

May 14, 2009

The Honorable Gregory B. Craig
Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Craig:

On behalf of the undersigned organizations concerned with government transparency and accountability, we write to request that the current administration act promptly to restore treatment of the White House's Office of Administration ("OA") as an agency subject to the Freedom of Information Act ("FOIA"). From its inception in 1977 until August 2007, OA functioned consistently as an agency subject to the FOIA, adopting comprehensive FOIA regulations and processing hundreds of FOIA requests. In August 2007, in the midst of litigating a FOIA request brought by Citizens for Responsibility and Ethics in Washington ("CREW") for records related to OA's discovery that millions of e-mail messages were missing from White House servers, the Bush administration abruptly changed course and declared OA is not an agency and therefore need not comply with CREW's or any other information requests under the FOIA.

This radical departure from the policies and practices of all prior administrations rests on a flawed legal theory that fails to properly consider OA's role within the Executive Office of the President and its lack of proximity to the President. Mindful that one district court has upheld the Bush administration's exclusion of OA from the FOIA (a decision now on appeal in the U.S. Court of Appeals for the D.C. Circuit), we nevertheless urge the administration to reverse the Bush administration's policy and confirm OA's status as an agency within the meaning of the FOIA. Such a reversal best accords with the actual functioning of the OA and President Obama's January 21 memoranda concerning transparency and open government.

We, as organizations advocating for government transparency, were heartened by the President's commitment to creating "an unprecedented level of openness in Government." As the President noted, "[a] democracy requires accountability, and accountability requires transparency." Without question, transparency in the functioning of the Executive Office of the President and its components like OA play a critical role in meeting this commitment.

Thank you for your consideration of our request. Representatives of our organizations would be happy to meet with you or your staff to discuss this matter in more detail.

Sincerely,

Anne L. Weismann
Citizens for Responsibility and Ethics in Washington
(CREW)

David L. Sobel
Electronic Frontier Foundation

Harry Hammitt
Access Reports

Mary Alice Baish
American Association of Law Libraries

Lynne Bradley
American Library Association

Judith Platt
Association of American Publishers

Prue Adler
Association of Research Libraries

Chip Pitts
Bill of Rights Defense Committee

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Leslie Harris
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Center for Responsive Politics

Sue Udry
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John Verdi
Electronic Privacy Information Center

John Richard
Essential Information

Steven Aftergood
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Conrad Martin
Fund for Constitutional Government

Mark Cohen
Government Accountability Project

J.H. Snider
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Michael Ostrolenk
Liberty Coalition

Ellen Smith
Mine Safety and Health News

Joan Bertin
National Coalition Against Censorship

Lee White
National Coalition for History

Charles N. Davis
National Freedom of Information Coalition

Meredith Fuchs
National Security Archive

Sean Moulton
OMB Watch

Patrice McDermott
OpenTheGovernment.org

Susan Maret
Progressive Librarians Guild

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Angela Canterbury
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The Reporters Committee for Freedom of the Press

Frank Boles
Society of American Archivists

Dave Aeikens
Society of Professional Journalists

Douglas Newcomb
Special Libraries Association

Ellen Miller
Sunlight Foundation

Linda Petersen
Utah Foundation for Open Government

Toby Nixon
Washington Coalition for Open Government

Bill Will, General Manager
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