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Law opens files on assassination

The Freedom of Information Act was a major factor in the House of Representatives' decision to reinvestigate the assassinations of Martin Luther King and John F. Kennedy, according to James Lesar, who spoke Thursday afternoon during a symposium at the University of Wisconsin-Stevens Point.

In addition, Lesar said, a suit he filed with Harold Weisberg was partly responsible for the law being amended.

The first attempt at dealing with governmental secrecy was the Administrative Procedures Act of 1946 which provided that

matters of official record "shall be made available to people properly and directly concerned" unless the government could show good reason for suppression, Lesar said.

"'Properly and directly concerned' was interpreted to mean everybody," he said. "You can't convince a bureaucrat that something embarrassing is not good cause to withhold."

There was no provision for court review of suppressed documents and the disclosure statute "became a withholding statute," he added.

The Freedom of Information Act provides that records have to be made available to any person and the new law placed the burden of justifying withholdings on the government, Lesar said. However, there were exceptions to the rule.

In 1966, Weisberg asked J. Edgar Hoover for results of scientific tests relating to the Kennedy assassination and four years later Weisberg filed suit for the information. John Sirica, the presiding judge, ruled in favor of the government even though Hoover hadn't shown good cause for the suppression, Lesar said. An appeals court sided with Weisberg but then another appeals court ruled against him on the grounds that the test results were "an investigatory file compiled for law enforcement purposes," Lesar said.

"But the government could say that about any file," he said. "It put the Freedom of Information Act back where it was before Congress passed it."

The case was taken to the U.S. Supreme Court which refused to hear it.

Because of Weisberg and a few other cases, Congress amended the law to eliminate the investigatory file exemption.

When Weisberg and Lesar tried again for the information they were met with FBI resistance and, this summer, the courts ordered that the files be provided.

"The case opened a tremendous range of information to the public," Lesar said. "It made it possible to obtain FBI documents and other investigatory files of agencies."