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Subject: Washington Update Vol. 3, #22, June 11, 1997 (fwd)
NCC Washington Update, Vol. 3, # 22, June 11, 1997 by Page Futham Miller, Director of the National Coordinating Committee for the Promotion of History <pagem@capaccess.org>1. Appeals Court Hears Oral Arguments on Public Interest Standard for Unsealing Grand Jury Records2. White House Calls On Agencies To Respond to Recommendations in the Moynihan Commission Report on Secrecy3. House Committee Recommends Reauthorization Of JFK Assassinations Records Review Board4. Update on House Mark-Ups for FY'98 Agency Budgets1. Appeals Court Hears Oral Arguments on Public Interest Standard for Unsealing Grand Jury Records -- On June 7 the United States Court of Appeals for the Second Circuit in New York City heard oral arguments in the case of Bruce Craig v. United States of America (No. 96-6264). In this case Craig, a PhD student at American University, filed a petition in 1996-- that was denied by the lower court -- for an order releasing historically significant grand jury records pertaining to a McCarthy era espionage investigation of Harry Dexter White, a high-ranking Treasury Department official accused of being a Communist spy. Specifically Craig is seeking access to the 79-page transcript of White's grand jury testimony that occurred five months before his death. Craig's petition showed that there is an overwhelming public interest, rooted in access for genuine historical research, in disclosure of the White grand jury transcript and little interest in maintaining its secrecy. Each side had only ten minutes to present its arguments to the panel of Judges KeARSE, Calabresi, and Munson. Lucinda Sikes, of the Public Citizen Litigation Group, presented the plaintiff's arguments focusing on diminishing sensitivity over time and the historical interest in old records in which no harm would occur from their release. The government's defense was rooted in the very narrow argument that the Court should not deviate from the rule for keeping grand jury records closed. The government did not attempt to make a case that the records in question are not of historical value. Several of the judges' questions indicated that they were interested in exploring the circumstances under which grand jury records had been opened in the past and those conditions under which there could be an exception -- for public interest in extraordinarily significant historical documents -- to the general rule. The American Historical Association, the Organization of American Historians, the National Council on Public History, and the Society of American Archivists filed an amici brief in support of Craig's petition. The amici brief stresses the public's compelling interest in knowing its own history, in observing the operation of the criminal justice system, and in establishing a precedent in which the public's interest in historic grand jury records can justify the unsealing those records. The Appeals Court will probably rule in this case this summer.2. White House Calls On Agencies To Respond to Recommendations in the Moynihan Commission Report on Secrecy -- In May, Samuel Berger, the National

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