

SUPREME COURT FELLOWS PROGRAM: A Unique Vision of the Federal Judiciary

By **Monica Fennell, Matthew Duchesne,
Sirkka Kauffman, and Elizabeth Woodcock**

In 1973, then-Chief Justice Warren Burger created the Judicial Fellows Program, later called the Supreme Court Fellows Program. He wanted people who had an interest in the federal courts to be able to study the federal judiciary much in the same way that the White House Fellows are given the opportunity to explore the executive branch of government and the American Political Science Association Congressional Fellows learn about the legislative branch.

In the nearly 40 years since its creation, the purpose of the Fellows Program has remained true to Chief Justice Burger's vision. Each year, four people are given the opportunity to explore the federal judiciary, while giving the federal judiciary the benefit of their hard work and insight.

The program brings the four Fellows to Washington, D.C. to serve at one of four locations: (1) the United States Supreme Court; (2) the Federal Judicial Center; (3) the Administrative Office of the United States Courts; or (4) the United States Sentencing Commission. The Program attracts a wide variety of applicants from professors of law and political science to practicing lawyers to administrators of nonprofit organizations. The common bond among the Fellows and the alumni of the program is a deep and abiding interest in, and respect for, the federal judiciary.

Here are the experiences of four former Supreme Court Fellows: Monica Fennell, who served at the Administrative Office of the Courts in 2002-03; Matthew Duchesne, who served at the United States Supreme Court in 2003-04; Sirkka Kauffman, who served at the Federal Judicial Center in 1996-97; and Elizabeth Woodcock, who served at the United States Sentencing Commission in 1996-97. They have offered some thoughts on the insights they gained from their fellowship year for those who share their fascination with, and devotion to, the federal courts, including those who might be interested in applying to become a Fellow themselves.



Photo Credit: Perry Reichenadter

Monica A. Fennell

Supreme Court Fellow, Administrative Office of the Courts: 2007-08¹

The fellowship started out in just the right place—one of the sites where this nation was born. Soon after we began the 2007-08 fellowship year, we traveled to Williamsburg, VA, where George Mason introduced the Virginia Declaration of Rights—a model for the U.S. Declaration of Independence and Bill of Rights. The Supreme Court Preview at William & Mary School of Law prepared us for the cases to be heard in the upcoming court term and introduced us to some of the legal scholars and journalists who are experts in the field of Supreme Court jurisprudence.

After the Supreme Court Preview I knew which oral arguments I would like to hear and what the issues were. I attended several oral arguments, including the day that three Supreme Court Fellows were admitted to the Supreme Court Bar. Attendance at oral argument and participation in other Supreme Court activities increased my understanding of Supreme Court process and procedure and deepened my respect for the important work that is done there. I enjoyed the opportunity to conduct briefings for foreign visitors at the Supreme Court.

Working with the other Fellows to identify and develop a topic for the January panel discussion between Justice Ruth Bader Ginsburg and Baroness Brenda Hale introduced me to international legal issues and provided an opportunity to learn about the new Supreme Court of the United Kingdom. At the Fellows dinner that evening, Justice Ginsburg told the story of Belva Ann Lockwood, the first woman admitted to the Supreme Court Bar. Judge Judith Chirlin was recognized as the Supreme Court's first female Fellow.

My work at the Administrative Office of the U.S. Courts was very rewarding. I was particularly impressed with the commitment on the part of AO staff to ensuring that the legal system functions properly and

fairly. Working with the Rules Committee Support Office, I conducted legal research regarding certain rules of civil procedure that might be revised. Observing the reporters and other accomplished members of the committees increased my understanding of the rulemaking process and the complex implications for future litigation.

It was a privilege to be a Supreme Court Fellow and to have the opportunity to learn about and contribute to the administration of justice at the federal level. And it is not just I who benefited--as many judges, professors and even children from Indiana came to visit me, they also appreciated the opportunity to learn more about the Supreme Court and its important place in the Third Branch.

Matthew Duchesne

Supreme Court Fellow, United States Supreme Court: 2003-2004²

I served as the Fellow at the Supreme Court in 2003-2004, the Program's 30th anniversary year. It seems cliché to say, but the fellowship was truly a unique experience. I had clerked for a judge on the U.S. Court of Appeals for the Third Circuit after law school and loved it. But that experience did not stray beyond the traditional bounds of legal practice. I read briefs and cases and wrote memoranda and opinions. It was an intellectually stimulating but somewhat monastic existence. My judge kept his primary chambers in his hometown rather than Philadelphia and except when we traveled to oral arguments, my fellow co-clerks and I seldom saw anyone but each other. In contrast, the Supreme Court is a surprisingly busy place. For one thing, both the building and oral arguments are open to the public and they both receive a steady stream of curious citizens.

What really surprised me, though, is that the Supreme Court is a very popular destination for foreign visitors as well. One of the primary duties of the Fellow assigned to the Court is to provide briefings to foreign judges, legislators, attorneys general, journalists and other visiting delegations. Depending on their interests, I provided briefings on the nature and structure of the federal government, the theory and practice of federalism, the role of the judiciary, and individual issues of U.S. constitutional and statutory law. And there were a lot of visiting delegations. It was unusual not to have several every week and I sometimes met with three different groups in a single day.

These meetings were the source of some of my best experiences and memories as a Fellow at the Court. It's impossible to single out any one meeting with foreign visitors as more interesting or rewarding than the rest. But a meeting with a Brazilian journalist does stand out in my memory. She came to discuss U.S. civil rights law, particularly equal-protection jurisprudence. Like the United States, her country was home to an ethnically diverse population and was wrestling with overcoming the continuing effects of historical prejudices and discrimination. I don't know whether I told her anything that day she did not know already, but the meeting was very educational for me. While talking with people from other countries offers new insights into foreign cultures and traditions, it also holds a mirror to your own, giving you a new perspective on issues and practices that you may take for granted.

HOW TO APPLY

For more information about the Supreme Court Fellows Program, including information about the application process, visit <http://www.supremecourt.gov/fellows/default.aspx>.

Other than the time I spent meeting with foreign visitors, my time at the Court was divided between events the Program organized for the Fellows' professional development, supporting the Counselor to the Chief Justice, and conducting my own research. The professional-development events consisted mostly of private lunches with top government officials. I remember separate lunches with the Chief Justice and Justice O'Connor, with the Attorney General, a federal district court judge and two separate lunches with FBI Director Robert Muller. I should explain that the Supreme Court Fellows Program has a long-standing relationship with the White House Fellows Program and we occasionally attended each other's events. It just happened that both programs scheduled lunches with Director Mueller my year and I enjoyed them both. The lunches were designed to give the Fellows a better understanding of how different components of the federal government work, as well as expose us to the leadership style and principles of top government officials.

My work in the administrative office of the Chief Justice included hiring and supervising the office's Supreme Court Interns, and doing research for and preparing initial drafts of the Chief Justice's speeches and reports. The office typically hosts three sets of interns a year; two each during the fall and spring semesters and two during the summer. Applicants for the internship come from colleges across the country and those who are selected typically have records of very high academic achievement and interesting personal stories. They were, as a rule, a pleasure to work with. Most went on to earn graduate or professional degrees and I would not be surprised to see one or more of them accepted into the Fellows Program before long.

The Supreme Court is a surprisingly large building and I spent much of my free time haunting two underused areas. The first is the library, a very large, very ornate set of rooms that has relatively few visitors now that the Justices' law clerks can find most of what they need on the Internet. I admit I appreciate the convenience of being able to pull up a document on my computer monitor almost instantly. But I still love to crack the cover of a hard-bound volume and used to linger regularly in the Supreme Court library digging through the shelves, returning to my office struggling to carry all the old and obscure books I had checked out. With so many resources at hand, it was hard to stay focused at times, but I did eventually write a law review article that was published shortly after my fellowship year ended.

As a general rule, the gym and basketball court on the top floor of the Supreme Court were as vacant as the library, but I became a regular visitor. Before my fellowship, I did not know that the Supreme Court has a basketball court above the actual court room. So the first time I heard it referred to as the "highest court in the land," I found it rather clever. But by the end of my year at the Court, the joke had begun to wear thin. The fellowship itself, however, never did. Eight

years on, I still look back on it as not only one of the best professional experiences, but also one of the best personal experiences, of my life. I learned a great deal about the Supreme Court and the judiciary more generally that has made me not only a better lawyer but also a better citizen. And in the process, I made a number of friends from whom I continue to learn today.

Sirkka A. Kauffman

Supreme Court Fellow, Federal Judicial Center: 1996-97³

I served as a Supreme Court Fellow at the Federal Judicial Center (FJC) in 1996-97, coming directly from my doctoral program in higher education at the University of Michigan. I had studied professional education, including legal education during that program, and had also worked at Vermont Law School in admissions, so I had some background in the American legal system, but was not an attorney. Because of my background in research and education, I indicated a preference for serving at the FJC during the interview process in Washington, DC, although of course I would have been thrilled to be placed in any of the four agencies.

The Federal Judicial Center is the education and research arm of the federal judiciary. Various divisions design and conduct orientation and continuing education programs for federal judges and

court personnel at all levels, prepare educational materials for courts, conduct research and publish on court operations and history, and provide information to judges and officials in other countries around the world. As such, it is an agency consisting of experts in a myriad of disciplines and methodologies – perhaps the most diverse in terms of employee backgrounds of the four agencies in the Fellows Program.

During my fellowship, I had the opportunity to work on several projects with both the Education and Research Divisions, as well as with the Director's Office. I worked with a team from the Education Division to design a training program on health care issues for judges, which I subsequently attended. For the Research Division, I dug into data about five federal district courts that were designated "demonstration courts" for experimenting with differentiated case management systems, or for experimenting with various methods of reducing cost and delay in civil litigation. The resulting report to the Judicial Conference Committee on Court Administration and Case Management listed me on the cover page as someone assisting with its preparation (a big deal to me as a newly minted Ph.D.!).

I also had an independent project to conduct a survey of former Fellows, their backgrounds, thoughts about the Fellows Program, and subsequent activities. This survey made me more aware that while there typically have been both academics and practicing attorneys serving as Fellows, the majority of them are on a sabbatical or leave from their positions and return to that position, returning with benefits from what they learned during their fellowship year. In contrast, I was somewhat surprised that I had been selected while completing my doctorate and without a position to return to. Of course, I did bring skills and experience from my prior work in the public sector and in higher education, but was initially concerned that perhaps I wouldn't have as much to contribute as other Fellows. This uncertainty stemmed mainly from an activity in the Fellows selection process that was discontinued after my year – the candidates were required to give a speech at the annual Fellows Program dinner held in the Supreme Court, and as I listened to other finalists describe amazing lives and experiences I started to wonder what I was doing there! That uncertainty was laid to rest as soon as I got immersed in several projects at the Federal Judicial Center where I was always treated as someone with insights and expertise to contribute, and as I became friends with the other mere mortal Fellows that year.

The fellowship year gave me a much better understanding of the workings of the federal judiciary, not only from a training and research perspective from my own work at FJC, but also from the other Fellows and the many meetings and events, including Supreme Court oral arguments, that were part of our routine activities. It was a privilege to have been part of the inner workings of the federal judiciary, one where I felt I made my own small contributions.

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Elizabeth C. Woodcock
Supreme Court Fellow, United States Sentencing
Commission: 1996-97⁴

I served as a Supreme Court Fellow at the United States Sentencing Commission in 1996-97. I had been a prosecutor before joining the Commission and I remain a prosecutor today.

Sentencing is my stock in trade, but my year at the Commission gave me the opportunity to view the process with new lenses.

Although it is part of the judicial branch of government, the Sentencing Commission is different in so many ways from the rest of the federal judiciary. While the Commissioners are appointed by the President and confirmed by the United States Senate, the composition of the Commission is bipartisan by statute. The Department of Justice is represented by an *ex officio* commissioner. The Commission's location, at the foot of Capitol Hill, just east of the United States Senate Office Buildings, places it within the easy reach of Congressional aides and even lobbyists. It holds public meetings, seeks thoughts from members of Congress, and looks to the views of the United States Department of Justice and the defense bar as it works.

Every year, it issues the United States Sentencing Guideline Manual, which addresses congressional directives, splits among the circuit courts of appeals, and concerns about new and ingenious ways to violate federal laws. In that regard, it has the feel of a legislature or agency, holding hearings and issuing its thick manual each year.

But the Commission is something much more than just another government entity in our nation's capital. The Commission's job is to wrestle with some of the most difficult issues associated with the criminal law. It weighs judicial discretion against sentencing certainty. It seeks to apply the old adage that "the punishment should fit the crime," without losing sight of the factors that make each crime, each defendant, and, indeed, each victim unique. And the work of the Commission affects the lives of thousands of federal defendants, victims, and the families of both every single year.

While at the Commission, I was assigned to suggest guideline changes in response to a congressional directive to increase the penalties for manufacturing and trafficking methamphetamine. The research took me well beyond statutory histories and case law. I was briefed at the Central Intelligence Agency on methamphetamine production outside the United States. I met with Commission statisticians who calculated the change in sentences of methamphetamine defendants if my recommendations on changes to the specific offense characteristics were adopted. I had lively discussions with Commission lawyers about the relative culpability of the mule who transported the drug as opposed to the king pin who orchestrated its sale. My year was a philosophy lesson in the purpose of sentencing and a civics lesson in government.

When I think about my year as a Supreme Court Fellow, I think back on the lunches with people like Chief Justice William Rehnquist, Attorney General Janet Reno, SALT negotiator Paul Warnke, Special Prosecutor Kenneth Starr, and acting Solicitor General Walter Dellinger.

I think of my "fellow Fellows," who became wonderful colleagues and dear friends. And I recall with pleasure the special thrill of watching the Fourth of July fireworks from the White House lawn. But mostly I think of the Commissioners, the staff who worked at the Commission, and the quest for fairness in the Guidelines used by the federal courts. It is a worthy quest and one that I was proud to join during my Fellowship year.

ENDNOTES

1. Monica A. Fennell is the Executive Director of the Indiana Pro Bono Commission. In 2007-2008 she was a Supreme Court Fellow and winner of the Justice Thomas Clark Award for excellence presented by Chief Justice John Roberts, Jr. Fennell holds a B.A. in English and French from Williams College and a J.D. from Georgetown University Law Center.
2. Matthew Duchesne is currently a legal and policy advisor at the U.S. Department of Energy. He holds a J.D. and a Master's degree in Public Administration from The University of North Carolina at Chapel Hill, and a B.A. from Miami University in Oxford, Ohio.
3. Sirkka A. Kauffman is Assistant Dean for Academic Affairs at Marlboro College in Vermont. She holds a B.A. in economics from Union College, an M.P.A. from New York University, and a Ph.D. from the University of Michigan.
4. Elizabeth C. Woodcock is an Assistant Attorney General in the New Hampshire Department of Justice. She holds a B.A. in history from Bowdoin College, an M.A. in history from Stanford University, and a J.D. from the University of Maine School of Law.

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