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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

October 2, 2018

The Honorable Dianne Feinstein, Ranking Member
The Honorable Patrick J. Leahy
The Honorable Richard J. Durbin
The Honorable Sheldon Whitehouse
The Honorable Amy Klobuchar
The Honorable Christopher A. Coons
The Honorable Richard Blumenthal
The Honorable Mazie K. Hirono
The Honorable Cory A. Booker
The Honorable Kamala D. Harris
United States Senate Committee on the Judiciary
Washington, D.C. 20510

Dear Colleagues:

Last Wednesday, September 26, I received a letter signed by all of you, the ten Democratic members of the Senate Judiciary Committee, calling for delay in consideration and/or the withdrawal of Judge Brett Kavanaugh's nomination to the Supreme Court of the United States, based on the allegations of Ms. Julie Swetnick, who is represented by Michael Avenatti.

Yesterday, in an interview with Kate Snow of NBC News, Ms. Swetnick backtracked on some of the claims she made in a sworn statement to Congress. The interview can be accessed here: <https://www.nbcnews.com/politics/supreme-court/kavanaugh-accuser-julie-swetnick-speaks-out-sexual-abuse-allegations-n915641>.

I've enclosed a timeline of the activity I've driven as Chairman of the Judiciary Committee, which reflects a serious approach to addressing concerns in good faith as we fulfill our duties as an independent branch of government, charged by the Constitution to give advice and consent on judicial nominations made by the President. I've received blatantly frivolous referrals during the past week. Out of respect for my colleagues, I've devoted committee investigative resources to looking into those referrals, including one that was quickly recanted.

In addition, as it stands today, the FBI is conducting a supplemental background investigation of current credible allegations against the nominee. The report is expected this week. This supplemental investigation was requested by undecided members of both parties to help them determine whether to support Judge Kavanaugh's confirmation. Am I to understand from your request that all of you are reconsidering your opposition to Judge Kavanaugh depending on what the FBI comes back with?

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style with a prominent initial "C" and a long, sweeping tail on the "y".

Chuck Grassley
Chairman

Actions by Chairman Grassley and the Senate Judiciary Committee related to allegations made and disputed regarding Judge Brett Kavanaugh:

A 38-year member of the Senate Judiciary Committee, Chairman Grassley has worked to secure a thorough, credible and effective committee process as the U.S. Senate meets its constitutional duty of advice and consent in considering the nomination of Judge Brett Kavanaugh to serve on the U.S. Supreme Court. Grassley reopened the hearing after four days and 32 hours of testimony from the nominee during the week of September 4, including a closed session available to all Judiciary Committee members to scrutinize any issues or concerns about the nominee that involve confidentiality. The supplemental hearing took place on September 27, and it provided a fair and professional forum for Dr. Christine Blasey Ford to share allegations she made about the nominee, and for the nominee to respond to questions and address those allegations.

In addition, Chairman Grassley has conducted extensive review and investigation of the allegations made by Dr. Ford and comments and statements made by others both in news media reports and in messages to other senators that have been given to the Judiciary Committee. A description of those efforts is provided here.

July 9	<ul style="list-style-type: none"> President Trump announces Judge Kavanaugh’s nomination to become an Associate Justice on the Supreme Court of the United States.
July 30	<ul style="list-style-type: none"> Dr. Ford drafts letter to Sen. Feinstein.
July 30 – August 7	<ul style="list-style-type: none"> Dr. Ford consulted with Sen. Feinstein, who recommended Dr. Ford retain Debra Katz and her firm.
August 7	<ul style="list-style-type: none"> Dr. Ford, represented by Debra Katz, takes a polygraph on Katz’s advice.
August 20	<ul style="list-style-type: none"> Sen. Feinstein meets with Brett Kavanaugh, knowing of Dr. Ford’s allegations, and that she has retained Katz as counsel. She mentions neither to Kavanaugh during the meeting.
September 4-7	<ul style="list-style-type: none"> Committee conducts a four day hearing on the nomination of Judge Kavanaugh, including a closed door session on September 6, which Sen. Feinstein did not attend.
September 7-10	<ul style="list-style-type: none"> Judge Kavanaugh receives and responds to 1,287 “Questions for the Record” none of which address Dr. Ford’s allegations.
Wednesday September 12	<ul style="list-style-type: none"> Sen. Feinstein transmits Dr. Ford’s letter to the FBI. Debra Katz leaves Capitol Hill shortly after the <i>Intercept</i> published an article with vague allegations against Judge Kavanaugh.
Thursday, September 13	<ul style="list-style-type: none"> Sen. Feinstein tells Sen. Grassley of the existence of Dr. Ford’s letter after the Committee Executive Business Meeting to hold over the

	<p>nomination of Judge Kavanaugh to be Associate Justice of the Supreme Court.</p> <ul style="list-style-type: none"> • Contents of letter leak to media.
Friday, September 14	<ul style="list-style-type: none"> • <i>New Yorker</i> publishes substance of Dr. Ford’s allegations, but does not identify her by name. • Mark Judge interviews with <i>Weekly Standard</i> and denies Dr. Ford’s allegations.
Sunday September 16	<ul style="list-style-type: none"> • <i>Washington Post</i> publishes article containing Dr. Ford’s allegations and her identity. Dr. Ford names Judge Kavanaugh and Mark Judge as perpetrators and identifies two other individuals at party who are unnamed in <i>Washington Post</i> article. <i>Washington Post</i> says that four boys and Dr. Ford attended the party. • Sen. Grassley learns Dr. Ford’s identity from <i>Washington Post</i> report. • Sen. Grassley instructs staff to begin investigation.
Monday September 17	<ul style="list-style-type: none"> • Dr. Ford’s counsel appears on morning shows saying her client wants public hearing to tell her story. • Sen. Grassley invites Sen. Feinstein’s staff to join the staff interview of Judge Kavanaugh, Dr. Ford and other witnesses in a member-level phone call. Sen. Feinstein declined to have her staff participate in the routine follow-up calls when new information is provided to the Committee from the FBI for the nominee’s background file. • CNN publishes redacted version of letter originally sent by Dr. Ford to Ranking Member. • Committee notices hearing for following Monday, September 24 and invites Dr. Ford and Judge Kavanaugh to testify. • Committee investigative staff sent three emails to Dr. Ford’s lawyers with no response. • Committee investigative staff requests interviews with Dr. Ford and Judge Kavanaugh with Republican and Democratic investigators. • Judge Kavanaugh submits to interview with Republican staff. Democratic staff refuses to participate in interview. Judge Kavanaugh asks for a hearing as soon as possible. • Dr. Ford does not submit to interview.
Tuesday September 18	<ul style="list-style-type: none"> • Committee investigative staff sent an additional email and placed two additional phone calls to Dr. Ford’s lawyers with no response. • Committee investigative staff contacts Mark Judge and requests an interview. • Committee investigative staff learns identity of two witnesses identified by Dr. Ford but not named in <i>Washington Post</i> article—Patrick J. Smyth and Leland Ingham Keyser—and requests interviews.

	<ul style="list-style-type: none"> • Counsel for Mark Judge submits statement from Mark Judge in which he denies knowledge of party described by Dr. Ford and states he “never saw Brett act in the manner described by Dr. Ford.” He further states he has no other information to offer the Committee and does not wish to speak publicly regarding the allegations. • Counsel for Mr. Smyth submits statement from Mr. Smyth in which he denies any knowledge of the party described by Dr. Ford or of the allegations of improper conduct. He also states he “never witnessed any improper conduct by Brett Kavanaugh towards women.” He asks that the Committee accept the statement in response to any inquiry it has. • As far as we know, Democratic staff did not reach out to these witnesses. • At 7:57 p.m. Sen. Grassley hears from Dr. Ford’s attorney for the first time. Dr. Ford’s attorney submits letter to Sen. Grassley asking for a delay in the hearing. She does not address Committee’s request for interview with investigative staff. • Contemporaneously with the release of the letter, Dr. Ford’s attorney appears on a cable news show asking for hearing to be delayed.
<p>Wednesday September 19</p>	<ul style="list-style-type: none"> • Sen. Grassley sends letter to Dr. Ford’s attorney that offers Dr. Ford the opportunity for a public or private hearing. • Sen. Grassley reiterates request that Dr. Ford agree to an interview with Committee investigative staff. Dr. Ford’s attorneys do not respond to request.
<p>Thursday September 20</p>	<ul style="list-style-type: none"> • Committee staff has phone call with Dr. Ford’s attorneys regarding the conditions under which she would testify before the Committee. Committee staff offers a public hearing, a private hearing, a public staff interview, or a private staff interview. • Sen. Feinstein’s staff gives unredacted copy of Dr. Ford’s letter to Sen. Grassley’s staff after Sen. Grassley requested access and had yet to see unredacted version of the July 30 letter.
<p>Friday September 21</p>	<ul style="list-style-type: none"> • Committee staff reiterates request that Dr. Ford agree to an interview with Committee investigative staff. Committee staff offers to fly to California to obtain testimony. Dr. Ford’s attorneys do not respond to request. • Committee staff again reaches out to Ms. Keyser requesting an opportunity to conduct an interview regarding Dr. Ford’s allegations. • Dr. Ford’s attorneys asked on Thursday call with staff that their 10 a.m. deadline for accepting the Judiciary Committee’s invitation to testify at the September 24 hearing be extended. Sen. Grassley accommodated their request and extends to Friday at 5 p.m. • Sen. Grassley again extends Dr. Ford’s invitation to the hearing to 10 p.m. Friday.

	<ul style="list-style-type: none"> • Sen. Grassley responds to Dr. Ford’s attorney’s “modest proposal” for an additional day and extends the deadline to accept Dr. Ford’s invitation for the hearing by 2:30 p.m. on Saturday. This was the third extension to accommodate Dr. Ford’s decision to appear before the Committee.
<p>Saturday September 22</p>	<ul style="list-style-type: none"> • Counsel for Ms. Keyser—the fourth witness named by Dr. Ford and her “lifelong friend”—submits statement from Ms. Keyser in which she denies any knowledge of the party described by Dr. Ford. She further states she doesn’t know Judge Kavanaugh and doesn’t recall ever being at a party with him. • Dr. Ford accepts invitation to appear before the Committee, but pending further negotiations.
<p>Sunday September 23</p>	<ul style="list-style-type: none"> • Dr. Ford’s attorneys agree that Dr. Ford will appear at a public hearing on Thursday, September 27. • Committee staff sends to Dr. Ford’s and Judge Kavanaugh’s lawyers requests for the submission of relevant evidence in advance of the hearing. • Michael Avenatti tweets that he has a client with allegations and evidence implicating Judge Kavanaugh. • Within minutes, Committee staff reaches out to Mr. Avenatti to request client’s allegations and evidence. Mr. Avenatti declines to provide any allegations or evidence. • <i>New Yorker</i> publishes article containing allegations made by Deborah Ramirez that Judge Kavanaugh exposed himself to her during a college party. • Committee staff reaches out to Ms. Ramirez’s attorney within hours of the article’s publication and requests an interview with Ms. Ramirez.
<p>Monday September 24</p>	<ul style="list-style-type: none"> • Committee staff makes three more requests for any statement, testimony, or evidence from Ms. Ramirez. Ms. Ramirez’s attorneys decline to submit such materials. • Two Senate offices refer additional allegations to Committee staff. The first is an anonymous allegation in a letter given to the Chairman by Senator Gardner, posted from Denver. The letter claims that Judge Kavanaugh once forcefully and “sexually” shoved a woman he was dating into a wall at a bar in 1998. The second is an allegation from a man (whose name Senator Whitehouse has demanded we keep from the public) in Rhode Island relayed to Committee staff by Senator Whitehouse’s staff. The Rhode Island man claims that two men named “Brett and Mark” raped a woman on a boat in Newport in 1985, after which the man making the allegation claims he and a friend beat up “Brett and Mark.” • Committee staff request an interview with Judge Kavanaugh to question him regarding the allegations raised by Ms. Ramirez, Mr. Avenatti, the anonymous Denver letter, and the Rhode Island man.

	<ul style="list-style-type: none"> • Committee staff again requests Mr. Avenatti shares his client’s allegations and evidence. Mr. Avenatti declines to provide any allegations or evidence. • Committee staff have first interview with a man who believes he, not Judge Kavanaugh, had an encounter with Dr. Ford in 1982 that is the basis of her complaint. He describes the encounter as consensual. He submitted a written statement earlier in the day.
<p>Tuesday September 25</p>	<ul style="list-style-type: none"> • Committee investigative staff interview Judge Kavanaugh for approximately 90 minutes regarding Ms. Ramirez’s allegations in the <i>New Yorker</i> and the allegations received by two Senate offices. For the first time, Democratic staff attended the call, but expressly declined to ask Judge Kavanaugh any questions. Judge Kavanaugh denies each allegation. • Committee staff makes three more requests for any statement, testimony, or evidence from Ms. Ramirez. Ms. Ramirez’s attorneys decline to submit such materials. • The Committee receives from Senator Harris an anonymous letter, postmarked 9/19 and signed “Jane Doe, Oceanside CA,” alleging that Judge Kavanaugh and others raped the author in the backseat of a car. The letter does not identify place, date, or the identity of the alleged accomplices. • Committee staff have a second interview with a man who believes he, not Judge Kavanaugh, had an encounter with Dr. Ford in the summer of 1982 that is the basis of her allegation. He described his recollection of their interaction in some detail, and described the encounter as consensual. • Committee staff interviewed a former Georgetown Prep student who was familiar with “party houses” in the Columbia Country Club area during the time in question and knew Judge Kavanaugh. He spoke in support of Kavanaugh’s good character. • After that interview, Committee staff interviewed that man again along with another person who knew Judge Kavanaugh in the 80s and was familiar with the houses at which Georgetown Prep students partied during the 1980s. Both spoke in favor of Kavanaugh and to his strength of character. Committee staff requested to speak to another person they suggested contacting. • Committee staff received a statement from another classmate of Kavanaugh at Georgetown Prep who provided information about the captions in the yearbooks. • Committee investigative staff also have received additional information, including regarding the characters of Dr. Ford and Judge Kavanaugh, have followed up on each one, and will continue to do so.
<p>Wednesday, September 26</p>	<ul style="list-style-type: none"> • Committee staff receives statement from Julie Swetnick, represented by Mr. Avenatti.

	<ul style="list-style-type: none"> • Committee staff responds asking that Ms. Swetnick be made available for an interview with committee staff. Mr. Avenatti returns an email, but does not respond to this request. • Committee staff follows up with Mr. Avenatti twice more asking that Ms. Swetnick be made available for an interview. • Committee investigative staff questions Judge Kavanaugh a third time this week on the allegations contained in the statement provided by Mr. Avenatti, along with an anonymous allegations made by a purported resident of San Diego. Judge Kavanaugh unequivocally denies both allegations. Democratic staff was present, but refused to ask questions. • Committee investigators learned of a woman who dated Kavanaugh in 1998, the same time as the anonymous allegation to Sen. Gardner’s office. That girlfriend, Judge Friedrich of the District Court of the District of Columbia, wrote a letter to the Committee, strongly denying she was at the incident in question, and testifying that Judge Kavanaugh never acted that way around that time, or ever. • Committee investigative staff spoke with a friend of Ms. Swetnick about her allegations and any related information. The friend indicated that Ms. Swetnick had never previously mentioned either Judge Kavanaugh or this alleged incident. • Committee staff receives a more in-depth written statement from the man interviewed twice previously who believes he, not Judge Kavanaugh, had an encounter with Dr. Ford. He described the encounter as consensual. • Committee investigative staff spoke via phone with another man who believes he, not Judge Kavanaugh, had an encounter with Dr. Ford in 1982 that is the basis of her allegation. He explained his recollection of the details of the encounter, and described the encounter as consensual. • Committee investigative staff spoke via phone with a former classmate who provided information about the captions in the yearbooks, explaining they were innocuous but sometimes insensitive inside jokes. • Committee investigators contacted four people with knowledge of the individuals making allegations against Judge Kavanaugh. These interviews, all under penalty of felony, yielded information about the credibility of Ms. Swetnick, Judge Kavanaugh’s lack of interactions with Dr. Ford in high school, and Dr. Ford’s credibility. • Committee investigative staff interview a friend of Judge Kavanaugh who attests to his character. • Committee investigative staff interview an individual that had a dozen interactions with Ms. Swetnick over a period of four years, who has a negative view of Ms. Swetnick. • Senate investigators speak to a man with personal knowledge of Ford, says Ford assisted her friend in passing a polygraph exam.
<p>Thursday, September 27</p>	<ul style="list-style-type: none"> • Committee conducts hearing to solicit testimony from Dr. Ford and Judge Kavanaugh regarding Dr. Ford’s allegations.

	<ul style="list-style-type: none"> • Committee receives letter from attorneys for Elizabeth Rasor, who claims to be the former girlfriend of Mark Judge. Rasor states that the <i>New Yorker</i> article accurately stated her recollections. • Committee receives anonymous letter claiming responsibility for the incident with Dr. Ford. • Committee investigative staff again interviewed a friend of Judge Kavanaugh who attests to his character.
Friday, September 28	<ul style="list-style-type: none"> • Committee investigative staff interview a friend of Ramirez, and determine she has no firsthand knowledge of the misconduct alleged. • Committee investigative staff interview an ex-boyfriend of Swetnick. • Committee investigative staff receives message from Senator Daines regarding a text from a woman who attended Yale with Judge Kavanaugh and resided in the same dormitory. • Committee investigative staff receives an anonymous message claiming the allegations that Judge Kavanaugh pushed a woman against a wall in 1998 were false. • Committee investigative staff attempts to contact a woman who gave no last and who called Chairman Grassley’s office and claimed that she has important information related to Judge Kavanaugh. • Senator Blumenthal refers to the Committee several screenshots of a text message conversation regarding the Ramirez allegation. • Senate requests that the White House order the FBI to investigate all “current credible allegations” against Judge Kavanaugh. • Senate investigators speak again to a man with personal knowledge of Ford, says Ford assisted her friend in passing a polygraph exam.
Saturday, September 29	<ul style="list-style-type: none"> • Committee staff investigates email from a former Yale student related to Ramirez’s allegations. • Committee staff investigates email from another former Yale student regarding Ramirez’s allegation. He identified a classmate of Kavanaugh’s at Yale who was known for exposing himself at parties. • Committee referred for criminal investigation a Rhode Island man’s apparent false statements alleging misconduct by Kavanaugh.
Sunday, September 30	<ul style="list-style-type: none"> • Committee distributes memorandum from Rachel Mitchell outlining her views on the Ford allegations.
Monday, October 1	<ul style="list-style-type: none"> • Committee staff investigates email from an individual with knowledge about Georgetown Prep academics and uniforms related to allegations by Ramirez and Swetnick. • Committee staff investigates email from an attorney for an individual who was a classmate at Georgetown Prep claiming to have information relating to Renate.

	<ul style="list-style-type: none"> • Committee staff investigates email from character witness regarding Ramirez. • Committee staff speaks with two employees at a company where Ms. Swetnick worked, regarding her activities and credibility. • Committee staff speak with an attorney for an ex-boyfriend of Ms. Swetnick. • Committee staff spoke with an individual that went to Yale and shared information that cast doubt on Ramirez’s story.
<p>October 2, 2018</p>	<ul style="list-style-type: none"> • Committee staff receives statement containing reports from multiple classmates of Dr. Ford regarding her character in high school. • Committee staff receives letter from a classmate of Brett Kavanaugh’s in high school discussing his character as it relates to the Ford and Swetnick allegations. • Committee staff speaks with a college classmate of Ramirez and who knew Kavanaugh while he was in law school regarding Kavanaugh’s character. • Committee staff reached out to associates of Dr. Ford and spoke with one of them. • Committee staff receives statement from Dr. Ford’s ex-boyfriend stating that she had previously coached someone on a polygraph, contradicting her testimony, and had no claustrophobia or flying issues in the 1990s. • Committee staff talked to three individuals that knew Ms. Swetnick when she was in junior high and some years after and all three shared negative views about her character. • Committee staff spoke with an individual that met Ms. Swetnick at a business meeting.

We asked the witnesses to submit to interviews. But we can’t force them to interview without a subpoena. Witnesses provided categorical, unequivocal statements denying any memory of events matching Dr. Ford’s allegations. Lying in those statements is punishable under the same federal law as lying in an interview.

The only remaining option would be to subpoena the witnesses. But that process takes a long time. Given that the witnesses’ statements were categorical, an interview or deposition is unlikely to reveal any new information and therefore not worth the substantial cost and time needed to obtain and enforce the subpoenas. Of note, the Democrats have not joined our requests for witness interviews.

Background of Secret Evidence

On July 9, 2018, the President announced Judge Kavanaugh’s nomination to serve on the Supreme Court of the United States. Judge Kavanaugh has served on the most important federal appellate court in the country for the last 12 years. Before that, he held some of the most sensitive positions in the federal government. The President added Judge Kavanaugh to his short list for the Supreme Court more than 10 months ago – on November 17, 2017. As part of Judge Kavanaugh’s

nomination to the Supreme Court, the FBI conducted its sixth full-field background investigation of Judge Kavanaugh since 1993 – 25 years ago. As part of these 6 prior FBI investigations, the FBI interviewed nearly 150 different people who know Judge Kavanaugh personally. Nowhere in any of these six FBI reports, which committee investigators have reviewed on a bipartisan basis, was there ever a whiff of any issue – at all – related in any way to inappropriate sexual behavior or alcohol abuse.

Dr. Ford first raised her allegations in a secret letter to the Ranking Member more than two months ago in July. The Ranking Member took no action. The letter was not shared with the Chairman, his colleagues, or his staff. These allegations could have been investigated in a way that maintained the confidentiality Dr. Ford requested.

Before his hearing, Judge Kavanaugh met privately with 65 senators, including the Ranking Member. But the Ranking Member did not ask Judge Kavanaugh about the allegations when she met with him privately in August. The Senate Judiciary Committee held its 4-day public hearing from September 4 to September 7, 2018. Judge Kavanaugh testified for more than 32 hours in public. The committee held a closed session for members to ask sensitive questions on the last evening, which the Ranking Member did not attend. Judge Kavanaugh answered nearly 1,300 written questions submitted by senators after the hearing – more than all prior Supreme Court nominees combined. Throughout this period, the Chairman did not know about the Ranking Member's secret evidence.

Only at the eleventh hour, on the eve of Judge Kavanaugh's confirmation vote, did the Ranking Member refer the allegations to the FBI. And then the allegations were leaked to the press. This is a shameful way to treat Dr. Ford, who insisted on confidentiality, and Judge Kavanaugh, who has had to address these allegations in the midst of a media circus.

When the Chairman received Dr. Ford's letter on September 13, he and his staff recognized the seriousness of these allegations and immediately began the Committee's investigation, consistent with the way the Committee has handled such allegations in the past. Every step of the way, the Democrat side refused to participate in what should have been a bipartisan investigation.

At Dr. Ford's and Judge Kavanaugh's requests, the Chairman re-opened Judge Kavanaugh's confirmation hearing for a 5th day last Thursday, to provide a safe, comfortable, and dignified forum to hear Dr. Ford's and Judge Kavanaugh's testimony.

Following a bipartisan recommendation, the Committee hired Rachel Mitchell, who has served for nearly 25 years as a career prosecutor of sex-related and other crimes in Arizona, to question the witnesses. The goal was to de-politicize the process and get to the truth, instead of grandstanding and giving senators an opportunity to launch their presidential campaigns. Mitchell came to the following conclusion in this memo:

A “he said, she said” case is incredibly difficult to prove. But this case is even weaker than that. Dr. Ford identified other witnesses to the event, and those witnesses either refuted her allegations or failed to corroborate them. For the reasons discussed below, I do not think that a reasonable prosecutor would bring this case based on the evidence before the Committee. Nor

do I believe that this evidence is sufficient to satisfy the preponderance-of-the-evidence standard.

Several other accusers, some named and some anonymous, have made allegations against Judge Kavanaugh since Dr. Ford's allegations became public.

Attached are summaries of the Committee's investigations of these various allegations.

The Committee favorably reported (voted) Judge Kavanaugh's nomination to the Senate floor on September 28, with the understanding the FBI would conduct a supplemental FBI background investigation into current credible allegations against the nominee and which must be completed no later than on October 5.

Here are Chairman Chuck Grassley's public statements and releases:
<https://www.judiciary.senate.gov/press/majority>