

Justice: You can't trust Nixon

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WASHINGTON — The Justice Department says Congress had good reason to believe Richard Nixon's official papers might not be returned to the government intact if the former president had even temporary custody of them.

That and other veiled suggestions that Nixon could not be trusted with the documents came in a 100-page brief filed yesterday as part of the continuing legal fight over ownership of the papers.

A three-judge federal panel is to hear oral arguments Sept. 22 in the case, which almost certainly will reach the Supreme Court eventually.

In defending the law that gave the government custody and ownership of Nixon's tapes and documents, the Justice Department said:

"Congress had a rational basis for perceiving that his presidential materials might not pass intact into the custody of the United States if he were permitted to have custody of them, even temporarily."

It added that Congress thus had concluded "Mr. Nixon would not be a trustworthy custodian, even temporarily."

To bolster this view, the government lawyers cited the 18½-minute gap in one of Nixon's taped conversations, for which "no satisfactory explanation has ever been provided"; the "material differences" between the White House and congressional transcripts of other tapes; and Nixon's repeated assertions of ignorance of the Watergate cover-up until March 1973, although transcripts "indicated to the contrary."

The brief also dismissed Nixon's suggestion that he, his wife and daughters should decide which of the 42 million pages of documents be made public.

A companion brief filed yesterday by lawyers for a group of historians and journalists cited many of the same arguments as the Justice Department presentation.