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## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

October 9, 2018

### **DELIVERED VIA EMAIL**

Mr. Gary M. Stern  
General Counsel  
National Archives and Records Administration  
8601 Adelphi Road, Suite 3110  
College Park, MD 20740-6001  
[garym.stern@nara.gov](mailto:garym.stern@nara.gov)

Dear Mr. Stern:

I write with regard to this Committee's request pursuant to 44 U.S.C. § 2205(2)(C) for special access to certain Presidential records from Justice Brett M. Kavanaugh's service in the White House from 2001 to 2003. I submitted that request to NARA on July 27, 2018. I now withdraw that request.

As you know, the Committee received and reviewed every document I requested. From the Office of President George W. Bush we received every non-duplicative Presidential record from Judge Kavanaugh's service in the White House Counsel's Office except for those traditionally subject to constitutional privilege. To ensure that no Presidential records were wrongly withheld as personal records under 44 U.S.C. § 2201(3), I twice asked NARA to prioritize its response to my special-access request by reviewing documents that President Bush withheld from the Committee as personal records. NARA reviewed those documents and President Bush produced every non-privileged document that NARA determined was a Presidential record.

From the Archives the Committee received documents pertaining to Justice Kavanaugh's nomination to the D.C. Circuit. This dual-track process ensured that the Committee timely received every document necessary to advise the President on his nomination of Justice Kavanaugh.

The Senate confirmed Justice Kavanaugh on October 6, and he was sworn in as the 114th Justice of the Supreme Court on the same day. Because the Committee has received all the documents I requested, and because Justice Kavanaugh has been confirmed, I do not believe it makes sense for NARA to continue devoting resources to responding to the rest of my special-access request. Any

documents we would subsequently receive from NARA would be duplicates of the documents we already received from President Bush. Further response to my special-access request therefore would be little more than a distraction from NARA's important work. I therefore withdraw that request.

My colleagues on the Committee and I are grateful for the hard work that you and the archival staff performed in the course of Justice Kavanaugh's nomination.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Chuck Grassley  
Chairman

cc:

Mr. Donald F. McGahn  
Counsel to the President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

The Honorable Dianne Feinstein  
Ranking Member, U.S. Senate Committee on the Judiciary  
331 Hart Senate Office Building  
Washington, D.C. 20510