



John Heinz
11/07/01 02:59 PM

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cc:
Subject: FW: Black America Web Article: Freedom of information advocates p rotest Bush order

Take a look at the last several paragraphs citing the AG's recent FOIA policy memo. Sounds like there may be less for us to do given these troubled times.

----- Forwarded by John Heinz/DC/USEPA/US on 11/07/2001 02:57 PM -----

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11/07/2001 02:52 PM

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----- Forwarded by Betty Lopez/DC/USEPA/US on 11/07/01 02:51 PM -----



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interesting read

Freedom of information advocates protest Bush order

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WASHINGTON (CSM) - If a new executive order signed by President Bush had been in place years ago, Americans might never have had an opportunity to hear President Johnson's private phone conversations with his aides - as they did recently on C-Span radio broadcasts.

They might never have known the true story of the Cuban missile crisis, the Iran-contra scandal or even Watergate.

That is why the executive order on presidential records, which Bush signed Nov. 1, is likely to be challenged in court.

The order "could have very broad implications with respect to restriction of access to historically significant documents," says Scott Nelson, a lawyer at the Public Citizen Litigation Group. The consumer-advocacy group, along with historical associations, will "very likely file litigation" seeking to overturn Bush's action, Nelson says.

Historians are furious about Bush's order, which is the first test case of the Presidential Records Act. The act, which Congress passed in the aftermath of Watergate, requires a president to release confidential communications with his aides 12 years after his term ends. The act took effect in 1981, making Jan. 20, 2001, the date for public release of 68,000 pages of President

Ronald Reagan's papers.

But the Bush administration delayed the decision to release three times so it could establish a process for dealing with these and subsequent papers. Under the new executive order, both the former president and the sitting president must agree to the release, and researchers must show a "demonstrated, specific need" to get access to the material.

"Congress in the '70s made you and me the owners of the papers," counters Hugh Davis Graham, a presidential historian at Vanderbilt University in Nashville. The Bush order changes that law, he says, "turning it right on its head, gutting it. It's an astounding reach."

Rep. Steve Horn, R-Calif., is holding hearings on the Bush order today.

The White House says critics are overreacting. Once the administration responds to requests for the Reagan papers, spokesman Ari Fleischer said last week, it will become apparent that the executive order will actually result in "more information" coming out.

Bush also defended his actions. "I don't see this as anything other than setting a set of procedures that I believe is fair and reasonable," he said Friday.

But historians question the need for this order. If the White House is concerned about national-security issues - one reason cited for giving a sitting president sign-off authority over a past president's papers - it need not worry, they say. Current law already allows for such restrictions.

Why, then, the apparent strictures on the release of presidential papers from the 1980s? For one thing, critics say, the Bush White House includes several former Reagan aides - Secretary of State Colin Powell, budget director Mitch Daniels, and economic adviser Lawrence Lindsey. These people are almost certainly mentioned in the Reagan papers, as is Bush's own father, who was Reagan's vice president.

For another, this order will give Bush plenty of cover in waging the war on terrorism, or any other topic, says Bruce Craig of the National Coordinating Committee for the Promotion of History, which is considering litigation.

Craig and others see this order as part of this administration's overall tendency to control information more tightly than most. In a memo last month, for instance, Attorney General John Ashcroft directed U.S. agency heads to exercise caution when responding to requests under the Freedom of Information Act.

While the Ashcroft memo was understandable during these tense times, Craig says, the White House is also reevaluating an executive order from the Clinton White House that declassifies federal agency documents.

"Now that they've been able to close down presidential records, they'll look at agency records,"

Craig says.