AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

REFORM TO THE PRESIDENTIAL LIBRARY DONATION DISCLOSURE PROCESS

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

FEBRUARY 28, 2007

Serial No. 110–30

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

39–022 PDF WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON OVERSISGHT AND GOVERNMENT REFORM

HENRY A. WAXMAN, California, *Chairman*

TOM LANTOS, California
EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
CAROLYN B. MALONEY, New York
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
DANNY K. DAVIS, Illinois
JOHN F. TIERNEY, Massachusetts
WM. LACY CLAY, Missouri
DIANE E. WATSON, California
STEPHEN F. LYNCH, Massachusetts
BRIAN HIGGINS, New York
JOHN A. YARMUTH, Kentucky
BRUCE L. BRALEY, Iowa
ELEANOR HOLMES NORTON, District of Columbia
BETTY McCOLLUM, Minnesota
JIM COOPER, Tennessee
CHRIS VAN HOLLEN, Maryland
PAUL W. HODES, New Hampshire
CHRISTOPHER S. MURPHY, Connecticut
JOHN P. SARBANES, Maryland
PETER WELCH, Vermont

TOM DAVIS, Virginia
DAN BURTON, Indiana
CHRISTOPHER SHAYS, Connecticut
JOHN M. McHUGH, New York
JOHN L. MICA, Florida
MARK E. SOUDER, Indiana
TODD RUSSELL PLATTS, Pennsylvania
CHRIS CANNON, Utah
JOHN J. DUNCAN, Jr., Tennessee
MICHAEL R. TURNER, Ohio
DARRELL E. ISSA, California
KENNY MARCHANT, Texas
LYNN A. WESTMORELAND, Georgia
PATRICK T. McHENRY, North Carolina
VIRGINIA FOXX, North Carolina
BRIAN P. BILBRAY, California
BILL SALI, Idaho

PHIL SCHILIRO, *Chief of Staff*
PHIL BARNETT, *Staff Director*
EARLEY GREEN, *Chief Clerk*
DAVID MARIN, *Minority Staff Director*

CONTENTS

	Page
Hearing held on February 28, 2007	1
Statement of:	
Fawcett, Sharon, Assistant Archivist for Presidential Libraries, National Archives and Records Administration; Celia Viggo Wexler, vice president of advocacy, Common Cause; and Sheila Krumholz, executive director, Center for Responsive Politics	13
Fawcett, Sharon	13
Krumholz, Sheila	36
Wexler, Celia Viggo	28
Letters, statements, etc., submitted for the record by:	
Davis, Hon. Tom, a Representative in Congress from the State of Virginia, prepared statement of	8
Fawcett, Sharon, Assistant Archivist for Presidential Libraries, National Archives and Records Administration, prepared statement of	16
Krumholz, Sheila, executive director, Center for Responsive Politics, prepared statement of	38
Waxman, Chairman Henry A., a Representative in Congress from the State of California, prepared statement of	3
Wexler, Celia Viggo, vice president of advocacy, Common Cause, prepared statement of	30

REFORM TO THE PRESIDENTIAL LIBRARY DONATION DISCLOSURE PROCESS

WEDNESDAY, FEBRUARY 28, 2007

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:20 a.m., in room 2154, Rayburn House Office Building, Hon. Henry A. Waxman (chairman of the committee) presiding.

Present: Representatives Waxman, Cummings, Kucinich, Clay, Braley, Norton, Hodes, Sarbanes, Welch, Davis of Virginia, Platts, Duncan, Issa, Westmoreland, Foxx, and Bilbray.

Staff present: Phil Schiliro, chief of staff; Kristin Amerling, general counsel; Karen Lightfoot, communications director and senior policy advisor; Michelle Ash, chief legislative counsel; Anna Laitin, professional staff member; Earley Green, chief clerk; Teresa Coufal, deputy clerk; Roger Sherman, counsel; Tony Haywood, staff director, Information Policy Subcommittee; Adam Bordes, professional staff member, Information Policy Subcommittee; David Marin, minority staff director; Larry Halloran, minority deputy staff director; Jennifer Safavian, minority chief counsel for oversight and investigations; Keith Ausbrook, minority general counsel; Ellen Brown, minority legislative director and senior policy counsel; Mason Alinger, minority deputy legislative director; Steve Castor and Charles Phillips, minority counsels; Allyson Blandford, minority professional staff member; Patrick Lyden, minority parliamentarian and member services coordinator; and Benjamin Chance, minority clerk.

Chairman WAXMAN. The meeting will come to order.

Today the committee is holding a hearing on the need for public disclosure of donations to Presidential libraries. Under current law, private organizations established for the purpose of building a Presidential library can raise unlimited amounts of money from undisclosed donors while the President remains in office. It takes nothing more than common sense to see the potential for abuse in this area and the need for basic reform.

Presidential libraries serve an important purpose as depositories of Presidential papers and centers for historical research. In 1939, President Franklin Roosevelt came up with the idea of a privately built but federally maintained library to house his Presidential papers. This split of responsibilities between the public and the private sectors has continued and has since been codified into law. In 1955, the Presidential Libraries Act formally established a system under which federally maintained libraries would be built using

funds raised by private organizations. More recent amendments have required these private organizations to provide an operating endowment to the National Archives in addition to the library building.

Just as the funding requirements have grown, so have the libraries and their affiliated institutions. Now these libraries are much more than basic research facilities. They include museums and conference centers, along with other tourist attractions, and they are getting more expensive all the time.

The George H.W. Bush library was reported to cost more than $80 million to build. The Clinton Library and Museum cost about $165 million to build. One extra term, doubled the money. News reports have indicated that the fundraising goal for President Bush's library is $500 million, half a billion dollars, before this institution is completed.

The vast scale of these secret fundraising efforts creates opportunities for abuse. Donors who do not need to be identified can give unlimited amounts of money to support these libraries while the President remains in office. According to some accounts, some mega-donors being courted to fund the Bush Library are expected to contribute $10 to $20 million each, and they may make these contributions while there are nearly 2 years left in President Bush's term.

Later this week Representative Duncan and I will be introducing legislation to reform this system. This legislation would require that Presidential libraries disclose the identity of their donors to Congress and the National Archives during their period of most intense fundraising, which is while the President is in office and in the several years after the end of his or her term.

I expect the committee to consider this legislation next week. This legislation is one part of a larger effort by this committee to restore honesty and accountability to the Federal Government. In fact, the committee will soon be considering two additional open government bills, one to improve access in Presidential records and one to strengthen the Freedom of Information Act.

As we will learn at today's hearing and when we mark up the open government legislation, these bills are bipartisan initiatives with broad public support.

[The prepared statement of Chairman Henry A. Waxman follows:]

Statement of Rep. Henry A. Waxman, Chairman
House Committee on Oversight and Government Reform
Hearing on
Reform to the Presidential Library Donation Process

February 28, 2007

Today the Committee is holding a hearing on the need for public disclosure of donations to presidential libraries. Under current law, private organizations established for the purpose of building a presidential library can raise unlimited amounts of money from undisclosed donors while the president remains in office. It takes nothing more than common sense to see the potential for abuse in this area and the need for basic reform.

Presidential libraries serve an important purpose as depositories of presidential papers and centers for historical research. In 1939, President Franklin Roosevelt came up with the idea of a privately-built, but federally maintained library to house his presidential papers.

This split of responsibilities between the public and the private sectors has continued and has since been codified into law. In 1955, the Presidential Libraries Act formally established a system under which federally maintained libraries would be built using funds raised by private organizations. More recent amendments have required these private organizations to provide an operating endowment to the National Archives in addition to the library building.

Just as the funding requirements have grown, so have the libraries and their affiliated institutions. Now these libraries are much more than basic research facilities. They include museums and conference centers along with other tourist attractions. And they are getting more expensive all the time.

The George H.W. Bush library was reported to cost more than $80 million to build. The Clinton library and museum cost about $165 million to build. News reports have indicated that the fundraising goal for President Bush's library is $500 million — half a billion dollars — before this institution is completed.

The vast scale of these secret fundraising efforts creates opportunities for abuse. Donors who do not need to be identified can give unlimited amounts of money to support these libraries while the President remains in office. According to some accounts, some mega-donors being courted to fund the Bush library are expected to contribute $10 to $20 million each. And they may make these contributions while there are nearly two years left in President Bush's term.

In the next week, this Committee will be considering legislation to reform this system. Similar to legislation introduced by Rep. Duncan in 2001, this legislation would require that presidential libraries disclose the identity of their donors to Congress and the National Archives during their period of most intense fundraising, which is while the President is in office and in the several years after the end of his term.

This legislation is one part of a larger effort by this Committee to restore honesty and accountability in the federal government. In fact, the Committee will soon be considering two additional open government bills: one to improve access to presidential records and one to strengthen the Freedom of Information Act.

As we will learn at today's hearing and when we mark up the open government legislation, these bills are bipartisan initiatives with broad public support.

Chairman WAXMAN. I would like to now recognize Mr. Davis for his opening statement.

Mr. DAVIS OF VIRGINIA. Thank you, Mr. Chairman, for holding this hearing today.

Our Nation's Presidential libraries are a priceless resource for researchers, historians, and the public. Attracting millions of visitors each year, they serve as legacies to our President, repositories of history, and a source of tremendous pride for local communities. At the same time, they have become elaborate institutions, housing official papers, museums, classrooms, conference facilities, and even gift shops. With this expansion, the cost of building and maintaining these facilities has grown dramatically.

Under current law, Presidential libraries are built with private funds, then turned over to the archivists for operation. Amendments to the Presidential Libraries Act mandated the establishment of an endowment to cover some of the costs of operating the library, which are usually met through the establishment of a charitable organization. Funding for construction and the endowment comes from private sources, but under current law no duty to disclose the source of those contributions exists. Clearly, there is a great deal of interest in enhancing disclosures on both sides of the aisle.

Under our colleague Mr. Duncan's lead, we passed solid bipartisan legislation to require the disclosure of contributions to organizations that raise funds for Presidential libraries and related facilities. His bill, which was H.R. 577 from the 107th Congress, passed this committee and the House with strong bipartisan support.

Regardless of what we do, I think it is of utmost importance that we avoid any temptation to politicize the issue. We need a sensible, even-handed approach to disclosure, one that applies equally to Republicans and Democrats. Mr. Duncan had the right approach, one that was supported by Chairman Waxman and many others in this committee, and now the committee will consider legislation on this issue, too and I hope again will resist inserting politics into a bill the House passed overwhelmingly last year by a vote of 392 to 3.

With this legislation we are recognizing the perception of impropriety that contributions to a Presidential library can raise. We don't need to reopen old news or begin inflicting new ones today.

Presidents leave their mark on our rich history, and those giving to Presidential libraries should be proud to have their donations publicly disclosed.

Mr. Chairman, our goal should be, unanimous vote in the committee and on the House floor. I look forward to working with you to craft bipartisan legislation. I know that you agree.

The cost of building Presidential libraries, millions; the value of disclosing contributions to those libraries, priceless.

[The prepared statement of Hon. Tom Davis follows:]

Ranking Member Tom Davis
Opening Statement

"Reforming the Presidential Library Funding Disclosure Process"

Wednesday, February 28, 2007
10:00 a.m.
Room 2154 Rayburn House Office Building

Thank you, Mr. Chairman, for holding this hearing today. Our Nation's Presidential libraries are a priceless resource for researchers, historians, and the public. Attracting millions of visitors each year, they serve as legacies to our Presidents, repositories of history, and a source of tremendous pride for local communities. At the same time, they have become elaborate institutions, housing official papers, museums, classrooms, conference facilities, and even gift shops. And with this expansion, the cost of building and maintaining these facilities has grown dramatically.

Under current law, presidential libraries are built with private funds, then turned over to the Archivist for operation. Amendments to the Presidential Libraries Act mandated the establishment of an endowment to cover some of the costs of operating the library, which are usually met through the establishment of a charitable organization. Funding for construction and the endowment comes from private sources. But under current law, no duty to disclose the source of those contributions exists.

Clearly, there is a great deal of interest in enhancing disclosure on both sides of the aisle. Under our colleague Mr. Duncan's lead, we passed solid bipartisan legislation to require the disclosure of contributions to organizations that raise funds for presidential libraries and related facilities. His bill (H.R. 577 from the 107th Congress) passed this Committee and the House with strong bipartisan support.

Regardless of what we do, I think it's of utmost importance that we avoid any temptation to politicize this issue. We need a sensible, even-handed approach to disclosure, one that applies equally to Democrats and Republicans. Mr. Duncan had the right approach, one that was supported by Chairman Waxman and many others on this Committee. I know the Committee will consider legislation on this issue soon, and I hope we again will resist inserting politics into a bill the House passed overwhelmingly, by a vote of 392 to 3.

With this legislation we are recognizing the perception of impropriety that contributions to a presidential library can raise. We don't need to re-open old wounds or begin inflicting new ones today. Presidents leave their MARC on our RICH history, and those giving to presidential libraries should be proud to have their donations publicly disclosed.

Mr. Chairman, our goal should be a unanimous vote in committee and on the House floor, and I look forward to working

with you to craft bipartisan legislation. I know you agree. The cost of building presidential libraries: millions. The value of disclosing contributions to those libraries: priceless.

Chairman WAXMAN. Thank you very much for your opening statement.

Without objection, all Members will have a week to submit opening statements for this hearing.

I will be pleased to recognize any Member who wishes at this point to be called upon to give an opening statement at the hearing. Let me just see if any Member seeks recognition. This side, Mr. Kucinich, opening statement? Mr. Duncan.

Mr. DUNCAN. Mr. Chairman, thank you very much. You and Ranking Member Davis have outlined the need for this legislation. It is correct that I introduced this bill in the 106th Congress under a Democratic President. It was not acted on in that Congress. I introduced it again in the 107th Congress under a Republican President. It was passed in the House by a vote of 392 to 3, with strong bipartisan support.

I first became interested in this after learning that even some people from foreign countries were making very large contributions to Presidential libraries while Presidents were still in office, obviously in an attempt to gain influence. I introduced this bill many months before any publicity occurred about Mark Rich, the man who President Clinton pardoned on his last day in office, who had fled the country to evade $40 million in income taxes, and it turned out that his wife had contributed $450,000 to the Clinton Presidential Library, and a close friend of Mr. Rich's had contributed another million to the Clinton Library.

So this is not aimed at any Democrat or any Republican. It is a bipartisan bill. It simply does not seek to limit contributions in any way, it just is a public disclosure bill.

This bill was introduced in the last Congress by our current Speaker, Speaker Pelosi, so I can assure you that it has strong support from both sides.

I appreciate, Mr. Waxman, your taking the lead on this bill at this time. I will be pleased to work with you in any and every way possible.

Thank you very much.

Chairman WAXMAN. Thank you very much for your statement.

Does any other Member wish to be recognized?

[No response.]

Chairman WAXMAN. If not, we are pleased to have with us three distinguished witnesses. Let me indicate who they are.

Sharon Fawcett is the Assistant Archivist for Presidential Libraries at the National Archives and Records Administration; Celia Viggo Wexler is representing Common Cause, an advocacy organization dedicated to improving public participation in government and reducing the influence of special interests; Sheila Krumholz is the executive director of the Center for Responsive Politics, a research organization that tracks the role of money in politics.

It is the practice of this committee to swear in all witnesses, so you are not being singled out, but I would like you to rise and raise your hands and take an oath.

[Witnesses sworn.]

Chairman WAXMAN. The record will indicate that each of the witnesses answered in the affirmative.

We have your prepared statements. They will be made part of the record in their entirety. We would like to ask, if you would, to try and keep the oral delivery to around 5 minutes.

Ms. Fawcett, why don't we start with you.

STATEMENTS OF SHARON FAWCETT, ASSISTANT ARCHIVIST FOR PRESIDENTIAL LIBRARIES, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; CELIA VIGGO WEXLER, VICE PRESIDENT OF ADVOCACY, COMMON CAUSE; AND SHEILA KRUMHOLZ, EXECUTIVE DIRECTOR, CENTER FOR RESPONSIVE POLITICS

STATEMENT OF SHARON FAWCETT

Ms. FAWCETT. Mr. Chairman, Mr. Davis, and members of the committee, I want to begin by thanking you for holding this hearing today and for inviting me to testify.

Having spent a large portion of my professional life in the Presidential library system, I am delighted to be able to offer some background on the Presidential libraries and their multiple benefits to scholarship, public policy, education, and a more complete understanding of our democracy.

As I think the chairman knows, this has been a most successful public/private partnership and we greatly appreciate the opportunity to explain why our relationship with our foundations has been a large part of our success for 66 years and 12 Presidential administrations.

If you invite an archivist to testify, you have to start with a little history. Nearly 70 years ago, as the chairman noted, Franklin Roosevelt proposed creating a Presidential library that would be part of the National Archives. Roosevelt suggested a novel approach: he would donate the land, himself, and build the library with private funding, and then give the library and his papers to the National Archives.

On June 30, 1941, the war in Europe threatened democracy. Roosevelt dedicated his library at Hyde Park.

President Truman, deploring the loss of Presidential papers in the past, stated such destruction should never again be permitted, because the truth behind a President's actions can be found only in his official papers, and every Presidential paper is official. Truman felt strongly that Presidential libraries were not to be monuments to a President, but centers for the study of the Presidency.

Over time, the venue for Presidential libraries shifted from the President's hometown to larger metropolitan areas or a university campus. The Kennedy, Johnson, Ford, Bush, and Clinton Libraries are affiliated with university sites.

As historian Michael Bechloss noted on the News Hour with Jim Lehrer just a week or two ago, there is a dynamism when a library is at a university.

In 1996 Congress passed various amendments to the previous act to reduce the cost to the public of operating Presidential libraries, one of which requires that a minimum endowment equal to 20 percent of the cost of the building to be transferred to the Government be turned over to the National Archives. On the day the Bush Library was dedicated, the Bush Foundation presented a check for $4

million. Likewise, the Clinton Foundation presented a check for $7.2 million at its dedication. These endowments are used by the Government to offset such operational costs as security, utilities, and building services. The foundations, themselves, continue to provide ongoing support for exhibits and public programming at the libraries.

I should also note that in 2002 Congress raised the base endowment requirement to 40 percent of the cost of a library to take effect for the library built after the incumbent George W. Bush.

The materials in Presidential libraries are among the Nation's most important documents. Presidential records are often open for research long before the records of the departments and agencies of Government are even transferred to the National Archives. Government archivists and curators preserve, process, and provide access to the Presidential materials in their care.

In 1941 the Roosevelt Library cost $369,000, or about $4 million in today's dollars. Later expansions for added archival storage, education classrooms, and visitors' services bring the total cost of the Roosevelt Library to $26 million in today's dollars. The Bush Library, at least the portion transferred to the Government, cost a little over $22 million, and likewise, the Clinton Library, $36 million.

The Presidential Libraries Act requires NARA to certify a library meets our exacting standards for construction and archival presentation before we accept the library. We also encourage the foundations to build energy efficient buildings.

In 1973, James B. Rhoads, then the Archivist of the United States, noted the evolving role of the foundations when he told an education symposium at the Lyndon Johnson Library, "Presidential libraries would be fulfilling their purpose if they did nothing more than preserve and provide access to the papers they contain, but their charters are broad and their possibilities for service are unlimited."

However broad these charters may be, the libraries face limitations imposed by financial reality. Taxpayers are under no obligation to fund a temporary exhibit on World War II, a conference on civil rights, or education efforts aimed at high school students, admirable and useful as these undeniably are to the public. These efforts are funded by the library support organizations, which continue to raise money long after the library is built and transferred to the government.

Small foundations such as Hoover and Eisenhower contribute $80,000 and $130,000 respectively in a typical year in support of library programs. Foundations with larger endowments and development staff plan to contribute from $450,000 to $1.75 million this fiscal year in support of museum, education, and public programs.

The Reagan Foundation invested $35 million in expanding the library by adding the Air Force I Pavilion and plans to invest another $3.5 million to build a Discovery Center staffed by education specialists from the library.

The contributions of these support organizations to the libraries spell the difference between static repositories and lively, vital centers of scholarship and service to the public. Moreover, many of the foundations now contribute to the advancement of Presidential

scholarship through joint library projects. The first ever joint conference of all the Presidential libraries happened in March 2006, at the Kennedy Library, and provided a timely discussion by scholars, journalists, and policymakers on the lessons of Vietnam. In November of this year, we will hold our second joint conference on the Supreme Court at the Roosevelt Library. This will take place in the 70th year from Roosevelt's court-packing proposal.

The leadership and financial support of the Johnson Foundation enabled the creation of the Presidential time line, an interactive Web-based resource that provides learning activities and a cornucopia of digitized assets from all the libraries that is freely accessible to students and educators from around the world.

Directly appropriated funds, about $58 million annually for the 12 libraries and the central office, pay for activities mandated by law as part of NARA's mission. These include accessioning, processing, reference, and preservation of materials held in the libraries.

As existing buildings became cramped and obsolete, many foundations have supported efforts to update and expand library buildings. Public funds to expand spaces in libraries have often been contingent on the ability of the foundations to raise additional funds to pay for portions of the construction and support the program functions in these expanded spaces.

In summary, the libraries and their support organizations have demonstrated an entrepreneurial willingness and a commitment to public service, their willingness to rely upon financial sources other than the American taxpayer.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions.

[The prepared statement of Ms. Fawcett follows:]

STATEMENT
By Sharon K. Fawcett
Assistant Archivist for Presidential Libraries
National Archives and Records Administration
Washington, DC

To the
Committee on Oversight and Government Reform
House of Representatives
Congress of the United States

February 28, 2007

Mr. Chairman, Mr. Davis, and members of the Committee, I am Sharon Fawcett, Assistant Archivist for Presidential Libraries, National Archives and Records Administration. I want to begin by thanking you for holding this hearing today and for inviting me to testify. Having spent a large portion of my professional life in the Presidential library system, I am delighted to be able to offer some background on the Presidential Libraries and their multiple benefits to scholarship, public policy, education, and a more complete understanding of our democracy. As I think the Chairman knows, this has been a most successful public-private partnership and we greatly appreciate the opportunity to explain why our relationship with our foundations has been a large part of our success for 66 years and 12 presidential administrations.

When you invite an archivist to testify, we must start with a little history.

A BRIEF HISTORY OF THE PRESIDENTIAL LIBRARY SYSTEM

Nearly seventy years ago Franklin D. Roosevelt proposed creating a Presidential Library that would be a part of an institution whose growth he had shepherded – the National Archives. Roosevelt suggested a novel and innovative approach – he would donate the land and build the library with private funding and then give the library and his papers to the National Archives. On June 30, 1941, as the war in Europe threatened democracy, Roosevelt dedicated his library at Hyde Park. His words of dedication remain important today.

> To bring together the records of the past and to house them in buildings where they will be preserved for the use of men and women in the future, a Nation must believe in three things.
>
> It must believe in the past.
>
> It must believe in the future.
>
> It must, above all, believe in the capacity of its own people so to learn from the past that they can gain judgement in creating their own future.

In the services it provided for its researchers, its extensive collection of Roosevelt materials, and the incorporation of a museum experience for hundreds of thousands of visitors a year, the Roosevelt Library became the model for the presidential library system, which soon began to grow.

President Truman, deploring the loss of presidential papers in the past, stated "such destruction should never again be permitted…because the truth behind a President's actions can be found only in his official papers, and every Presidential paper is official." Originally, Truman considered depositing his papers at the National Archives, in Washington, DC, but by 1950, he

decided on a presidential library in his hometown of Independence, Missouri. Truman strongly felt that presidential libraries were not to be monuments to a president but centers for the study of the presidency. The Truman Institute, established to build and support the library, has a long history of sponsoring intellectual exchanges through conferences and the Truman Grants program for the study of the presidency.

Dwight D. Eisenhower's clear support of the development of a library at the site of the already established Eisenhower Museum in Abilene, Kansas prompted Congress to pass *The Presidential Libraries Act* of 1955 (44 U.S.C. 2108). In 2005, the U.S. Postal Service issued a stamp to commemorate the 50th anniversary of this Act. The legislation had full bipartisan support and was hailed by scholars and educators. This Act provided continuing legal authority for the government to accept the gift of a Presidential Library for the American people.

President Hoover had originally given his papers to Stanford, but responded favorably to a request of a citizens committee from his hometown for the development of a library in West Branch, IA. His library became the fourth added to the system in 1962, a few months after the Eisenhower Library which also opened in 1962. A pattern, which has remained unbroken, became the operative model.

Over time, however, the venue for a Presidential Library shifted from the President's hometown, to larger metropolitan areas or a university campus. This often means three and even four way partnerships, as the library foundation, the university, and the local community come together to build a presidential center. The Presidential Libraries Act of 1955 presciently enabled this by

authorizing the government to enter into agreements with any State or political subdivision, universities and institutions of higher learning, institute or foundation for the purposes of utilizing land, buildings, and equipment for a Presidential Archival Depository. The John F. Kennedy Library is adjacent to the University of Massachusetts; the Lyndon B. Johnson Library and Museum is on the University of Texas at Austin campus; the Gerald Ford Library is at the University of Michigan; the George Bush Library is part of Texas A & M University; and the William Jefferson Clinton Library has a partnership with the University of Arkansas at Little Rock. As Michael Bechloss noted on the News Hour with Jim Lehrer on February 19th, "There is a dynamism when a library is at a university."

In 1986 Congress passed various amendments to the previous Act to reduce the costs to the public of operating Presidential libraries. 44 U.S.C. 2112 requires that an endowment equal to 20% of the cost of the building be transferred to the government at the time the Library is turned over to the government. Libraries larger than 70,000 sq. ft. are to be accompanied by an endowment that increases geometrically in accordance with the size of the building. The Act also required the Archivist to promulgate architectural and design standards for the preservation of materials and the inclusion of adequate research facilities. The Bush Library is the first Library required to have an endowment. On the day the Bush Library was dedicated, the Bush Foundation presented a check for $4 million to the National Archives Trust Fund. The Clinton Foundation likewise provided an endowment to the Archives of $7.2 million. These endowments are used by the government to offset such operational costs as security, utilities, and building services. The foundations continue to provide ongoing support for exhibits and public programming.

A serious concern faced by those planning new libraries and by the National Archives which receives these libraries is the failure of the new Act to distinguish the differences in archival storage and staffing requirements for a one-term and a two-term President. I should also note that in 2002, Congress raised the base endowment requirement to 40% of the cost of the Library to take effect for the library built for the next incumbent after George W. Bush.

The 1986 Act did not change the requirement that the Archivist submit a written report to Congress prior to accepting a library but it did set forth the specific information required in the report. The Archivist may not accept the Library until the expiration of a period of 60 days of continuous session of Congress beginning on the day the Archivist transmits the report. The report must include:

- A description of the proposed gift.
- A statement specifying the total cost and the amount to be deposited in an endowment.
- A general description of any papers, documents, or historical materials proposed to be deposited in the library.
- An estimate of the increase in the total annual cost to the United States of maintaining, operating, and protecting the depository.
- A certification that the depository and the equipment therein will, comply with the standards promulgated by the archivist.

PRESIDENTIAL MATERIALS

Throughout the 18th, 19th, and well into the 20th century, no one questioned the private ownership of Presidential papers by the President. Former Presidents could donate them to a library or archives, or not, as they saw fit. Fortunately, many presidential papers were donated and are available for historical research today in other repositories including the Library of Congress which has the papers of 23 former presidents. On the other hand, many were accidentally or

purposely destroyed. Biographers of George Washington snipped out pages of Washington's diaries. Chester Arthur burned his papers. Former Presidents and their families exercised considerable discretion in what they donated resulting in selective donation and selective destruction. One very powerful reason the National Archives wanted libraries built and given to the National Archives was that this donation of a library meant the National Archives would also receive the President's papers. In its time this system of donation worked very well. While there was nothing mandatory in the legislation for presidential libraries requiring that presidents systematically preserve their presidential papers, the legislation assured a president who donated his materials to the National Archives that the integrity of his papers would be preserved. The papers would be cared for by a professional archival staff and made available to all as historical records.

The handling of presidential materials began to change again with President Nixon's resignation. In 1974, Congress enacted the Presidential Recordings and Materials Preservation Act (PRMPA) to ensure that President Nixon's papers, tapes, and other historical material relating to Watergate would be preserved. Under the PRMPA, the National Archives and Records Service, now NARA, received legal custody and control over the Nixon presidential materials.

Historians, journalists, and Congress thereafter raised serious questions about the ownership of Presidential materials suggesting instead they be treated as government records. *PRMPA* had established the National Study Commission on Records and Documents of Federal Officials to explore topics of ownership, control, disposition, and preservation of historic materials. The report of the Commission, completed in March 1977, made two basic recommendations:

1. All documentary materials received or made by Federal Officials in discharge of their official duties should be considered the property of the United States.
2. Federal Officials should be given the prerogative to control access to their materials up to 15 years after the end of their federal service.

In 1978, Congress acted on the report and passed the *Presidential Records Act* (44 U.S.C. chapter 22). This Act created and defined a new category of records – Presidential records and established the terms of access to these records. The Act clearly established that these records are owned by the United States. After conclusion of a president's tenure, the custody of presidential records is transferred to the Archivist of the United States.

Government archivists and curators preserve, process, and provide access to the presidential materials in their care. The process for providing access to donated historical materials and the process for providing access to presidential records vary somewhat in implementation because of the statutory and regulatory requirements. However, the mission of the government staff in each Library is the same – to preserve and process the materials and provide access as fully and promptly as the law or deed and resources permit.

Besides large collections of papers and records of the President and others associated with him, each presidential library also houses various artifacts and gifts given to the President. The latter include Head of State gifts under *The Foreign Gifts and Decorations Act, 22 U.S.C. 264,* and gifts received by the President from private citizens and accepted by him for eventual deposit in his presidential library *(44 U.S.C. 2111 and 2112).*

Many historians, educators, and other users have offered their testimonials on the value of presidential libraries and the dedicated staff that preserve, process, and assist them in using the

materials. A check of footnotes in almost any modern publication about U.S. history will reveal numerous sources in the presidential libraries. Countless forwards to well-known historical works over the past fifty years refer to the importance of these materials for exploring and understanding historical themes and issues of our time.

The materials in presidential libraries are among this Nation's most important documents. Presidential records are often open for research long before the records of other departments and agencies of government are even transferred to the National Archives. Political scientists study the processes used by Presidents to govern and make recommendations to new Presidents on what works and does not work. Economists study the impact of presidential decisions on economic indicators and project what will happen in the future. Students learn to work with original documents. The media searches for examples from our past to inform the public about current events. Hundreds of thousands of children visit libraries each year to learn about how Presidents make decisions, how laws are passed, how wars were fought, how our civil rights have been ensured, and how people lived before they were born. And over a million visitors each year view the human drama of the presidency through the power of objects and documents displayed in the libraries.

PRESIDENTIAL LIBRARY FOUNDATIONS

As noted above, the U.S. Congress has passed several laws refining the presidential library system. But one thing remains the same – the President, through their foundations, must raise the money and construct the building used to house the Library. The National Archives then administers the building, hires a career civil service staff, and has legal ownership and control of

the papers. This system is a true public-private partnership. What began as a tradition is now one of the hallmarks of our democracy. These papers, which document the actions of the president – controversial and otherwise, lay bare the facts for citizens to examine themselves. This privilege, enjoyed not only by Americans but by visitors from around the world to Presidential libraries. The United States leads the world in making its government records accessible.

In 1941, the Roosevelt Library cost $369,000 or about $4 million in today's dollars. To hold the growing collection at the Roosevelt Library and to provide improved education and visitor services, the Eleanor Roosevelt Wings were added to the Library in 1972 and the Henry Wallace Visitor Center was completed in 2003. Both projects were completed with a combination of government and private funding bringing the total cost of the Library in today's dollars to $26 million. The Bush Library cost a little over $22 million and the Clinton Library $36 million. The Bush and Clinton Libraries hold collections at least four times larger than Roosevelt's and include education and visitor spaces not included in the original Roosevelt construction.

The Presidential Libraries Act requires NARA to certify that a library meets our exacting standards for construction and archival preservation before we accept the transfer. The standards specifying environmental conditions, finishes, and minimum space requirements for specific functions are a definite cost driver. At the same time, we encourage foundations to build energy efficient buildings. The costs for building libraries and often portions of the cost for expanding and renovating the libraries have been the responsibility of the library foundations. These support organizations have evolved from bodies chartered to raise money and construct

the original library building to organizations that help sustain library programs. Since many are locally based foundations, they also strengthen the bonds of the library with their individual local communities, states, and universities. In 1973, James B. Rhoads, then Archivist of the United States, noted the evolving role of the foundations when he told an education symposium at the Lyndon Baines Johnson Library, "Presidential libraries would be fulfilling their purpose if they did nothing more than preserve and provide access to the papers they contain...but their charters are broad and their possibilities for service are unlimited."

However broad their charters may be, the libraries face limitations imposed by financial reality. Taxpayers are under no obligation to fund a temporary exhibit on the Civil War, a conference on civil rights, or educational efforts aimed at high school students, admirable and useful as these undeniably are to the public. These efforts are funded by the libraries' support organizations which continue to raise money long after the library is built and transferred to the government. Small foundations such as Hoover and Eisenhower contribute $80,000 and $130,000 respectively in a typical year in support of Library programs. Foundations with larger endowments and development staff plan to contribute from $450,000 to $1.75 million this fiscal year in support of museum, public and outreach programs. Many Library foundations also provide support for scholars from the U.S. and abroad to travel to Presidential libraries to do research. Those foundations such Truman, Kennedy, and Johnson which contribute more than $1 million each also support basic archival and preservation services not covered by the government. The Reagan Foundation invested $35 million in expanding the Library by the addition of the Air Force One Pavilion which doubled the number of visitors to the Library. This year they will expend $3.5 million to construct the Air Force One Discovery Center, an innovative learning

center for primary and secondary students. The contributions of these support organizations to the libraries spell the difference between static repositories and lively, vital centers of scholarship and service to the public. Moreover, many of the foundations now contribute to the advancement of presidential scholarship through joint projects. The first ever joint conference of all of the Presidential Libraries happened in March 2006 at the Kennedy Library and provided a timely discussion by scholars, journalists, and policymakers of the lessons of Vietnam. In November of this year we will hold our second joint conference on the Supreme Court at the Roosevelt Library in the 75th year from Roosevelt's court packing proposal. The leadership and financial support of the Johnson Foundation enabled the creation of the Presidential Timeline (www.presidentialtimeline.org), an interactive web-based resource that provides learning activities and a cornucopia of digitized assets, including documents, photographs, and audio and video clips which are freely accessible to students and educators around the world.

Directly appropriated funds, almost $58 million annually for 12 libraries and the central office, pay for activities mandated by law as part of NARA's mission. These include appraisal, accessioning, processing, and preserving of materials held in the libraries, as well as the promotion of their usage by researchers. NARA must also provide for security, facility maintenance, information technology, and environmental and safety controls. NARA pays salaries for administrators, archivists, archives specialists, curators, registrars, librarians, facility managers, education specialists, technicians, and clerks. The Trust Fund of each library provides admission clerks, exhibit specialists, audiovisual specialists, visitor services staff, and volunteer coordinators. Foundations in many of the libraries provide additional staff to support educational activities, visitor services, and Internet access.

As existing buildings became cramped and obsolete, many foundations have supported efforts to update and expand Library buildings by providing funds for expanding exhibit and educational programs. Public funds to expand spaces in libraries have often been contingent on the ability of the foundations to raise additional private funds to support the program functions in these expanded spaces.

In summary, the libraries and their support organizations have demonstrated a commitment to public service and have displayed an entrepreneurial willingness to rely upon financial sources other than the American taxpayer.

Mr. Chairman, that concludes my prepared remarks. I would be happy to answer any questions at the appropriate time.

Chairman WAXMAN. Thank you very much, Ms. Fawcett.

Ms. Wexler, we want to hear from you.

STATEMENT OF CELIA WEXLER

Ms. WEXLER. Chairman Waxman, Ranking Minority Member Davis, and members of the committee, I am Celia Wexler, vice president for advocacy for Common Cause.

Common Cause appreciates the opportunity to testify on this important matter. As our written testimony indicates, Common Cause strongly supports full, timely, and publicly accessible disclosure of donations to the non-profit groups that raise funds for Presidential libraries and their affiliated institutions. In 2001, we testified in support of Representative Duncan's library disclosure bill, and we look forward to supporting the Waxman-Duncan proposal.

Aside from getting re-elected, what means more to a President than his or her legacy? Given how invested Presidents have become in protecting and enhancing that legacy, and given the fact that gifts to Presidential libraries are undisclosed and unlimited, you can quickly perceive the potential for mischief. A special interest, a major corporation, wealthy individual, foreign government, or foreign national can give in secret millions of dollars to help build a Presidential library complex. And they can give these undisclosed donations while the President remains in office. They can use these donations to curry favor with a sitting President, or to influence former Presidents who continue to occupy the world stage and who may even be related to current Presidents or Members of Congress.

These large donations will only get bigger if the trend for ever-larger library complexes continues. And I think Chairman Waxman has talked about the dramatic escalation of costs for these complexes over the years: $26 million for the Carter Library, $57 million for the Reagan, $83 million for the Bush complex, $165 million for the Clinton complex, and now we are talking about half a billion for the George W. Bush complex.

Disclosure is always the indispensable first step toward comprehensive reform, and it will enable the public and Congress to truly understand the scope of giving to Presidential library complexes and the potential for conflicts of interest or perceived conflicts that this fundraising may present.

We hope that disclosure will help Congress ultimately grapple with other questions related to Presidential library fundraising.

As you know, these libraries are public/private partnerships, and we have gotten a very good tutorial about how those work. Even so, the Federal Government annually spends tens of millions of dollars for their upkeep and operation. Does this partnership work? Should the Government directly take on the task of building modest repositories for Presidential records and papers and divorce itself from Presidents' increasingly ambitious plans to memorialize their achievements and to create a platform for their post-Presidential careers? Should sitting Presidents be banned from soliciting or accepting contributions or pledges of contributions to their Presidential libraries? Should there be a limit on the size of contributions to the libraries of sitting Presidents?

This is not an academic question. In the past, the public trust has been shaken after news reports about Presidential pardons granted at the request of library donors.

Should there be restrictions on the donations that foreign governments and foreign nationals may give to library complexes?

We present these as questions because Common Cause acknowledges that these are tough issues, issues that will take more debate, discussion, and deliberation, but we believe these questions are worth considering, and we applaud the committee for examining this issue, and we look forward to working with you on getting this legislative proposal passed.

[The prepared statement of Ms. Wexler follows:]

1133 19th Street, NW, 9th Floor Washington, DC 20036
T 202.833.1200 F 202.659.3716 www.commoncause.org

Testimony of Celia Viggo Wexler
Vice President for Advocacy

Common Cause

Before the House Committee on Oversight and Government Reform

Hearing on Contributions to Presidential Libraries

February 28, 2007

Derek Bok
Chairman

Chellie Pingree
President and CEO

Archibald Cox
Chairman Emeritus

John Gardner
Founding Chairman

Chairman Waxman, ranking Minority Member Davis, and members of the Committee:

Common Cause appreciates the opportunity to testify before this committee on this issue. Over its 37-year history, Common Cause, and its 300,000 members and supporters, has been concerned about the influence of wealthy special interests on our politics and public policy. While there are disclosure requirements and limits for campaign contributions to presidential candidates, there are few, if any, restrictions, on the fundraising a president does to ensure his or her legacy.

For this reason Common Cause strongly supports legislation now being drafted by Chairman Waxman that would require quarterly, full public disclosure of donations of $200 or more to presidential fundraising organizations. Wisely, this proposal requires disclosure beyond the time a president leaves office, ending only when the presidential library is dedicated and turned over to the National Archives & Records Administration.

This proposal greatly enhances the public's access to information because it also requires that contribution information be made available in a timely manner on the Internet in a searchable, sortable, downloadable database, without any fee or access charges.

This proposal would ensure, for the first time, the public knows the source of contributions to the presidential libraries intended to serve them.

Typically, fundraising to construct a presidential library is done through a nonprofit foundation or group.[1] These nonprofit entities are free to seek donations from corporations, individuals, even foreign nationals and foreign governments. Sitting presidents may be actively involved in soliciting these contributions. There is no limit on the size of the donations, and no requirement that they be disclosed.

A presidential library complex has become one of the vehicles for presidents to ensure that their Administrations are taken seriously, and also now provides a platform for presidents to continue work on issues they care about. Increasingly presidential libraries, and the museums, centers and other institutions tied to them, have become what *The Washington Post* termed testaments to "monumental ambition … hybrid research institutions, celebratory monuments/minor tourist attractions."[2]

Our campaign finance laws, particularly the ban on soft money, were supposed to sever the link between big donors and elected officials. But if sitting presidents are raising money in undisclosed, unlimited amounts for projects in which they are personally invested, wealthy special interests have unprecedented opportunities to seek access and influence at the White House and evade all public scrutiny. At the very least, the public deserves to know the amount of donations, the names, addresses and occupations of the donors, and the dates donations were made.

Donations to presidential library complexes must be fully disclosed and accessible to the public.

Presidential libraries' voluntary disclosure of their donors is incomplete at best. To our knowledge, no presidential library makes the names, dates, and specific amounts of donations accessible to the public over the Internet. Instead, calls to a presidential library may result in the caller receiving a list of donors. But our experience in trying to obtain this information is that the libraries, even if they provide a list of donors, do not report the amount of a specific donation to a presidential library, but rather place donations in a range, such as $1 million or more. Such information also does not include the date when the gift was made.

Presidential libraries increasingly solicit and receive individual gifts that exceed hundreds of thousands of dollars.
If presidential libraries were modest affairs, the lack of disclosure would not be so worrisome. But that is not the case. The first presidential library, housing the papers of Franklin D. Roosevelt, cost less than $400,000 to build, about $5 million adjusted for inflation. But since that time, presidential libraries have grown more and more ambitious and costly. The $26 million Carter library was succeeded by the $57 million Reagan library, followed in turn by the $83 million library complex for former President George H.W. Bush, and the $165 million Clinton library complex. George W. Bush's presidential library complex may cost as much as $500 million.

To erect these major complexes is going to take more than the $25 to $50 donations that built Harry Truman's modest presidential library. Donations from individual donors can and have amounted to several million dollars.

Presidents may raise unlimited funds for their libraries while in office, raising concerns about corruption or the appearance of corruption. President George H.W. Bush did not actively fundraise while a sitting president, although it is difficult to tell whether any major donations were made while he was in office. But both Presidents Ronald Reagan and Bill Clinton courted potential donors for their libraries while in office.

The plans for the George W. Bush library are just getting underway, but the current President may also want to raise some of the $500 million for his library complex, which may include a think tank, while he is still in office. As presidential historian Richard Norton Smith observed, a president's power to raise money ebbs after he loses power. "On January 20, the light gets switched off," Smith said. "It's like Cinderella's coach turning back into a pumpkin."[3]

Full and timely disclosure will enable the public to assess whether a donation may have influenced a presidential decision.

This concern about links between presidential actions and library donations is not academic. We know that at least two presidential pardons have gone to individuals with ties to large donors to presidential libraries.

- In 1993, according to media reports, President George H.W. Bush pardoned Edwin L. Cox Jr., who pled guilty in 1988 to bank fraud, spent six months in jail, and paid $250,000 in fines. The U.S. Attorney overseeing the Cox case said he would have preferred that more time lapse before Cox received a pardon, which he deemed "premature." Eleven months later, Cox's father, a large donor to Republican causes, pledged to give at least $100,000 to the Bush Presidential Library.[4]

- In 2001, Denise Rich, the former wife of fugitive financier, Marc Rich, who was accused of tax evasion, wire and mail fraud,[5] pledged $450,000 to the Clinton library. Rich's friend, Clinton fund-raiser Beth Dozoretz, who also lobbied for the Rich pardon, pledged $1 million to the library.[6] Shortly before he left office, President Clinton pardoned Rich. [7] The Clinton pardon set off an uproar in part because Rich had never returned from Europe for his indictment, stood trial, or undergone any punishment.

Both Presidents Bush and Clinton may have issued those pardons for reasons that had nothing to do with the library donations. (Israeli leaders Ehud Barak and Simon Peres had also interceded on Rich's behalf.)[8]But the fact that the large donations were made gives the appearance of donors either wanting to have influence over the pardon process or wanting to thank a former president for a pardon that was granted.

Public disclosure also is necessary for the public and the media to evaluate whether large corporate donations or major gifts from foreign governments and foreign nationals had any influence on other executive branch policies. Corporations, foreign governments and foreign nationals all have given millions of dollars in donations to the Bush, Carter and Clinton library complexes. Large donors include a wide range of foreign governments, foreign leaders, and foreign business interests including the Dubai Foundation, the Royal Saudi family, the Citizens of Kuwait, the Taiwan Economic & Cultural Office, and the Government of Japan. At a time when the U.S. role in the world has never been more challenging, may these donations cause potential conflicts of interest or the appearance of a conflict of interest?

Without disclosure, citizens and Congress cannot truly evaluate the impact of presidential library fundraising on our politics and public policy. Disclosure is always the indispensable first step to comprehensive reform.

Public disclosure should continue beyond a president's term in office.

Former presidents do not fade away. Our three living former presidents are both active and influential. One, the father of a sitting president, also has taken on foreign policy roles, made public statements, and done high-profile humanitarian work. The other is the spouse of a presidential candidate and a sitting senator, who also maintains a high profile on the world stage. The third recently wrote a controversial book calling for a changing role for the U.S. in brokering a Mideast peace.

Given their continued positions of influence and active public policy interests, Common Cause supports disclosure that extends at the very least until the bulk of fundraising for the structure and the endowment is completed, generally at the time the libraries are turned over to the National Archives and Records Administration to operate and maintain.[9]

We hope that Congress enacts this very positive legislative proposal. But we urge this Committee to thoughtfully consider other complexities and questions surrounding presidential libraries:

- Once a presidential library is donated to the National Archives & Records Administration, the federal government pays for its operation and upkeep.[10] And presidential libraries are required by law to raise endowments whose size is linked to the size of the library. The endowments are used to offset a portion of the costs to maintain the library. Even so, maintaining ever larger and more ambitious libraries is an expensive endeavor, costing the government tens of millions of dollars each year.[11] Should there be public policy incentives to encourage presidents to erect more modest library complexes? Do we really need what author Robert Caro termed "America's pyramids, erected to the memory of the country's rulers?"[12]

- Does this public-private partnership work? Or should the government take on the task of building modest repositories for presidential records and papers, and divorce itself from presidents' increasingly ambitious plans to memorialize the achievements of their Administrations and to create a platform for launching their post-presidential careers?

- Should sitting presidents be prohibited from soliciting or accepting contributions or pledges of contributions to their presidential libraries? Or should there be any limits on the amount of contributions and pledges to presidential libraries while the president is in office?

- Should there be limits on donations from foreign governments and foreign nationals?

- Should the disclosure rule extend for a president's lifetime? Given the increasingly ambitious scope of presidential libraries and the museums, centers, and other entities linked to them, presidential fundraising may continue long after structures are built, and decades after a president held office. A case in point is President George H.W. Bush's eightieth birthday celebration. Those who wanted to attend his various birthday events were invited to become "benefactors" if they gave $1 million, granting them access to a private dinner hosted by the former President and his wife in the apartment of the Bush presidential library. Nineteen donors, including the Embassy of Qatar and The Washington Times Foundation, gave at that level. In all, former President Bush raised more than $55 million, a portion of which went to the George Bush Presidential Library Foundation. [13]

We applaud the Committee for examining this issue and for its well-thought-out and reform-minded legislative proposal. We look forward to working with you on this and other issues in the months to come.

---

[1] Testimony of Hon. Stephen Horn, chairman, before the House Committee on Government Reform Subcommittee on Government Efficiency, Financial Management and Intergovenrmental Relations, concerning H.R. 577, 5 Apr. 2001.
[2] Paula Span, "Monumental Ambition; Presidential Libraries are History and Hagiography," *The Washington Post*, 17 Feb. 2002.
[3] Ibid.
[4] Michael Weisskopf, "A Pardon, A Presidential Library, A Big Donation," Time.com, 6 Mar. 2001.
[5] Ted Koppel, "A Question of Access: Behind the Pardon of Marc Rich," ABC News *Nightline*, 28 Feb. 2001.
[6] Statement of Rep. Dan Burton (R-IN), Hearing of the House Government Reform Committee on President Clinton's Pardons, 1 Mar. 2001.
[7] Jim Abrams, "House Seeks Disclosure for Donations to Presidential Libraries," *Associated Press*, 5 Feb. 2002.
[8] Ted Koppel, "A Question of Access, Behind The Pardon of Marc Rich," ABC News *Nightline*, 28 Feb. 2001.
[9] "A Brief History of the Presidential Library System," The U.S. National Archives and Records Administration, www.archives.gov.
[10] Raymond Gselbracht and Timothy Walch, "The Presidential Libraries Act After 50 Years," The U.S. National Archives and Records Administration, *Prologue*, summer 2005.
[11] Alexis Simendinger, "Trouble In The Library," *The National Journal*, 24 Feb. 2001.
[12] Paula Span, "Monumental Ambition; Presidential Libraries are History and Hagiography," *The Washington Post*, 17 Feb. 2002.
[13] Mike Allen, "Sky's No Limit; Bush 41 Makes His 80th Something Special," *The Washington Post*, 13 Jun. 2004.

Chairman WAXMAN. Thank you very much, Ms. Wexler.

Ms. Krumholz.

STATEMENT OF SHEILA KRUMHOLZ

Ms. KRUMHOLZ. Mr. Chairman and members of the committee, my name is Sheila Krumholz. I am executive director of the Center for Responsive Politics, a non-partisan, non-profit research organization based here in Washington that analyzes Federal campaign contributions, as well as other forms of money, and a lead influence in U.S. politics.

I have been deeply involved in the research side of our organization's work for the better part of 15 years. Many know the Center for our award-winning Web site, OpenSecrets.org, where we make freely available our analysis of publicly disclosed information about the role of money in politics. We can do this because the financing of your campaigns is open to public scrutiny. But, as I will discuss today, the financing of Presidential libraries is not similarly transparent, although these campaign-like projects raise similar questions about potential influence buying.

I thank the committee for this opportunity to speak.

My predecessor, Larry Noble, testified on this matter before this committee in 2001, and my remarks today echo some of his from that hearing.

Contributions to Presidential libraries fall into a category all their own, in a sense. While it takes a well-funded campaign to build a Presidential library, it is not a political campaign, per se. There is, however, a sort of candidate at the center of this campaign, someone in a position of public trust, both while he is in office and, to a lesser extent, once he has left office. Herein lies the central concern: that those who donate money to Presidential libraries will, in return, receive special access to and favors from the President and the Federal Government. To minimize the potential for that sort of payback and to build trust among a citizenry that already questions the ethics of elected officials, public disclosure of contributions to Presidential library projects seems both appropriate and wise.

As you know, contributions aggregating to more than $200 are itemized and reported to the Federal Election Commission. The rules call for the disclosure of the amount and date of the donation, and the name, address, occupation, and employer of the donor. The FEC makes this information available on the internet to any interested citizen. The fact that the FEC deems the employment information, in particular, worthy of collection is an acknowledgment that donors sometimes, if not often, give to politicians with an economic self-interest in mind and a hope that their contribution will gain them access and influence over policy.

The law has long recognized that our system of elections is strengthened when the public knows who is giving the money, and yet the public is still in the dark about several back door ways of buying influence in Washington, including the funding of Presidential libraries.

To a President, a library with its accompanying and usually far larger museum, is a way to frame and preserve his legacy. For the President there is great self interest, because the library will live

on long after the President's time in office and on earth have passed. I am reminded of the Vietnamese emperor who spent 9 years ruling but whose tomb took eleven years to build.

Presidents begin fundraising for their libraries well before they leave office. According to press reports, site selection for President George W. Bush's Presidential library has been going on for some time, and a half billion fundraising campaign is imminent, 2 years before he leaves office. Fundraising for President Bill Clinton's library began in 1998, less than halfway through his second term.

There is great potential here for corruption, apparent corruption, at least, and, even worse, real corruption. We know well how President Clinton's pardon of a six-figure contributor to his library fund, along with other political donations, has left the indelible impression with many that a Presidential pardon was purchased.

The potential for corruption may be greater in the fundraising for Presidential libraries than in the campaign finance system. Donations to Presidential election campaigns are limited to a few thousand dollars. Those to Presidential libraries are not, and the checks can be written in the tens of millions of dollars.

Corporations, unions, and other institutional interest groups cannot directly contribute to Presidential candidates; they can contribute to Presidential libraries. Foreign governments, foreign individuals, and corporations are prohibited from giving money to Presidential campaigns, but donations to Presidential libraries are permissible, even while the President is still in office. And, of course, the identities of large donors to Presidential campaigns are disclosed to the public, while donors to Presidential libraries can remain anonymous.

As you are all aware, the public's perception of Washington is that money at the very least opens doors here. To agree that disclosure of contributions is appropriate as a way to minimize corruption and build public trust only gets us so far. There are many questions you will have to answer before disclosure of Presidential library contributions will become a reality. For example, what information must be disclosed, and by whom; how often, and for how long will disclosure be required; in what form must they disclose it; who will administer and enforce the disclosure. As history has shown us, a law unenforced may be worse than no law at all, because it leaves you with the false comfort that you have done something even as a problem persists.

There are many questions to be addressed, and I merely raise some of them for you and the members of the committee to consider. Presidential libraries are repositories of history and scholarship for all Americans to enjoy, and, while they are built to honor politicians, their construction and operation should not be political. As Americans visit our Nation's Presidential libraries, their awe for the Presidents who served our country, their confidence in those leaders, and their trust in that system that honors them should not be tarnished by any suspicion that the public places they are visiting have been sold for the benefit of private interests.

I have appreciated this opportunity to appear before you and will gladly answer any questions you have.

Thank you.

[The prepared statement of Ms. Krumholz follows:]

Testimony of Sheila Krumholz, Executive Director of the Center for Responsive Politics, to the House Committee on Oversight and Government Reform re: Disclosure of Contributions to Presidential Libraries

February 28, 2007

Mr. Chairman, and members of the committee, my name is Sheila Krumholz. I am executive director of the Center for Responsive Politics, a nonpartisan, nonprofit research organization based here in Washington that monitors and analyzes campaign contributions in federal elections, as well as other forms of money and elite influence in U.S. politics. I have been deeply involved in the research side of our organization's work for the better part of 15 years.

Many people, including some of you I imagine, know the Center for our award-winning Web site, OpenSecrets.org, where we make freely available our analysis of publicly disclosed information about the role of money in politics. Founded in 1983 by two former senators, a Republican and a Democrat, the Center's reason for existence is simple: to inform citizens about who is paying for federal elections and who is in the position to exercise influence over the elected officials who represent the public in our nation's capital. We can do this because the financing of your campaigns is open to public scrutiny. But as I will discuss today, the financing of presidential libraries is not similarly transparent, although these campaign-like projects raise similar questions about potential influence-buying.

The Center is not an advocacy or reform group. We do not lobby for specific legislation. However, we do freely offer our perspective, based on nearly 25 years of experience in the field, on ways to improve transparency in government and build trust among citizens. To this end, I am pleased to offer the Center's thoughts on the disclosure of contributions to presidential libraries, and thank the committee for this opportunity. My predecessor, Larry Noble, testified on this matter before this committee in 2001, and my remarks today echo some of his from that hearing.

Contributions to presidential libraries fall into a category all their own, in a sense. While it takes a well-funded campaign to build a presidential library, it is not a political campaign *per se*. There is, however, a sort of candidate at the center of this campaign—someone in a position of public trust who has the ability to return contributors' kindness with special official favors. Although the end of elected office is usually in sight for the person whose legacy the library will preserve, they are typically still in office while fundraising is underway. Even once a president leaves office, he retains a certain, albeit diminished, usefulness to a donor seeking influence over the government.

The campaign to build a presidential library is different from a capital campaign to build, say, a university's library, which can also carry a person's name as a way of honoring that person. If donors to a presidential library receive special perks or access

1101 14th St. NW, Suite 1030, Washington, DC 20005 • (202) 857-0044 • www.OpenSecrets.org

because of their gifts, as a major donor to a university might enjoy, those perks and access for contributing to a government-run facility are potentially far more lucrative—and potentially contrary to the public interest that a president is entrusted to serve.

Herein lies the central concern: that those who donate money to presidential libraries will in return receive special access to, and favors from, the president and the federal government. To minimize the potential for that sort of payback, and to build trust among a citizenry that already questions the ethics of elected officials, public disclosure of contributions to presidential library projects seems both appropriate and wise.

As you all know, the disclosure rules for contributions to federal political campaigns require that contributions aggregating to more than $200 be itemized and reported to the Federal Election Commission. The rules call for the disclosure of the amount and date of the donation and the name, address, occupation and employer of the donor. The FEC gathers and reports that information, and makes it available on the Internet to any interested citizen. The fact that the FEC deems the employment information, in particular, worthy of collection is an acknowledgment that donors sometimes, if not often, give to politicians with an economic self-interest in mind and a hope that their contribution will gain them access and influence over government policy.

Using campaign contribution data from the FEC, we at the Center for Responsive Politics compile and publish full campaign finance profiles for all members of Congress, all candidates for Congress and the leading presidential contenders. On OpenSecrets.org we show which companies, unions and other interest groups are giving most heavily, and we categorize donations by industry to give a big-picture view of any given election.

Without this kind of work, the public would not have the faintest idea of who is financing our elections, how much they gave, and what they might be expecting from the recipients in return. The law has recognized for a hundred years that our system of elections is significantly strengthened when the public knows who is giving the money. And yet the public is still in the dark about several back-door ways of buying influence in Washington, including the funding of presidential libraries.

To a president, a library, with its accompanying (and usually far larger) museum, is a way to frame and preserve his legacy. For the president, there is a self-interest involved in the project that you could argue is even greater than the self-interest to be elected in the first place. The library will live on long after the president's time in office and his time on earth have passed. (I am reminded of the Vietnamese emperor who spent nine years ruling but whose tomb took 11 years to build.)

Presidents begin fund-raising for their libraries well before they leave office, when they are still in the world's most powerful position. According to press reports, site selection for President George W. Bush's presidential library has been going on for some time, and a half-billion-dollar fundraising campaign is imminent—two years before he is scheduled to leave office. (Coincidentally, $500 million is the amount the Center and others estimate that the major-party nominees for president will each raise and spend for the 2008 election.) Fundraising for President Bill Clinton's library began in 1998, less than halfway into his second term. The Reagan Presidential Foundation was fundraising as early as August 1986, two and a half years before President Reagan left office.

There is great potential here for corruption—apparent corruption at least and, even worse, real corruption. In fact, the potential may be far greater than in the campaign finance system. Donations to presidential election campaigns are limited to a few thousand dollars; donations to presidential libraries are not, and checks can be written in the tens of millions of dollars. Corporations, unions and other institutional interest groups cannot directly contribute to presidential candidates; they can contribute to presidential libraries, however. Foreign governments, foreign individuals and corporations are prohibited from giving money to presidential campaigns, but donations to presidential libraries are permissible—even while the president is still in office. And, of course, the identities of large donors to presidential campaigns are disclosed to the public, while donors to presidential libraries can remain anonymous.

As you are all aware, the public's perception of Washington is that money, at the very least, opens doors here. As officeholders who have raised hundreds of thousands of dollars, if not millions, you know that successful fund-raising requires personal and repeated contact with donors. As a leader of a nonprofit organization charged with raising money from foundations and individuals, I know and acknowledge that.

The public knows this instinctively as well and they expect the president to look at a large donor to his presidential library the same way any of us look at a deep-pocketed contributor: with gratitude, certainly, but also concern, even solicitation, about what they might want in return. When the interest of that donor comes before the president, he will find it hard not to at least listen. We know all too well how President Clinton's pardon of a six-figure contributor to his presidential library fund, along with other political donations, has left the indelible impression with many that a presidential pardon was purchased.

To agree that disclosure of contributions is appropriate as a way to minimize corruption and build public trust only gets us so far. There are many questions you will have to answer before disclosure of presidential library contributions will become a reality. For example, what information must be disclosed? Who must disclose it? How often and for how long will disclosure be required? In what form must they disclose it? Who will administer and enforce the disclosure? As history has shown us, a law unenforced may be worse than no law at all, as it leaves you with the false comfort that you have done something, even as a problem persists.

There is a system of contribution disclosure already in place that is familiar and, by most accounts, functional. That is the campaign finance system administered by the Federal Election Commission. Perhaps this system should be applied to presidential libraries: all donations greater than a certain amount must be itemized and the donors' identities publicly disclosed to the FEC—including their employment information, which is key to understanding economic self-interest. Certainly the details of, and justification for, that system of disclosure should be weighed as a potential model for the disclosure of donors to presidential libraries.

A trickier question is whether there should be limits on these donations. The Center does not take a position on this question. We do see the point that if donations were limited to a few thousand dollars, as they are to political campaigns, presidential libraries might never get built.

Another question: How long should a presidential library committee be required to disclose its fundraising? Certainly, while the president is still in office, this is appropriate. Is it still necessary once the president leaves office and his influence in government is significantly diminished? This is an unusual time in U.S. history that points toward continued disclosure even after a president leaves office. The sitting president, whose own library is being planned and financed, is the son of a former president, whose library is open to visitors and raises money to cover its operations. Similarly, the wife of a former president is now running for the office herself. Her husband has a library honoring him, and it raises money for its operations.

Should we be concerned about the potentially corrupting effect of a donation to the library of a president who has left office long ago? Maybe so. If he is still living, an ex-president still has prestige, influence, and even retains access to national intelligence, as a courtesy. And, as I said earlier, foreign governments and interests can donate freely to presidential libraries.

I also said earlier that presidential libraries are intended to outlive the presidents they honor. Once a president is dead, is disclosure of contributions still necessary? It seems unnecessary. But again I ask, what if a relative of that president now occupies the White House or some position of great authority in government? Perhaps the solution is to report fundraising forever but to require it less frequently at a certain point after the president has left office or died.

I raise all of these questions not to answer them, Mr. Chairman. I merely raise them for you and the members of the committee to consider. I also ask that you consider the broader significance of these questions. Presidential libraries are repositories of history and scholarship for all Americans to enjoy. And while they are built to honor politicians, their construction and operation should not be political. As Americans visit our nation's presidential libraries, their awe for the presidents who served our country, their confidence in those leaders and their trust in the system that honors them should not be tarnished by any suspicion that the public places they are visiting have been sold for the benefit of private interests.

I have appreciated this opportunity to appear before you and will gladly answer any questions you may have.

Chairman WAXMAN. Thank you very much, all three of you, for your testimony. I think you have helped us a great deal with this subject.

Donations to Presidential library foundations are difficult to categorize. They are not campaign contributions or political contributions in the standard sense. They are not being used to help a candidate win an elected office, nor are they simply contributions to a standard charity. The Presidential library foundation often begins to raise money to honor a President while the President remains in office.

As we think about reforms in this area, we need to strike a balance. Through campaign finance reform, we have limited the amount of money individuals and corporations can provide to candidates and have dictated who can donate to campaigns. If we consider donations to these library foundations to be campaign contributions, we could set similar limits. On the other hand, if we look at the other end of the spectrum, foundations that raise money for museums and cultural centers are not required to disclose any information about their donors and, in fact, many of the largest donors often prefer to remain anonymous. If we consider donations to these foundations to be more like donations to a museum, we would allow the current system to remain unchanged.

It is clear that these foundations are different. The draft legislation that the committee will be considering soon calls for the disclosure of all contributions of $200 or more that are given to the foundation through the period when the library is turned over to the Archives, but it does not limit contributions in any way.

Ms. Krumholz, from your perspective does this strike the right balance? Are there other requirements that you would recommend we put in place?

Ms. KRUMHOLZ. There is a whole host of questions that we came up with. I am sure you have come up with the same ones, and probably more. Those limits, in particular, seem logical to me, or basically sufficient. I was wondering if the limits that are used for political campaigns, for reporting to the Federal Election Commission, were considered, and why those limits were not adopted in this case.

Chairman WAXMAN. So you would recommend that we adopt those same limits?

Ms. KRUMHOLZ. No. Not necessarily. I was simply saying that is a model, one model.

Chairman WAXMAN. Yes.

Ms. KRUMHOLZ. I was wondering if that was considered and why it was rejected in favor of $200 limits per quarter. I do agree——

Chairman WAXMAN. Well, $200 is the limit for reporting it. It can exceed that $200 limit.

Ms. KRUMHOLZ. I am sorry, for disclosure of the contribution.

Chairman WAXMAN. Right.

Ms. KRUMHOLZ. Yes. I do agree. I think it is important that it is easier to make the limit based on the contribution and not the aggregate contribution, as it is, as the rules are at the FEC. I think that causes a greater burden on all involved and allows for some confusion about what is required. For instance, the Federal Election Commission, filers do not have to disclose the full information

of a donor until they have reached the aggregate of $200 during the cycle. At that point it must be disclosed, but all contributions under that are not part of the Federal Election Commission computerized master data, and so there are questions about when does it get disclosed, when do you meet that aggregate limit, why aren't the contributions that are less than $00 disclosed. So I think it is simpler and more intelligible to all involved when it is simply a matter of each contribution being disclosed when it hits a certain threshold.

Chairman WAXMAN. Ms. Wexler, what is your view on that same question? Does this proposal strike the right balance? Do you have any requirements you would recommend that we put in place in addition?

Ms. WEXLER. Well, I think that this is a very good first step proposal and it is very politically viable, but ultimately I do think, for a sitting President, it would be important for Congress to seriously consider some limits. And we do have the precedent, I believe of the limits on transitional funding, so that after the election but before a new administration takes over, the in-kind contributions received or the money donated to make that transition a little smoother is—there are limits in disclosure requirements in place for that, and the reason you can impose limits, I believe, is conditioned on the fact that the GSA is giving this transition team some resources. In the same way, with the Presidential libraries there is that public/private partnership, and I think that it might be a reason that one could condition, at least for a sitting President, some limits.

I think the other question is about limits on contributions from foreign governments and foreign nationals. You know, there are some published accounts that say that the elder Bush's library was supported, at least initially, by 20 percent. Of that funding, 20 percent came from foreign sources, which, given the challenging environment, international environment we are in may be problematic. Those are things.

The other, I think, you didn't ask me about this, but I also think that ultimately you want to consider again whether looking at contributions and disclosure of contributions just up to dedication, even though it is several years, is enough time, or whether you might want to go longer.

Again, I think of the elder Bush's 80th birthday party where he raised $55 million. A portion of that money raised did, indeed, go to the Bush Library Foundation. The Embassy of Quatar was one of the donors. I think the Washington Times Foundation was another million dollar donor.

So those are some of the things that need to be considered ultimately, not necessarily in this first proposal.

Chairman WAXMAN. Where did the rest of the money go?

Ms. KRUMHOLZ. Various charities.

Chairman WAXMAN. Ms. Fawcett, what do you think about these ideas?

Ms. FAWCETT. Well, the administration hasn't taken a position on the bill at this point in time, but, speaking for the Archives, we are appreciative of the work of the staff in narrowing the bill to cover a President before he leaves office and until the transfer of the library to the Government.

As the chairman spoke, donors to foundations, as the foundations age the donations become very locally based, and many are interested in anonymity. Their donations are to run programs like the Presidential Learning Center at the Truman Library, the Five Star Leaders Program at the Eisenhower Library, the Cabinet Program at the Ford Library. So, you know, the contributors to these foundations aren't interested at that point in any political influence; they are interested in promoting educational opportunities in their communities and bringing specific discourse into the library system.

Chairman WAXMAN. You are assuming you know their motivations?

Ms. FAWCETT. Well, at least that is what they have given money to us for.

Chairman WAXMAN. That is what they say.

Ms. Krumholz, you worked as a researcher, and our draft legislation proposes that foundations disclose the date and amount of each contribution, the name of the contributor, and, if the contributor is an individual, the occupation of the contributor. The Archives is called on to post these quarterly reports on the Internet in a searchable, downloadable data base. Would you find this information, as a researcher, to be adequate to examine the donations made to the Presidential library foundations? And, if you had access to such a data base for an existing Presidential library foundation, what kind of searches would you perform and what would you hope to learn from them? And is there anything in particular that you would look out for?

Ms. KRUMHOLZ. Yes. There is one. I would agree with that list of requirements with one exception, and that is that employment should also be required, not just occupation. Some of the occupations we get in the Federal Election Commission data include maverick, entrepreneur, you know, domestic engineer. So employer is really key to letting us know——

Chairman WAXMAN. Opportunist could be one, too.

Ms. KRUMHOLZ. I am sorry?

Chairman WAXMAN. They could say opportunist.

Ms. KRUMHOLZ. They could. Freedom fighter is another one. So it is important that employer be included. Making the data base downloadable is absolutely key. That provides anyone who wants to look into this data with the flexibility they need to find the patterns in the data that they might not otherwise see if they were simply using a limited search provided by the archives or by other entities. So making it downloadable I think is just a tremendous idea, would really help with allowing folks to be able to sort the data and see interesting dates, whether a contribution was given on a key date right before or right after policy decisions were made. Again, that is being able to slice and dice the data is how you find key information.

Chairman WAXMAN. Thank you.

Mr. Davis.

Mr. DAVIS OF VIRGINIA. Let me just talk about former Presidents at this point. Once they are out of office and can't, at that point, I think, do any favors or use their office, what is the chance of corruption in a case like that, for terms of disclosure? I can under-

stand if you have a sitting President or somebody maybe within a couple of years, but if somebody were to give $100,000 to a Jimmy Carter Library at this point and wanted to do it anonymously, what is the chance of corruption in a case like that?

Ms. WEXLER. Well, Representative Davis, I think our concern is this: right now we have three very active living Presidents. They are all on the world stage. They are all doing all kinds of things that have a policy implication. In two cases, you have one who is the father of a sitting President and in another case you have one who is the spouse of a sitting Senator and Presidential candidate. So I don't think just because they are former Presidents they are necessarily immune from being influenced or having influence.

I mean, President Carter just wrote a very controversial book that challenges current domestic mideast policy, so I think that those are the concerns that arise for us.

Mr. DAVIS OF VIRGINIA. Ms. Krumholz.

Ms. KRUMHOLZ. Thank you. In addition to that, I would like to add that, should we be concerned about potentially corrupting effect of donations to the library of a President who has left office long ago? Maybe so, if he is still living, an ex-President still has prestige, influence, and even retains access to national intelligence as a courtesy. And, as I said earlier, foreign governments and interests can donate freely to Presidential libraries currently.

Mr. DAVIS OF VIRGINIA. OK. So the fact that they have access to foreign intelligence, I mean, intelligence nobody else does, it makes them corruptible?

Ms. KRUMHOLZ. No, no. But it does set them apart and I think provides another reason why disclosure should continue for some time beyond the point at which they leave office.

Mr. DAVIS OF VIRGINIA. At this point I think for some time or forever? I mean, as long as they are alive you would keep these? Do you understand what I am saying?

Ms. KRUMHOLZ. Right.

Mr. DAVIS OF VIRGINIA. You are not talking about doing this for Herbert Hoover?

Ms. KRUMHOLZ. I am not sure that I would say until they pass away, but clearly the current situation with President Bush's father having an active library fundraising and former President Bill Clinton actively fundraising while his wife is running for the President, the office, gives us a good indication of what can happen, and I would say we should consider it a good, long chunk of time beyond the point at which they leave office. Whether that should be until they pass away, I am not sure we would go that far.

Mr. DAVIS OF VIRGINIA. OK.

Ms. KRUMHOLZ. I would like to clarify a point I made earlier, if I may.

Mr. DAVIS OF VIRGINIA. Sure.

Ms. KRUMHOLZ. When I was talking about disclosure thresholds, we do not—I just want to make this point clear—we do not encourage limits on contributions necessarily. It is understandable that limits will—if we impose limits, particularly stringent limits, these buildings may never get built.

Mr. DAVIS OF VIRGINIA. Right. That is a concern. A lot of people like to give these anonymously. They are just doing it with the

right motive in mind. These Presidential libraries can be very important for researchers, for history, for everything else. If you make it too difficult, people just walk away from it, and then maybe the taxpayers get stuck with it. So I don't know what the balance is. You make a very good point. We could actually be in a period. It could be 28 years before you have nothing but Bushes and Clintons in the White House in theory, if you want to stretch this thing out. I mean, I guess I don't know what that does to poor Jimmy Carter.

Ms. Fawcett, do you have any estimate on the costs to the Archives for managing and making this information available?

Ms. FAWCETT. I am sorry, I didn't hear the question.

Mr. DAVIS OF VIRGINIA. Do you have any cost estimates for managing and making this information available?

Ms. FAWCETT. No, we don't. In fact, the Archives has some concern about our ability to do this. We are not the Federal Election Commission and we have no experience in making available this type of information. We also are in a peculiar position of working to partner with an organization that we are then responsible for reporting to the public donations, so in a way it could create some conflicts of interest for us, so that is a concern. We will work around whatever the legislation requires, but we would like to express some concerns about whether the National Archives is the appropriate reporting body for these disclosures.

Mr. DAVIS OF VIRGINIA. I know in Mr. Duncan's bill we set a threshold of $5,000 for reporting once a President is out of office. The $5,000, this threshold corresponds to a trigger for contributions that tax-exempt foundations would disclose to the IRS. What do you think the proper threshold is for disclosure? Ms. Wexler, I ask you and Ms. Krumholz.

Ms. WEXLER. You know, I think I believe in Mr. Duncan's bill the threshold was $5,000, but the time limit was unlimited, right, for the disclosure? I think that is not a bad thing to think about, because, again, disclosure at $200 for a sitting President makes a lot of sense. It may not be a bad idea to raise the threshold once the President is no longer a sitting President, given the fact that we are seeing donations that we know about in the millions and tons of millions.

Mr. DAVIS OF VIRGINIA. They get $100,000 for a speech, more than that for a speech, I mean.

Ms. WEXLER. Absolutely, but usually that is somehow—you know, there is usually some disclosure about that. People generally know a President's going rate for speeches. But I think $5,000 wouldn't necessarily be a terrible threshold post the time a President is in office. Are we happy with $200 as a threshold beyond that time? Yes.

Mr. DAVIS OF VIRGINIA. OK.

Ms. KRUMHOLZ. You mean prior to that time, while they are still in office?

Ms. WEXLER. Yes.

Ms. KRUMHOLZ. I would concur with Celia's comments there, too.

Mr. DAVIS OF VIRGINIA. OK.

Ms. KRUMHOLZ. May I just interject?

Mr. DAVIS OF VIRGINIA. Yes, please.

Ms. KRUMHOLZ. Was the FEC considered as the receptacle for these reports as the agency collecting this information rather than the Archives? It seems like they have a system and it is working for them. I don't know if that would be an appropriate place to——

Mr. DAVIS OF VIRGINIA. I don't know that it was. I mean, that is an interesting concept in terms of allocation of costs and having systems up and ready, so I think that is something we could give some consideration to. That is why we hold these hearings sometimes. We don't think of everything as we go through.

How long should the disclosure take place now? Do you think it should just take place during the lifetime of a former President? I mean, if you are talking about a Nixon Library or an LBJ Library or something like that, should the disclosures continue?

Ms. WEXLER. I think certainly ideally it would be the lifetime of a President. And we have disclosure. If you pass a disclosure bill and you realize that, you know, giving just completely drops off after the first decade, then you may want to reconsider that, but I don't think there is any harm and perhaps a lot of good in extending that disclosure through the lifetime of a President.

Mr. DAVIS OF VIRGINIA. All right. You don't have any concern that we should ban foreign contributions outright, do you?

Ms. WEXLER. I don't think it is a bad thing to think about, but I think it would require an enormous amount of deliberation and, you know, it is not necessarily a path you want to take.

Mr. DAVIS OF VIRGINIA. OK. Ms. Krumholz, any thoughts?

Ms. KRUMHOLZ. I would be curious how much of the current makeup of donations to Presidential libraries comes from foreign governments.

Mr. DAVIS OF VIRGINIA. I would be interested to know, too.

Ms. KRUMHOLZ. And foreign nationals.

Mr. DAVIS OF VIRGINIA. And how much came while they were living and in office and how much afterwards. I think that is something we will ask the staff to look at.

Ms. KRUMHOLZ. Exactly.

Mr. DAVIS OF VIRGINIA. That would be interesting. I think, again, this is dollars the taxpayers don't have to pay, so any time we can get something out of foreign countries, that is probably a good thing.

I have a couple minutes left. Let me yield to Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

If I can summarize quickly, it sounds like the logical things for this committee to consider are: one, moving this to the FEC; two, potentially harmonizing it with the FEC as though the President is still a candidate so that it would be consistent with the President's continued activity. If I can, using Ronald Reagan as an example, certainly in the last 5 years of his life nobody would say that Ronald Reagan was still active, and thus, even though he was still alive, reporting under the nod of heads I think I am seeing, could be suspended. Would that be pretty consistent with what I am hearing each of you say you view as to this reporting requirement?

Ms. KRUMHOLZ. Suspended during the last years of his life?

Mr. ISSA. In other words, if we harmonize the reporting requirement to the candidate, as we do normally. In other words, if we

move this to the FEC, if I stop being a candidate, you know, stop all activity, the FEC says, OK, you have once a year, report us the balance, and that is it.

The participation of the individual or individuals of influence is what specifically I am hearing pretty consistently triggers the question of whether or not money to these otherwise just normal charities—I mean, these libraries are just basically 501(c)(3)'s, as far as we are concerned, if you take out the power of the President or former President. They are pretty consistent with the way you would like us to view regulatory law in this case, including common cause, obviously?

Ms. WEXLER. I think so. I think the sort of question is when does a President not become active. It was pretty clear in President Reagan's case, but, you know, it is a kind of delicate question, and a President might be a little offended if all of the sudden he was declared inactive, which is also something to think about.

Mr. ISSA. I don't expect Nancy would have declared him inactive, Nancy Reagan.

Ms. WEXLER. No, I don't mean that. I just mean, you know, what is the harm in the disclosure extending until something as final as death, because presumably it is not going to be terribly burdensome.

Mr. ISSA. I guess my question——

Chairman WAXMAN. Mr. Issa.

Mr. ISSA. Yes, Mr. Chairman.

Chairman WAXMAN. The clock never turned red.

Mr. ISSA. OK. I will finish in one followup on the same thing.

Chairman WAXMAN. One last question.

Mr. ISSA. If former Presidents were to say I no longer am doing anything whatsoever with my foundation, that declaration, whether he is living or not, would be substantially the same thing, wouldn't it? No one is ever going to disavow knowledge of their library, but hypothetically they can say I am out of it, as an alternative to death.

Ms. KRUMHOLZ. My concern would be the situation we have here with President Bush and former President Clinton. Somebody who wishes to influence a Candidate Clinton or the current sitting President might well give to their father or their husband's Presidential library, regardless——

Mr. ISSA. I yield back the ranking member's unlimited time.

Chairman WAXMAN. Thank you, Mr. Issa.

Mr. Welch, I think you were here first. No questions? Mr. Hodes.

Mr. HODES. Thank you, Mr. Chairman.

The Presidential libraries and their facilities seem to be growing exponentially larger. The complexes now contain the Presidential library, research facilities. They also appear to include museums and event centers and conference centers and a host of other amenities. I read in one of the reports about an apartment in one of the libraries. There may be academic centers.

During the early phases of the planning and construction, the role of Presidential library foundations seems very clear. It raises the money, it ensures that the facility is built, and then, once the library is turned over to the National Archives, the relationship seems less clear. I am wondering if the panel could clarify.

I will direct this to Ms. Fawcett. Can you explain the role of the Presidential library foundation once the facility has been turned over to the Archives, particularly with regard to the non-library spaces in the complex? Who is in charge? Who is minding the store?

Ms. FAWCETT. Well, you are correct in that the libraries have grown in size, and the largest library is the Ronald Reagan Library. Libraries built since the amendments passed in 1986 that required an endowment come to the Government, in those libraries only a portion of the library is transferred to the Government. Usually 70,000 square feet or less comes to the Government. The rest of the venues in the library are the responsibility of the foundation to operate and maintain those.

Now, what does come to the Government, Congressman, is the museum, the research room, the archival offices, the storage spaces, the education classrooms. What doesn't come to the archives are things like venues to use for conference space, an apartment, sometimes the cafeteria, the museum store. Those venues and those spaces remain with the foundation, and the foundation must continue to raise money to provide support for those venues in addition to supporting the public programming, education programming, and exhibits that are in the library, because the Government does not fund those.

Last year the Presidential libraries cost the taxpayers $58 million in directly appropriated funds. The foundations this year will be donating almost $11 million to various Presidential libraries for their use in programming operations.

In terms of managing those spaces, when we accept a library we have a joint operating agreement with the foundation, and that agreement outlines the responsibilities of both parties. Often, for example, since the spaces are sort of interwoven throughout a building and we have this space and the foundation has that space, we divide up the utility cost and the operational cost, the maintenance cost of the building so that the foundation pays a percentage of those costs to the Government.

Mr. HODES. Now, the foundations are organized under State law as 501(c)(3)'s?

Ms. FAWCETT. Yes.

Mr. HODES. Is that correct?

Ms. FAWCETT. Yes.

Mr. HODES. And I suppose that the National Archives does not impose any limitations, therefore, on the way the foundations can use the collateral spaces, if you will, and what purposes they put them to?

Ms. FAWCETT. Well, we do work out in the joint operating agreement some understandings about the spaces. They understand that we try to represent a non-partisan library. Over time there may be an event that takes place in foundation space that, you know, a Republican candidate may come, but foundations and libraries generally invite the Democratic candidates to come also, you know. It is not normal for a——

Mr. HODES. I was interested to hear, when the chairman asked the question about the additional use to which the fundraising was put in that event of the 80th birthday, that there were other char-

ities to whom money was donated. Do any of you on the panel think there is any issue that could arise in the foundation's ability to use those spaces collateral to the library for any purpose whatsoever, even though not related to the joint operating agreement with the National Archives? Any issue there?

Ms. WEXLER. I am not sure that this directly responds. I think that one of our concerns is that if you look at these libraries, you know, Robert Carow said they were America's pyramids erected to the memory of America's rules, and I don't know if I want to go that far, but there is that sense that you do get a lot of hagiography, and that a lot of what happens inside them is not necessarily—the access to the Presidential records is absolutely invaluable and, indeed, helped Mr. Carow write his wonderful series on Lyndon Johnson, but you have that other aspect of these complexes—the tourist sites, the sort of way they pay tribute and emphasize certain aspects of an administration's history, that, you know, make you wonder a little about what these are becoming and what the trend is. So I think that is a concern.

Chairman WAXMAN. Thank you, Mr. Hodes.

Mr. HODES. Thank you, Mr. Chairman.

Chairman WAXMAN. Your time is up.

Mr. Issa, do you wish to be heard?

Mr. ISSA. Yes, I do, Mr. Chairman. Thank you, Mr. Chairman.

You know, I think there is no question that we are going to need to have a question at some point about the libraries, where they are going and whether or not the Government support of them remains as appropriate as it has been in the past. I think that is beyond the scope perhaps of today's hearing. But because I am so privileged to have the representative of the National Archives, I have to say I would like to not digress, but it is somewhat related. Ms. Fawcett, you are familiar, obviously, with Sandy Berger taking either originals or duplicates of classified documents out of your care. As I understand, Nancy Smith is a direct report to you; is that correct?

Ms. FAWCETT. Yes, she is.

Mr. ISSA. And I guess one of the questions is: do you consider that your responsibility is only to make sure that these documents remain available for the future, or do you have a separate recognition that you have to protect classified documents from being taken out by anybody whatsoever, including Sandy Berger?

Ms. FAWCETT. Well, we feel that we have the responsibility to do both. We are the historical protectors of the records. In the case of Mr. Berger's visit to the National Archives, he came to the National Archives as an official representative of President Clinton. He was reviewing records for the 9/11 Commission for his testimony and for President Clinton's testimony.

Mr. ISSA. OK, then, following up on that, why was Sandy Berger allowed to be alone with documents for which there are no duplicates with a briefcase and the ability—we don't know whether he did or he didn't, but he could have simply put them in his briefcase and left.

Ms. FAWCETT. Well——

Mr. ISSA. Was there special treatment, or would you do this for other people that came in representing a former President?

Ms. FAWCETT. As representatives under the Presidential Records Act, we did, indeed, treat people differently. We expected, and from 1989 when the Presidential Records Act first was implemented with Ronald Reagan's departure from the White House, through the time of Sandy Berger, we operated with an attitude of trust in these people. They had statutory responsibility, statutory authority to view the records. And yes, they were treated with respect. They were not regular researchers and they weren't treated as regular researchers. We expected Mr. Berger to be knowledgeable of the national security requirements. We had never had an issue. But, saying that, national security is ever evolving. I go through airports now and I take my shoes off. I didn't used to.

Mr. ISSA. OK. So——

Ms. FAWCETT. Now, if a Presidential representative comes to——

Mr. ISSA. Right. Looking forward, not back then, today if—Sandy Berger would be inappropriate, but if anyone from a former administration came, can we be assured that they would never, never be allowed to be alone with any document and that they would not be given documents for which there were not catalogs and duplicates?

Ms. FAWCETT. Part of your question, they would not be alone with the documents in a production request. But, second, would they be given original materials? The answer to that is probably yes, because we have 9 billion pieces of paper in the National Archives and we don't make copies of all of them. There would be somebody with them in attendance while they worked with the records, and in many cases they might even be under camera surveillance.

Mr. ISSA. In many cases? So it is safe to say that Sandy Berger could never again, or someone like him, come in and take original documents such as e-mails or other desk copy information that might, in fact, have germaneness to current or future investigations? That is absolutely something you have closed?

Ms. FAWCETT. That is absolutely something that we strive to have not happen again.

Mr. ISSA. And do you feel there was any wrongdoing in the treatment that was allowed Sandy Berger, the special treatment as you have described it at the time?

Ms. FAWCETT. I think that it was the vigilance of our staff and their care and their concern that led to Sandy Berger's being caught with these records, and the Congress knowing about it, the 9/11 Commission knowing about it, and the National Security Council knowing about it. Without our employees' careful handling of this case, Sandy Berger would not have been caught.

Mr. ISSA. I thank you for your diligence and I thank you for the changes that you have implemented.

Ms. FAWCETT. Thank you, Mr. Issa.

Mr. ISSA. Mr. Chairman, I yield back.

Chairman WAXMAN. Mr. Braley.

Mr. BRALEY. Thank you, Mr. Chairman.

Ms. Fawcett, let me start with you. One of my family's cherished archives is a photograph my mother took on August 10, 1962, very similar to the one I have in my hand——

Ms. FAWCETT. Were you at the Hoover Library?

Mr. BRALEY [continuing]. At the dedication of the Herbert Hoover Presidential Library in West Branch, IA.

Ms. FAWCETT. Thank you.

Mr. BRALEY. She held a Brownie Instamatic camera over her head.

Ms. FAWCETT. Yes.

Mr. BRALEY. She is only 5'4" and she got a picture of President Hoover and President Truman walking through thousands of people.

One of the questions that I have for you and for everyone on the panel is I am concerned about the growing disparity between what I will call small market and large market Presidential libraries and the fact that we have talked about this exponential growth in terms of the dollar value of those libraries and the expanded components available to people who attend those facilities beyond simply a repository of Presidential documents and memorabilia.

Have you thought about how we can preserve the original purpose of these libraries, which is to provide a repository of information and a museum experience for people from all across this country to experience a historical perspective of that Presidency without turning it into a theme park type environment where there are no limits on the surrounding opportunities available for experiencing that Presidency?

Ms. FAWCETT. Well, I don't view any of the libraries now as a theme park type of environment. I would say that one of the reasons for the expansion of spaces in libraries is to earn the revenue necessary to support the library. The funds that come from the Government, the directly appropriated funds, aren't sufficient for us to provide those educational experiences and the museum experiences to the public. We do not use any direct appropriated funds to pay for museum exhibits. Those are all funded either through revenues gained from admission to the library that are in the library's government-operated trust funds, or through donations of the foundations to the libraries to do that.

Another area of earning revenue is through the rental of spaces in the library, to use the library as a venue for events. That has also assisted the libraries in being able to bring programs such as the Presidential time line, which launched in February. It is a project of all of the Presidential libraries to bring the digitized assets to school children and educators everywhere across the country. There are learning experiences on the Web site. There are assets you can search across the time line of the Presidency.

We are striving in the Presidential library system to look at the Presidency as a time line as a whole, because events don't happen in any stovepipe way. The civil rights, the Vietnam War, the Middle East Conflict, all of these things extend over a period of time. Through the revenues that we gain in these projects, we are able to put together these sort of experiences for the American people, for students everywhere. We don't expect Congress to fund those. If you think it would be better for Congress to fund those, we can certainly accept the money, but that has not been our intent.

Mr. BRALEY. No, but just talking about the earlier discussion of what type of revenues were generated from the Hoover Library and some of the smaller libraries, even if you take a 40 percent endow-

ment requirement for a $500 million library, you are still talking about $300 million over and above that amount that is available, and, using another baseball analogy from Iowa, if you build it, they will come.

Ms. FAWCETT. Yes.

Mr. BRALEY. When you have a Presidential library that has a think tank component to it, then what restrictions are there under the current statute that would prevent a theme park from being added as a component to a Presidential library?

Ms. FAWCETT. Well, that wouldn't be brought to the national archives and wouldn't be transferred to national archives. The think tank component of the proposed George W. Bush Library would not transfer to the Federal Government. That would be part of something that the foundation would be managing.

Mr. BRALEY. I understand that, but my point is what prevents us from going to the next step under the current statute?

Ms. FAWCETT. Under the Presidential Libraries Act statute?

Mr. BRALEY. Yes.

Ms. FAWCETT. Well, there is nothing, but the Government wouldn't accept that, so, I mean, the fact that the foundation could build it, yes, there is nothing to prevent the foundation from building whatever they want to build, but what they can transfer to the Government is codified, and it is up to Congress to decide whether or not to accept what is transferred to the Government. We prepare a report that we submit to you some time before the transfer, and it is up to Congress to make that decision whether this is an appropriate project for the Government to manage.

Mr. BRALEY. Thank you.

Chairman WAXMAN. Thank you, Mr. Braley.

I want to thank the three of you for your testimony today. I think we have an excellent record for this committee to consider legislation.

Thank you.

If there is no other business from any other Members, the committee stands adjourned.

[Whereupon, at 11:30 a.m., the committee was adjourned.]

○