October 26, 2011

Washington & Lee University School of Law Library
Lewis F. Powell, Jr. Archives

Access to the Papers of Lewis F. Powell, Jr.

General Statement of Policy Governing
Access to the Papers of
Lewis F. Powell, Jr.
and other Historical Collections
in the
Washington & Lee University School of Law Library

1) The Washington & Lee University School of Law Library (hereinafter the Library) accepts its responsibility to make available the unrestricted research material in the Lewis F. Powell, Jr. Archives on equal terms to all researchers. It further accepts its responsibility to inform researchers of the availability of this collection through publication and distribution of a guide, through information on the Powell Archives website, and the freely offered assistance of staff members. The Library staff is committed to facilitating research, but should not be expected to engage in extended research themselves on behalf of others.

2) To protect and insure the continued accessibility of the material in its custody, the Library is obliged to impose the following conditions:

   a) The use of fragile or unusually valuable material may be limited. Suitable reproductions will be substituted and made available for the use of all researchers.

   b) All materials must be used in accordance with the rules of access and use as described in this General Statement and its attached statement, Restrictions On Access, and under the supervision of the Archivist of the School of Law (hereinafter the Archivist). These rules will be equally applied and enforced.
c) The Library reserves the right to refuse access to unprocessed material.

d) The Library will not send research material outside its building except to loan individual documents for exhibits under acceptable safeguards. A suitable reproduction of items on loan will be available for the use of all researchers.

e) The Library will refuse access to an individual researcher who has demonstrated such carelessness or deliberate destructiveness as to endanger the safety of the material.

f) The Library requires acceptable identification of persons wishing to use its material and that the individuals indicate by signature that they have read a statement defining the policies and regulations of the repository.

3) The Library staff will make available to all researchers a suggested form of citation crediting the Library and identifying items within its holdings for later reference. Citations to copies of materials in other repositories should include the location of the original, if known. Inquiries to the archives staff are welcome.

4) The Library will inform researchers about known copyrighted material, the owners of the copyrights, and the researchers' obligations with reference to such material.

5) The Library will not deny access to processed materials to anyone, nor grant privileged or exclusive use of its holdings to anyone, nor conceal the existence of any body of material from any researchers, unless required to do so by the attached Statement of Restrictions on Access (Appendix A), by donor stipulations.

6) The Library will inform a researcher of parallel research by other individuals using the same material. With the written acquiescence of those other individuals, the Library will supply their names upon request.

7) The Library is committed to preserving these papers and making them available for research as soon as possible. At the same time, the Library has certain obligations to guard against unwarranted invasion of personal privacy and to protect confidentiality in its holdings. Further, donors have the right to impose reasonable
restrictions upon their papers to protect privacy or confidentiality for a reasonable period of time.

   a) The Library will inform researchers of the restrictions that apply to individual collections.

   b) The Library will discourage donors from imposing unreasonable restrictions and encourage a specific time limitation on such restrictions as are imposed.

   c) The Library will periodically re-evaluate restricted material and work toward the removal of restrictions when they are no longer required.

8) The Library will not charge fees for making available the materials in its holdings. However, reasonable fees are charged for the copying of material or for the provision of special services or facilities not provided to all researchers. The archives staff will supply information about standard reproduction and any other applicable fees upon request.
Appendix A
Statement of Policy Concerning
RESTRICTIONS ON ACCESS

Introduction

While accepting its responsibility to make this and all of its
manuscript collections available to all on an equitable basis, the
School of Law Library never the less finds that in certain cases as
specified below, some materials must be restricted for a limited time
from public access.
Definitions

"Open Materials" are those which may be made available to all researchers.

"Closed Collections" are those which for a specified time, stipulated by the donor or the Library, are not available for public access.

"Restricted Materials" are those which have been removed from public access and placed under seal.

Categories of Restricted Material:

1) Materials which are security-classified pursuant to law or Executive Order, or which contain information the public release of which would adversely affect the security of the United States of America. It is not anticipated that any United States government security classified information would be among these papers. If any were found, declassification and interim storage of such records would be coordinated with the Head of Declassification of the National Archives and Records Administration.

2) Material which could be used to embarrass, damage, injure or harass living persons, such as:

   a) Materials relating to personal, family, and confidential business affairs;

   b) Material relating to investigations of individuals and organizations, to proposed appointments to office, or to other personnel matters directly affecting individual privacy;

   c) Material containing statements made in confidence, unless in the opinion of the Archivist, with the concurrence of the Director of the Library, the reason for the confidentiality no longer exists;

   d) Other material which contains information or statements that might be used to embarrass, damage, injure, or harass any living person, constitute a clearly unwarranted invasion of personal privacy, or a libel of a living person; and

   e) Material containing statements or information the divulgence
of which might prejudice the conduct of the foreign relations of the United States of America.

**Process of Opening or Imposing Restrictions**

1) The personal papers and other historical materials will be reviewed by the archives staff to identify potentially restricted material prior to public examination.

2) Potentially exempt material will be withdrawn and placed under temporary seal.

3) A withdrawal notice will be inserted in the place of the item withdrawn.

4) Material not withdrawn shall be promptly opened for general research access in accordance with the general statement of policy and acceptance by the researcher of certain obligations listed in the "Application for the Use of Archival Material".

5) Material placed under temporary seal will not be made available for inspection, reading, or use by anyone, except:
   a) Regular employees of the Library in the performance of normal archival work;
   b) Justice Lewis F. Powell, Jr., or persons authorized by him in writing, to have access to such material.

6) Restricted materials which have been placed under temporary seal will be reviewed by the Archivist from time to time and the seal removed from any papers which, because of the passage of time or other circumstances, no longer require such restrictions. The Director will be consulted before such materials are returned to the collection.

**Appeals for Access to Restricted Material:**

Researchers may appeal the decision made to restrict access to individual items in a collection. Such appeals should be made in writing to the Archivist identifying the items which have been restricted and the reason the requestor believes it should be opened. As a result of an appeal the material may remain closed, the material
may be opened, or the material may be made available only to the researcher making the appeal.

In the last case, the researcher may be asked to sign a statement promising to not divulge this information, so long as it remains restricted by the Library. The researcher may also forfeit other privileges in working with the restricted material, including the right to reproduce the material.

Such decisions to grant access to restricted material -- the sole exception to the policy of not granting privileged or exclusive access -- would be made by the Archivist and the Director. When it is practicable to do so, such decisions would be made in consultation with Justice Lewis F. Powell, Jr. or his specifically designated assignee or heir to this task.
No information from the Supreme Court files that is not already public information shall be released, inspected or copied so long as any member of the Supreme Court with whom Justice Powell served remains a member of the Supreme Court except with the written consent of Justice Powell. Should Justice Powell become incapable of granting such permission during his lifetime, the holder of his power of attorney would make this determination. After Justice Powell's death, when title to these papers passes to Washington and Lee University, the archivist of the School of Law would make any such
determinations with the approval of the Dean of the Law School.