

# Sheldon Portman Finding Aid

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## Introduction

Sheldon Portman was the Public Defender of Santa Clara County, California, from 1968 to 1986. The bulk of this collection consists of the papers of Portman's lawsuit against the Santa Clara County Board of Supervisors, which ensued just before he was dismissed from his position in December of 1986. In a public budget hearing in mid-1985 Portman claimed that his office was so understaffed that it could not fulfill its constitutional obligation to defend indigent criminals, and therefore was at risk of being sued for legal malpractice. The County complied by giving Portman more lawyers, but likewise reprimanded him for his statements, because they were made in a public forum. Later in 1985 Portman received a very meager pay increase as an additional punishment for his comments. By December Portman filed suit against the County on the grounds that the County Board of Supervisors had violated his civil rights by trying to stop him from exercising his First Amendment right to free speech. The case was finally resolved in 1994.

The collection also contains the papers of **Branson v. Winter** (1981), a case concerning jail overcrowding, and papers related to the **Sentencing Resource Project**, a project that sought to use paralegals to develop alternative plans to incarceration in appropriate cases in order to reduce the jail population. Other materials found in the collection consist of papers of professional organizations and professional activities in which Portman was involved.

## Scope and Contents Notes

**Series:** The collection is divided into three series: 1) Lawsuit Materials; 2) Jail Overcrowding Materials; and 3) Pamphlets and Miscellaneous Documents.

**Subjects:** Sheldon Portman

**Provenance:** Sheldon Portman

**Dates:** 1968-1994, bulk dates 1986-1994

**Linear Feet:** approximately 4 feet.

**Location:** NEJL Archives Shelves

## **Biographical Sketch**

Sheldon Portman was born in 1929. He spent his childhood in Cleveland, Ohio. He earned a B.A. from Kent State University in 1952, and an LL.B. from Case Western Reserve University in 1954. Portman was admitted to the State Bar of Ohio in 1954, and the State Bar of California in 1960. Early in his career, Portman participated in the first trial of Dr. Sam Sheppard, the suburban Osteopath accused of murdering his pregnant wife. As a result of that experience Portman was inspired to pursue a career in criminal law. Portman opened a private law practice in Cleveland in 1954; however, he left his practice the next year when the U.S. Army appointed him Counsel in Special Courts-Martial. In 1957 Portman resumed his practice in Cleveland.

Portman first went to work for Santa Clara County, California in 1961. He began as Deputy District Attorney, and in 1965 he became Chief Assistant Public Defender for Santa Clara County. In 1968 Portman became the Public Defender of Santa Clara County. He remained in that position until he was fired in December of 1986. After leaving the Santa Clara County Public Defender's Office, Portman taught as an adjunct professor at Santa Clara University School of Law and ultimately resumed his private practice of law.

Portman has been active in several professional organizations. He is a member of the Criminal Justice Section of the American Bar Association. He has also served on the Executive Committee of the National Legal Aid and Defender Association, and as President of the California Public Defenders' Association. Throughout his career Portman has received several awards including the **Justice Byrl R. Salsman Award** (1973) from the Santa Clara County Bar Association for outstanding services on behalf of the county bar, particularly in the area of criminal justice; the **New County Achievement Award** (1973) from the National Association of Counties for maintaining an outstanding public defender program; and the **Reginald Heber Smith Award** (1983) from the National Legal Aid and Defender Association for contributions to improving improving delivery of indigent defense services.

## **Arrangement**

### **Series I. Lawsuit Materials, Boxes 1-3**

- a. Miscellaneous Lawsuit Materials - Box 1
- b. Appellate Materials - Box 1
- c. Summary Judgment Pleadings - Box 1
- d. Federal Court Orders - Box 1

- e. Plaintiff's Discovery Materials - Box 2
- f. Defense Discovery Documents - Box 2
- g. Attorney Communications - Box 2
- h. Briefing Book - Box 2
- i. Depositions - Box 3
- j. Defendant's Motions - Box 3

### **Series II. Jail Overcrowding Materials, Box 3**

- a. Branson v. Winter - Box 3
- b. Sentencing Project - Box 3

### **Series III. Pamphlets and Miscellaneous Documents, Boxes 4-5**

- a. Internship Program - Box 4
- b. Pamphlets, Articles and Briefs - Box 4
- c. Closing Memoranda of California Legal Services - Box 5

## **Series Descriptions**

### **Series I. Lawsuit Materials**

This series contains the papers of Portman's lawsuit against the Santa Clara County Board of Supervisors. The series is divided into ten sub-series: 1) Miscellaneous Lawsuit Materials; 2) Appellate Materials; 3) Summary Judgment Pleadings; 4) Federal Court Orders; 5) Plaintiff's Discovery Materials; 6) Defense Discovery Documents; 7) Attorney Communications; 8) Briefing Book; 9) Depositions; and 10) Defendant's Motions.

The Miscellaneous Law Suit Materials include articles written by Sheldon Portman, memorandums written regarding the Public Defender's Office and the lawsuit itself, financial reports, draft motions, press releases, and newspaper clippings dealing with the lawsuit.

The Appellate Materials include the Notice of Appeal filed by Sheldon Portman and the briefs that were subsequently filed both in support of the appeal and against it.

The Summary Judgment Pleadings is a file binder containing both the plaintiff's opposition to the defendant's motion for summary judgment and the plaintiff's motion for a partial summary judgment.

The Federal Court Orders are those orders filed by the court dealing with the motions before the court in the lawsuit from 1986 until 1991.

The Plaintiff's Discovery Materials are the documents gathered by Sheldon Portman and his attorneys in preparation for trial and given to the defense in response to discovery motions. They are Bate stamp numbered 0001-1403.

The Defense Discovery Documents are the documents gathered by the defense in preparation for trial and given to Sheldon Portman and his attorneys in response to discovery motions. They are Bate stamp numbered 00001-01110.

The Attorney Communications is an indexed compilation of all the notes and communications from Sheldon Portman to his attorneys during the lawsuit.

The Briefing Book is a notebook plus supplements and addendum which were prepared by Sheldon Portman for his attorneys explaining all of the relevant facts, issues and points of law in the lawsuit.

The Depositions include depositions of Sheldon Portman, Zoe Lofgren, Rod Diridon, Thomas Legan, Patricia Fierro, Dianne McKenna, and Susanne Wilson.

The Defendant's motions include all of the motions that were filed by the defense during the lawsuit; memorandum of points and authority and exhibits in support of those motions; and the defense's responses to the plaintiff's motions.

## **Series II. Jail Overcrowding Materials**

This series contains documents dealing with Branson v. Winter, the jail overcrowding case filed by Portman. It also contains documents related to the Sentencing Project which arose from that case.

## **Series III. Pamphlets and Miscellaneous Documents**

This series is composed of the remainder of Sheldon Portman's papers. The series is divided into three sub-series: 1) Internship Program; 2) Pamphlets, Articles, and Briefs; and 3) Closing Memoranda of California Legal Services.

The Internship Program sub-series contains documents related to the Public Defenders Internship Program that was established by Sheldon Portman.

The Pamphlets, Articles, and Briefs sub-series contains various pamphlets, articles and briefs that Sheldon Portman collected during his career.

The Closing Memoranda of California Legal Services sub-series contains the Closing Memoranda of California Legal Services for the hearings regarding the refunding of California Rural Legal Assistance, Inc. before the Office of Economic Opportunity Commission.

## **Folder List**

### **Series I. Lawsuit Materials**

#### ***Box 1***

**Misc. Sub-Series**

Draft Opposition to Defense Motion for Summary Judgment

Memo Portman to McManis 10/27/92

Support Letters for Portman

Public Defender News Releases

20th Anniversary Public Defender's Office Santa Clara

Articles on 20th Anniversary of Santa Clara Public Defender's Office

Tinkering With Trial by Jury, Statement in Opposition to SCA 20, SCA 22, SB 226 and SB 252, Sheldon Portman

The Origin and History of the Public Defender System in the United States and The Office of the Public Defender of Santa Clara County, California, Marion Portman

Mistaken Eyewitness Identification: A Remedy, Criminal Defense Magazine, S. Portman

Galley Version of The Public Defender Twenty Years Later, Jeff Brown

Political Chess Player Sits on County Board, San Jose Mercury News

Louisiana v. Peart

Memo from Woodside to Board of Supervisors 2/10/86

County Supervisors vs. Public Defenders: Is There Protection Under the Civil Rights Act?, S. Portman, California Defender Volume 2 Number 2

Articles on Rappaport Case, San Jose Post-Record and San Francisco Banner Daily Journal

Resolution Commemorating the Contributions of Ruth L. Young to the Public Defender Movement

Firing of Paul Ligda and other articles on Public Defenders

Wilson v. Superior Court of Santa Clara County and Ervin Branson

American Review of Reviews, The Public Defender

Portman Victory, Press Release 8/29/90

Six County Survey of Public Defender Budgets, Felony Filings & Staffing

Stuart Rappaport

News Release 8/10/87

Memoranda dealing with Portman case

Portman Statement after firing

Portman Evaluation 1986

Summary of Facts for Deposition

Memo from Matteucci to Lonegran 9/10/86 and issues related to Probation Office

Portman Farewell to Public Defender Staff 12/26/86

Press Release July 28, 1986

Annual Report 1984-85, memo of submission of report from S. Portman 6/16/86

Annual Report 1985-86, Office of the Public Defender

California Public Defender Association, Resolution in Defense of the Professional Independence of County Public Defenders

Press Release 2/4/86

Press Release 3/12/86

Portman Support Letters

Anna Kuhl

Memorandum of Law, Portman to Allen 1/20/86

San Jose Mercury News, Six Top County Officials Granted Raises in Pay, 9/25/85

Social Workers in the Public Defender's Office

Alternative Sentencing Project 12/20/83

Public Defender Budget Comparison

Public Defender Social Work Position

Annual Report 1983-84, Office of the Public Defender County of Santa Clara, California

Press Clippings, Daily Journal, Congressional Record, San Jose Mercury News, San Francisco Chronicle

Memo Woodside to Clark and Board of Supervisors 2/10/86

News Clippings (3 folders)

**Appellate Materials Sub-Series**

Notice of Appeal

Appellee's' Brief, Portman v. County of Santa Clara

Portman vs. County of Santa Clara, Third Amended and Supplemental Complaint for Damages and Declaratory Relief

Portman Appeal Materials (3 folders)

Portman Appeals Materials, Amicus Brief

NLADA Amicus Brief

Appellant's Reply Brief

1993 Slip Opinion of the 9th Circuit

**Summary Judgment Pleadings Sub-series**

Plaintiff's Opposition to Defendant's Motion for Summary Judgment and Plaintiff's Motion for Partial Summary Judgment (The Bureau of National Affairs, Inc. File Binder)

**Federal District Court Orders Sub-series**

Supplements, Complaints, Orders

***Box 2***

**Plaintiff's Discovery Materials Sub-series**

Plaintiff's Discovery Materials p. 1-62

Plaintiff's Discovery Materials p. 63-130

Plaintiff's Discovery Materials p. 131-189

Plaintiff's Discovery Materials p. 190-257

Plaintiff's Discovery Materials p. 258-324

Plaintiff's Discovery Materials p. 325-382

Plaintiff's Discovery Materials p. 383-452

Plaintiff's Discovery Materials p. 453-536

Plaintiff's Discovery Materials p. 537-607

Plaintiff's Discovery Materials p. 608-673

Plaintiff's Discovery Materials p. 674-737

Plaintiff's Discovery Materials p. 738-795

Plaintiff's Discovery Materials p. 796-846

Plaintiff's Discovery Materials p. 847-907

Plaintiff's Discovery Materials p. 908-978

Plaintiff's Discovery Materials p. 979-1050

Plaintiff's Discovery Materials p. 1051-1126

Plaintiff's Discovery Materials p. 1127-1192

Plaintiff's Discovery Materials p. 1193-1248

Plaintiff's Discovery Materials p. 1249-1314

Plaintiff's Discovery Materials p. 1315-1360

Plaintiff's Discovery Materials p. 1361-1403

**Defense Discovery Documents Sub-series**

Portman v. County, Defendant's Discovery Documents p.1-55

Portman v. County, Defendant's Discovery Documents p.56-152

Portman v. County, Defendant's Discovery Documents p.153-246

Portman v. County, Defendant's Discovery Documents p.247-335

Portman v. County, Defendant's Discovery Documents p.448-549



Portman v. County, Defendant's Discovery Documents p.550-680

Portman v. County, Defendant's Discovery Documents p.681-786

Portman v. County, Defendant's Discovery Documents p.787-957

Portman v. County, Defendant's Discovery Documents p.958-1023

Portman v. County, Defendant's Discovery Documents p.1024-1110

**Attorney Communications Sub-series**

Supplements, Attorney Communications (4 folders)

**Briefing Book Sub Series**

Briefing Book for Portman v. County of Santa Clara (4 folders)

***Box 3***

**Depositions Sub-series**

Portman v. County of Santa Clara Deposition (5 folders)

Portman Deposition Vol. 3

Portman Deposition Vol. 4

Zoe Lofgren Deposition (8 folders)

Rod Diridon Deposition (3 folders)

Thomas Legan Deposition (4 folders)

Patricia Fierro Deposition (3 folders)

Dianne McKenna Deposition (6 folders)

Susanne Wilson Deposition (3 folders)

**Defendant's Motions Sub-Series**

Defense Motions

Memorandum of Points and Authorities in Support of Motion for Summary Judgment

Schofield, Exhibit A, Diridon Deposition

Schofield, Exhibit B, Legan Deposition

Schofield, Exhibit C, S. Wilson Deposition

Ruby's Declaration

Ruby, Exhibit A, Portman Deposition (3 folders)

Ruby, Exhibit A, Budget Hearing June 21, 1985

Ruby, Exhibit B, Lofgren Deposition

Ruby, Exhibit C, McKenna Deposition

Defendant's Statement of Uncontroverted Facts

Response to Plaintiff's Opposition for Summary Judgment

Defendants Memorandum of Points and Authorities in Opposition to Motion for Partial Summary Judgment

Response to Supplemental Table of Authorities

Defendant's Motion for Reconsideration

## **Series II. Jail Overcrowding Materials**

### **Branson v. Winter Sub-series**

Jail Case

Portman v. Santa Clara County Jail Case, Part 1 (5 folders)

Portman v. Santa Clara County Jail Case, Part 2 (5 folders)

### **Sentencing Project Sub-series**

Sentencing Project (4 folders)

## **Series III. Pamphlets and Miscellaneous Documents**

*Box 4*

### **Internship Program Sub-series**

Internship Program

### **Pamphlets, Articles and Briefs Sub-series**

1993 National Advisory Commission Standards & Goals, Department of Justice Press Releases

Proposed Standards for Defender Services 1976, NLADA

Guidelines for Legal Defense Systems in the United States, 1976, NLADA

1979 ABA Standards on Providing Defense Services

1990 State Bar Guidelines - Civil Rights

In the Supreme Court of the State of California, No. S.F. 23976, Application to Produce Additional Documentary Evidence and to Allow Brief in Excess of Length Limit and Amici Curiae Brief in Support of Petitioners

California Defender Spring 1985

Federal Probation March 1970 (Portman article)

1984-85 Annual Report, Public Defender of County of Santa Clara, California (2 copies)

Professional Independence for the Public Defender

Cover Sheet says CPDA 1987 Annual Convention; contains documents about Portman firing

Article on Center for Defense Services

Letters to the Editor and Speech Materials (2 folders)

Ethics

Public Defender Witness Materials

CPDA Public Defender Board of Supervisor Problems

State Bar Commission on Delivery

List of Appendices to Memorandum of December 3, 1986 to Board of Supervisors from Public Defender

Measure A

**Series III. Pamphlets and Miscellaneous Documents Series, con't**

*Box 5 (oversized)*

**Closing Memoranda of California Legal Services Sub-series**

Closing Memoranda of California Legal Services (5 folders)