

Panel Creates Exemption To Disclosure of JFK Files

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The House Judiciary Committee has created what could be a huge loophole in legislation calling for disclosure of most government records concerning the 1963 assassination of President John F. Kennedy.

The committee last week approved an amendment that would exempt from being defined as "assassination material" all records and other material "donated to the National Archives pursuant to a deed of gift regulating access to those materials."

That would put documents in the John F. Kennedy, Lyndon B. Johnson and Gerald R. Ford presidential libraries beyond the reach of the historical review board proposed in the bill unless the board gets the consent of family members or those in charge of the deeds of gift.

"Making these records public should not depend on the willingness of the donors to display their generosity in giving the materials to the review board," said James Lesar, president of the nonprofit Assassination Archives and Research Center here. "The records are a matter of great public interest and that should transcend any personal interest in them."

Rep. Don Edwards (D-Calif.) introduced the amendment as part of what he described as a "noncontroversial" package sought by Archivist of the United States Don W. Wilson and officials at the Kennedy library in Boston.

"They said they were interested in trying to protect donors like Mrs. Johnson and the Kennedy family," Edwards told a reporter. "We thought we were doing the right thing."

Under the Presidential Records Act of 1978, most records in presidential libraries, beginning with Ronald Reagan's, are defined as federal rather than private records. But the law was not retroactive.

Access to JFK autopsy records and X-rays, as a result, is still controlled by a deed of gift from the Kennedy family. The papers of the Commission to Investigate CIA Activity Within the United States, appointed by Ford and headed by then-Vice President Nelson Rockefeller, are treated as Ford's property.

"This is in keeping with legal practices prior to 1978 when records of presidentially appointed commissions

could be regarded as 'personal' to the president, since the commission provided advice directly to him," Archivist Wilson said at a recent House hearing on the bill.

Wilson urged Congress to exempt all "donated materials" from the definition. He said he was worried that Congress "may inadvertently discourage future donations of similar historical" records unless existing donation agreements are honored.

Wilson said Ford has already assured the National Archives that "relevant portions" of the records of the CIA commission, popularly known as the Rockefeller Commission, would be made available to the review board. The archivist said he believed those in charge of assassination-related records at the other libraries "are also likely to cooperate."

The files of the Rockefeller Commission, established in 1975 to examine illegal and improper CIA activities, include records about attempts to assassinate Cuban leader Fidel Castro as well as an examination of allegations linking accused assassin Lee Harvey Oswald and Oswald's killer, Jack Ruby, to the CIA. The commission rejected the allegations.

Another "noncontroversial" amendment sought by the archivist, and accepted by the Judiciary Committee at Edwards's urging, would allow the National Archives to charge for copies of all released assassination-related materials and not grant any fee waivers under the Freedom of Information Act.

Veteran assassination researcher Lesar denounced this provision as "devastating, particularly since the National Archives has a history of overcharging egregiously for documents." JFK assassination records can now be obtained from many federal agencies under FOIA fee waivers, but Lesar said if the Judiciary Committee bill passes, the records will be transferred to the archives, which will automatically start charging for them.

Wilson has said that the archives charges only 10 cents a page at its "self-service" machines. Lesar said "you can get it done at a commercial shop up the street from my office for a nickel a page and you don't have to do it yourself." Besides that, he said, "they're telling you you have to come to Washington to get it for a dime, which is above cost. They're discriminating against people who don't live here."