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**HEARING ON REFORM TO THE PRESIDENTIAL
LIBRARY DONATION DISCLOSURE PROCESS**

Wednesday, February 28, 2007

House of Representatives,
Committee on Oversight
and Government Reform,
Washington, D.C.

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Committee Hearings

of the

U.S. HOUSE OF REPRESENTATIVES



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4 LIBRARY DONATION DISCLOSURE PROCESS

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7 Committee on Oversight

8 and Government Reform,

9 Washington, D.C.

10 The committee met, pursuant to other business, at 10:20
11 a.m. in room 2154, Rayburn House Office Building, the
12 Honorable Henry A. Waxman [chairman of the committee]
13 presiding.

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

18 Staff Present: Phil Schiliro, Chief of Staff; Kristin
19 Amerling, General Counsel; Karen Lightfoot, Communications
20 Director and Senior Policy Advisor, Michelle Ash, Chief

21 | Legislative Counsel; Anna Laitin, Professional Staff Member;
22 | Earley Green, Chief Clerk; Teresa Coufal, Deputy Clerk; Roger
23 | Sherman, Counsel; Tony Haywood, Staff Director, Information
24 | Policy Subcommittee; Adam Bordes, Professional Staff Member,
25 | Information Policy Subcommittee; David Marin, Minority Staff
26 | Director; Larry Halloran, Minority Deputy Staff Director;
27 | Jennifer Safavian, Minority Chief Counsel for Oversight and
28 | Investigations; Keith Ausbrook, Minority General Counsel;
29 | Ellen Brown, Minority Legislative Director and Senior Policy
30 | Counsel; Mason Alinger, Minority Deputy Legislative Director;
31 | Steve Castor, Minority Counsel; Charles Phillips, Minority
32 | Counsel; Allyson Blandford, Minority Professional Staff
33 | Member; Patrick Lyden, Minority Parliamentarian and Member
34 | Services Coordinator; and Benjamin Chance, Minority Clerk.

35 Chairman WAXMAN. The meeting will come to order.

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

44 Presidential libraries serve an important purpose as
45 depositories of Presidential papers and centers for
46 historical research. In 1939, President Franklin Roosevelt
47 came up with the idea of a privately built but Federally
48 maintained library to house his Presidential papers. This
49 split of responsibilities between the public and the private
50 sectors has continued and has since been codified into law.
51 In 1955, the Presidential Libraries Act formally established
52 a system under which Federally maintained libraries would be
53 built using funds raised by private organizations. More
54 recent amendments have required these private organizations
55 to provide an operating endowment to the National Archives in
56 addition to the library building.

57 Just as the funding requirements have grown, so have the
58 libraries and their affiliated institutions. Now these
59 libraries are much more than basic research facilities. They

60 include museums and conference centers, along with other
61 tourist attractions, and they are getting more expensive all
62 the time.

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

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

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

84 I expect the Committee to consider this legislation next

85 | week. This legislation is one part of a larger effort by
86 | this Committee to restore honesty and accountability to the
87 | Federal Government. In fact, the Committee will soon be
88 | considering two additional open government bills, one to
89 | improve access in Presidential records and one to strengthen
90 | the Freedom of Information Act.

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

94 | [Prepared statement of Chairman Waxman follows:]

95 | ***** INSERT *****

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

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

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

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

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

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

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

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

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

146 | with you to craft bipartisan legislation. I know that you
147 | agree.

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

151 | [Prepared statement of Mr. Davis of Virginia follows:]

152 | ***** INSERT *****

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

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

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

162 Mr. DUNCAN. Mr. Chairman, thank you very much. You and
163 Ranking Member Davis have outlined the need for this
164 legislation. It is correct that I introduced this bill in
165 the 106th Congress under a Democratic President. It was not
166 acted on in that Congress. I introduced it again in the
167 107th Congress under a Republican President. It was passed
168 in the House by a vote of 392 to 3, with strong bipartisan
169 support.

170 I first became interested in this after learning that
171 even some people from foreign countries were making very
172 large contributions to Presidential libraries while
173 Presidents were still in office, obviously in an attempt to
174 gain influence. I introduced this bill many months before
175 any publicity occurred about Mark Rich, the man who President
176 Clinton pardoned on his last day in office, who had fled the
177 country to evade \$40 million in income taxes, and it turned

178 out that his wife had contributed \$450,000 to the Clinton
179 Presidential Library, and a close friend of Mr. Rich's had
180 contributed another million to the Clinton Library.

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

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

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

191 Thank you very much.

192 [Prepared statement of Mr. Duncan follows:]

193 ***** INSERT *****

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

195 Does any other member wish to be recognized?

196 [No response.]

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

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

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

210 [Witnesses sworn.]

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

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

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

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

223 | STATEMENT OF SHARON FAWCETT

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

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

232 | As I think the Chairman knows, this has been a most
233 | successful public/private partnership and we greatly
234 | appreciate the opportunity to explain why our relationship
235 | with our foundations has been a large part of our success for
236 | 66 years and 12 Presidential Administrations.

237 | If you invite an archivist to testify, you have to start
238 | with a little history. Nearly 70 years ago, as the Chairman
239 | noted, Franklin Roosevelt proposed creating a Presidential

240 library that would be part of the National Archives.
241 Roosevelt suggested a novel approach: he would donate the
242 land, himself, and build the library with private funding,
243 and then give the library and his papers to the National
244 Archives.

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

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

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

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

261 In 1996 Congress passed various amendments to the
262 previous act to reduce the cost to the public of operating
263 Presidential libraries, one of which requires that a minimum
264 endowment equal to 20 percent of the cost of the building to

265 | be transferred to the Government be turned over to the
266 | National Archives. On the day the Bush Library was
267 | dedicated, the Bush Foundation presented a check for \$4
268 | million. Likewise, the Clinton Foundation presented a check
269 | for \$7.2 million at its dedication. These endowments are
270 | used by the Government to offset such operational costs as
271 | security, utilities, and building services. The foundations,
272 | themselves, continue to provide ongoing support for exhibits
273 | and public programming at the libraries.

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

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

285 | In 1941 the Roosevelt Library cost \$369,000, or about \$4
286 | million in today's dollars. Later expansions for added
287 | archival storage, education classrooms, and visitors'
288 | services bring the total cost of the Roosevelt Library to \$26
289 | million in today's dollars. The Bush Library, at least the

290 | portion transferred to the Government, cost a little over \$22
291 | million, and likewise, the Clinton Library, \$36 million.

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

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

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

313 | Small foundations such as Hoover and Eisenhower
314 | contribute \$80,000 and \$130,000 respectively in a typical

315 | year in support of library programs. Foundations with larger
316 | endowments and development staff plan to contribute from
317 | \$450,000 to \$1,750,000 this fiscal year in support of museum,
318 | education, and public programs.

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

323 | The contributions of these support organizations to the
324 | libraries spell the difference between static repositories
325 | and lively, vital centers of scholarship and service to the
326 | public. Moreover, many of the foundations now contribute to
327 | the advancement of Presidential scholarship through joint
328 | library projects. The first ever joint conference of all the
329 | Presidential libraries happened in March, 2006, at the
330 | Kennedy Library, and provided a timely discussion by
331 | scholars, journalists, and policy makers on the lessons of
332 | Vietnam. In November of this year, we will hold our second
333 | joint conference on the Supreme Court at the Roosevelt
334 | Library. This will take place in the 70th year from
335 | Roosevelt's court-packing proposal.

336 | The leadership and financial support of the Johnson
337 | Foundation enabled the creation of the Presidential time
338 | line, an interactive web-based resource that provides
339 | learning activities and a cornucopia of digitized assets from

340 | all the libraries that is freely accessible to students and
341 | educators from around the world.

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

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

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

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

361 | [Prepared statement of Ms. Fawcett follows:]

362 | ***** INSERT *****

363 | Chairman WAXMAN. Thank you very much, Ms. Fawcett.
364 | Ms. Wexler, we want to hear from you.

365 | STATEMENT OF CELIA WEXLER

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

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

377 | Aside from getting re-elected, what means more to a
378 | President than his or her legacy? Given how invested
379 | Presidents have become in protecting and enhancing that
380 | legacy, and given the fact that gifts to Presidential
381 | libraries are undisclosed and unlimited, you can quickly
382 | perceive the potential for mischief. A special interest, a
383 | major corporation, wealthy individual, foreign government, or
384 | foreign national can give in secret millions of dollars to
385 | help build a Presidential library complex. And they can give
386 | these undisclosed donations while the President remains in
387 | office. They can use these donations to curry favor with a

388 sitting President, or to influence former Presidents who
389 continue to occupy the world stage and who may even be
390 related to current Presidents or members of Congress.

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

399 Disclosure is always the indispensable first step
400 towards comprehensive reform, and it will enable the public
401 and Congress to truly understand the scope of giving to
402 Presidential library complexes and the potential for
403 conflicts of interest or perceived conflicts that this fund
404 raising may present.

405 We hope that disclosure will help Congress ultimately
406 grapple with other questions related to Presidential library
407 fund raising.

408 As you know, these libraries are public/private
409 partnerships, and we have gotten a very good tutorial about
410 how those work. Even so, the Federal Government annually
411 spends tens of millions of dollars for their upkeep and
412 operation. Does this partnership work? Should the

413 Government directly take on the task of building modest
414 repositories for Presidential records and papers and divorce
415 itself from Presidents' increasingly ambitious plans to
416 memorialize their achievements and to create a platform for
417 their post-Presidential careers? Should sitting Presidents
418 be banned from soliciting or accepting contributions or
419 pledges of contributions to their Presidential libraries?
420 Should there be a limit on the size of contributions to the
421 libraries of sitting Presidents?

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

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

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

436 [Prepared statement of Ms. Wexler follows:]

437 ***** INSERT *****

438 | Chairman WAXMAN. Thank you very much, Ms. Wexler.
439 | Ms. Krumholz?

440 STATEMENT OF SHEILA KRUMHOLZ

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

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

457 I thank the Committee for this opportunity to speak.

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

461 Contributions to Presidential libraries fall into a
462 category all their own, in a sense. While it takes a

463 well-funded campaign to build a Presidential library, it is
464 not a political campaign, per se. There is, however, a sort
465 of candidate at the center of this campaign, someone in a
466 position of public trust, both while he is in office and, to
467 a lesser extent, once he has left office. Herein lies the
468 central concern: that those who donate money to Presidential
469 libraries will, in return, receive special access to and
470 favors from the President and the Federal Government. To
471 minimize the potential for that sort of payback and to build
472 trust among a citizenry that already questions the ethics of
473 elected officials, public disclosure of contributions to
474 Presidential library projects seems both appropriate and
475 wise.

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

487 The law has long recognized that our system of elections

488 | is strengthened when the public knows who is giving the
489 | money, and yet the public is still in the dark about several
490 | back door ways of buying influence in Washington, including
491 | the funding of Presidential libraries.

492 | To a President, a library with its accompanying and
493 | usually far larger museum, is a way to frame and preserve his
494 | legacy. For the President there is great self interest,
495 | because the library will live on long after the President's
496 | time in office and on earth have passed. I am reminded of
497 | the Vietnamese emperor who spent nine years ruling but whose
498 | tomb took eleven years to build.

499 | Presidents begin fund raising for their libraries well
500 | before they leave office. According to press reports, site
501 | selection for President George W. Bush's Presidential library
502 | has been going on for some time, and half a billion fund
503 | raising campaign is imminent, two years before he leaves
504 | office. Fund raising for President Bill Clinton's library
505 | began in 1998, less than halfway through his second term.

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

512 | The potential for corruption may be greater in the fund

513 raising for Presidential libraries than in the campaign
514 finance system. Donations to Presidential election campaigns
515 are limited to a few thousand dollars. Those to Presidential
516 libraries are not, and the checks can be written in the tens
517 of millions of dollars.

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

528 As you are all aware, the public's perception of
529 Washington is that money at the very least opens doors here.
530 To agree that disclosure of contributions is appropriate as a
531 way to minimize corruption and build public trust only gets
532 us so far. There are many questions you will have to answer
533 before disclosure of Presidential library contributions will
534 become a reality. For example, what information must be
535 disclosed, and by whom; how often, and for how long will
536 disclosure be required; in what form must they disclose it;
537 ho will administer and enforce the disclosure. As history

538 | has shown us, a law unenforced may be worse than no law at
539 | all, because it leaves you with the false comfort that you
540 | have done something even as a problem persists.

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

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

555 | Thank you.

556 | [Prepared statement of Ms. Krumholz follows:]

557 | ***** INSERT *****

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

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

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

582 It is clear that these foundations are different. The

583 draft legislation that the Committee will be considering soon
584 calls for the disclosure of all contributions of \$200 or more
585 that are given to the foundation through the period when the
586 library is turned over to the Archives, but it does not limit
587 contributions in any way.

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

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

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

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

602 Chairman WAXMAN. Yes.

603 Ms. KRUMHOLZ. I was wondering if that was considered and
604 why it was rejected in favor of \$200 limits per quarter. I do
605 agree--

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

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

610 Chairman WAXMAN. Right.

611 Ms. KRUMHOLZ. Yes. I do agree. I think it is important
612 that it is easier to make the limit based on the contribution
613 and not the aggregate contribution, as it is, as the rules
614 are at the FEC. I think that causes a greater burden on all
615 involved and allows for some confusion about what is
616 required. For instance, the Federal Election Commission,
617 filers do not have to disclose the full information of a
618 donor until they have reached the aggregate of \$200 during
619 the cycle. At that point it must be disclosed, but all
620 contributions under that are not part of the Federal Election
621 Commission computerized master data, and so there are
622 questions about when does it get disclosed, when do you meet
623 that aggregate limit, why aren't the contributions that are
624 less than \$00 disclosed. So I think it is simpler and more
625 intelligible to all involved when it is simply a matter of
626 each contribution being disclosed when it hits a certain
627 threshold.

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

632 Ms. WEXLER. Well, I think that this is a very good first

633 | step proposal and it is very politically viable, but
634 | ultimately I do think, for a sitting President, it would be
635 | important for Congress to seriously consider some limits.
636 | And we do have the precedent, I believe of the limits on
637 | transitional funding, so that after the election but before a
638 | new Administration takes over, the in-kind contributions
639 | received or the money donated to make that transition a
640 | little smoother is--there are limits in disclosure
641 | requirements in place for that, and the reason you can impose
642 | limits, I believe, is conditioned on the fact that the GSA is
643 | giving this transition team some resources. In the same way,
644 | with the Presidential libraries there is that public/private
645 | partnership, and I think that it might be a reason that one
646 | could condition, at least for a sitting President, some
647 | limits.

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

656 | The other, I think, you didn't ask me about this, but I
657 | also think that ultimately you want to consider again whether

658 | looking at contributions and disclosure of contributions just
659 | up to dedication, even though it is several years, is enough
660 | time, or whether you might want to go longer.

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

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

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

670 | Ms. KRUMHOLZ. Various charities.

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

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

679 | As the Chairman spoke, donors to foundations, as the
680 | foundations age the donations become very locally based, and
681 | many are interested in anonymity. Their donations are to run
682 | programs like the Presidential Learning Center at the Truman

683 | Library, the Five Star Leaders Program at the Eisenhower
684 | Library, the Cabinet Program at the Ford Library. So, you
685 | know, the contributors to these foundations aren't interested
686 | at that point in any political influence; they are interested
687 | in promoting educational opportunities in their communities
688 | and bringing specific discourse into the library system.

689 | Chairman WAXMAN. You are assuming you know their
690 | motivations?

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

693 | Chairman WAXMAN. That is what they say.

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

707 | Ms. KRUMHOLZ. Yes. There is one. I would agree with

708 | that list of requirements with one exception, and that is
709 | that employment should also be required, not just occupation.

710 | Some of the occupations we get in the Federal Election
711 | Commission data include maverick, entrepreneur, you know,
712 | domestic engineer. So employer is really key to letting us
713 | know--

714 | Chairman WAXMAN. Opportunist could be one, too.

715 | Ms. KRUMHOLZ. I am sorry?

716 | Chairman WAXMAN. They could say opportunist.

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

730 | Chairman WAXMAN. Thank you.

731 | Mr. Davis?

732 | Mr. DAVIS OF VIRGINIA. Let me just talk about former

733 Presidents at this point. Once they are out of office and
734 can't, at that point, I think, do any favors or use their
735 office, what is the chance of corruption in a case like that,
736 for terms of disclosure? I can understand if you have a
737 sitting President or somebody maybe within a couple of years,
738 but if somebody were to give \$100,000 to a Jimmy Carter
739 Library at this point and wanted to do it anonymously, what
740 is the chance of corruption in a case like that?

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

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

753 Mr. DAVIS OF VIRGINIA. Ms. Krumholz?

754 Ms. KRUMHOLZ. Thank you. In addition to that, I would
755 like to add that, should we be concerned about potentially
756 corrupting effect of donations to the library of a President
757 who has left office long ago? Maybe so, if he is still

758 living, an ex-President still has prestige, influence, and
759 even retains access to national intelligence as a courtesy.
760 And, as I said earlier, foreign governments and interests can
761 donate freely to Presidential libraries currently.

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

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

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

771 Ms. KRUMHOLZ. Right.

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

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

783 Mr. DAVIS OF VIRGINIA. Okay.

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

786 Mr. DAVIS OF VIRGINIA. Sure.

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

793 Mr. DAVIS OF VIRGINIA. Right. That is a concern. A lot
794 of people like to give these anonymously. They are just
795 doing it with the right motive in mind. These Presidential
796 libraries can be very important for researchers, for history,
797 for everything else. If you make it too difficult, people
798 just walk away from it, and then maybe the taxpayers get
799 stuck with it. So I don't know what the balance is. You
800 make a very good point. We could actually be in a period.
801 It could be 28 years before you have nothing but Bushes and
802 Clintons in the White House in theory, if you want to stretch
803 this thing out. I mean, I guess I don't know what that does
804 to poor Jimmy Carter.

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

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

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

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

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

828 Ms. WEXLER. You know, I think I believe in Mr. Duncan's
829 bill the threshold was \$5,000, but the time limit was
830 unlimited, right, for the disclosure? I think that that is
831 not a bad thing to think about, because, again, disclosure at
832 \$200 for a sitting President makes a lot of sense. It may

833 | not be a bad idea to raise the threshold once the President
834 | is no longer a sitting President, given the fact that we are
835 | seeing donations that we know about in the millions and tens
836 | of millions.

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

839 | Ms. WEXLER. Absolutely, but usually that is somehow--you
840 | know, there is usually some disclosure about that. People
841 | generally know a President's going rate for speeches. But I
842 | think \$5,000 wouldn't necessarily be a terrible threshold
843 | post the time a President is in office. Are we happy with
844 | \$200 as a threshold beyond that time? Yes.

845 | Mr. DAVIS OF VIRGINIA. Okay.

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

848 | Ms. WEXLER. Yes.

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

851 | Mr. DAVIS OF VIRGINIA. Okay.

852 | Ms. KRUMHOLZ. May I just interject?

853 | Mr. DAVIS OF VIRGINIA. Yes, please.

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

858 | appropriate place to--

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

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

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

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

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

883 | want to take.

884 | Mr. DAVIS OF VIRGINIA. Okay. Ms. Krumholz, any
885 | thoughts?

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

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

891 | Ms. KRUMHOLZ. And foreign nationals.

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

895 | Ms. KRUMHOLZ. Exactly.

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

900 | I have got a couple minutes left. Let me yield to Mr.
901 | Issa.

902 | Mr. ISSA. Thank you, Mr. Chairman.

903 | If I can summarize quickly, it sounds like the logical
904 | things for this Committee to consider are: one, moving this
905 | to the FEC; two, potentially harmonizing it with the FEC as
906 | though the President is still a candidate so that it would be
907 | consistent with the President's continued activity. If I

908 | can, using Ronald Reagan as an example, certainly in the last
909 | five years of his life nobody would say that Ronald Reagan
910 | was still active, and thus, even though he was still alive,
911 | reporting under the nod of heads I think I am seeing, could
912 | be suspended. Would that be pretty consistent with what I am
913 | hearing each of you say you view as to this reporting
914 | requirement?

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

917 | Mr. ISSA. In other words, if we harmonize the reporting
918 | requirement to the candidate, as we do normally. In other
919 | words, if we move this to the FEC, if I stop being a
920 | candidate, you know, stop all activity, the FEC says, okay,
921 | you have once a year, report us the balance, and that is it.

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

931 | Ms. WEXLER. I think so. I think the sort of question is
932 | when does a President not become active. It was pretty clear

933 | in President Reagan's case, but, you know, it is a kind of
934 | delicate question, and a President might be a little offended
935 | if all of the sudden he was declared inactive, which is also
936 | something to think about.

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

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

943 | Mr. ISSA. I guess my question--

944 | Chairman WAXMAN. Mr. Issa?

945 | Mr. ISSA. Yes, Mr. Chairman.

946 | Chairman WAXMAN. The clock never turned red.

947 | Mr. ISSA. Okay. I will finish in one follow-up on the
948 | same thing.

949 | Chairman WAXMAN. One last question.

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

957 | Ms. KRUMHOLZ. My concern would be the situation we have

958 | here with President Bush and former President Clinton.
959 | Somebody who wishes to influence a Candidate Clinton or the
960 | current sitting President might well give to their father or
961 | their husband's Presidential library, regardless--

962 | Mr. ISSA. I yield back the Ranking Member's unlimited
963 | time.

964 | Chairman WAXMAN. Thank you, Mr. Issa.

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

967 | Mr. HODES. Thank you, Mr. Chairman.

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

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

981 | I will direct this to Ms. Fawcett. Can you explain the
982 | role of the Presidential library foundation once the facility

983 | has been turned over to the Archives, particularly with
984 | regard to the non-library spaces in the complex? Who is in
985 | charge? Who is minding the store?

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

995 | Now, what does come to the Government, Congressman, is
996 | the museum, the research room, the archival offices, the
997 | storage spaces, the education classrooms. What doesn't come
998 | to the archives are things like venues to use for conference
999 | space, an apartment, sometimes the cafeteria, the museum
1000 | store. Those venues and those spaces remain with the
1001 | foundation, and the foundation must continue to raise money
1002 | to provide support for those venues in addition to supporting
1003 | the public programming, education programming, and exhibits
1004 | that are in the library, because the Government does not fund
1005 | those.

1006 | Last year the Presidential libraries cost the taxpayers
1007 | \$58 million in directly appropriated funds. The foundations

1008 | this year will be donating almost \$11 million to various
1009 | Presidential libraries for their use in programming
1010 | operations.

1011 | In terms of managing those spaces, when we accept a
1012 | library we have a joint operating agreement with the
1013 | foundation, and that agreement outlines the responsibilities
1014 | of both parties. Often, for example, since the spaces are
1015 | sort of interwoven throughout a building and we have this
1016 | space and the foundation has that space, we divide up the
1017 | utility cost and the operational cost, the maintenance cost
1018 | of the building so that the foundation pays a percentage of
1019 | those costs to the Government.

1020 | Mr. HODES. Now, the foundations are organized under
1021 | State law as 501(c)(3)s?

1022 | Ms. FAWCETT. Yes.

1023 | Mr. HODES. Is that correct?

1024 | Ms. FAWCETT. Yes.

1025 | Mr. HODES. And I suppose that the National Archives does
1026 | not impose any limitations, therefore, on the way the
1027 | foundations can use the collateral spaces, if you will, and
1028 | what purposes they put them to?

1029 | Ms. FAWCETT. Well, we do work out in the joint operating
1030 | agreement some understandings about the spaces. They
1031 | understand that we try to represent a non-partisan library.
1032 | Over time there may be an event that takes place in

1033 foundation space that, you know, a Republican candidate may
1034 come, but foundations and libraries generally invite the
1035 Democratic candidates to come also, you know. It is not
1036 normal for a--

1037 Mr. HODES. I was interested to hear, when the Chairman
1038 asked the question about the additional use to which the fund
1039 raising was put in that event of the 80th birthday, that
1040 there were other charities to whom money was donated. Do any
1041 of you on the panel think there is any issue that could arise
1042 in the foundation's ability to use those spaces collateral to
1043 the library for any purpose whatsoever, even though not
1044 related to the joint operating agreement with the National
1045 Archives? Any issue there?

1046 Ms. WEXLER. I am not sure that this directly responds. I
1047 think that one of our concerns is that if you look at these
1048 libraries, you know, Robert Carow said they were America's
1049 pyramids erected to the memory of America's rules, and I
1050 don't know if I want to go that far, but there is that sense
1051 that you do get a lot of hagiography, and that a lot of what
1052 happens inside them is not necessarily--the access to the
1053 Presidential records is absolutely invaluable and, indeed,
1054 helped Mr. Carow write his wonderful series on Lyndon
1055 Johnson, but you have that other aspect of these
1056 complexes--the tourist sites, the sort of way they pay
1057 tribute and emphasize certain aspects of an Administration's

1058 | history, that, you know, make you wonder a little about what
1059 | these are becoming and what the trend is. So I think that is
1060 | a concern.

1061 | Chairman WAXMAN. Thank you, Mr. Hodes.

1062 | Mr. HODES. Thank you, Mr. Chairman.

1063 | Chairman WAXMAN. Your time is up.

1064 | Mr. Issa, do you wish to be heard?

1065 | Mr. ISSA. Yes, I do, Mr. Chairman. Thank you, Mr.
1066 | Chairman.

1067 | You know, I think there is no question that we are going
1068 | to need to have a question at some point about the libraries,
1069 | where they are going and whether or not the Government
1070 | support of them remains as appropriate as it has been in the
1071 | past. I think that is beyond the scope perhaps of today's
1072 | hearing. But because I am so privileged to have the
1073 | representative of the National Archives, I have to say I
1074 | would like to not digress, but it is somewhat related. Ms.
1075 | Fawcett, you are familiar, obviously, with Sandy Berger
1076 | taking either originals or duplicates of classified documents
1077 | out of your care. As I understand, Nancy Smith is a direct
1078 | report to you; is that correct?

1079 | Ms. FAWCETT. Yes, she is.

1080 | Mr. ISSA. And I guess one of the question is: do you
1081 | consider that your responsibility is only to make sure that
1082 | these documents remain available for the future, or do you

1083 | have a separate recognition that you have to protect
1084 | classified documents from being taken out by anybody
1085 | whatsoever, including Sandy Berger?

1086 | Ms. FAWCETT. Well, we feel that we have the
1087 | responsibility to do both. We are the historical protectors
1088 | of the records. In the case of Mr. Berger's visit to the
1089 | National Archives, he came to the National Archives as an
1090 | official representative of President Clinton. He was
1091 | reviewing records for the 911 Commission for his testimony
1092 | and for President Clinton's testimony.

1093 | Mr. ISSA. Okay, then, following up on that, why was
1094 | Sandy Berger allowed to be alone with documents for which
1095 | there are no duplicates with a briefcase and the ability--we
1096 | don't know whether he did or he didn't, but he could have
1097 | simply put them in his briefcase and left.

1098 | Ms. FAWCETT. Well--

1099 | Mr. ISSA. Was there special treatment, or would you do
1100 | this for other people that came in representing a former
1101 | President?

1102 | Ms. FAWCETT. As representatives under the Presidential
1103 | Records Act, we did, indeed, treat people differently. We
1104 | expected, and from 1989 when the Presidential Records Act
1105 | first was implemented with Ronald Reagan's departure from the
1106 | White House, through the time of Sandy Berger, we operated
1107 | with an attitude of trust in these people. They had

1108 | statutory responsibility, statutory authority to view the
1109 | records. And yes, they were treated with respect. They were
1110 | not regular researchers and they weren't treated as regular
1111 | researchers. We expected Mr. Berger to be knowledgeable of
1112 | the national security requirements. We had never had an
1113 | issue. But, saying that, national security is ever evolving.
1114 | I go through airports now and I take my shoes off. I didn't
1115 | used to.

1116 | Mr. ISSA. Okay. So--

1117 | Ms. FAWCETT. Now, if a Presidential representative comes
1118 | to--

1119 | Mr. ISSA. Right. Looking forward, not back then, today
1120 | if--Sandy Berger would be inappropriate, but if anyone from a
1121 | former Administration came, can we be assured that they would
1122 | never, never be allowed to be alone with any document and
1123 | that they would not be given documents for which there were
1124 | not catalogs and duplicates?

1125 | Ms. FAWCETT. Part of your question, they would not be
1126 | alone with the documents in a production request. But,
1127 | secondly, would they be given original materials? The answer
1128 | to that is probably yes, because we have nine billion pieces
1129 | of paper in the National Archives and we don't make copies of
1130 | all of them. There would be somebody with them in attendance
1131 | while they worked with the records, and in many cases they
1132 | might even be under camera surveillance.

1133 Mr. ISSA. In many cases? So it is safe to say that
1134 Sandy Berger could never again, or someone like him, come in
1135 and take original documents such as e-mails or other desk
1136 copy information that might, in fact, have germaneness to
1137 current or future investigations? That is absolutely
1138 something you have closed?

1139 Ms. FAWCETT. That is absolutely something that we strive
1140 to have not happen again.

1141 Mr. ISSA. And do you feel there was any wrongdoing in
1142 the treatment that was allowed Sandy Berger, the special
1143 treatment as you have described it at the time?

1144 Ms. FAWCETT. I think that it was the vigilance of our
1145 staff and their care and their concern that led to Sandy
1146 Berger's being caught with these records, and the Congress
1147 knowing about it, the 911 Commission knowing about it, and
1148 the National Security Council knowing about it. Without our
1149 employees' careful handling of this case, Sandy Berger would
1150 not have been caught.

1151 Mr. ISSA. I thank you for your diligence and I thank you
1152 for the changes that you have implemented.

1153 Ms. FAWCETT. Thank you, Mr. Issa.

1154 Mr. ISSA. Mr. Chairman, I yield back.

1155 Chairman WAXMAN. Mr. Braley?

1156 Mr. BRALEY. Thank you, Mr. Chairman.

1157 Ms. Fawcett, let me start with you. One of my family's

1158 | cherished archives is a photograph my mother took on August
1159 | 10, 1962, very similar to the one I have in my hand--

1160 | Ms. FAWCETT. Were you at the Hoover Library?

1161 | Mr. BRALEY.--at the dedication of the Herbert Hoover
1162 | Presidential Library in West Branch, Iowa.

1163 | Ms. FAWCETT. Thank you.

1164 | Mr. BRALEY. She held a Brownie Instamatic camera over
1165 | her head.

1166 | Ms. FAWCETT. Yes.

1167 | Mr. BRALEY. She is only 5'4'' and she got a picture of
1168 | President Hoover and President Truman walking through
1169 | thousands of people.

1170 | One of the questions that I have for you and for
1171 | everyone on the panel is I am concerned about the growing
1172 | disparity between what I will call small market and large
1173 | market Presidential libraries and the fact that we have
1174 | talked about this exponential growth in terms of the dollar
1175 | value of those libraries and the expanded components
1176 | available to people who attend those facilities beyond simply
1177 | a repository of Presidential documents and memorabilia.

1178 | Have you thought about how we can preserve the original
1179 | purpose of these libraries, which is to provide a repository
1180 | of information and a museum experience for people from all
1181 | across this country to experience a historical perspective of
1182 | that Presidency without turning it into a theme park type

1183 | environment where there are no limits on the surrounding
1184 | opportunities available for experiencing that Presidency?

1185 | Ms. FAWCETT. Well, I don't view any of the libraries now
1186 | as a theme park type of environment. I would say that one of
1187 | the reasons for the expansion of spaces in libraries is to
1188 | earn the revenue necessary to support the library. The funds
1189 | that come from the Government, the directly appropriated
1190 | funds, aren't sufficient for us to provide those educational
1191 | experiences and the museum experiences to the public. We do
1192 | not use any direct appropriated funds to pay for museum
1193 | exhibits. Those are all funded either through revenues
1194 | gained from admission to the library that are in the
1195 | library's government-operated trust funds, or through
1196 | donations of the foundations to the libraries to do that.

1197 | Another area of earning revenue is through the rental of
1198 | spaces in the library, to use the library as a venue for
1199 | events. That has also assisted the libraries in being able
1200 | to bring programs such as the Presidential time line, which
1201 | launched in February. It is a project of all of the
1202 | Presidential libraries to bring the digitized assets to
1203 | school children and educators everywhere across the country.
1204 | There are learning experiences on the web site. There are
1205 | assets you can search across the time line of the Presidency.

1206 | We are striving in the Presidential library system to
1207 | look at the Presidency as a time line as a whole, because

1208 | events don't happen in any stovepipe way. The civil rights,
1209 | the Vietnam War, the Middle East Conflict, all of these
1210 | things extend over a period of time. Through the revenues
1211 | that we gain in these projects, we are able to put together
1212 | these sort of experiences for the American people, for
1213 | students everywhere. We don't expect Congress to fund those.
1214 | If you think it would be better for Congress to fund those,
1215 | we can certainly accept the money, but that has not been our
1216 | intent.

1217 | Mr. BRALEY. No, but just talking about the earlier
1218 | discussion of what type of revenues were generated from the
1219 | Hoover Library and some of the smaller libraries, even if you
1220 | take a 40 percent endowment requirement for a \$500 million
1221 | library, you are still talking about \$300 million over and
1222 | above that amount that is available, and, using another
1223 | baseball analogy from Iowa, if you build it, they will come.

1224 | Ms. FAWCETT. Yes.

1225 | Mr. BRALEY. When you have a Presidential library that
1226 | has a think tank component to it, then what restrictions are
1227 | there under the current statute that would prevent a theme
1228 | park from being added as a component to a Presidential
1229 | library?

1230 | Ms. FAWCETT. Well, that wouldn't be brought to the
1231 | national archives and wouldn't be transferred to national
1232 | archives. The think tank component of the proposed George W.

1233 | Bush Library would not transfer to the Federal Government.

1234 | That would be part of something that the foundation would be
1235 | managing.

1236 | Mr. BRALEY. I understand that, but my point is what
1237 | prevents us from going to the next step under the current
1238 | statute?

1239 | Ms. FAWCETT. Under the Presidential Libraries Act
1240 | statute?

1241 | Mr. BRALEY. Yes.

1242 | Ms. FAWCETT. Well, there is nothing, but the Government
1243 | wouldn't accept that, so, I mean, the fact that the
1244 | foundation could build it, yes, there is nothing to prevent
1245 | the foundation from building whatever they want to build, but
1246 | what they can transfer to the Government is codified, and it
1247 | is up to Congress to decide whether or not to accept what is
1248 | transferred to the Government. We prepare a report that we
1249 | submit to you some time before the transfer, and it is up to
1250 | Congress to make that decision whether this is an appropriate
1251 | project for the Government to manage.

1252 | Mr. BRALEY. Thank you.

1253 | Chairman WAXMAN. Thank you, Mr. Braley.

1254 | I want to thank the three of you for your testimony
1255 | today. I think we have an excellent record for this
1256 | Committee to consider legislation.

1257 | Thank you.

1258 | If there is no other business from any other members,
1259 | the Committee stands adjourned.

1260 | [Whereupon, at 11:30 a.m., the committee was adjourned.]

CONTENTS

STATEMENTS OF SHARON FAWCETT, ASSISTANT ARCHIVIST FOR PRESIDENTIAL LIBRARIES, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; CELIA VIGGO WEXLER, VICE PRESIDENT OF ADVOCACY, COMMON CAUSE; SHEILA KRUMHOLZ, EXECUTIVE DIRECTOR, CENTER FOR RESPONSIVE POLITICS	PAGE	12
STATEMENT OF SHARON FAWCETT	PAGE	12
STATEMENT OF CELIA WEXLER	PAGE	19
STATEMENT OF SHEILA KRUMHOLZ	PAGE	24

INDEX OF INSERTS

***** INSERT *****	PAGE	5
***** INSERT *****	PAGE	8
***** INSERT *****	PAGE	10
***** INSERT *****	PAGE	17
***** INSERT *****	PAGE	22
***** INSERT *****	PAGE	28