

WRITER'S DIRECT DIAL NO.
(202) 538-8120

WRITER'S EMAIL ADDRESS
williamburck@quinnemanuel.com

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VIA ELECTRONIC MAIL

The Honorable Charles Grassley
Chairman, United States Senate Committee on
the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley:

On behalf of former President George W. Bush, we write to update our letter of August 31, 2018 regarding the completion of our review and production of documents concerning Judge Brett M. Kavanaugh's service in the White House Counsel's Office in the Bush Administration. Subject to small potential adjustments described at the end of this letter, the final accounting of the documents from the National Archives and Records Administration (NARA) that we have received, reviewed, and produced, is as follows:

- Total Documents Received from NARA: 276,695 (935,784 pages)
 - Total Exact Duplicates (removed from review by software): 96,924 (273,359 pages)
 - Total Documents Dated on or after July 7, 2003 (withheld from production)¹: 7,908 (74,387 pages)
 - Total State Department Documents from 1970's (withheld from production): 462 (1,527 pages)

¹ Among the hard copy files that were produced to the Committee, there are an additional 151 pages that were at least partially redacted as non-responsive, because they were records dated on or after July 7, 2003.

- Total Documents with Unresolved Technical Issues (these have been referred back to NARA to determine whether there are reviewable copies): 182 (182 pages)
- Total Personal Documents (withheld from production): 10,256 (25,357 pages)

All personal, non-presidential record documents were returned to NARA so it could conduct its own independent assessment of the proper categorization and treatment of the documents. NARA agreed with the vast majority of our team's designations of these personal documents. Where NARA did not agree, we accepted NARA's judgment about the documents and treated those documents as presidential records. Thus, for each document withheld as personal, NARA has determined that the document is a personal, non-presidential record.

- Total Personnel, Medical, and Similar Files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, *see* 44 U.S.C. § 2204(a)(6) (withheld from production): 24 (107 pages)

All personnel, medical, and similar files that were not produced to the Committee were returned to NARA so it could conduct its own independent assessment of the proper categorization and treatment of the documents. NARA agreed with all of our team's designations of these personal privacy documents. Thus, for each document withheld as a personal privacy document, NARA has determined that disclosing the document would constitute a clearly unwarranted invasion of personal privacy.

- Total Non-Duplicative & Responsive Documents Provided by NARA: 160,939 (560,865 pages)
- Total Constitutionally Privileged Documents (withheld from production)²: 27,506 (102,325 pages)

As the Department of Justice has stated publicly, it was responsible for determining which documents were produced to the Senate Judiciary Committee. The Department of Justice identified certain documents of the type traditionally protected by constitutional privilege and so advised the White House and our team. The White

² Among the hard copy files that were produced to the Committee, there are an additional 1,070 pages that were at least partially redacted as containing constitutionally privileged material.

House, in consultation with the Department of Justice, has directed that we not provide these documents for this reason.

- Total Documents Produced to the Committee: 133,433 (458,540 pages)
 - This is 83% of the total documents, and 82% of the total pages, provided to us by NARA that were non-duplicative and responsive to the Committee's request.
- Total Documents Made Available for Public Release: 82,868 (272,734 pages)
 - This is 51% of the total documents, and 49% of the total pages, provided to us by NARA that were non-duplicative and responsive to the Committee's request.
 - This is 62% of the total documents, and 59% of the total pages, produced to the Committee.
- Total Documents Produced Only to the Senate: 50,565 (185,806 pages)
 - This is 31% of the total documents, and 33% of the total pages, provided to us by NARA that were non-duplicative and responsive to the Committee's request.
 - This is 38% of the total documents, and 41% of the total pages, produced to the Committee.

There are two outstanding issues of which we are aware that could require small, supplemental productions. First, there are 182 unproduced documents and 1,762 documents produced with slipsheets for which there were technical issues that prevented the documents from being processed by our vendor. For each of these documents, we have requested that NARA provide us, if possible, with reviewable versions of these files. If NARA is able to provide us with reviewable copies of these documents, we and the Department of Justice will review them without delay and produce any responsive, non-privileged documents to the Committee. Second, there are 111 documents (272 pages) that we have already produced to the Committee for which there were partial redactions for personal, non-presidential records material. For each of these documents, we have requested NARA's assessment of whether we have properly categorized the redacted material as personal. If NARA determines that any of this redacted material should be categorized as presidential records material, we will provide it to the Department of Justice for a constitutional privilege review, and then produce any non-privileged material to the Committee.

Respectfully,



William A. Burck
Quinn Emanuel Urquhart & Sullivan LLP



Brigham Q. Cannon
Kirkland & Ellis LLP



Evan A. Young
Baker Botts LLP

cc: The Honorable Dianne Feinstein