USDOJ-Office of Public Affairs

From: USDOJ-Office of Public Affairs
Sent: Tuesday, July 24, 2018 9:07 AM
To: b(6) Matthew Whitaker email address

Subject: ATTORNEY GENERAL JEFF SESSIONS DELIVERS REMARKS TO TURNING POINT USA'S HIGH

SCHOOL LEADERSHIP SUMMIT



ATTORNEY GENERAL JEFF SESSIONS DELIVERS REMARKS TO TURNING POINT USA'S HIGH SCHOOL LEADERSHIP SUMMIT

Washington, DC

Freedom of speech is precious and rare in this world. It is one of the reasons that America is exceptional. But it is also fragile.

I believe that we have a responsibility to honor the Constitution and to preserve this heritage of freedom of speech for your generation.

Under President Trump's strong leadership, this Department of Justice is doing its part to protect our Republic by protecting this right.

We are going to court to protect students across America and we are winning.

Remarks as prepared for delivery

Thank you, Charlie for that generous introduction and thank you for your strong advocacy for our First Amendment rights at more than 1,100 schools across America.

I also want to thank Candace Owens. I know a lot of people love the way Candace Owens thinks.

I'm told that later today you'll hear from Guy Benson, Jason Miller, and my friend and former colleague Senator Purdue. This is a fabulous opportunity.

I'm pleased to see that my home state of Alabama is well represented here today. I want to give a warm welcome to Michael Byars of Moody High School, Grant Hershbine of Buckhorn High School, Aurelia Martinez of James Clemens High School, and Jonathan Stuckey of Providence Christian School in Dothan.

It is inspiring to me to see so many young people who are excited about issues of law and politics.

I was about your age when I became a conservative and when I started to get involved in politics. One of my high school teachers, Mr. Dickey, gave me a copy of National Review. I couldn't put it down. I became a supporter of Barry Goldwater.

When I went off to college, I led the Young Republicans Club. My future wife Mary was a member of the club.

At that time, there weren't many Republicans in the South especially not in Alabama. From 1874 to 1987 for 113 years the Governor of Alabama was a Democrat. From 1879 to 1981, both of our Senators were Democrats. Only two Republicans were elected to the Senate in 140 years. In 1994 I became the first Republican since reconstruction in 120 years elected Attorney General of Alabama.

You get the picture: we were outnumbered. The odds were stacked against us. But we worked hard and I was elected class president.

We campaigned against the governor, Democrat George Wallace and then his

wife Lurleen, who were leaders of the segregationist movement.

Sometimes we lost mostly we lost but we kept fighting. We took pride in that and we laid the groundwork for later successes.

And so I want to commend each one of you for doing that for getting involved in the political process and for caring about the national interest.

Maybe some of your classmates are more focused on pop culture or the latest fad. But you're focused on the well being of your country. That is terrific.

We should encourage that. But unfortunately, there are elements in our society today who want to stop you and silence you. Not with facts or better arguments. They just want to stop you from speaking out at all.

They want you to feel outnumbered, too. They want you to get discouraged. They want you to quit. They want you to abandon your values.

Whether you realize it or not, freedom of thought and speech on the American campus are under attack.

Of all places, the college campus should be where debate and discussion should be appreciated and honored. But nowhere has there been more arbitrary and capricious restrictions on free speech than in supposedly educational institutions.

Many political activists try to intimidate people into silence.

Back in October, a Black Lives Matter group at William and Mary shut down an ACLU event on the First Amendment. They chanted "liberalism is white supremacy" and "ACLU you protect Hitler too."

The ACLU doesn't mind calling other people names but I bet they didn't like that.

At Middlebury College, student protestors violently shut down a debate between an invited speaker and one of the school's own professors. As soon as the event began, the protestors shouted for 20 minutes, preventing the debate from occurring.

People in masks pulled fire alarms, surrounded the speakers, and began physically assaulting them. And although the protesters were a group of leftists, it was the liberal professor who ended up in the hospital. She said she "feared for [her] life."

It should be clear that the First Amendment is not a partisan issue.

Constitutional rights are for all Americans not just those in one party or one faction.

Indeed, the crackdown on speech crosses creeds, races, issues, and religions. At Brown University, a speech to promote transgender rights was cancelled after students protested because a Jewish group cosponsored the lecture. Virginia Tech disinvited a conservative African American speaker because he had written on race issues and they worried about protests disrupting the event.

This is not in the great tradition of America. These trends are disturbing.

Far too many schools are complicit in this effort to prevent genuine debate and engagement with ideas.

Through "trigger warnings" about "microaggressions," cry closets, "safe spaces," optional exams, therapy goats, and grade inflation, too many schools are coddling our young people and actively preventing them from scrutinizing the validity of their beliefs. That is the exact opposite of what they are supposed to do.

After the 2016 election, for example, they held a "cry in" at Cornell, they had therapy dogs on campus at the University of Kansas, and Play dough and coloring books at the University of Michigan. Students at Tufts were encouraged to "draw about their feelings."

Rather than molding a generation of mature and well informed adults, some schools are doing everything they can to create a generation of sanctimonious, sensitive, supercilious snowflakes.

That is a disservice to their students and a disservice to this nation.

Speech codes protecting students from difficult or challenging ideas is a key aspect of this problem.

Last year, the Foundation for Individual Rights in Education surveyed 450 colleges and universities across the country and found that 40 percent maintain speech codes that substantially infringe on constitutionally protected speech. Of the public colleges surveyed which are legally bound by the First Amendment fully one third had written policies banning disfavored speech.

Freedom of speech is a decisive issue. This is important and not just for students. It is important for our society as a whole.

We cannot have free and deliberative government without freedom of thought. And we cannot have freedom of thought without freedom of speech.

The Father of our Constitution, James Madison, put it this way: freedom of speech is "the only effectual guardian of every other right." If we cannot speak freely, then we cannot exercise our other rights, either.

If you can control, dominate, the way people talk then you can control the way they think.

And so it is no surprise that some people want to control the way we talk.

Our Founders had a deep understanding of human nature and they foresaw that this would be a problem. They knew that those with power would look for ways to contain criticism so they can continue in their places of power without the distraction of other opinions.

That is why they took care to enshrine the robust protections of the First Amendment in our Constitution.

Freedom of speech is precious and rare in this world. It is one of the reasons that America is exceptional. But it is also fragile.

I believe that we have a responsibility to honor the Constitution and to preserve this heritage of freedom of speech for your generation.

Under President Trump's strong leadership, this Department of Justice is doing its part to protect our Republic by protecting this right.

We are going to court to protect students across America and we are winning.

The University of California Berkeley allegedly applied a stricter set of rules for inviting public speakers to conservative student organizations than for other campus groups. Under the school's policy, administrators appeared to have almost complete discretion over the times, places, and conditions of hosting campus guest speakers. That discretion allowed them to apply different rules to different people in an arbitrary and capricious way.

A group of students argue that that's precisely what administrators did. They allege that by placing unrealistically burdensome requirements on conservative

speakers but not on other speakers the school effectively discriminated against them and made it impossible for them to speak. But all must have the chance to speak.

Last March a student filed suit against Los Angeles Pierce College, alleging that it prohibited him from distributing copies of the Constitution outside of the designated "free speech zone."

How big was this free speech zone? 616 square feet barely the size of a couple of college dorm rooms. Outside of that space, students did not have freedom of speech.

The student sued and we stepped in on his behalf in the case.

Georgia Gwinnett College allegedly limited free speech to just 0.0015 percent of campus and even there students couldn't speak freely. Students had to get permission from campus officials in advance; they could only use the free speech zone at a specified date and time, and they could not say things that might "disturb the...comfort of person(s)."

Under a system like that, anybody can stop anybody else from speaking their mind merely by acting offended. It doesn't matter how reasonable, how peaceable, or how true their speech may be if somebody doesn't like it, then it's forbidden.

That is the exact opposite of what the First Amendment demands.

Encouraging people to act offended or to drown out opinions they don't agree with is bad for the speakers and it's bad for students.

In these cases, the courts have agreed with us. Attempts to dismiss two of these cases I've mentioned have been denied by judges who have adopted the Justice Department's positions. A decision is still pending in the third.

At the end of May, we filed a statement of interest in a lawsuit against the University of Michigan over its speech codes.

The University forbids "harassment" and "bullying," and acts motivated by "bias." They also forbid speech that is interpreted as "demeaning," "bothersome," or "hurtful." But the rules did not give clear definitions about what any of these terms mean. Who gets to define what they mean? The University even told students that "the most important indication of bias is your own feelings."

Vague rules like these sound nice but they are easy to abuse.

These rules are enforced by a group of campus bureaucrats and campus police with the Orwellian name of the Bias Response Team, or BRT. Students can report complaints to the BRT, which then investigates them. In the last school year, the BRT logged more than 150 cases.

We got involved in the lawsuit against the University and within days, the University changed its policies.

We are going to keep getting involved. We are going to keep holding public institutions accountable.

And I believe that our work is having an impact. That survey I mentioned a moment ago from the Foundation for Individual Rights in Education shows that the percentage of schools with speech codes has declined since last year: from 40 percent to 32 percent. That is a pretty good trend.

We're going to try to keep bringing that number down.

We are reaching a pivotal and historic moment. After more than two centuries of defending the right to speak freely, a cadre mostly on the hard left has openly and systematically justified action to deny Americans the right to speak their mind. We have to stand up to this challenge and we will do so resolutely.

This is truly a mainstream defense against a radical, ahistorical, and unconstitutional threat that must be defeated. It is time to put a stake in its heart.

But the Department of Justice can't do it alone. We need your help.

I hope that you'll continue to get involved. Learn how to defend our legal traditions. Learn about our Constitution. Speak the truth, even where it is unpopular. Lead by example.

While people have a right to speak freely even inaccurately, impetuously, or without full understanding a wise and mature citizen should always seek to speak accurately, truthfully, and responsibly.

There is no more important time to be in the trenches than when on defense when the enemy is charging at you. It is especially important when you're defending a position that may be unfashionable to maintain the highest degree of accuracy. This is the way you establish credibility and respect. And frankly it is easier to tell the truth. Clear and consistent pounding away at the truth usually produces victory.

So continue to get involved.

You can be certain about this: we are going to keep fighting for you. I believe that we're going to keep winning. Thank you all and I wish you a great summit.

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AG

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Do not reply to this message. If you have questions, please use the contacts in the message or call the Office of Public Affairs at 202 514 2007.



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Bryant, Errical (OAG)

From: Bryant, Errical (OAG)

Sent: Wednesday, July 25, 2018 4:36 PM

To: Flores, Sarah Isgur (OPA)

Cc: Cutrona, Danielle (OAG); Whitaker, Matthew (OAG); Allen, Alexis (OAG)

Subject: Re: Hey Sarah - Laura Ingraham request

Will do. I will reach out to them tomorrow.

Errical A. Bryant
Director of Scheduling
United States Attorney General Office

On Jul 25, 2018, at 4:27 PM, Flores, Sarah Isgur (OPA) <siflores@jmd.usdoj.gov> wrote:

You can take it!

On Jul 25, 2018, at 4:22 PM, Bryant, Errical (OAG (b) (6) wrote:

Sarah

Would you like me to find a date and give it to you to handle? Are would you like me to handle the logistics from here?

Thanks E

Errical A. Bryant

Director of Scheduling

United States Attorney General Office

On Jul 25, 2018, at 3:57 PM, Cutrona, Danielle (OAG (b) (6) wrote:

Definitely

Sent from my iPhone

On Jul 25, 2018, at 3:53 PM, Flores, Sarah Isgur (OPA) < siflores@jmd.usdoj.gov> wrote:

Lunch w Laura?

Sarah Isgur Flores Director of Public Affairs

(b) (b)

From: Firth, Thoma (b) (6)

Sent: Wednesday, July 25, 2018 3:25 PM

To: Flores, Sarah Isgur (OPA) < siflores@jmd.usdoj.gov >

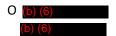
Subject: Hey Sarah - Laura Ingraham request

Meant to reach out last week but the news cycle (as always) got in the way. Laura ran into AG Sessions at the Brett Kavanaugh ceremony at the WH and they had a great quick catch up. She wanted me to reach out, however, to see if he was available in the coming days, weeks, whenever to grab a (completely off the record!) lunch.

I know his schedule is jam packed so she is happy to work around any conflicts. Thanks for the consideration.

Hope all is well!

Tommy Firth Executive Producer, "The Ingraham Angle"



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Davis, Mike (Judiciary-Rep)

From: Davis, Mike (Judiciary-Rep)

Sent: Thursday, July 26, 2018 11:52 AM

To: Davis, Mike (Judiciary-Rep)

Subject: McConnell: Who Do They Expect To Believe This Stuff?

MITCH McCONNELL SENATE MAJORITY LEADER U.S. SENATOR FOR KENTUCKY

For Immediate Release, Thursday, July 26, 2018

Contacts: Don Stewart, David Popp

Robert Steurer, Stephanie Penn Release: https://bit.ly/20kXu5J YouTube: https://bit.ly/2uSsPVp

Who Do They Expect To Believe This Stuff?

Senate Majority Leader speaks out on Democrats' hysterical rhetoric about Judge Kavanaugh

'I am sorry to say that for most Senate Democrats, I'm afraid it would not matter if there were a million pages of documents. Or ten million. Or a hundred million. It wouldn't make any difference. No matter how many documents are produced, many of our Democratic colleagues are making it abundantly clear they will never support his nomination.'

WASHINGTON, **D.C.** – *U.S.* Senate Majority Leader Mitch McConnell (R-KY) delivered the following remarks today on the Senate floor regarding President Trump's nomination of Judge Brett Kavanaugh for Associate Justice of the Supreme Court:

'I'd like to talk about the president's well-qualified nominee for the Supreme Court. A number of us have already met with Judge Kavanaugh. More senators from both sides of the aisle have meetings scheduled. By all accounts, including my own, he's a fair and thoughtful jurist with a brilliant legal mind.

"But some Senators have a different view than their colleagues different from the experts Here's how the junior senator from New Jersey characterized this nomination, with the senior senator from Massachusetts right beside him. Quote: 'We are walking through the valley of the shadow of death'

"You are either complicit in the evil you are either contributing to the wrong or you are fighting against it.' This, from a member of the Judiciary Committee. He hasn't met with Judge Kavanaugh. He hasn't heard a word of testimonv. And he's citing Scripture to proclaim that this nominee is pure evil of Biblical proportions? He's claiming that the Senators and the American people who have an open mind on this nominations are 'complicit in the evil.' It's truly outrageous—and not a single Democrat has come forward to condemn it.

"Our friends on the left are locked in this bizarre competition to wear out the volume knob and outdo each other with this angry nonsense. Before the president even selected Judge Kavanaugh, the junior senator from California – another member of the Judiciary Committee – declared that whoever he nominated would bring about – quote – 'a destruction of the Constitution of the United States.' She'd made up her mind before any hearings, any testimony... before there was even a nominee, in fact.

"Less than 24 hours after Judge Kavanaugh was announced, the senior senator from Connecticut followed suit. He said: 'Judae Kavanaugh is vour worst nightmare' Another member of the Judiciary Committee. o believe Judge Kavanaugh is your worst nightmare, will put the American people in the valley of the shadow of

death and destroy the Constitution, all by himself. Oh, and don't forget, anyone who doesn't agree with them is 'complicit in evil.'

"Who do they expect to believe this stuff? Here's another quote: 'This is a nominee who wants to pave the path to tyranny.' That was our colleague the junior senator from Oregon, at a rally with farleft special interests. Here's another quote: 'The nomination of Judge Brett Kavanaugh will threaten the lives of millions of Americans for decades to come 'That one was the former Democratic Governor of Virginia, who actually used to chair the Democratic National Committee.

"Now, it's hard to keep a straight face when you hear this hysteria. And I really can't keep a straight face at all when our Democratic colleagues say these things... and then turn around and insist they need extra time extra information extra documents in order to make up their minds. Do the people making these comments sound open-minded? Do they sound persuadable?

"The Democratic Leader has insisted that Judge Kavanaugh's long and extensive judicial record isn't enough and Democrats need to see practically every scrap of paper from the Bush White House before they can decide. But about two weeks ago, when the ink was barely dry on Judge Kavanaugh's nomination, he himself told a national television audience, 'I will oppose him with everything I've got.' Doesn't sound undecided to me. Doesn't sound like a guy who needs documents to make up his mind.

"So let's be clear what this is about Judge Kavanaugh has been a judge for over a decade. He has written over 300 opinions. He just produced over 6 000 pages of documents as part of his auestionnaire. And many more documents will be produced in the coming weeks. In fact, it's likely

nomination in history. But it's becoming pretty clear that none of this will really matter.

"I am sorry to say that for most Senate Democrats, I'm afraid it would not matter if there were a million pages of documents. Or ten million. Or a hundred million. It wouldn't make any difference. No matter how many documents are produced, many of our Democratic colleagues are making it abundantly clear they will never support his nomination. Never. So the complaint about documents is not about assessing his record in an open-minded, fair, and dispassionate way. It's all about the desire to obstruct and delay. The American people will give this demagoguery and these delaying tactics the short shrift they deserve."

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Contact:

Antonia Ferrier 202,228,NEWS

https://bit.ly/2AhaggC

'Complicit In The Evil'?

Dem Senators' Radical, Unhinged Rhetoric On Highly Qualified Supreme Court Nominee Judge Kavanaugh

SEN. JOHN CORNYN (R-TX): "[M]y advice to some of our friends across the aisle who are engaged in this kind of

superheated rhetoric, my advice is: get a grip." (Sen. Cornyn, Floor Remarks, 7/25/2018)

Senate Dems: 'Destruction Of The Constitution Of The United States,' 'A Nominee Who Wants To Pave The Path To Tyranny'

SEN. CORY BOOKER (D-NJ), Judiciary Committee Member: "I'm here to call on folks to understand that in a moral moment, there is no 'neutral.' In a moral moment, there is no 'bystanders.' You are either complicit in the evil, you are either contributing to the wrong, or you are fighting against it.... And so I'm calling on everyone right now who understands what's at stake, who understands who Kavanaugh is." (Sen. Booker, Press Conference, 7/24/2018)

SEN. KAMALA HARRIS (D-CA), Judiciary Committee Member: "We're looking at a destruction of the Constitution of the United States as far as I can tell ..." (MSNBC's "Hardball," 6/27/2018)

SEN. MAZIE HIRONO (D-HI), Judiciary Committee Member: "No, it doesn't matter who he is putting forward." (CNN's "The Situation Room," 6/27/2018)

SEN. RICHARD BLUMENTHAL (D-CT), Judiciary Committee Member: "... Judge Kavanaugh is your worst nightmare." ("Kavanaugh Would Be 'Worst Nightmare' For Gun Reform, California Democrats Say," McClatchy, 7/10/2018)

<u>SEN. JEFF MERKLEY (D-OR):</u> "This is a nominee who wants to pave the path to tyranny." (Sen. Merkley, Center for American Progress Rally at Supreme Court, 7/09/2018)

<u>SEN. ELIZABETH WARREN (D-MA):</u> "Let's just be blunt about what this means. His nomination is a threat to people of color, to women, to workers, to the LGBTQ community, to people living in poverty." (Repairers of the Breach, Facebook, 7/24/2018)

<u>SEN. CHRIS MURPHY (D-CT):</u> "Brett Kavanaugh is an anti-consumer zealot ... a Second Amendment radical, and a bad choice for the Supreme Court. Not a close call. I will vote NO." (Sen. Murphy, @ChrisMurphyCT, Twitter, 7/09/2018)

Other Prominent Dems: 'Will Threaten The Lives Of Millions Of Americans For Decades To Come'

FORMER GOV. TERRY McAULIFFE (D-VA): "The nomination of Judge Brett Kavanaugh will threaten the lives of millions of Americans for decades to come ..." (Terry McAuliffe, @TerryMcAuliffe, Twitter, 7/09/2018)

BRAD WOODHOUSE, Former DNC Communications Director: "Hell no on Kavanaugh! Hell no on Kavanaugh! Hell no on Kavanaugh!" (Center for American Progress Rally at Supreme Court, 7/09/2018)

THINKPROGRESS: "If Kavanaugh is confirmed, you can kiss the right to vote goodbye" ("If Kavanaugh Is Confirmed, You Can Kiss The Right To Vote Goodbye," ThinkProgress, 7/16/2018)

Dems' Left-Wing Base: 'We Need A Person Who Will Physically Put Their Body On The Tracks'

NY LIBERAL ACTIVIST: "We need a person who will physically put their body on the tracks ... This decorum and civility — we don't have the luxury for that." ("Liberals Tell Schumer To Scrap Decorum And Civility In Battling Trump," The Washington Post, 7/03/2018)

- MICHAEL MOORE: "We first have to find ways to stop that vote from happening.... I'll join a million other
 people surrounding the United States Capitol. I will stand there ... Bill, let me tell you something, if this judge
 goes through ... That's it, it's over." (HBO's "Real Time with Bill Maher," 6/29/2018)
- ADAM JENTLESON, former deputy chief of staff to former Sen. Harry Reid (D-NV): "... Democrats should force the issue by using the substantial power of the minority to grind the Senate to a halt and scuttle other Republican priorities including funding the government when the current fiscal year ends Sept. 30 ..."
 (Adam Jentleson, Op-Ed, "This Is How Senate Democrats Should Try To Stop Brett Kavanaugh," 7/12/2018)

SENATE REPUBLICAN COMMUNICATIONS CENTER 202.228.NEWS



Contact:

Antonia Ferrier 202.228.NEWS https://bit.ly/2LGrXwO

VIDEO: 'Get A Grip!'

A Look At Senate Democrats' 'Superheated Rhetoric' On Judge Kavanaugh's Nomination To The Supreme Court

WASHINGTON Today, the Senate Republican Communications Center released the following video, "Get A Grip," looking at Senate Democrats' overheated rhetoric on Judge Kavanaugh's nomination to the Supreme Court.



CLICK HERE TO VIEW THE VIDEO

TRANSCRIPT:

<u>SEN. JOHN CORNYN (R-TX):</u> "[T]o some of our friends across the aisle who are engaged in this kind of superheated rhetoric, my advice is: get a grip!" (Sen. Cornyn, Floor Remarks, 7/25/2018)

<u>SEN. CORY BOOKER (D-NJ):</u> "You are either complicit in the evil, you are either contributing to the wrong, or you are fighting against it." (Sen. Booker, Press Conference, 7/24/2018)

SEN. CHUCK SCHUMER (D-NY): "I will oppose him with everything I've got." (CBS' "CBS This Morning," 7/10/2018)

SEN. MAZIE HIRONO (D-HI): "[1]t doesn't matter who he is ..." (CNN's "The Situation Room," 6/27/2018)

SEN. KAMALA HARRIS (D-CA): "We're looking at a destruction of the Constitution of the United States ..." (MSNBC's "Hardball," 6/27/2018)

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SEN. CORNYN: "Get a grip!" (Sen. Cornyn, Floor Remarks, 7/25/2018)

SENATE REPUBLICAN COMMUNICATIONS CENTER 202.228.NEWS

Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

(b) (6)

202-224-9102 (fax)

b) (6)

Davis, Mike (Judiciary-Rep)

From: Davis, Mike (Judiciary-Rep)

Sent: Friday, July 27, 2018 6:07 PM

To: Davis, Mike (Judiciary-Rep)

Subject: SCOTUS | Grassley Seeks Documents for Supreme Court Nomination



FOR IMMEDIATE RELEASE Friday, July 27, 2018

Grassley Seeks Documents for Supreme Court Nomination

WASHINGTON Senate Judiciary Committee Chairman Chuck Grassley (R Iowa) today requested special access to documents related to Judge Brett Kavanaugh's legal work in the White House, as the committee evaluates his nomination to the Supreme Court. In a letter to National Archives staff at the George W. Bush Presidential Library, Grassley sought all emails sent to or from Judge Kavanaugh during his time in the White House Counsel's Office, all paper files maintained by Judge Kavanaugh in that position and all documents relating to his nomination to the U.S. Court of Appeals for the D.C. Circuit.

"For nearly two weeks, I've attempted to seek a good faith agreement from the Ranking Member to jointly request documents relating to Judge Kavanaugh's legal work in the White House. For nearly two weeks, I've found myself either waiting for a response to my proposals or faced with unprecedented and unreasonable counter proposals.

"Even when I suggested that we jointly request documents that both sides want while continuing to negotiate other categories, the Ranking Member declined. The Minority rejected out of hand multiple accommodations that I'd offered to assist in targeting material they believe is relevant. Instead, they demanded that we expand the request to require a search of every email from every one of the hundreds of White House staffers who served alongside Judge Kavanaugh for nearly six years, to find records that merely mention his name.

"So today, on behalf of the committee, I submitted a request for documents related to Judge Kavanaugh's time in the White House Counsel's Office. I expect the production to be the largest ever in the Senate's consideration of a Supreme Court nominee. In the meantime, I'm eager to review Judge Kavanaugh's 307 judicial opinions, the hundreds of other opinions that he joined and the 6,168 pages he already provided to us, which are publicly available right now and will provide the greatest insight into his fitness for the high court. As I have said repeatedly, I am not going to put the American taxpayers on the hook for the Senate Democrats' fishing expedition."

Text of Chairman Grassley's letter to the archivists at the Bush Library follows:

July 27, 2018

The Honorable Patrick X. Mordente, Brigadier General Director George W. Bush Presidential Library and Museum 2943 SMU Boulevard Dallas, Texas 75205

Dear General Mordente:

Pursuant to 44 U.S.C. § 2205(2)(C), I ask that you provide Presidential records to the United States Senate Committee on the Judiciary in connection with the President's nomination of Judge Brett M. Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States. Consistent with the Presidential Records Act (PRA), 44 U.S.C. § 2201(2), (3), this request is for access to Presidential records only, not personal records.

Kavanaugh served in the White House under President George W. Bush, first as Associate Counsel from 2001 to 2003 and later as Senior Associate Counsel in 2003. He served as Assistant to the President and Staff Secretary from 2003 to 2006. I request that you provide the following documents to the Committee on an expedited basis, consistent with the guidelines described in this letter:

- (1) Emails sent to or received from Kavanaugh, including emails on which he was a carbon copy or blind carbon copy recipient, during the period Kavanaugh served as Associate Counsel and Senior Associate Counsel to the President, including any documents attached to such emails;
- (2) The textual records contained in Kavanaugh's office files from the period during which he served as Associate Counsel and Senior Associate Counsel to the President; and
- (3) Documents relating to Kavanaugh's nomination to the U.S. Court of Appeals for the District of Columbia Circuit

The Committee has previously made official requests of Presidential Libraries in connection with nominees who served in the White House. I believe it appropriate to follow past Committee precedent concerning requests for records from Presidential Libraries in several respects.

Section 2205 of the Presidential Records Act (PRA), 44 U.S.C. § 2205, provides this Committee access to Presidential records in response to an official Congressional Committee request, notwithstanding the limitations on public disclosure set forth in section 2204 of the PRA, 44 U.S.C. § 2204(a)(1) (6). Such access is, by statute, subject to "any rights, defenses, or privileges which the United States or any agency or person may invoke." 44 U.S.C. § 2205(2). While I hope that documents responsive to our request will not raise these concerns, I also recognize that responsive documents may be subject to statutory or other rights, defenses, or privileges.

Section 2205(2)(C) entitles the Committee to access any non privileged Presidential record that is responsive to the Committee's special access request, notwithstanding the limitations on public access set forth in section 2204. I recognize, however, that in the context of prior Supreme Court nominations, the Committee and the Archivist have agreed that some documents containing PRA restricted material would be produced to the Committee on a "Committee Confidential" basis. The Committee further agreed that such documents could be discussed only during a Closed Session of the Committee. I also acknowledge that the Committee previously has agreed that the Archivist could withhold certain PRA restricted material in its

entirety. In these respects, I intend to adhere to established custom and accept certain PRA restricted material on a Committee Confidential basis and to permit the Archivist to withhold some PRA restricted material in its entirety.

I ask that with each production, you similarly abide by established custom and (1) identify the total number of documents produced, (2) identify the number of documents containing PRA restricted material that the Committee agreed to treat as "Committee Confidential," and (3) identify the number of documents being withheld entirely pursuant to assertions of constitutional privilege or pursuant to the Committee's agreement not to receive certain PRA restricted material. I further ask that you produce documents on a rolling basis as you identify documents responsive to our request.

I note that in connection with Justice Gorsuch's nomination, the Bush Library attempted to withhold as little as possible and provided portions of documents, rather than withholding entire documents, where possible. I hope you will adopt the same approach. As the Committee has done in the past while considering Supreme Court nominations, I intend to respect the invocation of privilege by a co equal branch of our government. For the documents requested by this letter, I further intend to abide by the Committee practice of declining to receive materials reflecting classified national security information or personal privacy information.

Please begin the rolling production to the Committee of records responsive to this request no later than August 1, 2018, at 6:00 PM EDT. Please complete the rolling production to the Committee of all remaining records responsive to this request no later than August 15, 2018 at 6:00 PM EDT.

I recognize that reviewing the archives and producing these documents is a significant task. I thank you in advance for your cooperation and efforts.

Sincerely,

Chuck Grassley Chairman

cc:

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

The Honorable David S. Ferriero
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, NW
Washington, DC 20408

The Honorable Dianne Feinstein Ranking Member, Committee on the Judiciary United States Senate Washington, DC 20510



Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

(b) (6) (direct) (b) (6) (cell) 202-224-9102 (fax)

(b) (b)

Cutrona, Danielle (OAG)

From: Cutrona, Danielle (OAG)

Sent: Wednesday, August 1, 2018 11:02 AM

To: Whitaker, Matthew (OAG)

Subject: Fwd: transcript of newt

Sent from my iPhone

Begin forwarded message:

From: "Pettit, Mark T. (OPA (b) (6)

Date: August 1, 2018 at 10:48:59 AM EDT

To: "Flores, Sarah Isgur (OPA)" < siflores@jmd.usdoj.gov Cc: "Cutrona, Danielle (OAG) (b) (6)

Subject: transcript of newt

Here is the full segment, interesting part starts at the bolded/highlighted **Sandra** section:

sandra:

what a night that was. let's bring in newt gingrich former house speaker and fox news contributor. welcome back. well, what did you think of the president last night?

Newt:

look, i think he is extraordinarily excited. he is watching his policies work. and i think that's something that is very hard for the washington establishment to come to grips with, the fact is, you saw job numbers this morning. dramatically better than projected. we now have the lowest black unemployment in american history, which is a very positive thing, it's sad that liberals can't relax and say you know, having fewer and fewer people out of work is a good thing, the question that I think is fascinating is if president trump is right and so far he has had a pretty good run at this, this economy will get bigger and stronger going on out for another four, five, six years. if that happens, the impact on politics in america will be tremendous because you will have this huge contrast between food stamps and unemployment under obama and better jobs, higher take home pay, greater opportunities under trump, at some point the gap will be so wide that among asian americans and latino americans and african-americans you will see drift away from a democratic party. you saw last night a president who is enthusiastic and believes his policies are working and i want to make one last point, this is a major fight we'll have to have in the country. the chinese since 1991 have routinely and consistently cheated. they grew as fast as they did, the estimate by the obama director of national intelligence was they were stealing \$460 billion a year in intellectual property trump has decided he wants to stop it. the chinese don't want to stop, this will be a real fight and we need to understand that, and I think the people who are against the trump policies need to explain why they favor allowing the chinese to steal.

bill:

you said a lot. i hope we can get to all of it. we'll just chip away a little bit at the whole answer there. i

thought this rally for him last night was a home run. the place was going nuts. i can't recall a time during president bush's first term almost two years in where he could have a rally like this or even president obama two years in. he lost 63 terms in the mid-term election in 2010. he is hitting on all these points. i thought immigration was the biggest applause line of the night. he came back to it over and over again. he loves to poke the democrats in the eye. here is a really good example. sound bite two on brett kavanaugh and the obstruction that the president alleges. watch.

president trump:

so far the democratuse they will do anything they can to not help the trump agenda. brett kavanaugh, highest education, best grades, best tests, best everything. they thought 15 years ago he was going to be a supreme court judge. look at justice gorsuch, how good is he? not allowing these great people to serve their country is a disgrace.

bill:

that's on kavanaugh and also on the ron desantis thing. ron desantis wants to be the republican governor in florida. he made an ad this week where he has his child he is talking about make america great again and i'm teaching my kids the words how to build the wall and in return for that ad he gets the president to do a rally in florida and mention his name 10 or 15 times. what is the political transaction at work here where the president says if you get on board with my message, i will get on board with you and i will help lead you to victory. what is happening now within the party in this relationship back and forth?

Newt:

well, look, it's totally fascinating. I have written two books about it because it is so fascinating. You have in president trump a very strong personality who has a very definite view of the world. It turns out that at least among republicans, his activities are wildly popular. I think 88% of the republicans approve of him, which is a higher number except for the period right after 9/11, a higher number than any president in modern times has had in their own party's approval. So when he goes in and says I like ron desantis, ron jumps 16 points in a week. When he went into georgia for brian kemp, kemp won the primary pulling away. Now, the test will be this fall transferring into winning the general election seats. I think washington is so anti-trump and the so anti-trump they don't understand what's happening out there. One example. Sanctuary cities, 84% of the american people believe sanctuary cities increase crime. 84%. Now, every democrat in the senate co-sponsored senator feinstein's open border bill. the democrats are talking themselves out on these radical left agendas which in the "washington post" and "new york times" and cbs news all sounds terrific. but I think when you get down to september and october, we'll discover there is a red wave, not a blue wave and that people will repudiate the kind of radical extremism we're seeing emerge in the democratic party.

sandra:

the big question will be where is the mueller investigation at that point and a big test of the robert mueller probe is day two of the trial for paul manafort, the president's former campaign manager. the president, mr. speaker, just tweeted this out. paul manafort worked for ronald reagan, bob dole, many other respected political leaders and worked for me for a very short time. why didn't government tell me that he was under investigation? these old charges have nothing to do with collusion. a hoax. president just tweeted that a few minutes ago, mr. speaker.

Newt:

i think the president has every right to be deeply, deeply frustrated at the failure of his attorney general to exercise leadership. i also note that in the "wall street journal" this morning you had a former special agent of the f.b.i. wrote a devastating piece where he suggests pretty directly that brennan, the head of the cia and radical leftist. brennan may have used the c.i.a. to set up the f.b.i. to start the we we now know increasingly are false. imagine you're the president and looking saying let me get this straight, the f.b.i. lied to the fisa court judge, the c.i.a. may have deliberately set up the f.b.i., and i got an attorney

general who doesn't have the toughness needed to start cleaning out the snake pit. by the way, notice what the trial is about. they aren't going after manafort for collusion with russia. they're going after him for things like taxes. this exactly what independent counsel do. they can't solve the case they were hired to do. if manafort wins it. there is a good chance he will. mueller will look like a fool and i think the whole country will shrug off everything else that mueller does.

bill:

he has another trial right after that in the d.c. court. jeff sessions, another tweet from 40 minutes ago. this is a terrible situation. attorney general jeff sessions should stop the rigged witch hunt now before it continues to stain our country any further. bob mueller is totally conflicted and 17 angry democrats doing his dirty work are a disgrace to the usa. what authority right now does jeff sessions have if he were so inclined to clean house? could sessions end it today?

Newt:

he is the attorney general. he could fire

bill:

the president could fire jeff sessions and he is not going to. if he is this upset why not?

Newt:

he is not going to fire jeff sessions because the fix is in in washington and he would not be able to get anybody approved. the senate would go crazy. a third of the republicans would go crazy and you would be back in a kind of watergate-like environment. president trump is far better off to endure this publicly be angry but endure it. on the other hand if jeff sessions wanted to as attorney general, he has absolute authority to fire the team. and i originally tweeted that i thought mueller was a very respectable guy and i watched him hire these 17 lawyers that trump is talking about, this is a disgraceful, one-sided witch hunt by a bunch of left-wing democrats and it is compounded because we have learned since then about comey, we've learned since then about the number two guy at the f.b.i., we've learned since then about strzok. every time we turn around we learn more things that indicate that the sickness in the justice department and the senior levels of the f.b.i. was very real and i think should scare everybody. you have the power of the police being that corrupt, huge dangers for freedom in america.

sandra:

newt gingrich, thank you for being with us.

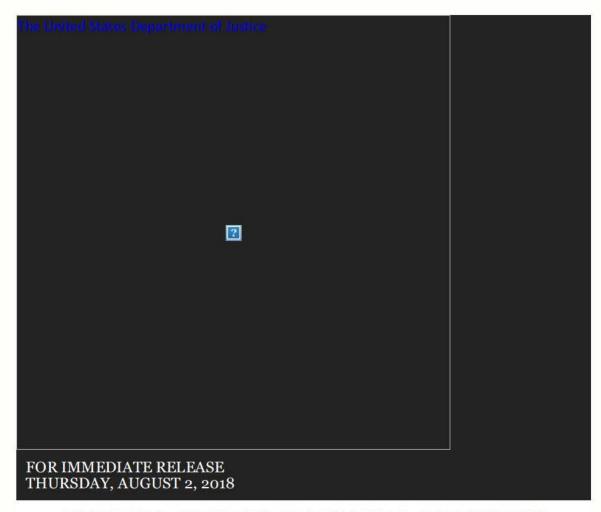
USDOJ-Office of Public Affairs

From: USDOJ-Office of Public Affairs
Sent: Thursday, August 2, 2018 5:36 PM

To: b(6): Matthew Whitaker email address

Subject: DEPUTY ATTORNEY GENERAL ROD J. ROSENSTEIN DELIVERS REMARKS AT THE 2018

AMERICAN BAR ASSOCIATION ANNUAL MEETING



DEPUTY ATTORNEY GENERAL ROD J. ROSENSTEIN DELIVERS REMARKS AT THE 2018 AMERICAN BAR ASSOCIATION ANNUAL MEETING

Chicago, IL

Remarks as prepared for delivery

Thank you for that kind introduction, Hilarie, and congratulations on your successful tenure as president of the American Bar Association.

The ABA is a diverse organization. Not all of its objectives are universally shared. But lawyers should be united in the goal of "advancing the rule of law throughout the United States and around the world."

There is a story about two police officers who pull over a car for a traffic stop. One officer walks to the driver's side while his partner stands behind the car. As the first officer approaches, the driver rolls down the window and leans out, shaking his fist. "Do you know who I am? Do you know who I am!?" The second officer hears the ruckus and calls out, "Is there a problem here?" And the first officer replies, "Yes, it seems that this fellow doesn't know who he is."

Lawyers and judges need to know who they are. You are the guardians of the rule of law, a concept that developed over many centuries and today is fundamental to human liberty.

The term "rule of law" describes the government's obligation to follow neutral principles. The idea dates to the fourth century BC, when Greek philosopher Aristotle wrote that "[i]t is more proper that law should govern than any one of the citizens."

Retired Supreme Court Justice Anthony Kennedy recently spoke about the moral basis of law. He described it as "a promise of liberty, of freedom, ... the right to plan our own destiny."

The rule of law is indispensable to a thriving and vibrant society. It shields citizens from government overreach. It allows businesses to invest with confidence. It gives innovators protection for their discoveries. It keeps people safe from dangerous criminals. And it allows us to resolve differences peacefully through reason and logic.

The rule of law requires us to reserve judgment until we have heard from all parties and completed a fair process. You cannot reach reliable factual conclusions unless you first weigh the credible evidence. You cannot offer reasoned legal opinions unless you consider conflicting arguments.

When you follow the rule of law, it does not always yield the outcome that you would choose as a policy matter. In fact, one indicator that you are following the rule of law is when you respect a result although you do not agree with it. You respect it because it is dictated by the facts and the law.

In 1535, the King of England executed Sir Thomas More, history's greatest martyr for the law. In Robert Bolt's brilliant play, "A Man for All Seasons," More defends the rule of law in an argument with his son in law, William Roper.

Roper is angry because More says that he would allow the Devil to benefit from

legal protections.

Roper insists that he would ignore every law, if necessary, to destroy the Devil.

More replies, "Oh? And when the last law was down, and the Devil turned round on you where would you hide, Roper, the laws all being flat?"

More concludes, "I'd give the Devil the benefit of law, for my own safety's sake."

The point is that honorable lawyers defend the rule of law, even when it is difficult, so it will be there when we need it.

As Judge Brett Kavanaugh said last month, "an independent judiciary is the crown jewel of our constitutional republic." The founders created an independent judicial branch to resist partisan influence and make unbiased decisions. But the rule of law is not merely about vesting ultimate power in judges. It is essentially about restricting anyone from exercising arbitrary power. Judges may achieve that, but only if they faithfully enforce neutral principles and avoid usurping legislative and executive power.

The goal is to be governed by law by a system of clear rules and neutral processes not by the whim of any person.

Justice Anthony Kennedy explained it this way: in a rule of law system, when you apply to a government clerk for a permit and you satisfy the objective criteria, you are not asking the clerk to do you a favor. You are entitled to the permit, and it is the clerk's duty to give it to you.

The concept of a government bound by law to serve the people is far from universal. I visited the nation of Armenia in 1994, when it was emerging from seven decades of Soviet domination. I gave a lecture about public corruption laws. When I finished, a student raised his hand. He asked, "If you can't pay bribes in America, how do you get electricity?"

That pragmatic question illustrated how the young man learned to think about his society. Corruption undermines law. It stifles innovation, creates inefficiency, and inculcates distrust.

Our Constitution was designed to protect the rule of law.

After the Constitutional Convention, a woman named Elizabeth Powel asked Benjamin Franklin what type of government the Founders had created. Franklin replied with these words: "A republic, if you can keep it." Mrs. Powel's question demonstrates that it was not inevitable that America would be a democratic republic in 1787.

Franklin's answer reminds us that it was not inevitable that America would remain a democratic republic.

The Constitution comes with a condition: you need to keep it.

Franklin used the word "keep" as an active verb. It means there are things you need to do, if you want to preserve it.

What Franklin had in mind is analogous to the "keeper of the flame," a person tasked to keep the fire burning. If you are a keeper of the flame, your assignment is not just to watch. You need to take action to keep the spark alive.

Some people think that preserving the Constitution is the job of politicians. But Franklin spoke to an ordinary citizen a woman who did not even have the right to vote. Yet he said that it was up to her, not him, to keep the republic.

The lesson is that we are all keepers of the republic. The Constitution is not just about words written on paper. It requires people to implement it.

Consider the Boston massacre. Five colonists died after British soldiers fired on a crowd. A captain and eight soldiers were charged with murder. They faced possible execution.

Most lawyers were unwilling to represent the suspects. But a 35 year old lawyer and future President named John Adams felt "a sense of duty" to accept the task.

Defending British soldiers was a very unpopular cause in 1770. Adams faced a serious risk, in his words, of "infamy," or even "death." In a diary entry about the trial, he wrote: "In the Evening I expressed to [Abigail] Adams all my Apprehensions: That excellent Lady ... burst into ... Tears.... [S]he was very sensible of all the Danger to her and to our Children as well as to me, but she thought I had done as I ought, [and] she was ... willing to share in all that was to come"

That rhetoric mirrors an earlier letter that Adams wrote to explain his resolve. Adams noted that in theaters "the applause of the audience is of more importance to the actors than their own approbation. But upon the stage of life, while conscience claps, let the world hiss."

Adams endured harsh criticism in the court of public opinion. But in a court of law, he secured the acquittal of the British captain and six soldiers. Two others were convicted but received only minor punishments.

During his closing argument, Adams famously said that "[f]acts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence."

Those words remind us that people who seek the truth need to avoid confirmation bias and remain open to the possibility that the truth may not match our preconceptions. In the words of a 19th century Philadelphia doctor, "Sincerity of belief is not the test of truth." Truth is about solid evidence, not strong opinions.

By choosing to defend the law, John Adams incurred "clamour and popular suspicions and prejudices" that he feared would never be forgotten. Years later, Adams wrote that his decision "procured me anxiety, and obloquy It was, however, ... one of the best pieces of service I ever rendered my country."

Most of us never face such a dramatic choice. But upholding the rule of law is not just about litigation in courtrooms. It is also about education in classrooms and living rooms. Every lawyer should accept a personal duty to keep the republic by teaching its principles.

Abraham Lincoln discussed the issue in a speech prophetically titled, "The Perpetuation of Our Political Institutions." The year was 1838. Adams and the other founding fathers had passed away, and Lincoln was alarmed by sharp political divisions and rising passions in our young republic. In his first published address, Lincoln advocated building respect for the law as a way to bind the society together.

"Let reverence for the laws," he implored, "be breathed by every American mother ... let it be taught in schools, in seminaries, and in colleges; let it be written in Primers, spelling books, and in Almanacks let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice."

And, Lincoln concluded, "let it become the political religion of the nation; and let the old and the young, the rich and the poor, the grave and the gay, of all sexes and tongues, and colors and conditions" keep the rule of law.

Two decades later, in 1858, Lincoln engaged in a series of seven lengthy debates with his Senate opponent, Stephen Douglas. The opening speaker addressed the audience for one hour. The other speaker took an hour and a half to reply. Then

the first debater spent another half hour to respond.

People disagreed sometimes vehemently but they listened patiently, and they learned about opposing arguments.

Consider the three great patriots who set out to explain the Constitution at the founding of our republic. Alexander Hamilton, James Madison, and John Jay wrote 85 profound essays known as the Federalist Papers.

Imagine Hamilton, Madison, and Jay today, trying to convey complex lessons about government and human nature. The structural protections that preserve liberty are difficult to reduce to a soundbite.

But it remains essential for citizens to understand the legal principles that undergird the Constitution. Our system of government is not self executing. It relies on wisdom and self restraint. In a democratic republic, liberty is protected by cultural norms as well as by constitutional text.

Lawyers bear a solemn responsibility to defend Constitutional principles, particularly government lawyers.

In his first speech after taking office in 1940, Attorney General Robert Jackson spoke about the special duties of government lawyers. He said that "most ... mistakes ... [result from] failure to observe the fiduciary principle ... the principle of trusteeship, without which our kind of society cannot long endure."

Jackson is regarded as one of the great Attorneys General, although he served for only 19 months and his tenure was replete with challenges. One of the difficulties Jackson faced was what he called the "unpleasant duty" of responding to congressional inquiries about law enforcement investigations. He explained that "lawyers must at times risk ourselves ... to defend our legal processes from discredit, and to maintain a dispassionate, disinterested, and impartial enforcement of the law."

Jackson observed that lawyers "who sit temporarily in the position of government counsel, are subject to [obligations] ... that those outside the profession never" face. He contrasted the special duties of government lawyers with "the volatile values of politics." Jackson understood that "[f]undamental things in our American way of life depend on the intellectual integrity, courage and straight thinking of ... government lawyers."

Although political tempers flare from time to time, Jackson remained confident that "temporary passion" will eventually yield to "sober second thought" about

the rule of law. "We must have the courage to face any temporary criticism," Jackson urged, because "the moral authority of our legal process" depends on government lawyers acting impartially and respecting the distinction between law and politics.

President George Washington warned in his Farewell Address about the consequences of weakening the separation of powers and allowing one government branch to increase its power by "encroach[ing] upon another." He said, "[T]hough this ... one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed." We need to avoid any temptation to compromise important principles and seek a short term benefit at the cost of long term values.

The Department of Justice must never be a partisan actor. In all cases, agents and prosecutors are obligated to make neutral decisions, preserve personal privacy, protect national security, and insulate investigations from political interference.

Another renowned Attorney General, Edward Levi, devoted his tenure to building public confidence in law enforcement. Levi explained that "[n]othing can more weaken the quality of life or more imperil the realization of the goals we all hold dear than ... failure to make clear by words and deed that our law is not an instrument of partisan purpose, and it is not to be used in ways which are careless of ... higher values"

In the Department of Justice, we need to hold people accountable when they violate the rules. We rely on nonpartisan internal watchdogs, including an Office of Professional Responsibility to enforce ethical rules, and an Office of the Inspector General led by a Senate confirmed presidential appointee, to root out waste, fraud, and abuse, and conduct appropriate criminal investigations.

Most importantly, our actions need to pass muster in courts of law. Agents and prosecutors develop the discipline required by the burden to prove our allegations of wrongdoing beyond any reasonable doubt. Allegations mean nothing unless they are supported by witnesses who give credible testimony under oath and withstand cross examination. That gives us a powerful incentive to seek the truth, wherever it may lead.

Before I conclude, I want to share a parable that Attorney General Jackson used to emphasize the role of lawyers in preserving liberty. It is about three stonecutters asked to describe their work. The first stonecutter focuses on how the job benefits him. He says, "I am earning a living." The second narrowly describes his personal role: "I am cutting stone." The third man exhibits a

different perspective. His face lights up as he explains what the work means to others: "I am helping to build a cathedral."

Jackson explained that lawyers "do more than earn [a] living[]; we do more than [litigate] [individual] cases. We are building the legal structure that will protect ... human liberty" for generations to come. That is a core duty of lawyers. You are always building a legacy, whether you realize it or not. You set an example for your colleagues, you enforce the rules for your clients, and you lay a foundation for your successors. You should never forget about the cathedral.

President Trump selected a superb team of skilled and principled lawyers to lead the Department of Justice and our U.S. Attorney's Offices. Attorney General Jeff Sessions emphasizes that we do "not represent any narrow interest or any subset of the American people. We represent all of the American people and protect the integrity of our Constitution."

We are responsible for helping to develop and faithfully implement the President's law enforcement policies in a manner consistent with longstanding nonpartisan principles. Our decisions do not please all the people all the time, but they always reflect the care, caution, and wisdom required by the law.

That is what the President appointed us to do. It is what the Senate confirmed us to do. It is what the oath of office obligates us to do.

We will keep the faith, defend the Constitution, and promote the rule of law.

#

DAG

18 1012

Do not reply to this message. If you have questions, please use the contacts in the message or call the Office of Public Affairs at 202 514 2007.

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Davis, Mike (Judiciary-Rep)

From: Davis, Mike (Judiciary-Rep)

Sent: Thursday, August 2, 2018 9:18 PM

To: Davis, Mike (Judiciary-Rep)

Subject: Senate Judiciary Committee Status Update

Attachments: 2018-07-09 Georgetown Prep Letter Support of Confirmation.pdf; 2018-07-10 Kavanaugh Clerks Support of Confirmation Letter.pdf; 2018-07-12

Kavanaugh Women Clerks Support of Confirmation.pdf; 2018-07-12 State AG Support of Confirmation Letters.pdf; 2018-07-19 Former Law Students Support of Confirmation.pdf; 2018-07-25 GOP Governors.pdf; 2018-08-02 AMK Clerk Letter.pdf; SJC Status Update.pdf; All Democrat Judicial Nominee

Votes.xlsx

NOTE: Below is the latest status update on Chairman Chuck Grassley and the Senate Judiciary Committee's efforts on nominations. We sent the last status update on July 20, 2018, and we have made tremendous progress since then.

Of note, the Senate voted this week to confirm 7 new federal judges –5 of whom are women, including Judge Britt Grant to a Georgia-based seat on the Eleventh Circuit. Chairman Grassley continues to help the President set the all-time record for circuit judges confirmed during a president's first 2 years in office, after Chairman Grassley helped the President set the all-time record last year for circuit judges confirmed during a president's first year in office. Grassley Works. Grassley Delivers.

Chairman Grassley will continue the history-making efforts on the lower courts, in addition to continuing to process the Executive Branch nominees, while considering the nomination of Judge Brett Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States. Chairman Grassley has publicly stated that the Senate Judiciary Committee will hold Judge Kavanaugh's confirmation hearing in September, with the goal of confirming Judge Kavanaugh this fall.

These emails are widely distributed, so please feel free to share them. If anyone would like added or removed from this email list, please email me. Please also feel free to contact me anytime.

Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

b) (6) (direct) b) (6) (cell) 202 224 9102 (fax)

Lower-Court and Executive Branch Nominees

- 1. On Tuesday (7/31), following a committee hearing and vote by Chairman Chuck Grassley and the Senate Judiciary Committee, the Senate voted 52-46 to confirm the nomination of **Georgia Supreme Court Justice Britt Grant** to serve as a **Circuit Judge** on the **United States Court of Appeals for the Eleventh Circuit**. The vote tally is here:

 https://www.senate.gov/legislative/LIS/roll_call_bists/roll_call_vote_cfm.cfm?congress=115&session=2&vote=00174#position. Of note, Senator Chuck Schumer apparently only permitted 2 Senate Democrats Senators Manchin and Tester, who are both Trump-state Democrats facing tough reelections this fall to cross party lines to support Judge Grant's nomination. Judge Grant is President Trump's 24th circuit nominee (and 45th judicial nominee) confirmed during the 115th Congress. This confirmation continues to set the all-time record, set at 22 with previous presidents, for federal circuit judges confirmed during a president's first two years in office.
- 2. Yesterday (8/1), following a committee hearing and vote by Chairman Chuck Grassley and the Senate Judiciary Committee, the Senate voted by voice vote (no opposition) to confirm the following 6 district-court nominees (4 of whom are women):
 - (1) Judge Jeffrey Beaverstock (S.D. Ala.) (reported to floor on 11/9/2017; re-reported to floor on 1/18/2018; confirmed on 8/1/2018)
 - (2) Judge Emily Marks (M.D. Ala.) (reported to floor on 11/9/2017; re-reported to floor on 1/18/2018; confirmed on 8/1/2018)
 - (3) Judge Holly Teeter (D. Kan.) (reported to floor on 11/9/2017; re-reported to floor on 1/18/2018; confirmed on 8/1/2018)
 - (4) Judge Maryellen Noreika (D. Del.) (reported to floor on 3/15/2018; confirmed on 8/1/2018)
 - (5) Judge Colm Connolly (D. Del.) (reported to floor on 3/15/2018; confirmed on 8/1/2018)
 - (6) Judge Jill Otake (D. Haw.) (reported to floor on 4/12/2018; confirmed on 8/1/2018)
 - * These 6 new judges are President Trump's 46th, 47th, 48th, 49th, 50th, and 51st judicial nominees confirmed during the 115th Congress.
- 3. Attached is a spreadsheet of how each Senate Democrat has voted or dodged voting on President Trump's 51 judicial nominees confirmed by the Senate during the 115th Congress.
- 4. Yesterday (8/1), Senate Majority Leader Mitch McConnell filed petitions to invoke cloture (limit debate) on 2 more nominees to serve as circuit judges:
 - (1) A. Marvin Quattlebaum (CA4 / S.C.) (reported to floor on 7/19/2018; cloture petition filed on 8/1/2018; cloture vote scheduled for 8/15/2018 at 5:30 pm)
 - $(2) \qquad \hbox{Julius N. Richardson (CA4 / S.C.) (reported to floor on 7/19/2018; cloture petition filed on 8/1/2018)}$
 - * Once cloture is invoke, the Senate Democrats could require up to 30 hours of floor debate for each of these nominees. If confirmed, these 2 circuit nominees will become President Trump's 25th and 26th circuit nominees (and 52nd and 53rd judicial nominees) confirmed during the 115th Congress.
- 5. Yesterday (8/1), Chairman Chuck Grassley and the Senate Judiciary Committee held the 13th of up to 20 nominations hearings for 2018. The 7 nominees included:

Panel I

(1) Richard J. Sullivan, of New York, to be United States Circuit Judge for the Second Circuit

Panel II

- (2) Diane Gujarati, to be United States District Judge for the Eastern District of New York
- (3) Eric Ross Komitee, to be United States District Judge for the Eastern District of New York
- (4) John L. Sinatra, Jr., to be United States District Judge for the Western District of New York

- (5) Rachel P. Kovner, to be United States District Judge for the Eastern District of New York
- (6) Lewis J. Liman, to be United States District Judge for the Southern District of New York
- (7) Mary Kay Vyskocil, to be United States District Judge for the Southern District of New York
- * Chairman Chuck Grassley and the Senate Judiciary Committee can report (vote) these nominees to the Senate floor, for a confirmation vote by the full Senate, as soon as Thursday, August 23, 2018.
 - 6. Attached is the latest status update of every nominee pending in, or processed through, the Senate Judiciary Committee this Congress.
 - 7. There are currently 63 nominees 3 circuit court, 42 district court, 2 Article I court, 3 Main Justice officials, 1 US Attorney, 8 US Marshals, 3 members of the Privacy and Civil Liberties Oversight Board, and 1 other Executive Branch nominee processed through the Senate Judiciary Committee and awaiting a vote by the full Senate.

SCOTUS

8. Today (8/2/2018), Senator Orrin Hatch (R-UT) penned the following piece:



ICYMI | Democrats have gone 'borking mad' on Brett Kavanaugh

USA Today | August 2, 2018

By Senator Orrin G. Hatch

Supreme Court Justice nominee Brett Kavanaugh is an extremely qualified and compassionate individual, who does not deserve to be Borked by Democrats.

To Bork, or not to Bork?

For Senate Democrats, that is the question.

For those unfamiliar with borking, the term officially recognized by the Oxford English Dictionary in 2002 refers to the unprecedented campaign of character assassination waged against Judge Robert Bork during his 1987 Supreme Court confirmation hearing. Judge Bork was among the most qualified and credentialed judicial nominees ever to come before the Senate. A giant on the federal bench, his opinions were never once overruled on appeal. His jurisprudence was unassailable; his character beyond reproach.

By all accounts, Judge Bork's confirmation should have been a cakewalk. But it quickly became a political gauntlet from which neither his career nor his reputation would ever recover.

Rather than evaluate Judge Bork on the merits of his judicial record, Democrats subjected him to a public inquisition, misrepresenting his positions and demonizing his character at every turn. Their ultimate goal was to portray Judge Bork not as the reasoned and principled jurist we all knew him to be, but as a political extremist hell-bent on returning America to a racist, reactionary past.

And in large part, they succeeded. Judge Bork's nomination was eventually defeated. Never mind that the reputation of a decent and honorable man lay in tatters liberals had claimed their first scalp in the full-scale politicization of the Supreme Court confirmation process.

So vicious and low was the left's treatment of the good judge that a description of this behavior found its way into the everyday parlance: to Bork. To Bork public officials is to vilify them for political gain. It is to strip them of their humanity, tear their public image to shreds, and depict them as evil incarnate. It is to do to a person exactly what Democrats are attempting to do to Judge Brett Kavanaugh.

Democrats trying to Bork Kavanaugh

Like Judge Bork, Judge Kavanaugh is among the most qualified individuals ever nominated to the Supreme Court. With a sterling academic résumé, a demonstrated commitment to the Constitution and more than 12 years on the federal bench, he is everything Americans could hope for in a Supreme Court justice. Democrats know they can't derail Judge Kavanaugh's nomination on the merits. Instead, they attack a straw man a gross caricature of the real Judge Kavanaugh, a fictitious being born of rank hyperbole and liberal lies.

In their zeal to portray Judge Kavanaugh as the embodiment of our greatest fears, Democrats have gone borking mad. As if announcing a professional wrestling match, Sen. Richard Blumenthal described Judge Kavanaugh as nothing less than "your worst nightmare." Sen. Kamala Harris went a step further when she warned that Kavanaugh's confirmation would result in the "destruction of the Constitution of the United States." But Sen. Jeff Merkley one-upped them all when he stated, with no hint of irony, that Judge Kavanaugh "is a nominee who wants to pave the path to tyranny."

In a moment of indiscretion, it seems that President Donald Trump has nominated Genghis Khan to the Supreme Court.

In recent days, liberal rhetoric has taken an even more apocalyptic turn. Take, for example, the letter signed by hundreds of Yale Law School alumni, students and faculty prophesying that "people will die if (Judge Kavanaugh) is confirmed."

Or consider Sen. Cory Booker's declaration that anyone supporting Judge Kavanaugh's nomination is "complicit (in) evil" or his biblical allusion likening this political moment to "walking through the valley of the shadow of death."

Given the rhetoric, you'd be forgiven if you thought the left was talking about the Grim Reaper and not Judge Kavanaugh. While both might wear black robes, only one is a minivan-driving carpool dad. Only one is a baseball-loving law professor adored by students of all political stripes. Only one is a former altar boy turned girls basketball coach who feeds the homeless in his free time. And that's Judge Kavanaugh.

Kavanaugh is an 'incredibly decent' human being

Try as they might to depict my friend as the harbinger of death, Democrats are repeatedly frustrated by the same simple fact: Judge Kavanaugh is an incredibly decent human being.

I know from firsthand experience. Judge Kavanaugh and I became well acquainted when he was nominated to the D.C. Circuit Court of Appeals in 2003. As chairman of the Senate Judiciary Committee at the time, I oversaw every step of his confirmation. Throughout the process, Judge Kavanaugh proved himself to be an individual of exceptional kindness, character and compassion. The judge I know personally is nothing like the cartoon villain the left makes him out to be.

Political operatives can dehumanize Judge Kavanaugh all they want in the media. But at the end of the day, this is the same man who, every year, takes the little girl of his widowed friend to the school daddy-daughter dance. It's the same man who has championed the professional success of women and minorities throughout the entirety of his legal career. And it's the same

man who has garnered widespread admiration from jurists and academics on both sides of the political aisle.

In an attempt to make a monster of a mensch, Democrats have dumped millions of dollars on political ads maligning Judge Kavanaugh's character. But the truth, like Teflon, keeps these attacks from sticking.

Of course, reality won't deter Democrats from further attempts to Bork Judge Kavanaugh. Mother Theresa could be our nominee, and the left would still find something to complain about. Even so, I trust the American people to see through the ruse. Judge Kavanaugh is both a gentleman and a jurist of the highest quality. He is an eminently qualified nominee who deserves swift confirmation to the Supreme Court.

Orrin G. Hatch is a Republican senator from Utah and a former chairman of the Senate Judiciary Committee.





9. On July 31, 2018, Chairman Chuck Grassley delivered the following floor statement:



Prepared Floor Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
On the Most Transparent Supreme Court Confirmation Process in History
July 31, 2018
(VIDEO)

Over the last several days, the Minority Leader has continued his unprecedented partisan interference with the business of the Senate Judiciary Committee. In addition to these partisan interventions being unwelcome, many of the Minority Leader's assertions are plainly false. Others omit significant context. I'd like to correct the record.

Let me start by reiterating that the confirmation process for Judge Kavanaugh will be the most transparent in history. Senators already have access to the most important part of his record: his more than 300 opinions written during his twelve years on the D.C. Circuit in addition to the hundreds more opinions he joined and the more than 6,000 pages submitted in connection with his Senate Judiciary Questionnaire. Moreover, the Senate will receive more pages of Executive Branch documents than we did for any Supreme Court nominee ever.

I anticipate up to one million pages of documents from Judge Kavanaugh's time in the White House Counsel's Office and Independent Counsel's Office, along with records related to his 2006 confirmation to the D.C. Circuit. The production could be larger than the last five Supreme Court nominees combined. The other side is pretending like the most expansive and transparent confirmation process in history is not enough.

Despite this expansive and transparent confirmation process and that senators already have Judge Kavanaugh's entire judicial record in front of them Democratic leaders continue to make unreasonable demands for more and more documents

In fact, they demand access to every email and every other document ever written or received by every staffer who ever worked in the Bush White House to fish for documents that merely mention Brett Kavanaugh's name. In other words, they essentially want access to every document that ever went through the Bush White House. This is beyond unreasonable and it's not a serious proposal.

During Justice Kagan's confirmation, Chairman Leahy was adamant that documents merely mentioning Justice Kagan's name shouldn't be produced. This is just one example of Democratic leaders not following the Kagan Standard. The motive behind the unreasonable demands for documents is obvious: Democratic leaders want to stall Judge Kavanaugh's confirmation any way possible. They hope to bury the Senate in mountains of irrelevant documents to delay his confirmation hearing and perhaps deny him a vote during this Congress.

The Ranking Member's hometown newspaper reported this scheme over the weekend. The San Francisco Chronicle called it "a tactic that could postpone a decision until after the midterm elections." The article explained that, "The Democrats' strategy... is to demand to see every document that crossed Kavanaugh's desk while he served as President George W. Bush's staff secretary from 2003 to 2006." In other words, the Democratic leaders are demanding these documents in order to needlessly delay the process rather than for a legitimate purpose. But their tactics aren't going to work.

Let me address some of the Minority Leader's specific points. He says that, traditionally, the Senate Judiciary Committee sends a bipartisan letter requesting documents. And he said that we should have sent out this letter two weeks ago. What the Minority Leader failed to point out is that my staff worked extensively with the Ranking Member's staff to attempt to identify specific Staff Secretary records that interested the Democrats. But the Democratic staff wasn't interested in a reasonable compromise, including my attempts to get them even more documents than the up to one million pages of documents than we're already receiving.

After multiple rounds of negotiation, they still hadn't budged from their position that they're entitled to access any of the millions and millions of pages of documents that ever went through the Bush White House. These demands were unprecedented, unreasonable, and obviously intended to delay the confirmation process. I couldn't allow this tactic to further delay the important business of the committee, so I sent a records request for the White House Counsel documents, as Chairman, because we need to keep the process moving. It's unfortunate that the Ranking Member didn't agree to sign it, because the letter requests documents both sides agree we should have.

The Minority Leader also says we should have followed the precedent established during Justice Kagan's nomination. He is rewriting history. He conveniently forgets that both Democrats and Republicans agreed we shouldn't request documents from Justice Kagan's time as Solicitor General. Everyone agreed that the documents were too sensitive for disclosure and could chill the candidness of internal deliberations. This same respect for confidentiality should apply with greater force to Staff Secretary documents, which include some of the most sensitive policy advice going directly to the President.

Indeed, the White House Staff Secretary is essentially the inbox and outbox for the President of the United States. The Senate's current task is to evaluate the qualifications of Judge Kavanaugh, not to re-litigate every political and policy disagreement from President George W. Bush's eight years in office.

As my Democratic colleagues keep pointing out, Judge Kavanaugh has described how his time as Staff Secretary was a formative experience for him. Well, Justice Kagan said the same thing about her time as Solicitor General. But the Democrats refused to request her records.

On top of the undisputed relevance of Solicitor General materials, Justice Kagan lacked a judicial record. In other words, unlike the more than 300 opinions that Judge Kavanaugh authored and the hundreds more opinions that he joined in his 12 years of service on the D.C. Circuit, Justice Kagan had zero judicial opinions that she authored, zero judicial opinions that she joined, and zero years of judicial service. Her Solicitor General documents were therefore even more relevant. Democratic leaders are rewriting the Kagan Standard to further their stalling tactics.

The Minority Leader also tried to draw parallels with the request for documents from Justice Sotomayor's time as a board member of the Puerto Rican Legal Defense and Education Fund. This, however, was a narrow request closely tailored to a specific need for information. It resulted in a production of approximately 100 documents. By contrast, Democratic leaders demand access to every single one of the millions and millions of pages of emails and other records from every one of the hundreds of staffers who served in the White House with Judge Kavanaugh. As I have said repeatedly, I will not put American taxpayers on the hook for the Senate Democrats' fishing expedition.

Clearly losing on the substantive argument, the Minority Leader has even resorted to personally attacking Mr. Bill Burck, President George W. Bush's attorney. Mr. Burck has been one of President Bush's designated representatives for the Presidential Records Act since 2009. He is a leading partner at one of America's most respected, and most liberal, law firms. And I'm told that he's insisted that no lawyer be selected to participate in the review on the basis of his or her party affiliation or political ideology. Moreover, Mr. Burck has taken the time to personally meet with the Ranking Member's staff and answer all of their questions about the document-review process.

The Minority Leader said at a press conference today that the review by President Bush's lawyer "wouldn't be so bad if we also got a full set of documents from the Archives." Well, that's exactly what I expect to happen. President Bush has offered to give us access to copies of the documents we requested from the Archivist, so that we on the committee can quickly begin our review of Judge Kavanaugh's record while the Archives works through our document request. The Minority Leader could have learned this by talking to me, instead of putting on a political show in front of TV cameras.

I must also address the Minority Leader's unprecedented intervention into the business of the Judiciary Committee. The Minority Leader is not a member of the committee. He has no business inserting himself into committee business, including the manner in which the committee will obtain the documents needed to review Judge Kavanaugh's record.

But last week he sent a letter to President George W. Bush asking him to release all of the records from Judge Kavanaugh's service in the White House, while at the same time criticizing the way that President Bush has chosen to review those records. This letter was an inappropriate attempt to meddle in committee business, and I am disappointed that my Democratic colleagues on the committee are tolerating it.

I have also learned that the Minority Leader called the Archivist on Monday and asked him to "do the right thing" with regards to documents. I was disappointed to hear that the Minority Leader was attempting to pressure a government official one appointed by President Obama, no less with regard to the committee's business.

I also want to address one argument that my colleague on the Judiciary Committee, the senior senator from Illinois, has made. My colleague believes Judge Kavanaugh misled the committee during his 2006 confirmation hearing when he said he was not involved in developing the Bush Administration's detention and interrogation policies. The senator pointed to a media report that described a 2002 meeting in the White House in which Judge Kavanaugh advised whether his former boss, Justice Kennedy, would accept a legal argument about American citizens' access to counsel. These allegations have no merit. Offering advice on the potential success of a legal position suggested by others does not show involvement in developing detention and interrogation policies. Multiple sources have confirmed that Judge Kavanaugh wasn't involved in developing detention and interrogation policies.

Moreover, these allegations were already referred to the Department of Justice, which concluded they didn't even warrant opening an investigation. I will further point out that this 2002 meeting occurred while Judge Kavanaugh was in the White House Counsel's Office, and, as I've explained, we're going to have access to his White House Counsel records.

In short, I'm proud to preside over what will be the most transparent confirmation process in history. As they have said publicly, Democratic leaders are firmly opposed to Judge Kavanaugh's confirmation, and they will do whatever it takes to defeat him. They would like to bury the Senate in mountains of irrelevant documents to delay the confirmation as long as possible. I won't allow them to abuse the process.

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10. On July 29, 2018, Senator Shelley Moore Capito (R-WV) penned the following piece:

ICYMI | Capito: Judge Kavanaugh fit to serve on the U.S. Supreme Court

Journal News | July 29, 2018

By Sen. Shelley Moore Capito

On July 9, President Donald Trump announced his nomination of Judge Brett Kavanaugh to the United States Supreme Court, and in the coming months, the Senate will vote on this important nomination.

As a senator, I take my responsibility to evaluate presidential nominees very seriously. That is especially true for a nominee to our nation's highest court.

When I consider nominees for the Supreme Court, I don't look for a person who promises a particular policy outcome or someone who is out to actually create laws. Instead, I look for a person whose record reflects experience, fairness, and respect for the Constitution as it is written.

And that's the way I believe all of my colleagues should evaluate Supreme Court nominees based on the individual's qualifications and whether his or her record demonstrates a commitment to faithfully applying the text of our Constitution and the laws passed by Congress. That's because the Constitution assigns legislative authority to elected representatives in Congress.

Since the president nominated Judge Kavanaugh, I've had the opportunity to meet with him twice. During our second meeting, we had a wide-ranging discussion about his strong commitment to the separation-of-powers system, the court's responsibility to ensure that federal agencies properly execute laws passed by Congress, and the importance of respecting precedent to promote stability in the law.

West Virginians understand how important it is for government agencies to be confined to their authority under the law. And Judge Kavanaugh has a record of holding agencies accountable.

When President Obama's Environmental Protection Agency refused to properly consider the costs of a major regulation targeting coal-fired power plants, Judge Kavanaugh wrote a dissenting opinion at the D.C. Circuit. The Supreme Court later adopted Judge Kavanaugh's reasoning, one of 11 separate times the Supreme Court adopted one of his decisions.

During our meetings, we also talked about Judge Kavanaugh's strong commitment to providing more opportunities for women at the highest levels of the legal field. In fact, more than half of Judge Kavanaugh's law clerks have been women, and he employed the first all-female class of law clerks in the history of the D.C. Circuit Court.

Judge Kavanaugh also understands the importance of applying the Supreme Court's precedent and believes it is critical to preserving stability in the law.

Despite his strong record of judicial service and his qualifications, many of my Democrat colleagues have already closed the door on considering Judge Kavanaugh. The day he was nominated, Senate Democratic Leader Chuck Schumer announced he "would fight this nomination with everything I've got."

When the Senate considered Judge Kavanaugh's nomination to his current position, he sat down with then-West Virginia Democrat Senator Robert C. Byrd. Most West Virginians know the reverence that Senator Byrd had for the text of the Constitution, so it should be no surprise that this was a key focus during their meeting. In fact, the two discussed the importance of the Constitution's text specifically, Article 1.

Fast forward a few years to our meeting where Judge Kavanaugh showed me the same well-worn copy of the Constitution that he read with Senator Byrd. Senator Byrd was among the Democrats who voted to confirm Judge Kavanaugh to the D.C. Circuit, and that same bipartisan spirit should take root today.

Much of the opposition to Judge Kavanaugh involves speculation about how he might rule in particular cases. I believe that is misguided for two reasons.

First, recent history has shown the difficulty in predicting how justices will rule in future cases. This is especially true since individuals may serve on the court for decades and will undoubtedly rule on important future questions that few are thinking about today.

Second, the proper role of a justice is to apply the Constitution and the law as it is written not serve as a robed legislator who seeks to implement his or her own policy preferences.

Judge Kavanaugh has been clear that he shares that judicial philosophy.

In a speech last fall, he said "The American rule of law, as I see it, depends on neutral, impartial judges who say what the law is not what the law should be. Judges are umpires, or at least should always strive to be umpires."

Because I want a Supreme Court Justice who will impartially apply the Constitution and the law as written, I don't believe that nominees should be required to promise to rule a certain way on a particular policy question as the price of securing a senator's confirmation vote. Instead, policy questions should be left to the elected branches of government, and judges should fairly apply legal texts as written.

Accountability to the American people is diminished when unelected judges pursue their own policy goals. If we are truly looking for a fair umpire, then a nominee with Judge Kavanaugh's strong record of applying the text of the Constitution and the law should be confirmed with overwhelming support.

President Trump made clear during his campaign that he would appoint judges with respect for the Constitution. He kept his commitment to the people of West Virginia and to the people of our country when he nominated Brett Kavanaugh.

I look forward to remaining engaged and supportive of Judge Kavanaugh as the Senate proceeds with his nomination, and I urge my colleagues to set aside partisan rhetoric, stop the political theatrics, and do the same.

Sen. Shelley Moore Capito has served in the U.S. Senate since 2015.

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11. On July 27, 2018, Chairman Chuck Grassley released the following statement:



FOR IMMEDIATE RELEASE Friday, July 27, 2018

Grassley Seeks Documents for Supreme Court Nomination

WASHINGTON Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) today requested special access to documents related to Judge Brett Kavanaugh's legal work in the White House, as the committee evaluates his nomination to the Supreme Court. In a letter to National Archives staff at the George W. Bush Presidential Library, Grassley sought all emails sent to or from Judge Kavanaugh during his time in the White House Counsel's Office, all paper files maintained by Judge Kavanaugh in that position and all documents relating to his nomination to the U.S. Court of Appeals for the D.C. Circuit.

"For nearly two weeks, I've attempted to seek a good-faith agreement from the Ranking Member to jointly request documents relating to Judge Kavanaugh's legal work in the White House. For nearly two weeks, I've found myself either waiting for a response to my proposals or faced with unprecedented and unreasonable counter-proposals.

"Even when I suggested that we jointly request documents that both sides want while continuing to negotiate other categories, the Ranking Member declined. The Minority rejected out of hand multiple accommodations that I'd offered to assist in targeting material they believe is relevant. Instead, they demanded that we expand the request to require a search of every email from every one of the hundreds of White House staffers who served alongside Judge Kavanauqh for nearly six years, to find records that merely mention his name.

"So today, on behalf of the committee, I submitted a request for documents related to Judge Kavanaugh's time in the White House Counsel's Office. I expect the production to be the largest ever in the Senate's consideration of a Supreme Court nominee. In the meantime, I'm eager to review Judge Kavanaugh's 307 judicial opinions, the hundreds of other opinions that he joined and the 6,168 pages he already provided to us, which are publicly available right now and will provide the greatest insight into his fitness for the high court. As I have said repeatedly, I am not going to put the American taxpayers on the hook for the Senate Democrats' fishing expedition."

Text of Chairman Grassley's letter to the archivists at the Bush Library follows:

July 27, 2018

The Honorable Patrick X. Mordente, Brigadier General Director George W. Bush Presidential Library and Museum 2943 SMU Boulevard Dallas, Texas 75205

Dear General Mordente:

Pursuant to 44 U.S.C. § 2205(2)(C), I ask that you provide Presidential records to the United States Senate Committee on the Judiciary in connection with the President's nomination of Judge Brett M. Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States. Consistent with the Presidential Records Act (PRA), 44 U.S.C. § 2201(2), (3), this request is for access to Presidential records only, not personal records.

Kavanaugh served in the White House under President George W. Bush, first as Associate Counsel from 2001 to 2003 and later as Senior Associate Counsel in 2003. He served as Assistant to the President and Staff Secretary from 2003 to 2006. I request that you provide the following documents to the Committee on an expedited basis, consistent with the guidelines described in this letter:

- (1) Emails sent to or received from Kavanaugh, including emails on which he was a carbon copy or blind carbon copy recipient, during the period Kavanaugh served as Associate Counsel and Senior Associate Counsel to the President, including any documents attached to such emails;
- (2) The textual records contained in Kavanaugh's office files from the period during which he served as Associate Counsel and Senior Associate Counsel to the President; and
- (3) Documents relating to Kavanaugh's nomination to the U.S. Court of Appeals for the District of Columbia Circuit

The Committee has previously made official requests of Presidential Libraries in connection with nominees who served in the White House. I believe it appropriate to follow past Committee precedent concerning requests for records from Presidential Libraries in several respects.

Section 2205 of the Presidential Records Act (PRA), 44 U.S.C. § 2205, provides this Committee access to Presidential records in response to an official Congressional Committee request, notwithstanding the limitations on public disclosure set forth in section 2204 of the PRA, 44 U.S.C. § 2204(a)(1) (6). Such access is, by statute, subject to "any rights, defenses, or privileges which the United States or any agency or person may invoke." 44 U.S.C. § 2205(2). While I hope that documents responsive to our request will not raise these concerns, I also recognize that responsive documents may be subject to statutory or other rights, defenses, or privileges.

Section 2205(2)(C) entitles the Committee to access any non-privileged Presidential record that is responsive to the Committee's special-access request, notwithstanding the limitations on public access set forth in section 2204. I recognize, however, that in the context of prior Supreme Court nominations, the Committee and the Archivist have agreed that some documents containing PRA-restricted material would be produced to the Committee on a "Committee Confidential" basis. The Committee further agreed that such documents could be discussed only during a Closed Session of the Committee. I also acknowledge that the Committee previously has agreed that the Archivist could withhold certain PRA-restricted material in its entirety. In these respects, I intend to adhere to established custom and accept certain PRA-restricted material on a Committee Confidential basis and to permit the Archivist to withhold some PRA-restricted material in its entirety.

I ask that with each production, you similarly abide by established custom and (1) identify the total number of documents produced, (2) identify the number of documents containing PRA-restricted material that the Committee agreed to treat as "Committee Confidential," and (3) identify the number of documents being withheld entirely pursuant to assertions of constitutional privilege or pursuant to the Committee's agreement not to receive certain PRA-restricted material. I further ask that you produce documents on a rolling basis as you identify documents responsive to our request.

I note that in connection with Justice Gorsuch's nomination, the Bush Library attempted to withhold as little as possible and provided portions of documents, rather than withholding entire documents, where possible. I hope you will adopt the same approach. As the Committee has done in the past while considering Supreme Court nominations, I intend to respect the invocation of privilege by a co-equal branch of our government. For the documents requested by this letter, I further intend to abide by the Committee practice of declining to receive materials reflecting classified national security information or personal privacy information.

Please begin the rolling production to the Committee of records responsive to this request no later than August 1, 2018, at 6 00 PM EDT. Please complete the rolling production to the Committee of all remaining records responsive to this request no later than August 15, 2018 at 6:00 PM EDT.

I recognize that reviewing the archives and producing these documents is a significant task. I thank you in advance for your cooperation and efforts.

Sincerely

Chuck Grassley Chairman

cc:

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

The Honorable David S. Ferriero Archivist of the United States National Archives and Records Administration 700 Pennsylvania Avenue, NW Washington. DC 20408

The Honorable Dianne Feinstein Ranking Member, Committee on the Judiciary United States Senate Washington, DC 20510

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12. On July 25, 2018, Chairman Chuck Grassley delivered the following floor statement:



Prepared Floor Statement by Senator Chuck Grassley of Iowa Chairman, Senate Judiciary Committee On the Supreme Court Confirmation Process July 25, 2018 (VIDEO)

This morning I listened to remarks by the Minority Leader. For a minute, I was worried that Senator Harry Reid was back disguised as Senator Schumer. After all, I used to hear a lot of false comments about my committee's work from the misinformed former Minority Leader.

The Minority Leader first fretted that this senator, as chairman of the Judiciary committee, would be "twisted by leadership" in the course of reviewing of Judge Kavanaugh's nomination to the Supreme Court. That's false, but it was strange to hear a complaint about leadership intervening in committee business from a Democratic Leader who appears to be doing just that.

As far as his other comments on the Supreme Court confirmation process, I'd like to reiterate a few points I've made over the past two weeks. The Senate Judiciary Committee will have a thorough, modern and efficient process for reviewing Judge Kavanaugh's qualifications. As I explained yesterday, senators already have access to Judge Kavanaugh's 307 opinions he authored in 12 years as a D.C. Circuit judge, the hundreds more opinions he joined, and the 6,168 pages of material he submitted as part of his Senate Judiciary Committee Questionnaire. These materials are the most relevant to assessing Judge Kavanaugh's legal thinking.

We expect to receive up to one million pages of documents from Judge Kavanaugh's time in the White House Counsel's Office and the Office of the Independent Counsel. This will be the largest document production in connection with a Supreme Court nomination ever. By comparison, we received only about 170,000 pages of White House records for Justice Kagan. But Democratic leaders want gratuitous and unnecessary paper from Judge Kavanaugh's time as White House Staff Secretary. This is an unreasonable request and they know it.

Democratic leaders are already committed to opposing Judge Kavanaugh. Minority Leader Schumer himself said he'd fight Judge Kavanaugh "with everything he's got." Yesterday, one

colleague said that supporting Judge Kavanaugh is "complicit" in "evil." That's quite an offensive statement. It doesn't sound like they're interested in assessing Judge Kavanaugh's qualifications with an open mind.

Their bloated demands are an obvious attempt to obstruct the confirmation process. And it gets worse: The Democratic leaders are even demanding to search each and every email from other White House staffers that even mentions Judge Kavanaugh while he served in the White House. That's beyond unreasonable. And such a request would not help us understand this nominee's legal thinking.

The Obama Administration, with Senate Democrats' strong backing, refused to produce such records for Justice Kagan's confirmation. And this stunning demand is clear evidence that the Democratic leaders aren't interested in anything but obstruction. Democratic leaders insist on all these extra documents because the Senate received Justice Kagan's relevant White House records in 2010.

But there is a significant difference between this nomination and Justice Kagan's. Justice Kagan was not a lower court judge and had no judicial track record. There was a higher need for additional information that might shed light on her legal thinking. Judge Kavanaugh, by contrast, has authored more than 300 opinions and joined hundreds more.

The Staff Secretary is undoubtedly an important and demanding position, as Judge Kavanaugh himself and others have said. But Staff Secretary documents are not very useful in showing Judge Kavanaugh's legal thinking. His primary job was not to provide his own advice. Instead, he was primarily responsible for making sure that documents prepared by other Executive Branch offices were presented to the President. In addition to being the least relevant to assessing Judge Kavanaugh's legal thinking, the Staff Secretary documents contain among the most sensitive White House documents. They contain information and advice sent directly to the President from a range of policy advisors.

Democratic leaders say they want to follow the so-called "Kagan Standard," but seem to forget how we approached that nomination. Republicans and Democrats alike agreed to forgo a request for her Solicitor General documents because of their sensitivity. Senators Leahy and Sessions came to that agreement even though Justice Kagan had no judicial record to review. And they agreed to these terms despite Justice Kagan's own statement that her tenure in the Solicitor General's office would provide insight into the kind of justice she would be.

Obviously, with his long record on the D.C Circuit, Judge Kavanaugh doesn't have this problem. The need for confidentiality is substantially higher for documents passing through the Staff Secretary's office than the Solicitor General's office. Under the precedent set by Justice Kagan's nomination, we shouldn't expect access to Staff Secretary records.

We already have access to a voluminous judicial record and will have access to the largest document production for a Supreme Court nominee ever. The Democrats' demands for even more documents are unreasonable and clearly intended to obstruct this confirmation process.

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13. On July 24, 2018, Chairman Chuck Grassley delivered the following floor statement:



Prepared Floor Statement by Senator Chuck Grassley of Iowa Chairman, Senate Judiciary Committee Judge Kavanaugh and Democrat Leaders' Document Demands July 24, 2018 (VIDEO)

I come to the floor today to respond to remarks made this morning by the Minority Leader. And to add some additional context that he left out.

He spoke on the nomination of Judge Kavanaugh to the Supreme Court. Unfortunately, he didn't come to the floor to talk about the judge's excellent qualifications, his well-regarded temperament or judicial philosophy. He didn't come to the floor to announce that he would finally extend the courtesy of a meeting to the Judge, which is customary in this body.

He came to speak about what he thinks will satisfy left-wing outside groups. He demands that I sign a letter that would put the American taxpayers on the hook for a Democratic fishing expedition. I'm not going to do that.

Now, I agree that we should have a thorough vetting process for the nominee. And that we should review materials that would reveal Judge Kavanaugh's legal thinking. That's our job. We're not a rubber stamp.

Fortunately, we have immediate access to the most valuable documents out there that reveal Judge Kavanaugh's legal thinking. We have access to the more than 300 opinions Judge Kavanaugh authored in his 12 years on the D.C. Circuit, as well as the hundreds more opinions he joined. In these opinions, he addressed some of the most significant legal issues of the past decade from the second most powerful court in the country.

This morning, the Minority Leader brought up a statement I made in 2010 in connection with Justice Kagan's Supreme Court nomination. At that time, I was interested in reviewing documents from her time in the Clinton administration.

What the Minority Leader neglects to mention is, unlike Judge Kavanaugh, Justice Kagan hadn't served as a judge before being nominated to the Supreme Court. Other than her materials she submitted as part of the Senate Judiciary Questionnaire for her nomination, her White House Counsel's Office and Domestic Policy Council documents among the only categories that could shed light on her legal thinking.

Justice Kagan had written or joined a grand total of zero judicial opinions before her nomination. In order to carry out our 'advise and consent' responsibility as senators, we needed to better understand her legal thinking and potential jurisprudence.

Judge Kavanaugh, by contrast, has authored over 300 judicial opinions in his 12 years on the bench. Over three hundred. That doesn't include the hundreds of other decisions where he joined an opinion or order. When you add those to the mix, that's thousands of pages of judicial writing that the American people have access to at this exact moment.

Justice Kagan, of course, had zero pages of judicial opinions. This is in addition to the 6,168 pages of records Judge Kavanaugh just included in his response to the Senate Judiciary Questionnaire. Despite the fact that Judge Kavanaugh's judicial record is much more substantial than Justice Kagan's was, I agree that we should still ask the White House for documents pertaining to Judge Kavanaugh's time in the White House Counsel's Office.

My Democratic colleagues say they want the White House records. Well, I'm pleased to let them know that, in the coming weeks, the Senate will receive what will likely be the largest document production in history for a Supreme Court nomination.

I expect that the Senate could receive up to a million pages of documents related to Judge Kavanaugh's time in the White House Counsel's Office. We will also see the White House nominations file for Judge Kavanaugh's 2006 nomination to the D.C. Circuit, along with records from Judge Kavanaugh's time in the Office of the Independent Counsel. By comparison, we received less than 180,000 pages for Justice Kagan's time in two White House offices.

Let's recap: We have more than 300 of Judge Kavanaugh's actual judicial opinions to Justice Kagan's zero. We could have up to five-times as many pages from his time in the White House than we got from Justice Kagan. And we will have those documents despite the fact that they're less necessary now than they were for Justice Kagan. In short, there will be much more transparency in this Supreme Court confirmation process than ever before.

Now, I'm ready to send a letter to the National Archives requesting relevant White House Counsel documents. I'd like to do this with the Ranking Member, but unfortunately she has declined this request. This is unfortunate. Both sides agree the White House Counsel documents are relevant. I'd like to get them over here as quickly as possible so we can begin reviewing them. But, as I've noted, Democratic leadership has already decided to oppose Judge Kavanaugh's confirmation. They'd like to slow down the process as much as possible. I think that explains why the Ranking Member won't sign a letter requesting documents that both sides want.

I've heard that some of my Democratic colleagues would like to request all of Judge Kavanaugh's records from his time as White House Staff Secretary. But these documents are both the least relevant to Judge Kavanaugh's legal thinking and the most sensitive to the Executive Branch. The Staff Secretary is the inbox and outbox to the Oval Office. Passing through the Staff Secretary's office are a wide range of communications: from requests for flying the flag at half-mast to the daily lunch menu to draft speeches to sensitive national security papers.

The Staff Secretary's primary charge is not to provide his own substantive work product. The Staff Secretary makes sure the President sees memos and policy papers produced by other offices in the White House. It's an important job. It requires someone who is smart, hardworking, and talented. But the documents passing through Judge Kavanaugh's office while he was Staff Secretary are not particularly relevant to his legal thinking. It's like saying the Senate Clerk someone who has a difficult and demanding job is responsible for all the positions taken by each of the Senate offices. It's absurd.

The Senate should focus its efforts on reviewing his tens of thousands of pages of judicial opinions and other legal writings. Not only would a broad review of Staff Secretary documents be a waste of time but also a waste of taxpayer dollars. Moreover, Staff Secretary documents contain some of the most sensitive information and advice that went directly to President Bush from a range of policy advisors.

Back in 2010, both Democrats and Republicans agreed that Justice Kagan shouldn't produce internal communications while she was Solicitor General because of their sensitivity. If we're going to talk about a "Kagan Standard," then we need to talk about taking sensitive communications off the table. That's what all sides agreed to in 2010 and what I'll insist on now.

So I appreciate the Minority Leader's effort to ensure some transparency and thoroughness. But let's get down to brass tacks: I don't think the Minority Leader actually wants to read the millions of pages that crossed Judge Kavanaugh's desk in 2004. He's said he'd fight this nomination with everything he's got. And this bloated document request is part of that fight. This is not about anything other than obstruction to bury us in millions and millions of pages of paper, so we cannot have a confirmation vote on Judge Kavanaugh this year.

Liberal, dark-money outside groups want to drag this confirmation out to the end of time. I won't let them. This confirmation process should focus on Judge Kavanaugh's qualifications, not become a taxpayer-funded fishing expedition.



14. On July 21, 2018, Chairman Chuck Grassley's team issued the following press release:



FOR IMMEDIATE RELEASE Saturday, July 21, 2018

Judge Kavanaugh Returns Senate Judiciary Questionnaire

WASHINGTON Last evening, Supreme Court nominee Judge Brett Kavanaugh returned the bipartisan Judiciary Committee questionnaire Chairman Chuck Grassley and Ranking Member Dianne Feinstein sent to him on July 13. The questionnaire can be found HERE. Related materials and appendices can be found HERE.

"I appreciate Judge Kavanaugh's diligent and timely response to the broadest and most comprehensive questionnaire ever sent by this Committee. In his 12-plus years on the D.C. Circuit, Judge Kavanaugh has authored more than 300 opinions and joined hundreds of others, all of which are publicly available. Additionally, Judge Kavanaugh's public record includes dozens of speeches and writings. These voluminous materials will provide us a very good understanding of Judge Kavanaugh's qualifications and legal thinking including how Judge Kavanaugh goes about finding, interpreting, and applying the law. I look forward to reviewing this and other materials, along with hearing from Judge Kavanaugh and the other hearing witnesses, as a part of the Committee's fair, thorough and efficient vetting process," Grassley said.



15. On July 20, 2018, Chairman Chuck Grassley's team released the following backgrounder:



NYT: Brett Kavanaugh, as Seen by His Law Students

NOTE: In an <u>article</u> published by the New York Times, evaluations of Judge Brett Kavanaugh by his former law students reveal his strengths as a professor and provide insight into his constitutionally-focused legal philosophy.

"Over the last decade, about 350 law students at Harvard, Yale and Georgetown expressed views on classes offered by Judge Brett M. Kavanaugh, President Trump's Supreme Court nominee. With rare exceptions, they praised his mastery of legal materials, intellectual rigor, fair-mindedness and accessibility."

Kavanaugh was hired as a Samuel Williston Lecturer in Law at Harvard Law School in 2009 by former Harvard Law School Dean and current Supreme Court Justice Elena Kagan.

"...on the whole, in 12 sets of evaluations spanning 700 pages, there was almost only glowing praise for Judge Kavanaugh's teaching. More than a few students said he was the most

impressive law school professor they had encountered."

The article documents various student evaluations that commented on Judge Kavanaugh's ability to focus on the law and leave his personal political beliefs at the door.

""While most of the class shared rather conservative views," the student wrote, 'the judge presented the other side quite well, even though he likely shared most of those conservative views." The student added that 'many of the HLS professors could learn from his acceptance of views across the political spectrum.

Following Kavanaugh's nomination, Sen. Chuck Grassley of Iowa, chairman of the Senate Judiciary Committee, applauded the nomination, saying in part, "Judge Kavanaugh is one of the most qualified Supreme Court nominees to come before the Senate," and that Kavanaugh is a "superb" candidate worthy of the Senate's consideration.

Grassley recently met with Kavanaugh to discuss his credentials and the Senate confirmation process.

SCOTUS RESOURCES:

- The Ginsburg Standard: No Hints, No Forecasts, No Previews...And No Special Obligations
- Democrats vs. Reality on SCOTUS Nomination
- NYT Op-ed: "A Liberal's Case for Brett Kavanaugh"
- Judge Kavanaugh Clerks Laud Nomination to Supreme Court
- Editorial Boards Across America Praise Judge Kavanaugh
- Fact Checked: NYT, WaPo, PolitiFact Debunk Dem Claims on Kavanaugh
- Grassley on Kavanaugh Document Review Process



16. On July 18, 2018, Chairman Chuck Grasslev released the following statement:



FOR IMMEDIATE RELEASE Wednesday, July 18, 2018

Grassley: Kavanaugh Review Will Be Thorough and Fair, but No Taxpayer Funded Fishing Expedition

WASHINGTON Senate Judiciary Committee Chairman Chuck Grassley today released the following statement regarding the committee review of documents relevant to the nomination of Judge Brett Kavanaugh to an Associate Justice of the Supreme Court of the United States.

"This will be my 15th Supreme Court confirmation hearing. It will be the most transparent and thorough process of any of them. We will fulfill our constitutional duty to independently evaluate Judge Kayanaugh's qualifications. We have 12 years and more than 300 of his judicial writings on the D.C. Circuit, along with hundreds of opinions that he joined. We will also review his many academic writings and speeches. At Judge Kavanaugh's hearing, we will hear from the people who know him best. We will also have the opportunity to look at relevant and proportional emails and other records from Judge Kavanaugh's service in the White House. The committee will use sophisticated technology to conduct a thorough review. We will follow the gold standard for lowyers litigating in courthouses across America every day. We will have the manpower, $technology \ an \textit{d} \ other \ resources \ to \ follow \ a \ confirmation \ time \textit{line similar} \ to \ the \ \textit{standard for previous Supreme Court nominees}.$

"Many Democrats announced their opposition to this nominee before the vetting process ever began. They've made clear that their plan will be to obstruct and delay at every corner, and reviewing Judge Kavanaugh's record will be no different. Rest assured, this process will be fair and thorough. At the same time, I will not allow taxpayers to be on the hook for a government-funded fishing expedition.

Consistent with the review of White House records of previous Supreme Court nominees, non-privileged records subject to the Presidential Records Act may be considered by the committee. Consistent with the federal rules and litigation standards, similar to how judges and lawyers handle e-Discovery in federal courthouse across America, the committee will seek a bipartisan agreement on the proper scope and use an e-Discovery platform to conduct its review of 'relevant' and 'proportional' records. Federal law permits lawyers for President George W. Bush and President Donald J. Trump to review the documents for privilege and privacy concerns. Records are expected to be provided to the committee on a rolling basis and on an equal basis to the Chairman and the Ranking Member.

For additional context, here are data points for the last three Supreme Court nominees who previously served in the Executive Branch:

Nomi n ee	Pages of Documents	Nu mb er o f W ritten
	Pro d uced	Judicial Opinions
John Roberts	~70,000	49 published; 0
		unpublished
Elena Kagan	~173,000	0 published; 0
		unpublished
Neil Gorsuch	~182,000	239 published; 618
		unpublished

-30-



- 17. Chairman Chuck Grassley has received an overwhelming number of letters of support for Judge Kavanaugh's nomination, including the following notable letters:
 - a. 7/9/2018 Letter from High-School Classmates
 - 7/10/2018 Letter from Former Law Clerks
 - 7/12/2018 Letter from Former Female Law Clerks d. 7/12/2018 Letter from State Attorneys' General

 - 7/19/2018 Letter from Former Law Students 7/25/2018 Letter from State Governors
 - 8/2/2018 Letter from Former Law Clerks to Justice Kennedy g.

Thank you,

Mike Davis, Chief Counsel for Nominations

Senator Chuck Grassley (R IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510 (direct)

(b) (6) (direct) (b) (6) (cell) 202 224 9102 (fax)

From: Davis, Mike (Judiciary-Rep)
Sent: Friday, July 20, 2018 12:07 PM
To: Mike Dav

Subject: Senate Judiciary Committee Status Update

(b) (6)

NOTE: Below is the latest status update on Chairman Chuck Grassley and the Senate Judiciary Committee's efforts on nominations. Sorry for the gap in status updates over the last few weeks; it has been busy. We intend to resume sending out these status updates on a regular basis, starting now. These emails are widely distributed, so please feel free to share them. If anyone would like added or removed for this email list, please email me. Please also feel free to contact me anytime.

Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

(b) (6) (direct) (5) (6) (cell) 202 224 9102 (fax)

1. Yesterday (7/19), Chairman Chuck Grassley made the following remarks related to the nomination of Judge Brett Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States:

I understand that, so far, no Senate Democrat has met with Judge Kavanaugh. They are apparently awaiting their marching orders from the Minority Leader. Well, the American people elected senators to represent them, not the Minority Leader. And when Senate Democrats have largely already made up their minds to vote against Judge Kavanaugh—and none of them have even met with him—their demands for an unprecedented paper chase sound more and more like a demand for a taxpayer-funded fishing expedition.

2. Yesterday (7/19), Chairman Chuck Grassley and the Senate Judiciary Committee held the 20th markup meeting of 2018, favorably reporting (voting) to the full Senate 4 circuit-court and 3 district-court nominees. Here are the vote results:

Britt Cagle Grant, to be United States Circuit Judge for the Eleventh Circuit ROLL CALL VOTE: REPORTED 11-10

YEAS: Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Sasse, Flake, Crapo, Tillis, Kennedy (proxy)

NAYS: Feinstein, Leahy (proxy), Durbin, Whitehouse, Klobuchar, Coons, Blumenthal, Hirono (proxy), Booker (proxy), Harris

David James Porter, to be United States Circuit Judge for the Third Circuit ROLL CALL VOTE: REPORTED 11-10

YEAS: Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Sasse, Flake, Crapo, Tillis, Kennedy (proxy)

NAYS: Feinstein, Leahy (proxy), Durbin, Whitehouse, Klobuchar, Coons, Blumenthal, Hirono (proxy), Booker (proxy), Harris

A. Marvin Quattlebaum, Jr., to be United States Circuit Judge for the Fourth Circuit

ROLL CALL VOTE: REPORTED

15-6

YEAS: Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Sasse, Flake, Crapo, Tillis, Kennedy (proxy), Leahy (proxy), Durbin, Whitehouse, Coons

NAYS: Feinstein, Klobuchar, Blumenthal, Hirono (proxy), Booker (proxy), Harris

Julius Ness Richardson, to be United States Circuit Judge for the Fourth Circuit

ROLL CALL VOTE: REPORTED

20-1

YEAS: Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Sasse, Flake, Crapo, Tillis, Kennedy (proxy), Feinstein, Leahy (proxy), Durbin, Whitehouse, Klobuchar, Coons, Blumenthal, Booker (proxy), Harris

NAYS: Hirono (proxy)

Roy Kalman Altman, to be United States District Judge for the Southern District of Florida ROLL CALL VOTE: REPORTED

17-4

YEAS: Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Sasse, Flake, Crapo, Tillis, Kennedy (proxy), Feinstein, Durbin, Whitehouse (proxy), Klobuchar, Coons, Blumenthal

NAYS: Leahy (proxy), Hirono (proxy), Booker (proxy), Harris

Raul M. Arias-Marxuach, to be United States District Judge for the District of Puerto Rico VOICE VOTE: REPORTED

Rodolfo Armando Ruiz II, to be United States District Judge for the Southern District of Florida
VOICE VOTE: REPORTED

- 3. On Wednesday (7/18), the Senate voted to confirm Judge Andy Oldham of Texas to serve as a circuit judge on the United States Court of Appeals for the Fifth Circuit. The vote tally is here: https://www.senate.gov/legislative/LIS/roll call lists/roll call vote cfm.cfm?congress 115&session 2&vote 00160#position. Judge Oldham is President Trump's 23rd circuit nominee (44th judicial nominee) confirmed during the 115th Congress. This confirmation set the all-time record for federal circuit judges confirmed during a president's first two years in office.
- 4. On Tuesday (7/17), Chairman Chuck Grassley delivered the following remarks related to the nomination of Judge Brett Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States:



Prepared Floor Statement by Senator Chuck Grassley of Iowa Chairman, Senate Judiciary Committee The Courts Are Not Where We Make Policy July 17, 2018 (VIDEO)

I'd like to take a moment to discuss the nomination of Judge Kavanaugh to serve as an Associate Justice on the Supreme Court. I think the debate surrounding his confirmation has highlighted the deep divide between how conservatives view the role of the Judiciary versus how liberals do.

The reason liberal outside groups oppose Judge Kavanaugh's nomination is simple: They don't think he will promote their preferred policy outcomes while on the bench.

Well, I can't think of a better example that demonstrates how differently liberals and conservatives view the role of the Judiciary.

Let me tell you how I and most Americans view the role of the Judiciary. Under our Constitution, we have three branches of government. Congress makes the laws, the President enforces them, and the Judiciary interprets and applies them. The Judiciary's role as a coequal and independent branch of government is significant, but it's confined.

As Alexander Hamilton explained in Federalist Number 78, the Judiciary "may truly be said to have neither force nor will, but merely judgment." In other words, the Judiciary must stay in its lane, calling balls and strikes as it sees them, without trying to encroach on Congress's authority to make policy through the legislative process.

When the Supreme Court goes beyond its mandate and enters the policymaking arena, it threatens the structure of our Constitution. To preserve the Judiciary's independence, the justices of the Supreme Court are appointed for life. They're not accountable directly to voters for their decisions. The American people can toss us out of Congress if we make bad policy decisions, but they're stuck with judges for life.

The benefit of this arrangement is that judges can make decisions according to the law, not based on the whims of political opinion. But the downside is that some judges can see their independence as a green light to override the policy choices of Congress or the states and substitute their own policy preferences. The threat this poses to self-government should be apparent. Instead of the people's representatives making policy choices, unelected judges who aren't answerable to the American people make them.

Conservatives believe that judges must rule according to the law as written. In any given case, the law might lead to a liberal political result or it might require a conservative political result. But the judge can't take that into consideration. The law must be interpreted regardless of whether the judge agrees with the political results of the decision. A good judge will, oftentimes, personally disagree with the result he or she reaches.

Many liberals view the role of the Judiciary differently. They believe that an independent Judiciary unaccountable to the American people is a convenient way to achieve policy outcomes they can't achieve through the democratic process. This is why, in nearly every case before the Supreme Court, it's very predictable how the four Democrat-appointed justices will rule. In most cases, they'll reach the result that achieves liberal political goals. How else can you explain the fact that the Democrat-appointed justices have voted to strike down every restriction on abortion a right that appears nowhere in the Constitution but would uphold restrictions on political speech and gun rights? After all, these rights are expressly covered by the First and Second Amendments.

The unfortunate reality is that liberal jurisprudence is thinly veiled liberal policymaking. And I'm being generous when I say "thinly veiled."

This explains many of the left-wing attacks on Judge Kavanaugh. Judge Kavanaugh has a track record of putting aside any policy preferences and ruling according to the law as written. I think this is a virtue. Indeed, it is necessary for judges to do this.

But liberal outside groups and their Senate allies see this as a threat. They want judges who will impose their policy preferences disguised as law of course. They want politicians hiding under their judges' robes. This is why many of the attacks on Judge Kavanaugh are based on policy outcomes. Left-wing groups are spending millions of dollars to convince the American people that Judge Kavanaugh is hostile to their preferred policies.

This effort will be unsuccessful. What the American people see in Judge Kavanaugh is a judge who will rule according to the law, not for or against various policies. Nine lvy League justices and their cadre of mostly lvy League law clerks aren't equipped to replace Congress's exclusive lawmaking function.

One attack I've seen on Judge Kavanaugh is that he represents a threat to the Affordable Care Act's protection of people with pre-existing conditions. But the same five justices who upheld the constitutionality of the Affordable Care Act twice are still on the court. Justice Kennedy, who Judge Kavanaugh would replace, voted to strike down the ACA. In other words, even assuming you could predict Judge Kavanaugh's vote, his vote would not change the outcome.

Moreover, Judge Kavanaugh had two opportunities to strike down the ACA on the DC Circuit, but he did not do so. The left-wing groups might want to put away their crystal balls. Even the New York Times fact-checker threw cold water on this argument. It labeled the left-wing's attacks "exaggerated."

Another attack on Judge Kavanaugh is that he's hostile to abortion rights. But this attack misrepresents Judge Kavanaugh's record. In a recent DC Circuit decision, Judge Kavanaugh acknowledged that the court must decide the case based on Roe v. Wade and subsequent abortion decisions. He applied the precedent as precedent requires judges to do.

We hear the same fearmongering over abortion every time there is a Supreme Court vacancy. Yet Roe v. Wade is still the law of the land. Justices have a way of surprising us. There's no way to predict how a justice will rule in a particular case. Who could have predicted that Justice Scalia, for example, would uphold a ban on flag-burning? Just this term, we saw how justices appointed by Republican presidents can reach decisions with liberal political results because that's what the law requires.

In Sessions v. Dimaya, Justice Gorsuch sided with an immigrant who challenged a statute under which he would have been deported as unconstitutionally vague. In Carpenter v. United States, Chief Justice Roberts held that police were required to obtain a warrant before searching cell phone location data.

It's sad, but not surprising, that left-wing groups and their Senate allies oppose Judge Kavanaugh's confirmation based on policy concerns rather than legal ones. Luckily a majority of Americans and a majority of senators believe that the mark of a good judge is someone who interprets the law as written, regardless of whether the result is liberal or conservative or anything in between. As Justice Gorsuch said, judges wear robes, not capes.

In his twelve years on the DC Circuit, Judge Kavanaugh has a clear track record of setting aside any policy preferences and ruling according to the law. Criticizing the results of certain decisions says more about the critics than about Judge Kavanaugh.

We're already seeing an attempt at "Borking" Judge Kavanaugh. I was in the Senate when liberal groups and some of my colleagues smeared the highly respected Judge Bork after he was nominated for the Supreme Court. Judge Bork was very candid with the Senate Judiciary Committee, and he was unfairly attacked for it. We're seeing liberal groups and their Senate allies try to replicate this shameful episode.

But since the nomination of Justice Ginsburg to the Supreme Court, the tradition has been for nominees to, in her words, give "no hints, no forecasts, no previews" of how he or she will address certain cases. The Minority Leader in a press conference last year affirmed that "there is a grand tradition that I support that you can't ask" a judicial nominee "about a specific case that might come before them."

I expect Judge Kavanaugh will follow the Ginsburg Rule. I implore my colleagues not to try to extract assurances about how he will rule in specific cases in exchange for a confirmation vote. The only question that matters is does Judge Kavanaugh strive to apply the law as written, regardless of his personal views? The answer appears to be yes.

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5. On Thursday (7/12), Chairman Grassley and the Senate Judiciary Committee held the 19th markup meeting of 2018. In addition to continuing to process the 7 judicial nominees later voted to the full Senate yesterday (7/19), Chairman Chuck Grassley and the Senate Judiciary Committee favorably reported (voted) out 2 Executive Branch nominees:

Maria Chapa Lopez, to be United States Attorney for the Middle District of Florida

VOICE VOTE: REPORTED

Richard E. Taylor, Jr., to be United States Marshal for the Northern District of Texas

VOICE VOTE: REPORTED

6. On Wednesday (7/11), Chairman Chuck Grassley and the Senate Judiciary Committee held the 12th of up to 20 nominations hearings for 2018. The nominees included:

Panel I

Ryan Douglas Nelson, to be United States Circuit Judge for the Ninth Circuit

Panel II

Stephen R. Clark, Sr., to be United States District Judge for the Eastern District of Missouri

John M. O'Connor, to be United States District Judge for the Northern, Eastern and Western Districts of Oklahoma

Joshua Wolson, to be United States District Judge for the Eastern District of Pennsylvania

James W. Carroll, Jr., to be Director of National Drug Control Policy

Chairman Chuck Grassley and the Senate Judiciary Committee can report (vote) these nominees to the Senate floor, for a confirmation vote by the full Senate, as soon as Thursday, August 2, 2018.

- 7. On Wednesday (7/11), the Senate voted to confirm Brian Benczkowski to serve as Assistant Attorney General for the Criminal Division of the United States Department of Justice. The vote tally is here: https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress_115&session_2&vote_00152#position. Benczkowski is the 11th Main Justice leader confirmed by the Senate during the 115th Congress.
- 8. On Tuesday (7/10), Chairman Chuck Grassley delivered the following remarks related to the nomination of Judge Brett Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States:



Prepared Senate Floor Statement by Senator Chuck Grassley of Iowa Chairman, Senate Judiciary Committee Judge Kavanaugh, One of the Nation's Most Widely Respected Judges July 10, 2018

Mr. President, last evening I joined many of my colleagues at the White House as the President introduced Judge Brett Kavanaugh as his nominee to serve as an Associate Justice of the Supreme Court.

Judge Kavanaugh is one of the most widely respected judges in the country. He is an outstanding choice to serve as a Justice on the Supreme Court. Judge Kavanaugh is a former law clerk of the Justice he has been nominated to replace: Justice Kennedy.

Judge Kavanaugh earned both his undergraduate and law degrees from Yale University. He then clerked for judges on the Third and Ninth Circuits before joining the chambers of Justice Kennedy.

He served in the Office of the Solicitor General and also the Office of the Independent Counsel. After several years in private practice, Judge Kavanaugh returned to public service, working in the White House Counsel's Office and as Staff Secretary for President George W. Bush. In 2006, he was confirmed to the D.C. Circuit, where he has served since. He is also a well-regarded law professor at Harvard, Yale, and Georgetown.

Judge Kavanaugh is a leader not only in the law, but in his community. He volunteers at Catholic Charities and he coaches his daughters' youth basketball teams. The Committee has received a letter from former law clerks of Judge Kavanaugh, people who represent views across the political and ideological spectrum. Many judges describe their former law clerks as adopted family members. Law clerks know their judges best.

Judge Kavanaugh's former law clerks write that he is a person with immense "strength of character, generosity of spirit, intellectual capacity, and unwavering care for his family, friends, colleagues, and us, his law clerks." They continue:

He is unfailingly warm and gracious with his colleagues no matter how strongly they disagree about a case, and he is well-liked and respected by judges and lawyers across the ideological spectrum as a result. . . . He always makes time for us, his law clerks. He makes it to every wedding, answers every career question, and gives unflinchingly honest advice. That advice often boils down to the same habits we saw him practice in chambers every day: Shoot straight, be careful and brave, work as hard as you possibly can, and then work a little harder.

Judge Kavanaugh's judicial record is extraordinary. The Supreme Court has adopted his view of the law in a dozen cases. Judge Kavanaugh's opinions demonstrate profound respect for the Constitution's separation of powers. He understands that it's Congress's job to pass laws and the Judiciary's role to faithfully apply them.

That's why his opinions emphasize that judges must focus on the text and apply laws as written by the people's representatives in Congress ont by unelected and largely unaccountable federal judges. Courts may not rewrite laws to suit their policy preferences.

Judge Kavanaugh has a record of judicial independence. He has shown a willingness to rein in executive branch agencies when they abuse or exceed their authority.

As he has explained in numerous opinions, executive branch agencies may not assume more power than Congress has specifically granted them. And he has emphasized that judges may not surrender their duty to interpret laws to executive branch agencies.

The Senate Judiciary Committee will hold a hearing for Judge Kavanaugh's nomination in the coming weeks. As I noted in my speech yesterday, liberal outside groups and Democratic leaders decided weeks ago to block whoever the President nominates. They're already pushing feeble arguments to cause needless delays.

For example, some Democrats say we shouldn't confirm a nominee nominated during a midterm election year. But the Senate has never operated like this. Sitting Justices Breyer and Kagan and numerous of their predecessors were nominated and confirmed in midterm election years.

The American people see this argument for the obstruction it is. After all, Democratic leaders announced that they will oppose anyone nominated by President Trump.

In fact, some Democratic senators announced their opposition to Judge Kavanaugh mere minutes after the President nominated him. It's clear that a number of my Democratic colleagues have chosen the path of obstruction and resistance, not thoughtful advice and consent.

Here we have a highly qualified nominee who has authored numerous influential judicial opinions. Leading liberal law professor Akhil Reed Amar endorsed Judge Kavanaugh in the pages of the New York Times. But some of my colleagues can't even bring themselves to at least consider Judge Kavanaugh's nomination.

Also, as I mentioned yesterday, liberal outside groups and their allies are trying to convince senators to ask Judge Kavanaugh his views on specific cases and Supreme Court precedent. I want to emphasize that these questions are inappropriate.

Justice Ginsburg announced during her confirmation hearing that a nominee should offer "no hints, no forecasts, no previews." Justice Kagan declined to state her views on Roe v. Wade, saying "the application of Roe to future cases, and even its continued validity, are issues likely to come before the Court in the future." I expect that Judge Kavanaugh will likewise decline to comment on his views of particular cases decided by the Supreme Court.

I want to congratulate Judge Kavanaugh on this nomination. I had the opportunity to meet with Judge Kavanaugh earlier.

I know he looks forward to answering questions from my colleagues in the coming weeks. And I look forward to hearing from him again when he appears before the Senate Judiciary Committee.

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- 9. On Tuesday (7/10), the Senate voted to confirm Judge Mark Bennett of Hawaii to serve as a circuit judge on the United States Court of Appeals for the Ninth Circuit. The vote tally is here: https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress_115&session_2&vote_00145#position. Judge Bennett is President Trump's 22nd circuit nominee (43rd judicial nominee) confirmed during the 115th Congress.
- 10. Attached is a spreadsheet of how each Senate Democrat has voted or dodged voting on President Trump's 44 judicial nominees confirmed by the Senate during the 115th Congress.
- 11. Attached is the latest status update of every nominee pending in, or processed through, the Senate Judiciary Committee this Congress.
- 12. There are currently 67 nominees—4 circuit court, 48 district court, 2 Article I court, 3 Main Justice officials, 1 US Attorney, 5 US Marshals, 3 members of the Privacy and Civil Liberties Oversight Board, and 1 other Executive Branch nominee—processed through the Senate Judiciary Committee and awaiting a vote by the full Senate.
- 13. In June 11, 2018 remarks to the Federalist Society Young Lawyers Reception, Chairman Chuck Grassley made the following remarks about the backlog of nominees on the Senate floor:

I support Senator Lankford's proposal to reform the Senate rules, so the Senate Democrats cannot continue to abuse the confirmation process in this way. In the meantime, we simply need to outwork the Senate Democrats, to stop their unprecedented obstruction. That's why I repeatedly urged Leader McConnell to cancel the August recess. I guess he thought it was a good idea, because now we'll be working for the American people during most of August. The Senate Democrats claim they need more time for floor speeches. Well, their wish has been granted: They now have most of the month of August to talk.

We shouldn't stop at cancelling August recess. The Senate generally starts its sessions late on Monday afternoons and goes back out of session on Thursday afternoons. Kindergarteners and even preschoolers have a tougher schedule than U.S. senators.

I have repeatedly urged Leader McConnell to end our French workweeks and keep the Senate in session Monday through Friday and evenings and weekends, as needed until we complete the job of confirming all these nominees. It's amazing how many judges we can confirm by merely threatening to make the Senate Democrats work past 2 p.m. on Thursdays.

14. On Monday (7/9), Chairman Chuck Grassley delivered the following remarks related to the forthcoming Supreme Court nomination:



Prepared Floor Statement by Senator Chuck Grassley of Iowa Chairman, Senate Judiciary Committee On the President's Forthcoming Supreme Court Nomination July 9, 2018 (VIDEO) Tonight, the President will announce his nominee for Associate Justice of the Supreme Court of the United States to fill the vacancy created by Justice Kennedy's recent retirement. Justice Kennedy left an important legacy of more than three decades on the Supreme Court. I voted for his confirmation thirty years ago. Justice Kennedy demonstrated his deep commitment to our constitutional liberties. It's no surprise that some of his greatest opinions defended free speech and religious liberty. I hope Justice Kennedy's successor carries forward this legacy.

I'm optimistic that the person the President nominates tonight will be highly qualified and committed to the rule of law. I'm optimistic because President Trump already appointed one such Supreme Court Justice: Neil Gorsuch.

The President's selection process is the most transparent in history. To my knowledge no other Presidential candidate has ever done that. He issued a list of potential Supreme Court nominees directly to the American people during his 2016 campaign. The list demonstrated the type of judges he would appoint to the bench. And the American people voted for President Trump in part because he promised to nominate these types of jurists.

Any of the 25 individuals on the President's list would be an excellent choice and worthy of the Senate's serious consideration. But already, we're seeing from liberal outside groups and some of my Democratic colleagues a desperate attempt to block the nominee any nominee by whatever means necessary. Some Democrats have pledged to block anyone from the President's list without even knowing who the nominee is and regardless of his or her qualifications.

Think about that: the President has a list of 25 names, but some Democratic senators have already said that not one of them is acceptable. Zero out of 25 highly respected, highly qualified individuals. Not even worthy of this body's consideration. That's incredible.

This preemptive attack on a yet-to-be-named nominee is a preview of the obstacles and calls for needless delays we are sure to see from some of my Democratic colleagues. I've already heard several weak arguments made in an attempt to delay the confirmation hearing, but the Democratic leaders have shown their hand. Their motive is to block any nominee from the President's list. Whatever reasons for delay, it's clear that their single motivating factor is blocking the nominee selected tonight, whoever he or she is.

The first delay tactic I heard was that the Senate shouldn't confirm a nominee during a midterm election year. But the Senate has never operated like this. Justices Kagan and Breyer were confirmed in midterm election years, in addition to many justices who served before them. Democratic leadership and outside groups are so desperate to block this nominee that they're willing to try to re-write history to do it.

We have a long history of confirming justices nominated during a midterm election year. We don't have a long history of confirming justices nominated during a presidential election year. It's been nearly 80 years since we've done that. Former Chairman Joe Biden announced in 1992 that the Senate shouldn't confirm any justice during a presidential election year. Senator Schumer said something similar in 2007, the year before the presidential election. The Biden-Schumer Rule pertains only to presidential election years, not midterm election years.

It's important to let the American people decide who should choose a nominee for a Supreme Court vacancy. That's why I waited until after the 2016 presidential election to hold hearings for a Supreme Court nominee. But the individual who selects nominees is not on the ballot in the midterm elections. The rule simply doesn't apply this year.

Another losing talking point is that we shouldn't confirm any nominee while Robert Mueller's investigation is ongoing. This argument is again inconsistent with historical precedent. President Clinton appointed Justice Breyer while the independent counsel was investigating the President over Whitewater. At the time, his documents were under a grand jury subpoena.

What other constitutional powers do the proponents of this argument believe the President should surrender simply because of an investigation? This is obstruction masquerading as silliness.

What drives this pre-emptive obstruction? It's liberal outside groups' stated fear that the President's nominee will vote to invalidate the Affordable Care Act or overturn Roe v. Wade.

Well, the same five-justice majority that preserved the Affordable Care Act is still on the Court. Justice Kennedy voted to strike it down. Replacing him with a like-minded justice would not change the outcome.

And we hear the same thing about Roe v. Wade every time there is a Supreme Court vacancy. Yet it's still the law.

Justices have a way of surprising us. Who could have predicted that Justice Scalia would strike down a ban on flag-burning? It's a fool's errand to try to predict how a justice will rule on a hypothetical future case.

But this regular uproar about *Roe v. Wade* shows the difference between how many Democrats and Republicans view the courts. Liberal outside groups and many Democrats have a litmus test. They are results-oriented and focus on the policy outcomes of judicial decisions. They expect they demand their judges to rule in favor of their preferred policies. Liberal outside groups and their allies just simply want judges to be politicians hiding under robes. That's why Senate Democrats were so blatant in changing Senate rules so they could stack the D.C. Circuit. Former Democrat Leader Harry Reid made no bones about making sure there were enough D.C. Circuit judges to protect the Obama Administration's policies.

Republicans, on the other hand, want judges who rule according to the law and leave the policymaking to elected representatives. I don't want judges who decide cases based on whether the results are liberal or conservative. Judges should rule according to the law, no matter what their views of the policy outcomes are.

Justice Gorsuch recently said that judges wear robes, not capes. I agree with that assessment.

Liberal outside groups and their allies want judges who will decide cases with liberal policy results. Republicans expect judges who leave their politics aside when deciding a case. That's the fundamental difference that will become crystal clear to the American people during this confirmation debate.

The Senate Judiciary Committee will hold a hearing for the nominee in the coming weeks. I want to emphasize a few things. One, it's inappropriate for senators to ask the nominee how he or she would rule on certain cases. Two, it's inappropriate to ask the nominee about his or her personal views of the merits of Supreme Court precedent.

The bottom line is senators should not try to extract assurances from nominees on how they will decide particular cases in exchange for a confirmation vote. Justice Ginsburg, during her confirmation hearing, set this standard, promising "no hints, no forecasts, no previews."

She said:

"It would be wrong for me to say or to preview to this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously."

This standard was reaffirmed by every Supreme Court nominee since then. Justice Kagan said this about Roe v. Wade:

"I do not believe it would be appropriate for me to comment on the merits of Roe v. Wade other than to say that it is settled law entitled to precedential weight. The application of Roe to future cases, and even its continued validity, are issues likely to come before the Court in the future."

I expect any nominee to likewise follow the Ginsburg Standard.

I'll ask the nominee how he or she views the law and a judge's role on the bench. I won't presume to know how a nominee will rule on any case that might come before the Court. And I certainly won't be basing my vote on whether I think I'll agree with the majority of his or her decisions.

The press has reported that the President focused on six or seven potential nominees for this vacancy. Each one is well-qualified and would make an outstanding Supreme Court justice. The nominee will get a full and fair hearing. Under my watch, the Senate Judiciary Committee will never be a rubber stamp. Several recent nominees to lower courts learned that the hard way.

And the process will be as fair and transparent as I can make it. That has been my approach during my nearly 38 years in the Senate, and I will not change that.

The American people must be confident that this Senate has fulfilled its constitutional duty of independently vetting this nominee before we confirm a justice to a lifetime appointment on the highest court in the land. I eagerly await the President's announcement this evening. And I look forward to hearing from the nominee when he or she appears before the Senate Judiciary Committee

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15. On Thursday (6/28), Chairman Grassley and the Senate Judiciary Committee held the 18th markup meeting of 2018. In addition to continuing to process the 2 judicial nominees (Justice Britt Grant for CA11 and David Porter for CA3) later voted to the full Senate yesterday (7/19), Chairman Chuck Grassley and the Senate Judiciary Committee favorably reported (voted) out 5 judicial and 3 Executive Branch nominees:

Holly A. Brady, to be United States District Judge for the Northern District of Indiana

ROLL CALL VOTE: REPORTED

11–10

Andrew Lynn Brasher, to be United States District Judge for the Middle District of Alabama
ROLL CALL VOTE: REPORTED
11–10

James Patrick Hanlon, to be United States District Judge for the Southern District of Indiana VOICE VOTE: REPORTED

David Steven Morales, to be United States District Judge for the Southern District of Texas

ROLL CALL VOTE: REPORTED

11–10

Lance E. Walker, to be United States District Judge for the District of Maine VOICE VOTE: REPORTED

John D. Jordan, to be United States Marshal for the Eastern District of Missouri

VOICE VOTE: REPORTED

Mark F. Sloke, to be United States Marshal for the Southern District of Alabama VOICE VOTE: REPORTED

Nick Willard, to be United States Marshal for the District of New Hampshire VOICE VOTE: REPORTED

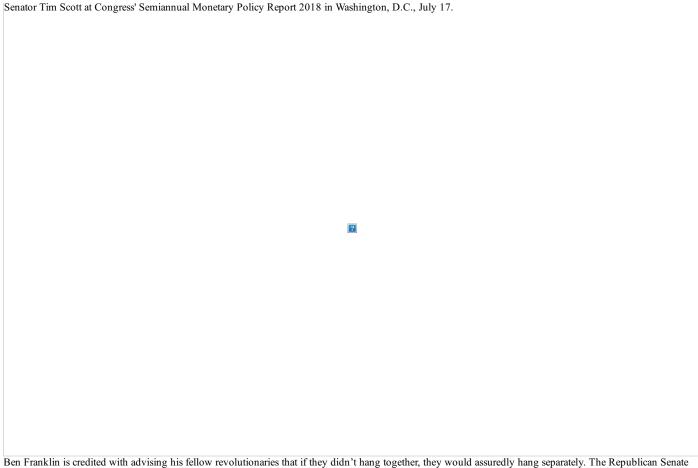
16. On September 7, 2017, the President nominated Ryan Bounds, a long-time career federal prosecutor in Oregon, to serve as a circuit judge on the United States Court of Appeals for the Ninth Circuit. After more than 8 months of making extraordinary efforts to secure the Oregon senators' support, which they withheld for political reasons, Chairman Chuck Grassley and the Senate Judiciary Committee held Bounds' hearing on May 9, 2018. Senate Democrats grilled Bounds extensively about his college writings from more than 20 years ago. On Thursday, July 12, 2018, Senate Majority Leader Mitch McConnell filed a cloture petition on Bounds' nomination. The Leader scheduled the cloture vote for Wednesday, July 18th for around 2 pm. Senator Tim Scott (R-SC) and Senator Marco Rubio (R-FL) later raised concerns about Bounds' college writings. Yestersday (7/19), Bounds bowed out. The Wall Street Journal editorial board wrote the following:

https://www.wsj.com/articles/a-senate-judicial-miss-1532042807?mod=searchresults&page=1&pos=1

A Senate Judicial Miss

Scott and Rubio defeat a good nominee and Democrats crow.

The Editorial BoardJuly 19, 2018 7:26 p.m. ET



learned this lesson the hard way Thursday when last-minute doubts by Sen. Tim Scott (R., S.C.) killed the nomination of Ryan Bounds to the Ninth Circuit Court of Appeals. The defeat overshadowed what *should* have been the news this week: a record number of appellate-court confirmations since President Trump took office.

The two Democratic Senators from Ryan Bounds' home state of Oregon Ron Wyden and Jeff Merkley have objected to his nomination largely due to college writings they incorrectly claim he tried to conceal. But what really killed the nomination was when Mr. Scott, the sole black Republican in the Senate, told colleagues Thursday he didn't have enough information to vote "yes," and Sen. Marco Rubio (R., Fla.) said he'd back Mr. Scott. Majority Leader Mitch McConnell pulled the vote rather than risk a defeat.

Mr. Scott is not on the Judiciary Committee so is unlikely to be as familiar with the charges as those who are. But the information was available long before the time to vote. What Mr. Scott would have seen had he looked is a college kid writing sarcastically about political correctness, identity politics and multiculturalism on campus. These are flimsy and unfair grounds to defeat a nominee.

Democrats are crowing about the defeat. Sen. Chuck Schumer (D., N.Y.) even suggested that if Mr. Bounds can be denied confirmation because of college writings, "it's going to be hard to argue that [Supreme Court nominee Brett] Kavanaugh's writings in the White House are not relevant."

The larger story is that judicial confirmations have been a great Republican accomplishment. The day before Mr. Bounds' nomination was withdrawn, the Senate confirmed Mr. Trump's 23rd appellate nominee breaking the record held by George H.W. Bush for most appellate-court nominees confirmed in a President's first two years. According to the U.S. Courts website, there are seven appellate-court nominees awaiting Senate confirmation, five nominees pending for vacancies that will occur in the future, and 14 current vacancies to fill.

As for Judge Kavanaugh, the Bounds fiasco ought to galvanize Senate Republicans. Shortly before the Bounds vote was cancelled, the Senate reported four more appellate judges out of committee one for the Third Circuit, two for the Fourth and one for the Eleventh.

Republicans hold the Senate at least until January, and President Trump still has time to nominate someone to take Mr. Bounds' place on the Ninth Circuit. Confirmations are a team sport, and with an effective 50-49 majority, Senate Republicans need to show up prepared and ready to play.

Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

(direct) (o) (6) (cell) (02 224 9102 (fax) July 9, 2018

The Honorable Mitch McConnell Majority Leader 317 Russell Senate Office Building Washington, DC 20510

The Honorable Charles E. Schumer Minority Leader 322 Hart Senate Office Building Washington, D.C. 20510 The Honorable Chuck Grassley Chairman Committee on the Judiciary 224 Dirksen Senate Office Building Washington, D.C. 20510 6050

The Honorable Dianne Feinstein Ranking Member Committee on the Judiciary 224 Dirksen Senate Office Building Washington, D.C. 20510 6050

Dear Majority Leader McConnell, Minority Leader Schumer, Chairman Grassley and Ranking Member Feinstein:

We are classmates and fellow alumni of Judge Brett M. Kavanaugh from Georgetown Prep, a Jesuit high school in the Washington, D.C. area. At Georgetown Prep, as at all Jesuit high schools around the world, young men are instilled with the belief that they should strive to be "men for others." We represent a broad spectrum of achievements, vocations, political beliefs, family histories and personal lifestyles. We unite in our common belief that Judge Brett M. Kavanaugh is a good man, a brilliant jurist, and is eminently qualified to serve as an Associate Justice on the U.S. Supreme Court.

Brett was a team captain and multi sport athlete, and an active participant in our student body. He continued his academic achievements at Yale University, both as an undergraduate and a law student. Whether as a clerk for judges in both the Third and the Ninth Circuits, a clerk for U.S. Supreme Court Associate Justice Anthony M. Kennedy, a U.S. Solicitor General Fellow, or a U.S. Justice Department lawyer, Brett's defining characteristics were his sharp intellectual ability, affable nature, and a practical and fair approach devoid of partisan purpose. These were the same traits that made him stand out at Georgetown Prep, and distinguished him on the U.S. Court of Appeals for the D.C. Circuit. He is a devoted son, husband, father and friend and despite his great achievements, he remains the same grounded and approachable person that we met in High School.

Whether it is his long history of accomplishments in public service, volunteering at local civic organizations, serving meals to the less fortunate, or coaching our kids' basketball teams, Brett has remained a "man for others" through his actions and not mere words. He has consistently demonstrated his dedication to the premise that the pursuit of helping people, and not a political objective, fulfills the promise of human

potential and governmental purpose. This, we respectfully suggest, should be the touchstone of the inquiry that you must now conduct.

The nomination process of a Supreme Court Justice has particular significance in our nation's history, and this one is no exception. Although some may use the confirmation process as a rallying cry for advancing deeply and honestly held beliefs for many groups in our country, we earnestly ask you to rise above the passions and examine who Brett Kavanaugh is and whether his juridical ability, extensive experience and many accomplishments in public service qualify him to the position of an Associate Justice. Given our diverse backgrounds and beliefs, we acknowledge that not all of us may agree with each of his conclusions or decisions, nor with the positions that various groups may espouse during his confirmation process. Nevertheless, we are united in the belief that Brett will discharge his duty in the same manner he always has: impartially, justly and with intellectual honesty and consistency.

We, his classmates and fellow alumni, are confident that you will conclude what we already have known for approximately 35 years because of his character and intellect: Brett M. Kavanaugh is an excellent jurist who is singularly qualified to be an Associate Justice on the U.S. Supreme Court. We respectfully request that you promptly and fully consider his nomination as an Associate Justice to the U.S. Supreme Court.

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Timothy Bidwill Paradise Valley, AZ July 9, 2018

The Honorable Chuck Grassley, Chairman Committee on the Judiciary United States Senate 135 Hart Senate Office Building Washington, D.C. 20510

The Honorable Dianne Feinstein, Ranking Member Committee on the Judiciary United States Senate 331 Hart Senate Office Building Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

Each of us has had the privilege of clerking for Judge Brett Kavanaugh on the United States Court of Appeals for the District of Columbia Circuit. We have gone different ways since then; among us are prosecutors, professors, state and federal public officials, and attorneys at private law firms, corporations, and non-profits. Our views on politics, on many of the important legal issues faced by the Supreme Court, and on judicial philosophy, are diverse. Our ranks include Republicans, Democrats, and Independents. But we are united in this: our admiration and fondness for Judge Kavanaugh run deep. For each of us and this letter is signed by every single one of Judge Kavanaugh's clerks not prohibited by their current or pending employment from signing it was a tremendous stroke of luck to work for and be mentored by a person of his strength of character, generosity of spirit, intellectual capacity, and unwavering care for his family, friends, colleagues, and us, his law clerks.

Judge Kavanaugh's qualifications to join the Supreme Court are beyond question. The product of Catholic elementary and high schools in Maryland, he was educated at Yale College and Yale Law School. He clerked for Supreme Court Justice Anthony Kennedy, who thereafter became a lifelong mentor for Judge Kavanaugh. He then devoted the vast majority of his legal career to public service, giving up a lucrative partnership at Kirkland & Ellis for a senior White House staff position. Judge Kavanaugh has taught courses at Harvard Law School, Yale Law School, and Georgetown University Law Center on the Supreme Court, constitutional interpretation, and the separation of powers. Finally, and most importantly, for the past twelve years he has served as a judge on the appellate court that most often confronts difficult legal questions akin to those decided by the Supreme Court.

It is in his role as a judge on the D.C. Circuit that we know Judge Kavanaugh best. During his time on the D.C. Circuit, Judge Kavanaugh has come to work every day dedicated to engaging in the hard work of judging. We never once saw him take a shortcut, treat a case as unimportant, or search for an easy answer. Instead, in each case, large or small, he masters every detail and rereads every precedent. He listens carefully to the views of his colleagues and clerks, even indeed, especially when they differ from his own. He drafts opinions painstakingly, writing and rewriting until he is satisfied each opinion is clear and well-reasoned, and can be understood not only by lawyers but by the parties and the public. We saw time and again that this work ethic flows

from a fundamental humility. Judge Kavanaugh never assumes he knows the answers in advance and never takes for granted that his view of the law will prevail.

Perhaps unsurprisingly, then, Judge Kavanaugh has been a role model to us personally as well as professionally. He is unfailingly warm and gracious with his colleagues no matter how strongly they disagree about a case, and he is well-liked and respected by judges and lawyers across the ideological spectrum as a result. He is grounded and kind. Judge Kavanaugh is a dedicated husband and father to two girls, Liza and Margaret, and an enthusiastic coach of both their youth basketball teams. He has a great sense of humor and an easy laugh. (Some of us are funny, most of us are not, and yet he laughs at all our jokes.) Judge Kavanaugh is an avid Nationals fan, and there is no better companion for a beer and a baseball game. And somehow, he always makes time for us, his law clerks. He makes it to every wedding, answers every career question, and gives unflinchingly honest advice. That advice often boils down to the same habits we saw him practice in chambers every day: Shoot straight, be careful and brave, work as hard as you possibly can, and then work a little harder.

These qualities have made Judge Kavanaugh a wonderful mentor, boss, and friend to all of us. With them, he would ably and conscientiously serve his country as a Supreme Court Justice.

Sincerely,

Amit Agarwal (2006-07)	Travis Lenkner (2007-08)
Philip Alito (2012-13)	Caroline Edsall Littleton (2011-12)
John Bash (2006-07)	Julia Malkina (2011-12)
Zina Bash (2007-08)	Roman Martinez (2008-09)
Rakim Brooks (2017-18)	Jennifer Mascott (2006-07)
Kathryn Cherry (2013-14)	Luke McCloud (2013-14)
Marguerite Colson (2015-16)	Christopher Michel (2013-14)
Will Dreher (2013-14)	Sarah Pitlyk (2010-11)
Gregory Dubinsky (2012-13)	Richard Re (2008-09)
Bridget Fahey (2014-15)	Hagan Scotten (2010-11)
Morgan Goodspeed (2012-13)	Indraneel Sur (2006-07)
Gillian Grossman (2014-15)	Rebecca Taibleson (2010-11)
Eric Hansford (2011-12)	Caroline Van Zile (2012-13)
Zac Hudson (2009-10)	Justin Walker (2010-11)
Kim Jackson (2017-18)	Katie Wellington (2014-15)
Saritha Komatireddy (2009-10)	Porter Wilkinson (2007-08)
Clayton Kozinski (2017-18)	Candice Wong (2008-09)

July 12, 2018

The Honorable Chuck Grassley, Chairman Committee on the Judiciary United States Senate 135 Hart Senate Office Building Washington, D.C. 20510

The Honorable Dianne Feinstein, Ranking Member Committee on the Judiciary United States Senate 331 Hart Senate Office Building Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

We are all of the former women law clerks to Judge Brett Kavanaugh who are not precluded by our current or pending employment from signing this letter. We, along with the rest of our colleagues, have already informed the Committee that Judge Kavanaugh would capably serve this country as an Associate Justice of the Supreme Court of the United States. Nevertheless, we feel compelled to write separately to convey our uniformly positive experiences with the Judge as a boss on issues of gender and equality in the workplace.

We know all too well that women in the workplace still face challenges, inequality, and even harassment. Among other things, women do not enjoy a representative share of prestigious clerkships or high-profile legal positions. But this Committee, and the American public more broadly, should be aware of the important work Judge Kavanaugh has done to remedy those disparities. In our view, the Judge has been one of the strongest advocates in the federal judiciary for women lawyers.

Starting with the numbers, Judge Kavanaugh has hired 25 women and 23 men as law clerks, achieving rare gender parity. That includes one year in which the Judge hired four women law clerks—something we understand had never previously been done at the U.S. Court of Appeals for the D.C. Circuit. And he has sent 21 of those 25 women clerks—an impressive 84 percent on to clerkships at the Supreme Court. During his White House remarks on July 9, 2018, Judge Kavanaugh said: "I look for the best." We are proud that so many of those hires have been talented women.

But the Judge's record of supporting women is as much qualitative as it is quantitative. Mentorship is critical to advancement in the legal profession, and the Judge is a dedicated mentor to all of his clerks, men and women alike. He has counseled us on our career options, provided honest and highly valued recommendations to prospective employers, and sometimes given a much-needed nudge to those of us who doubted whether we were qualified to chase our ambitions. It is not an exaggeration to say that we would not be the professors, prosecutors, public officials, and appellate advocates we are today without his enthusiastic encouragement and unwavering support.

As you likely know by now, Judge Kavanaugh has two daughters, Margaret and Liza. If they decide to follow in their dad's and grandmother's footsteps and become lawyers, they will enter a legal profession that is fairer and more equal because of Judge Kavanaugh.

Sincerely,

Zina Bash (2007-08)

Kathryn Cherry (2013-14)

Marguerite Colson (2015-16)

Bridget Fahey (2014-15)

Morgan Goodspeed (2012-13)

Gillian Grossman (2014-15)

Kim Jackson (2017-18)

Saritha Komatireddy (2009-10)

Caroline Edsall Littleton (2011-12)

Julia Malkina (2011-12)

Jennifer Mascott (2006-07)

Claire McCusker Murray (2009-2010)

Sarah Pitlyk (2010-11)

Rebecca Taibleson (2010-11)

Caroline Van Zile (2012-13)

Katie Wellington (2014-15)

Porter Wilkinson (2007-08)

Candice Wong (2008-09)



Patrick Morrisey Attorney General (304) 558-2021 Fax (304) 558-0140

July 12, 2018

Via Certified Mail & Email

The Honorable A. Mitchell McConnell Majority Leader United States Senate 317 Russell Senate Office Building Washington, D.C. 20510 senator@mcconnell.senate.gov

The Honorable Charles Grassley Chairman United States Senate Judiciary Committee 135 Hart Senate Office Building Washington, D.C. 20510 chuck grassley@grassley.senate.gov The Honorable Charles Schumer Minority Leader United States Senate 322 Hart Senate Office Building Washington, D.C. 20510 senator@schumer.senate.gov

The Honorable Dianne Feinstein Ranking Member United States Senate Judiciary Committee 331 Hart Senate Office Building Washington, D.C. 20510 senator@feinstein.senate.gov

Re: A communication from the States of West Virginia, Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Michigan, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming regarding the nomination of Judge Brett M. Kavanaugh to the Supreme Court of the United States

Dear Senators McConnell, Schumer, Grassley, and Feinstein:

As the chief legal officers of our States, we write to urge the United States Senate to promptly hold a hearing on and confirm the nomination of Judge Brett M. Kavanaugh to the Supreme Court of the United States. Judge Kavanaugh is an outstanding jurist with a proven commitment to upholding the Constitution and the rule of law. We have no doubt that he possesses the qualifications, temperament, and judicial philosophy to be an excellent Associate Justice.

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305

The Honorable Senators McConnell, Schumer, Grassley, and Feinstein July 12, 2018 Page 2

Throughout his career, Judge Kavanaugh has demonstrated an abiding commitment to the principles and freedoms on which our country was founded, and an unshakable respect for the proper role of the courts within our constitutional structure. The Senate should confirm Judge Kavanaugh without delay.

Confirmation of Judge Kavanaugh to the Supreme Court will have profound and longlasting consequences for the people in our States. For too long we have suffered the ill effects of federal overreach as all three branches have at times exceeded the constitutional limits on their authority. Judge Kavanaugh will help reverse that trend by reviewing challenged laws and regulations with an eye to ensuring that all branches of our government act within their constitutionally assigned roles—regardless of which party is in power. A judiciary committed to the fundamental principles enshrined in the Constitution can ensure that the work being done now is safeguarded for decades to come.

As the Attorneys General of our respective States, we have a special interest in ensuring that the federal government respects the important role of the States in crafting and tailoring regulatory policy on matters of local concern. Federal judges, including the next Associate Justice of the United States Supreme Court—must respect principles of federalism and the balance of power reflected in our Constitution. We are confident Judge Kavanaugh appreciates that balance, and that he will protect the prerogatives of the States to manage their own regulatory framework.

Judge Kavanaugh is particularly well-suited to enforce the Constitution's structural limitations and safeguard the freedoms of the States and the People. In a speech two years ago commemorating the late Justice Scalia, he emphasized that the role of a judge "is to interpret the law, not to make the law or make policy." Just as judges must not "shy away from enforcing constitutional rights that are in the text of the Constitution," so too they cannot "make up new constitutional rights that are not in the text." Of great importance to the States, he also underscored that "the structure of the Constitution—the separation of powers and federalism—are not mere matters of etiquette or architecture, but are at least as essential to protecting individual liberty as the individual rights guaranteed in the text."

Judge Kavanaugh has lived up to these ideals during his tenure on the D.C. Circuit. As one of the nation's most distinguished jurists, his nearly 300 opinions highlight his principled and consistent judicial philosophy. Time and again, he has upheld the judiciary's obligation to act as a meaningful check on government interference—from championing religious freedom and other individual rights, to checking federal agencies that overstep their authority. We are convinced that, as the next Associate Justice, Judge Kavanaugh will continue this commitment to protecting individual liberties, resisting unlawful government overreach, and respecting the democratic process.

The Honorable Senators McConnell, Schumer, Grassley, and Feinstein July 12, 2018 Page 3

We strongly urge all Senators—and particularly the home-state Senators of the undersigned Attorneys General—to express their public support for the prompt confirmation of Judge Kavanaugh to the Supreme Court of the United States.

Sincerely,

PATRICK nomsey

Patrick Morrisey

West Virginia Attorney General

Steve Marshall

Alabama Attorney General

Mark Brnovich

Arizona Attorney General

Leslie Rutledge

Arkansas Attorney General

Cynthia H. Coffman

Colorado Attorney General

Pam Bondi

Florida Attorney General

Christopher M. Carr

Georgia Attorney General

Firsward

Lawrence Wasden Idaho Attorney General

Curtis T. Hill, Jr.

Indiana Attorney General

Derek Schmidt

Kansas Attorney General

Jeff Landry

Louisiana Attorney General

Bill Schuette

Michigan Attorney General

Bill Thuette

Josh Hawley

Missouri Attorney General

July 19, 2018

The Honorable Chuck Grassley, Chairman Committee on the Judiciary United States Senate 135 Hart Senate Office Building Washington, D.C. 20510

The Honorable Dianne Feinstein, Ranking Member Committee on the Judiciary United States Senate 331 Hart Senate Office Building Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

We are former students of Judge Kavanaugh's from Harvard Law School, where he has been teaching since 2008. Over the years, Judge Kavanaugh has taught law school classes on challenging topics, including Separation of Powers and an intensive study of the modern Supreme Court. We are members of the legal community at various stages of our careers, from current law students to seasoned practitioners. We also represent a broad spectrum of political and ideological beliefs, as well as perspectives on judicial philosophy. We may have differing views on political issues surrounding the confirmation process, but we all agree on one thing: Judge Kavanaugh is a rigorous thinker, a devoted teacher, and a gracious person.

Judge Kavanaugh was an inspiring professor and impressive intellect. His thoughtful explanations and analyses spoke to the breadth of his legal knowledge. He was also engaging and fair-minded. During classroom discussions, he displayed a keen interest in exploring all sides of a question. Judge Kavanaugh invited robust discussions and consistently encouraged his students to voice different viewpoints—even if others (or the judge himself) might disagree.

Both inside and outside the classroom, Judge Kavanaugh evinced a genuine warmth and interest in his students and their careers. He was exceptionally generous with his time, making himself available to meet with students not only to discuss the class, but also to assist with their scholarly writing or to offer career advice. In many instances, he has continued to provide advice and support long after the class ended by writing letters of recommendation and serving as a valued mentor. In our view, his genuine interest in helping young lawyers demonstrates a deep commitment to the legal community as a whole.

Overall, Judge Kavanaugh displayed an intellect and character that impressed us all.

Sincerely,

J. Joel Alicea '13 Eliyahu Balsam '19 Thomas Basile '09 Robert Batista '18 Alex Bauer '17 Bradley Berg '14 Zack Bluestone '16 Adam Braskich '14

Renee Gerber Burbank '09 William Burgess '16 Ryan Caughey '09

Kelsey Curtis '18

Zachary David '18 Samuel E. Dewey '09

Daniel Farewell '19 Joshua C. Fiveson '14

Ryan M. Folio '19 David Fotouhi '10

Robert K. Fountain '17

John Paul Fox '11

Stephanie Freudenberg '15 Jonathan R. Gartner '16 David A. Geiger '14 Joseph Gerstel '17

Harry S. Graver '19 Matan Gutman, LLM '12

Stephen J. Hammer '18

Sarah Hansen '17 Sarah M. Harris '09

Michael Hawrylchak '08

Robert Hoak '18

Christina A. Hoffman '11

Kirk Jing '17 Lisa Jing '18

Robert Johnson '09

Erica Jones '18 Elizabeth Knox '16 Chris Kulawik '11 Mark Lamborn '16

Erin Leu '09 Ryland Li '15 Lydia Lichlyter '18

Carl Marchioli '10

Douglas Margison '17 William Marra '12 Michael McCauley '13

Daniel McEntee '12 Esther Mulder '14

Kentaro Murayama, LLM '13 Eustace Ng'oma LLM '13 Sara Nommensen '16 Kenneth Notter III '18

Pascual Oliu '13

Dalia Palombo, LLM '12

Richard Pell '16 Lane Polozola '11

Stephanie Cebulski Quist '09

Jeffrey Redfern '12 Andrew Roach '13 John Robinson '14 Neha Sabharwal '18 Jason Samstein '19 Timothy Saviola '18 Jay Schweikert '11 Hagan Scotten '10

Colleen E. Roh Sinzdak '10

Jacob Spencer '12 Daniel Switts '14 Carol Szurkowski '14

J.B. Tarter '09

Taylor Thompson '18

Alborz Alexandre Tolou LLM '17

Amit Vora '10 Justin Walker '09 Lucas Walker '09 Andru Wall LLM '10 Kirby Thomas West '16 Theodore Yale '17

Theodore Yale '17'
Christopher Young '17

Jared Young '14



July 25, 2018

The Honorable Mitch McConnell Majority Leader United States Senate Washington, D.C. 20510 The Honorable Charles E. Schumer Democratic Leader United States Senate Washington, D.C. 20510

Dear Leader McConnell and Leader Schumer:

As governors, we stand in support of President Donald Trump's nomination of Judge Brett M. Kavanaugh and encourage the United States Senate to move expeditiously to confirm his appointment as Associate Justice of the Supreme Court of the United States. We make this request based on his track record of upholding the Constitution and his distinguished credentials that eminently qualify him to serve on the nation's highest court.

As Judge Kavanaugh stated in his remarks to the nation, his judicial philosophy is straightforward. He believes a judge must be independent and open-minded and must interpret the law as written. As his record shows, he will interpret the Constitution as written, informed by history, tradition, and precedent. Judge Kavanaugh will adjudicate legal disputes with impartiality, preserving the Constitution of the United States and the rule of law.

Judge Kavanaugh's impeccable credentials demonstrate he is worthy of this nomination. After receiving his undergraduate and law degrees from Yale, Judge Kavanaugh clerked for Justice Anthony Kennedy of the Supreme Court, Judge Walter Stapleton of the U.S. Court of Appeals for the Third Circuit, and Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit. He went on to become a Bristow Fellow in the Office of the Solicitor General of the United States, an associate in the Office of Independent Counsel Ken Starr, and a partner at Kirkland & Ellis. Judge Kavanaugh later served President George W. Bush as associate counsel, senior associate counsel, and assistant to the president and staff secretary. Judge Kavanaugh also teaches at Harvard Law School.

Nominated to the United States Court of Appeals for the D.C. Circuit by President George W. Bush and confirmed by the United States Senate in 2006, Judge Kavanaugh has written roughly 300 opinions, which have been cited by judges across the country. If confirmed as Associate Justice, we have no doubt Judge Kavanaugh will continue to set aside his personal preferences and make decisions based on the law.

Thirty years ago, President Ronald Reagan nominated Justice Anthony Kennedy, a man who devoted his career to securing the liberty of our nation, to the Supreme Court of the United States. It seems right and fitting for one of Justice Kennedy's own law clerks to follow in his footsteps and continue our nation's great tradition of the rule of law. We strongly urge the United States Senate to expeditiously confirm Judge Brett Kavanaugh and look forward to him serving as an Associate Justice of the Supreme Court.

Sincerely,

Governor Bill Haslam Tennessee

Governor Kay Ivey Alabama Governor Douglas A. Ducey Arizona

Governor Asa Hutchinson Arkansas Governor Rick Scott Florida Governor Nathan Deal Georgia

Governor Edward J. Baza Calvo Guam

Governor C.L. "Butch" Otter Idaho

Governor Eric Holcomb Indiana

Governor Kim Reynolds Iowa Governor Jeff Colyer Kansas Governor Matt Bevin Kentucky

Governor Paul R. LePage Maine

Governor Rick Snyder Michigan Governor Phil Bryant Mississippi

Governor Brian Sandoval

Governor Michael L. Parson

Missouri

Governor Pete Ricketts Nebraska

Nevada

Chithe T. Summe

Governor Christopher T. Sununu New Hampshire Martiner

Governor Susana Martinez New Mexico Governor Doug Burgum North Dakota

KIND .

Governor Ralph Torres Northern Mariana Islands Governor John R. Kasich

Ohio

Mary Fallin
Governor Mary Fallin

Oklahoma

Texas

Grony WiMenter

Governor Henry McMaster South Carolina Governor Dennis Daugaard South Dakota Governor Greg Abbott

Charles R. Herbert

Governor Gary R. Herbert Utah Governor Jim Justice West Virginia Governor Scott Walker Wisconsin

Governor Matthew H. Mead Wyoming

cc: Chairman Chuck Grassley
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Dianne Feinstein U.S. Senate Committee on the Judiciary 224 Dirksen Senate Office Building Washington, D.C. 20510 August 2, 2018

The Honorable Charles Grassley, Chairman Committee on the Judiciary United States Senate 135 Hart Senate Office Building Washington, D.C. 20510 The Honorable Dianne Feinstein, Ranking Member Committee on the Judiciary United States Senate 331 Hart Senate Office Building Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

Like Judge Brett M. Kavanaugh, we are former law clerks to Associate Justice Anthony M. Kennedy, whose decades of judicial service have been an inspiration to us all. Though our views on politics, law, and the issues that come before the Supreme Court are diverse, we have come together to express our conviction that Judge Kavanaugh would be a fair-minded and conscientious successor to Justice Kennedy.

Judge Kavanaugh is supremely qualified to serve on the Supreme Court, having served for twelve years as a member of the U.S. Court of Appeals for the D.C. Circuit. Many of us have worked with Judge Kavanaugh, observed him in court, or encountered his speeches and articles. Much like Justice Kennedy, Judge Kavanaugh has made clear that he holds both the law and the principle of judicial independence in the highest regard.

If he is confirmed as a Supreme Court justice, we believe that Judge Kavanaugh would continue to serve his country with distinction like the Justice for whom we clerked.

Respectfully,

Bertrand-Marc Allen Patrick J. Borchers Law clerk to Justice Kennedy, OT 2003 Law clerk to Judge Kennedy, 1986-87 David L. Anderson Rachel Brand Law clerk to Justice Kennedy, OT 1991 Law clerk to Justice Kennedy, OT 2002 Christopher L. Callahan Randy Beck Law clerk to Justice Kennedy, OT 1990 Law clerk to Judge Kennedy, 1984-85 James F. Bennett Adam H. Charnes Law clerk to Justice Kennedy, OT 1999 Law clerk to Justice Kennedy, OT 1992 Andrew Bentz Michael Chu Law clerk to Justice Kennedy, OT 2014 Law clerk to Justice Kennedy, OT 2007 Bradford A. Berenson Daniel C. Chung Law clerk to Justice Kennedy, OT 1987 Law clerk to Justice Kennedy, OT 1992

Stephen Cowen

Law clerk to Justice Kennedy, OT 2007

Edward C. Dawson

Law clerk to Justice Kennedy, OT 2003

Grant M. Dixton

Law clerk to Justice Kennedy, OT 2000

Gregory Dubinsky

Law clerk to Justice Kennedy, OT 2013

Miles F. Ehrlich

Law clerk to Justice Kennedy, OT 1993

Gregg L. Engles

Law clerk to Judge Kennedy, 1982-83

Miguel A. Estrada

Law clerk to Justice Kennedy, OT 1987 &

1988

Ward Farnsworth

Law clerk to Justice Kennedy, OT 1995

Allen Ferrell

Law clerk to Justice Kennedy, OT 1996

Nathan A. Forrester

Law clerk to Justice Kennedy, OT 1993

Brett Gerry

Law clerk to Justice Kennedy, OT 2000

Donald L. R. Goodson

Law clerk to Justice Kennedy, OT 2017

Gillian Grossman

Law clerk to Justice Kennedy, OT 2015

Nick Harper

Law clerk to Justice Kennedy, OT 2017

Kathryn Haun

Law clerk to Justice Kennedy, OT 2004

Michael Hirshland

Law clerk to Justice Kennedy, OT 1994

Steven J. Horowitz

Law clerk to Justice Kennedy, OT 2010

Timothy G. Hoxie

Law clerk to Judge Kennedy, 1985-86

Thomas G. Hungar

Law clerk to Justice Kennedy, OT 1988

Robert E. Johnson

Law clerk to Justice Kennedy, OT 2010

Leo Katz

Law clerk to Judge Kennedy, 1982-83

Peter Keisler

Law clerk to Justice Kennedy, OT 1987 &

1988

Ashley Keller

Law clerk to Justice Kennedy, OT 2008

Scott A. Keller

Law clerk to Justice Kennedy, OT 2009

J. Clark Kelso

Law clerk to Judge Kennedy, 1983-84

Orin S. Kerr

Law clerk to Justice Kennedy, OT 2003

Kelly M. Klaus,

Law clerk to Justice Kennedy, OT 1995

Randy J. Kozel

Law clerk to Justice Kennedy, OT 2005

Matthew H. Lembke

Law clerk to Justice Kennedy, OT 1992

Travis Lenkner

Law clerk to Justice Kennedy, OT 2008

Renée Lettow Lerner Law clerk to Justice Kennedy, OT 1996

Katherine Moran Meeks Law clerk to Justice Kennedy, OT 2013

Daniel Meron

Law clerk to Justice Kennedy, OT 1994

Kevin J. Miller,

Law clerk to Justice Kennedy, OT 2000

Milton A. Miller

Law clerk to Judge Kennedy, 1979-80

John Neiman

Law clerk to Justice Kennedy, OT 2001

Steve Nickelsburg

Law clerk to Justice Kennedy, OT 1999

Christopher R.J. Pace

Law clerk to Justice Kennedy, OT 1992

Eugene M. Paige

Law clerk to Justice Kennedy, OT 2000

Joshua Patashnik

Law clerk to Justice Kennedy, OT 2012

R. Hewitt Pate

Law clerk to Justice Kennedy, OT 1989

Krista Perry

Law clerk to Justice Kennedy, OT 2017

Jeffrey Pojanowski

Law clerk to Justice Kennedy, OT 2005

Richard M. Re

Law clerk to Justice Kennedy, OT 2010

C. Harker Rhodes IV

Law clerk to Justice Kennedy, OT 2015

J.C. Rozendaal

Law clerk to Justice Kennedy, OT 1998

Nicholas Quinn Rosenkranz

Law clerk to Justice Kennedy, OT 2001

Eric H. Schunk

Law clerk to Judge Kennedy, 1981-82

Michael E. Scoville

Law clerk to Justice Kennedy, OT 2004

Steven M. Shepard

Law clerk to Justice Kennedy, OT 2008

Igor V. Timofeyev

Law clerk to Justice Kennedy, OT 2002

Misha Tseytlin

Law clerk to Justice Kennedy, OT 2009

Caroline Van Zile

Law clerk to Justice Kennedy, OT 2014

Christopher J. Walker

Law clerk to Justice Kennedy, OT 2008

Justin Walker

Law clerk to Justice Kennedy, OT 2011

Lauren Willard

Law clerk to Justice Kennedy, OT 2012

Richard Willard

Law clerk to Judge Kennedy, 1975-76

Michael F. Williams

Law clerk to Justice Kennedy, OT 2002

Alexander J. Willscher

Law clerk to Justice Kennedy, OT 2001

Christopher S. Yoo

Law clerk to Justice Kennedy, OT 1997

United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman

Status of President Trump's Nominations Considered by the Senate Judiciary Committee During the 115th Congress

(as of August 1, 2018 at 10:15 pm)

JUDICIAL BRANCH NOMINEES

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the Senate has <u>confirmed</u> the following of President Trump's judicial nominees:

- 1. Justice Neil Gorsuch (reported to floor on 4/3/2017; confirmed on 4/7/2017)
- 2. Judge Amul Thapar (CA6 / Ky.) (reported to floor on 5/18/2017; confirmed on 5/25/2017)
- 3. Judge David Nye (D. Id.) (reported to floor on 6/15/2017; confirmed on 7/12/2017)
- 4. Judge John Bush (CA6 / Ky.) (reported to floor on 7/13/2017; confirmed on 7/20/2017)
- 5. Judge Kevin Newsom (CA11 / Ala.) (reported to floor on 7/13/2017; confirmed on 8/1/2017)
- 6. Judge Tim Kelly (D.D.C.) (reported to floor on 7/13/2017; confirmed on 9/5/2017)
- 7. Judge Ralph Erickson (CA8 / N.D.) (reported to floor on 9/14/2017; confirmed on 9/28/2017)
- 8. Judge Scott L. Palk (W.D. Okla.) (reported to floor on 6/15/2017; confirmed on 10/26/2017)
- 9. Judge Trevor McFadden (D.D.C.) (reported to floor on 7/20/2017; confirmed on 10/30/2017)
- 10. Judge Amy Barrett (CA7 / Ind.) (reported to floor on 10/5/2017; confirmed on 10/31/2017)
- 11. Judge Joan Larsen (CA6 / Mich.) (reported to floor on 10/5/2017; confirmed on 11/1/2017)
- 12. Judge Allison Eid (CA10 / Colo.) (reported to floor on 10/26/2017; confirmed on 11/2/2017)
- 13. Judge Stephanos Bibas (CA3 / Penn.) (reported to floor on 10/26/2017; confirmed on 11/2/2017)
- 14. Judge Donald Coggins (D.S.C.) (reported to floor on 9/14/2017; confirmed on 11/16/2017)
- 15. Judge Dabney Friedrich (D.D.C.) (reported to floor on 9/14/2017; confirmed on 11/27/2017)
- 16. Judge Greg Katsas (CADC) (reported to the on 11/9/2017; confirmed on 11/28/2017)
- 17. Judge Steve Grasz (CA8 / Neb.) (reported to floor on 12/7/2017; confirmed on 12/12/2017)
- 18. Judge Don Willett (CA5 / Tex.) (reported to floor on 12/7/2017; confirmed on 12/13/2017)
- 19. Judge James Ho (CA5 / Tex.) (reported to floor on 12/7/2017; confirmed on 12/14/2017)
- 20. Judge William Campbell (M.D. Tenn.) (reported to floor on 10/5/2017; confirmed on 1/9/2018)
- 21. Judge Thomas Parker (W.D. Tenn.) (reported to floor on 10/5/2017; confirmed on 1/10/2018)
- 22. Judge Walter David Counts III (W.D. Tex.) (reported to floor on 10/26/2017; confirmed on 1/11/2018)
- 23. Judge Michael Brown (N.D. Ga.) (reported to floor on 10/19/2017; confirmed on 1/11/2018)
- 24. Judge David Stras (CA8 / Minn.) (reported to floor on 1/18/2018; confirmed on 1/30/2018)
- 25. Judge Elizabeth Branch (CA11 / Ga.) (reported to floor on 1/18/2018; confirmed on 2/27/2018)
- 26. Judge Marvin Quattlebaum (D.S.C.) (reported to floor on 10/26/2017; confirmed on 3/1/2018)
- 27. Judge Karen Scholer (N.D. Tex.) (reported to floor on 10/26/2017; confirmed on 3/5/2018)
- 28. Judge Tilman Self (M.D. Ga.) (reported to floor on 10/26/2017; confirmed on 3/5/2018)
- 29. Judge Terry Doughty (W.D. La.) (reported to floor on 12/7/2017; confirmed on 3/6/2018)
- 30. Judge Claria Boom (E.D. and W.D. Ky.) (reported to floor on 12/7/2017; confirmed on 4/10/2018)
- 31. Judge John Broomes (D. Kan.) (reported to floor on 12/7/2017; confirmed on 4/12/2018)
- 32. Judge Rebecca Jennings (W.D. Ky.) (reported to floor on 12/7/2017; confirmed on 4/12/2018)
- 33. Judge Kyle Duncan (CA5 / La.) (reported to floor on 1/18/2018; confirmed on 4/24/2018)
- 34. Judge Kurt Engelhardt (CA5 / La.) (reported to floor on 2/8/2018; confirmed on 5/9/2018)
- 35. Judge Michael B. Brennan (CA7 / Wisc.) (reported to floor on 2/15/2018; confirmed on 5/10/2018)
- 36. Judge Michael Scudder (CA7 / III.) (reported to floor on 4/19/2018; confirmed on 5/14/2018)
- 37. Judge Amy St. Eve (CA7 / III.) (reported to floor on 4/19/2018; confirmed on 5/14/2018)
- 38. Judge Joel Carson III (CA10 / N.M.) (reported to floor on 3/15/2018; confirmed on 5/15/2018)
- 39. Judge John B. Nalbandian (CA6 / Ky.) (reported to floor on 4/19/2018; confirmed on 5/15/2018)
- 40. Judge Robert Wier (E.D. Ky.) (reported to floor on 12/7/2017; confirmed on 6/5/2018)
- 41. Judge Fernando Rodriguez (S.D. Tex.) (reported to floor on 1/11/2018; confirmed on 6/5/2018)
- 42. Judge Annemarie Axon (N.D. Ala.) (reported to floor on 10/19/2017; confirmed on 6/6/2018)
- 43. Judge Mark J. Bennett (CA9 / Haw.) (reported to floor on 5/10/2018; confirmed on 7/10/2018)

- 44. Judge Andrew Oldham (CA5 / Tex.) (reported to floor on 5/24/2018; confirmed on 7/18/2018)
- 45. Judge Britt Grant (CA11 / Ga.) (reported to floor on 7/19/2018; confirmed on 7/31/2018)
- 46. Judge Jeffrey Beaverstock (S.D. Ala.) (reported to floor on 11/9/2017; re-reported to floor on 1/18/2018; confirmed on 8/1/2018)
- 47. Judge Emily Marks (M.D. Ala.) (reported to floor on 11/9/2017; re-reported to floor on 1/18/2018; confirmed on 8/1/2018)
- 48. Judge Holly Teeter (D. Kan.) (reported to floor on 11/9/2017; re-reported to floor on 1/18/2018; confirmed on 8/1/2018)
- 49. Judge Maryellen Noreika (D. Del.) (reported to floor on 3/15/2018; confirmed on 8/1/2018)
- 50. Judge Colm Connolly (D. Del.) (reported to floor on 3/15/2018; confirmed on 8/1/2018)
- 51. Judge Jill Otake (D. Haw.) (reported to floor on 4/12/2018; confirmed on 8/1/2018)

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the following circuit-court nominees of President Trump are awaiting confirmation votes by the full Senate:

- 1. A. Marvin Quattlebaum (CA4 / S.C.) (reported to floor on 7/19/2018; cloture petition filed on 8/1/2018; cloture vote scheduled for 8/15/2018 at 5:30 pm)
- 2. Julius N. Richardson (CA4 / S.C.) (reported to floor on 7/19/2018; cloture petition filed on 8/1/2018)
- 3. David J. Porter (CA3 / Pa.) (reported to floor on 7/19/2018)

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the following district-court nominees of President Trump are <u>awaiting confirmation votes</u> by the full Senate:

- 1. Thomas Farr (E.D.N.C.) (reported to floor on 10/19/2017; re-reported to floor on 1/18/2018)
- 2. William Ray (N.D. Ga.) (reported to floor on 10/19/2017; re-reported to floor on 1/18/2018)
- 3. Liles Burke (N.D. Ala.) (reported to floor on 10/26/2017; re-reported to floor on 1/18/2018)
- 4. Michael Juneau (W.D. La.) (reported to floor on 10/26/2017; re-reported to floor on 1/18/2018)
- 5. Mark Norris (W.D. Tenn.) (reported to floor on 12/7/2017; re-reported to floor on 1/18/2018)
- 6. Terry Moorer (S.D. Ala.) (reported to floor on 12/7/2017; re-reported to floor on 1/18/2018)
- 7. Eli Richardson (M.D. Tenn.) (reported to floor on 1/18/2018)
- 8. Matthew Kacsmaryk (N.D. Tex.) (reported to floor on 1/18/2018)
- 9. Charles Goodwin (W.D. Okla.) (reported to floor on 1/18/2018)
- 10. Stan Baker (S.D. Ga.) (reported to floor on 1/18/2018)
- 11. Barry Ashe (E.D. La.) (reported to floor on 2/8/2018)
- 12. James Sweeney II (S.D. Ind.) (reported to floor on 2/8/2018)
- 13. Howard Nielson, Jr. (D. Utah) (reported to floor on 2/8/2018)
- 14. Daniel Domenico (D. Colo.) (reported to floor on 2/15/2018)
- 15. Marilyn Horan (W.D. Pa.) (reported to floor on 2/15/2018)
- 16. Susan Baxter (W.D. Pa.) (reported to floor on 2/15/2018)
- 17. William Jung (M.D. Fla.) (reported to floor on 3/15/2018)
- 18. Kari Dooley (D. Conn.) (reported to floor on 4/19/2018)
- 19. Dominic Lanza (D. Ariz.) (reported to floor on 4/19/2018)
- 20. C.J. Williams (N.D. Iowa) (reported to floor on 4/19/2018)
- 21. Robert Summerhays (W.D. La.) (reported to floor on 5/10/2018)
- 22. Nancy Brasel (D. Minn.) (reported to floor on 5/10/2018)
- 23. Eric Tostrud (D. Minn.) (reported to floor on 5/10/2018)
- 24. Wendy Vitter (E.D. La) (reported to floor on 5/24/2018)
- 25. Michael J. Truncale (E.D. Tex.) (reported to floor on 5/24/2018)
- 26. Alan Albright (W.D. Tex.) (reported to floor on 5/24/2018)
- 27. Thomas Kleeh (N.D. W. Va.) (reported to floor on 5/24/2018)
- 28. Peter Phipps (W.D. Pa.) (reported to floor on 5/24/2018)
- 29. J. Campbell Barker (E.D. Tex.) (reported to floor on 6/7/2018)
- 30. Susan Brnovich (D. Ariz.) (reported to floor on 6/7/2018)
- 31. Chad Kenney (E.D. Pa.) (reported to floor on 6/7/2018)
- 32. Jeremy D. Kernodle (E.D. Tex.) (reported to floor on 6/7/2018)
- 33. Allen Winsor (N.D. Fla.) (reported to floor on 6/14/2018)
- 34. Patrick Wyrick (W.D. Okla.) (reported to floor on 6/14/2018)
- 35. Holly Brady (N.D. Ind.) (reported to floor on 6/28/2018)
- 36. Andrew Brasher (M.D. Ala.) (reported to floor on 6/28/2018)

- 37. Lance Walker (D. Me.) (reported to floor on 6/28/2018)
- 38. James Hanlon (S.D. Ind.) (reported to floor on 6/28/2018)
- 39. David Morales (S.D. Tex.) (reported to floor on 6/28/2018)
- 40. Roy K. Altman (S.D. Fla) (reported to floor on 7/19/2018)
- 41. Raul M. Arias-Marxuach (D.P.R.) (reported to floor on 7/19/2018)
- 42. Rodolfo Armando Ruiz II (S.D. Fla.) (reported to floor on 7/19/2018)

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the following Article I court nominees of President Trump are <u>awaiting confirmation votes</u>:

- Ryan Holte (Fed. Claims) (reported to floor on 3/15/2018)
- 2. Maureen Ohlhausen (Fed. Claims) (reported to floor on 6/7/2018)

Following hearings by Chairman Grassley and the Senate Judiciary Committee, the following circuit-court nominees of President Trump are awaiting markup votes from the Committee to the full Senate for confirmation votes:

- 1. Ryan Nelson (CA9 / ID) (hearing held on 7/11/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- Richard Sullivan (CA2 / NY) (hearing held on 8/1/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)

NOTE: On June 14, 2018, Senator Jeff Flake (R-AZ) stated that he will vote against all circuit-court nominees in the Senate Judiciary Committee, for issues unrelated to the nominees. He lifted his objection as of the markup meeting on July 12, 2018.

Following hearings by Chairman Grassley and the Senate Judiciary Committee, the following district-court nominees of President Trump are <u>awaiting markup votes</u> from the Committee to the full Senate for confirmation votes:

- 1. Mary McElroy (D. R.I.) (hearing already held on 12/9/2015)
- 2. Stephanie Gallagher (D. Md.) (hearing already held on 4/20/2016)
- 3. Stephen Clark (E.D. Mo.) (hearing held on 7/11/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 4. John O'Connor (N.D., E.D., W.D. Okla.) (hearing held on 7/11/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 5. Joshua Wolson (E.D. Pa.) (hearing held on 7/11/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 6. Diane Gujarati (E.D.N.Y.) (hearing held on 8/1/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 7. Eric Ross Komitee (E.D.N.Y.) (hearing held on 8/1/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 8. Rachel P. Kovner (E.D.N.Y.) (hearing held on 8/1/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 9. Lewis J. Liman (S.D.N.Y.) (nomination received on 5/15/2018) (hearing held on 8/1/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 10. John L. Sinatra, Jr. (W.D.N.Y.) (nomination received on 5/15/2018) (hearing held on 8/1/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 11. Mary Kay Vyskocil (S.D.N.Y.) (nomination received on 5/15/2018) (hearing held on 8/1/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)
- 12. Gary Richard Brown (E.D.N.Y.) (hearing already held on 10/21/2015; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)

Following hearings by Chairman Grassley and the Senate Judiciary Committee, the following Article I court nominees of President Trump are awaiting markup votes:

1. None.

The following Supreme Court nominee of President Trump are awaiting nominations hearings:

1. Brett Kavanaugh (nomination received on 7/10/2018)

The following circuit-court nominees of President Trump are awaiting nominations hearings:

- 1. Paul Matey (CA3 / NJ) (nomination received on 4/12/2018)
- 2. Jonathan Kobes (CA8 / SD) (nomination received on 6/11/2018)
- 3. Eric E. Murphy (CA6 / OH) (nomination received on 6/18/2018)
- 4. Chad A. Readler (CA6 / OH) (nomination received on 6/18/2018)
- 5. Eric Miller (CA9 / WA) (nomination received on 7/17/2018)

The following district-court nominees of President Trump are <u>awaiting nominations hearings</u>:

- 1. Gordon Giampietro (E.D. Wisc.) (nomination received on 12/20/2017)
- 2. Wendy Berger (M.D. Fla.) (nomination received on 4/10/2018)
- 3. Pamela Barker (N.D. Ohio) (nomination received on 4/12/2018)
- 4. Kenneth Bell (W.D.N.C.) (nomination received on 4/12/2018)
- 5. Sarah Morrison (S.D. Ohio) (nomination received on 4/12/2018)
- 6. Thomas P. Barber (M.D. Fla.) (nomination received on 5/7/2018)
- 7. Rodney Smith (S.D. Fla.) (nomination received on 5/7/2018)
- 8. T. Kent Wetherell (N.D. Fla.) (nomination received on 5/7/2018)
- 9. Corey Landon Maze (N.D. Ala.) (nomination received on 5/15/2018)
- 10. Karin Immergut (D. Ore.) (nomination received on 6/11/2018)
- 11. Martha Pacold (N.D. III.) (nomination received on 6/11/2018)
- 12. Rossie David Alston, Jr. (E.D. Va.) (nomination received on 6/18/2018)
- 13. Carl J. Nichols (D.D.C.) (nomination received on 6/18/2018)
- 14. Mary M. Rowland (N.D. III.) (nomination received on 6/18/2018)
- 15. Steven C. Seeger (N.D. III.) (nomination received on 6/18/2018)
- 16. Damon Leichty (N.D. Ind.) (nomination received on 7/17/2018)
- 17. John Milton Younge (E.D. Pa.) (nomination received on 7/17/2018)
- 18. J. Nicholas Ranjan (W.D. Pa.) (nomination received on 7/24/2018)

The following other Article III court nominees of President Trump are awaiting nominations hearings:

- 1. M. Miller Baker (Int'l Trade) (nomination received on 6/18/2018)
- 2. Timothy M. Reif (Int'l Trade) (nomination received on 6/18/2018)

The following Article I court nominees of President Trump are <u>awaiting nominations hearings</u>:

1. Richard A. Hertling (Fed. Claims) (nomination received on 5/7/2018)

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the Senate has <u>confirmed</u> the following other Judicial Branch nominees of President Trump:

1. None.

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the following other Judicial Branch nominees of President Trump are <u>awaiting confirmation votes</u> by the full Senate:

1. None.

Following hearings by Chairman Grassley and the Senate Judiciary Committee, the following other Judicial Branch nominees of President Trump are awaiting markup votes from the Committee to the full Senate for confirmation votes:

1. None.

The following other Judicial Branch nominees of President Trump are awaiting nominations hearings:

- 1. William H. Pryor Jr., Chairman of the United States Sentencing Commission (nomination received on 3/1/2018)
- 2. Luis Felipe Restrepo, Commissioner of the United States Sentencing Commission (nomination received on 3/1/2018)

- 3. Henry E. Hudson, Commissioner of the United States Sentencing Commission (nomination received on 3/1/2018)
- 4. William Graham Otis, Commissioner of the United States Sentencing Commission (nomination received on 3/1/2018)

DOJ NOMINEES

NOTE: On January 4, 2018, Senator Gardner (R-CO) announced a hold on the confirmation of all DOJ nominees. On February 14, 2018, Senator Gardner modified his hold to exclude the nominees for Assistant Attorney General for the National Security Division, U.S. Attorneys, and U.S. Marshals. On April 13, 2018, Senator Gardner lifted his hold.

Main Justice

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the Senate has <u>confirmed</u> the following Main Justice nominees of President Trump:

- 1. Attorney General Jeff Sessions (reported to floor on 2/1/2017; confirmed on 2/8/2017)
- 2. Deputy Attorney General Rod Rosenstein (reported to floor on 4/3/2017; confirmed on 4/25/2017)
- 3. Associate Attorney General Rachel Brand (reported to floor on 4/3/2017; confirmed on 5/18/2017)
- 4. Chris Wray, Director, Federal Bureau of Investigation (reported to floor on 7/20/2017; confirmed on 8/1/2017)
- 5. Beth Williams, Assistant Attorney General, Office of Legal Policy (reported to floor on 7/20/2017; confirmed on 8/3/2017)
- Stephen Boyd, Assistant Attorney General, Office of Legislative Affairs (reported to floor on 6/29/2017; confirmed on 8/3/2017)
- 7. Solicitor General Noel Francisco (reported to floor on 6/8/2017; confirmed on 9/19/2017)
- 8. Makan Delrahim, Assistant Attorney General, Antitrust Division (reported to floor on 6/8/2017; confirmed on 9/27/2017)
- 9. Steven Engel, Assistant Attorney General, Office of Legal Counsel (reported to floor on 6/8/2017; confirmed on 11/7/2017)
- 10. John Demers, Assistant Attorney General, National Security Division (reported to the Senate Intelligence Committee on 10/19/2017; Senate Intel reported to floor on 11/7/2017; confirmed on 2/15/2018)
- 11. Brian Benczkowski, Assistant Attorney General for the Criminal Division (reported to floor on 9/28/2017; confirmed on 7/11/2018)

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the following Main Justice nominees of President Trump are awaiting confirmation votes by the full Senate:

- 1. Jeffrey Clark, nominee for Assistant Attorney General for the Environment and Natural Resources Division (reported to floor on 8/3/2017; re-reported to floor on 1/18/2018)
- 2. Eric Dreiband, nominee for Assistant Attorney General for the Civil Rights Division (reported to floor on 10/5/2017; re-reported to floor on 1/18/2018)
- 3. Joseph Hunt, nominee for Assistant Attorney General for the Civil Division (reported to floor on 4/19/2018)

The following Main Justice nominees of President Trump are <u>awaiting markup votes</u> from the Committee to the full Senate for a confirmation vote:

1. None.

The following Main Justice nominees of President Trump are <u>awaiting nominations hearings</u>:

1. Shannon Lee Goessling, nominee for Director, Violence Against Women Office (nomination received on 6/18/2018)

U.S. Attorneys

Following markups by Chairman Grassley and the Senate Judiciary Committee, the Senate has confirmed the following United States Attorney nominees of President Trump:

- Justin Herdman, U.S. Attorney, N.D. Ohio (reported to floor on 7/20/2017; confirmed on 8/3/2017) 1. 2. John Huber, U.S. Attorney, D. Utah (reported to floor on 7/20/2017; confirmed on 8/3/2017) 3. John Town, U.S. Attorney, N.D. Ala. (reported to floor on 7/20/2017; confirmed on 8/3/2017) 4. Michael Dunavant, U.S. Attorney, W.D. Tenn. (reported to floor on 8/3/2017; confirmed on 9/14/2017) 5. Louis Franklin, U.S. Attorney, M.D. Ala. (reported to floor on 8/3/2017; confirmed on 9/14/2017) 6. Jessie Liu, U.S. Attorney, D.D.C. (reported to floor on 8/3/2017; confirmed on 9/14/2017) 7. Richard Moore, U.S. Attorney, S.D. Ala. (reported to floor on 8/3/2017; confirmed on 9/14/2017) 8. Peter Deegan, U.S. Attorney, N.D. lowa (reported to floor on 8/3/2017; confirmed on 9/14/2017) 9. Mark Krickbaum, U.S. Attorney, S.D. lowa (reported to floor on 8/3/2017; confirmed on 9/14/2017) 10. Donald Cochran, Jr., U.S. Attorney, M.D. Tenn. (reported to floor on 9/7/2017; confirmed on 9/14/2017) Kurt Alme, U.S. Attorney, D. Mont. (reported to floor on 9/7/2017; confirmed on 9/14/2017) 11. 12. Russell Coleman, U.S. Attorney, W.D. Ky. (reported to floor on 9/7/2017; confirmed on 9/14/2017) 13. Brian Kuester, U.S. Attorney, E.D. Okla. (reported to floor on 9/7/2017; confirmed on 9/14/2017) 14. Trent Shores, U.S. Attorney, N.D. Okla. (reported to floor on 9/7/2017; confirmed on 9/14/2017) Bart Davis, U.S. Attorney, D. Idaho (reported to floor on 9/7/2017; confirmed on 9/14/2017) 15. 16. Cody Hiland, U.S. Attorney, E.D. Ark. (reported to floor on 9/14/2017; confirmed on 9/28/2017) 17. Josh Minkler, U.S. Attorney, S.D. Ind. (reported to floor on 9/14/2017; confirmed on 9/28/2017) 18. Byung Pak, U.S. Attorney, N.D. Ga. (reported to floor on 9/14/2017; confirmed on 9/28/2017) 19. Robert Higdon, Jr., U.S. Attorney, E.D.N.C. (reported to floor on 9/14/2017; confirmed on 9/28/2017) 20. Halsey Frank, U.S. Attorney, D. Me. (reported to floor on 9/28/2017; confirmed on 10/3/2017) 21. Jeffrey Jensen, U.S. Attorney, E.D. Mo. (reported to floor on 9/28/2017; confirmed on 10/3/2017) 22. Michael Hurst, Jr., U.S. Attorney, S.D. Miss. (reported to floor on 9/28/2017; confirmed on 10/3/2017) 23. Thomas Kirsch II, U.S. Attorney, N.D. Ind. (reported to floor on 9/28/2017; confirmed on 10/3/2017) William Powell, U.S. Attorney, N.D. W. Va. (reported to floor on 9/28/2017; confirmed on 10/3/2017) 24. 25. Bryan Schroder, U.S. Attorney, D. Ala. (reported to floor on 10/5/2017; confirmed on 11/9/2017) 26. Robert Duncan, Jr., U.S. Attorney, E.D. Ky. (reported to floor on 10/5/2017; confirmed on 11/9/2017) 27. Charles Peeler, U.S. Attorney, M.D. Ga. (reported to floor on 10/5/2017; confirmed on 11/9/2017) 28. Scott Blader, U.S. Attorney, W.D. Wisc. (reported to floor on 10/19/2017; confirmed on 11/9/2017) John Lausch, Jr., U.S. Attorney, N.D. III. (reported to floor on 10/19/2017; confirmed on 11/9/2017) 29. 30. Douglas Overbey, U.S. Attorney, E.D. Tenn. (reported to floor on 10/19/2017; confirmed on 11/9/2017) 31. William Lamar, U.S. Attorney, N.D. Miss. (reported to floor on 10/19/2017; confirmed on 11/9/2017) 32. Mark Klaassen, U.S. Attorney, D. Wyo. (reported to floor on 10/19/2017; confirmed on 11/9/2017) 33. John Bash, U.S. Attorney, W.D. Tex. (reported to floor on 10/26/2017; confirmed on 11/9/2017) 34. Andrew Murray, U.S. Attorney, W.D.N.C. (reported to floor on 10/26/2017; confirmed on 11/9/2017) 35. Erin Cox, U.S. Attorney, N.D. Tex. (reported to floor on 10/26/2017; confirmed on 11/9/2017) Matthew Martin, U.S. Attorney, M.D.N.C. (reported to floor on 11/2/2017; confirmed on 11/9/2017) 36. 37. Christina Nolan, U.S. Attorney, D. Vt. (reported to floor on 11/2/2017; confirmed on 11/9/2017) 38. Bobby Christine, U.S. Attorney, S.D. Ga. (reported to floor on 11/9/2017; confirmed on 11/15/2017) 39. David Freed, U.S. Attorney, M.D. Pa. (reported to floor on 11/9/2017; confirmed on 11/15/2017) 40. Scott Brady, U.S. Attorney, W.D. Pa. (reported to floor on 11/16/2017; confirmed on 12/14/2017) 41. Andrew Lelling, U.S. Attorney, D. Mass. (reported to floor on 11/16/2017; confirmed on 12/14/2017) 42. Stephen McAllister, U.S. Attorney, D. Kan. (reported to floor on 12/14/2017; confirmed on 12/20/2017) Ronald Parsons, Jr., U.S. Attorney, D.S.D. (reported to floor on 12/14/2017; confirmed on 12/20/2017) 43. 44. Michael Stuart, U.S. Attorney, S.D. W.Va. (reported to floor on 12/14/2017; confirmed on 12/20/2017) Duane Kees, U.S. Attorney, W.D. Ark. (reported to floor on 12/14/2017; confirmed on 12/20/2017) 45. 46. Ryan Patrick, U.S. Attorney, S.D. Tex. (reported to floor on 12/14/2017; confirmed on 12/20/2017) Matthew Krueger, U.S. Attorney, E.D. Wisc. (reported to floor on 1/11/2018; confirmed on 2/15/2018) 47. Joseph Brown, U.S. Attorney, E.D. Tex. (reported to floor on 1/11/2018; confirmed on 2/15/2018) 48. 49. John H. Durham, U.S. Attorney, D. Conn. (reported to floor on 1/18/2018; confirmed on 2/15/2018) John Anderson, U.S. Attorney, D.N.M. (reported to floor on 2/8/2018; confirmed on 2/15/2018) 50. 51. Brandon Fremin, U.S. Attorney, M.D. La. (reported to floor on 2/8/2018; confirmed on 2/15/2018)
- Joseph Kelly, U.S. Attorney, D. Neb. (reported to floor on 2/8/2018; confirmed on 2/15/2018) 53. David Weiss, U.S. Attorney, D. Del. (reported to floor on 2/8/2018; confirmed on 2/15/2018)
- Scott Murray, U.S. Attorney, D.N.H. (reported to floor on 2/8/2018; confirmed on 2/15/2018) 54.
- 55. McGregor Scott, U.S. Attorney, E.D. Cal. (reported to floor on 2/15/2018; confirmed on 3/7/2018)

52.

- 56. Billy Williams, U.S. Attorney, D. Ore. (reported to floor on 3/1/2018; confirmed on 3/7/2018)
- 57. William McSwain, U.S. Attorney, E.D. Pa. (reported to floor on 3/15/2018; confirmed on 3/20/2018)
- 58. Robert Hur, U.S. Attorney, D. Md. (reported to floor on 3/22/2018; confirmed on 3/22/2018)
- 59. Thomas Cullen, U.S. Attorney, W.D. Va. (reported to floor on 3/22/2018; confirmed on 3/22/2018)
- 60. David Joseph, U.S. Attorney, W.D. La. (reported to floor on 3/22/2018; confirmed on 3/22/2018)
- 61. Timothy Garrison, U.S. Attorney, W.D. Mo. (reported to floor on 4/12/2018; confirmed on 4/26/2018)
- 62. Kenji Price, U.S. Attorney, D. Haw. (reported to floor on 4/12/2018; confirmed on 4/26/2018)
- 63. Nicola Hanna, U.S. Attorney, C.D. Cal. (reported to floor on 2/27/2018; confirmed on 4/26/2018)
- 64. Cheryl Lydon, U.S. Attorney, D.S.C. (reported to floor on 5/10/2018; confirmed on 5/23/2018)
- 65. Erica MacDonald, U.S. Attorney, D. Minn. (reported to floor on 5/24/2018; confirmed on 5/24/2018)

Following markups by Chairman Grassley and the Senate Judiciary Committee, the following United States Attorney nominees of President Trump are awaiting confirmation votes by the full Senate:

1. Maria Chapa Lopez (M.D. Fla.) (reported to floor on 7/12/2018)

The following U.S. Attorney nominees of President Trump are <u>awaiting markup votes</u> from the Committee to the full Senate for confirmation votes:

- 1. Brian T. Moran (W.D. Wash.) (nomination received on 5/15/2018)
- 2. Ariana Fajardo Orshan (S.D. Fla.) (nomination received on 6/11/2018)
- 3. Robert S. Brewer, Jr. (S.D. Cal.) (nomination received on 6/25/2018)
- 4. Jason R. Dunn (D. Colo.) (nomination received on 6/25/2018)
- 5. Matthew J. Schneider (E.D. Mich.) (nomination received on 6/25/2018)
- 6. Peter G. Strasser (E.D. La.) (nomination received on 6/25/2018)
- 7. G. Zachary Terwilliger (E.D. Va.) (nomination received on 7/17/2018)

U.S. Marshals

Following markups by Chairman Grassley and the Senate Judiciary Committee, the Senate has <u>confirmed</u> the following United States Marshals nominees of President Trump:

- 1. Ted Kamatchus, U.S. Marshal, S.D. lowa (reported to floor on 1/11/2018; confirmed on 2/15/2018)
- 2. Norman Arflack, U.S. Marshal, E.D. Ky. (reported to floor on 1/11/2018; confirmed on 2/15/2018)
- 3. Daniel McKittrick, U.S. Marshal, N.D. Miss. (reported to floor on 1/18/2018; confirmed on 2/15/2018)
- 4. Michael Baylous, U.S. Marshal, S.D. W. Va. (reported to floor on 1/18/2018; confirmed on 2/15/2018)
- 5. David Jolley, U.S. Marshal, E.D. Tenn. (reported to floor on 2/8/2018; confirmed on 2/15/2018)
- 6. Thomas Griffin, Jr., U.S. Marshal, D.S.C. (reported to floor on 2/8/2018; confirmed on 2/15/2018)
- 7. Gary Schofield, U.S. Marshal, D. Nev. (reported to floor on 2/15/2018; confirmed on 3/7/2018)
- 8. Mark James, U.S. Marshal, W.D. Mo. (reported to floor on 3/1/2018; confirmed on 3/7/2018)
- 9. Daniel Mosteller, U.S. Marshal, D.S.D. (reported to floor on 3/1/2018; confirmed on 3/7/2018)
- 10. Jesse Seroyer, Jr., U.S. Marshal, M.D. Ala. (reported to floor on 3/1/2018; confirmed on 3/7/2018)
- 11. Johnny Kuhlman, U.S. Marshal, W.D. Okla. (reported to floor on 3/15/2018; confirmed on 3/20/2018)
- 12. Matthew Harris, U.S. Marshal, D. Utah (reported to floor on 3/15/2018; confirmed on 3/20/2018)
- 13. Joseph McClain, U.S. Marshal, S.D. Ind. (reported to floor on 3/15/2018; confirmed on 3/20/2018)
- 14. David Weaver, U.S. Marshal, D. Colo. (reported to floor on 3/15/2018; confirmed on 3/20/2018)
- 15. John Bittick, U.S. Marshal, M.D. Ga. (reported to floor on 4/12/2018; confirmed on 4/26/2018)
- 16. David Lyons, U.S. Marshal, S.D. Ga. (reported to floor on 4/12/2018; confirmed on 4/26/2018)
- 17. Rodney Ostermiller, U.S. Marshal, D. Mt. (reported to floor on 4/12/2018; confirmed on 4/26/2018)
- 18. Steve Gladden, U.S. Marshal, M.D.N.C. (reported to floor on 4/19/2018; confirmed on 4/26/2018)
- 19. Brendan O. Heffner, U.S. Marshal, C.D. III. (reported to floor on 4/19/2018; confirmed on 4/26/2018)
- 20. Theodor G. Short, U.S. Marshal, D. Me. (reported to floor on 4/19/2018; confirmed on 4/26/2018)
- 21. Gregory Forest, U.S. Marshal, W.D.N.C. (reported to floor on 4/26/2018; confirmed on 5/10/2018)
- 22. Bradley Maxwell, U.S. Marshal, S.D. III. (reported to floor on 4/26/2018; confirmed on 5/10/2018)
- Sonya Chavez, U.S. Marshal, D.N.M. (reported to floor on 5/10/2018; confirmed on 5/22/2018)
 Scott Kracl, U.S. Marshal, D. Neb. (reported to floor on 5/10/2018; confirmed on 5/22/2018)
- 25. J.C. Raffety, U.S. Marshal, N.D. W. Va. (reported to floor on 5/10/2018; confirmed on 5/22/2018)
- 26. Scott Illing, U.S. Marshal, E.D. La. (reported to floor on 5/24/2018; confirmed on 5/24/2018)

Following markups by Chairman Grassley and the Senate Judiciary Committee, the following United States Marshals nominees of President Trump are <u>awaiting confirmation votes</u> by the full Senate:

- 1. Charles Goodwin (D. Haw.) (reported to floor on 6/14/2018)
- 2. Don Ladner (N.D. Fla.) (reported to floor on 6/14/2018)
- 3. Gadyaces Serralta (S.D. Fla.) (reported to floor on 6/14/2018)
- 4. Susan Llewellyn Pamerleau (W.D. Tex.) (reported to floor on 6/14/2018)
- 5. Richard E. Taylor, Jr. (N.D. Tex.) (reported to floor on 7/12/2018)
- 6. John Jordan (E.D. Mo.) (reported to floor on 6/28/2018)
- 7. Mark Sloke (S.D. Ala.) (reported to floor on 6/28/2018)
- 8. Nick Willard (D. N.M.) (reported to floor on 6/28/2018)

The following U.S. Marshals nominees of President Trump are <u>awaiting markup votes</u> from the Committee to the full Senate for confirmation votes:

- 1. Frank Coffman (E.D. Okla.) (nomination received on 10/5/2017)
- 2. Dallas Carlson (D.N.D.) (nomination received on 3/12/2018)
- 3. Kim Gaffney (W.D. Wisc.) (nomination received on 5/7/2018)
- 4. Denny Wade King (M.D. Tenn.) (nomination received on 5/7/2018)
- 5. Barrett W. Rich (W.D. Tenn.) (nomination received on 5/7/2018)
- 6. Todd L. Nukes (N.D. Ind.) (nomination received on 5/15/2018)
- 7. Michael Baughman (W.D. Pa.) (nomination received on 6/11/2018)
- 8. Michael Yeager (N.D. Ga.) (nomination received on 6/11/2018)
- 9. Bradley Jay LaRose (D. Vt.) (nomination received on 6/25/2018)
- 10. Mark B. Shepherd (S.D. Miss.) (nomination received on 6/25/2018)
- 11. John Garrison (E.D. Tex.) (nomination received on 7/9/2018)
- 12. Nicholas A. Trutanich (D. Nev.) (nomination received on 7/9/2018)
- 13. William Travis Brown (M.D. La.) (nomination received on 7/9/2018)

14. Nick Edward Proffitt (E.D. Va.) (nomination received on 7/9/2018)

OTHER EXECUTIVE BRANCH NOMINEES

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the Senate has <u>confirmed</u> the following other Executive Branch nominees of President Trump:

- 1. Andrei Iancu, Undersecretary of Commerce and Director of the United States Patent and Trademark Office (reported to floor on 12/14/2017; confirmed on 2/5/2018)
- 2. Patrick Hovakimian, Commissioner on the Foreign Claims Settlement Commission (privileged nomination placed on Senate Executive Calendar on 3/19/2018; confirmed on 5/10/2018)

Following hearings and markups by Chairman Grassley and the Senate Judiciary Committee, the following other Executive Branch nominees of President Trump are <u>awaiting confirmation votes</u> by the full Senate:

- 1. Adam Klein, nominee for Chair and Member of the Privacy and Civil Liberties Oversight Board (reported to floor on 2/15/2018)
- 2. Jonathan Mitchell, nominee for Chairman of the Administrative Conference (reported to floor on 3/15/2018)
- 3. Edward W. Felten, nominee for Member of the Privacy and Civil Liberties Oversight Board (reported to floor on 6/21/2018)
- 4. Jane Nitze, nominee for Member of the Privacy and Civil Liberties Oversight Board (reported to floor on 6/21/2018)

Following hearings by Chairman Grassley and the Senate Judiciary Committee, the following other Executive Branch nominees of President Trump are <u>awaiting markup votes</u> from the Committee to the full Senate for confirmation votes:

1. James Carroll, Director of the Office of National Drug Control Policy, Executive Office of the President (hearing held on 7/11/2018; expect to burn hold on 8/16/2018; expect to report to floor on 8/23/2018)

The following other Executive Branch nominees of President Trump are awaiting nominations hearings:

1. None.

2018 Nominations Overview

Chairman Chuck Grassley and the Senate Judiciary Committee expect to hold up to 20 nominations hearings in 2018, generally holding a hearing every other week when the Senate is in session. Each nomination hearing usually has up to six nominees, with two panels. The first panel typically includes one circuit-court nominee. The second panel typically includes up to five district-court, Main Justice, or other nominees. Occasionally, the hearings will include two circuit-court nominees on the first panel, with up to three district-court, Main Justice, or other nominees on the second panel.

After the hearing, senators on the Committee have one week to submit to the nominees "Questions for the Record" (QFRs). Once the nominees return their written answers to the QFRs, the nominees are scheduled for a markup meeting, which is where the Committee debates and decides whether to favorably report (vote) nominees to the Senate floor for confirmation votes by the full Senate.

Markups are usually held every Thursday when the Senate is in session. Quorums are critical: at least seven senators must show up (and stay) to have a markup; at least nine senators (including at least two Democrats) must show up (and stay) to conduct business (i.e., burn the hold); at least 11 senators must show up (and stay) to vote nominees to the floor. Any senator on the Committee can request that we "hold over" a nominee, meaning the Committee waits until the next markup to vote on the nominee. Judicial nominees are almost always held over for one markup.

In other words, if a nominations hearing is on the first Wednesday of a month (Week 1), the senators must submit their QFRs on or before the second Wednesday (Week 2). If the nominee returns the answers to the QFRs the following Monday and enough senators show up (and stay) for a quorum, the Committee can "burn the hold" at the Thursday markup (Week 3). If enough senators show up (and stay) for a quorum the following Thursday (Week 4), the Committee can favorably report (vote) the nominee to the full Senate for a confirmation vote.

A nominee must generally wait at least 28 days until after all nomination paperwork is received by the Committee before the holding of the nominee's hearing. This is called the "28-Day Rule." In other words, it generally takes at least two months for a nominee to make it through Committee to the Senate floor, following the receipt of all necessary nomination paperwork.

The Democrats are requiring the filing of cloture petitions and up to 30 hours of floor debate for virtually every judicial and Main Justice nominee. Chairman Grassley has called on the Senate to hold floor debates and floor votes (both cloture and confirmation votes) during evenings, weekends, and recesses, to clear the backlog of judicial and other nominees.

* * *

Please direct inquiries to:

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

(b) (6) (direct) (b) (6) (cell) 202-224-9102 (fax)

b) (6

From: Davis, Mike (Judiciary-Rep 6) 6

Sent: Friday, August 3, 2018 10:08 PM

To: Davis, Mike (Judiciary-Rep)

Subject: RE: Senate Judiciary Committee Status Update

1. Tomorrow, the Washington Post will publish in its paper an op-ed penned by Chairman Chuck Grassley:

https://wapo.st/2KrfsjM

I'm ready to work to confirm Kavanaugh. I invite Democrats to join me.

Sen. Chuck Grassley op-ed Washington Post August 4, 2018

A good judge is more than someone who simply understands the law. The job requires a keen intellect and an ability to appreciate multiple sides of complex issues. It requires the right temperament — a dedication to fairness and a commitment to leaving personal preferences and politics out of the courthouse. And it requires judicial modesty — an understanding that a judge's job is to interpret and apply the law and the Constitution based on the facts at hand, not to make policy from the bench.

As the Senate Judiciary Committee continues to evaluate Judge Brett M. Kavanaugh's fitness for the Supreme Court, these are some of the attributes we will explore.

The best way to determine how a nominee would serve as a justice is to examine how he has served as a judge. Kavanaugh has spent the past 12 years on the powerful U.S. Court of Appeals for the District of Columbia Circuit. During that time, he has written more than 300 opinions and joined hundreds more. These opinions offer ample insight into his legal acumen, temperament and judicial approach.

The committee doesn't always have the luxury of an expansive judicial record when evaluating nominees. Justice Elena Kagan had no judicial record when she was nominated to the Supreme Court in 2010. The committee had to rely on records from her executive-branch service to gain insight into her legal thinking.

When asked at her confirmation hearing how the Senate should evaluate her given her bare judicial record, Kagan said, "You can certainly look to my tenure as solicitor general and the way I have tried to approach and handle that responsibility."

Nevertheless, Republicans and Democrats on the committee agreed not to seek records from her time as solicitor general, given their sensitive nature and the fact that disclosure could undermine the candor of internal deliberations.

Today, we have a nominee with an extensive judicial record and legal writings that provide far more insight into his judicial philosophy than any executive-branch record would. On top of that, the Judiciary Committee has requested up to 1 million pages of documents from his time as a government lawyer. All told, the volume of executive-branch documents we review could be more than the last five nominees combined. This is in addition to the more than 17,000 pages of materials that Kavanaugh submitted in response to the most thorough and robust committee questionnaire ever required of a Supreme Court nominee.

But Democratic leaders are arguing that this isn't enough.

Though many of them have already voiced their opposition to the nominee, they're demanding to review emails from any White House aide that merely mention Kavanaugh's name, including records he's never seen. In my 14 previous Supreme Court confirmations, we've never reviewed such material.

Democrats are also demanding to see Kavanaugh's records as White House staff secretary, pointing to his comments that it was a formative experience. I'm sure skills Kavanaugh sharpened in that post have proven useful on the bench. It required distilling complex material into concise memos for the president, and it required being an honest broker when relaying competing arguments from advisers across the executive branch.

But these documents are not particularly revealing of Kavanaugh's legal thinking. This is especially true in light of the much more relevant material from his judicial record, his time as an executive-branch lawyer and the questionnaire.

Furthermore, his staff-secretary records also include some of the executive branch's most sensitive documents. The staff secretary is essentially the president's inbox and outbox, handling materials prepared for the president by numerous policy advisers across the administration.

If records of internal communications in the solicitor general's office were too sensitive to share with Congress during Kagan's nomination, documents from the staff secretary's office should be even more closely guarded.

Democratic leaders are keen to call for following the same document review for Kavanaugh as we did for Kagan. That means that we don't get the materials simply mentioning the nominee's name, and we don't get records that jeopardize the candor of internal administrative deliberations. That is precisely what my document request accomplishes.

Given the political left's broad opposition to Kavanaugh, it is clear that their document demands are nothing more than an attempt at a taxpayer-funded fishing expedition. The Democratic leadership's true goal is to delay the Senate's work and re-litigate the George W. Bush presidency instead of evaluating Kavanaugh's credentials.

For my part, I'm going to focus on conducting the most thorough and transparent confirmation process of any Supreme Court nominee to date. I invite my Democratic colleagues to set aside election-year posturing and join me in this process.

Chuck Grassley, an Iowa Republican, is chair of the Senate Judiciary Committee.

2. Today, Chairman Chuck Grassley issued the following press release:



FOR IMMEDIATE RELEASE Friday, August 03, 2018

Grassley, Feinstein Seek Kavanaugh's Files from Starr Investigation Committee reviewing first production of the nominee's White House records

WASHINGTON Senate Judiciary Committee Chairman Chuck Grassley (R Iowa) and Ranking Member Dianne Feinstein (D Calif.) today requested records from Judge Brett Kavanaugh's work for the Office of Independent Counsel during the Clinton administration. The request comes as the committee continues its review of more than 125,000 pages received yesterday from Judge Brett Kavanaugh's White House work.

In a <u>letter today</u> to the National Archives and Records Administration, the senators requested documents from Kavanaugh's service in the Office of Independent Counsel Kenneth Starr, including all emails Kavanaugh sent or received and all documents he authored, edited, revised or approved. The <u>National Archives estimates</u> the volume of these documents to be 20,000 pages.

Yesterday, the <u>committee received</u> more than 125,000 records from Kavanaugh's time as a White House lawyer in the George W. Bush administration. The committee expects these records to be made public, pending consultation with the National Archives. Last week, <u>Grassley requested</u> that the National Archives produce documents from Kavanaugh's work in the White House Counsel's Office as well as records related to his nomination to be a judge on the D.C. Circuit. The National Archives estimates the total production to be up to

one million pages. For context, the largest executive branch production for previous Supreme Court nominees was roughly 180,000 pages for Justice Neil Gorsuch.

The committee is also reviewing more than 17,000 pages from Judge Kavanaugh's <u>public committee</u> <u>questionnaire</u> as well as more than 8,500 pages from cases in which Judge Kavanaugh authored or joined opinions during his 12 years on the D.C. Circuit.

Full text of today's letter follows:

August 3, 2018

The Honorable David S. Ferriero
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue NW
Washington, D.C. 20408

Dear Mr. Ferriero:

We ask that you provide documents to the United States Senate Committee on the Judiciary in connection with President Trump's nomination of Brett M. Kavanaugh to be an Associate Justice of the Supreme Court of the United States.

Judge Kavanaugh 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. We request that the documents you identify and provide to the Committee from his service in the Office of Independent Counsel include the following, consistent with the attached guidelines:

- (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;

We understand that reviewing these documents as the Freedom of Information Act (FOIA) requires will be a significant undertaking. Nevertheless, in order to expedite your response and to facilitate the Committee's prompt review, please produce documents on a rolling basis as you identify categories responsive to this request.

We recognize the possibility that some documents responsive to our request may be exempt from public disclosure under FOIA. See 5 U.S.C. § 552(b); 28 U.S.C. § 594(k)(3)(A). We nevertheless have an important constitutional obligation to examine thoroughly Judge Kavanaugh's record, and the FOIA exemptions are "not authority to withhold information from Congress." 5 U.S.C. § 552(d). We therefore ask that you provide to the Committee on a "Committee Confidential" basis those documents that would otherwise be exempt from public disclosure under 5 U.S.C. § 552(b). In addition, and because there is a significant public interest in understanding the record of any Supreme Court nominee, we hope that you will endeavor to ensure public

access to as much of the record as possible. To the extent that these records contain classified national security information or personal privacy information, please contact the Committee so that we can discuss further how those materials might be handled.

We further recognize that some documents responsive to this request may be subject to constitutional or common law privileges against disclosure. We intend to respect claims of privilege. We hope, however, that the number of responsive documents subject to claims of privilege will be as few as possible.

We recognize that reviewing the archives and producing these documents is a significant task, and we thank you in advance for your efforts.

Sincerely,

Charles E. Grassley Chairman

Dianne Feinstein Ranking Member

cc:

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

30



Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations
United States Senate Committee on the Judiciary
Senator Chuck Grassley (R-IA), Chairman
224 Dirksen Senate Office Building

Washington, DC 20510 (b) (6) (direct)

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From: Davis, Mike (Judiciary-Rep)

Sent: Thursday, August 02, 2018 9:57 PM

To: Davis, Mike (Judiciary-Rep (b) (6)

Subject: RE: Senate Judiciary Committee Status Update

One correction: Senator Heidi Heitkamp (D-ND) also voted to confirm Judge Britt Grant.

So, Senator Chuck Schumer apparently only permitted 3 Senate Democrats Senators Heitkamp, Manchin, and Tester, who are all Trump-state Democrats facing tough reelections this fall to cross party lines to support Judge Grant's nomination.

Good night, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

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From: Davis, Mike (Judiciary-Rep)
Sent: Thursday, August 02, 2018 9:18 PM

To: Davis, Mike (Judiciary-Rep (b) (6)

Subject: Senate Judiciary Committee Status Update

Duplicative Material (Document ID: 0.7.22222.133163)

Davis, Mike (Judiciary-Rep)

From: Davis, Mike (Judiciary-Rep)

Sent: Sunday, August 5, 2018 10:45 AM

To: Davis, Mike (Judiciary-Rep)

Subject: SCOTUS | Committee's Document Review

This morning, Chairman Chuck Grassley's press team released the statement below regarding the document production timing and review related to Judge Kavanaugh's nomination to serve as an Associate Justice on the Supreme Court of the United States. Here is the link to the statement:

https://www.judiciary.senate.gov/press/rep/releases/committee-framework-to-review-kavanaugh-records-ahead-of-hearing

The Committee has plenty of staff resources and time to carefully review Judge Kavanaugh's record. Chairman Grassley's team has already reviewed over 300 judicial opinions Judge Kavanaugh authored over his 12 years on the D.C. Circuit, hundreds more opinions he joined, and a sizeable chunk of the more than 17,000 pages Judge Kavanaugh provided to the Committee in response to the Senate Judiciary Questionnaire. The Committee could also receive up to a million pages of emails and other records from Judge Kavanaugh's Executive Branch legal service in the White House Counsel's Office and the Office of the Independent Counsel. Committee staff is already reviewing the first 125,000+ pages of these White House records, which we received on a very expedited basis last Thursday thanks to President George W. Bush and his top-notch legal team.

As Chairman Grassley stated, we intend to hold Judge Kavanaugh's hearing in September, with the goal of confirming him this fall. This is very doable. We are using the best eDiscovery technology and putting in long hours to get the job done. We are already well on our way to completing the review. This kind of document review and timing happens every day in law firms across America.

Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

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From: Foy, Taylor (Judiciary-Rep)

Sent: Sunday, August 05, 2018 8:20 AM

To: Foy, Taylor (Judiciary-Re (b) (6) Hartmann, George (Judiciary-Rep)

(n) (g)

Subject: SCOTUS | Committee's Document Review

Good Morning,

I want to take a quick minute to dispel some confusion about how the Senate Judiciary Committee will receive and review documents during its consideration of Judge Brett Kavanaugh's nomination to the Supreme Court. The

chairman fully expects to review copies of the non-privileged presidential records that he's requested from the Archives *before* holding a hearing for Judge Kavanaugh. Here's how:

The Dual Document Review Framework

On July 27, 2018, the Senate Judiciary Committee exercised its right under the Presidential Records Act (PRA) to request that the National Archives produce presidential records from Judge Kavanaugh's service as an Executive Branch lawyer. This includes his time in the White House Counsel's Office and his work for Independent Counsel Kenneth Starr. The Archives has begun an expedited review of those records for release to the Committee and the public.

Earlier in July, President George W. Bush also exercised his right under the same statute to obtain copies of the very same presidential records from the Archives. He and his PRA representatives have been reviewing those documents at a very swift pace, following the highest professional standards and seeking to categorize documents using the same principles that the Archives uses for its own review.

President Bush has offered to provide the committee with copies of the non-privileged presidential records he received the same records the committee requested on a rolling basis as he finishes reviewing them. This is a significant public service. It allows the committee to begin quickly performing the important task of reviewing Judge Kavanaugh's record, while also speeding up the timetable for the records' public release, as appropriate under law. President Bush has agreed to perform this service at non-taxpayer expense.

Some have argued that the committee's use of President Bush's copies of the records the very same presidential records the committee requested from the Archives means the Archivist has been cut out of the process. This is simply not true, and those making the argument know it. While the committee is reviewing the copies of presidential records received from President Bush, the Archives is going to be reviewing the very same records that it provided to President Bush to prepare those documents for formal public release under the PRA and other laws, as the committee requested. When the Archives has finished its review, the committee fully expects that the Archives will provide to the committee and the public any non-privileged presidential record to which the committee is entitled that President Bush has not already provided.

In other words, the committee will get presidential records it requested from two sources. The committee will get copies first from President Bush, who is able to produce records to the committee more quickly than the Archives. Any non-privileged record to which the committee is entitled that President Bush declines to produce will then be produced from the Archives. This process ensures that no time is wasted and should give added comfort to those seeking access to the documents because it provides yet another means of ensuring committee access to all non-privileged presidential records.

Some have further argued that the committee's use of President Bush's copies of records means that the committee's review will be a partisan process. This is wrong for two reasons. First, the lawyers leading President Bush's review are highly respected lawyers-undertaking-a-professional, not partisan, representation. They are doing what they and their firms do in case after case all across the country: review documents to respond appropriately to requests for records in a manner consistent with applicable law. Second, because the committee will receive records from President Bush and the Archives, any non-privileged presidential record withheld by President Bush will be produced to the Committee by the Archives. There is thus a check against any partisan interference.

The path the committee has taken allows access to the requested presidential records on an expedited basis so that committee members can review an unprecedented volume of documents in a timely and efficient fashion. Anyone insisting that the committee review copies of records only from the Archives is a transparent effort to delay and obstruct the confirmation process.

The presidential records requested by Chairman Grassley are already starting to arrive, courtesy of President Bush. The committee received over 125,000 pages of those records Thursday and will soon receive hundreds of thousands more. This initial production alone generated nearly three quarters of the *total* pages produced during each of

Justices Kagan's and Gorsuch's nominations. Committee staff are already hard at work reviewing the documents in order to perform the Senate's constitutional duty of advice and consent.

More on the Presidential Records Act

President Bush has a statutory right of access to documents created during his administration, and nothing in the Presidential Records Act (PRA) restricts his ability to review those documents and handle them however he pleases, including making them public or sharing them with Congress. He moreover has a legal right to assert privilege over any document requested by the committee, and documents over which he claims privilege cannot be produced to anyone including the committee if President Trump also agrees they are privileged. Any records that the former president declines to share with the committee for reasons other than privilege e.g., because he believes they are personal, rather than presidential, records or because they contain PRA-restricted material will be reviewed by the Archivist. The Archivist will review those records that President Bush declined to produce based on their status as personal records or on PRA grounds and make his own determination about whether they should be withheld. If the Archivist determines they should not be withheld and President Bush does not assert privilege the Archivist will provide them to Congress even if President Bush has not.

As always, let us know if you have any questions.

Taylor Foy | Communications Director

Senate Judiciary Committee
Chairman Chuck Grassley (R Iowa)

(b) (6) | Get The SCOOP

Davis, Mike (Judiciary-Rep)

From: Davis, Mike (Judiciary-Rep)

Sent: Tuesday, August 7, 2018 11:21 AM

To: Davis, Mike (Judiciary-Rep)

Subject: SCOTUS ICYMI | Grassley: A Moment of Honesty From Chuck Schumer



A Moment of Honesty From Chuck Schumer

He admits his mind is made up on Kavanaugh. That means his document demands are in bad faith.

The Wall Street Journal | August 7, 2018 By Senator Chuck Grassley

Americans trust politicians about as much as they trust used car salesmen, and it's understandable that voters view what my colleagues and I say and do through a skeptical lens. But elected officials can also exhibit moments of exceeding honesty.

On July 10, the morning after President Trump nominated Judge Brett Kavanaugh to the Supreme Court, Senate Minority Leader Chuck Schumer said he'd oppose the nomination "with everything I've got." If the weeks since are any indicator, we should believe him.

Immediately after news broke that Justice Anthony Kennedy was retiring, Democrats demanded that the president wait until the next Congress to appoint a replacement. They cited the "Biden rule," a precedent based on then Senate Judiciary Committee Chairman Joe Biden's 1992 pronouncement that his committee would wait until after the heated presidential election season to consider any Supreme Court nomination. This year is a midterm election year, not a presidential one. Most Democrats have abandoned the talking point, but they haven't abandoned the goal of delaying the process.

Presumably, Mr. Schumer announced that he would oppose Judge Kavanaugh's nomination before he read the judge's 307 written opinions and the many other opinions he joined. Certainly, it was before he reviewed the more than 17,000 pages Judge Kavanaugh provided to the committee in response to our bipartisan questionnaire and an estimated one million pages of documents the committee has requested from the Bush White House, where Judge Kavanaugh once worked.

It stands to reason that Senator Schumer wasn't too concerned about Judge Kavanaugh's record before he announced his opposition. Why is it so important to Senator Schumer now?

Democratic leaders are demanding access to every page from every email and every paper record from every one of the hundreds of White House aides who came and went during the entire eight years of President Bush's time in office. This includes records that merely mention Judge Kavanaugh's name and records he's never seen. That is not reasonable. As I have made clear, I will not put taxpayers on the hook for a fishing expedition.

These documents include those from Judge Kavanaugh's time as White House staff secretary, a post that manages the paper flow into and out of the Oval Office. They are both the least relevant documents to the nomination and the most sensitive to the executive branch, two considerations that have guided previous review processes. They're extremely sensitive because they contain policy advice that went directly to President Bush, and the policy directives that came directly from him, on the full range of presidential responsibilities, including national security.

The staff secretary is an important position, but it's decidedly less revealing of Judge Kavanaugh's legal thinking than his 12 years as a judge on the U.S. Circuit Court of Appeals for the District of Columbia and his legal service in the White House Counsel's Office and the Office of Independent Counsel roles in which he acted as a lawyer. The staff secretary documents consist largely of materials Judge Kavanaugh didn't write. They were prepared by policy advisers across the executive branch. The materials are also saturated with irrelevant documents including miscellaneous news clippings, the daily schedule, and even the White House lunch menu.

The number of pages would range in the millions, an unprecedented document dump that would take well into next year to review. And that's exactly what Democratic leaders want and have wanted all along. Within hours after Justice Kennedy announced his retirement, Democrats telegraphed their strategy to block Mr. Trump from appointing a replacement. Their objective is to delay the confirmation process until after the midterm elections, with the hope of taking control of the Senate. My Democratic counterpart on the Judiciary Committee's hometown newspaper, the San Francisco Chronicle, put it quite succinctly: "Feinstein, other Senate Dems have plan on Brett Kavanaugh nomination: Stall."

So recent complaints from Mr. Schumer and other Democrats about the scope of records requests ring hollow, especially coming from senators who have already declared their opposition to Judge Kavanaugh and initially refused even to meet with him.

Democrats' arguments have changed, but their goal hasn't. First, it was a misrepresentation of the Biden rule whose existence they denied in 2016. Now, it's a manufactured document fight. Both arguments have been made with the aim of stalling the confirmation process until after midterms.

The next time you hear complaints about the Senate Judiciary Committee's vetting process the most extensive and transparent in history remember Mr. Schumer's pledge to oppose Judge Kavanaugh with everything he's got. How much more do Democratic leaders need to know when they're already voting no?

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Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

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Cutrona, Danielle (OAG)

From: Cutrona, Danielle (OAG)

Sent: Thursday, August 16, 2018 11:41 AM

To: Flores, Sarah Isgur (OPA); Hudson, Andrew (OLP); Barnett, Gary E. (OAG); Ellis, Corey

F. (ODAG); Escalona, Prim F. (OLA); Bumatay, Patrick (OAG); Whitaker, Matthew

(OAG); Hamilton, Gene (OAG)

Cc: O'Malley, Devin (OPA)

Subject: RE: Prison reform open from cotton

And (!)

'Abolish Prisons' Is the New 'Abolish ICE'

A growing group of leftists wants to get rid of the entire prison industrial complex in America. https://www.politico.com/magazine/story/2018/08/15/abolish-prisons-is-the-new-abolish-ice-219361

From: Cutrona, Danielle (OAG)

Sent: Thursday, August 16, 2018 11:23 AM

To: Flores, Sarah Isgur (OPA) <siflores@jmd.usdoj.gov>; Hudson, Andrew (OL b) (6);

Barnett, Gary E. (OAG b) (6); Ellis, Corey F. (ODAG b) (6); Escalona, Prim F. (OLA b) (6); Bumatay, Patrick (OAG b) (6); Matthew Whitaker (OAG b) (6)

Cc: O'Malley, Devin (OPA (b) (6)

Subject: RE: Prison reform open from cotton

Meanwhile...

U.S. and Mexico to set up joint team to fight drug cartels

"Chicago Police Superintendent Eddie Johnson said Mexican cartels were responsible for much of the illegal drugs flowing into the nation's third-largest city, which has been plagued by gang violence and shootings" https://wideo.foxnews.com/v/5822912042001/

And...

More than 70 people overdose in New Haven as park visitors watch in horror

"Police said they arrested 37-year-old Felix Melendez, who was out on parole prior to his arrest, according to the Register; he's believed to be connected to at least some of the overdoses in the park."

http://www.foxnews.com/health/2018/08/15/more-than-30-people-overdose-in-new-haven-as-park-visitors-watch-in-horror.html

From: Cutrona, Danielle (OAG)

Sent: Thursday, August 16, 2018 11:10 AM

To: Flores, Sarah Isgur (OPA) < siflores@jmd.usdoj.gov >; Hudson, Andrew (OLP b) (6)

Barnett, Gary E. (OAG b) (6)

F. (OLA b) (6)

; Bumatay, Patrick (OA b) (6)

; Matthew Whitaker

(OA (b) (6)

Cc: O'Malley, Devin (OPA (b) (6)

Subject: RE: Prison reform open from cotton

+ Patrick and Matt

From: Flores, Sarah Isgur (OPA)

Sent: Thursday, August 16, 2018 11:03 AM

To: Hudson, Andrew (OLP (b) (6) ; Cutrona, Danielle (OAG (b) (6) ; Ellis, Corey F. (ODAG (b) (6) ; Escalona, Prim

F. (OL (b) (6)

Cc: O'Malley, Devin (OPA (b) (6)

Subject: Prison reform open from cotton

Reform the Prisons Without Going Soft on Crime

Wall Street Journal

Op-Ed

Sen. Tom Cotton

August 15, 2018 - 7:02 PM

https://www.wsj.com/articles/reform-the-prisons-without-going-soft-on-crime-1534374136

Proposals to give judges more discretion and cut mandatory minimums endanger public safety.

The House earlier this year passed a bill to improve conditions in federal prisons and encourage prisoners to participate in rehabilitation programs. These are worthy goals. Once a criminal has paid his debt to society, everyone should hope he gets back on his feet and becomes a productive, law-abiding citizen.

While the House bill has some flaws, the Senate can fix them on a bipartisan basis. But under no circumstances should Congress cut mandatory minimum sentences for serious crimes or give judges more discretion to reduce those sentences. That foolish approach is not criminal-justice reform—it's a jailbreak that would endanger communities and undercut President Trump's campaign promise to restore law and order.

The U.S. faces a drug epidemic today, exactly the wrong time to go soft on crime. According to the <u>National Institute on Drug Abuse</u>, in 2017 more than 72,000 Americans died of drug overdoses, a 37% increase from 2015 and a nearly 100% increase since 2008. Violent crime has declined since the 1980s because mandatory minimums adopted then locked up violent criminals. But in 2015-16, the most recent years for which full data are available, violent crime increased at its fastest rate in a quartercentury, though preliminary <u>data</u> suggest it might have leveled off in 2017.

Congress and the U.S. Sentencing Commission cut prison terms for drug traffickers, gang members and other violent felons in recent years—putting more criminals on the streets. The average federal prison sentence for drug traffickers declined 19% between 2009 and 2016. As a result, the federal inmate population has declined 16% since 2013 and now sits at the lowest level since 2004.

This naive policy ignores the reality of recidivism. Five out of six prisoners end up rearrested within nine years, according to a recent Justice Department <u>study</u>. In fact, on average reoffenders are rearrested five times—and not for minor crimes. Only a handful of ex-convicts return to prison exclusively for parole violations, whereas 77% of drug offenders are rearrested for serious nondrug crimes, such as murder and rape. Most criminals will commit more crimes after being released from prison, even with improved rehabilitation programs. The last thing Congress should do is shorten their sentences or allow them to "serve time" in home confinement.

The consequences of leniency for criminals can be tragic. In January 2016 a former drug dealer named Wendell Callahan brutally murdered his ex-girlfriend, Erveena Hammonds, and her two young daughters. But it shouldn't have happened. Initially sentenced

to prison until 2018, he was released in 2014 because of a law that retroactively reduced his sentence. If he had stayed in prison, a young family would still be alive today. Expect more of these tragedies if Congress again goes soft on crime.

What is the logic of such leniency? Activists say they want to reverse "mass incarceration." That is a curious characterization when less than half of crimes are even reported to police and more than 80% of property crimes and 50% of violent crimes that are reported go unsolved, according to Pew Research Center. Tell those victims denied justice that the U.S. locks up too many criminals.

Virtually no one goes to federal prison for "low-level, nonviolent" drug offenses, especially mere drug use or possession. In 2015, there were 247 inmates in federal prison for drug possession. In these rare cases, the inmates usually pleaded down from a more serious offense. In the extreme case of a manifestly unjust sentence, the pardon power is a better instrument of justice than broad sentencing reductions. President Trump has shown himself more than willing to intervene to redress such cases.

Some fiscal conservatives believe that America spends too much on the prison system. Yet the Bureau of Prisons costs taxpayers less than \$8 billion a year, or about 0.2% of the entire federal budget. After national security, the government's most basic responsibility is to protect its citizens from crime. The costs of crime and disorder—personal and economic—far outweigh the downsides of putting serious criminals behind bars.

Mandatory minimums and truth-in-sentencing laws work. Rather than eliminate them, Congress should improve access to faith-based and other antirecidivism programs in federal prisons. American families deserve safe communities and protection from drugs and crime. Criminals, especially first-time offenders who grew up in rough environments, deserve second chances—once they have done their time.

Mr. Cotton, a Republican, is a U.S. senator from Arkansas.

Sarah Isgur Flores Director of Public Affairs



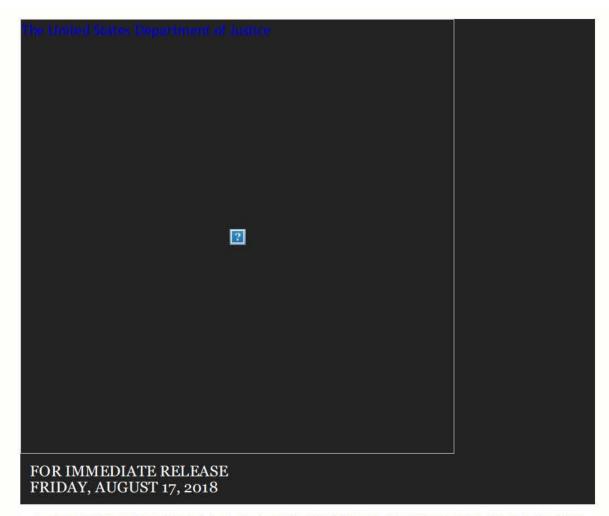
USDOJ-Office of Public Affairs

From: USDOJ-Office of Public Affairs
Sent: Friday, August 17, 2018 10:26 AM

To: Whitaker, Matthew (OAG)

Subject: ATTORNEY GENERAL JEFF SESSIONS DELIVERS REMARKS TO THE EIGHTH CIRCUIT JUDICIAL

CONFERENCE



ATTORNEY GENERAL JEFF SESSIONS DELIVERS REMARKS TO THE EIGHTH CIRCUIT JUDICIAL CONFERENCE

Des Moines, IA

We are also defending the constitutional structure of the federal government against nationwide injunctions—orders by a single district judge that block the entire Executive Branch from enforcing or implementing a statute, regulation, executive order, or policy.

You could also call them "non party injunctions" or "global injunctions" because they apply across America or even the world, and grant relief, whether

they want it or not, to those who are not parties to the case.

Scholars have not found a single example of this type of remedy in the first 175 years of the Republic. But the Executive Branch has been hit with 22 in less than two years' time in office.

It's not as though there weren't legal controversies before 1963. There were many. They were hotly contested. But nobody issued a nationwide, limitless injunction.

And yet today, each of the more than 600 federal district judges in the United States can enjoin a law or regulation throughout the country regardless of whether the other 599 disagree.

Plaintiffs against the government only need to win once to stop a national law or policy whereas the government needs to run the table to carry out its policies.

Remarks as prepared for delivery

Thank you, Marc for that introduction and for your eight years of service as an AUSA, your service at Main Justice, and now your leadership as United States Attorney.

Thank you also to the nine attorneys from your team who are here with us.

I also want to thank your fellow U.S. Attorneys:

- · Peter Deegan and four attorneys from his team,
- Cody Hiland,
- Dak Kees, and
- · Ron Parsons.

Thank you also to Justice Gorsuch, and my good friends and former colleagues Senator Grassley and Chairman Goodlatte. Bob, we're going to miss you in a few months but you've earned a happy retirement.

I also want to thank the Deputy Marshals for providing security.

Thank you to Chief Judge Smith for your remarks and for the opportunity to be with you and the distinguished members of the court.

On behalf of President Donald Trump, I want to thank you all for your service to

this country.

As judges and advocates, you have the opportunity every day to observe and respect and affirm our constitutional structure, and so I want to begin with this Administration's commitment to that constitutional structure.

First and foremost the President is adding excellent judges to the federal bench.

For this Circuit, he has appointed Judge Grasz, Judge Stras, and Judge Erickson, who was confirmed almost unanimously. I look forward to their many years of distinguished service.

I believe that President Trump's judicial philosophy is a major reason he was elected.

He laid out a thoughtful vision of what judges should do and he had the courage to put out an actual list for the voters to see. That was serious, transparent, and it was unprecedented.

He told the American people that he wanted judges who would respect text, history, and the role of the coequal Branches.

President Trump has kept his promise: he has nominated faithful, restrained judges.

In a few weeks, the Senate will consider the nomination of Circuit Judge Brett Kavanaugh to the Supreme Court.

Judge Kavanaugh attended Yale and Yale Law School. He was Notes Editor of the Yale Law Journal. He was a Bristow Fellow in the Office of the Solicitor General. He was chosen for a prestigious Supreme Court clerkship for Justice Kennedy.

He served in the Department of Justice, as Associate White House Counsel, and then as White House Staff Secretary. He was a partner at Kirkland and Ellis for four years.

He has served as a D.C. Circuit judge for the last 12 years and since 2009 he has been the Samuel Williston Lecturer in Law at Harvard Law School. He has adjudicated more than 1,500 cases and written 300 opinions.

This is an impeccable resume by any measure. He has experience at the highest levels in the private sector, the Executive Branch, and the Judiciary. He has won respect at every level.

We are in the midst of the largest document production for a Supreme Court nominee in history.

Congress has already received 200,000 pages of records from his time as an attorney in the White House, breaking the record set by Justice Gorsuch of 180,000 pages.

I think those records and his hearing will confirm what his reputation already tells us: that Judge Kavanaugh will be a truly great Supreme Court Justice.

Make no mistake, we at the Department of Justice know the importance of good judging. As a young Assistant United States Attorney and United States Attorney, I had the pleasure to try cases almost every day before great judges.

And a great federal judge is a wonder a marvel of history, objectivity, integrity, and consistency in law. It is where law is embodied. Nowhere in the world has such a high level of consistent adjudication been achieved. Indeed, it is the wonder of the world.

As Senator on the Armed Services Committee I traveled to many hot spots around the world and often became involved in U.S. efforts to create effective legal systems in far off countries. We sent Department of Justice specialists, State Department officials, and Department of Defense legal officers in large numbers. Our people were smart, truly dedicated to the task, and courageous.

But the reality is that we cannot simply transfer our system—a thousand years in the making—arising out of our heritage to another country and culture that has had no such experience. In one country, one of our brilliant and well-known generals had installed new judges that he felt were honest and our advisors were teaching them our practices, even the exclusionary rule.

We were raised in the British system. John Adams defended British soldiers in a jury trial before the American Revolution. Edmund Burke declared that he'd heard that more copies of Blackstone's Commentaries were sold in the colonies than in the mother country.

So you can know that this Attorney General recognizes and appreciates the high performance of our federal courts, and how unusual it is in all the world. We must recognize its value for freedom, integrity and prosperity and defend this system resolutely. We respect our courts, and honor our system of jurisprudence and appurtenances appertaining there to.

I am the top lawyer for the Executive Branch. It is a co-equal branch. It too is entitled to proper respect from the courts. Our Assistant U.S. Attorneys, advocating for legal positions even if the judge may not agree are due proper respect.

Judges are not sent from Olympus. They are not always correct. Indeed, our appeals in a number of cases have borne fruit in whole or in part.

Some of the erroneous rulings have been quite costly to the taxpayers, have delayed executive action, and have engendered criticism of the President, and the Department of Justice, in the media and various groups.

I've gotten kind of used to it myself. I may have withdrawal symptoms when it's over.

Sometimes we have faced impassioned judges that have attacked the motives of our attorneys, our client agencies and the Attorney General himself me.

Now we have judges recalling a presidential stump speech made two years ago to psychoanalyze a lawfully drafted order.

We have a government to run. It is not the duty of the courts to manage this government or to pass judgment on every policy action the Executive Branch takes.

I don't think it's improper to raise this question. If courts are to be respected for their role, the courts must respect the roles of the two other co-equal branches; and, be respectful of the constitutional structure set up by our Founders.

At the Department of Justice, we are working for that through our litigating positions.

One example of that is our defense of the travel order. That was an issue of constitutional structure. Congress passed a statute and the President followed it and a judge blocked it.

As someone once said, 'a judge on an island in the middle of the pacific ocean.'

In another structure case, Lucia v. SEC, we took the extraordinary step of reversing positions from that of the previous administration.

We argued successfully before the Supreme Court that administrative law judges

are not just Executive Branch "staff" but "officers" who needed to be accountable to the President. As with the other three cases on which we've reversed positions, we prevailed. The vote was 7 to 2.

We are also defending the constitutional structure of the federal government against nationwide injunctions orders by a single district judge that block the entire Executive Branch from enforcing or implementing a statute, regulation, executive order, or policy.

You could also call them "non-party injunctions" or "global injunctions" because they apply across America or even the world, and grant relief, whether they want it or not, to those who are not parties to the case.

Scholars have not found a single example of this type of remedy in the first 175 years of the Republic. But the Executive Branch has been hit with 22 in less than two years' time in office.

It's not as though there weren't legal controversies before 1963. There were many. They were hotly contested. But nobody issued a nationwide, limitless injunction.

And yet today, each of the more than 600 federal district judges in the United States can enjoin a law or regulation throughout the country regardless of whether the other 599 disagree.

Plaintiffs against the government only need to win once to stop a national law or policy whereas the government needs to run the table to carry out its policies.

In truth, it prevents judges from considering the question, and provides the benefits of class certification without the procedural protections of Rule 23.

This goes beyond politics. This has been a problem for administrations of both parties. Until President Trump, the President with the most limitless injunctions was President Obama. Before him, it was President Clinton.

The Department of Justice under Democratic and Republican administrations alike has been consistent for decades that nationwide injunctions gravely threaten the rule of law.

When a court grants relief to parties not before the court, it dramatically undermines the ability of the President to carry out the will of the elected Branches and the voters.

Although the government may appeal, possibly all the way to the Supreme Court, that can take months.

Indeed, despite efforts to expedite the matter, it took 18 months before the Supreme Court was able to swat down the travel ban injunction.

In the meantime, the President is blocked from governing the Nation as the voters elected him to do.

To be sure, we have been successful in many of these appeals.

In one of the sanctuary city cases, Chicago sued and obtained a nationwide injunction that the Attorney General could not place minimal conditions on law enforcement grants to states and cities. The conditions requested cooperation with federal law enforcement before releasing those judged to have possibly violated our immigration laws.

We were pleased that the Seventh Circuit eventually limited that nationwide preliminary injunction to Chicago, but in the meantime other cities and other jurisdictions and Members of Congress were frustrated that cities had to wait for months before they got their expected money.

There are other signs that courts are beginning to recognize what Justice Thomas wrote in his concurrence in the travel order case: Nationwide injunctions "take a toll on the federal court system preventing legal questions from percolating through the federal courts, encouraging forum shopping, and making every case a national emergency for the courts and for the Executive Branch."

But from the Executive Branch's perspective, relief from the problems of nonparty injunctions cannot come too soon.

Our Constitution has governed us from the horse and buggy age to the digital age. Ours is the oldest and most resilient constitution in the world. We don't need conservative judges or liberal judges. As Chief Justice Roberts testified, we just need judges to adjudicate disputes, calling the balls and strikes as they are without taking sides in the game.

But we must be vigilant to our Constitution's design and to its most central feature: the separation of powers.

That is what the American people rightly expect from those who enforce the laws of the United States.

It is an honor beyond words to serve as the Attorney General of this great Republic. I do my best every day to fulfill my responsibilities honestly and effectively.

Thank you for having me today and for your continued dedication to the rule of law.

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AG

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Davis, Mike (Judiciary-Rep)

From: Davis, Mike (Judiciary-Rep)

Sent: Tuesday, August 21, 2018 7:53 PM

To: Davis, Mike (Judiciary-Rep)

Subject: SCOTUS -- Latest Grassley Floor and Press Statements on Judge Kavanaugh's

Nomination



Prepared Floor Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee

SCOTUS | Record Amount of Information for Senate on Judge Kavanaugh's Nomination
August 21, 2018

(VIDEO)

Two weeks from today, Judge Brett Kavanaugh will appear before the Senate Judiciary Committee for the first day of his confirmation hearing. I'm excited to finally hear from him. He's one of the most qualified nominees ever picked for the Supreme Court, and he's contributed a great deal to his community and the legal profession.

The other side has apparently found very little in his record that's objectionable. The only thing I keep hearing about is their unprecedented demand for millions and millions of pages of irrelevant documents—on top of the hundreds of thousands of pages we've already received. Indeed, the Senate Democratic leaders have demanded the search of every email and every scrap of paper from every one of the hundreds of White House aides who came and went for the entire eight years of the George W. Bush presidency.

And the Senate Democratic leaders even refused to utilize search terms or other ways to limit the universe of the millions and millions of pages of records that would require the consecutive review by the Archives and both the former and incumbent presidents' teams of lawyers, even before the Senate Judiciary Committee could begin its own search. These reviews would have taken many, many months—and maybe even years.

We know the true reason for their unprecedented document demand: to delay Judge Kavanaugh's confirmation until after the midterm elections, when the Senate Democrats hope to win back the Senate and block Judge Kavanaugh's nomination forever. Democratic leaders announced their opposition to Judge Kavanaugh immediately after he was nominated. Some senators announced opposition to any of the 25 potential nominees before the President even announced his pick. The Minority Leader said he would oppose Judge Kavanaugh with everything he's got. This desire to obstruct the process explains their partisan push to bury the Senate Judiciary Committee in a mountain of irrelevant paperwork.

They also want to divert attention from Judge Kavanaugh's impressive record. Democratic leaders know that Judge Kavanaugh is the exact type of justice the American people want. Judge Kavanaugh has served

for twelve years on the D.C. Circuit Court of Appeals. During that time, he authored more than 300 opinions and joined hundreds more. The Supreme Court has, in thirteen separate cases, adopted a legal position advanced by Judge Kavanaugh in his opinions—a very impressive record.

The Majority staff on the Senate Judiciary Committee has already read more than 10,000 pages of judicial writings that Judge Kavanaugh wrote or joined, more than 17,000 pages of materials that Judge Kavanaugh provided in response to the most robust questionnaire ever submitted to a Supreme Court nominee, and more than 260,000 pages of emails and other records from Judge Kavanaugh's Executive Branch legal service.

This morning, the committee received close to 170,000 pages of additional records from Judge Kavanaugh's Executive Branch legal service. We now have a total of more than 430,000 pages from Judge Kavanaugh's time in the Executive Branch—by far the most ever received for a Supreme Court nominee. The Majority staff will finish reading every one of these pages before Judge Kavanaugh's hearing.

I'm following the precedent that was established during Justice Kagan's confirmation, when the Senate asked for many but not all of her Executive Branch documents. We received documents from two out of the three Executive Branch positions Justice Kagan held. We received documents from Justice Kagan's time in the White House Counsel's Office and Domestic Policy Council. Senators from both parties agreed not to request internal documents from her time in the Office of the Solicitor General because of their sensitivity.

Likewise, we're asking for documents from two of Judge Kavanaugh's positions in the Executive Branch but not a third. We've asked for documents from Judge Kavanaugh's time in the White House Counsel's Office and Office of the Independent Counsel. But we didn't ask for documents from his time as staff secretary because, even more so than Justice Kagan's Solicitor General documents, they're incredibly sensitive to the Executive Branch.

I'll add that both positions for which we requested Judge Kavanaugh's documents were legal positions. Those documents could shed some light on his legal thinking. The staff secretary is a non legal position and wouldn't reveal anything about Judge Kavanaugh's legal thinking.

For Justice Kagan, on the other hand, we didn't receive documents from her time in one of the two legal positions she held. We didn't receive her Solicitor General documents despite a heightened need for them to assess Justice Kagan's legal thinking. After all, she had no experience as a judge. In contrast to Judge Kavanaugh's 12 year judicial track record, the 307 opinions he wrote, and the hundreds more he joined, Justice Kagan wrote or joined zero opinions. Judge Kavanaugh wrote or joined over 10,000 pages of judicial opinions—compared to Justice Kagan's zero pages.

In short, we have received many more pages of more relevant documents for Judge Kavanaugh than we did for Justice Kagan. This more thorough and transparent production is on top of the thousands of pages of Judge Kavanaugh's publicly available materials, including his extensive and impressive judicial record. Democratic leaders nevertheless accuse me of "hiding documents" because I have agreed to hold some documents as "committee confidential." But during Justice Kagan's and Justice Gorsuch's nominations, we agreed to receive as "committee confidential" documents that contained material restricted by the *Presidential Records Act*. That's exactly what I've agreed to do now.

As I've explained, I agreed to receive documents on a "committee confidential" basis as an initial matter to allow the committee to accelerate our review of Judge Kavanaugh's record—while at the same time making sure that restricted material like social security numbers, banking information and confidential advice given to the President are not exposed to the public.

Then Chairman Leahy also agreed to receive documents on a "committee confidential" basis in 2010 "to permit the Committee prompt access to them." I did the same thing here.

All of those documents don't remain confidential forever. They are reviewed a second time and, if they don't contain any material restricted by law from public access, we quickly release the documents to the public. We thus end up in exactly the same place as we did with Justice Kagan and Justice Gorsuch: Material restricted by the statute is held "committee confidential", while non restricted material is released to the public.

I'd like to add that all documents we have received—including "committee confidential"—are at this very moment available to every member of the Senate. My staff is happy to make these documents available to any senator interested in reviewing them.

Now, my friends on the other side complain that Bill Burck, rather than the National Archives, is deciding what is considered restricted. But that's not true at all. The Archives has been reviewing Judge Kavanaugh's emails as I requested. And they have informed President Bush and President Trump that, in the opinion of the professional archival staff, nearly two thirds of the emails they've reviewed thus far contain restricted material and should not be released to the public. That means that, under the same standards applied for Justice Kagan and Justice Gorsuch, the committee will have to hold two thirds of the documents reviewed by the Archives as "committee confidential" when we receive them.

Following historical practice, official records are generally produced to the Senate for our review; personal records generally are not. And the Obama appointed Archivist of the United States and his team of career archivists are making the ultimate decision on whether Judge Kavanaugh's Executive Branch records are official or personal. It's simply absurd to suggest that anyone is hiding anything.

I hope that my colleagues on the other side of the aisle put aside politics and reconsider their reckless demands for the immediate release—for the whole world to see—of documents that contain full names, dates of birth, social security numbers, bank account numbers, personal communications with family members, other sensitive matters affecting personal privacy—and, of course, some of the most sensitive issues related to the President's core constitutional duties.

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FOR IMMEDIATE RELEASE Tuesday, August 21, 2018

Kavanaugh Exec Branch Records More than Doubles Volume for Prior Supreme Court Nominees

Committee Receives Nearly 170,000 pages in fourth production from Pres. Bush

WASHINGTON The Senate Judiciary Committee today received nearly 170,000 pages of records from Judge Brett Kavanaugh's service as a White House lawyer as the committee continues to evaluate his nomination to the U.S. Supreme Court. This <u>tranche of documents</u> by itself nearly equivalent to the volume of records received for Justice Kagan's nomination brings the total volume of Executive Branch materials received by the committee to more than 430,700 pages, more than doubling the previous record of 180,000 pages set during Justice Gorsuch's nomination.

The materials were initially provided on a confidential basis in order to expedite the Senate Judiciary Committee's access and review while the material is prepared for public release.

The committee requested records from Judge Kavanaugh's service as an Executive Branch lawyer and records related to his nomination to the U.S. Court of Appeals for the D.C. Circuit. Under the *Presidential Records Act*, the committee is entitled to Presidential records that the current and former Presidents determine are not privileged. President Bush is providing the committee with Presidential records that are not privileged. Records that Bush's team believe are not Presidential records will be reviewed by the National Archives and Records Administration (NARA) and provided to the committee if NARA determines them to be Presidential records under the PRA. More on the committee's review process is available HERE.

The Chairman's team has already reviewed all of the documents previously provided to the committee by President Bush and NARA. That's in addition to reviewing other public material, including more than 10,000 pages of the judicial opinions that Judge Kavanaugh wrote or joined in his 12 years of service on the D.C. Circuit and more than 17,000 pages of material Judge Kavanaugh <u>submitted to the committee</u> in response to its bipartisan questionnaire.

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FOR IMMEDIATE RELEASE Monday, August 20, 2018

More of Kavanaugh's Starr Investigation Records Become Public Total public records exceeds levels for Kagan Nomination

WASHINGTON The Senate Judiciary Committee today released roughly 10,000 pages of material from Judge Brett Kavanaugh's work in the Office of the Independent Counsel (OIC). The total volume of publicly available Executive Branch material for this nomination is now more than 176,000 pages, exceeding the volume of similar material available for the committee's consideration of Justice Kagan.

The National Archives and Records Administration (NARA) <u>produced the records to the committee</u> over the weekend and <u>made them public today</u>. In this production, NARA has approved 9,809 pages for public release, and is withholding 2,540 pages in full or in part in pursuant to applicable Freedom of Information

Act exemptions. The production to the committee includes:

- Cover Sheet
- <u>08 17 18 NARA OIC Production 2 (Set 1)</u>
- 08 17 18 NARA OIC Production 2 (Set 2)

Nomination material is being posted <u>HERE</u> as it becomes available.

The Chairman's team has already reviewed all of the documents provided to the committee by President Bush as well as NARA's initial production of nearly 10,000 pages of OIC documents, and has nearly completed its review of NARA's most recent production of OIC documents. That's in addition to reviewing other public material, including more than 10,000 pages of the judicial opinions that Judge Kavanaugh wrote or joined in his 12 years of service on the D.C. Circuit and more than 17,000 pages of material Judge Kavanaugh submitted to the committee in response to its bipartisan questionnaire.

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FOR IMMEDIATE RELEASE Sunday, August 19, 2018

NARA Concludes Nearly Two-Thirds of Kavanaugh's NARA-Reviewed WHCO Records are Restricted from Public

Majority of Kavanaugh's WHCO records shared by Pres. Bush are public

WASHINGTON After reviewing more than 35,000 emails sent by Judge Brett Kavanaugh during his service in the White House Counsel's Office, the National Archives and Records Administration (NARA) has concluded that the Presidential Records Act (PRA) and Freedom of Information Act (FOIA) restrict nearly two thirds of those records from public access.

After processing records in response to requests for access, NARA must notify Presidents Bush and Trump of the results of its review and give the Presidents an opportunity to conduct their own review. In <u>public letters</u> to the PRA representatives for Presidents Bush and Trump, NARA stated that it had processed more than 35,000 records from Judge Kavanaugh's service in the White House Counsel's Office. The letters notified the Presidents that, in the independent judgment of the professional archival staff, the PRA and FOIA require NARA to restrict nearly two thirds of those records from public release.

NARA and President Bush are conducting <u>separate and independent reviews of the same material</u> and are separately providing those materials to the Senate Judiciary Committee. President Bush has exercised his authority to access documents from his own administration and, after conducting a review, is providing them on an expedited basis to help the committee begin its review of Judge Kavanaugh's record as quickly

as possible. Separate from this process, NARA is reviewing the same materials in response to the committee's <u>formal request for access</u> under the PRA. NARA will provide those documents to the committee on a rolling basis after it conducts the review required by the PRA and FOIA. The committee expects to receive from these two sources all non privileged Presidential records that are responsive to the committee's document request before the hearing begins on September 4.

To date, President Bush has provided the committee with more than 238,000 pages of documents from Judge Kavanaugh's service as a White House lawyer, and has authorized the committee to release nearly two thirds of those materials to the public.

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FOR IMMEDIATE RELEASE Saturday, August 18, 2018

Committee Releases Additional Kavanaugh Records More than 166,000 Exec Branch pages now public

WASHINGTON The Senate Judiciary Committee today released the fourth batch of records from Judge Brett Kavanaugh's service as a lawyer in the George W. Bush White House. The release includes more than 42,000 pages of Executive Branch material. The total volume of publicly available Executive Branch material for this nomination is now more than 166,000 pages.

The Committee has received more Executive Branch records in its consideration of Judge Kavanaugh's nomination than for any previous Supreme Court nominee. The Office of President Bush has produced more than 238,000 pages of material to the committee. The material was initially produced to the committee on a confidential basis while it was prepared for public release. To date, nearly two thirds of that material has been released to the public. Today's release is the fourth subset of that material to become public. It includes:

- Cover Sheet
- 08 15 18 GWB Document Production (Set 1, Pages 10,001 20,000)
- <u>08 15 18 GWB Document Production (Set 1, Pages 20,001 30,000)</u>
- 08 15 18 GWB Document Production (Set 1, Pages 30,001 40,000)
- 08 15 18 GWB Document Production (Set 1, Pages 40,001 42,264)

The National Archives and Records Administration (NARA) also produced its second set of material from

Judge Kavanaugh's service in the Office of Independent Counsel Kenneth Starr. In this production, NARA approved 9,809 pages for public release, and is withholding 2,540 pages in full or in part pursuant to relevant and applicable Freedom of Information Act exemptions. The committee will release this approved material to the public on Monday, when NARA is expected to release the same material. At that time, the total volume of publicly available Executive Branch material—more than 176,000 pages—will exceed the volume of similar material available for the committee's consideration of Justice Kagan's nomination.

Nomination material is being posted <u>HERE</u> as it becomes available.

The Chairman's team has already reviewed about 79,000 of the roughly 84,000 documents provided to the committee by President Bush as well as NARA's initial production of nearly 10,000 pages of OIC documents. That's in addition to reviewing other public material, including more than 10,000 pages of the judicial opinions that Judge Kavanaugh wrote or joined in his 12 years of service on the D.C. Circuit and more than 17,000 pages of material Judge Kavanaugh submitted to the committee in response to its bipartisan questionnaire.

The Committee expects to continue receiving future productions on a rolling basis from both the <u>Office of George W. Bush and NARA</u>.



Thank you, Mike Davis

Mike Davis, Chief Counsel for Nominations United States Senate Committee on the Judiciary Senator Chuck Grassley (R-IA), Chairman 224 Dirksen Senate Office Building Washington, DC 20510

(b) (6) (direct) (b) (6) (cell) 202-224-9102 (fax)

Document ID: 0.7.22222.138998

Cutrona, Danielle (OAG)

From: Cutrona, Danielle (OAG)

Sent: Friday, August 24, 2018 4:31 PM

To: Flores, Sarah Isgur (OPA); Whitaker, Matthew (OAG); Barnett, Gary E. (OAG)

Subject: RE: Outnumbered Transcript 8/24/18

Attachments: Outnumbered doc.docx

I've pulled out the quotes that I think need responses. I'll continue to work on it but wanted you all to have it in case someone has canned responses.

From: Flores, Sarah Isgur (OPA)

Sent: Friday, August 24, 2018 1:10 PM

To: Cutrona, Danielle (OAG (b) (6); Whitaker, Matthew (OAG (b) (6)

Barnett, Gary E. (OA (b) (6)

Subject: FW: Outnumbered Transcript 8/24/18

Sarah Isgur Flores Director of Public Affairs

(b) (6)

From: Pettit, Mark T. (OPA)

Sent: Friday, August 24, 2018 12:54 PM

To: Flores, Sarah Isgur (OPA) < siflores@jmd.usdoj.gov>

Subject: Outnumbered Transcript 8/24/18

Here is the current raw version (I have to wait for the actual video to be posted to spot check and to figure out who is saying what). A new paragraph represents a different speaker.

harris:

back at attorney general jeff sessions after sessions pushed back against the president's criticism in a statement defending his performance of the d.o.j. sessions vowing that he won't be you influenced by political considerations. this morning, the president tweeted this. quoting part of sessions statement that the d.o.j. will not be improperly influence by political considerations, adding, jeff, this is great. what everybody wants. into all of the corruption on the other side including deleted e-mails, comey lies and likes, mueller conflicts, mccabe, strzok, page, chris to per steele and his phony incorrupt dossier, the clinton foundation illegal surveillance of the trump campaign. russian collusion by dems and so much more. open up the papers and documents without redaction. come, on jeff, can you do it, the country is waiting, exclamation point. rachel smiled my way. some republicans say firing sessions would be a bad idea.

Ben Sasse clip:

the idea that he might be fired because he isn't a political hack is a very, very bad idea. a bad idea for the constitution, bad idea for public trust and the department of justice, a bad idea for the. united states.

harris:

senate justishry chairman chuck grass lee saying he could make time for hearings on a new attorney general. senator lindsay graham jumped onboard bringing in a new sheriff at the d.o.j. here it is.

Lindsey Graham clip:

there's just not a good healthy working relationship, from what i can tell. and for the good of the nation, i think we need an attorney general that has the confidence of the president. i'm not blaming jeff sessions. there is no finer man. but at the end of the day there are plenty of conservative judges and lawyers that i think could do this job that we can get somebody confirmed.

harris:

rachel, i'll come to you first. i want to put it in context, too, lindsay graham said a nonstarter is before the mid-term elections. conversation started to kind of change and by nighttime, you had the go back and forth between the president and jeff sessions. it's clear that -- lindsay graham before said never, he should never get rid of a.g. sessions.

harris:

that was 2017.

Rachel Campos-Duffy:

yes. now it's clear that the president needs somebody who he trusts. terms, i agree, would be very tumultuous, not good for the prospects of holding on to the house or the senate. it's a good compromise. i personally never understood why sessions has held on this long. i don't want to work for somebody who doesn't want me to work for them. while i think he's done a fairly good job on some of these immigration issues and dealing with ms13, it's very clear they're not on the same page. what frustrates not just the president but those who voted for him is that it just seems unfair. it's fine if sessions wanted to recuse himself, okay, i understand, i think that was a fair assessment on his part he didn't have to but he did for proprietary, the way it looked. why hasn't he gone after hillary clinton? why is peter strzok still working there? there's lots of questions that people have to go, just, he says it's nonpolitical. but he's not looking at it with the same fairness, when it comes to hillary clinton and the democrats.

Dagen McDowell:

it's not just hillary clinton and those democrats you mentioned. you can, looking at the inaction, you can smell the fecklessness up here in new york city. cha john chaffetz, chairman of the house oversight committee, told how hillary clinton's former i.t. guy didn't show up for two subpoenas. they subpoenaed time twice. jason chaffetz went to jeff sessions and said to show the equal application of the law that there is a rule of law this guy needs to be prosecuted. jeff sessions said to him, chaffetz said earlier, jeff sessions said he's too close to hillary clinton. dismissed it. this isn't the only instance.

Lisa Boothe:

what is clear about all of this, when jeff sessions was in the process of being confirmed, he was painted by the media on the left as this racist, putin puppet. guarantee the second that president trump fires him he's going to be a great guy and how dare president trump fire him, this is what happens, the way the media and the left work. i don't think he should have recused toms work with. the things he was attacked with, the security form, he was doing what the fbi told him to in the process of filling them out. you also look at him, what meetings with some individuals who are tied to russian officials. guess what, a lot of the same people criticizing him for the meetings, clare mccaskill, did the same thing. if he recused himself, why is rod rosenstein there, he's the guy that recommended comey for firing and is still there.

harris:

that's the point of the hearing. not the hearing but the confirmation, if you can get to this issue before the mid terms, if there is room to open that up, then you appoint somebody else and it wouldn't be rod rosenstein scooting up to the top of the lils the to carry on the investigation.

Juan Williams

pick lindsey graham or some one like that. jaun i think sessions thinks he's protecting the integrity of the american

justice system, and giving a buffer to the american people, against what could devolve have into a political food fight.

harris:

devolve have? we're there.

Juan Williams:

if you use the department of justice to opinionish your political enemies, i think the country isn't in a good place.

not for a second do i believe the democrats would sit back and take it if somebody spied on barack obama's campaign.

Juan Williams:

what are you talking about? they had a fisa warrant

based on fault information.

i don't want to get into the weeds on. this i'm just telling you, i think that right now, when we have the president talking about how it's not appropriate to make a deal -- hang on a second, he's flipping, lots of people have flipped. this sounds like a criminal enterprise and he's trying to defend himself and his associates from the law.

what is the difference

you have an attorney general, enforcement officer acting on a political agenda.

juan, juan dash what's the difference between jeff sessions holding up the integ riflt d.o.j. or some one like lindsay graham if that's who president trump chose to fill that spot? what would the difference be?

i think lindsay graham is a fine lawyer, too, i think he would try

why not fire self sessions and nominate him?

if you fire jeff sessions it would be done through a political lens

you and democrats

no, no, i didn't plead guilty in open court

he can higher and fire whoever he wants.

the politics is that he would be seen in the light of the saturday night massacre. wipe out jeff sessions

wait a minute, can we point out -- this is talk and no walk. this is president trump tweeting about it. and hammering jeff sessions for not doing his job which he hasn't been doing. but he hasn't fired anybody. he hasn't fired bob mueller. he's actually trying to jaw bone jeff sessions into doing a better job. if we're going to shunt up that brass trophy for -- shine up the trophy

it's not about doing a better job, it's going after trump's political opponents and distrabting the american people from trump's trouble.

harris:

can i add, we're going to be talking about this in "overtime," i've been reading up on the fact this is a bit of a taunt on twitter. you could see a guy like attorney general sessions up until yesterday when he enumerated the list of things he feels like he's ee effectuating the president's promises to make america great again, he as been effective at doing. if he

were to quit, the president then, as i understand it, could step in and make a temporary replacement of him. so for republicans now to say we might even be able to make a little room for him on the schedule before the mid for democrats. and do you just want to be shouting at the wind about impeachment and screaming about this and about the other or paying attention to what is really actually happening. and so it may not be the president trying to be, you know, mean on twitter. there could be some strategy.

he has rudy guiliani, he has a legal team.

harris:

sessions quits he apoints whom he wants. along with senator and graham and others, he has the right to put in these positions whomever he would like. can you call it a massacre if you like, but you could just call it his right to do so.

it's the president's right. we all know all of the details about the dossier, about this, about that. the american people are looking at this and looking at the way hillary and her people, how were they treated, were they put, was the squeeze put on them the same way the squeeze was put on cohen. and all of the other people they're trying to take down.

are you kidding me? there was no announcement of a russian investigation during the campaign. twice, twice jim comey goes before the cameras and speaks about hillary clinton. in fact ten days before the election. now you want to go back and act as if, they never investigated hillary clinton. [all talking at once]

is the president paying off a mistress for \$130 before he was ever president. and a sitting secretary of state who willfully deleted subpoenaed, confidential -- can i make the point.

these have been long ago litigated. this president in terms of this campaign

you guys are making this way too complicated. all it comes down to. trump has the right to fire some one like jeff sessions if he wants.

sure.

and put whoever he wants there. if he chooses some one like lindsay graham, i think would be palatable to both sides, how can you make an argument with it.

they're doing it in the midst undermining the american justice system.

i can make an argument, you got to get brett kavanaugh confirmed to the supreme court of the united states. instead of worrying about replacing your feckless a.g., as i've called him earlier. and at the same time, only agenda item for the democrats is impeachment. whether they're whispering it or nodding and wiferking about it. meantime, stock market hitting an all-time high today.

harris

the s.e.c. is on friar. we'll move on, i was watching it.