

**Received(Date):** 14 OCT 2002 13:25:33  
**From:** Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )  
**To:** dana t milbank <milbankd@washpost.com> ( dana t milbank <milbankd@washpost.com> [ UNKNOWN ] )  
**Subject:** : TIME CHANGE -- make that 2:30; thanks

##### Begin Original ARMS Header #####  
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)  
CREATOR: Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )  
CREATION DATE/TIME: 14-OCT-2002 13:25:33.00  
SUBJECT: : TIME CHANGE -- make that 2:30; thanks  
TO: dana t milbank <milbankd@washpost.com> ( dana t milbank <milbankd@washpost.com> [ UNKNOWN ] )  
READ: UNKNOWN  
##### End Original ARMS Header #####

Brett M. Kavanaugh  
10/14/2002 12:32:37 PM  
Record Type: Record

To: Dana T Milbank <milbankd@washpost.com>  
cc:  
bcc: Records Management@EOP  
Subject: Re: quotes as requested

I can meet a courier at 2:00 at 17th and Penn. My cell is

P6/b6

Dana T Milbank <milbankd@washpost.com>  
10/14/2002 12:18:59 PM  
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP  
cc:  
Subject: Re: quotes as requested

this is the most thorough opposition research i've ever seen a guy do on himself.

lemme know on the photo. we can either send a courier or a photog. thnx.

Brett\_M.

\_Kavanaugh@who.eop. To: Dana T Milbank  
<milbankd@washpost.com>  
gov cc:  
Subject: quotes as  
requested  
10/14/2002 12:08 PM

## CURRENT

Regarding the claim of executive privilege over certain Justice Department documents that included a number of prosecution and declination memos, including Clinton Administration memos re whether to seek an independent counsel in the Gore fundraising matter:

Ranking cmte member Henry Waxman (D-CA): "An imperial presidency or an imperial Justice Department conflicts with the democratic principles of our nation" (Chicago Tribune, 12/14).

House Gov't Reform chair Dan Burton (R-IN), "Your guy's acting like he's king." (Boston Globe, 12/14).

Russ Baker, The Nation, re Presidential Records Act executive order: "Kavanaugh, who once defended Starr's insatiable appetite for information as being not about politics but about the sanctity of the law, has apparently changed his tune."

Stanley Kutler, Chicago Tribune, re Presidential Records Act executive order: "Bush's action drips with irony. A few years ago, Kavanaugh worked with Kenneth Starr, and eagerly argued that President Clinton had no right to retain documents, no executive privilege, and must yield to every demand made by the Office of Independent Counsel."

## STARR

Abner Mikva, Chicago Tribune, Aug. 5, 1998: "This [ruling] will materially affect the way public business is going to be done and to the detriment of public business."

Lloyd Cutler: Meanwhile, the inner workings of the White House have already been affected by years of investigative scrutiny. For example, White House lawyers are now careful not to take notes, Mr. [Lloyd] Cutler said. "When the

attorney-client privilege with a Government lawyer is virtually destroyed,  
that means you don't dare take notes," he said. "You are going to be cautious  
about what you say and the President will be cautious about what he tells  
you. That's a serious blow to the Presidency."

Judge David Tatel of D.C. Circuit, dissenting in Lindsey case on government  
attorney-client privilege: "As a result, Presidents may well shift their  
trust on all but the most routine legal matters from White House counsel, who  
undertake to serve the Presidency, to private counsel who represent its occupant. . . . I doubt that White House counsel can perform any of these  
functions without the candor made possible by the attorney-client privilege.  
As I said at the outset, weakening the privilege may well cause Presidents to  
shift their trust from White House lawyers who have undertaken to serve the  
Presidency, to private lawyers who have not."