



# *Pacific Currents*

**A Regional Newsletter**

*National Archives and Records Administration - Pacific Region*  
(Laguna Niguel and San Francisco)

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## **Regional Microfilm Publications Document Last U.S. Treason Conviction**

In response to a request by the Interagency Working Group on Nazi War Crimes and Japanese Imperial Government Records, NARA's Laguna Niguel and San Bruno facilities have produced three microfilm publications. All three relate to Tomoya Kawakita, who was convicted of treason for acts of cruelty against American prisoners during the Second World War. The publications reproduce Kawakita's original trial record in the U.S. District Court, Southern District of California, 1947-63; his conviction appeal record before the United States Court of Appeals, Ninth Circuit, 1948-52; and his Comprehensive Bureau of Prisons inmate case file, 1948-1964. Staff of the region's Archival Operations Units arranged the records for microfilming (including Privacy Act redaction of the inmate case file). The microfilm unit at NARA's San Bruno facility filmed the records.

Tomoya Kawakita was born in Calexico, California in September 1921 of Japanese-born parents and grew up in southern California. By virtue of his birth he was a citizen of the United States. In 1939, at the age of 17, Kawakita was issued a U.S. passport and traveled to Japan to visit his grandfather. He attended a Japanese preparatory school and enrolled in Meiji University, where he studied commerce. After war broke out between Japan and the United States in December 1941, he completed his course of study and graduated.

Upon graduation, Kawakita found a job in Japan as an interpreter with the Oeyama Nickel Mining Company, whose business was mining, milling, and processing metals for munitions and other uses. Adjoining the factory was a prisoner-of-war camp, directed by Japanese military personnel. About twelve miles from the prisoner-of-war camp was a surface mine where the POWs were sometimes required to work. Kawakita began his employment in the camp in August 1943, acting as an interpreter between Japanese guards and English-speaking prisoners.

In 1944 and early in 1945, approximately four hundred American prisoners-of-war arrived at the camp. Many of

these men were survivors of the Bataan "death march" of 1942. As a result of approximately two and one-half years of inadequate diet, confinement and hard work, all of the Americans were underweight and were suffering from malnutrition and a variety of other ailments.

They were put to work digging nickel ore from the face of the mountainside, and loading it onto cars that were emptied into hoppers. They also performed other heavy labor and maintenance work in the mine area. At Kawakita's trial, some 35 former prisoners testified against him, stating that he had joined Japanese guards in torturing and brutalizing some of their number – humiliating, kicking and beating them, forcing them to carry or hold heavy loads, and subjecting them to degrading punishments. According to testimony, at least one of the prisoners lost his sanity after Kawakita repeatedly beat him and forced him into the camp's cesspool.

After the Japanese surrender on August 10, 1945, the camp was turned over to the Americans, for whom Kawakita worked as a translator. In December 1945, he filed an "affidavit to overcome presumption of expatriation" with the U.S. consul in Yokohama. In June 1946, Kawakita applied for and was granted a U.S. passport, and departed Japan for the U.S. in August of that year. On his return to the United States he went to live with his father in Los Angeles, and enrolled at the University of Southern California.

In October 1946, Kawakita visited a store in Los Angeles. One of the former Oeyama prisoners-of-war saw him, recognized him as one who had served the Japanese at the camp, and reported that fact to the authorities. On June 5, 1947, Kawakita was arrested by an agent of the Federal Bureau of Investigation in Los Angeles and arraigned before a Commissioner. An indictment charging him with treason was returned by the United States Grand Jury on June 11, 1947, to the United States District Court for the Southern District of California. Fifteen overt acts of treason were charged. Kawakita plead "not guilty" to all of the charges.

### ***In This Issue:***

- ***New Ways to Use the Federal Records Center***
- ***WASPs Visit Laguna Niguel***
- ***Protect Your Electronic Information***

The trial began on June 18, 1948. On September 2, 1948, the jury returned a general verdict of guilty and special verdicts of guilty as to eight of the overt acts. The trial judge imposed the death sentence. In October 1948, Kawakita appealed his conviction in the United States Court of Appeals for the Ninth Circuit.

In adjudicating his appeal, the court considered six questions: 1) Did Kawakita owe allegiance to the United States? 2) Did Kawakita adhere to the enemy? 3) Did Kawakita give aid and comfort to the enemy? 4) Was the “two-witness requirement” satisfied? 5) Was there impropriety in the jury proceedings? and 6) Was the punishment excessive?

On June 22, 1951, the Court of Appeals affirmed the judgment of the District Court. Subsequently, Kawakita petitioned for a re-hearing by the United States Supreme Court. In October 1952, the Supreme Court denied this petition.

Kawakita was initially detained at the Los Angeles County Jail, then transferred to Alcatraz, and finally sent to McNeil Island Federal Penitentiary in Washington State.

In November 1953, President Eisenhower commuted Kawakita’s death sentence to life imprisonment, and on October 24, 1963, President Kennedy commuted his sentence to time served on condition that he be deported to Japan. On December 11, 1963 Kawakita was released from Federal custody and flown from Seattle to Japan. There he was granted residence as a “stateless citizen” and lived out his years.

Treason is one of the gravest charges that can be brought against a U.S. citizen, and convictions for this crime have been extremely rare. Fewer than 30 U.S. citizens have been successfully prosecuted for treason; none since Tomoya Kawakita. John Walker Lindh, the “American Taliban,” has, so far, not been charged with this crime. Because of the substantial questions raised and the unusual nature of the charges, records of Kawakita’s trials and imprisonment are significant from both legal and historical perspectives, and raise issues that remain relevant today. The microfilm publications produced by our region will facilitate public access to the documentary record of this fascinating chapter in American history.

## *Regional Archives*

### **Media Interest in Regional Archival Holdings Notable in 2002**

Holdings of regional archival operations units are extremely rich and diverse, reflecting the remarkable, often surprising history of our region. Archival records can, unexpectedly, become relevant to current issues. Local, national and international media are exploiting our holdings, and the

knowledge of staff who administer them, to develop pieces for print and broadcast media. Here we highlight three recent examples:

### ***Bureau of Prisons records on CBS’s “Sunday Morning”***

A member of the production staff of the CBS news program “Sunday Morning” contacted NARA’s Pacific Region, San Bruno, to request digital images they could use to spotlight the 68th anniversary of the opening of United States Penitentiary Alcatraz (August 11, 1934). NARA Staff quickly provided scanned copies of famous inmate photographs. Two were featured on Sunday, August 11 during the “Sunday Almanac” portion of the program.

The first federal prisoners were actually “received” at USP Alcatraz on June 19, 1934. The group consisted of the last 32 military holdovers from the Pacific Branch, U. S. Disciplinary Barracks, who remained on the island in federal custody to become the first penitentiary inmates. The first non-military prisoner was Frederick White, transferred from USP McNeil Island and received at USP Alcatraz on July 13, 1934.

August 11, 1934 marks the first time a group of non-military Federal prisoners were transferred from other institutions. This group consisted of 14 individuals transferred from USP McNeil Island. This was followed by the transfer of 53 prisoners from USP Atlanta and USP Lewisburg, who arrived on Alcatraz Island on August 22, 1934; this group included Al Capone.

### ***U.S. District Court Case featured in Wall Street Journal article***

*Wall Street Journal* reporter Jess Bravin’s piece “How a Ditchdigger for Mussolini Plays a Role in War on Terror” (October 28, 2002) was based in part on a case file held by NARA’s Pacific Region at Laguna Niguel. The file in question documents the case of Gaetano Territo, a POW captured by the U.S. Army in Italy in 1943. Territo, a ditchdigger drafted into the Italian Army, had been born in the United States, automatically making him an American citizen. The family had broken apart in 1920 and the children returned to Italy with their father. Mr. Territo’s mother remained in the U.S. and was naturalized. Living in Los Angeles in 1945, she heard that her son was being held at a nearby POW camp and went to court to attempt to win his release.

The case bears striking parallels to that of Yaser Hamdi, an American-born prisoner, now held in a Norfolk brig, accused of fighting alongside the Taliban in Afghanistan. Like Hamdi, Territo was held as an “enemy combatant.” Like Territo, Mr. Hamdi’s parents have sought the help of judges to win their son’s release. The Bush administration contends that as the Defense Department has declared Hamdi to be an enemy combatant the courts have no jurisdiction over him, and have sought to deny him all access to legal counsel. The War Department in 1945 took a similar position in regard to Territo, though they permitted him access to counsel and allowed the case to come to trial.

Territo was unsuccessful in his attempt to win release from military custody and remain in the U.S. More than 50 years later, the Territo case is being used as a precedent by government attorneys arguing for the continued military detention on behalf of Mr. Hamdi. This instances again the potential long-term significance of legal records.

***NARA holdings provide sources for upcoming PBS documentary on Chinese immigration***

Documents held by NARA's Pacific Region, San Bruno, have been essential to preparation of an upcoming Bill Moyers national PBS show about Chinese immigration to the U.S. in the 19th and 20th Centuries. During the past year the film's New York producers have made numerous requests for copies of records from our Region's Immigration and Naturalization Service and U.S. District Court holdings, including many photographs. A large number of NARA-San Bruno archival documents will be unveiled to the nation in this Bill Moyers production, scheduled to air in May 2003.

***NEW WAYS TO USE THE  
FEDERAL RECORDS  
CENTER***

The Records Center Program is offering new means of contact for reference requests and transfer paperwork.

Laguna Niguel customers can now email reference requests to [laguna.reference@nara.gov](mailto:laguna.reference@nara.gov), and you can email electronic versions of the SF-135 to [laguna.transfer@nara.gov](mailto:laguna.transfer@nara.gov).

San Bruno customers can now email reference requests to [sanbruno.reference@nara.gov](mailto:sanbruno.reference@nara.gov), and you can email electronic versions of the SF-135 to [sanbruno.transfer@nara.gov](mailto:sanbruno.transfer@nara.gov).

Additionally, you can download electronic (MS Word and Adobe PDF) versions of the SF-135 from the main National Archives and Records Administration website at:

[http://www.archives.gov/records\\_center\\_program/forms/sf\\_135\\_intro.html](http://www.archives.gov/records_center_program/forms/sf_135_intro.html)

Here are some additional notes concerning the electronic form. Agencies can store records that are covered by a NARA-approved records disposition schedule or the General Records Schedule on a reimbursable basis. Consistent with 36 CFR 1228.154(c)(vii), NARA records center facilities can accept unscheduled record series that have a SF 115, Request for Records Disposition Authority, logged and pending with NARA's Life Cycle Management Division. Please insert "pending" in block 6h on the SF 135 and cite the schedule, the item number, and the date submitted to NARA with a copy of the schedule. No original signature is required. A separate SF 135 is required for each individual records series having the same

disposition authority and disposition date. The NARA records center receiving an email request to transfer records will complete the SF-135 and reply back via email to the original email address. Approved forms returned as "undeliverable" will be mailed. Please be certain that your agency's mailing and email address is included on the SF 135.

**NARA Employees  
Celebrate Women's  
History Month**

The Employee's Association at NARA's Laguna Niguel facility celebrated Women's History Month in a special way on March 27, 2003. The subject was the Women's Airforce Service Pilots (WASP) who operated during World War II.

Archives Specialist Bill Doty located and contacted former WASP members Lt. Colonel USAF (Ret.) Betty Jane Williams and Vi Cowden. They attended as special guests of the region to meet with staff members and the public answering questions and telling stories. Both Williams and Cowden ferried planes, and Williams was also a test pilot and instructor. WASP members flew every type of combat aircraft during WW II.



WASP members Lt. Colonel USAF (Ret.) Betty Jane Williams (left) and Vi Cowden (right) visited NARA's Laguna Niguel facility to celebrate Women's History Month.

The staff also viewed an episode of the noted PBS television series "The American Experience" about WASP pilots during WW II. The television segment, entitled "Fly Girls" was screened twice for staff and patrons. Response to the program was excellent.

# RECORDS MANAGEMENT

## EXPECTATION

We must ensure the protection of our electronic information through good security practices. Increased public access to our services and record will make us even more vulnerable to privacy violations and other abuses. It is important that each user protects records and reports unusual activity.



## VIRUS THREATS

A “virus” is a computer program that copies itself into a computer’s memory or programs and affects the system by altering or deleting data, or displaying a malicious message. At any given time, thousands of viruses threaten our computers. Computer viruses cost organizations valuable time and expense associated with preventing, researching, and resolving virus threats. Because viruses can destroy valuable data, they should always be taken seriously. Some viruses attach themselves to normal, useful programs such as MS Word or GroupWise, “infecting” these programs so that the virus can spread more easily. Other viruses spread by embedding themselves inside documents and spreadsheets that are then spread to others through email attachments. Still other viruses spread by disguising themselves as useful documents to trick users into opening them. In each case, the virus often includes a “payload” that is designed to damage or delete data on the infected computer. Many viruses do nothing more than spread themselves to as many users as fast as possible with the goal of overloading email systems and network links through mass duplication.

## VIRUS IDENTIFICATION

Viruses come in various forms, but there are clues to help you detect them. The most common form of virus seen is contained in an email attachment. The virus can be in a Word document (.doc), an Excel spreadsheet (.xls/.xlw), a zipped document (.zip), or an image file (.jpg). The viruses are named this way to trick users into opening them; once they are opened, the virus instructions are executed and the damage is done. Some viruses can be easily identified by the unusual message in the email subject line, but not

always. To minimize risk, do not open any email attachments unless you know the sender. If you open an email message and it is an obvious virus message, stop using your computer and immediately report the incident to your System Administrator or Use Support Services.

## VIRUS HOAXES

Far more common than an actual virus is the virus hoax. Virus hoaxes are email messages written to “warn” people about the dangers of a virus that does not really exist. The purpose of a virus hoax is to frighten people into forwarding the message as widely as possible, to overload email systems, cause confusion, and generate help desk calls.

Virus hoaxes can be identified by looking for specific characteristics:

- The original author of the hoax message is seldom identified by name.
- The virus is described as “the worst yet” and is said to be undetectable or incurable. Exaggerated claims, as well as technical-sounding language, are intended to fool non-technical users into believing the message.
- To appear credible, many hoaxes state that the information comes straight from Microsoft, AOL, or IBM. A similar tactic states falsely that the warning was recently broadcast on CNN.
- A request or plea to forward the email message to a large number of people.
- As a general rule, any virus warning you receive from a source, other than your agency’s System Administrator or User Support Services, should be disregarded.

## VIRUS DETECTION AND PREVENTION TIPS

Recommended tips:

- Do not open any files attached to an email from an unknown, suspicious, or untrustworthy source. If in doubt, get help from your System Administrator or User Support Services.
- Delete chain emails and junk email. Do not forward or reply to any of them. It is “SPAM” mail and clogs up the network.
- Do not download any file from strangers. Exercise caution when downloading files from the Internet. Ensure that the source is legitimate. Your agency’s antivirus protection will check the incoming files, but a new virus may get by. If you’re uncertain, get help from your System Administrator or User Support Services.
- Check your antivirus software periodically to be certain it is the latest version. Your User Support Services can help.
- Back up your files on a regular basis. You can save them to diskettes or, with assistance from User Support Services, you can back up important files and documents to a remote server to protect them. Then, if a virus destroys your files, you can replace them with your backup copy.

## 35 Seconds of Fame

Due to the growing concerns over terrorists using shoulder-fired missiles to attack passenger planes, 60 Minutes (CBS) aired a segment called *Small, Cheap And Deadly* on March 30, 2003. This segment included interviews with Senator Chuck Schumer of New York, Admiral James Loy, head of the Transportation Security Administration, and Supervisory Archives Specialist Jon Bearscove from NARA's Laguna Niguel facility.

Jon was contacted by the producers of 60 Minutes when they discovered that he is a former Stinger Missile System Team Chief. He trained others how to use the weapon system while he was in the US Army stationed in Germany and South Korea. He flew to Senator Shumer's office in Wash. DC for an interview with 60 Minutes Correspondent Morley Safer on a variety of topics involving Stinger Missiles.

For the interview, the Bureau of Alcohol, Tobacco, and Firearms provided Jon with a missile launch tube assembly so he could demonstrate how to fire the weapon at an aircraft.



Jon Bearscove, Supervisory Archives Specialist, NARA, Laguna Niguel, CA.

Jon was asked to comment on how easy or hard it would be to destroy passenger aircraft, and if the system was easy to operate and train others, or if it was a complex system.

Having first hand experience with the weapon system, and having earned the coveted title of Stinger Honor Team while stationed in Germany, Jon explained that the Stinger Missile is a very simple weapon to operate and train others how to use.



## ATTENTION Laguna Niguel Customers

The Post Office box address is no longer valid.  
Please use the following address:

### National Archives and Records Administration – Pacific Region

## CONTACT US!

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#### Region-wide:

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**David Drake**, Assistant Regional Administrator

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**Jon Bearscove**, Agency Services (CIPS)

[jon.bearscove@nara.gov](mailto:jon.bearscove@nara.gov) (949) 425-7283

## Fiscal Year 2003 Records Management Workshops At A Glance

### San Bruno Workshops

#### **Records Transfer and Reference**

(half-day) Contact Patti Bailey  
(650) 876-9007

[patricia.bailey@nara.gov](mailto:patricia.bailey@nara.gov)

July 1, 2003, San Bruno, CA

September 3, 2003, San Bruno, CA

#### **For the following workshop, contact**

Cynthia Mitchell (650) 876-9006

[cynthia.mitchell@nara.gov](mailto:cynthia.mitchell@nara.gov)

#### **Basic Records Operations**

July 8, Oakland, CA

### Laguna Niguel Workshops

Contact Debi Wayne, (949) 360-2622

[deborah.wayne@nara.gov](mailto:deborah.wayne@nara.gov)

#### **Basic Records Operations**

August 5-6, Laguna Niguel, CA

#### **E-mail as a Record** (half-day)

August 7, Laguna Niguel, CA

#### **Electronic Records Forum**

July 22-23, San Diego, CA

#### **Advanced Records Operations**

August 19, San Diego, CA

#### **Risk Management and Cost Benefit**

#### **Analysis**

August 20-21, San Diego, CA

### Laguna Niguel Workshops cont.

#### **Records Transfer and Reference**

(half-day) Contact Susie Bielawski  
(949)360-2623

[susie.bielawski@nara.gov](mailto:susie.bielawski@nara.gov)

August 7, Laguna Niguel, CA

12:30p.m. – 4:30 p.m.