists of significant differences between the paper and digital copies (such as emphasis or notes that were handwritten into the printed version of speeches). If related records are maintained in electronic and paper format, electronic directory structures should mirror as closely as possible the filing schemes used for paper documents. Donors who have developed personalized systems for naming computer files (e.g., “Speech.2008.1,” “Speech.2008.2”) ought to inform the repository of their naming scheme. Digitized photographs or documents should be accompanied by directories or indexes that clearly identify each digital file.

Some judges may have created electronic records using computer programs that have since become obsolete. In such cases, the donor should provide the repository with a copy of the program to ensure that the records are “readable.” Some donors simply give their personal computer, including its software and files, to the repository. Most repositories will convert files created on obsolete software into files compatible with currently used programs, such as Microsoft Word or Adobe Acrobat. Conversion of word-processing files into PDF or image files also helps protect them from corruption or alteration. In order to protect against loss of electronic information during the accession and conversion processes, donors may wish to provide a repository

with backed-up copies of their files (on a CD-ROM or external hard drive). Donors ought to label these external memory devices clearly to simplify the accessioning and processing of the collection. Donors may also choose to keep a back-up copy of their files for themselves.

Donors should discuss with the repository how electronic records will be made available to the public for research. Some libraries only make hard copies of digital files available to researchers, although this policy will become increasingly problematic as more and more digital records are donated to research facilities. Other repositories make PDF files of digital records available online, sometimes linking to them directly from the collection's online finding aid. One pitfall of this approach, however, is that records available online may be more heavily used than the nondigital records that are only available at the repository, even though the digital records may not be the most important or representative documents in the collection.

Storage

Space is at a premium in many courthouses, and inadequate storage areas could result in the loss or damage of historically valuable materials. The staffs of judges who arrange for the donation of chambers papers can often ship to the repository materials no longer needed in chambers. The repository will hold the materials until the judge permits their research use, thereby lessening demands on the court's space. The federal records centers, however, do not have the authority to accept judges' papers, even temporarily. In order to secure any collections inadvertently sent to the records centers, a court's staff can recall a judge's papers for storage elsewhere.

Manuscript Repositories

Selecting a Repository

The following services will ensure that a repository can properly care for a judicial collection:

- an ongoing, professionally managed manuscript collection program available to researchers and offering professional reference services;
- established, written policies governing access to and use of the collections;
- equal access to all unrestricted collections for all responsible users;
- climate-controlled areas for storage, protected against fire and flood;
- secure storage, processing, and reference areas with controlled access by the public;
- storage of documents in archival containers;
- capacity to handle nonpaper media (e.g., audiotapes, videotapes, and microfilm) if necessary; and
- established policies and procedures for accepting, preserving, and making available electronic records.

Many repositories have the resources to accept and process a comprehensive collection of judicial papers, and many are eager to accession the papers of a federal judge. Before making any decision about where to donate personal papers, meetings between the judge and representatives of a prospective repository will help to determine if the institution is fully committed to processing and managing the collection. Once an agreement is reached, the judge can instruct chambers staff on the proper arrangement of personal files; the repository can prepare for the accession of the papers; noncurrent files might be transferred to the repository on a regular basis; and family and staff will be fully apprised of the judge's intentions.

The choice of a repository will help to determine the accessibility and the scholarly use of a judge's collection. Collections will be most useful if they are placed in a repository with an established archives or

special-collections program and staff to process and make available the materials donated by the judge. A repository that houses complementary collections, such as those of other members of the judge's court or leaders of the legal community, will provide access to scholars of judicial and legal history.

Possible repositories include universities, historical societies, or law school libraries. Some institutions develop specializations in subject matter and may seek the papers of a judge whose career, both on and off the bench, relates to the institution's area of concentration. Similarly, the presidential libraries often accept papers of public figures who had close relationships with the president whose papers the library maintains.

Judges often express interest in donating papers to an alma mater, usually their law school. If the school has an established manuscript program, that may be a suitable choice. Law schools with such collections often seek the papers of graduates. If a school does not have an existing special-collections program, a single collection of papers, without the benefit of professional archivists or facilities for researchers, could prove to be virtually inaccessible. If a judge chooses an institution that does not already have a special-collections program established, a written agreement might include an arrangement for processing the papers and making them available to researchers.

The National Historical Publications and Records Commission published a list of repositories in its *Directory of Archives and Manuscript Repositories in the United States*, 2d ed. (1988). The Library of Congress also provides a link to a listing of repositories at its website, <http://www.loc.gov/coll/nucmc/index.html>. The Federal Judicial History Office can provide judges with suggestions for repositories that may be interested in a donated collection or those that have already accessioned collections from judges of the same court.

The National Archives and Records Administration

The National Archives holds the permanent records of the federal courts. It does not normally accept personal papers into the regular archival collections. The only exception to this policy applies to the presidential libraries, which are administered by the National Archives.

The Library of Congress

The Library of Congress accepts the papers of federal judges who, in judicial service or in nonjudicial careers, have made what the library believes are exceptional contributions in an area where the library's collections are particularly strong. Most of the Library of Congress's recent collections of judicial papers are from Supreme Court justices and trial and appellate court judges whose work had particular significance for the role of federal regulatory agencies or for federal government policies and operations.

Court Libraries

Most court libraries are not equipped to handle the processing and reference services required to administer collections of manuscripts and to accommodate outside researchers. Court librarians, however, can be an excellent resource for identifying regional archival repositories that may be interested in accessioning the collections of judges from the district or circuit.

Determining Policies on Access to a Manuscript Collection

A judge who wishes to limit access to a manuscript collection should discuss the potential restrictions in detail with representatives of a repository. Archival institutions seek to preserve historically significant materials and make them available for research purposes without excessive delay. Repositories, however, recognize that donors often have legitimate reasons for restricting access to some papers and will generally agree to administer restrictions that a judge wishes to apply to a collection.

Many repositories may not have the resources to administer unduly complicated restrictions or those contingent on something other than the passage of time. Restrictions that require the regular supervision of archival staff may prove too time-consuming or costly. It also is preferable not to apply restrictions that depend on the discretion of a third party. For example, closing case files until a specific date is preferable to allowing access with the permission of an executor, who may be unfamiliar with the collection or who may be difficult to locate, especially years after the judge has died.

When deciding to donate papers, judges should know that many of their papers can be made available for research at the time of deposit, after a relatively brief period of restriction, or upon their death. Speech files, correspondence files on matters related to nonjudicial activities, and files documenting work long since completed might be opened immediately after the files are deposited.

In determining what, if any, access restrictions are proper, a judge might consider several key issues: periods of restriction, equal access, judicial confidentiality, and privacy concerns.

Periods of Restriction

The easiest restriction for a repository to administer, and one likely to provide the best protection of confidentiality, is a provision that limits access to all or part of a collection to all users for a specific period of time.

Judges who choose to embargo files might consider opening case files some years from the date of termination of the case rather than from the date when the judge's service ends. If a judge dies while serving, restriction until the death of the donor would permit immediate access to chambers case files for recently terminated cases. For a judge with thirty years on the bench, closure until the judge's death would result in lengthy restrictions on cases long concluded. An access date keyed to the date of the termination of the case offers protection of confidentiality and reasonable access. The judge may choose to offer earlier access to files not related to cases, such as administrative or committee papers.

In practice, judges and their families impose widely varying terms of access. In addition to the restrictions cited above, frequently used provisions include immediate access with permission of the judge, no restrictions, and access restricted until the death of all participating judges. (See Appendix A for a survey of selected access restrictions.)

Equal Access

Most repositories, concerned that privileged access would hinder a fair scholarly exchange, prefer to open materials to all researchers or close them to all researchers. When determining restrictions for papers in

a repository, judges should be aware of current archival practices and standards that accord all qualified researchers equal status.

Judicial Confidentiality

The chambers papers of almost every judge will contain communications from other judges on the court. Particularly regarding appellate courts, judicial tradition honors the practice of confidential discussions among judges during their decision making and recognizes the need to have those discussions remain confidential long enough to protect the integrity of the judicial process. Some judges believe that confidentiality prevents a judge from making such communications public during the lifetimes of the other judges, if at all. Others believe that, because every judge is a public official, work-related materials should be made available at the point when disclosure will not interfere with the business of the court.

Judges who wish to donate their papers need not purge their files of communications from other judges. The imposition of a longer embargo period on this part of a collection would satisfy concerns about confidentiality without diminishing the historical record by removing integral documents.

Restriction of access until the death or retirement of all participating judges would satisfy many concerns about confidentiality, but it may be difficult for repositories to enforce because of the problems of tracking a number of individuals. Before imposing such a restriction, a judge should consult with the repository to see if it would be able to comply.

Sensitive Records and Privacy Concerns

When defining the terms of their donation, judges should discuss the presence of any records from sealed cases within their collections to determine whether the repository is prepared to restrict use of those records for an agreed upon amount of time. Most libraries are willing to accommodate reasonable and uniform restrictions of use on certain records within a judge's collection, but staff limitations may prevent some repositories from being able to implement complicated restrictions that would require periodic reassessment of the records.

A judge involved in a case that resulted in the filing of an unusual amount of personal information may have concerns about the protection of privacy. Particularly if the collection is to be digitized or made available in electronic form, the ease of public searching might threaten the privacy of third parties by prematurely exposing Social Security numbers, medical information, or educational records. It is not necessary to embargo all material of this kind, and the Judicial Conference policies regarding public access to electronic transcripts may be helpful for determining what personal information a judge might want to close to researchers for a stated period of time.

Federal or state privacy laws may apply to some personal information about third parties. Repositories differ about the nature of their responsibility to protect the privacy of third parties. Most repositories prefer to have donors identify files that require access restrictions and specify what those restrictions are. To avoid misunderstandings about the responsibility for protecting the privacy of individuals, the repository should provide the judge with a full description of its policy. Archivists processing the collection may apprise the donor of materials that raise privacy concerns.

Digitizing Records

It is becoming increasingly common for archival repositories to digitize collections, or portions of collections, to make them available to researchers online or on CD-ROMs. Donors ought to discuss the possibility of digitization of their manuscript collections with potential repositories. Most repositories are unlikely to commit to digitizing collections upon receipt, but they will likely want to keep the option of future digitization open. The benefit of digitization is that the records become widely available to researchers throughout the world, rather than simply to those who can visit the repository.

Preparing a Donor Agreement

The donation of papers to a repository requires an instrument of gift that specifies the circumstances under which the actual transfer of the materials takes place, conveys ownership of the materials, transfers copyright where appropriate, and stipulates conditions under which researchers may view and copy documents. Most repositories will supply a standard form. (A sample agreement is attached in Appendix B.)

Donors, however, often draft a wide range of stipulations in conjunction with a repository.

If a donor wishes to deposit material in a repository without transferring title to the documents and the repository agrees to this arrangement, the donor agreement should so state and indicate the point at which title to the material will transfer. Many repositories will be reluctant to accept a judge's papers without a transfer of title.

The essential components of a donor agreement include the following:¹⁰

- *Name of the donor and statement of ownership*—That is, the person holding title to the material. For a judge's chambers papers, the owner is either the judge or the heirs to the papers.
- *Name of the recipient*—Before proceeding with a donation, a donor must ensure that the designated recipient wishes to accept the collection. The repository must be contacted in advance of the donation, and it should supply the wording for specifying the recipient, which may differ from the title of the repository. For example, a donation that will be held in a state university library may require deeding the papers to the state.
- *Transfer of title*—The donor agreement should specify that the title passes to the repository. Rights (of access, use, copyright) should be addressed separately.
- *Description of the materials and circumstances of transfer*—Donors should include a narrative description of the materials included in the donation, including the types of records, the quantity of materials, and the date range of the collection. Where a judge arranges for donation before the end of his or her service on the bench, the agreement should specify the times at which materials will be transferred (e.g., "Chambers files will be deposited annually in February and will comprise files related to cases terminated at least two years earlier. Other office files will be transferred annually and will consist of material no longer needed in chambers."). The agreement should state that the judge may consult the material as is necessary and

10. See Gary M. Peterson and Trudy Huskamp Peterson, *Archives & Manuscripts: Law* (Chicago: Society of American Archivists, 1985), 24–27; Menzi L. Behrnd-Klodt, *Navigating Legal Issues in Archives* (Chicago: Society of American Archivists, 2008), 52–55.

that the repository will return requested files or boxes to the judge for use in chambers.

- *Additional shipments*—If the judge is transferring material periodically, the agreement should note that such transfers will occur in accordance with the present agreement. This provision will eliminate the need for a new document for each addition to the collection.
- *Copyright*—Although chambers papers are the personal property of the judge and subject to the judge’s disposal, the law concerning copyright (Copyright Act of 1976, Title 17 of the U.S. Code) stipulates that materials created by government employees while carrying out their duties are not protected by copyright. The materials are therefore in the public domain, and the judge cannot claim a copyright in them.

Judges’ donations, however, may also include materials created outside their work for the federal courts and in which they hold copyright. In the donor agreement, judges should clearly indicate their intentions concerning any material to which they hold copyright. It is easiest for both the repository and future researchers if copyright is transferred with the documents; otherwise, researchers will need to contact the holder of the copyright before using any unpublished material. Some repositories may be reluctant to accept a collection if the donor does not assign the copyright. The judge can transfer copyright to the repository and still preserve the right to use the material or to restrict access, but any such provisions should be spelled out in the donor agreement. The copyright may also be transferred to the public domain, in which case researchers can freely publish from the collection. Again, any such transfers must be explicitly stated in writing.

- *Disposal*—The repository may wish for a grant of authority to dispose of material that it determines unworthy of permanent preservation. The judge may ask that such items be returned rather than destroyed. The agreement may also permit transfer of paper records to other formats (such as microfilm or CD) to provide flexibility to an archive with space constraints. If such a provision is included, judges will want to specify that access conditions pertain to material regardless of format.

- *Access for processing*—A clause should explicitly grant access to the archivists (under the burden of confidentiality) for the purpose of processing materials otherwise restricted.
- *Access for research*—The donor agreement should specify whatever access restrictions the judge decides to apply to the collection.
- *Subpoena clause*—Such a clause specifies the responsibility of the repository to contact the donor in the event a portion of the collection is subpoenaed.

It is important to put all conditions in writing. Written agreements, explicitly and clearly stated, prevent misunderstandings and clarify for users, colleagues, and family members precisely what the judge intends.

Bequests

If a judge plans to bequeath chambers papers to a repository, it is important to make plans in advance of such a donation and to work out agreements with the potential repository about the terms of the donation.

Tax Deductions for Donations of Papers

Collections donated by a judge's heirs may under some circumstances qualify as a charitable gift for purposes of tax deductions, but the law is complicated, and since 1969 the law has not permitted deductions by the creator of the records for anything other than the cost of the materials used to create the records. Heirs who believe their gift may qualify should consult a lawyer who can advise on the appraisal process and possible deductions. The archival repository cannot provide an appraised value of the collection, but the repository staff may be able to recommend several professional appraisers.

Transfer of Papers

Many repositories will accept papers on an ongoing basis as a judge determines that the papers are no longer needed in chambers. Older files can be transferred to the repository while newer ones are boxed and kept in chambers.

Repositories will have different transfer procedures. Some will send archivists to chambers to assist in shipping files, some will ask that all papers be sent to the repository, and some will request that only certain categories of papers be sent. Repositories also have varying policies concerning paying for the shipment of donated papers. Some repositories will pick materials up or pay for shipment. Others ask donors to bear the cost of shipping.

Repositories will appreciate any assistance the judge's staff can provide regarding the contents of the files being shipped. Ideally, each shipment will contain a file list for each box of files and the list will describe the contents and the dates of the files. For example:

Box 1: Case files, terminated January–March, 2003.

Box 2: Case files, terminated April–August, 2003.

Box 3: Case files, terminated September–December, 2003.

If possible, it would be helpful to have a more detailed list for each box:

Box 1: Case files, terminated January–March, 2003.

8800821 *Smith v. Jones*

8802586 *White v. Gray*

8803597 *Green v. Blue*

If a case file contains sensitive material (e.g., personal information concerning a minor child) that would require an unusually long embargo period, the file should be flagged, separated, and placed in a special container with a date affixed indicating when it may be opened.

Conclusion

This guide provides some basic assistance to judges wishing to offer their papers as a resource for future researchers and thereby contribute to a better public understanding of the work of the federal courts. As judges and their staffs organize collections, questions undoubtedly will arise that this handbook does not answer. The Federal Judicial History Office can provide further advice and can suggest contacts at specific repositories.

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Appendix A: Survey of Access Restrictions Placed on Manuscript Collections by Federal Judges

Access Policies for Selected Research Collections of Federal Judges Who Have Donated Their Papers to Manuscript Repositories

Judge: Morris S. Arnold

Repository: Torreyson Library, University of Central Arkansas

Access policy: Materials available to researchers as they are processed by the repository; judge regularly transfers noncurrent records to the repository.

Judge: Norman W. Black

Repository: Tarlton Law Library, University of Texas Law School

Access policy: Unrestricted

Judge: John D. Butzner

Repository: University of Virginia Law School Library

Access policy: Unrestricted

Judge: Harry T. Edwards

Repository: Bentley Historical Library, University of Michigan

Access policy: The collection is open to researchers, with permission from the judge or his surviving spouse or children.

Judge: George E. MacKinnon

Repository: Minnesota Historical Society

Access policy: Access with permission of the judge prior to his death; opened after his death.

Judge: Abner J. Mikva
Repository: Lincoln Presidential Library
Access policy: Restricted until ten years after death; earlier access with permission of the donor or executor.

Judge: Giles S. Rich
Repository: Library of Congress
Access policy: Case files closed during the lifetime of all judges who participated in the decision of individual cases.

Judge: Harold Barefoot Sanders, Jr.
Repository: Tarlton Law Library, University of Texas Law School
Access policy: Unrestricted

Judge: William S. Sessions
Repository: Library of Congress
Access policy: Access with permission of the judge. Following his death, access will require permission of surviving spouse, and subsequently the executor for fifteen years following the death of the judge's last surviving spouse.

Judge: Patricia Wald
Repository: Yale University
Access policy: Closed until ten years after death of the judge; earlier access with permission of executor.

Access Policies for Research Collections of Recent and Sitting Justices of the Supreme Court of the United States

Justice Hugo Black
Repository: Library of Congress
Access policy: Access to the collection is restricted during the lifetime of the heirs; permission to use the collection must be obtained from the executors and further permission to publish any writings in the collection, or writing for publication about them, must be obtained.

Justice Harry Blackmun

Repository: Library of Congress

Access policy: Opened to researchers five years after the death of the justice.

Justice William J. Brennan, Jr.

Repository: Library of Congress

Access policy: During the justice's lifetime, access was restricted to researchers with his permission; some materials opened upon his death; "Personal Annual Reviews of the Term's Work" remain closed during the lifetime of all justices who participated in the cases.

Chief Justice Warren Burger

Repository: College of William and Mary

Access policy: Closed to researchers until the later of (a) January 1, 2026, or (b) the tenth anniversary of the death of the survivor of the group of justices with whom Burger served on the Supreme Court.

Justice William O. Douglas

Repository: Library of Congress

Access policy: Materials were originally restricted until the justice's death; later additions to the collection were restricted for five years.

Justice Ruth Bader Ginsburg

Repository: Library of Congress

Access policy: During the lifetime of the justice, access restricted to researchers with her approval; following the death of the justice, individual case files will be closed during the lifetime of justices or judges who participated in the decision of that case.

Justice John Marshall Harlan

Repository: Seeley G. Mudd Library, Princeton University

Access policy: After donation of the papers in 1972, all materials were restricted until July 8, 1979, with the possibility of an extension for an additional year. At the request of the executor, the restrictions were extended for the additional year. The papers were opened to the public on July 9, 1980, without restriction, at the discretion of the university archivist.

Justice Thurgood Marshall

Repository: Library of Congress

Access policy: Collection opened upon the death of the justice.

Justice Sandra Day O'Connor

Repository: Library of Congress

Access policy: During the lifetime of the justice, access restricted to those with her permission; all but case files open upon the death of the justice; individual case files closed during the service of any justice who participated in the case.

Justice Lewis F. Powell, Jr.

Repository: Washington and Lee University School of Law

Access policy: Judicial papers not already public information are restricted during the service of any justice or judge who served with Powell, unless access granted by the donor, or granted after the justice's death by the archivist in consultation with the dean of the law school.

Chief Justice William H. Rehnquist

Repository: Hoover Institution, Stanford University

Access policy: Supreme Court case files and related material for October terms 1975–2005 closed during the lifetime of justices who served with Rehnquist during each term; remainder of collection open to researchers upon processing of the collection in 2008.

Justice Potter Stewart

Repository: Yale University

Access policy: Court materials closed during the service of all justices who served on the Supreme Court with Stewart.

Justice Earl Warren

Repository: Library of Congress

Access policy: Originally restricted until 1985; terms of his will modified restriction to ten years after his death in 1974.

Justice Byron White

Repository: Library of Congress

Access policy: Closed until ten years after his death; open to the public without restriction after that date.

Sources: *Congressional Record*, May 27, 1993, pp. S6724–6726; U.S. Supreme Court, Office of the Administrative Assistant to the Chief Justice; repository websites.

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Appendix B: Sample Donor Agreements

Below are two sample donor agreements:

1. Harvard Law School Library donor form
2. Deed of Gift (reprinted from *Records Management Handbook for U.S. Senators and Their Archival Repositories*)

Also, the Society of American Archivists has prepared a short guide to donor agreements, which is available online at http://www.archivists.org/publications/deed_of_gift.asp.

Harvard Law School Library

CERTIFICATE OF GIFT

I, *[Name of donor]*, hereby give, convey and transfer to the President and Fellows of Harvard College (“Harvard”) acting through the Harvard Law School Library (the “Library”) the papers and other materials described on Appendix I attached hereto, to be known as the Papers of *[Name of subject]*. (Those papers and materials, and any other papers and materials I may deliver to the Library in the future, are referred to herein as the “Collection.”) My gift of the Collection is made subject to the following terms and conditions:

1. Title to the Collection will pass to Harvard on the date on which I sign this instrument, except that title to any papers and other materials I subsequently transfer to the Library will pass on the date of the future transfer. With the exceptions noted below, the Librarian of the Library and/or others so authorized for this purpose by the Librarian will have the right and authority to make all decisions affecting the conveyance, arrangement, description, preservation, accessibility, use, and disposition of the Collection.
2. The Library agrees to provide for the preservation, arrangement and cataloging of the Collection. The Library will have the right to transfer all or part of the Collection to other formats, such as microfilming or digital imaging. In processing the Collection,

inappropriate and duplicate material may be disposed of in accordance with the Library's usual procedures.

3. The Library agrees to make the Collection, subsequent to its cataloging, available to researchers [*option*: who have obtained my written permission]. The Library further agrees to provide me and/or any agent authorized by me access to the Collection during the regular hours of the Library's Department of Special Collections. [After my death,] [*include foregoing only with preceding option*] [a]ccess to the Collection may be given to any person whom the Librarian or the Librarian's designees, in their complete discretion, may deem appropriate.
4. By this instrument, I give, convey and transfer to Harvard all of my right, title and interest in the Collection and each work contained therein, including, without limitation, all of my copyrights and other intellectual property rights therein, throughout the world. This gift and transfer includes, without limitation, all renewal copyrights I now or hereafter may have. [*option*: I reserve the right to defer the transfer of copyright and other intellectual property rights for selected material I have so designated on Appendix III attached hereto. With respect to any such selected material, however, I agree that, at the discretion of the Librarian, the Library may make, or permit researchers to make, copies of those materials solely for the recipient's personal, noncommercial research or educational use or for use that otherwise would not infringe copyright.]
5. The Library agrees to secure from all users of the Collection, prior to providing access to the materials contained therein, a signed "Application for the Examination of Manuscripts" form, which limits use of unpublished materials. The final responsibility for securing permission to use copyrighted material, however, rests with the user of materials protected by copyright.
6. I hereby represent that I am the sole owner of the entire tangible property interest in the Collection, free and clear of liens and adverse claims; that I have not previously granted or transferred any rights in the Collection or the copyrights or other intellectual property rights therein to any other party, except as may be described on Appendix II attached hereto; and that I have the full right, power and authority to make this gift.

7. I agree to execute such further documents and to take such further actions, at Harvard's expense, as Harvard may request from time to time to perfect, confirm or protect the rights conveyed and transferred hereunder to Harvard. This instrument is executed under seal, and will be governed by and construed in accordance with the laws of The Commonwealth of Massachusetts, without giving effect to its choice of law principles. The terms of this instrument will be binding upon my heirs, executors, and personal representatives. This agreement will remain in effect unless and until superseded by a revised written agreement entered into by me and the Library.

(Donor)

(Date)

The gift described above is accepted on behalf of Harvard, subject to the terms, conditions, and restrictions herein set forth.

Librarian for Special Collections
Harvard Law School Library

(Date)

APPENDIX I
Description of Collection

APPENDIX II
Rights Previously Granted

The following is a description of all rights in the Collection or the copyrights or other intellectual property rights therein that I (the donor) have previously granted or transferred to any party other than Harvard:

APPENDIX III
Material as to which Copyright Transfer Is Deferred

With respect to the following materials comprising part of the Collection, I (the donor) wish to defer transfer to Harvard of the copyright

and other intellectual property rights until immediately before my death or such earlier time as may be specified below:

The transfer to Harvard of all copyrights and other intellectual property rights in the materials listed above will occur automatically as of the date described above, as part of the gift of the Collection, without the need of any further act or deed by me (the donor).

Deed of Gift Gift of Papers and Other Historical Materials

(reprinted from *Records Management Handbook for U.S. Senators and Their Archival Repositories*)

1. Senator _____ (hereinafter referred to as the Donor), hereby give, donate, and convey to the _____ Library (hereinafter referred to as the Donee), my papers and other historical materials.

2. Title to the Materials shall pass to the Donee upon their delivery to the Donee. Copyright in that portion of the Materials in which copyright resides is retained by the Donor. Upon the Donor's death, copyright is transferred to the _____ Library of _____ University.

3. Following delivery, the Materials shall be maintained by the Donee in the _____ Library. At any time after delivery, the donor shall be permitted freely to examine any materials during the regular working hours of the _____ Library.

4. It is the Donor's wish that the Materials be made available for research as soon as possible following their deposit in the _____ Library. At the same time, the Donor recognizes that the Materials may include some information which, at present, should not be released. Accordingly, the Donee shall, for the present, restrict access to the following classes of materials:

a. Papers and other Materials, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy or a libel of a living person.

b. Materials relating to the personal, family, and confidential business affairs of the Donor or other persons referenced by the Materials.

c. Material relating to investigations of individuals and organizations, to proposed appointments to office, or to other personal matters affecting individual privacy.

d. Materials relating to the work of political consultants in campaigns.

e. All office financial accounting and personnel records found in the Materials will be sealed and destroyed after (determine the date).

5. It is the responsibility of the Donee to identify the classes of Materials listed in Paragraph 4. This responsibility will be administered in good faith to the best of the Donee's abilities within the policies of the Library. (Or other language to reflect that this is a difficult responsibility and even with careful stewardship, in the unlikely event that something may happen, this contract is not voided.)

OR

5. The Donor shall have the Materials reviewed to identify the classes of Materials listed in Paragraph 4 and any other Materials which should be restricted. The type and location of restricted materials shall be communicated to the Donee as soon as possible as no part of the Materials will be opened until this review has taken place.

6. Materials which have been restricted from access in accordance with Paragraph 4, sections a–d, can be reviewed from time to time and opened to public access when both Donor and Donee agree that conditions no longer require restrictions. Otherwise, these Materials shall be restricted until _____.

There are several options available for paragraph 6:

a. A date can be named.

b. If the classes listed in Paragraph 4, sections a–d have different lengths of time restrictions, the wording in Paragraph 6 can follow each section. Lengths of restrictions normally run from five to twenty years.

c. Or, restrictions can run from when the material was created. For example, the specified material is closed for "X" number of years from date of creation (usually twenty years).

7. Materials restricted shall not be made available for inspection, reading, or use by anyone except the regular employees of the Donee, in the performance of normal archival work on such Materials, and the Donor, or persons authorized by him in writing to have access to such materials.

8. The Donee reserves the right to restrict access until such time as the Materials which have been restricted from access in accordance with Paragraph 4 are identified and until the Materials have been fully processed and can be made available to the researcher.

9. Subject to the restrictions imposed herein, the Donee may dispose of any of the Materials which the Donee determines to have no

permanent value or historical interest. If in the opinion of the Donee the Materials should be preserved in a different physical format, such as microfilm, the Donee may perform the necessary processing and the original materials shall be disposed. During the lifetime of the Donor, and at the Donor's request, the Materials proposed for disposal shall be returned to the Donor.

10. As required by Senate Rule XL, Section 5, the Donee stipulates that any machine readable records shall be used only for research purposes and that lists of individual names and addresses found in the records in whatever format shall not be provided to other parties for political or profit purposes.

11. As provided by Senate Rule XXVI, Section 10(a), all official committee records are the property of the Senate and when found in the Materials will be returned to the appropriate committee, and the Senate Archivist will be noticed.

12. In the event that the Donor may from time to time hereafter, give, donate, and convey to the Donee, for deposit in the Library, additional papers and other historical materials, title shall pass to the Donee upon their delivery and this instrument of gift shall be applicable to all additional materials.

Date: _____

Signatures of both parties:

Blank pages included to preserve pagination for double-sided printing.

Appendix C: Selected Inventories of Judicial Collections in Repositories

After processing a manuscript collection, most repositories prepare a detailed finding aid to help researchers navigate the collection. The content and scope of finding aids vary widely from institution to institution. Some libraries create finding aids that describe their collections down to the box, folder, or item level. Other libraries provide more general descriptions of their collections. Judges who include box or folder lists when they transfer their records to a library will assist the archivists in creating a detailed finding aid.

Appendix C presents a selection of excerpts from finding aids prepared for judicial collections at several repositories.

1. Papers of Charles Fahy
2. Papers of Gerhard Gesell
3. Papers of Wade H. McCree, Jr.
4. Papers of Bruce Van Sickle

Each offers an example of how judges have organized their judicial and nonjudicial papers. The complete finding aids, which are available at each institution's website, include more detailed information, and in some cases include descriptions of individual files.

1. Papers of Charles Fahy, U.S. Court of Appeals
for the District of Columbia, Library of Congress

Charles Fahy

A Register of His Papers in the Library of Congress

Prepared by Grover Batts
Revised and expanded by Connie L. Cartledge
with the assistance of Michael W. Giese



Manuscript Division, Library of Congress
Washington, D.C.
2004

Contact information: <http://lcweb.loc.gov/rr/mss/address.html>

Finding aid encoded by Library of Congress
Manuscript Division, 2004

Finding aid URL: <http://hdl.loc.gov/loc/mss/eadmss.ms004013>

Latest revision: 2004-07-02

Collection Summary

Title: Papers of Charles Fahy

Span Dates: 1857–1985

Bulk Dates: (bulk 1942–1975)

ID No.: MSS20164

Creator: Fahy, Charles, 1892–1979

Extent: 35,000 items; 103 containers; 40.2 linear feet

Language: Collection material in English

Repository: Manuscript Division, Library of Congress, Washington, D.C.

Abstract: Jurist, lawyer, United States solicitor general, and United States delegate to the United Nations. Diaries, correspondence, legal case files, subject files, speeches and writings, and other papers. Primarily related to Fahy's service on the United States Court of Appeals for the District of Columbia Circuit. Other papers relate to Fahy's role as an advisor and representative of the presidential administrations of Franklin D. Roosevelt, Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, and Lyndon B. Johnson. Also documents Fahy's professional activities and associations, as well as his World War I experience as a naval aviator. Includes family papers.

Selected Search Terms

The following terms have been used to index the description of this collection in the Library's online catalog. They are grouped by name of person or organization, by subject or location, and by occupation and listed alphabetically therein.

Names:

Fahy, Charles, 1892–1979
Eisenhower, Dwight D. (Dwight David), 1890–1969
Fahy family
Fahy, Thomas, 1844–1917
Frankfurter, Felix, 1882–1965--Correspondence
Hesburgh, Theodore Martin, 1917- --Correspondence
Johnson, Lyndon B. (Lyndon Baines), 1908–1973
Kennedy, John F. (John Fitzgerald), 1917–1963
Levy, Philip, d. 1970--Correspondence
O'Meara, Joseph, 1898- --Correspondence
Roosevelt, Franklin D. (Franklin Delano), 1882–1945
Sobeloff, Simon Ernest, 1894–1973--Correspondence
Truman, Harry S., 1884–1972--Correspondence
Wilson, Ellen Axson
Committee Appointed to Review the Decartelization Program in Germany (U.S.)
United Nations
United States. Court of Appeals (District of Columbia Circuit)

United States. President's Committee on Equality of Treatment and
Opportunity in the Armed Services
American Bar Association
Bar Association of the District of Columbia
Georgetown University
University of Notre Dame

Subjects:

Cartels--Germany
Civil law--United States
Courts--Washington (D.C.)
Criminal law--United States
Industries--Germany
Lend-lease operations (1941-1945)
Practice of law--New Mexico--Santa Fe
Practice of law--Washington (D.C.)
World War, 1914–1918--Aerial operations, American
Germany--History--1945–1955
Great Britain--Foreign relations--United States
United States--Foreign relations--Great Britain
United States--Politics and government--1945-
United States--Politics and government--1933–1945

Occupations:

Jurists
Lawyers
Public officials

Administrative Information

Provenance:

The papers of Charles Fahy, jurist, lawyer, solicitor general, and delegate to the United Nations, were given to the Library of Congress by Fahy. The first group of manuscripts was received in 1967, with additional papers given through 1977. Gifts of material related to Fahy were received from his sister, Sister Peter Claver, from 1984 to 1986.

Processing History:

The papers of Charles Fahy were arranged and described in 1983. Additional material received from 1984 to 1986 was incorporated into the collection in 1999. The finding aid was revised in 2004.

Transfers:

An audiotape has been transferred to the Library's Motion Picture, Broadcasting, and Recorded Sound Division where it is identified as part of these papers.

Copyright Status:

Copyright in the unpublished writings of Charles Fahy in these papers and in other collections of papers in the custody of the Library of Congress has been dedicated to the public.

Preferred Citation:

Researchers wishing to cite this collection should include the following information: Container number, Charles Fahy Papers, Manuscript Division, Library of Congress, Washington, D.C.

Biographical Note

<i>Date</i>	<i>Event</i>
1892, Aug. 27	Born, Rome, Ga.
1910–1911	Attended University of Notre Dame, Notre Dame, Ind.
1914	LL.B., Georgetown University, Washington, D.C. Admitted to District of Columbia bar
1914–1924	Practiced law in the District of Columbia except for the period when he served in the armed forces
1917–1919	Naval aviator during World War I
1924–1933	Practiced law in Santa Fe, N. Mex.
1929	Married Mary Agnes Lane
1933–1935	First assistant solicitor, Department of the Interior

1935–1940	General counsel, National Labor Relations Board
1940–1941	Assistant solicitor general
1941	Member, President Franklin D. Roosevelt’s Naval and Air Base Commission to London
1941–1945	Solicitor general
1942	LL.D., Georgetown University, Washington, D.C.
1945	Adviser to U.S. delegation to San Francisco Conference, United Nations
1945–1946	Legal adviser to military governor of Germany
1946–1947	Legal adviser, Department of State
1948–1950	Chairman, President’s Committee on Equality of Treatment and Opportunity in the Armed Services
1949–1979	Judge, United States Court of Appeals for the District of Columbia
1979, Sept. 17	Died, Washington, D.C.

Scope and Content Note

The papers of Charles Fahy (1892–1979) span the years 1857–1985, with the bulk of the items concentrated in the period 1942–1975. The collection consists of the following series: Diaries; Family Correspondence; General Correspondence; Court of Appeals File; Subject File; Speeches, Writings, and Related Material; Miscellany; and Addition.

Fahy’s papers include documents from the earliest phase of his career, such as a flight log book, official records, and several pages describing experiences during his service as a naval aviator in World War I. There are also diary entries for the years 1931–1933 when he practiced law in Santa Fe, New Mexico.

Included in the General Correspondence are letters from numerous political and judicial figures associated with the administrations of

presidents Franklin D. Roosevelt, Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, and Lyndon B. Johnson. Correspondents represented by extensive groups of letters include Felix Frankfurter, Theodore Martin Hesburgh, Philip Levy, Joseph O'Meara, Simon Ernest Sobeloff, and Harry S. Truman.

The bulk of Fahy's papers consists of the Court of Appeals series. Covering the years 1949–1976, this series contains majority, dissenting, or concurring opinions written by Fahy while a judge of the United States Court of Appeals for the District of Columbia Circuit. Among the more notable cases for which Fahy wrote the majority opinion are *Shachtman v. Dulles*, 1955, in which it was decided that the government may not arbitrarily deprive Americans of the right to travel abroad; *Easter v. District of Columbia*, 1966, which determined that chronic alcoholics cannot be jailed as criminals; *Hobson v. Hansen*, 1967, which prohibited the selection of school board members for the District of Columbia by judges of the United States District Court; and *Hoffman v. United States*, 1971, which reversed the conviction of Hoffman for defiling the American flag.

The Subject File reveals Fahy's activity in behalf of judicial groups such as the American Bar Association and Bar Association of the District of Columbia and religious organizations such as the Catholic Association for International Peace, Loyola Retreat House, and the Washington League of Laymen Retreatants. Numerous manuscripts relate to his continuing association with Georgetown University and the University of Notre Dame. A large file concerns the work of the Ferguson Commission which established policies for the decartelization of German industry after World War II. Although Fahy did not accompany the group to Germany, he acted as counsel for the commission.

Another group of papers, made up of correspondence and lectures, relates to the Salzburg Seminar in American Studies. Fahy participated in legal seminars for this organization in 1963 and 1966. Of interest also is a subject file concerning Ziang Sun Wan, a Chinese student sentenced to death for the murder in 1919 of three members of a Chinese educational mission in Washington. Largely through Fahy's efforts, Wan's conviction was reversed by the Supreme Court on the grounds that his confession had been obtained from him involuntarily by the police. A few manuscripts concern Fahy's work as chairman of President Truman's Committee on Equality of Treatment and Oppor-

tunity in the Armed Services and others dealing with his participation in President Franklin D. Roosevelt's commission to London in 1941 to negotiate terms for the exchange of United States naval destroyers for the use of air and naval facilities in British transatlantic territories.

Also in the collection are a small group of speeches, radio broadcasts, articles, and book reviews, as well as miscellaneous items consisting of biographical information, invitations, memoranda and notes, and name and address files.

The Addition includes correspondence, photographs, and the naturalization papers of Thomas Fahy, Charles Fahy's father. The majority of the items pertain to family history and reminiscences. One of the reminiscences and a photograph relate to the death of Ellen Axson Wilson.

Most of Fahy's papers prior to his appointment to the United States Court of Appeals are located in other repositories. Papers relating to his work on the Committee on Equality of Treatment in the Armed Services are in the Truman Library at Independence, Missouri; those for the period 1933–1949 are housed in the Franklin D. Roosevelt Library at Hyde Park, New York. A list of the latter group of papers titled "Rough Notes of the Files and Papers of Charles Fahy taken for the Roosevelt Hyde Park Library, 23 Nov. 1959" is available in the Manuscript Division Reading Room.

Organization of the Papers

The collection is arranged in eight series:

- Diaries, 1918–1949
- Family Correspondence, 1917–1965
- General Correspondence, 1933–1967
- Court of Appeals File, 1949–1976
- Subject File, 1917–1976
- Speeches, Writings, and Related Material, 1938–1966, n.d.
- Miscellany, 1934–1967
- Addition, 1857–1985

Description of Series

<i>Container</i>	<i>Series</i>
BOX 1	Diaries, 1918–1949 Diaries of Charles Fahy. Arranged chronologically.
BOX 2	Family Correspondence, 1917–1965 Letters exchanged with various family members. Arranged alphabetically by name of the fam- ily member.
BOX 2–16	General Correspondence, 1933–1967 Cor- respondence sent and received. Arranged alphabetically by name of correspondent.
BOX 17–85	Court of Appeals File, 1949–1976 Case files in which Fahy wrote majority, dis- senting, or concurring opinions. Arranged chronologically by year and alpha- betically therein by case title.
BOX 86–99	Subject File, 1917–1976 Correspondence, memoranda, reports, legal papers, and printed matter. Arranged alphabetically by name of organi- zation or topic.
BOX 100–101	Speeches, Writings, and Related Material, 1938–1966, n.d. Speeches, radio broadcasts, articles, and book reviews. Arranged by type of material.
BOX 102	Miscellany, 1934–1967 Biographical information, invitations, memoranda and notes, names and addresses, and a passport. Arranged alphabetically by type of material.
BOX 103	Addition, 1857–1985 Correspondence, photographs, naturaliza- tion papers, a newspaper clipping, and other family papers. Arranged chronologically.

2. Papers of Gerhard Gesell, U.S. District Court for the District of Columbia, Library of Congress

Gerhard Alden Gesell

A Register of His Papers in the Library of Congress

Prepared by Connie L. Cartledge
with the assistance of John R. Monagle



Manuscript Division, Library of Congress
Washington, D.C.
1993

Contact information: <http://lcweb.loc.gov/rr/mss/address.html>

Finding aid encoded by Library of Congress
Manuscript Division, 2003

Finding aid URL: <http://hdl.loc.gov/loc.mss/eadmss.ms003019>

Latest revision: 2004-08-12

Collection Summary

Title: Papers of Gerhard Alden Gesell

Span Dates: 1956–1993

Bulk Dates: (bulk 1968–1992)

ID No.: MSS81163

Creator: Gesell, Gerhard Alden, 1910-

Extent: 60,000 items; 171 containers plus 1 classified; 67.2 linear feet

Language: Collection material in English

Repository: Manuscript Division, Library of Congress, Washington, D.C.

Abstract: Judge and lawyer. Correspondence, memoranda, manuscripts of writings, speeches, agenda and minutes of meetings, opinions, orders, dockets, notes, sentencing information, case files, and other legal papers and material pertaining primarily to Gesell's career as judge of the United States District Court for the District of Columbia and documenting his cases in the areas of civil rights, constitutional law, antitrust matters, patent cases, and government regulations.

Selected Search Terms

The following terms have been used to index the description of this collection in the Library's online catalog. They are grouped by name of person or organization and by subject or location, and listed alphabetically therein.

Names:

Gesell, Gerhard Alden, 1910-
Acheson, Dean, 1893–1971
Bancroft, Harding F. (Harding Foster), 1910-
Bratton, Howard C. (Howard Calvin), 1922–1964
Burger, Warren E., 1907-
Cox, Archibald, 1912-
Fitzpatrick, Joseph M. (Joseph Mark)
Harlan, John M. (John Marshall), 1899–1971
Humphrey, Hubert H. (Hubert Horatio), 1911–1978
Johnson, Lyndon B. (Lyndon Baines), 1908–1973
Kaufman, Irving R. (Irving Robert), 1910–1992
Lumbard, J. Edward
North, Oliver
O'Brian, John Lord, b. 1874
Remington, Frank J., 1922-
Sirica, John J.
Stewart, Potter.
Walsh, Lawrence E.
Warren, Earl, 1891–1974
Wilson, Frank M.
United States. Court of Appeals (District of Columbia Circuit)
United States. District Court (District of Columbia)
United States. Constitution

Subjects:

Pentagon Papers
Abortion--Law and legislation
Administrative law
Antitrust law
Civil rights
Constitutional amendments--United States
Constitutional law
Crime
Demography--Washington (D.C.)
Family
Iran-Contra Affair, 1985–1990
Justice, Administration of
Patent laws and legislation
Race relations
Riots--Washington (D.C.)
Watergate Affair, 1972–1974
Washington (D.C.)--Economic conditions

Occupations:

Jurists
Lawyers

Administrative Information

Provenance:

The papers of Gerhard Alden Gesell, lawyer and judge, were given to the Library of Congress by Gesell in 1991. Subsequent additions have been received since that time.

Transfers:

Items have been transferred from the Manuscript Division to other custodial divisions of the Library. Video recordings have been transferred to the Motion Picture, Broadcasting, and Recorded Sound Division. Thirteen original drawings of political cartoons have been transferred to the Prints and Photographs Division. All transfers are identified in these divisions as part of the Gerhard Alden Gesell Papers.

Copyright Status:

Copyright in the unpublished writings of Gerhard Alden Gesell in these papers and in other collections in the custody of the Library of Congress has been dedicated to the public.

Restrictions:

Restrictions apply governing the use, photoduplication, or publication of items in this collection. Consult a reference librarian in the Manuscript Division for information concerning these restrictions.

Security Classified Documents:

Government regulations control the use of classified material in this collection. Manuscript Division staff can furnish further information concerning access to and use of classified material.

Preferred Citation:

Researchers wishing to cite this collection should include the following information: Container number, Gerhard Alden Gesell Papers, Manuscript Division, Library of Congress, Washington, D.C.

Biographical Note

<i>Date</i>	<i>Event</i>
1910, 16 June	Born, Los Angeles, Calif.
1932	A.B., Yale University, New Haven, Conn.
1935	LL.B., Yale University, New Haven, Conn.
1935–1941	Attorney, Securities and Exchange Commission
1936	Married Marion Holliday Pike
1941–1967	Member, law firm of Covington and Burling, Washington, D.C.
1945–1946	Chief assistant counsel, Joint Congressional Committee on Investigation of the Pearl Harbor Attack
1962–1964	Chairman, President's Committee on Equal Opportunity in the Armed Forces

1968–1993	Judge, United States District Court for the District of Columbia
1976–1981	Member, District of Columbia Judicial Tenure and Disability Commission
1993, 19 Feb.	Died, Washington, D.C.

Scope and Content Note

The papers of Gerhard Alden Gesell (1910–1993) span the years 1945–1993, with the majority of the papers concentrated from 1968–1992. Documenting Gesell’s career as judge of the United States District Court for the District of Columbia, the papers consist of nine series: General Correspondence, Chronological File, Case File, Bench Books, Dockets, Sentencing File, Office File, Miscellany, and Classified.

The General Correspondence series, 1968–1992, consisting chiefly of incoming letters from the public, pertains primarily to Gesell’s Watergate cases, *United States v. Ehrlichman* and *United States v. Chapin*. In addition, there is correspondence relating to other cases of national and constitutional significance such as *United States v. Washington Post Company* (Pentagon Papers case) and *United States v. Vuitch* (legality of abortions in the District of Columbia). Also included are a few letters from friends, lawyers, and judges relating to Gesell’s professional activities.

Because of its location in the nation’s capital and its jurisdiction over cases involving federal agencies, the United States District Court for the District of Columbia is considered one of the most important venues in the country. Papers in the Chronological File, 1968–1993, reflect the wide range of civil and criminal cases Gesell heard as a district judge for this court: civil rights, constitutional law, antitrust matters, patent cases, and government regulations. This series consists of correspondence and memoranda, primarily between Gesell and judges, lawyers, prison officials, clerks, and staff, as well as an array of extensive legal papers such as opinions, orders, stipulations, and reports. Arranged by Gesell’s staff, papers in the Chronological File relating to individual cases are scattered throughout the series rather than assembled in specific case files and provide some sense of the judge’s day-to-day work. Although there is some overlap between the Case File series and this series, the Case File contains papers that are not includ-

ed in the Chronological File. Also included are a few personal letters and notes, particularly concerning his farm near Arcola, Virginia. The docket sheets in the Dockets series may assist readers in locating specific documents of interest in the Chronological File, as they contain dated entries by the judge's staff documenting many details of each case. In order to use the docket sheets, a reader must know the document number for a case or know the year the case first appeared on the docket and search the docket sheets to locate it.

The Case File, 1956–1991, consists of two subseries: General and Special Case files. This series, also arranged by Gesell's staff, chronicles his rulings in some of his most significant and complex cases. The General subseries, 1956–1990, containing chiefly memoranda and orders, documents a wide range of civil, criminal, and miscellaneous cases. Arrangement is alphabetical by type of case and therein alphabetical by case title. This subseries includes papers pertaining to the riots at local universities in 1969 (*George Washington Univ. v. Mann* and *Howard Univ. v. Abel*), the riots in Washington, D.C., in 1969 (criminal riot cases), and the application of broadcasters for access to the Watergate tapes in order to air them for public broadcast (*United States v. Mitchell*). The General File is not as complete as the Special Case File and should be used in conjunction with the Chronological File.

The Special Case File, 1969–1991, contains individual cases which were maintained in case files rather than in the Chronological File or General case file. Many of the cases pertain to issues of national and constitutional significance, such as a variety of First Amendment cases (*Hentoff v. Ichord* and *United States v. Washington Post Co.*; the legality of abortions in the District of Columbia prior to the Supreme Court decision of *Roe v. Wade* (*United States v. Vuitch*); the firing of Watergate special prosecutor Archibald Cox (*Nader v. Bork*); the break-in at the Democratic National Committee headquarters in the Watergate complex (*United States v. Ehrlichman*); and Oliver L. North's role in the congressional investigation of the Iran-Contra Affair (*United States v. North*). The *United States v. North* files comprise the bulk of the Special Case File and include correspondence, memoranda, orders, transcripts, dockets, and press files. Two items pertaining to the North case are worthy of mention: a diary in which Gesell recorded notes at home at the close of the day and a letter from Gesell to Lawrence E. Walsh, head of the Office of Independent Counsel that investigated the Iran-Contra Affair, of 20 September 1991 that complimented Walsh

on the way he and his staff had conducted themselves during the trial. Located in the folder “Correspondence: General, Feb. 1990–Oct. 1991,” this letter is an attachment to a 24 September 1991 letter from Walsh to Gesell.

The Bench Books series, 1968–1993, contains Gesell’s notes about the cases which came before his court. Arrangement is chronological, except for three volumes that are alphabetical by topic or case title. Dates written by Gesell’s staff on the cover of the bench books are not always accurate.

Papers in the Dockets series, 1959–1992, provide a record of the name and docket number of individual cases. Also included are brief notes by the judge’s staff recording many of the legal documents issued and filed. Arrangement is alphabetical by type of case, civil or criminal, and therein chronological by year. The Dockets series may assist readers in locating entries to specific cases, particularly the chronological file and the bench books.

The Sentencing File, 1968–1992, constituting almost half the collection, includes correspondence, memoranda, presentence reports, orders and other papers relating to the sentencing process of Gesell’s criminal cases. A presentence report was prepared by a probation officer to assist the judge in determining a defendant’s sentence. It generally contains information on the offense, the defendant’s prior criminal record, family history, marital status, education, employment, health, military service, and financial condition, and an evaluation and recommendation by the probation officer. Serving as a record of every person sentenced by Gesell, the file reflects the vast economic and demographic changes in the District of Columbia over a twenty-year period and contains valuable social data about families, crime, the judicial system, and race relations. Papers in the presentencing file are arranged into three chronological sequences, 1968–1979, 1980–1989, and 1990–1992. The earlier sequences contain more extensive background information, while the later files indicate the judgment and terms of the sentence. Also included in this series are two card files arranged by defendant’s name, one recording the sentences and the other indicating the cases in which charges were dropped or the defendant was found not guilty.

The Office File series, 1965–1993, relates to Gesell’s administrative and professional duties as a district judge. The majority of the papers chronicle his activities with various committees and his sitting by des-

ignation with the United States Court of Appeals for the District of Columbia Circuit.

The final series, Miscellany, 1945–1993, includes speeches and writings by Gesell, reminiscences written by his law clerks, photographs and political cartoons, and tributes to Gesell after his death. One of the more important items in this series is a notebook containing Gesell’s memoirs, “My Jealous Mistress,” and background memoranda about significant cases and events.

Among the most significant and frequent of Gesell’s correspondents are Dean Acheson, Harding F. Bancroft, Howard C. Bratton, Warren E. Burger, Joseph M. Fitzpatrick, John M. Harlan, Hubert H. Humphrey, Lyndon B. Johnson, Irving R. Kaufman, J. Edward Lumbard, John Lord O’Brian, Frank T. Remington, John J. Sirica, Potter Stewart, Lawrence E. Walsh, Earl Warren, and Frank W. Wilson.

Organization of the Papers

The collection is arranged in nine series:

- General Correspondence, 1968–1992, n.d.
- Chronological File, 1968–1993
- Case File, 1956–1991, n.d.
- Bench Books, 1968–1993
- Dockets, 1959–1992
- Sentencing File, 1968–1992
- Office File, 1965–1993, n.d.
- Miscellany, 1945–1993, n.d.
- Classified, 1968–1979

Description of Series

<i>Container</i>	<i>Series</i>
BOX 1–5	General Correspondence, 1968–1992, n.d. Correspondence, primarily incoming, between Gesell and lawyers, judges, friends, acquaintances, and the general public relating to his activities as a federal district court judge. Arrangement is chronological.

BOX 5–44	Chronological File, 1968–1993 Correspondence, memoranda, orders, opinions, interrogatories, stipulations, reports, schedule sheets, and other legal papers pertaining to Gesell’s professional activities. Arrangement is chronological.
BOX 44–69	Case File, 1956–1991, n.d.
BOX 44–48	General, 1956–1990, n.d. Correspondence, memoranda, orders, briefs, transcripts, notes, and printed matter for civil, criminal, and miscellaneous cases. Arrangement is alphabetical by type of case and therein alphabetical by case title.
BOX 49–69	Special Case File, 1969–1991, n.d. Correspondence, memoranda, opinions, orders, stipulations, transcripts, dockets, background information, notes, lists, a diary, and printed matter. Arrangement is alphabetical by case title.
BOX 70–77	Bench Books, 1968–1993 Bound volumes containing Gesell’s notes about the cases that came before his court. Arrangement is chronological, except for three volumes that are alphabetical by topic or case title.
BOX 77–89	Dockets, 1959–1992 Docket sheets for civil and criminal cases. Arrangement is alphabetical by type of case, then chronological by year, and therein numerical by docket number.
BOX 90–157	Sentencing File, 1968–1992 Correspondence, memoranda, presentence reports, orders, card files, and related sentencing information for Gesell’s criminal cases.

	Arrangement is alphabetical by type of material or topic and therein alphabetical by name of defendant, except the presentencing file which is arranged chronologically and therein alphabetically by name of defendant.
BOX 158–170	Office File, 1965–1993, n.d. Correspondence, memoranda, reports, background information, agendas and minutes of meetings, notes, press files, and printed matter.
BOX 170–171	Miscellany, 1945–1993, n.d. Chiefly speeches and writings by Gesell and his clerks. Also included are slides, photographs, political cartoons, and tributes to Gesell after his death. Arrangement is alphabetical by topic or type of material.
BOX CL 1	Classified, 1968–1979 Government classified documents containing sensitive security information. Presentencing material organized and described according to the series, boxes, and folders from which the items were removed.

3. Papers of Wade H. McCree, Jr., U.S. District Court for the Eastern District of Michigan and U.S. Court of Appeals for the Sixth Circuit, Walter P. Reuther Library, Wayne State University

Wade H. McCree, Jr. Collection

Papers, 1937–2003
(Predominantly, 1954–1987)
76 linear feet

Accession #822

OCLC #

The papers of Wade H. McCree, Jr. were placed in the Archives of Labor and Urban Affairs between 1977 and 1989 by Judge McCree and his wife, Dores McCrary McCree, and were opened for research in July of 1998. Additional papers were placed in the Archives in December of 2004 and opened for research in May of 2005.

Wade Hampton McCree, Jr. was born in Des Moines on July 3, 1920, the second child of the first black proprietors of a pharmacy in the state of Iowa. In the 1920's, his father went to work for the federal government as a narcotics inspector. His assignments took the family first to Hilo, Hawaii, then to Chicago, and finally to Boston, where Wade, Jr. attended Boston Latin School, America's oldest public school. He worked his way through Fisk University, his parents' alma mater, but his studies at Harvard Law School, which he had entered on scholarship after graduating from Fisk in 1941, were interrupted by World War II. During the war he served with the 92nd Infantry Division in Italy and after his discharge as a captain in 1946, he married Dores McCrary, a library science student at Simmons College in Boston and a native of Ecorse, Michigan. Two years later he earned his law degree and moved his family to Detroit to join the firm of Harold E. Bledsoe and Hobart Taylor.

In 1952, Wade McCree was appointed by Michigan Governor G. Mennen Williams to the state's Workmen's Compensation Commission and in 1954 to a vacancy on the Wayne County Circuit Court. He won election to the unexpired term in 1955, the first African American

elected to a court of record in Michigan, and to a full six-year term in 1959. In 1961 President Kennedy appointed Judge McCree to the U.S. District Court for the Eastern District of Michigan, where he served until his appointment in 1966 to the U.S. Sixth Circuit Court of Appeals. He resigned from that court in 1977 to accept appointment as U.S. Solicitor General in the Carter administration.

As an appeals court judge, McCree took part in a number of school desegregation cases in Michigan, Ohio, Kentucky and Tennessee, the states in his circuit, and issued important opinions in *Stifel v. Hopkins* (1973), *Environmental Defense Fund v. Tennessee Valley Authority* (1972) and *U.S. v. Griffin* (1970). As the government's lawyer, he argued a number of significant cases before the Supreme Court, most notably the Bakke reverse discrimination lawsuit against the University of California at Davis. In 1981 he accepted appointment as Lewis M. Simes Professor of Law at the University of Michigan, where he taught until his death on August 30, 1987. During these years he also consulted on various cases and served as Special Master for the U.S. Supreme Court in cases in which it exercised original jurisdiction.

Judge McCree's professional, educational, civic and charitable activities were legion. To name a few: He was a Trustee of Fisk University and a Harvard University Overseer, Chairman and co-founder of the Higher Education Opportunities Committee for financially disadvantaged Michigan high school students, a founding Trustee of the Friends School in Detroit, a founding member of the UAW Public Review Board, Vice Moderator of the Unitarian Universalist Association, Board member of the Community Health Association of Detroit, founding member of the Federal Judicial Center Board, member of the American Bar Association Advisory Council on Appellate Justice, Fellow of the American Bar Foundation and Director of the American Judicature Society. He was the recipient of numerous honors and awards, including the Fordham-Stein Award for his "talent, professionalism and nobility of spirit" and honorary Doctor of Laws degrees from Harvard, the University of Pennsylvania and Howard University, among many others.

The Wade H. McCree, Jr. Collection contains his personal and professional correspondence, speeches and writings, voluminous case files, including his notes and opinions, meeting minutes, publications and other material relating to Judge McCree's service on the bench and as the federal government's chief lawyer as well as his work on pro-

fessional committees and his involvement with a wide range of civic, fraternal and charitable organizations.

PLEASE NOTE: Folders are computer-arranged alphabetically within each series in this finding aid, but may actually be dispersed throughout several boxes in the collection. Note carefully the box number for each folder heading.

Important subjects in the collection:

African American judges
African American law students
African American lawyers
African American Unitarian Universalists
African Americans--Education--Michigan--Detroit
Appellate procedure--United States
Bakke, Allan Paul--Trials, litigation, etc.
Bradley, et al. v. Milliken
Carter, Billy
Chavis, et al. v. North Carolina (Wilmington 10)
Court administration--United States
Davis et al. v. School District of the City of Pontiac (Michigan)
Federal Judicial Center
Fisk University
Free press and fair trial--United States
Harris v. McRae, et al.
Harvard University Afro-American Studies Department
Higher Education Opportunities Committee
Kelley, et al. v. Nashville and Davidson County Board of Education
Mapp, et al. v. Chattanooga Board of Education
Massachusetts v. Feeney
National Bar Association
Newburg Area Council, et al. v. Board of Education of Jefferson County (Kentucky)
Nixon v. GSA (Nixon tapes)
Race relations--United States
Reverse discrimination--Law and legislation--United States
School integration--Law and legislation--United States
United States. Circuit Court (6th Circuit)
United States. District Court (Michigan: Eastern District)
Wade H. McCree, Jr. Collection

United States. Solicitor General
United States. Supreme Court
U.S. v. Feodor Fedorenko

Important correspondents in the collection:

Alexander, Raymond Pace
Baker, Oscar and James
Bell, Griffin
Bok, Derek C.
Brown, Bailey
Burger, Warren E.
Buttenwieser, Benjamin
Coleman, William T., Jr.
Diggs, Charles C., Jr.
Edwards, George C., Jr.
Edwards, Harry T.
Ford, Geraldine Bledsoe
Gilmore, Horace
Gould, William B. IV
Kaplan, Kivie
Kelman, Maurice
Kennedy, Cornelia
Lawson, James R.
Levin, Theodore
Lively, Pierce
McAllister, Thomas
Meador, Daniel
Neef, Arthur
Norris, Harold
Peck, John W.
Phillips, Harry T.
Reed, A. Lachlan
Richardson, Scovel
Smith, Otis M.
Tate, Albert, Jr.
Vanderbilt, Helen C.
Webster, William H.
Weick, Paul
Williams, G. Mennen

Non-manuscript material:

A number of photographs, Judge McCree's Goodfellows badge, a videotape of his 1985 Northern Michigan University commencement address and audiotapes of a symposium on the *Bakke* case in which he participated and the University of Michigan Law School Fund's memorial tribute to him have been placed in the Archives Audiovisual Collection. A 3-volume work by Harold Norris, *Some Reflections on Law, Lawyers, and the Bill of Rights*, has been transferred to the Archives Library.

Contents

76 storage boxes

Series I, Wayne County Circuit Court, 1954–1959, Box 1

Series II, U.S. District Court, Eastern District of Michigan, 1960–1968, Boxes 1–6

Series III, U.S. Sixth Circuit Court of Appeals, 1965–1978, Boxes 7–23

Series IV, U.S. Solicitor General's Office, 1975–1981, Boxes 24–34

Series V, University of Michigan Law School, Special Master and Consulting, 1981–1987, Boxes 35–40

Series VI, Organizations, 1937–1987, Boxes 41–51

Files reflect Judge McCree's involvement in numerous professional, civic, fraternal and charitable organizations.

Series VII, Subject Files, 1954–1987, Boxes 52–54

Series VIII, Personal Correspondence, 1953–1987, Boxes 54–63

Series IX, Speeches, Writings, Honors, Publicity, 1954–2003, Boxes 63–68

In addition to Judge McCree's speeches and articles, series includes his poetry, honorary degrees and other awards he received, biographical information and publicity about him, his FBI file and memorial tributes and obituaries.

Series X, Invitations Accepted, 1952–1987, Boxes 68–71

Series includes correspondence, programs, etc. related to speaking engagements, but not texts of speeches.

Series XI, Appointment Calendars, 1955–1977, Boxes 71–76

Series includes correspondence, programs, etc. related to the events attended.

Series XII, Family and Early Career, 1945–1985, Box 76

Series includes family correspondence and files related to his military service and his job with the Michigan Workmen's Compensation Commission.

4. Papers of Bruce Van Sickle, U.S. District Court
for the District of North Dakota, Chester Fritz
Library, University of North Dakota

Judge Bruce Van Sickle Papers

COLLECTION: OGL# 1432
DATES: 1956–2007 [Bulk Dates, 1971–2000]
SIZE: 22.5 linear feet

INTRODUCTION

ACQUISITION: The Judge Bruce Van Sickle Papers were deposited in the Orin G. Libby Manuscript Collection by Bruce Van Sickle, Bismarck, North Dakota, on September 27, 2001 (Acc.#2001–2530).

ACCESS: Available for inspection under the rules and regulations of the Department of Special Collections.

BIOGRAPHICAL SKETCH

Bruce Marion Van Sickle was born in Minot, North Dakota, on February 13, 1917. He was the son of Guy and Hilda (Rosenquist) Van Sickle. Bruce Van Sickle graduated from high school in Minot in 1935, and from the University of Minnesota in 1941 with a law degree.

During World War II, Bruce Van Sickle was a Captain in the United States Marine Corps Reserves. Following the end of the war, he served as an adjudicator in the U.S. Veteran's Administration in 1946. He practiced law on his own in Minot from 1947–1952, after which he formed the firm of McGee and Van Sickle. He also served in the North Dakota House of Representatives in 1957 and 1959.

He was named to the United States District Court by President Richard Nixon in 1971. Van Sickle's tenure on the federal bench is notable for two important rulings he handed down. First, in the Association of Retarded Citizens case, the judge ruled that North Dakota's system for the care of the developmentally disabled violated the constitutional rights of its residents by being overcrowded, underfunded and understaffed. Van Sickle issued a series of rulings forcing the state

to institute reforms. Chief among these changes was the movement of developmentally disabled persons from large state-run institutions at Grafton and San Haven to smaller, community-based group homes.

In the second case, *Coleman vs. Block*, Van Sickle issued an injunction that forced the Farmers Home Administration (FmHA) to change its loan-repayment and foreclosure policies. The decision affected over 250,000 farmers, and ordered the FmHA to allow delinquent borrowers to defer making loan payments due to financial hardships caused by factors beyond their control. This case was part of the inspiration for the 1984 film “Country.”

Judge Van Sickle assumed Senior Status in February 1985, and continued to hear cases both in North Dakota and the rest of the United States as he was needed. He formally retired from the bench in February 2002. The Federal Building in Minot was named in his honor in August 2002.

Bruce Van Sickle married Dorothy Hermann of Olympia, Washington, on May 26, 1943. They had four children: Susan, John, Craig, and David. Bruce Van Sickle died on April 21, 2007, in Bismarck.

Source: *Patronage: Histories and Biographies of North Dakota's Federal Judges* by Ardell Tharaldson (found in Box 1, Folder 1 of the Judge Bruce Van Sickle Papers).

SCOPE AND CONTENT NOTE

The Judge Bruce Van Sickle Papers date from 1956–2007, with the bulk of the material dating from 1971–2000. The collection has been divided into seven series as follows:

Series I: Biographical/Personal

This series contains biographical and personal materials, and has been sub-divided into five sub-series. Sub-Series A: Biographical Materials, chiefly contains newspaper clippings, photocopies of various biographical legal sources, and publications created by the court in honor of significant milestones in Judge Van Sickle’s career on the bench. The sub-series also contains the chapter on Van Sickle from Ardell Tharaldson’s *Patronage: Histories and Biographies of North Dakota's Federal Judges*, published in 2002. Sub-Series B: Correspondence, dates from 1973–2000, and contains general letters to and from the Judge. Correspondence regarding individual court cases was kept with the file for that case, and can be found in Series III. Sub-Series C: Speeches,

contains the text of speeches delivered by Van Sickle to various community and civic groups, as well as high school commencements. Also included are the remarks spoken by Van Sickle at his investiture ceremony in December 1971. Sub-Series D: Writings, mainly contains articles authored or co-authored by Van Sickle for several different legal journals. Also included is a handbook for Van Sickle's law clerks, as well as the humorous "A Federal Judge's Prayer." The authorship of the prayer has not been concretely determined, although it appears to have North Dakota origins. Sub-Series E: Miscellaneous, contains one file related to the Bruce M. Van Sickle Chapter of the Delta Theta Phi Legal Fraternity at UND, and one file regarding the (Jerry) Van Sickle Education Center at the Grand Forks Air Force Base.

Box 1, Folder 1 – Box 3, Folder 2

Series II: Bench Books

Judge Van Sickle recorded his hand-written notes regarding cases tried in his court in thirty six ledger books. The ledgers date from January 1972–January 2000, and encompass Van Sickle's tenure on the North Dakota bench, as well as the cases he heard in numerous other districts and circuits. The ledgers were kept in the original order given to them by Van Sickle, who arranged them in chronological order.

Box 3, Folder 1 – Box 5, Folder 10

Series III: Case Files

Judge Van Sickle's case files have been divided into numerous sub-series, either by case, district, or circuit. Most of the case files contain orders from Van Sickle, although correspondence to and from attorneys and other judges, newspaper clippings, and transcripts are also included. The case files were arranged in case number order, with the exception of the first two sub-series.

Van Sickle's most notable cases, *ARC* and *Coleman v. Block*, have been arranged first into two sub-series. In the *ARC* case, Van Sickle found that North Dakota's system for the care of the developmentally disabled violated the constitutional rights of its residents by being overcrowded, underfunded and understaffed. In *Coleman v. Block*, Van Sickle ordered the Farmers Home Administration to change its loan-repayment and foreclosure policies.

Sub-Series A: ARC Case

Sub-Series B: Coleman v. Block

Following this are cases heard by Van Sickle in the District of North Dakota, divided into four separate sub-series by division.

Sub-Series C: District of North Dakota–Northeastern Division
Sub-Series D: District of North Dakota–Northwestern Division
Sub-Series E: District of North Dakota–Southeastern Division
Sub-Series F: District of North Dakota–Southwestern Division

The remaining cases were divided by the district or circuit the case was heard in. The districts have been divided into alphabetical order:

Sub-Series G: District of Arizona
Sub-Series H: District of Arkansas–Eastern District
Sub-Series I: District of Arkansas–Western District
Sub-Series J: District of California
Sub-Series K: District of Columbia
Sub-Series L: Northern District of Illinois
Sub-Series M: Southern District of Iowa
Sub-Series N: District of Maine
Sub-Series O: District of Massachusetts
Sub-Series P: District of Minnesota–3rd Division
Sub-Series Q: District of Minnesota–4th Division
Sub-Series R: District of Missouri–Eastern District
Sub-Series S: District of Missouri–Western District
Sub-Series T: District of Nebraska
Sub-Series U: District of New York–Eastern District
Sub-Series V: District of Oklahoma–Northern District
Sub-Series W: District of South Dakota–Central Division
Sub-Series X: District of South Dakota–Northern Division
Sub-Series Y: District of South Dakota–Southern Division
Sub-Series Z: District of South Dakota–Western Division
Sub-Series AA: Southern Division Texas–Houston Division
Sub-Series BB: 7th Circuit, Court of Appeals
Sub-Series CC: 8th Circuit, Court of Appeals
Sub-Series DD: 9th Circuit, Court of Appeals
Sub-Series EE: 10th Circuit, Court of Appeals
Box 5, Folder 11 – Box 12, Folder 49

Series IV: Court Administrative Documents

The fourth series consists of administrative documents, including Van Sickle's personal calendar, which records where and when he heard cases. The series also contains administrative reports, including the monthly report of trials, which documents Van Sickle's court activity, and designation for service within another district, which authorized Van Sickle to hear cases outside of North Dakota.

Box 12, Folder 50 – Box 13, Folder 6

Series V: Subject Files

This series consists of various subject files, arranged alphabetically. The types of documents included in the files typically include correspondence, court reports, newspaper clippings, and legal journal articles.

Box 13, Folder 7 – Box 16, Folder 7

Series VI: Organizations

This series contains files from various legal organizations in which Van Sickle was involved. The files have been arranged in alphabetical order by the name of the organization. Material from the Eighth Circuit Historical Society constitutes the bulk of the series.

Box 16, Folder 8 – Box 17, Folder 11

Series VII: Conferences, Meetings, and Workshops

The final series consists of files from many different conferences, meetings, and workshops attended by Judge Van Sickle from 1972–1991. The files have been placed in alphabetical order by the name of the event.

Box 17, Folder 12 – Box 18, Folder 21

Three photographs were separated and placed in the Photograph File Cabinets.

The Federal Judicial Center

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The Federal Judicial Center is the research and education agency of the federal judicial system. It was established by Congress in 1967 (28 U.S.C. §§ 620–629), on the recommendation of the Judicial Conference of the United States.

By statute, the Chief Justice of the United States chairs the Center's Board, which also includes the director of the Administrative Office of the U.S. Courts and seven judges elected by the Judicial Conference.

The organization of the Center reflects its primary statutory mandates. The Education Division plans and produces education and training programs for judges and court staff, including satellite broadcasts, video programs, publications, curriculum packages for in-court training, and Web-based programs and resources. The Research Division examines and evaluates current and alternative federal court practices and policies. This research assists Judicial Conference committees, who request most Center research, in developing policy recommendations. The Center's research also contributes substantially to its educational programs. The two divisions work closely with two units of the Director's Office—the Systems Innovations & Development Office and Communications Policy & Design Office—in using print, broadcast, and online media to deliver education and training and to disseminate the results of Center research. The Federal Judicial History Office helps courts and others study and preserve federal judicial history. The International Judicial Relations Office provides information to judicial and legal officials from foreign countries and assesses how to inform federal judicial personnel of developments in international law and other court systems that may affect their work.