

# **George W. Bush Presidential Library**

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

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

**Folder Title:** FOIA (Freedom of Information Act) Status of OA

# Withdrawn/Redacted Material

## The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Handwritten Note	FOIA Status of OA	2	01/11/2002	P5;

### COLLECTION TITLE:

Counsel's Office, White House

### SERIES:

Kavanaugh, Brett - Subject Files

### FOLDER TITLE:

FOIA (Freedom of Information Act) Status of OA

### FRC ID:

9696

### 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)]

- b(1) National security classified information [(b)(1) of the FOIA]
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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.

W/OA Agreement

Memorandum of Agreement Between the White House  
Office and the Office of Administration  
Governing White House Data Stored  
In Office of Administration Computers

Executive Order 12028 (December 4, 1977), as amended, provides, inter alia, that the Office of Administration, upon request, shall assist the White House Office in providing those administrative services which are primarily in direct support of the President. John F. W. Rogers, in his capacity as Deputy Assistant to the President for Management, has requested that the Office of Administration, in direct support of the President, permit the White House Office to enter and store data from selected White House Office records in computers owned or managed by the Office of Administration and located in its computer center in the New Executive Office Building.

The following understandings, terms, and conditions shall govern any and all instances in which records or data generated in the White House Office or otherwise the property of the White House Office are entered or stored in Office of Administration computers, unless superseded by a subsequent agreement by the parties herein.

1. As used herein, the term "White House data" denotes records of the President, the White House Office, or units within the Executive Office of the President whose sole function is to advise and assist the President. White House data are Presidential records within the meaning of the Presidential Records Act of 1978, 44 U.S.C. 2201 et seq., and are subject to its provisions.
2. White House data may be entered or stored in Office of Administration computers only with the written authorization of the Deputy Assistant to the President for Management. White House data may be entered or stored in Office of Administration computers in the interest of economy and managerial efficiency, in any appropriate format for use by White House Office personnel.

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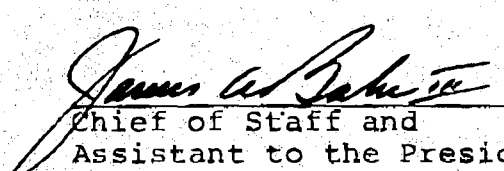
3. Any White House data that are entered or stored in Office of Administration computers remain at all times under the exclusive management and control of the White House Office. Consistent with such control, all such White House data shall be subject to security and access control functions, approved by the Deputy Assistant to the President for Management, which limit access to the data to authorized personnel designated in paragraphs 5, 6 and 7.
4. With respect to White House data entered or stored in the Office of Administration computers, the Office of Administration has no authority to enter, access, retrieve, use, dispose of, archive, or otherwise process such data except as expressly stated in this Memorandum of Agreement or pursuant to the written authorization of the Deputy Assistant to the President for Management or his designees in individual White House offices. In all such cases, the Office of Administration and its personnel act solely as agents of the White House Office and under its exclusive direction.
5. Access to White House data entered or stored in the Office of Administration computers by any person, including personnel of the Office of Administration and the White House Office, is prohibited, except as expressly stated in this Memorandum of Agreement, or pursuant to the written authorization of the Deputy Assistant to the President for Management or his designees in individual White House offices. Whenever the Office of Administration or its personnel are authorized to act under this paragraph, the Office of Administration or its personnel shall not retain any hard-copy record or any other record of any White House data used or created. In all such cases, the Office of Administration and its personnel act solely as agents of the White House Office and under its exclusive direction.
6. Use, retrieval, archiving or other processing of White House data entered or stored in Office of Administration computers by any person, including personnel of the Office of Administration and the White House Office, is prohibited, except as expressly stated in this Memorandum of Agreement, or pursuant to the written authorization of the Deputy Assistant to the President for Management or his designees in individual White House offices. When-

- 3 -

ever the Office of Administration or its personnel are authorized to act under this paragraph, the Office of Administration or its personnel shall not retain any hard-copy record or any other record of any White House data used or created. In all such cases, the Office of Administration and its personnel act solely as agents of the White House Office and under its exclusive direction.

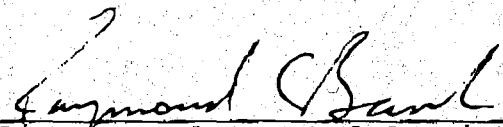
7. Disposition of White House data by the Office of Administration or any of its personnel is prohibited, except pursuant to the written authorization of the Deputy Assistant to the President for Management or his designees in individual White House offices.
8. The White House Office at all times retains the right to terminate this Memorandum of Agreement without prior notice and to direct that White House data entered or stored in Office of Administration computers be removed or expunged from Office of Administration computers.
9. The foregoing paragraphs memorialize the understandings, terms and agreements pursuant to which all White House data have been entered or stored in Office of Administration computers heretofore.

The understandings, terms and conditions set forth herein were and are intended to underscore the very limited service function of the Office of Administration with respect to White House data entered or stored in Office of Administration computers. It is specifically intended that they serve as evidence that the White House Office at all times asserts exclusive control over all White House data entered in Office of Administration computers.

  
Chief of Staff and  
Assistant to the President

  
Director,  
Office of Administration

  
Deputy Assistant to the  
President for Management

  
Director, Automated Services  
Division, Office of Administration

MEMORANDUM OF UNDERSTANDING:  
White House Documents, Records, Files and Similar Materials  
Made Available to the Office of Administration

In order to effectuate maximum utilization of existing facilities and services in accordance with Executive Order 12028 (December 4, 1977), the Office of Administration (OA) shall, upon request, assist the White House Office (WHO) in performing its role of providing those administrative services which are primarily in direct support of the President. This memorandum will set forth restrictions governing possession, custody, access, use and control of any documents, records, files and similar materials (including information contained therein) which WHO makes available to OA, or which are generated by OA, in connection with its provision of such services to WHO (hereafter "White House materials").

I. Ownership

It is understood that WHO is and shall remain the exclusive owner of all White House materials and that OA shall not exercise any proprietary interest in White House materials which is inconsistent with this exclusive ownership.

II. Restrictions on the Availability of White House Materials

A. Nonsensitive White House Materials

1. White House materials designated as "nonsensitive" under Section V may be made available to OA to perform requested services. However, OA shall not permit any person to obtain possession, custody, access, use or control of any nonsensitive White House materials unless such person is:
  - a. an employee of WHO;
  - b. an employee of OA (including any person detailed to OA from another agency) who requires the availability of nonsensitive materials in order to perform services requested by WHO; provided, however, that OA shall make materials available only to the extent required by such employee in the normal course of performing these services; or,
  - c. a person who has been authorized in writing by a designated WHO official to have the availability of White House materials; provided, however, that

OA shall make available to such person only those materials or types of materials specified in the written authorization for such time or times and to the extent authorized thereby.

B. Sensitive White House Materials

1. White House materials designated "sensitive" under Section V may be made available to OA only in connection with the provision of computerized services requested by WHO. OA shall not obtain possession, custody, access, use or control of sensitive White House materials for any other purpose.
2. The availability of sensitive White House materials shall be strictly limited to OA employees who have specialized ADP skills and who have been designated in writing by the Director of OA, to the Special Assistant to the President for Administration, to assist in the provision of computer services requested by WHO (hereafter "OA technical personnel"). Sensitive White House materials shall be made available to OA technical personnel only to the extent and for the time required for such employees to discharge requested computer services. OA technical personnel shall not transfer sensitive White House materials to any person other than WHO personnel authorized to acquire and maintain them.
3. OA shall not permit any person, other than authorized OA technical personnel and WHO employees, to obtain possession, custody, access, use or control of a sensitive computer system or any of its components. A "sensitive computer system" is any computer system which OA designs, develops, maintains, or operates, at the request of WHO, and whose contemplated or actual use includes the processing of sensitive White House materials or information contained therein.

C. Implementation of Safeguards

OA shall implement necessary safeguards to ensure that no person obtains possession, custody, access, use or control of White House materials, or sensitive computer systems, except as authorized in this section.

III. White House Materials Whose Retention Is No Longer Required

It is understood that White House materials (including those generated by OA) are available to OA personnel only for

such time and for such purposes as are necessary to render a requested service. White House material shall be promptly delivered to appropriate WHO personnel for disposition once the service in question has been performed.

IV. Production, Reproduction, Duplication, Etc., of Documents, Records, Files and Similar Materials.

OA may generate such materials as are required in the normal course of rendering requested services, provided that the generation and disposition of materials shall at all times be subject to the approval and direction of WHO. However, OA shall not generate any materials which would be deemed "sensitive White House materials" without a specific request from a designated WHO official.

V. Miscellaneous

1. The Special Assistant to the President for Administration, with the advice of the WHO official or unit from which the particular White House materials originate, shall designate White House materials as either "sensitive" or "nonsensitive," according to whether they are determined to be of a confidential or non-confidential nature respectively. Prior to making White House materials available to OA, the Special Assistant, or his designee, shall inform the Director of OA, or his designee, of the corresponding designation of White House materials.

Any materials generated by OA which contain information from or about White House materials or computer systems classified as sensitive shall be deemed "sensitive White House materials."

2. The Special Assistant shall designate in writing to the Director of OA those WHO employees who may act on behalf of WHO under this agreement.

High A. Carter, Jr. 5/13/79  
Special Assistant to the President  
for Administration

Richard M. Hurd 5/13/79





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF ADMINISTRATION

GENERAL COUNSEL'S OFFICE

Phone: (202) 395-2273 Fax: (202) 456-7921

*Fax Cover Sheet*

Date: 8/29/01

Total Pages (Including Cover Page): 7

To: Brett Kavanaugh

Fax Number: 61647

From:  Catherine Anderson  
*Deputy General Counsel*  
 Carol Ehrlich  
*FOIA Officer and  
Assistant to the Director*

Adam Greenstone  
*Deputy General Counsel*  
 Zakia Mull  
*Administrative Operations Assistant*

Comments:  Urgent  FYI  Call me to discuss  Action required

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# 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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**FRC ID:**

9696

**OA Num.:**

2166

**NARA Num.:**

2077

**FOIA IDs and Segments:**

2018-0016-P

2017-0345-F

2016-0050-F

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