

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

Daniel J. Metcalfe  
Collaboration on Government Secrecy

Leslie Harris  
Center for Democracy and Technology

Sheila Krumholz  
Center for Responsive Politics

Sue Udry  
Defending Dissent Foundation

John Verdi  
Electronic Privacy Information Center

John Richard  
Essential Information

Steven Aftergood  
Federation of American Scientists

Conrad Martin  
Fund for Constitutional Government

Mark Cohen  
Government Accountability Project

J.H. Snider  
iSolon.org

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

Danielle Brian  
Project on Government Oversight

Angela Canterbury  
Public Citizen

Lucy A. Dalglish  
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  
Washington Newspaper Publishers Association