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## **Case Files: A Congressional Archivist's Dilemma**

Cary G. Osborne

One of the more difficult decisions for congressional archivists is deciding what to do with case files. It might help to first understand what importance casework held in the congressperson's career, particularly as it influenced chances of re-election. A review of the literature shows that there is little agreement among experts in this regard. In congressional archives there is also little agreement on whether the files should be retained. This paper looks at the advantages and disadvantages in using various methodologies in processing these files in an effort to clarify criteria for making that decision.

### **Definition of Casework**

It has long been held that one of the responsibilities of a Representative or a Senator is to assist their constituents with problems and questions involving the federal government and its agencies. Constituent requests for assistance can be categorized under several headings; the categorizations used in this study are as follows:

- Requests – These consist of requests for such things as U.S. flags that have been flown over the capitol, copies of bills, birthday greetings, congratulations on an anniversary, etc.
- Project issues – These consist of requests from corporations, other businesses, and government entities usually on the state, county, and city level for assistance with projects that involve federal rules and agencies.
- Casework – These involve constituents struggling with federal agencies and their rules on personal issues. The majority of such cases involve the Internal Revenue

## Service, Social Security Administration, and Veterans Affairs.<sup>1</sup>

Some offices and researchers group all of these types of issues under the casework heading, while others use the categories listed above or some variation of these. Case files, however, contain personal information of individuals, such as social security numbers, detailed health data, various account numbers, financial information, etc. Privacy concerns regarding the security of this information makes managing these files problematic, both in congressional offices and in congressional archives. For these reasons, this paper limits its discussion to files fitting the narrower definition in the third category.

Reports indicate that half or more of Senate and House offices receive between 1000 and 5000 cases each year. Over a five-year period, the average increase was reported at 35 percent, with congressional offices reporting that casework has more than doubled since the 1980s.<sup>2</sup>

However, reports on the number of requests for service often are based on informal logs and memory, rather than official logs or records.<sup>3</sup>

### Introduction

Case files make up a large part of the collection of papers created within the office of a member of the U.S. Congress. They most often contain private information of individuals seeking assistance from a representative or senator. The literature regarding casework in the offices of members of the U.S. Congress reveals a

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<sup>1</sup> Bruce E. Cain, John A. Ferejohn, and Morris P. Fiorina, "The Constituency Service Basis of the Personal Vote for U.S. Representatives and British Members of Parliament," *The American Political Science Review* 78, no. 1 (1984): 115.

<sup>2</sup> Larry P. Ortiz, et al., "Legislative Casework: Where Policy and Practice Intersect," *Journal of Sociology and Social Welfare* June (2004): 50.

<sup>3</sup> John R. Johannes and John C. McAdams, "Does Casework Matter? A Reply to Professor Fiorina," *American Journal of Political Science* 25, no. 3 (1981): 581-604; John R. Johannes and John C. McAdams, "The Congressional Incumbency Effect: Is It Casework, Policy Compatibility, or Something Else? An Examination of the 1978 Election," *American Journal of Political Science* 25, no. 3 (2001 reprint): 514-515.

disparity between the case files' perceived value to an incumbent's re-election and their value for future research. To begin to understand whether the information contained in case files is important enough to retain after they are donated to a congressional archive, one must first begin to understand the importance they held in the congressional office and during the officeholder's career.

### **Importance of Casework to the Incumbent**

It is rare for incumbents to handle requests themselves. However, they do decide how much casework they want their staffs to pursue, although all offices handle at least some.<sup>4</sup> Logic suggests that by responding to requests for assistance from constituents, incumbents increase their chances for re-election. While studies of the effects of constituent service reveal that there are benefits, statistics show that the problem does not always have to be solved as long as the incumbent acknowledges the problem and makes an effort to solve it.<sup>5</sup>

Much of the seminal writing on the value of casework as a basis for re-election was published in the 1970s and 1980s and is referenced in a number of studies from the 1990s. In all periods of research, researchers disagree on the effectiveness of constituent service in improving chances of re-election<sup>6</sup>, as shown in an exchange between Johannes and McAdams who wrote that constituents were ungrateful<sup>7</sup>, and Fiorina, who believed

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<sup>4</sup> Ortiz, et al., 51-52; R. Eric Petersen, *Casework in a Congressional Office: Background, Rules, Laws, and Resources*, (Washington D.C.: Congressional Research Service, 2009): Summary.

<sup>5</sup> George Serra and Albert D. Cover, "The Electoral Consequences of Perquisite Use: The Casework Case," *Legislative Studies Quarterly* 17, no. 2 (1992): 233-46; George Serra, "Reach out and Help Someone: The Impact of Casework Solicitation and Word of Mouth Publicity on Member-Constituent Contact," *Southeastern Political Review* 20, no. 2 (1992): 231-44; Cain, et al., 119; Diane Evans Yiannakis, "The Grateful Electorate: Casework and Congressional Elections," *American Journal of Political Science* 25, no. 3 (1981): 572.

<sup>6</sup> Yiannakis, 579; John R. Johannes and John C. McAdams, "Entrepreneur or Agent: Congressmen and the Distribution of Casework," *The Western Political Quarterly* 40, no. 3 (1986): 535-553; Lilliard E. Richardson, Jr., and Christopher A. Cooper, "Casework in U.S. State Legislatures," *Western Carolina University* (2006), accessed February 1, 2010, <http://paws.wcu.edu/ccoper/casework.pdf>.

<sup>7</sup> Johannes and McAdams, "Does Casework Matter?," 581-604; Johannes and McAdams, "Entrepreneur or Agent," 549.

constituents appreciated the assistance.<sup>8</sup>

Johannes and McAdams found that no statistically significant benefit for re-election could be gained through casework. However, they did find that incumbents believed that by performing more casework over a longer period of time, they built a positive relationship with voters. Their findings, originally published in 1981, were based on the 1978 congressional elections. Thus, the effects of what has been termed the “permanent campaign” are noted. Additional factors noted by them and others are: Does the constituent actually vote? Is he or she a member of the incumbent’s party? Does the constituent who received help even remember that fact? Is only successful casework a factor? They concluded that constituents often feel that such assistance is to be expected and therefore are essentially ungrateful when it is performed.

Fiorina pointed out that incumbents who encouraged constituents to contact them with problems received more requests for service as the benefits spread by word-of-mouth. He also argued that before the 1950s, members of Congress were more interested in promoting the good of the country; whereas after that decade, they were more interested in being reelected.<sup>9</sup> That change in motivation was one cause of increased interest in constituent requests, and coincided with the era of the “personal vote” as opposed to voting strictly by party affiliation.<sup>10</sup>

Prior to the advent of the Internet, town hall meetings were the most productive means of encouraging constituents to seek out assistance for problems with government agencies. Incumbents also used newsletters and other mass mailings to let people know that such aid was available; however, according to at least one study, that seemed to have little independent effect. Today, direct contact is still used to promote case work through field or state

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<sup>8</sup> Morris P. Fiorina, “Some Problems in Studying the Effects of Resource Allocation in Congressional Elections,” *American Journal of Political Science* 25, no. 3 (2001 reprint): 565.

<sup>9</sup> Morris P. Fiorina, *Congress: The Keystone of the Washington Establishment*. (New Haven: Yale University Press, 1977): 560.

<sup>10</sup> Cain, et al., “Constituency,” 111; Richard Herrera and Michael Yawn, “The Emergence of the Personal Vote,” *The Journal of Politics* 16, no. 1 (1999): 136-50.

offices, and staff are aggressive in using satellite offices, town meetings, press conferences, newsletters, on-line forums, brochures, and meetings with specific groups to let constituents know that assistance is available.<sup>11</sup> One tool that has been utilized consistently is the telephone, although today most calls to constituents are automated. Another tool is news coverage of the incumbent, which is a free or inexpensive way to generate approval ratings since it reaches a large number of constituents.<sup>12</sup> The Internet first appeared on Capitol Hill as a pilot project in 1993. Although Republicans, younger legislators, and representatives of more affluent populations are more likely to have their own web pages, studies show that Democrats as a group, and incumbents from marginal districts are more likely to use this medium for promoting casework. A review of the literature shows that little attention has so far been paid to the influences of the Internet in promoting casework.<sup>13</sup>

Those who argue against the benefits of constituent service in seeking reelection refer to other strategies for garnering the personal vote. As stated previously, the personal vote has replaced the party vote since the mid-1950s, although party affiliation still strongly affects the personal vote. It is also true that an incumbent is able to perform more services than a challenger, both for the district and individuals, including obtaining so-called pork money. Other factors studied were agreement on issues, same gender or race, town hall meetings, and otherwise being visible to the voters, all of which usually benefit the incumbent.<sup>14</sup>

In spite of some findings to the contrary, it is relatively clear that people already in Congress believe that performing constituent service is important either as a generally accepted part of their jobs or as a means of winning votes in the next election.<sup>15</sup>

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<sup>11</sup> Ortiz, et al., 51-52.

<sup>12</sup> Brian F. Schaffner, et al., "Tactical and Contextual Determinants of U.S. Senators' Approval Ratings," *Legislative Studies Quarterly* 28, no. 2 (2003): 204-205.

<sup>13</sup> E. Scott Adler, et al., "The Home Style Homepage: Legislature use of the world wide web for constituency contact," *Legislative Studies Quarterly* 23, no. 4 (1998): 587-88.

<sup>14</sup> Yiannakis, 568-80; Herrera and Yawn, 136-50.

<sup>15</sup> Johannes and McAdams, "Entrepreneur or Agent," 548; John R. Johannes, "Casework as a Technique of U.S. Congressional Oversight of the Executive," *Legislative Studies Quarterly*, 4:3 (1979): 327; Gretta Reisel Browning and

It is also believed that by performing casework, problems within and between federal agencies are identified and solutions proposed. Here, again, there is little agreement as some experts argue that casework often leads to new legislation to fix problems, while others argue just the opposite.<sup>16</sup>

As a result of incumbents' willingness to accept responsibility for requests, and letting people know that assistance is available, large numbers of files are accumulated over the course of a career<sup>17</sup> and the decision to retain those files is an indicator of their importance. Outgoing incumbents usually transfer their open case files to their successors so that there will be continuity. When this does not happen, it is newsworthy, as in the case of Tennessee Congressman David Davis who was defeated by Phil Roe in 2008. Davis chose to discard the files instead of transferring them, citing the federal Privacy Act, although House rules state clearly that such records can be disclosed to other members of Congress.<sup>18</sup>

### Archives Policies

When a member of Congress leaves office, there is usually little time for selecting a repository. More often than not they choose not to send case files, or repositories refuse to accept them because of the difficulties in processing them. Even so, many archivists are given the opportunity to process these files, for good or ill.<sup>19</sup>

In dealing with case files, there are few universally accepted rules. By definition, case files contain personal information supplied by the individual: social security numbers, detailed medical information, birth dates, family data, etc. In this

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Mary McKay, "Processing Political Papers," in *An American Political Archives Reader*, ed. Karen Dawley Paul, et al. (Lanham, Md.: Scarecrow Press, 2009): 275.

<sup>16</sup> Ortiz, et al., 66.

<sup>17</sup> Patricia Aronsson, "Appraising Modern Congressional Collections," in *An American Political Archives Reader*, ed. Karen Dawley Paul, et al. (Lanham, Md.: Scarecrow Press, 2009): 157.

<sup>18</sup> Hank Hayes, "Davis Discarded Files Instead of Giving Them to Roe," [timesnews.net](http://www.timesnews.net), accessed May 4, 2009, [http://www.timesnews.net/print\\_article.php?id=9013424](http://www.timesnews.net/print_article.php?id=9013424).

<sup>19</sup> Cynthia Pease Miller, *Managing Congressional Collections* (Chicago: Society of American Archivists, 2008): 100.

day of identity theft and credit card number theft, keeping this information from becoming public is a real concern and privacy laws must always be taken into account.

Congressional archives use four basic approaches in managing case files.<sup>20</sup> First, if case files do appear on their doorstep, some archives destroy case files outright. Many feel this results in the loss of valuable information involving far-reaching issues such as Agent Orange or large oil spills that affect the lives of many individuals. Some archives retain case files, but hold them closed to researchers for a period of time either specified by the creator of the collection or the archive. This time period can be up to twenty-five or more years. Major collections in which the case files were retained in the repositories, and in which research has already been published, are those of Senator Robert J. Dole and Senator Tom Daschle.<sup>21</sup> Case files were also retained in the large collections of Senator Barry Goldwater<sup>22</sup>, and the Senator Pete V. Domenici, to name a few.

Second, others may retain case files relating to issues that were important to the member of Congress or to the history of their state or district, and destroy the rest. Retention can be requested by the repository or by the incumbent. There are several examples of this. For instance, Senator Trent Lott's office was advised to retain Hurricane Katrina casework. West Virginia offices retain case files concerning black lung disease. Senators from Washington state have been asked to retain files on immigration case work.<sup>23</sup>

The third approach is sampling, which results in saving space and time. This involves keeping a representative copy out of a batch of case files relating to a single issue, then counting the total number of files. This count is then recorded on a form and attached to the sample. This process preserves basic data concerning important issues and how they affected constituents.

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<sup>20</sup> Faye Phillips, *Congressional Papers Management: Collecting, Appraising, Arranging, and Describing Documentation of United States Senators, Representatives, Related Individuals, and Organizations* (Jefferson, N.C.: McFarland & Co., 1996): 164-65.

<sup>21</sup> Gary Aguiar, "Who Writes to Their Senators? Preliminary Data from the Daschle and Dole Casework Files," *Congressional Papers Roundtable Newsletter* Fall (2010): 6-7.

<sup>22</sup> Linda Whitaker, email message to CPR listserv, October 20, 2008.

<sup>23</sup> Aronsson, 157.



The collection of New Jersey Congressman Harrison Williams at Rutgers University was sampled according to subject and time frame.<sup>24</sup>

Lastly, over the past decade or so, there has been a trend for congressional archives to refuse to accept case files at all. This leaves those in the members' offices with the task of deciding what to do with the files, often with little time to decide and act. If original files are retained in whole or in part, or are sampled, many questions still must be answered. Will the files be closed for a period of time? If so, how long? When access is allowed, how will the files be used by researchers? Must personal information be redacted? If so, how and when? Redacting can be done permanently by crossing out personal data with black ink on the original papers, but most repositories choose not to alter original documents. Temporarily crossing out information can be done by using some sort of overlay system to hide data while making working copies, since such procedures involve a great deal of time. Should it be an ongoing project or should specific material be examined only when a researcher makes a request to see it? Those archives that do allow access often have stricter rules for researchers regarding privacy issues. For instance, the researcher must agree that "no private information is to be recorded."<sup>25</sup>

Further, the repository must determine policy for issues such as whether the constituent is likely to be alive after the case file is open to researchers, or if not, will descendants object to the release of information? Finding individuals to obtain permission to use the documentation would be difficult at best. To help with these issues, most repositories require an agreement signed by the researcher stating that no personal information is to be published or otherwise disseminated.

Case files that are retained must be given at least a cursory review by the archivist. In the case of the papers of New Mexico Senator Pete V. Domenici, case files were found in boxes that were not supposed to contain them according to the preliminary inventory. Given that circumstance, it is possible that the reverse would be true: boxes marked as containing case files may contain

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<sup>24</sup> Larry Weimer, email message to CPR listserv, October 20, 2008.

<sup>25</sup> Aguiar, 6-7.

other files both important and mundane. Case files can also be mixed in with subject files and correspondence, depending on the organization used in a particular congressional office, which often changes over a long career.

In *Congressional Papers Management*, published by the Government Printing Office, the differing methodologies are described. In discussing whether to get rid of the case files, or to not accept them at all, one reason stated was the lack of use by researchers. Further, while sampling is approved of as a means of at least keeping some of the data, it is argued on the other side that it may make it necessary to keep files that might otherwise be discarded. Keeping the files intact, on the other hand, is the only means by which to fully document the needs of citizens in a given time and on what issues most of the assistance was needed.<sup>26</sup>

The Minnesota Historical Society established basic appraisal guidelines for case files that have been adopted by some archives. They espouse sampling, in some instances as in the papers of Congressman Vin Weber, who represented Minnesota from 1985-1989. The decision was made to keep samples relating to the farm crisis and wetlands legislation and their impact on southwestern Minnesota farmers. Cynthia Miller<sup>27</sup> suggests keeping samples or statistical descriptions on issues of broader political importance (e.g., black lung disease, asbestos claims, toxic waste dumps). Certain problems unique to a specific region, or particular issues of interest to the congressperson and his staff should be preserved.<sup>28</sup>

In the case of the Senator Domenici papers, the decision was made by the university and library administrations that no files would be weeded out, everything would be kept, and the case files would be identified, sealed, and closed for twenty-five years. Also, the initial shipment of boxes of the collection was shipped to New Mexico 25 years or more before processing started. That was at a time when case files were viewed differently, and everything was shipped to the repository. If in the future more collections are acquired or space becomes a problem for any reason, weeding can

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<sup>26</sup> Phillips, 164-65.

<sup>27</sup> Miller, 100.

<sup>28</sup> Aronsson, 157.

be done then. However, waiting until lack of space becomes a problem can make acquiring new material difficult at best.

A lot of time is consumed if the files are kept and the individual records must be redacted in some way. The use of staff to perform such time-consuming tasks may not be justifiable, thus affecting many processing decisions. Time constraints are always a factor in archives that are under-staffed. Those archives saving time by employing the so-called Greene-Meissner methodology of “more product, less process”<sup>29</sup> do little or no preservation and do not look through every folder in every box. It seems likely that this would lead to some case files being overlooked or misfiled.

## Conclusion

Some arguments in favor of keeping case files point out that information regarding how individuals are affected by, or how they react to major issues can be invaluable to researchers. Societal effects of bills, laws, and government actions are documented in these files. Arguments against keeping them include issues such as the dangers of identity theft and potential invasion of privacy. Citizens needing assistance with problems they cannot work out on their own can flood an incumbent’s office with requests for help. While some would remind us that the creators of the requests signed waivers (HIPAA releases in the case of medical information) allowing the incumbent to disseminate the information as needed in order to pursue a solution to the problem, it is unlikely that they foresaw this could include future researchers poring through congressional papers.<sup>30</sup>

Researchers are always eager to get access to collections which are important to their work, and it is for the researchers’ sake that organizing and preserving the papers and other material is done. At the same time, the faster the collection can be opened, the sooner they can benefit. Having more material to look through is both a blessing and a curse. While it can take more time, both to arrange and search, a wealth of information will add much to the fullness of a professional project.

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<sup>29</sup> Mark A. Greene and Dennis Meissner, “More Product, Less Process: Revamping Traditional Archival Processing.” *American Archivist* 68, no. 2 (2005): 208-63.

<sup>30</sup> Petersen, 6.

Archivists are hesitant to discard unique items, always fearing that one day a researcher may be looking for that very piece of information. Whenever possible, this writer retains everything, with the knowledge that having the case files closed for two or more decades means there is no urgency to processing them. If one accepts that case files contain information that is of value to researchers, the decision to retain or discard comes down to two considerations: Is there enough time to organize them? Is there enough space to store them? Eventually, as more collections are added to the archives, the answer to both may become, “no.” When the time comes, being ruthless is necessary. For the time being, this writer agrees with the decision to keep the case files in Senator Domenici’s collection.

In the end, all archivists know that comedian Steven Wright was right when he said, “You can’t have everything. Where would you put it?”

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