



George Bush Presidential Library

1000 George Bush Drive West
College Station, TX 77845
phone: (979) 691-4041
fax: (979) 691-4030
<http://bushlibrary.tamu.edu>
library.bush@nara.gov

Inventory for FOIA Request 2006-0265-F

Records on U.S. Flag Desecration Amendment

Extent

22 folders

Access

Collection is open to all researchers. Access to Bush Presidential Records, Bush Vice Presidential Records, and Quayle Vice Presidential Records is governed by the Freedom of Information Act (FOIA)(5 USC 552 as amended) and the Presidential Records Act (PRA)(44 USC 22) and therefore records may be restricted in whole or in part in accordance with legal exemptions.

Copyright

Documents in this collection that were prepared by officials of the United States government as part of their official duties are in the public domain. Researchers are advised to consult the copyright law of the United States (Title 17, USC) which governs the making of photocopies or other reproductions of copyrighted material.

Provenance

Official records of George Bush's presidency and vice presidency are housed at the George Bush Presidential Library and administered by the National Archives and Records Administration (NARA) under the provisions of the Presidential Records Act (PRA).

Processed By

Staff Archivists, January 2006. Previously restricted materials are added as they are released.

Related Collections

Related material may be found in FOIA request 1999-0129-F entitled "Vice President Quayle's Council on Competitiveness."

Scope and Content

The materials in FOIA 2006-0265-F are a selective, not necessarily all inclusive, body of documents responsive to the topic of the FOIA. Researchers should consult the archivist about related materials.

FOIA 2006-0265-F contains materials relating to the efforts undertaken by the Bush administration to

support and pass an amendment to the U.S. Constitution which would protect the U.S. flag from desecration as a result of the decision of the U.S. Supreme Court in "Texas v. Johnson" in which the court struck down the Texas statute which protected the flag against such desecration. The genesis of the case was the arrest of Gregory Lee Johnson in Dallas, Texas during the 1984 Republican National Convention (Johnson burnt a U.S. Flag while he and supporters chanted, "Red, white, and blue, we spit on you"). In its decision, a 5-4 majority of the court found that such actions were protected as free speech by the First Amendment to the U.S. Constitution. Justice Brennan delivered the opinion of the court in which he was joined by Justices Marshall, Blackmun, Scalia, and Kennedy. Justice Rehnquist delivered a dissenting opinion, joined by Justices White and O'Connor. Justice Stevens also filed a dissenting opinion.

The request consists entirely of Staff and Office Files which contain photocopies of U.S. Supreme Court decisions regarding desecration of the U.S. flag such as 'Texas v. Johnson,' 'U.S. v. Cary,' 'U.S. v. Haggerty,' and 'U.S. v. Eichman' and memoranda in which the president's advisors (primarily Brent O. Hatch and C. Boyden Gray) discuss the best manner in which to protect the flag in light of the court's decision(s), whether a statute would pass constitutional muster or whether an amendment to the Constitution would be necessary (the advisors' and president's ultimate decisions were for the latter). Much of the material pertains to discussions of the various amendments offered by members of Congress and the language thereof (whether it is ambiguous or effective), such as the Dole-Nixon bill in the Senate and the Michel-Montgomery bill in the House. (Copies of various State resolutions calling for flag protection are also included.) Other materials include letters from citizens and interest groups (such as the American Legion, "Save Our Flag!", the Veterans of Foreign Wars, Friends of the U.S. Flag, etc.) regarding their disapproval of the Supreme Court's findings and their support for an amendment to the U.S. Constitution which would protect the flag, as well as replies from President Bush and his staff regarding the administration's position. There are also numerous copies of testimony made before the congressional hearings on the subject from Judge Robert H. Bork, Asst. Attorney General William P. Barr (including drafts of his proposed testimony), Professor Charles Fried, Laurence H. Tribe, and J. Michael Luttig. Numerous copies of the legislation introduced as well as the Congressional Record are present, as well. Meeting agendas with pro-flag interest groups as well as talking points and speech remarks for the president and administration officials in favor of the flag protection amendment are among the records, as well as numerous transcripts of press briefings, press conferences, and press releases related to the issue. Also among the open materials in the request are memoranda and reports regarding members of Congress and their (probable) votes regarding the proposed flag amendment(s) and those whom the administration must reach in order to convince them to support the amendment so as to obtain a 2/3 majority vote (thus sending the amendment to the states). Photocopies of newspaper articles, editorials, and cartoons pertaining to the subject are also in the request.

System of Arrangement

Records that are responsive to this FOIA request were found in one collection area—Bush Presidential Records: Staff and Office Files. As policy, WHORM Alphabetical Files and WHORM Subject Files are processed at the document level; whereas, Staff and Office Files are processed at the folder level, that is, individual documents are not selected and removed from a folder for processing. While this method maintains folder integrity, it frequently results in the incidental processing of documents that are not wholly responsive to the subject area.

The WHORM Subject File compiled by the White House Office of Records Management is comprised of a series of documents assigned a letter/number combination and filed in a subject category. A complete listing of the subject categories including a detailed description of each category is available in our research room and on our website at <http://bushlibrary.tamu.edu/research/find/whorm/whorm.html>.

Please note that a single asterisk "*" indicates that the category is entirely processed and open.

The following is a list of documents and folders processed in response to FOIA 2006-0265-F.

Bush Presidential Records: Staff and Office Files

Counsels Office

Brent O. Hatch File—Alphabetical Subject File

Flag Burning [1] [OA/ID CF00135]
Flag Burning [2] [OA/ID CF00135]
Flag Burning [3] [OA/ID CF00135]
Flag Burning [4] [OA/ID CF00135]
Flag Burning [5] [OA/ID CF00135]
Flag Burning [6] [OA/ID CF00135]
Flag Burning [7] [OA/ID CF00135]
Flag Burning [8] [OA/ID CF00135]
Flag Burning [9] [OA/ID CF00135]
Flag Burning [10] [OA/ID CF00135]
Flag Burning [11] [OA/ID CF00135]
Flag Burning [12] [OA/ID CF00135]

Lee S. Liberman Files—General Subject File

Flag Burning [1] [OA/ID 45281]
Flag Burning [2] [OA/ID 45281]
Flag Burning [3] [OA/ID 45281]

Office of Intergovernmental Affairs

Cliff Alderman Files

Bush—American Flag [OA/ID 05945]

Debra Anderson Files

Flag [OA/ID 02043]

Office of Legislative Affairs

E. Boyd Hollingsworth Files

Flag Desecration Bill/Amendment [OA/ID 03089]
Flag Amendment [OA/ID 03089]

James Renne Files

Flag Protection [OA/ID 03889]

Office of Policy Development

Randolph Beales Files

Flag Desecration Issues [OA/ID 07959]

Will Eagle Files

Flag [OA/ID 07497]

Last modified: 04/03/2008