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Hearing on The JFK Files

Before the

House Committee on Oversight and Government Reform

Task Force on the Declassification of Federal Secrets

United States House of Representatives

April 1, 2025

Chair Luna, Ranking Member Garcia, and members of the Task Force. Thank you for the opportunity to testify today about the privacy, transparency, and accountability issues raised by the recent release of documents from the President John F. Kennedy Assassination Records Collection. My name is John Davisson, and I am the Director of Litigation and Senior Counsel at the Electronic Privacy Information Center, or EPIC. EPIC is an independent nonprofit research organization in Washington, DC, established in 1994 to protect privacy, freedom of expression, and democratic values in the information age. For more than 30 years, EPIC has been a leading proponent of both government transparency and the protection of personal information held by federal agencies.

As this Task Force knows well, the assassination of President Kennedy was an event of surpassing historical and political significance, one that has engendered more than sixty years of investigation, analysis, and debate. Today’s hearing highlights the critical role that open government laws, and in particular the JFK Records Act,¹ have played in informing that discourse. Open government laws, as the Supreme Court has written, “ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.”² These imperatives have led Congress to establish a robust array of public disclosure requirements for federal entities, including the Freedom of Information Act (FOIA), the Federal Advisory Committee Act (FACA), and the JFK Records Act, which Congress intended to “enable the public to become fully informed about the history surrounding the assassination.”³ Having spent decades fighting to secure the transparency

¹ President John F. Kennedy Assassination Records Collection Act of 1992, Pub. L. 102–526, 106 Stat. 3443 [hereinafter JFK Records Act].

² *Nat’l Labor Relations Bd. v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

³ JFK Records Act § 2(a)(2)

of government records,⁴ EPIC firmly supports the objectives of the JFK Records Act and the fulfillment of its disclosure mandate.

But given that many federal records contain sensitive personal information, Congress has made it clear that government transparency must be balanced with the protection of privacy. Disclosing personal information is inherently invasive and can expose individuals to a wide array of secondary harms, including reputational harm, psychological harm, stalking, harassment, doxing, vigilantism, identity theft, and fraud.⁵ Accordingly, the FOIA,⁶ the FACA,⁷ and the JFK Records Act⁸ all establish that the disclosure of records is not required to the extent that such dissemination would constitute an “unwarranted invasion of personal privacy.” Together with the safeguards of the Privacy Act,⁹ these provisions ensure (in principle) that the federal government only disseminates personal information to the extent that the public interest in disclosure outweighs the privacy interest of the individual to whom it pertains.¹⁰

To fulfill this dual mandate of transparency and privacy protection, federal agencies consistently conduct a detailed review of documents prior to release, redacting personal information (or sometimes withholding records in full) where disclosure would cause

⁴ See *Open Government*, EPIC (2025), <https://epic.org/issues/open-government/>; *Freedom of Information Act*, EPIC (2025), <https://epic.org/issues/open-government/foia/>; *Federal Advisory Committee Act*, EPIC (2025), <https://epic.org/issues/open-government/federal-advisory-committee-act/>.

⁵ EPIC, Comments on the Consumer Fin. Prot. Bureau Request for Information Regarding Data Brokers and Other Business Practices Involving the Collection and Sale of Consumer Information 6, 26, 49, 74 (July 14, 2023), <https://epic.org/wp-content/uploads/2023/07/EPIC-CFPB-data-brokers-RFI-comments-071423.pdf>.

⁶ 5 U.S.C. § 552(b)(6) (exempting from disclosure “files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy”).

⁷ 5 U.S.C. app. 2 § 10(b) (making public inspection of records “[s]ubject to” the FOIA, including the 5 U.S.C. § 552(b)(6) exemption for records whose disclosure would “constitute a clearly unwarranted invasion of personal privacy”).

⁸ JFK Records Act § 6(3) (permitting the disclosure of records to be postponed if disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy . . . outweigh[ing] the public interest”).

⁹ 5 U.S.C. § 552a.

¹⁰ See generally *FOIA Guide, 2004 Edition: Exemption 6*, U.S. Dep’t of Justice <https://www.justice.gov/archives/oip/foia-guide-2004-edition-exemption-6> (collecting cases).

unwarranted privacy harm. For example, when processing FOIA requests, the National Archives and Records Administration (NARA) is ordinarily careful to withhold records “about a living individual . . . that, if released, would cause a clearly unwarranted invasion of personal privacy.”¹¹ This applies with special force to Social Security numbers, which NARA has deemed “exempt from disclosure.”¹² In the past, NARA also conducted extensive reviews of documents subject to the JFK Records Act to identify any Social Security numbers or financial information of living persons, requesting that the disclosure of such records be delayed.¹³ EPIC, in its own FOIA litigation, rarely challenges agency assertions of (b)(6)—the exemption for “unwarranted invasion of personal privacy”—because in most cases the disclosure of sensitive personal information does not contribute materially to the public’s understanding of the government activities described or recorded by a document.

By all appearances, these procedures and safeguards were simply ignored in last month’s hurried release of 60,000 pages of documents from the JFK Assassination Records Collection, which led to the public disclosure of “Social Security numbers and other private information of more than 400 former congressional staffers” and other officials.¹⁴ Many of these records had been previously published with redactions that reflected NARA’s awareness of the sensitive information contained therein—redactions that were removed in the latest release.¹⁵ This

¹¹ 36 C.F.R. § 1256.56(a); *see also* 36 C.F.R. § 1256.28 (setting out extensive procedures and safeguards for “qualified persons doing biomedical or social science research” to secure a limited exception to § 1256.56).

¹² NARA, *PII considerations in screening archival records* (2017), <https://www.archives.gov/files/Before-Screening-Records.pdf>.

¹³ Memorandum from Debra Steidel Wall, Acting Archivist of the United States, to President Joe Biden (Dec. 9, 2022), https://www.archives.gov/files/research/jfk/releases/2022docs/NARA_Postponement_Memo_JFK_12-9-2022.pdf.pdf.

¹⁴ William Wan et al., *More than 400 Social Security numbers, other private information revealed in JFK files*, Wash. Post (Mar. 20, 2025), <https://www.washingtonpost.com/investigations/2025/03/19/personal-information-jfk-files-social-security-numbers/>.

¹⁵ *Id.*

shocking violation of privacy has compounded a national trauma and distracted from Congress's stated goal of informing the public through the JFK Records Act. Security experts, as well as those directly harmed by the breach, have deemed it "outrageous," "sloppy," "unprofessional," "astonishing," "foolish,"¹⁶ "incompetent,"¹⁷ "egregious," "almost criminal," and a breach of a "first-grade, elementary-level rule of security[.]"¹⁸ NARA has reportedly begun to reach out to individuals affected by the breach, and the White House has promised free credit monitoring services and new Social Security numbers to those harmed.¹⁹ But these steps are far too little, far too late to remedy a sweeping breach of privacy that should have been prevented through adherence to long-established redaction procedures. That bell can't be unrung.

There are several lessons to draw from this episode. First, Congress has mandated that agencies take steps to prevent unwarranted invasions of privacy resulting from records disclosures for good reason. This incident illustrates why those procedures must be followed, even when logistically or politically inconvenient. Congress should explore updates to the FOIA, the Privacy Act, and other federal records statutes to ensure that such procedures are both readily enforceable and followed without exception. Second, while prompt disclosure of public records is essential, arbitrary fire drills that make it impossible to adequately review records for sensitive personal information are a threat to privacy and the public. Although it is difficult to see how any agency could have completed an ongoing review of 60,000 pages within the 24 hours allotted,²⁰

¹⁶ *Id.*

¹⁷ Dave Collins, *People named in JFK assassination documents are not happy their personal information was released*, Assoc. Press (Mar. 20, 2025), <https://apnews.com/article/jfk-assassination-files-personal-information-5609ccd6e106c5b30ee6b6cca3a30e3c>.

¹⁸ Sarah Maslin Nir and Maggie Haberman, *White House Seeks to Contain Damage From Personal Data in Kennedy Files*, N.Y. Times (Mar. 20, 2025), <https://www.nytimes.com/2025/03/20/us/jfk-assassination-files-personal-information.htm>.

¹⁹ Wan et al., *supra* note 14.

²⁰ Nir & Haberman, *supra* note 18.

this incident serves as a reminder of the need to adequately fund FOIA offices throughout the federal government to ensure that they can carry out their weighty (and growing²¹) responsibilities in a timely fashion. Third, this breach—while deeply serious—is a drop in the bucket compared to the wrongful disclosure of personal information now occurring within and between federal agencies.²² Failing to rein in this misuse of systems of records by unaccountable federal actors risks far more dangerous consequences.

A final note. I am here today to speak about the privacy and transparency dimensions of the release of records concerning the Kennedy assassination, not as a subject matter expert in the assassination itself. But as a representative of an organization that has long fought for surveillance reforms and which has brought multiple FOIA requests and lawsuits against the Central Intelligence Agency (CIA),²³ I want to encourage the Task Force, Congress, and the administration to concentrate on the problems that can be addressed at the agency today—not to focus too narrowly on the events of 60-odd years ago. Many of us agree that greater oversight, accountability, and protections for civil liberties are sorely needed across the U.S. Intelligence Community. EPIC submits that strengthening open government laws and ensuring stricter compliance at agencies like the CIA is a good place to start.

Thank you for the opportunity to testify today.

²¹ *Agency Fiscal Year 2024 Annual Report Data Published on FOIA.gov*, U.S. Dep’t of Justice (March 14, 2025), <https://www.justice.gov/oip/blog/agency-fiscal-year-2024-annual-report-data-published-foiagov> (“[W]e can see that demand for FOIA reached another record high in FY 2024, surpassing 1.5 million requests received and reflecting a 25% increase compared to FY 2023.”).

²² See, e.g., Complaint, *EPIC v. U.S. Office of Pers. Mgmt.* (<https://epic.org/wp-content/uploads/2025/02/EPIC-v-OPM-25-cv-255-complaint-021025.pdf>).

²³ E.g., *EPIC v. CIA – Domestic Surveillance*, EPIC (2013), <https://epic.org/documents/epic-v-cia-domestic-surveillance/>; *EPIC v. CIA – CIA Spying on Congress*, EPIC (2015), <https://epic.org/documents/epic-v-cia-cia-spying-on-congress/>.