

Open the Judicial Branch

Freedom of Information Act Advisory Committee to the Archivist

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What's in the Judicial Branch?

- ~200 courts: district, bankruptcy, appellate, special
- Administrative Office of the U.S. Courts
- Judicial Conference of the U.S.
- Federal Judicial Center (FJC)
- 81 Federal Public Defender Organizations
- U.S. Sentencing Commission
- Supreme Court Police



The Status Quo

- Secretive culture; difficult to get anything beyond court docs
- Common Law right of access
 - Frequent use for court records
 - Little (visible) use on administrative records
- Common Law's two tenets:
 - Is it a public document?
 - Is the public's need greater than the gov't privacy?



Recent Events

- Solar Winds hack
- Thomas, Kozinski, and Kavanaugh sexual harassment allegations
- PACER fee skimming



Problematic Judges

- Dozens of judicial impeachments:
 - 1804, 1805, 1806, 1873 (2×), 1874 (2×), 1879 (2×), 1912 (2×), 1914, 1915 , 1924, 1929, 1936, 1939 (3×), 1945, 1969, 1974, 1978, 1983, 1985, 1986, 1989, 1991, 2009, 2010 (2×), 2013, 2015, 2017, 2018
- Not impeached:
 - J. Hugo Black was Klansman
 - J. McReynolds was anti-semite, sexist, and racist



What Could We Get — Top Ten (1/2)

1. Disciplinary actions and complaints for judges and attorneys, whistleblower reports, disbarment proceedings, admission records
2. Financial records and contracts
3. Fines and fees levied
4. AO court guidance letters
5. Security audits, recovery plans, and incident reports



What Could We Get — Top Ten (2/2)

6. SCOTUS public calendar
7. Judicial Conference committee membership and minutes
8. List of all judges past and present
9. FJC Integrated DB but *with* judge information
10. The next top ten list



Include / Exclude?

- Sealed documents?
- Court documents (e.g. trial exhibits)?
- Judicial papers?
- Clerk selection criteria?
- Retirement letters to the president?
- FISA courts?



Problems to Overcome

- How do you appeal rejected requests?
- How close to judicial proceedings and papers do you go?
- Will judges sour on FOIA oversight?
- Huge requests: “I want all filings, please.”



Thank You

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