



David A. Zeeck

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March 1, 2007

VIA E-MAIL

The Honorable William Lacy Clay
Chairman
Subcommittee on Information Policy, Census and National Archives
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Michael Turner
Ranking Member
Subcommittee on Information Policy, Census and National Archives
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Re: Statement of the American Society of Newspaper Editors

Dear Chairman Clay and Ranking Member Turner

The American Society of Newspaper Editors (“ASNE”) submits this written statement to be included as part of the Subcommittee on Information Policy, Census and National Archives’ March 1, 2007 hearing on the Presidential Records Act. ASNE is a professional organization of approximately 750 persons who hold positions as directing editors of daily newspapers in the United States and Canada. The purposes of the Society include assisting journalists and providing unfettered and effective press in the service of the American people.

We applaud your investigation into the damaging effect Executive Order 13,233 has had on the Presidential Records Act and urge you to consider legislation to overturn that Executive Order, an action that would restore Congress’ original intent to make Presidential Records

available to the public to the greatest degree and effect possible. The Presidential Records Act acts as a necessary complement to the federal Freedom of Information Act's ("FOIA") guarantee of strong self-governance by adequately balancing the need for access to records of our nation's ultimate decision maker with the need for some discretion and caution when dealing with the dangers that might arise from instant access to the information on which major decisions are based. The compromise of releasing records twelve years after the President has left office, subject only to strictly delineated exceptions, reiterates the long held notion that, ultimately, public records are the people's records. Executive Order 13,233 unilaterally and instantaneously reversed the will of two Congresses. That such a marked shift in policy, based on what we believe to be an erroneous interpretation of the Supreme Court's decision in Nixon v. United States, might vest the power in a randomly chosen family member of a former President to hold public records hostage is antithetical to "open government."

One might be tempted to assume that newspaper editors, who traditionally work on deadline, would have little use for records that are more than a decade old. While it is true that our reporters are more apt to utilize FOIA as a newsgathering tool, newspaper reporters frequently require older documents in the preparation of longer feature stories. They are also invaluable as a means of casting a historical perspective on current events. This use of Presidential records is particularly important at this juncture, as the records of President George H.W. Bush, who also went to war with Iraq, became eligible for release under the Presidential Records Act; we still have troops in that country and have a continuing need to learn from the decisions made by our 41st President as the public wrestles with our role in Iraq. Similarly, as our diplomatic relations with Iran continue to evolve, the records of President Ronald Reagan –

many of which have been blocked from release pursuant to Executive Order 13,233 – become vital due to his dealings with that country in the immediate aftermath of the Iran Hostage Crisis.

ASNE hopes that your subcommittee will kick start the process of restoring the full breadth of the public’s right to know. Your oversight through this hearing is a strong first step. The Presidential Records Act is just one of several laws that separate the United States from most other countries in the world, where scrutiny, second-guessing, and criticism of heads of state is non-existent (and often illegal). Effective public oversight of national leaders is both searching and continuous, for as the writer George Santayana famously said, “[t]hose who cannot remember the past are condemned to repeat it.”

We thank you for holding this hearing and thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Zeeck', with a long horizontal flourish extending to the right.

David A. Zeeck
President