

DAN BURTON, INDIANA,
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. MCHUGH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
THOMAS M. DAVIS, VIRGINIA
MARK E. SOUDER, INDIANA
JOE SCARBOROUGH, FLORIDA
STEVEN C. LATOURETTE, OHIO
BOB BARR, GEORGIA
DAN MILLER, FLORIDA
DOUG OSE, CALIFORNIA
RON LEWIS, KENTUCKY
JO ANN DAVIS, VIRGINIA
TODD RUSSELL PLATTS, PENNSYLVANIA
DAVE WELDON, FLORIDA
CHRIS CANNON, UTAH
ADAM H. PUTNAM, FLORIDA
C.L. "BUTCH" OTTER, IDAHO
EDWARD L. SCHROCK, VIRGINIA

ONE HUNDRED SEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

FACSIMILE (202) 225-3874
MAJORITY (202) 225-5674
MINORITY (202) 225-5051
TTY (202) 225-6852

www.house.gov/reform

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
PATSY T. MINK, HAWAII
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
ROD R. BLAGOJEVICH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
JANICE D. SCHAKOWSKY, ILLINOIS
WM. LACY CLAY, MISSOURI

BERNARD SANDERS, VERMONT,
INDEPENDENT

Opening Statement

Rep. Stephen Horn, R-CA

Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations

November 5, 2001

A quorum being present, the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order. As James Madison, the Father of the Constitution, appropriately said:

"A popular Government without popular information or the means of acquiring it, is but a Prologue to a Farce or a Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives."

Today's hearing involves the public's right to acquire certain government information. We are here to examine implementation of the Presidential Records Act of 1978. This landmark law established the principle that the records of a president relating to his official duties belong to the American people. The act gives the archivist of the United States custody of those records after the president leaves office. The act also assigns the archivist "an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this act."

At the same time, the act recognizes the need to place some limits on public access. It permits former presidents to restrict certain records from disclosure for up to 12 years after leaving office. It also allows most of the public disclosure exemptions contained in the Freedom of Information Act to apply to presidential records. Those exemptions protect records involving national defense, state secrets, and other sensitive matters. However, the act did not allow records to be withheld beyond 12 years simply because they contained internal staff advice or deliberations among government officials.

The records of former President Reagan were the first to become subject to the act. The 12-year restriction on the Reagan records expired in January of this year. Therefore, in February, the archivist gave former President Reagan and incumbent President George W. Bush notice of his intent to grant public access to thousands of pages of the Reagan records. However, the release of those records has been delayed while the current administration developed new procedures to handle possible claims of "executive privilege" that might be made by former President Reagan or by President Bush.

Last Thursday, President Bush signed a new executive order establishing the procedures. The new executive order revoked an order on the same subject issued by President Reagan shortly before he left office. The Reagan order had established a fairly straightforward and expedient process for asserting and reviewing claims of executive privilege. The new order appears to create a more elaborate process. It also gives both the former and incumbent presidents veto power over the release of the records.

I appreciate the need to preserve whatever constitutional privileges may still be appropriate for a former president's records after many years. However, I am concerned that the new procedures may create additional delays and barriers to releasing the Reagan records. The public release of these records is already nine months beyond the release date envisioned by the Presidential Records Act. And there is no clear end in sight. Today's hearing will examine these issues.

I welcome all of our witnesses, and I look forward to their testimony.