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March 16, 2017

Brig. Gen. Patrick X. Mordente
Director, George W. Bush Presidential Library and Museum
2943 SMU Boulevard
Dallas, TX 75205

David S. Ferriero
Archivist of the United States, National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

Dear General Mordente and Mr. Ferriero,

I write today to request your assistance with obtaining any email communications from Supreme Court nominee Judge Neil Gorsuch to the private, political email addresses of White House officials that may have been used in violation of federal law governing the preservation of presidential records.

Documents provided by the Department of Justice and recently released by the Senate Judiciary Committee reveal that Judge Gorsuch, during his tenure in the administration of President George W. Bush, corresponded with Michal Davis, an official in the White House Office of Political Affairs.¹ Despite legal requirements to adequately document all presidential records, Mr. Davis, in one email exchange, directed Judge Gorsuch to contact him at a private, political email address with the domain “@gwb43.com” “as I do not often check my White House email address.”²

A 2008 investigation conducted by the Chairman of the House Committee on Oversight and Government Reform found that Mr. Davis was one of at least 88 White House officials—including former White House Senior Advisor Karl Rove and Chief of Staff Andrew Card—who routinely sent official emails from accounts hosted on a private email server run by the Republican National Committee (RNC).³ Although the White House Counsel had issued clear guidance to use only official e-mail systems for official communications, evidence obtained by the Committee indicated that White House officials used their RNC e-mail account in a manner that circumvented these requirements.⁴

¹ Email from Michal R. Davis, Associate Political Director, White House Office of Political Affairs, to Neil Gorsuch, Principal Deputy Associate Attorney General, U.S. Department of Justice (May 24, 2005).

² *Id.*

³ “Investigation of Possible Presidential Records Act Violations,” Interim Report, House Committee on Oversight and Government Reform (June 2007).

⁴ *Id.*

Troublingly, the Committee also found that RNC later destroyed a large volume of the e-mails of White House officials who used RNC e-mail accounts.⁵ However, the White House and Congress took steps to identify and retrieve presidential records from RNC email accounts that may now be in the custody of the George W. Bush Presidential Library or the National Archive.⁶

Although the nature and extent of Judge Gorsuch's communications to and from the private, political email addresses of Mr. Davis or other senior White House officials is unclear, it is possible there may be additional records reflecting contact between Mr. David or the White House Office of Political Affairs. Prior to 2005, Judge Gorsuch held leadership positions with the Republican National Lawyers Association, which may have prompted additional communications with the White House Office of Political Affairs. After leaving the White House, Mr. Davis also served as a law clerk to Judge Gorsuch after his appointment to U.S. Court of Appeals for the Tenth Circuit.

As you are aware, records created or received by the White House during the Administration of President George W. Bush are subject to the Presidential Records Act. Section 2205 of the Presidential Records Act also provides for the production of records in response to certain congressional requests under certain conditions. Records of any communications between Judge Gorsuch and private, political email addresses of White House officials may include information relevant to the Senate's consideration of Judge Gorsuch's nomination to serve on the Supreme Court.

Accordingly, I request that you provide on an expedited basis any email sent to or received from a "@gwb43.com" domain referring or relating to Neil Gorsuch during the period Judge Gorsuch served as Principal Deputy to the Associate Attorney General (June 2005 – July 20, 2006). I also request a written response regarding any steps taken to assess the potential alienation of presidential email records created or received by Mr. Davis or other White House officials during the administration of President George W. Bush, include whether any presidential records were retrieved from the RNC or other entities.

Thank you for your prompt attention to this matter.

Sincerely,



Richard Blumenthal
United States Senator

⁵ *Id.*

⁶ Letter from Emmet T. Flood, Special Counsel to the President, to Tom Josefiak, Republican National Committee (Mar. 14, 2007) (instructing the RNC to preserve any "emails or documents that may relate to the official business of the Executive Office of the President that may be in the possession of the RNC").