

# **George W. Bush Presidential Library**

**Collection:** Counsel's Office, White House

**Series:** Kavanaugh, Brett – Subject Files

**Folder Title:** Grassley, Charles E. - HCA-DOJ

# Withdrawn/Redacted Material

## The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Draft	[Letter] - To: Charles Grassley - From: William Moschella	2	06/04/2003	P5;

### COLLECTION TITLE:

Counsel's Office, White House

### SERIES:

Kavanaugh, Brett - Subject Files

### FOLDER TITLE:

Grassley, Charles E. - HCA - DOJ

### FRC ID:

9795

### RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile, defined in accordance with 44 U.S.C. 2201(3).

#### Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

#### Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

Jun-03-2003 11:04am From-Charles E Grassley

202-228-0578

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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

June 3, 2003

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL  
JIM FORBES, DEMOCRATIC STAFF DIRECTOR

VIA FACSIMILE: (202) 514-4482

ORIGINAL BY U.S. MAIL

The Honorable John Ashcroft  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

The Honorable Tommy G. Thompson  
Secretary  
Department of Health & Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Attorney General Ashcroft and Secretary Thompson:

The Senate Finance Committee (Committee) maintains exclusive jurisdiction over federal health care programs in the United States Senate. As you are both aware, the Committee has been investigating the underlying basis for the settlement reached between HCA, Inc. (HCA) and the United States Department of Justice (DOJ) pursuant to Congress's inherent constitutional prerogative to investigate, as well as, the Committee's statutory duty to engage in continuous oversight of the application, administration, and execution of the laws within its jurisdiction,

On May 23, 2003, Committee investigators met with DOJ representatives regarding, among other subjects, the portion of the HCA settlement applicable to HCA's administrative liability to the Centers for Medicare & Medicaid Services (CMS), Department of Health & Human Services (HHS). During the meeting, Committee investigators verbally requested a copy of a letter from CMS to DOJ that was a primary topic of discussion. The letter, which purportedly provided CMS's factual and statistical justification for its recommended settlement with HCA, was delivered to DOJ sometime during the early spring of 2002 and was approximately 14 or 15 pages in length. DOJ representatives denied this verbal request claiming attorney-client, work product, and deliberative process privileges (CMS-HHS has also asserted such claims of privilege previously).

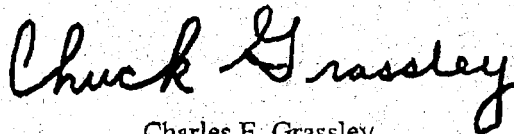
In light of my constitutional and statutory responsibilities as Chairman of this Committee, I cannot accept DOJ's verbal claims of privilege in this instance. Therefore, the Committee requests immediate delivery, by facsimile or by hand, of the aforementioned letter to the Committee's office by noon tomorrow. In the event you will not provide the letter, please notify me immediately and provide the Committee with a detailed memorandum explaining the legal basis for not complying with the Committee's request by June 6, 2003.

Attorney General Ashcroft & Secretary Thompson  
Page 2 of 2

The Committee began this investigation over a year ago because of my concern for properly enforcing the False Claims Act and for maintaining the integrity of the Medicare Trust Funds. I will not relent on this matter until I am satisfied that the Committee has fulfilled its constitutional and statutory responsibilities.

Thank you for your immediate attention to this request - I am certain we can resolve this matter quickly and in a mutually satisfactory manner. Please fax the letter to (202) 224-2131 or deliver it to Hart 203, Senate Office Building. Your staff may contact Emilia DiSanto or Dan Donovan, at (202) 224-4515, if necessary.

Sincerely,



Charles E. Grassley  
Chairman

# Withdrawal Marker

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**This marker identifies the original location of the withdrawn item listed above.  
For a complete list of items withdrawn from this folder, see the  
Withdrawal/Redaction Sheet at the front of the folder.**

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**NARA Num.:**

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**FOIA IDs and Segments:**

2018-0016-P

2017-0345-F

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