Appraisal and the FBI Files Case: For Whom Do Archivists Retain Records?

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Abstract: *American Friends Service Committee et al.* v. *William H. Webster, et al.*, commonly known to archivists as the FBI files case, illustrates appraisal challenges that should concern all archivists. The author relates the history of the case and reviews archival appraisal literature. In particular, she explains how the case illustrates a need to reevaluate appraisal philosophy that considers the evidential needs of government before the informational needs of the general public.

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A GROUP OF SOCIAL ACTION organizations, historians, journalists, and others filed suit in U.S. District Court in June 1979 to stop the destruction of Federal Bureau of Investigation (FBI) records and to challenge an archival appraisal decision. The plaintiffs were successful. The case, *American Friends Service Committee, et al.* v. *William H. Webster, et al.,* is also known as the FBI files case.

The FBI files case is important to archivists because it garnered publicity in the general press and, in some respects, indicates public perceptions of archival work. The motives of the plaintiffs who brought the suit are worth considering, as are the judges' decisions and opinions, since these decisions can be thought of as careful critiques of archival procedures by persons from outside the profession. At first blush, the FBI case may be of interest only to the National Archives and Records Administration,[1] state archives, and other public records repositories. But all archivists should be concerned about the case's implications because *American Friends* v. *Webster* calls into question many commonly held archival assumptions and highlights shortcomings in archival appraisal literature.

The plaintiffs in *American Friends* v. *Webster* vigorously objected to what they interpreted as an appraisal philosophy that assumed that only those records of value to government, in this case the FBI, would be of ultimate use for future research. The courts concurred. This article will relate the history of the case, briefly review archival appraisal literature, and finally, explain how the case illustrates a need to reevaluate some aspects of archival appraisal philosophy. Only one of the case's many appraisal implications will be examined; that is, how archivists may run the risk of coloring appraisal decisions by relying too heavily on the opinions of nonarchivists—in this case FBI agents—regarding the usefulness of an agency's records. While there is undoubtedly a gap between the written word and what archivists actually do, archival literature seems to suggest that records with informational value are secondary to records with evidentiary value. If archivists follow such prescripts, they may ignore important records and possibly incur the wrath of the researching public. Such was the case in *American Friends* v. *Webster.*

American Friends v. *Webster* came to court in a climate of cynicism and suspicion. The plaintiffs included the Alliance to End Repressions, the Women's International League for Peace and Freedom, Angela Davis, and the sons of Julius and Ethel Rosenberg. They brought suit knowing of the FBI's illegal wiretaps, break-ins, and the extent of its counterintelligence program. The plaintiffs sought to preserve FBI files documenting the "seedy underside of governmental 'security' concerns gone beserk."[2] While the National Archives did not have the image problem of the FBI, the plaintiffs saw it as a coconspirator. "Other agencies of government shamefully connived with the FBI through the years in unlawful destruction of public papers. This appears almost a 'conspiracy of clerks' by the FBI to keep the records sanitary, and joined by bureaucrats who should have known better."[3]

[1]The federal archival agency was known as the National Archives and Records Service (NARS) at the time of this case. In 1985 the National Archives was separated from the General Services Administration and became a separate agency, the National Archives and Records Administration. Throughout the events being explained herein the title of the agency was NARS.

[2]*American Friends Service Committee, et al.* v. *William H. Webster, et al.* (Civil Action 79-1655, U.S. District Court, Washington, D.C.), affidavit of Carol Bernstein Ferry, 21 July 1979, p. 2.

[3]*American Friends* v. *Webster*, affidavit of W.H. Ferry, 17 July 1979, p. 3.

The U.S. Congress and NARS first gave the FBI permission to destroy files in 1945 when the bureau was barely thirty-five years old and NARS was a young institution implementing new federal records acts. The 1945 authorization gave the FBI permission to destroy files generated between 1910 and 1938 at field offices it had closed.[4] In 1946 the National Archives gave the FBI continuing authority to destroy field office files.[5] The FBI had led NARS to believe that the material to be destroyed was either duplicated at FBI headquarters in Washington, D.C., or incorporated "in whole or in substance" in reports filed at headquarters.[6] Additionally, the FBI routinely destroyed for many years such material as photographs, charts, sound recordings, special indexes, and correspondence it had received from other agencies. The bureau said it assumed these materials were not records and, therefore, not subject to NARS purview.[7]

In a 1969 records management plan for the FBI, field office files were again deemed dispensable.[8] Six years later NARS also gave the bureau permission to destroy, after ten years, field office material relating to cases in which "there was no prosecutive action undertaken."[9] In 1976 NARS broadened that authorization to include closed field office files that contained investigative and other related material.[10] Neither authorization was actually implemented until 1977 when Congressional moratoriums on FBI files destruction were lifted.[11] In 1977 the FBI also received archival permission to destroy certain field office files after five years rather than ten years.

Archival appraisers told the court that they followed accepted archival practices in appraising the FBI's files and cited T.R. Schellenberg's works as fundamental. The archivist specifically responsible for Justice Department records said that in his appraisal of the bureau's records he relied on previous archival decisions, handbooks such as Schellenberg's *The Appraisal of Modern Public Records*, reference material regarding the FBI, and his own experience.[12]

Thomas Wadlow, head of NARS's Office of Federal Records Centers, testified that the appraisal process of the National Archives "actually begins in the agency. . . . [Agency officials] have the responsibility to certify to us [the National Archives] that the retention periods that they are recommending meet all of the requirements of the agency."[13] After the agency decided how long it needed to keep the records, Wadlow continued, the National Archives then decided which records were permanent.[14] He added that archivists believed headquarters files would provide sufficient documentation of FBI activities because "the FBI is an extremely highly centralized organization and . . . the field offices . . . in almost every instance, reported everything to

[4]Senate Subcommittee on Administrative Practice and Procedure, Committee on the Judiciary, *FBI Statutory Charter: Appendix to Hearings*, 95th Cong., 2d sess., 1979, p. 2; NARS, "FBI Records Retention Plan," 9 November 1981, pp. 15–17.

[5]NARS, Office of Federal Records Centers, "Disposition of FBI Field Office Investigative Files" (report), December 1978, chap. 2, p. 1.

[6]Senate, *FBI Statutory Charter*, p. 3.

[7]NARS, "FBI Records Retention Plan," pp. 15–16.

[8]*American Friends* v. *Webster*, Order and Opinion, Judge Harold H. Greene, 10 January 1980, p. 8.

[9]Senate, *FBI Statutory Charter*, p. 6.

[10]Ibid., p. 8.

[11]*American Friends* v. *Webster*, Order and Opinion, p. 9.

[12]*American Friends* v. *Webster*, deposition of Henry Wolfinger, 13–14 September 1979, p. 63.

[13]*American Friends* v. *Webster*, deposition of Thomas Wadlow, 18–20, 24 September 1979, p. 37.

[14]Ibid., p. 45.

Washington."[15] He also explained that the National Archives agreed with the FBI's opinion that records of unprosecuted cases need not be preserved.[16]

In 1945 and 1946 archivists had examined a few files selected by the FBI before approving the bureau's records disposal requests, but archivists did not examine FBI files again until 1978 when NARS reviewed its FBI appraisal decisions under mounting public pressure. James Awe, the former FBI records system chief, explained that archivists and, for that matter, other government officials, never examined FBI files because former bureau director J. Edgar Hoover did not sanction such a practice. Awe noted that archivists were denied permission to see FBI files while NARS was preparing the 1969 records retention plan. "That was under Mr. Hoover, and under Mr. Hoover, no one could see raw FBI files."[17] He added: "I think [1978 was] probably the first occasion [when] anyone outside the FBI really looked at raw FBI files."[18] NARS archivists concurred with Awe's statements, explaining that in lieu of studying the actual files, archivists had relied on the FBI's descriptions of its own files.[19]

The public got its first inkling of what the FBI's files might contain when the press printed stories in 1971 based on files stolen from the FBI's Media, Pennsylvania, office. "Suddenly, the FBI was revealed as potentially more dangerous than its adversaries," wrote one author.[20] FBI files were again subject to concern following Hoover's death in May 1972. Although Attorney General Richard Kleindienst ordered Hoover's office sealed, some thirty-five filing cabinet drawers containing the late director's personal files were destroyed. Critics have suggested that Hoover's personal files contained sensitive bureau documents.[21]

FBI files truly caught the public's interest when the federal Freedom of Information Act (FOIA) was amended in 1974, giving the public a way to examine FBI files still in custody of the bureau.[22] The amended FOIA, however, seemed to make everyone unhappy. FBI agents complained that informants were reluctant to talk with bureau agents for fear their names would eventually be made public.[23] Bureau administrators claimed the public's "archeological diggings" into the FBI's past dealings with, for example, Martin Luther King, Jr., was harming the bureau's efforts to attract minority employees.[24] Bureau administrators also reported being overwhelmed by the volume of FOIA requests and having dif-

[15]Ibid., p. 88.
[16]Ibid., p. 63.
[17]*American Friends* v. *Webster*, deposition of James Awe, 24–25, 28 September 1979, p. 96.
[18]Ibid., p. 84.
[19]*American Friends* v. *Webster*, Wolfinger deposition, p. 84; Wadlow deposition, pp. 160, 395.
[20]David Wise, *The American Police State: The Government Against the People* (New York: Random House, 1976), p. 281.
[21]Ibid., p. 282. See also House Committee on Government Operations, *Inquiry into the Destruction of Former FBI Director J. Edgar Hoover's Files and FBI Recordkeeping*, 94th Cong., 1st sess., hearing, 1 December 1975.
[22]As of 1974, NARS had only 28 cubic feet of FBI records, most dating from the early twentieth century. NARS, *Guide to the National Archives of the United States* (Washington, D.C.: General Services Administration, 1974), p. 28.
[23]House Subcommittee on Legislation of the Permanent Select Committee on Intelligence, *Impact of the FOIA and the PA on Intelligence Activities*, 96th Cong., 1st sess., hearing, 5 April 1979, p. 51. See also: Jonathan Kwitny, "FBI Agents Rap Policy of Burning Files: Link it to Public Access Acts," *Wall Street Journal*, 27 September 1978, pp. 1, 21.
[24]House, *Intelligence Activities*, p. 58.

ficulties promptly answering the inquiries.[25] The public, unhappy with delays and duplicating costs, complained that the FBI was not fully complying with the amended Freedom of Information Act by withholding information. It was during this time of acute public attention that the FBI submitted new records management plans to the National Archives.

The FBI and the National Archives recognized the bureau's records destruction program as a way to control the FBI's enormous records system. Despite the 1945 destruction authorization, the bureau destroyed little material until the mid-1970s.[26] Awe, former bureau records system chief, stated that the 6.5 million files at FBI headquarters filled 7,000 six-drawer filing cabinets by 1975.[27] The records were multiplying at a "fantastic rate, about a file cabinet a day and space became an increasing problem."[28] Field offices housed an additional estimated 300,000 cubic feet of files as of 1979.[29] Wadlow, director of NARS's Federal Records Centers, testified that approximately 710,000 cubic feet of field office material and 7,000 cubic feet of headquarters material were destroyed between October 1976 and September 1978.[30]

Awe testified that he tried to find a way to control the FBI's burgeoning records system, but the bureau had balked at the high cost of converting paper files to machine-readable format. An estimated fifty employees working two shifts for two or three years would be needed just to automate the bureau's index of some 12–15 million index cards. The bureau's solution to the problem of a rapidly expanding filing system and the high cost of automation was, according to Awe, to destroy the unwanted records. "The volume of records was increasing. We were trying to find a way to manage the load." He noted that FBI records destruction would have eventually destroyed about 40 percent of the bureau's holdings.[31]

Perhaps because the bureau's records destruction program commenced just as Americans were clamoring for their FBI files through the Freedom of Information Act, some people began to suspect the two programs were somehow related. Awe repeatedly denied that charge. "I believe there is a big misunderstanding on the part of many people that the FBI files destruction was undertaken to avoid Freedom of Information and Privacy matters. It's to comply with the existing federal law to manage effectively and efficiently your record system and to dispose of those matters that are obsolete and no longer timely to your needs."[32] He did admit, however, that the Freedom of Information Act and the Privacy Act put a strain on the FBI's records system. He also testified that it was his opinion that the National Archives "is now reluctant to accession records in large volume due to complications encountered as a result of the Freedom of Information and Privacy Acts. Records [that NARS ar-

[25]In 1977 the bureau spent $2.8 million and assigned 282 agents to "Project Onslaught," an effort that reduced the backlog of FOIA requests from 7,566 to 4,910 within five months. House Subcommittee on Government Information and Individual Rights of the Committee on Government Operations, *FBI Compliance with the Freedom of Information Act,* 95th Cong., 2d sess., hearing, 10 April 1978, pp. 3–4.

[26]Senate, *FBI Statutory Charter*, p. 73.

[27]*American Friends* v. *Webster*, Awe deposition, pp. 14, 19.

[28]Ibid., p. 121.

[29]James O'Neill, acting Archivist of the United States, to Marshall Perlin, 12 June 1979 (from the exhibits for *American Friends* v. *Webster*).

[30]*American Friends* v. *Webster*, Wadlow deposition, pp. 379–383.

[31]*American Friends* v. *Webster*, Awe deposition, pp. 119, 176, 125.

[32]Ibid., p. 54.

chivists] previously felt should be retained for historical purposes are now being reevaluated since they would be responsible for responding to requests if they took custody of the records."[33] Wadlow, however, said in deposition that the Freedom of Information Act was not a major concern to archival appraisers.[34]

Whatever the official bureau rationale may have been for its records destruction program, some disgruntled FBI agents took their case to the press. One unnamed agent told the *New York Times* that the bureau was overreacting to criticism of FBI surveillance of fringe political groups by purging its files.[35] *Wall Street Journal* reporter Jonathan Kwitny reported that agents told him the files destruction program could hamper law enforcement efforts. "Often you find the information you need where it's least suspected and where it's been for quite a time," one agent told Kwitny. "I don't give a damn what the bureau says," asserted another. "Those files were destroyed for one specific reason: they had to cough them up. It had been thoroughly embarrassing to that point and promised to get even more embarrassing."[36]

Researchers and historians also questioned the motivation behind the FBI's interest in records management. John Rosenberg, writing in *The Nation*, said the FBI's Mobile, Alabama, field office destroyed materials he needed after he submitted his FOIA request.[37] The FBI blamed human error for the files destruction.[38] Rosenberg, a plaintiff in the *American Friends* v. *Webster* case, commented:

> Although this destruction was apparently an accident—that is, the FBI claims that the files were not destroyed because I asked for them—correspondence from the Mobile Field Office revealed the undue haste and zeal with which the FBI was implementing its destruction program, a haste and zeal that begin to appear notorious when compared to the agency's foot-dragging and lack of responsiveness in complying with many Freedom of Information Act-Privacy Act requests.[39]

Rosenberg, FBI agents, and others claimed unique and important information could be found only in bureau field office files and not at bureau headquarters.[40] Their observation directly challenged one of NARS's assumptions underlying the FBI records management program. One of the critics, historian Harold Fruchtbaum, said he read headquarters files regarding accused Communist sympathizers Julius and Ethel Rosenberg and Morton Sobell and then compared that information with material released from field offices through the Freedom of Information Act. "The field office files proved to be an even richer source of information with significant historical value about such subjects as civil rights, labor unions, the scientific community, the Communist Party, secrecy and the development of the Atomic bomb, the effects of the Cold War in the United States, and practices of

[33]Ibid., pp. 47, 365.
[34]*American Friends* v. *Webster*, Wadlow deposition, p. 146.
[35]Anthony Marro, "FBI is Destroying Criminal Files on Cases Closed for Five Years," *New York Times*, 15 March 1978, p. A16.
[36]Kwitny, "Agents Rap Policy," p. 21.
[37]John S. Rosenberg, "The FBI Shreds its Files: Catch in the Information Act," *The Nation* 228 (4 Feb. 1978): 108–116; *American Friends* v. *Webster*, affidavit of John S. Rosenberg, 19 June 1979.
[38]*American Friends* v. *Webster*, Awe deposition, p. 325.
[39]*American Friends* v. *Webster*, Rosenberg affidavit, p. 1.
[40]Kwitny, "Agents Rap Policy," p. 21; Rosenberg, "FBI Shreds its Files," p. 109.

the FBI [than did headquarters files]."[41]

Additionally, researchers began to notice peculiarities in the bureau's filing system as they studied documents released through FOIA. Marquette University history professor Athan Theoharis, described by Wadlow as "the primary critic,"[42] was among the first to raise an alarm. In his book, *Spying on Americans*, and in articles published in *The Nation*, Theoharis described the FBI's elaborate filing system. He cited directives written by Hoover in the early 1940s telling agents to color-code memos sent to headquarters that were to be immediately destroyed. Only memos written on white paper were serialized and preserved in headquarters' permanent files.[43] Thirty years after Hoover devised that system, one FBI agent told the House of Representatives Committee on Government Operations that the practice of preparing "memoranda not intended for permanent retention continues at Bureau Headquarters as it does in business and Government offices universally. . . . This is clearly a good paper management device intended to . . . control . . . the ever-increasing volumes of records."[44]

But Theoharis and other critics were not convinced that the files the FBI threw away were merely routine papers. Suspicions grew when a 1966 FBI memo surfaced. This memo from William Sullivan, head of the bureau's Domestic Intelligence Division, to FBI Assistant Director Cartha DeLoach detailed the routine agents were to follow in securing permission for illegal "black bag" jobs. "We do not obtain authorization for 'black bag' jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal: therefore, it would be impossible to obtain any legal sanction."[45] The "black bag" memo directed agents to ask for permission to conduct a break-in by means of a memo labeled "Do Not File." The agent was to prepare a second informal memo to himself, stating he had gotten permission for the break-in. The second memo was to be destroyed after the special agent's superior had examined it.[46] Clearly, the FBI did not want evidence in its files that the bureau had sanctioned illegal break-ins.

Theoharis, after learning of the FBI's records destruction program, wrote to the National Archives to urge reexamination of the bureau's records-keeping and filing systems.[47] Theoharis also took issue with NARS's sanction of destroying material relating to cases that had never been prosecuted. He cited *U.S.* v. *Baltch*, an espionage case in which the Justice Department dropped charges when the acting attorney general discovered the FBI had used illegal means to gather evidence. Theoharis wrote: "Non-prosecutive files are of great historical interest insofar as they provide a record that provides insights into FBI investigative priorities, illegal investigative techniques and programs, and the effectiveness of the Attorney General's oversight of the FBI."[48]

The public's complaints and charges of

[41] *American Friends* v. *Webster*, affidavit of Harold Fruchtbaum, 21 July 1979, p. 1.
[42] *American Friends* v. *Webster*, Wadlow deposition, p. 462.
[43] Athan Theoharis, *Spying on Americans: Political Surveillance from Hoover to the Huston Plan* (Philadelphia: Temple University Press, 1978), p. 129; House, *Destruction of Hoover's Files*, p. 158.
[44] House, *Destruction of Hoover's Files*, p. 146.
[45] Ibid., p. 40; Theoharis, *Spying on Americans*, p. 126.
[46] House, *Destruction of Hoover's Files*, p. 40.
[47] Athan Theoharis to James Rhoads, Archivist of the United States, 23 April 1979; and to Thomas Wadlow, 25 May 1979 (from Theoharis's personal files).
[48] Theoharis to Rhoads.

wrongdoing caused the National Archives to reexamine its decisions in 1978. "NARS undertook the study because of its responsibility for oversight of records management practices in Federal agencies and its concern over the appearance of a number of newspaper and magazine articles critical of the current records control schedule for FBI field office investigative files."[49]

In the National Archives' December 1978 "Disposition of FBI Field Office Investigative Files," a team of archivists, headed by Wadlow, compared seventy-six field office files with the corresponding headquarters files. While archivists selected the general classifications, FBI personnel selected the actual files archivists studied. The study allowed "that it may be possible for a field office investigative file to contain a unique item or items of value to a researchers [sic] with a specialized interest in the records. Nonetheless, the systematic examination of field office files did not locate categories or types of documentation of potential research value that are not adequately summarized in reports or otherwise incorporated into communications forwarded to headquarters." The study team also concluded that field office files "do not have sufficient historical or other research value to warrant permanent retention."[50]

The National Archives was apparently satisfied with its 1978 reevaluation of schedules and records plans for the FBI and repeatedly insisted that field office files "do not have sufficient value to warrant permanent retention." James E. O'Neill, then acting Archivist of the United States, wrote to Marshall Perlin, one of the plaintiff's attorneys in *American Friends* v. *Webster*, that the National Archives "cannot perform [its task of preserving valuable records] by attempting to collect every bit of unique information produced by the Federal Government. Rather, we must seek to identify and preserve the central core of documentary materials that has the most enduring value for future research purposes."[51]

O'Neill's logic failed to persuade Perlin and his clients. They filed suit against representatives of the FBI, the National Archives, the attorney general's office, and other officials on 26 June 1979. Although the plaintiffs' motives for bringing *American Friends* v. *Webster* to trial were varied, most probably would agree with plaintiff Rosenberg who said the FBI's files should be retained because such records help tell the stories of "the FBI's role in the purging of labor unions . . . or in the blacklisting in the communications industry. . . . In short, the relations between the state and its citizens in general . . . is one of the most important topics in modern history."[52]

The suit charged the defendants with "destroying on a massive scale unique, irreplaceable historical records of great legal, research, scholarly and other value."[53] The National Archives was accused, among other things, of failing to draft and enforce standards for preserving the FBI records.[54] The plaintiffs further charged that the National Archives should have realized that the field office records "vary substantially from those at headquarters," adding that field reports to headquarters did not include informa-

[49]NARS, "Disposition of FBI Files," chap. 1, p. 1.
[50]Ibid., chap. 4, p. 1; chap. 4, p. 5; chap. 1, p. 3.
[51]O'Neill to Perlin, p. 2.
[52]*American Friends* v. *Webster*, Rosenberg affidavit, p. 2.
[53]*American Friends* v. *Webster*, complaint, 26 June 1979, p. 2.
[54]Ibid., pp. 20–21.

tion that would indicate that the material was illegally obtained. Field reports to headquarters were "highly selective distillations and second- and third-hand edited reports," the complaint continued.[55] The archivists, FBI personnel, and other officials, "as a result of their actions and omissions, all in violation of law," were also accused of "in effect repealing *de facto* and frustrating the enforcement of the FOIA as it applies to the FBI records."[56]

Following a five-day trial in October 1979, the federal court for the District of Columbia upheld the plaintiffs' charges on almost every point. Judge Harold H. Greene found that the Freedom of Information Act had influenced FBI records keepers to favor the destruction, rather than preservation, of governmental records.[57] The judge also faulted the National Archives for failing to examine critically the FBI's descriptions of its records.

> Some of the employees of the Archives having responsibility for appraising FBI records retention and destruction plans testified that they were capable of passing on such plans without ever having seen any of the documents involved, whether by category, by type, or by sample. The court finds those representations to be wholly incredible. The law imposes upon the Archivist and his staff important responsibilities concerning the selection of what among the files of an agency may have permanent or continuing value for historical, research, legal rights and other purposes. It strains credulity to accept the proposition that such decisions can be made wholly by remote control.[58]

Judge Greene imposed a moratorium on FBI files destruction and ordered the National Archives to draft a plan for handling the FBI's voluminous records. Such a plan, which adopted a sophisticated statistical sampling method, was filed with the courts in November 1981.

The plaintiffs in *American Friends Service Committee* v. *William H. Webster* were jubilant with Judge Greene's findings. "The victory is a tremendous boost for the broad coalition of labor, left, peace, and civil liberties groups working to defeat the current drive to reimpose McCarthyism and the Cold War,"[59] wrote Dorothy Steffens, executive director of FOIA, Inc., the organization that was the suit's prime mover. Historian John Anthony Scott, another plaintiff, said the judge's findings made it clear the "National Archives cannot be left to their own devices."[60]

For American archivists it should be rather sobering to realize that the National Archives, "left to its own devices," was judged inadequate, even though its archivists generally followed accepted archival practice in appraising FBI material. The FBI examined its records, drafted schedules, and sent its requests for permission to destroy records to the National Archives. NARS appraisers relied on the FBI's assessment and its manuals describing records requirements, and discussed the bureau's documentation needs with FBI officials before approving records disposition requests.[61]

[55]Ibid., pp. 29–30.
[56]Ibid., p. 27.
[57]*American Friends* v. *Webster*, Order and Opinion, p. 17.
[58]Ibid., p. 9.
[59]"We Win a Big One for the People," *Update* 2 (February 1980): 1 (published by the Fund for Open Information and Accountability, FOIA).
[60]Ibid.
[61]Such an appraisal routine is described in Meyer Fishbein, "Appraisal of Twentieth Century Records for Historical Use," *Illinois Libraries* 52 (February 1970): 159.

Both the FBI and the National Archives agreed that the bureau could not keep every scrap of paper, but the defendants failed to convince the court that certain records were not worthy of preservation, perhaps because the archivists could not point to a well developed framework of archival appraisal literature to support disposition decisions.

Archival appraisal literature in the late 1970s was embryonic at best.[62] For years archivists have had little but the writings of NARS archivists for appraisal guidance. Major themes in these writings are archival roles in efficient management of records and the importance of saving records that document administrative history. Philip C. Brooks was among the first to write about appraisal. After describing the life cycle of records and cautioning that appraisal is a field that deserves more study, Brooks wrote that appraisal archivists should first consider

> the value that the documents may have for the agency of origin. For judging the utility of documents for efficient administration and for protection against claims of all sorts, a record producing organization itself must serve as the determining agent. The criteria of selection are usually clear enough. The archivist cannot undertake any of this responsibility, but he does observe the ways in which it is exercised, and he cannot help feeling that the safest plan is one in which some central office conducts the appraisal, with the co-operation of each unit that may conceivably be interested in a given group of records.[63]

Brooks advocated close cooperation between archivist and agency and stated that "the earlier in that [record's] life history that co-operation between the agency of origin and the archivist can be established, the easier will be the work of all."[64] He did not offer specific appraisal criteria, but instead suggested that these criteria would be "clear enough." Brooks concluded his essay by describing the ways in which records documenting an agency's administrative history could be used for fields of inquiry other than official reference use.

T. R. Schellenberg's name is usually evoked in any discussion of appraisal, partly because it was he who provided archivists with the vocabulary to describe documentation's potential research values. In *The Appraisal of Modern Records*, for example, Schellenberg stated that modern public records have two kinds of values, primary for the immediate use of the originating agency and secondary for later use by other agencies and users. Secondary values, he further stated, can be considered evidential or informational.[65] Schellenberg devoted much of this NARS bulletin to discussing the importance of records' informational values, noting that most of the larger series of records in the National Archives were accessioned for the information they contained regarding matters other than government actions. Schellenberg added, however, that the "archivist assumes that his first obligation is to preserve records containing information that will satisfy the needs of the Government itself, and after that, however

[62]Richard C. Berner, *Archival Theory and Practice in the United States: A Historical Analysis* (Seattle, Wash.: University of Washington Press, 1983). Berner describes the state of development of the archival appraisal field as "primitive" (p. 6). He amends this statement somewhat in "Richard Berner's Response," *The Midwestern Archivist* 9:1 (1984): 44.

[63]Philip C. Brooks, "The Selection of Records for Preservation," *American Archivist* 3 (October 1940): 230.

[64]Ibid., 226.

[65]T. R. Schellenberg, *The Appraisal of Modern Records*, Bulletins of the National Archives, no. 8 (October 1956), p. 6.

undefinable these needs may be, private scholars and the public generally."[66]

In another major work regarding archival appraisal, *Archives and Manuscripts: Appraisal and Accessioning*, Maynard Brichford observed that the administrative value of records is a "primary concern," archivists give "top priority to records retained for official reference," and "short-term administrative values and long-term historical research values usually coexist."[67] Brichford also stated: "While archivists proclaim that they should investigate each system and procedure that produces records, they often depend on the opinions of managers and written descriptions prepared by records analysts. Knowledgeable records administrators and creators can identify most records which should be scheduled for destruction, thereby freeing archivists from routine and repetitive appraisal work to concentrate on more significant records."[68]

Several recent writers have begun reevaluating Schellenberg's writings on appraisal. In particular, these writers have cautioned nongovernment records archivists against a literal reading of Schellenberg. Frank Boles and Julia Marks Young, for example, argue that Schellenberg's definitions and writings were heavily, and not surprisingly, influenced by NARS's mandates from Congress. Schellenberg's "thoughts reflect the legal priorities of the National Archives that require the archivist to consider first the evidential and then the informational values of records," write Young and Boles. They add that such priorities should not be universal throughout the archival profession.[69] JoAnne Yates suggests that many archivists often take a "tip-of-the-iceberg" approach to appraising institutional records by saving only those records that document the activities of persons at the top of a hierarchy. Yates suggests that this appraisal propensity is based on a simplified vision of organizational structure that "is probably derived in part from the application and adaptation of Schellenberg's principles in dealing with government agencies over the years."[70] These writers go on to describe the shortcomings of appraisal based on a literal reading of Schellenberg.

The FBI case suggests that government archivists also begin reconsidering the appraisal philosophy so well articulated by Schellenberg. While efficient records management is certainly a worthy goal, the writings of Brooks, Schellenberg, and Brichford, combined with the practice of relying on agency-generated descriptions of records, invite and encourage archivists to be biased on behalf of governmental administrative needs. Furthermore, as the FBI files case so neatly illustrates, archival reliance on an agency's descriptions of its own records eliminates the necessary checks and balances in appraisal work. In *American Friends* v. *Webster*, the courts found that reliance on agency-generated series descriptions and the assumption that records adequate for official reference were adequate for future research use were not compatible with the rather cherished American notion that the government's records belong to the people.

[66]Ibid., p. 25.

[67]Maynard Brichford, *Archives and Manuscripts: Appraisal and Accessioning* (Chicago: Society of American Archivists, 1977), pp. 5-6.

[68]Ibid., p. 15.

[69]Frank Boles and Julia Marks Young, "Exploring the Black Box: The Appraisal of University Administrative Records," *American Archivist* 48 (Spring 1985): 122-124.

[70]JoAnne Yates, "Internal Communication Systems in American Business Structures: A Framework to Aid Appraisal," *American Archivist* 48 (Spring 1985): 155-156.

When archivists defer to the opinion of the records' parent agencies (as they did by agreeing with the FBI that field office files and the files of cases that had never been prosecuted could be destroyed), the differences between archivists and records managers become blurred. A Canadian writer commenting on *American Friends* v. *Webster* concluded: "Our role as archivists is different from the role of our close colleagues, records managers. . . . The archivist's loyalty should be to research and researchers; for I suspect many of our colleagues in administration and records management reflect the narrow economic interests of their institution and seek to protect its public image."[71] The differences between records managers, archivists, and manuscript curators are not always clear cut, but the distinction becomes apparent when one defines the question: For whom are the records being saved—bureaucrats or the general public?

The judges ruling in *American Friends* v. *Webster* clearly believed that archivists' loyalties should be to the American public. "The thrust of the laws Congress has enacted," wrote Judge Greene, "is that governmental records belong to the American people and should be accessible to them . . . for legitimate historical and other research purposes."[72] The U.S. District Court of Appeals judge concurred. "We do not disagree with the government's general point that the FBI may satisfactorily summarize much investigative data. But the summaries need to account in some reasonable fashion for historical research interests and the rights of affected individuals—not just the FBI's immediate, operational needs."[73] The two judges said that archivists have a duty to both the government and the public. Unfortunately, archival dogma can lead archivists to consider the needs of government first. *American Friends Field Service Committee* v. *William H. Webster* demonstrates that records of minimal administrative value are not necessarily records of minimal value to research. The case invites archivists to continue developing their literature of appraisal philosophy.

[71]Mark Hopkins, "Counterpoint: 'There's a Hole in the Bucket, Dear Liza, Dear Liza': Archivists' Responsibilities Reviewed," *Archivaria* 16 (Summer 1983): 137–138.

[72]*American Friends* v. *Webster*, Order and Opinion, pp. 20–21.

[73]*American Friends* v. *Webster*, United States Court of Appeals for the District of Columbia Circuit Court (nn. 81-1980 and 93-1025), Opinion, p. 69.