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August 2, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Grassley:

This letter is in response to your July 27, 2018, letter to Patrick X. Mordente, Director of the George W. Bush Presidential Library and Museum, requesting George W. Bush Presidential records concerning Judge Brett M. Kavanaugh. The George W. Bush Library is part of the National Archives and Records Administration (NARA). The request is being processed in accordance with the Presidential Records Act (PRA), 44 U.S.C. § 2205(2)(C), which provides for an exception to restricted access for records that are requested by a committee or subcommittee in the conduct of the business of Congress, as well as under NARA's regulations at 36 C.F.R. Part 1270 and Executive Order 13489.

Your letter requests three categories of records:

- (1) Emails sent to or received from Kavanaugh, including emails on which he was a carbon copy or blind carbon copy recipient, during the period Kavanaugh served as Associate Counsel and Senior Associate Counsel to the President, including any documents attached to such emails;
- (2) The textual records contained in Kavanaugh's office files from the period during which he served as Associate Counsel and Senior Associate Counsel to the President; and
- (3) Documents relating to Kavanaugh's nomination to the U.S. Court of Appeals for the District of Columbia Circuit

NARA estimates that the first category includes roughly 170,000 emails. Because we estimate that email records in this collection (which frequently include attachments) average approximately five pages per email, there could be as many as 850,000 pages of email records. (The emails may also include personal and other non-PRA record, and duplicate materials; in addition, this volume does not include emails in which Kavanaugh is only mentioned). NARA

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estimates that the second category includes roughly 60,000 pages, and the third category includes a little over 3,800 pages.

Thus, the total volume of your request could be more than 900,000 pages. By way of contrast, the total volume of records that NARA reviewed for the nomination of Justice Roberts was approximately 70,000 pages, and the volume for Justice Kagan's nomination was 170,000 pages.

You have asked that NARA "begin rolling production to the Committee . . . no later than August 1, 2018," and "complete the rolling production . . . no later than by August 15, 2018." However, your letter also states that you "intend to adhere to established custom and accept certain PRA-restricted material on a Committee Confidential basis and to permit the Archivist to withhold some PRA-restricted material in its entirety," including classified national security information or personal privacy information. Based on discussions with your staff, our review would also include information subject to other applicable PRA restrictions and FOIA exemptions.

NARA began the process of reviewing these records as soon as we learned of Judge Kavanaugh's nomination, prior to receiving your request. To that end, on August 1, 2018, we completed the review of Kavanaugh's nomination files, per part 3 of your request, and provided the required notification to the PRA representatives of the incumbent and former Presidents, for both special access and public access disclosure, in accordance with 44 U.S.C. § 2208, 36 C.F.R. § 1270.46, and Executive Order 13489. We will let you know as soon as the PRA representatives have completed their review and we can provide those records to the Committee.

However, please note that we will not be able to complete our review of all of the records that you have requested by August 15, 2018. Rather, we estimate that we can complete our review of the textual records and the subset of White House Counsel Office emails "from" Kavanaugh (approximately 49,000 emails) – totaling roughly 300,000 pages – by approximately August 20, 2018, and currently expect to be able to complete the remaining 600,000 pages by the end of October 2018, all of which would then be followed by notification to the PRA representatives.

If you have any questions concerning this request, please feel free to have your staff contact me at 301-837-3026.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Stern", with a stylized flourish at the end.

GARY M. STERN
General Counsel

cc: The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate