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August 9, 2018

The Honorable Charles E. Grassley, Chairman
The Honorable Dianne Feinstein, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

This letter is in response to your August 3, 2018, letter to David S. Ferriero, Archivist of the United States, requesting Office of Independent Counsel Kenneth W. Starr (Starr OIC) records concerning Judge Brett M. Kavanaugh, who served as an Associate Counsel in the Office of Independent Counsel Kenneth W. Starr from September 6, 1994 until November 20, 1997, and again from April 27, 1998 until December 1, 1998. You requested the following records:

- (1) Documents from Brett M. Kavanaugh's service as Associate Counsel in the Office of Independent Counsel, including all documents preserved in his staff files and all documents he authored in whole or in part, edited, revised, or approved;
- (2) All memos, letters, or electronic mail sent by or received by Brett M. Kavanaugh during his tenure in the Office of Independent Counsel, including any such memos, letters, or electronic mail on which he was a carbon copy or blind carbon copy recipient, and including any documents attached to such memos, letters, or electronic mail.

In light of pending FOIA requests and litigation, NARA has already begun to process for public release, on an expedited basis, all of the Starr OIC records that we can identify as related to Judge Kavanaugh, based on the information available to us on these records. To date, we have posted on our website 2,088 pages of these records, with some information withheld in part or in full in accordance with relevant and applicable FOIA exemptions, which so far are: exemption (b)(3), for grand jury information; exemption (b)(4), for confidential commercial information; exemption (b)(6), for personal privacy information; exemption (b)(7)(C), for law enforcement privacy information; and exemption (b)(7)(D), for information concerning law enforcement confidential sources. Please note that no information is being withheld on the basis of any constitutional or common-law privileges.

Your letter noted that, “[t]o the extent that these records contain classified national security information or personal privacy information, please contact the Committee so that we can

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discuss further how those materials might be handled.” Accordingly, we discussed this issue with both of your staffs, and agreed that NARA will provide to the Committee the records in the same form that we are releasing them to the public, recognizing that the Committee reserves the right subsequently to request, on a “Committee Confidential” basis, specific documents that would otherwise be exempt.

The enclosed DVDs (a copy set for each of you) represents the first release of responsive records to the Committee. The discs contain copies of the 9,714 pages of records that we have processed to date – in which 5,596 pages are released in full, 4,118 pages are withheld (i.e., redacted) in full or in part (each page withheld in full is represented by a withdrawal sheet that indicates the applicable FOIA exemption). A separate disc contains a spreadsheet that lists each of the folders, the total number of pages, the number of pages redacted, and the applicable FOIA exemptions. These DVDs include the 2,088 pages that we have already posted on our website, and we expect to be able to post the remaining 7,626 pages on Friday, August 10, 2018.

We will continue to provide the Committee with additional responsive records on a rolling basis until we have completed our review.

If you have any questions concerning this request, please feel free to have your staff contact me at 301-837-3026.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary M. Stern', with a long horizontal flourish extending to the right.

GARY M. STERN
General Counsel

Enc.

cc:

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