

The Case for a Kavanaugh Investigation

Since Justice Kavanaugh’s confirmation last fall, dozens of state legislatures have responded by rushing to enact extreme anti-abortion laws that seek to overturn the core holding of *Roe v. Wade*.

¹ This comes as no surprise to most, since President Trump repeatedly promised on the campaign trail that *Roe* would be overturned “automatically” once he had his choice of justices on the Court.² Neil Gorsuch and Brett Kavanaugh might soon fulfill this promise, coming to the Court with the imprimatur of the Federalist Society and a host of anti-choice organizations and with past opinions, speeches, and writings that indicate a deep-seated hostility toward *Roe*.³

Yet Justice Kavanaugh’s full views on abortion and *Roe* may remain hidden. This is because the Republican-led Senate used a fundamentally flawed and wholly inadequate process to supposedly fulfill its constitutional advice and consent responsibilities. Before the Supreme Court hears any one of the myriad abortion-related cases that are currently making their way through the litigation process, the American public deserves the full story on whether Justice Kavanaugh lied about believing *Roe* is settled law or worked on the constitutionality of abortion-related issues that would necessitate his recusal now that he sits on our highest Court. We also deserve the full story on whether Justice Kavanaugh lied about other issues, whether he sexually assaulted the multiple women who accused him of doing so, and whether he is ultimately fit to be a Supreme Court justice.

As an initial matter, then-Senate Judiciary Committee Chairman Chuck Grassley abandoned prior precedent by making a request to the National Archives for Justice Kavanaugh’s documents from his tenure in the George W. Bush administration against the objections of Democrats on the Senate Judiciary Committee.⁴ While the Democrats would have sought all records that were relevant to Justice Kavanaugh’s tenure at the George W. Bush White House—as the Judiciary Committee had for Justice Elena Kagan’s records from the Clinton White House—Senator Grassley requested only those records for Justice Kavanaugh’s two years in the White House counsel’s office, and not those for his three years in his most senior position, as Staff Secretary.⁵ Having requested only a subset of relevant documents, Senator Grassley then refused to wait for the National Archives to fulfill the request, instead relying on an even smaller subset of

¹ Sabrina Tavernise, ‘The Time is Now’: States Are Rushing to Restrict Abortion, or to Protect It, *New York Times*, May 15, 2019, available at <https://www.nytimes.com/2019/05/15/us/abortion-laws-2019.html>.

² Dan Mangan, Trump: I’ll appoint Supreme Court justices to overturn *Roe v. Wade* abortion case, *CNBC*, Oct. 19, 2016, available at <https://www.cnn.com/2016/10/19/trump-ill-appoint-supreme-court-justices-to-overturn-roe-v-wade-abortion-case.html>.

³ Eliana Dockterman and Alexandra Sifferlin, What Neil Gorsuch Means In the Battle Over Abortion Rights, *Time*, Feb. 10, 2017, available at <http://time.com/4652322/donald-trump-gorsuch-abortion/>; Adam Cancryn, Anti-abortion groups rally around Trump’s SCOTUS pick, *Politico*, July 9, 2018, available at <https://www.politico.com/story/2018/07/09/brett-kavanaugh-conservative-policies-675460>.

⁴ Elana Schor, GOP goes it alone in Kavanaugh documents fight, *Politico*, July 27, 2018, available at <https://www.politico.com/story/2018/07/27/dianne-feinstein-national-archives-request-supreme-court-746147>.

⁵ *Id.*

documents that were hand-picked and supplied by a partisan lawyer for George W. Bush.⁶ The documents supplied by that lawyer, William Burck, were incomplete,⁷ redacted without explanation,⁸ and dumped on the members of the Senate Judiciary Committee with inadequate time to review before the hearing on Justice Kavanaugh's nomination.⁹ *The National Archives did not produce a single page of records from Justice Kavanaugh's service in the White House.*

Justice Kavanaugh's hearing took place on September 4, 2018, as scheduled, despite the fact that his complete records had not been produced and the fact that Senators were not given adequate time to review even the smaller subset that was produced. Weeks later, Dr. Christine Blasey Ford came forward to allege that Justice Kavanaugh had attempted to rape her while they were both in high school.¹⁰ A week later, another woman came forward with credible allegations of sexual assault by Justice Kavanaugh.¹¹ Though Senate Republicans initially resisted,¹² they eventually yielded to public pressure and agreed to allow Dr. Ford to testify publicly.¹³ But Republican Senators ultimately gave the sexual assault allegations the same hasty, negligent treatment as the request for records. The committee refused to call any corroborating, or contradicting, witnesses to testify to the allegations Dr. Ford made against Justice Kavanaugh.¹⁴ When Senator Jeff Flake begrudgingly called for an FBI investigation into the allegations, threatening to withhold his vote

⁶ Jordain Carney, [National Archives distances itself from Bush team on Kavanaugh documents](https://thehill.com/homenews/senate/402061-national-archives-distances-itself-from-bush-team-on-kavanaugh-documents), *The Hill*, Aug. 15, 2018, available at <https://thehill.com/homenews/senate/402061-national-archives-distances-itself-from-bush-team-on-kavanaugh-documents>.

⁷ Letter from William Burck to Senator Charles Grassley (Aug. 31, 2018), available at <https://www.judiciary.senate.gov/imo/media/doc/2018-08-31%20Burck%20to%20Grassley%20-%20Accounting%20of%20Kavanaugh%20WHCO%20Records.pdf>.

⁸ Tara Golshan, [Democrats are driving home that Republicans keep changing the rules with Supreme Court nominations](https://www.vox.com/2018/9/4/17819022/brett-kavanaugh-hearing-supreme-court-process), *Vox*, Sept. 4, 2018, available at <https://www.vox.com/2018/9/4/17819022/brett-kavanaugh-hearing-supreme-court-process>.

⁹ Fred Barbash and Seung Min Kim, [Hours before Kavanaugh nomination hearings, Bush lawyer releases 42,000 pages of documents to Judiciary Committee](https://www.washingtonpost.com/news/morning-mix/wp/2018/09/03/hours-before-kavanaugh-nomination-hearings-bush-lawyer-releases-42000-pages-of-documents-to-judiciary-committee/), *Washington Post*, Sept. 3, 2018, available at <https://www.washingtonpost.com/news/morning-mix/wp/2018/09/03/hours-before-kavanaugh-nomination-hearings-bush-lawyer-releases-42000-pages-of-documents-to-judiciary-committee/>.

¹⁰ Emma Brown, [California professor, writer of confidential Brett Kavanaugh letter, speaks out about her allegation of sexual assault](https://www.washingtonpost.com/investigations/california-professor-writer-of-confidential-brett-kavanaugh-letter-s-peaks-out-about-her-allegation-of-sexual-assault/2018/09/16/46982194-b846-11e8-94eb-3bd52dfe917b_story.html), *Washington Post*, Sept. 16, 2018, available at https://www.washingtonpost.com/investigations/california-professor-writer-of-confidential-brett-kavanaugh-letter-s-peaks-out-about-her-allegation-of-sexual-assault/2018/09/16/46982194-b846-11e8-94eb-3bd52dfe917b_story.html.

¹¹ Ronan Farrow and Jane Mayer, [Senate Democrats Investigate a New Allegation of Sexual Misconduct, from Brett Kavanaugh's College Years](https://www.newyorker.com/news/news-desk/senate-democrats-investigate-a-new-allegation-of-sexual-misconduct-from-the-supreme-court-nominee-brett-kavanaughs-college-years-deborah-ramirez), *New Yorker*, Sept. 23, 2018, available at <https://www.newyorker.com/news/news-desk/senate-democrats-investigate-a-new-allegation-of-sexual-misconduct-from-the-supreme-court-nominee-brett-kavanaughs-college-years-deborah-ramirez>.

¹² Jordain Carney, [Grassley working to set up calls with Kavanaugh, accuser before vote](https://thehill.com/blogs/floor-action/senate/406939-grassley-working-to-set-up-calls-with-kavanaugh-ford-before-vote), *The Hill*, Sept. 16, 2018, available at <https://thehill.com/blogs/floor-action/senate/406939-grassley-working-to-set-up-calls-with-kavanaugh-ford-before-vote>.

¹³ Seung Min Kim, Sean Sullivan, and Emma Brown, [Christine Blasey Ford moves closer to deal with Senate Republicans to testify against Kavanaugh](https://www.washingtonpost.com/politics/lawyers-for-christine-blasey-ford-say-she-has-accepted-senate-judiciary-committees-request-to-testify-against-kavanaugh/2018/09/22/e8199c6a-be8f-11e8-8792-78719177250f_story.html), *Washington Post*, Sept. 23, 2018, available at https://www.washingtonpost.com/politics/lawyers-for-christine-blasey-ford-say-she-has-accepted-senate-judiciary-committees-request-to-testify-against-kavanaugh/2018/09/22/e8199c6a-be8f-11e8-8792-78719177250f_story.html.

¹⁴ Manu Raju, [Republicans reject Ford's request for outside witnesses](https://www.cnn.com/politics/live-news/kavanaugh-sexual-assault-allegation-dle/h_48331a2aed6b9adc6b74a35dcaa41163), *CNN*, Sept. 20, 2018, available at https://www.cnn.com/politics/live-news/kavanaugh-sexual-assault-allegation-dle/h_48331a2aed6b9adc6b74a35dcaa41163.

until one was conducted, the Senate Republicans allowed the narrowest of investigations, one that was severely limited in time and scope at the direction of the White House.¹⁵ The report that resulted from the investigation provided no more information than that which had already been made public.¹⁶

Nonetheless, on October 6, 2018, Justice Kavanaugh was confirmed to a seat on the Supreme Court by the narrowest vote margin in over a century.¹⁷ As a result of the partisan vetting process that preceded his confirmation, though, serious questions remain about Justice Kavanaugh's fitness for his position on the Court.

Without a careful and thorough review of the Justice's complete record, we cannot appropriately assess whether, how often, and about what, Justice Kavanaugh lied under oath, as many have cogently reported he did. Moreover, we cannot assess Justice Kavanaugh's independence and impartiality on a number of issues that he may have encountered during his tenure in the George W. Bush administration, and that may deserve his recusal should they be taken up by the Court today. Finally, because of the incomplete investigation into the sexual assault allegations made by Dr. Ford and other women, we also do not have any comprehensive understanding of the truth of those allegations and whether Justice Kavanaugh acted inappropriately in his response to them.

Answering these questions is more important now than ever. A full 83 complaints were made against Justice Kavanaugh during the confirmation process, and the Tenth Circuit Judicial Council dismissed them all late last year.¹⁸ It did so while noting that several were "serious."¹⁹ In dismissing the complaints, it instructed the Committee on Judicial Conduct and Disability of the Judicial Conference of the United States to forward the complaints to Congress.²⁰ In March, the Judicial Council denied all 20 appeals of the original dismissal, though one judge on the council dissented from that denial.²¹

¹⁵ Nicholas Fandos and Sheryl Gay Stolberg, Trump Agrees to Open "Limited" F.B.I Investigation Into Accusations Against Kavanaugh, *New York Times*, Sept. 28, 2018, available at <https://www.nytimes.com/2018/09/28/us/politics/brett-kavanaugh-senate-judiciary.html>.

¹⁶ Marie Solis, FBI Ends Kavanaugh Investigation Without Interviewing Christine Blasey Ford, *Broadly*, Oct. 4, 2018, available at https://broadly.vice.com/en_us/article/7x374x/fbi-kavanaugh-investigation-christine-blasey-ford.

¹⁷ Seung Min Kim and John Wagner, Kavanaugh sworn in as Supreme Court justice after divided Senate votes for confirmation, *Washington Post*, Oct. 6, 2018, available at https://www.washingtonpost.com/politics/kavanaugh-vote-divided-senate-poised-to-confirm-trumps-nominee/2018/10/06/64bf69fa-c969-11e8-b2b5-79270f9cce17_story.html.

¹⁸ Ann E. Marimow and Robert Barnes, Judiciary dismisses 'serious' misconduct complaints against Brett M. Kavanaugh, *Washington Post*, Dec. 18, 2018, available at https://www.washingtonpost.com/local/legal-issues/judiciary-dismisses-serious-misconduct-complaints-against-brett-m-kavanaugh/2018/12/18/f55416b0-0301-11e9-b6a9-0aa5c2fcc9e4_story.html.

¹⁹ *Id.*

²⁰ Order, *In Re: Complaints Under the Judicial Conduct and Disability Act*, Nos. 10-18-90038 through 10-18-90067, 10-18-90069 through 10-18-90107, and 10-18-90109 through 10-18-90122 (Judicial Council of the Tenth Circuit Dec. 18, 2018), available at <http://www.uscourts.gov/courts/ca10/10-18-90038-et-al.O.pdf>.

²¹ Marcia Coyle, New Dismissal of Kavanaugh Ethics Claims Divides 10th Circuit Panel, *National Law Journal*, Mar. 15, 2019, available at <https://www.law.com/nationallawjournal/2019/03/15/new-dismissal-of-kavanaugh-ethics-claims-divides-10th-circuit-panel/>.

It is now Congress—and only Congress—who can bring transparency and accountability to this process. The American people deserve to know why the usual advice and consent process was so badly broken last year, and whether allegations against Justice Kavanaugh of sexual assault, improper bias, and perjury have any factual basis. The public is just as entitled to a thorough review of his record now as it was before he was elevated to the Supreme Court.

I. A Broken “Advice and Consent” Process

When Justice Elena Kagan was nominated to the Supreme Court in 2010, the Senate acted in a bipartisan fashion to request all records from her tenure in the Clinton administration, both as an associate counsel in the White House counsel’s office and as deputy director of the Domestic Policy Council.²² Senate Republicans, including Senators Jeff Sessions,²³ Grassley,²⁴ and Jon Kyl,²⁵ repeatedly insisted on receiving all relevant documents before considering Justice Kagan’s nomination. Senator Sessions even threatened to boycott the hearing if all the documents were not turned over first.²⁶ Accordingly, Senators Patrick Leahy and Sessions, then the chairman and the ranking member of the Senate Judiciary Committee, acted jointly to make a request for the complete records, and the request was fulfilled in full and in advance of a hearing on Justice Kagan’s nomination.²⁷ President Obama did not assert executive privilege over a single document.²⁸ Even the few records on which President Clinton asserted statutory restrictions against public release were provided to the Senate Judiciary Committee on a “committee confidential” basis.²⁹ Only 1,600 pages of records—less than 1% of the total number of pages of records—were withheld, and only on personal privacy grounds.³⁰ In the end, the Senate received over 99% of Justice Kagan’s responsive documents.

²² Ali Rogin, Senate Republicans clash with Democrats over access to Kavanaugh’s White House records, *ABCNews*, July 25, 2018, available at <https://abcnews.go.com/Politics/senate-republicans-clash-democrats-access-kavanaughs-white-house/story?id=56813039>.

²³ 156 Cong. Rec. S4108-S4110 (daily ed. May 24, 2010) (statement of Senator Sessions), available at <https://www.congress.gov/congressional-record/2010/05/24/senate-section/article/S4108-3>.

²⁴ 156 Cong. Rec. S4928-S4933 (daily ed. June 15, 2010) (statement of Senator Grassley), available at <https://www.congress.gov/congressional-record/2010/06/15/senate-section/article/S4928-1>.

²⁵ GOP wants Clinton-era papers on Kagan, *NBCNews*, May 11, 2010, available at http://www.nbcnews.com/id/37082616/ns/politics-more_politics/t/gop-wants-clinton-era-papers-kagan/#.W0V6o9hKhE4.

²⁶ Manu Raju, GOP may boycott Kagan hearings, *Politico*, June 21, 2010, available at <https://www.politico.com/story/2010/06/gop-may-boycott-kagan-hearings-038827>.

²⁷ Press Release, Office of Senator Leahy, Leahy, Sessions Request Kagan Documents From Clinton Library (May 19, 2010), available at <https://www.leahy.senate.gov/press/leahy-sessions-request-kagan-documents-from-clinton-library>.

²⁸ Press Release, Office of Senator Leahy, Leahy Responds To Republican Requests For More Kagan Documents From Archives (June 24, 2010), available at <https://www.leahy.senate.gov/press/leahy-responds-to-republican-requests-for-more-kagan-documents-from-archive>

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²⁹ *Id.*

³⁰ *Id.*

The same standard Republicans applied to Justice Kagan's records in 2010 should have applied to Justice Kavanaugh's records last year, and Senate Republicans did not make and have not made any persuasive arguments to the contrary. Nevertheless, the process through which Senate Republicans requested Justice Kavanaugh's records, and the completeness of the records received, is radically different from the standard set during Justice Kagan's confirmation.

The process for reviewing Justice Kavanaugh's records from the George W. Bush White House was broken from the outset. Senator Grassley's formal request to the National Archives for the records was made over the objections of the committee Democrats.³¹ The Democrats objected because the request included only those records from Justice Kavanaugh's tenure in the White House counsel's office, and not the records from his tenure as staff secretary.³² Senator Dianne Feinstein, ranking member of the Senate Judiciary Committee, sought to remedy that by requesting the complete set of records, including the staff secretary records.³³ The National Archives categorically denied Senator Feinstein's request, however, asserting that only committee chairs had authority to make such requests under the Presidential Records Act.³⁴ Then, when the National Archives told Senator Grassley it could not fulfill even his narrower request until October, he decided to forego the nonpartisan National Archives process altogether in favor of an unprecedented process led and supervised entirely by William Burck, George W. Bush's personal lawyer and former deputy to Kavanaugh in the White House.³⁵ Thus, nearly every shred of White House records seen by the Senate Judiciary Committee before Justice Kavanaugh's confirmation was hand-picked and screened by the same lawyer who now represents the likes of George W. Bush, Don McGahn, Reince Priebus, and Steve Bannon.³⁶ Burck further narrowed the documents that would be available to the public, allowing only a hand-picked subset of that already limited production to be viewed by the American people.

The extent to which this broken process deviated from the standard set during Justice Kagan's confirmation is stunning. At the outset, the National Archives indicated that it held approximately 3.85 million pages of records related to Justice Kavanaugh's tenure at the George

³¹ Schor, *Politico*, July 27, 2018. The Senate Judiciary Committee made a separate bipartisan request to the National Archives for the records from Kavanaugh's work for the Office of Independent Counsel Kenneth Starr during the Clinton administration. This request was fulfilled in full, and produced approximately 20,000 pages of documents.

³² *Id.*

³³ Press Release, Office of Senator Feinstein, Judiciary Democrats Officially Request All Kavanaugh Documents from Archives (July 31, 2018), available at <https://www.feinstein.senate.gov/public/index.cfm/press-releases?id=F69F5E85-EDDF-4243-AAB0-2E275E5A25FC>.

³⁴ Jordain Carney, Archivist rejects Democrats' demand for Kavanaugh documents, *The Hill*, Aug. 13, 2018, available at <https://thehill.com/blogs/floor-action/senate/401583-archivist-rejects-democrats-demand-for-kavanaugh-documents>.

³⁵ Seung Min Kim, National Archives says it won't be able to produce all Kavanaugh documents until end of October, *Washington Post*, Aug. 2, 2018, available at https://www.washingtonpost.com/politics/national-archives-says-it-wont-be-able-to-produce-all-kavanaugh-documents-until-end-of-october/2018/08/02/011a9f1e-966f-11e8-8ffb-5de6d5e49ada_story.html.

³⁶ Li Zhou and Andrew Prokop, Who is Bill Burck? Meet the former Bush attorney vetting Kavanaugh documents., *Vox*, Sept. 4, 2018, available at <https://www.vox.com/2018/9/4/17819062/bill-burck-kavanaugh-explained>.

W. Bush White House.³⁷ Only 937,176 of those pages were from his time at the White House Counsel’s office, so the Senate Republicans’ request itself excluded almost three million pages, or 75% of the relevant records.³⁸ Of the 937,176 pages requested, 147,250 pages were made available to members of the Senate Judiciary Committee on a “committee confidential” basis and fewer than 300,000 were made available to the rest of the Senate, and to the American public.³⁹ The remaining nearly half million pages were excluded from production completely because Burck and the team that he led in reviewing the documents claimed the records were duplicates, personal records (and therefore not subject to the Presidential Records Act), or protected by a constitutional privilege.⁴⁰ Remarkably, over 10% of the records—100,000 pages—were withheld because Burck claimed President Trump asserted a privilege over them, while President Obama did not assert privilege over a single page of Justice Kagan’s documents.⁴¹ Furthermore, because Burck used a rogue process to produce the documents, he did not have to follow the legal requirements of the Presidential Records Act, such as providing simultaneous notice to the House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs of the claims of privilege.⁴²

In sum, because of the broken process that Senator Grassley allowed to govern the review of Justice Kavanaugh’s documents, the public was able to see a mere 7.8% of the documents from the Justice’s tenure at the George W. Bush White House. In comparison, the public saw 99% of Justice Kagan’s documents from her time at the Clinton White House.⁴³

This broken process itself demands oversight. Congress should start its investigation with the National Archives’ determination that it would not cooperate with other members of the Senate Judiciary Committee and would respond only to the request being made by Chairman Grassley. The investigation should also answer why the National Archives deviated from its past practice of producing records on a rolling basis; while the Archives estimated that it could fulfill Senator Grassley’s narrower request for Justice Kavanaugh’s White House counsel records by October, it failed to produce a single page of those records before Kavanaugh was confirmed. This investigation should include a review of communications among the White House, the Republicans on the Senate Judiciary Committee, officials at the National Archives, officials at the Department of Justice, Burck and his team, and other official or unofficial advisors to the White House during the confirmation process, such as Federalist Society Executive Vice President Leonard Leo.⁴⁴ Congress must also expose which documents Burck’s team excluded

³⁷ National Archives Records Related to Judge Brett M. Kavanaugh, <https://www.archives.gov/news/topics/kavanaugh-records>.

³⁸ Letter from William Burck to Senator Charles Grassley, *supra* note 7.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Seung Min Kim, [Trump to withhold 100,000 pages of Kavanaugh’s White House records](https://www.washingtonpost.com/politics/trump-to-withhold-100000-pages-of-kavanaughs-white-house-records/2018/09/01/217cf9e0-adf9-11e8-8f4b-aee063e14538_story.html), *Washington Post*, Aug. 1, 2018, *available at* https://www.washingtonpost.com/politics/trump-to-withhold-100000-pages-of-kavanaughs-white-house-records/2018/09/01/217cf9e0-adf9-11e8-8f4b-aee063e14538_story.html.

⁴² 44. U.S. § 2208(b)(2).

⁴³ Press Release, Office of Senator Leahy, *supra* note 28.

⁴⁴ Leonard Leo, Executive Vice President of the Federalist Society, was an unofficial advisor who was intimately involved in Kavanaugh’s nomination and confirmation process. *See, e.g.*, Philip Rucker, Ashley Parker, Sean

from production to the Committee, and why. In order to perform its oversight responsibilities, we therefore urge Congress to make the following document requests and to thoroughly review the contents of the resulting documents:

- All communications between officials at the White House and Senators and their staff from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the White House and officials at the National Archives from July 9, 2018 to October 6, 2018 related to records from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the White House and William Burck from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the White House and officials at the Department of Justice from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the White House and Leonard Leo from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the National Archives and Senators and their staff from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the National Archives and William Burck from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the National Archives and officials at the Department of Justice from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the Department of Justice and Senators and their staff from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.

Sullivan, and Seung Min Kim, 'Willing to go to the mat': How Trump and Republicans carried Kavanaugh to the cusp of confirmation, *Washington Post*, Oct. 5, 2018, available at https://www.washingtonpost.com/politics/willing-to-go-to-the-mat-how-trump-and-republicans-carried-kavanaugh-to-the-cusp-of-confirmation/2018/10/05/7cdf0d0e-c81c-11e8-b1ed-1d2d65b86d0c_story.html.

- All communications between officials at the Department of Justice and William Burck from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between officials at the Department of Justice and Leonard Leo from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.
- All communications between William Burck and Senators and their staff from July 9, 2018 to October 6, 2018 related to records in the possession of the National Archives and/or the George W. Bush Library from Justice Kavanaugh's service in the George W. Bush White House between January 2001 and May 2006.

II. Evidence of Perjury and Improper Bias

The contents of these concealed documents remain essential, even now that Justice Kavanaugh is on the Supreme Court. We still deserve to know whether, and to what extent, he perjured himself during his confirmation hearings in 2004, 2006, and in 2018. Perjury is a serious charge to level against any public official, but especially one who twice achieved a position of unique trust through such perjury, as Justice Kavanaugh arguably did.

The examples of potential perjury regarding Justice Kavanaugh's service in the George W. Bush administration are abundant. For example, in 2004, the Justice denied knowing that he had received documents stolen from Democratic senators during the George W. Bush administration, claiming that he was "not aware of that matter ever until I learned of it in the media late last year."⁴⁵ In his 2004 written questionnaire, Justice Kavanaugh wrote about meetings with Manuel Miranda, the Republican Senate aide who stole those documents, saying that "these meetings, calls, and emails were typical of how judicial confirmations have been handled in past Administrations."⁴⁶ In 2018, Justice Kavanaugh again denied knowing that he had received the stolen documents, claiming that his interactions with Miranda were "the usual kinds of discussions that would happen."⁴⁷ However, emails showed that the Justice received stolen information about Senator Leahy and was told to hold it in the "strictest confidence" and to keep it confidential.⁴⁸ This alone should have put him on notice that the documents were improperly

⁴⁵ Confirmation Hearing on the Nomination of Brett M. Kavanaugh to be Circuit Judge for the District of Columbia Circuit: Hearing Before the S. Comm. on the Judiciary, 108th Cong. 46 (2004), *available at* <https://www.govinfo.gov/content/pkg/CHRG-108shrg24853/pdf/CHRG-108shrg24853.pdf#page=50>.

⁴⁶ Salvador Rizzo, Brett Kavanaugh's unlikely story about Democrats' stolen documents, *Washington Post*, Sept. 20, 2018, *available at* <https://www.washingtonpost.com/politics/2018/09/20/brett-kavanaughs-unlikely-story-about-democrats-stolen-documents/>.

⁴⁷ *Id.*

⁴⁸ Leahy, Patrick (@SenatorLeahy). "Kavanaugh was told that I received a sensitive letter 'in the strictest confidence' about a controversial nominee. He was asked to keep the information confidential and to take no action without further instruction. HE DIDN'T THINK THIS WAS 'untoward'?" Sept. 6, 2018, 1:24 p.m. Tweet, *available at* <https://twitter.com/SenatorLeahy/status/1037753416037031937>.

obtained, and his claims otherwise were deemed by one fact checker to “defy logic.”⁴⁹ Moreover, as Glenn Kessler noted in the *Washington Post*, Justice Kavanaugh’s claims that his interactions with Miranda were “typical” of past administrations is “not accurate.”⁵⁰

Justice Kavanaugh also denied any involvement in several controversial policy issues related to the war on terror. For instance, during his confirmation hearing in 2006, the Justice said, “I was not involved and am not involved in the questions about the rules governing detention of combatants.”⁵¹ One year later, it was reported that he had actually counseled a group of White House lawyers regarding the administration’s decision to deny lawyers to enemy combatants.⁵² In fact, there are now at least three recorded examples of Justice Kavanaugh participating in discussions of the George W. Bush administration detainee policy.⁵³ Similarly, during his 2006 confirmation hearing, Justice Kavanaugh denied involvement in the controversial Bush-era warrantless wiretapping program and said that he didn’t know about it until the program was revealed by the *New York Times*.⁵⁴ A newly released email, however, shows that in 2001 he specifically asked the Justice Department about the constitutionality of “random/constant surveillance of phone and email conversations of non-citizens who are in the United States when the purpose of the surveillance is to prevent terrorist/criminal violence.”⁵⁵

Justice Kavanaugh also denied involvement in the nomination and confirmation processes for a number of George W. Bush’s controversial judicial nominees. In 2004, he claimed that the nomination of anti-abortion, anti-LGBTQ judge William Pryor was “not one that I worked on personally.”⁵⁶ Emails released last year, however, showed he was involved in selecting Pryor, interviewing him, and working to confirm him.⁵⁷ In 2006, Justice Kavanaugh denied he “primarily handl[ed]” the nomination of Charles Pickering, who had pushed to reduce the

⁴⁹ Rizzo, *Washington Post*, Sept. 20, 2018.

⁵⁰ *Id.*

⁵¹ Brett Kavanaugh in 2006: ‘I was not involved’ in Bush torture policy, *Washington Post*, July 18, 2018, available at https://www.washingtonpost.com/video/politics/other/brett-kavanaugh-in-2006-i-was-not-involved-in-bush-torture-policy/2018/07/18/2db82b4c-8a97-11e8-9d59-dccc2c0cabcf_video.html.

⁵² Ari Shapiro, Federal Judge Downplayed Role in Detainee Cases, *NPR*, June 26, 2007, available at <https://www.npr.org/templates/story/story.php?storyId=11433231>.

⁵³ Pema Levy and Dan Friedman, Five Times Brett Kavanaugh Appears to Have Lied to Congress While Under Oath, *Mother Jones*, Sept. 6, 2018, available at <https://www.motherjones.com/politics/2018/09/five-times-brett-kavanaugh-appears-to-have-lied-to-congress-while-under-oath/>.

⁵⁴ Confirmation Hearing on the Nomination of Brett Kavanaugh to be Circuit Judge for the District of Columbia Circuit: Hearing Before the S. Comm. on the Judiciary, 109th Cong. 42 (2006), available at <https://www.congress.gov/109/chrg/shrg27916/CHRG-109shrg27916.pdf>.

⁵⁵ Jay Michaelson, Newly Released Emails Show Brett Kavanaugh May Have Perjured Himself at Least Four Times, *Daily Beast*, Sept. 7, 2018, available at <https://www.thedailybeast.com/newly-released-emails-show-brett-kavanaugh-may-have-perjured-himself-at-least-four-times>.

⁵⁶ Tara Golshan, The Judge Pryor controversy around Brett Kavanaugh, explained, *Vox*, Sept. 6, 2018, available at <https://www.vox.com/2018/9/6/17828378/brett-kavanaugh-confirmation-perjury-pryor>.

⁵⁷ Aaron Blake, Brett Kavanaugh’s William Pryor denials require some explaining, *Washington Post*, Sept. 6, 2018, available at <https://www.washingtonpost.com/politics/2018/09/06/brett-kavanaugh-has-some-explaining-do/>.

sentence of a man convicted of burning a cross in front of an interracial couple's house.⁵⁸ But emails now show that Justice Kavanaugh prepared documents on Pickering and worked on a draft op-ed in support of the nominee.⁵⁹ In 2006, Justice Kavanaugh also denied that he "handled" the nomination of William Haynes,⁶⁰ but recent emails revealed that he played a large role in the Haynes nomination, including determining that Haynes "would be an across-the-board judicial conservative."⁶¹

There is also evidence that Justice Kavanaugh lied to the Senate about his time working for the Office of Independent Counsel Kenneth Starr during the Clinton administration. Specifically, he was asked by Senators Feinstein and Whitehouse whether, during the investigation of President Clinton, he directed officials to speak to reporters in violation of grand jury secrecy rules.⁶² Justice Kavanaugh denied having broken any such rules.⁶³ However, according to a memorandum that was produced by the National Archives, the Justice instructed Hickman Ewing, a deputy independent counsel in the Starr investigation, to speak to a reporter about matters before the grand jury which would have been illegal to disclose.⁶⁴ As Senator Feinstein stated, Justice Kavanaugh's answer to her question for the record "conflicts with the official memo."⁶⁵ As these and countless other examples show, Justice Kavanaugh was less than forthcoming, and at times altogether dishonest, during his confirmation hearings. Now that he holds a position on the nation's highest court, a position that he may have gained through his dishonesty, this potential perjury must be investigated.

A full review of Justice Kavanaugh's records from his tenure in the George W. Bush administration is essential for an additional reason, as well. Generally, the public's faith in the independence of the judiciary relies on knowledge of the nature of the work that a justice has performed throughout his career. Justice Kavanaugh's records would help inform the public about which issues he may have encountered during his time in the Bush White House, such as the proposed constitutional amendment to ban marriage equality or the Partial-Birth Abortion Ban Act of 2003, that may now require his recusal in certain cases. More importantly, the records would help the public understand Justice Kavanaugh's approach to the strength and scope of presidential powers. Justice Kavanaugh's confirmation was extraordinary because he was hand-picked by a

⁵⁸ Confirmation Hearing on the Nomination of Brett Kavanaugh to be Circuit Judge for the District of Columbia Circuit: Hearing Before the S. Comm. on the Judiciary, 109th Cong. 38 (2006), available at <https://www.congress.gov/109/chrq/shrg27916/CHRG-109shrg27916.pdf>.

⁵⁹ Russ Feingold, *We Know Brett Kavanaugh Has Lied Already*, *Huffington Post*, Sept. 17, 2018, available at https://www.huffingtonpost.com/entry/opinion-russ-feingold-kavanaugh-lies_us_5ba020f6e4b013b0977defff.

⁶⁰ Salvador Rizzo, *Did Brett Kavanaugh give false testimony under oath?*, *Washington Post*, Sept. 17, 2018, available at <https://www.washingtonpost.com/politics/2018/09/17/did-brett-kavanaugh-give-false-testimony-under-oath>.

⁶¹ Press Release, Office of Senator Durbin, Document Shows Judge Kavanaugh Mised Durbin Under Oath About His Work On Controversial Judicial Nomination (Sept. 11, 2018), available at <https://www.durbin.senate.gov/newsroom/press-releases/document-shows-judge-kavanaugh-mised-durbin-under-oath-about-his-work-on-controversial-judicial-nomination>.

⁶² Josh Gerstein, *Feinstein: Kavanaugh misled about grand jury secrecy in Vince Foster probe*, *Politico*, Sept. 26, 2018, available at <https://www.politico.com/story/2018/09/26/kavanaugh-confirmation-starr-vince-foster-842530>.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

president whose criminal liability he very possibly will be asked to consider. He has, nonetheless, refused to commit to recusing himself from cases regarding the president, despite the fact that fairly recent Supreme Court precedent would indicate that recusal is necessary.⁶⁶

Justice Kavanaugh's honesty and impartiality are in serious question, and the full records from his tenure in the George W. Bush administration are essential to assessing whether and when the Justice should be expected to recuse himself from a case. This is especially true now that state legislation that seeks to overturn *Roe* is rapidly proceeding through the federal court system. During the confirmation process, an email surfaced in which Justice Kavanaugh expressed that he is "not sure that all legal scholars refer to *Roe* as the settled law of the land at the Supreme Court level since [the] Court can always overrule its precedent, and three current Justices on the Court would do so."⁶⁷ Yet, during the confirmation process, he insisted to Senator Susan Collins that *Roe* is "settled law."⁶⁸ Given his record of likely perjury, there could exist definitive proof that he lied to Senator Collins and others when he said he believes *Roe* is settled law. And as noted above, he may have discussed the constitutionality of abortion precedent during his tenure in the George W. Bush administration, so there may be abortion-related cases from which he should recuse himself now.

We therefore urge Congress to thoroughly review Justice Kavanaugh's complete record to determine whether, when, and about what he committed perjury during his 2004, 2006, and 2018 testimony before the Senate Judiciary Committee. We further ask Congress to review the record to assess whether and when Justice Kavanaugh's independence should be called into question on the Court. We urge Congress to make requests for the following records and to thoroughly review those records for evidence of perjury and/or improper bias:

- All documents in the Democratic Senate Judiciary record request,⁶⁹ modeled after the bipartisan Leahy-Sessions request to the National Archives during consideration of Justice Kagan's nomination:

⁶⁶ Lawrence Tribe, Timothy Lewis, and Norm Eisen, [The Kavanaugh Nomination Must Be Paused. And He Must Recuse Himself](https://www.politico.com/magazine/story/2018/09/04/kavanaugh-hearings-recuse-himself-supreme-court-219635), *Politico*, Sept. 4, 2018, available at <https://www.politico.com/magazine/story/2018/09/04/kavanaugh-hearings-recuse-himself-supreme-court-219635>; Jordain Carney, [Kavanaugh refuses to say if he would recuse himself from Trump, Mueller cases](https://thehill.com/homenews/senate/405479-kavanaugh-refuses-to-say-if-he-would-recuse-himself-from-trump-mueller-cases), *The Hill*, Sept. 6, 2018, available at <https://thehill.com/homenews/senate/405479-kavanaugh-refuses-to-say-if-he-would-recuse-himself-from-trump-mueller-cases>.

⁶⁷ Anna North, [Leaked email shows Brett Kavanaugh thinks Roe v. Wade could be overturned](https://www.vox.com/2018/9/6/17827188/brett-kavanaugh-supreme-court-abortion-documents-emails), *Vox*, Sept. 6, 2018, available at <https://www.vox.com/2018/9/6/17827188/brett-kavanaugh-supreme-court-abortion-documents-emails>.

⁶⁸ Jordain Carney, [Collins: Kavanaugh considers Roe v. Wade 'settled law'](https://thehill.com/homenews/senate/402857-collins-kavanaugh-considers-roe-v-wade-settled-law), *The Hill*, Aug. 21, 2018, available at <https://thehill.com/homenews/senate/402857-collins-kavanaugh-considers-roe-v-wade-settled-law>.

⁶⁹ Letter from Senators Feinstein, Leahy, Durbin, Whitehouse, Klobuchar, Coons, Blumenthal, Hirono, Booker, and Harris to Patrick X. Mordente (July 31, 2018), available at https://www.feinstein.senate.gov/public/_cache/files/c/f/cf09bc38-c37e-40ae-95f4-859ea4d1d1ee/8CA1FC58A79BEDD4B6E6FB6426E1A6FF.7-31-18-all-judiciary-dems-to-nara-requesting-kavanaugh-documents.pdf.

Justice Kavanaugh served as Associate Counsel and Senior Associate Counsel to President George W. Bush from 2001 to 2003 and as Staff Secretary to President Bush from 2003 to 2006. Therefore, all documents in the possession of the National Archives that relate to the following:

- (1) Records from Justice Kavanaugh’s service as an Associate Counsel and Senior Associate Counsel to the President, including all records preserved in his staff files, and those records created by Justice Kavanaugh that can readily be found in the files of other White House staff members, the White House Counsel’s Office files, other White House offices’ files, and the Subject Matter Files maintained by the Staff Secretary and/or the White House Office of Records Management;
 - (2) Records from Justice Kavanaugh’s service as Staff Secretary to the President, including all records preserved in his staff files, and those records created by Justice Kavanaugh that can readily be found in the files of other White House staff members, the White House Counsel’s Office files, other White House offices’ files, and the Subject Matter Files maintained by the Staff Secretary and/or the White House Office of Records Management;
 - (3) Records relating to Justice Kavanaugh’s nomination to the United States Court of Appeals for the District of Columbia Circuit;
 - (4) All electronic mail sent by or received by Justice Kavanaugh in his White House tenure, including any documents attached to such emails;
 - (5) To the extent they are not included in response to categories (1) through (4), all records containing documents written by, edited by, prepared in whole or part by, under the supervision of, or at the direction of Justice Kavanaugh, as well as documents referencing Justice Kavanaugh by name, initials, or title, and documents received by or sent to Justice Kavanaugh.⁷⁰
- All documents in the possession of the Department of Justice Office of Legal Policy that relate to Justice Kavanaugh’s service in the George W. Bush White House between January 2001 and May 2006, including all communications to and from Justice Kavanaugh during that time.
 - All documents in the possession of the Department of Justice Office of Legal Counsel that relate to Justice Kavanaugh’s service in the George W. Bush White House between January 2001 and May 2006, including all communications to and from Justice Kavanaugh during that time.

Senator Richard Blumenthal and other Democrats on the Senate Judiciary Committee submitted a Freedom of Information Act request to the National Archives for this information on August 8, 2018.⁷¹ On September 17, 2018, the group of Senators filed a lawsuit in the U.S. District Court for

⁷⁰ This language mirrors the language that was employed in the Senate Judiciary Committee’s request for Justice Elena Kagan’s records following her nomination to the Supreme Court in 2010. Press Release, Office of Senator Leahy, Leahy, Sessions Request Kagan Documents From Clinton Library (May 19, 2010), available at <https://www.leahy.senate.gov/press/leahy-sessions-request-kagan-documents-from-clinton-library>.

⁷¹ Press Release, Office of Senator Blumenthal, Blumenthal & Senate Judiciary Committee Democrats File Freedom of Information Act Request to Compel Release of Kavanaugh Documents (Aug. 8, 2018), *available at*

the District of Columbia to seek enforcement of their request.⁷² However, Congress may be able to gain more comprehensive, and timely, access to the relevant documents pursuant to its oversight authority. To the extent that the senators' FOIA request has not yet been filled, we encourage Congress to use its oversight authority to request the documents from the National Archives directly.

We also encourage Congress to perform a thorough review of the records that have already been produced from Justice Kavanaugh's service in the Office of Independent Counsel Kenneth Starr in order to determine whether he broke grand jury secrecy rules while he worked in that office. If necessary, we further request that Congress conduct interviews with the following individuals to make such a determination:

- Hickman Ewing, Deputy Counsel, Office of Independent Counsel Kenneth Starr.
- Jackie M. Bennett, Senior Advisor, Office of Independent Counsel Kenneth Starr.

III. Unresolved Questions Regarding Justice Kavanaugh's Finances

Another consequence of last year's rushed confirmation process for Justice Kavanaugh is that serious questions regarding the justice's personal finances remain unresolved. In particular, Justice Kavanaugh reported a personal debt of between \$60,000 and \$200,000 in 2016, accrued over three credit cards and a loan from his retirement plan.⁷³ By the time he filed his 2017 financial disclosure form, that debt had disappeared.⁷⁴ The White House offered a preposterous explanation for the debt, claiming that the Justice used the money for baseball tickets and home improvements and repaid the debt when his friends reimbursed him for the tickets.⁷⁵ But this explanation simply makes no sense - it is not plausible that a federal judge borrowed money from a retirement account to buy baseball tickets for friends.

There are several concerns when a judicial nominee has large financial debt, or is able to settle a large debt quickly, without a credible explanation. One is that the debt might result from gambling, which could make the nominee susceptible to undue pressure in the future. Another is that the person or entity to whom the debt is owed, or who relieved the debt, may hold undue influence over the judge in the future. Justice Kavanaugh's unexplained debt, and its abrupt repayment, demand answers. The White House's involvement in trying to explain away the debt

<https://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-and-senate-judiciary-committee-democrats-file-freedom-of-information-act-request-to-compel-release-of-kavanaugh-documents>.

⁷² Press Release, Office of Senator Blumenthal, Senators File Suit for Hidden Kavanaugh Documents (Sept. 17, 2018), *available at*

<https://www.blumenthal.senate.gov/newsroom/press/release/senators-file-suit-for-hidden-kavanaugh-documents>.

⁷³ Amy Brittain, Supreme Court nominee Brett Kavanaugh piled up credit card debt by purchasing Nationals tickets, White House says, *Washington Post*, July 11, 2018, *available at*

https://www.washingtonpost.com/investigations/supreme-court-nominee-brett-kavanaugh-piled-up-credit-card-debt-by-purchasing-nationals-tickets-white-house-says/2018/07/11/8e3ad7d6-8460-11e8-9e80-403a221946a7_story.html

⁷⁴ *Id.*

⁷⁵ *Id.*

only heightens the need for further investigation. Therefore, Congress should investigate whether the debt was in fact incurred because of baseball tickets and home improvements, whether the White House had documentation to back up its explanation of the debt, whether that explanation and documentation were provided by Justice Kavanaugh, and whether there were any other sources of income that eliminated the debt. We suggest that Congress begin this investigation by requesting the following documents:

- Transcript(s) from the September 5, 2018 closed session of the Senate Judiciary Committee regarding Justice Kavanaugh's nomination.
- All communications between officials at the White House and Senators and their staff from July 9, 2018 to October 6, 2018 related to liabilities that were reported on Justice Kavanaugh's Financial Disclosure Reports for Calendar Years 2016 and 2017.
- All communications between officials at the White House and officials at the Department of Justice from July 9, 2018 to October 6, 2018 related to liabilities that were reported on Justice Kavanaugh's Financial Disclosure Reports for Calendar Years 2016 and 2017.
- All communications between officials at the Department of Justice and Senators and their staff from July 9, 2018 to October 6, 2018 related to liabilities that were reported on Justice Kavanaugh's Financial Disclosure Reports for Calendar Years 2016 and 2017.

IV. A Sham FBI Investigation Into Sexual Assault Allegations

As the above paragraphs illustrate, Justice Kavanaugh's confirmation process deviated from standard procedure from the outset, and the Justice's own conduct during the September 4, 2018, hearing (and his hearings in 2004 and 2006) seriously call into question his commitment to truth and his fitness for the judiciary. On September 16, 2018, the process, and the prospects for Justice Kavanaugh, became even more problematic. On that day, the *Washington Post* published an article detailing the allegations that Dr. Christine Blasey Ford brought forward against Justice Kavanaugh. Dr. Ford claimed that while they were both in high school, Justice Kavanaugh assaulted and attempted to rape her.⁷⁶ On September 23, 2018, a second woman, Deborah Ramirez, shared her own story of sexual assault by Justice Kavanaugh while they were both in college.⁷⁷

The Republican-led Senate Judiciary Committee initially opposed any kind of investigation into the sexual assault allegations,⁷⁸ but eventually agreed to hold a hearing.⁷⁹ The committee postponed its originally-scheduled vote on the nomination and, on September 27, heard testimony from Dr. Ford and Justice Kavanaugh.⁸⁰ Over the objections of committee Democrats,

⁷⁶ Brown, *Washington Post*, Sept. 16, 2018.

⁷⁷ Farrow and Mayer, *New Yorker*, Sept. 23, 2018.

⁷⁸ Carney, *The Hill*, Sept. 16, 2018.

⁷⁹ Jordain Carney, [Grassley panel scraps Kavanaugh hearing, warns committee will vote without deal](https://thehill.com/homenews/senate/407866-senate-panel-scraps-kavanaugh-hearing-set-for-monday), *The Hill*, Sept. 21, 2018, available at <https://thehill.com/homenews/senate/407866-senate-panel-scraps-kavanaugh-hearing-set-for-monday>.

⁸⁰ Kevin Breuninger, [Brett Kavanaugh, Christine Blasey Ford testify in Senate showdown after days of turmoil](https://www.cnn.com/2018/09/27/brett-kavanaugh-christine-blasey-ford-testify-at-senate.html), *CNBC*, Sept. 27, 2018, available at <https://www.cnn.com/2018/09/27/brett-kavanaugh-christine-blasey-ford-testify-at-senate.html>.

no other potential witnesses were called to testify.⁸¹ Senator Grassley promptly scheduled the committee vote for the following morning.⁸² Though he joined the Republican majority of the committee to advance the nomination, Senator Flake insisted on an FBI investigation into the allegations before he would vote to confirm Justice Kavanaugh on the Senate floor.⁸³ From September 28 to October 4, the FBI conducted an investigation that was deliberately, and severely, limited in time and in scope. The FBI released its report on October 4, the Senate voted to cut off debate on the Kavanaugh nomination on October 5, and Justice Kavanaugh was confirmed on October 6.⁸⁴

The supplemental FBI investigation into the sexual assault allegations against Justice Kavanaugh was so severely limited that it was never meant to, and never could, get to the truth of the allegations. Rather, it was meant as a political tool for the White House and Senate Republicans to quickly confirm their choice for the Supreme Court despite the deep and justified concerns the public had about Justice Kavanaugh. The most obvious problem with the investigation is that the FBI did not interview dozens of relevant witnesses who could have corroborated the allegations against Justice Kavanaugh.⁸⁵ It didn't even interview Justice Kavanaugh himself.⁸⁶ The normal FBI background check process dictates that the White House allow the FBI to follow any and all leads. Here, however, the White House originally tried to limit the FBI's interviews to just four witnesses.⁸⁷ After a public backlash, the FBI was reportedly allowed to slightly widen the circle of witnesses,⁸⁸ but there are as many as 57 people who may have been able to corroborate the allegations leveled by Ford and Ramirez, and only a fraction were allowed to speak to the FBI.⁸⁹ The White House also limited the scope of the FBI's inquiry with the few witnesses it did interview, prohibiting the FBI from asking about whether Justice Kavanaugh lied during his testimony. For instance, the White House reportedly declared that the Justice's drinking habits - and whether he testified about them accurately under oath - could not be within the scope of the FBI's investigation.⁹⁰ Not only did this limitation prevent an inquiry into potential perjury, but it also seriously hindered the FBI's ability to contextualize and determine the veracity of the

⁸¹ *Id.*

⁸² Eli Watkins, [Senate Judiciary Committee sets Kavanaugh vote for Friday](https://www.cnn.com/2018/09/25/politics/senate-judiciary-committee-sets-kavanaugh-vote/index.html), *CNN*, Sept. 25, 2018, available at <https://www.cnn.com/2018/09/25/politics/senate-judiciary-committee-sets-kavanaugh-vote/index.html>.

⁸³ Fandos and Stolberg, *New York Times*, Sept. 28, 2018

⁸⁴ Sophie Tatum, [Brett Kavanaugh's nomination: A timeline](http://www.cnn.com/interactive/2018/10/politics/timeline-kavanaugh/), *CNN*, available at <http://www.cnn.com/interactive/2018/10/politics/timeline-kavanaugh/>.

⁸⁵ Amanda Arnold, [All the People With Crucial Information About Kavanaugh the FBI Didn't Interview](https://www.thecut.com/2018/10/fbi-report-interview-kavanaugh-classmates.html), *The Cut*, Oct. 4, 2018, available at <https://www.thecut.com/2018/10/fbi-report-interview-kavanaugh-classmates.html>.

⁸⁶ *Id.*

⁸⁷ Michael D. Shear, Sheryl Gay Stolberg, Maggie Haberman, and Michael S. Schmidt, [Details of F.B.I.'s Kavanaugh Inquiry Show Its Restricted Range](https://www.nytimes.com/2018/09/29/us/politics/kavanaugh-fbi-inquiry.html), *New York Times*, Sept. 29, 2018, available at <https://www.nytimes.com/2018/09/29/us/politics/kavanaugh-fbi-inquiry.html>.

⁸⁸ Peter Baker and Michael S. Schmidt, *White House Tells F.B.I. to Interview Anyone Necessary for Kavanaugh Inquiry*, *New York Times*, Oct. 1, 2018, available at <https://www.nytimes.com/2018/10/01/us/politics/trump-fbi-kavanaugh.html>.

⁸⁹ See Appendix A.

⁹⁰ Devlin Barrett, Josh Dawsey, Seung Min Kim, and Matt Zapotosky, [White House agrees to expand Kavanaugh probe slightly as McConnell signals vote is imminent](https://www.washingtonpost.com/politics/trump-adds-to-confusion-over-scope-of-fbi-investigation-of-kavanaugh-ac-cusations/2018/10/01/1aa5e922-c561-11e8-b1ed-1d2d65b86d0c_story.html), *Washington Post*, Oct. 1, 2018, available at https://www.washingtonpost.com/politics/trump-adds-to-confusion-over-scope-of-fbi-investigation-of-kavanaugh-ac-cusations/2018/10/01/1aa5e922-c561-11e8-b1ed-1d2d65b86d0c_story.html.

conflicting claims regarding sexual assault. The problems posed by these limitations were exacerbated by the fact that the Senate Republicans concealed the FBI report from the public.⁹¹

This sham FBI investigation warrants further Congressional scrutiny. Congress should therefore investigate who dictated the terms of the investigation, and with whose input. This investigation should include a review of communications among the White House, Senate Republicans, the FBI, and the Department of Justice. Specifically, we request that Congress demand access to the following documents in order to ascertain how and why the FBI investigation was so egregiously restricted:

- All communications between officials at the White House and Senators and their staff from September 16, 2018 to October 6, 2018 related to the FBI's supplemental investigation of Justice Kavanaugh and the allegations against him by Deborah Ramirez and/or Dr. Christine Blasey Ford.
- All communications between officials at the White House and officials at the FBI from September 16, 2018 to October 6, 2018 related to the FBI's supplemental investigation of Justice Kavanaugh and the allegations against him by Deborah Ramirez and/or Dr. Christine Blasey Ford.
- All communications between officials at the White House and officials at the Department of Justice from September 16, 2018 to October 6, 2018 related to the FBI's supplemental investigation of Justice Kavanaugh and the allegations against him by Deborah Ramirez and/or Dr. Christine Blasey Ford.
- All communications between officials at the FBI and Senators and their staff from September 16, 2018 to October 6, 2018 related to the FBI's supplemental investigation of Justice Kavanaugh and the allegations against him by Deborah Ramirez and/or Dr. Christine Blasey Ford.
- All communications between officials at the Department of Justice and Senators and their staff from September 16, 2018 to October 6, 2018 related to the FBI's supplemental investigation of Justice Kavanaugh and the allegations against him by Deborah Ramirez and/or Dr. Christine Blasey Ford.

Speaker Pelosi submitted a Freedom of Information Act request to the FBI for information on October 10, 2018.⁹² To the extent this request has not yet been filled, we also encourage Congress to use its oversight authority to request the following documents from the FBI directly:

- the FBI's supplemental background investigation report of Justice Brett Kavanaugh, delivered to the Senate on October 3, 2018;

⁹¹ Igor Bobic and Arthur Delaney, [Mitch McConnell Says FBI's Kavanaugh Report Won't Be Made Public](https://www.huffingtonpost.com/entry/mitch-mcconnell-fbi-kavanaugh-report-public_us_5bb3c909e4b0876eda992325), *Huffington Post*, Oct. 2, 2018, available at https://www.huffingtonpost.com/entry/mitch-mcconnell-fbi-kavanaugh-report-public_us_5bb3c909e4b0876eda992325.

⁹² Press Release, Office of Congresswoman Pelosi, [Pelosi Sends FOIA Request Seeking Release of FBI Report, Underlying Documents on Justice Kavanaugh](https://pelosi.house.gov/news/press-releases/pelosi-sends-foia-request-seeking-release-of-fbi-report-underlying-documents-on) (Oct. 10, 2018), available at <https://pelosi.house.gov/news/press-releases/pelosi-sends-foia-request-seeking-release-of-fbi-report-underlying-documents-on>.

- any other summary, report, or other summation of the FBI’s supplemental background investigation of Justice Brett Kavanaugh, such as any material prepared for FBI or DOJ leadership, the White House, or the Senate;
- all records of the underlying interviews undertaken during the FBI’s supplemental background investigation of Justice Brett Kavanaugh;
- all notes taken by investigators during the FBI’s supplemental background investigation of Justice Brett Kavanaugh;
- all documents concerning the decision whether or not to interview Dr. Ford or Justice Kavanaugh;
- all documents concerning Justice Kavanaugh’s honesty during his confirmation process, including his Senate testimony;
- all communications between the FBI and any person in the White House, including but not limited to White House Counsel Don McGahn, regarding the scope and content of the FBI’s supplemental background investigation of Justice Brett Kavanaugh;
- all communications between the FBI and any person in the Department of Justice regarding the scope and content of the FBI’s supplemental background investigation of Justice Brett Kavanaugh;
- all communications between the FBI and any Senator or Senate staff, including but not limited to any Member or staff of the Senate Judiciary Committee, concerning the scope and content of the FBI’s supplemental background investigation of Justice Brett Kavanaugh; and
- all internal communications within the FBI concerning the scope and content of the FBI’s supplemental background investigation of Justice Brett Kavanaugh, including communications within the Office of the Director, the Office of the Deputy Director, and any individuals who participated in conducting or scoping the investigation.

V. Truth Behind the Allegations and Justice Kavanaugh’s Response to Them

It remains essential for Congress to fully investigate the sexual assault allegations themselves. As a fundamental matter, sexual assault is an act of violence. It is a serious crime that must not be overlooked, especially for a lifetime appointment to a powerful position. Survivors of sexual assault should be encouraged to come forward with their stories, and that will only happen when they believe that they will be heard. All Americans should expect that their elected representatives will not be complicit in perpetuating a climate of silence and entitlement regarding sexual assault. For these reasons, Congress must complete a thorough investigation into whether Justice Kavanaugh sexually assaulted Dr. Christine Blasey Ford or Deborah Ramirez.

Moreover, Justice Kavanaugh’s testimony regarding the sexual assault allegations raises additional questions about his commitment to the truth. Throughout the September 27 hearing, Justice Kavanaugh made countless statements about issues large and small that, by all accounts, stretched credulity. For instance, when Senator Whitehouse asked about the term “boofed,” which was used in his yearbook, Justice Kavanaugh stated that it referred “to flatulence. We were

16.”⁹³ As the *New York Times* reported, though, “‘boofed’ in the 1980s was a term that often referred to anal sex, and that is how Judge Kavanaugh’s classmates said they interpreted his comment. They said they had never heard it used to refer to flatulence.”⁹⁴ When asked about “devil’s triangle,” another term that was used in his yearbook, Justice Kavanaugh said it was a “drinking game.”⁹⁵ Again, according to the *New York Times*, “the phrase was regularly used to describe sex between two men and a woman.”⁹⁶ As Bill Barbot, one of Justice Kavanaugh’s classmates at Georgetown Prep, concluded, “the spin that Brett was putting on [the yearbook references] was a complete overstatement of the innocence with which they were intended.”⁹⁷

Lying about immature yearbook references was an unnecessary risk for Justice Kavanaugh to take given how little the truth of them would ultimately matter to his candidacy. But he also appeared to lie about the substance of the sexual assault allegations themselves. He claimed in his prepared remarks for the September 27 hearing, “I spent most of my time in high school focused on academics, sports, church, and service.”⁹⁸ Regarding the specific allegation made against him by Dr. Christine Blasey Ford, he stated, categorically, that he had “never attended a gathering like the one Dr. Ford describes.”⁹⁹ But Justice Kavanaugh himself admitted that his calendars “show a few weekday gatherings at friends’ houses after a workout or just to meet up and have some beers.”¹⁰⁰ And in particular, a July 1, 1982 calendar entry describes a gathering that is quite similar to the gathering at which Dr. Ford said she was sexually assaulted.¹⁰¹ The calendar entry lists most of the same people that Dr. Ford claimed were at the party, and it explicitly refers to beer, which Dr. Ford claimed was being consumed at the party.¹⁰² The timing of the gathering is also in line with other details Dr. Ford provided regarding the sexual assault.¹⁰³ Even if this was not the gathering at which Dr. Ford was sexually assaulted, it is clearly “like the one Dr. Ford describes” and therefore further undermines Justice Kavanaugh’s credibility.

⁹³ Kavanaugh hearing: Transcript, Sept. 27, 2018, *available at* https://www.washingtonpost.com/news/national/wp/2018/09/27/kavanaugh-hearing-transcript/?utm_term=.ac6ca8ee328f.

⁹⁴ Mike McIntire, Linda Qiu, Steve Eder, and Kate Kelly, At Times, Kavanaugh’s Defense Misleads or Veers Off Point, *New York Times*, Sept. 28, 2018, *available at* <https://www.nytimes.com/2018/09/28/us/politics/brett-kavanaugh-fact-check.html>.

⁹⁵ Kavanaugh hearing: Transcript, Sept. 27, 2018.

⁹⁶ McIntire, Qiu, Eder, and Kelly, *New York Times*, Sept. 28, 2018.

⁹⁷ *Id.*

⁹⁸ Spencer Kornhaber, The False Binary of the ‘Choir Boy’ Defense of Brett Kavanaugh, *The Atlantic*, Sept. 27, 2018, *available at* <https://www.theatlantic.com/entertainment/archive/2018/09/brett-kavanaugh-choir-boy-frat-boy-stereotypes/571417>.

⁹⁹ Philip Bump, Here’s where Kavanaugh’s sworn testimony was misleading or wrong, *Washington Post*, Sept. 28, 2018, *available at* <https://www.washingtonpost.com/politics/2018/09/28/heres-where-kavanaughs-sworn-testimony-was-misleading-or-wrong/>.

¹⁰⁰ *Id.*

¹⁰¹ Li Zhou, Brett Kavanaugh’s July 1 calendar entry that could help Ford’s case, explained, *Vox*, Sept. 28, 2018, *available at* <https://www.vox.com/policy-and-politics/2018/9/28/17914174/brett-kavanaugh-calendar-christine-blasey-ford>.

¹⁰² *Id.*

¹⁰³ *Id.*

Justice Kavanaugh also appeared to mislead the Senate and the American public regarding how and when he became aware of the allegations being made against him and what actions he took in response. During the September 27 hearing, he claimed that he first heard about the allegation being made against him by Deborah Ramirez in the *New Yorker* story that was published on September 23.¹⁰⁴ But *NBC* reported that he and his team were trying to refute Ramirez’s allegations before they became public.¹⁰⁵ Texts between Kerry Berchem and Karen Yarasavage, both friends of Kavanaugh, suggest that the nominee was personally talking with former classmates about Ramirez’s story in advance of the *New Yorker* article that made her allegation public. According to reports, “in one message, Yarasavage said Kavanaugh asked her to go on the record in his defense. Two other messages show communication between Kavanaugh’s team and former classmates in advance of the story.”¹⁰⁶

Questions remain, as well, regarding whether Justice Kavanaugh played a part in a coordinated effort to refute Dr. Christine Blasey Ford’s allegation by laying the blame for her assault on someone else. A staunch Justice Kavanaugh ally and well-known conservative legal activist, Ed Whelan, appears to have been tipped off to Dr. Ford’s identity before her allegation against the Justice went public. Dr. Ford herself noticed that Whelan viewed her LinkedIn profile after the White House was asked to comment on her allegations, but before those allegations were made public by the *Washington Post*.¹⁰⁷ Whelan spent the next several days developing, and hinting at, the mistaken identity theory he would unveil on September 20, in which he suggested that Dr. Ford was actually attacked by another student who may have looked like Justice Kavanaugh.¹⁰⁸ While Whelan was developing the theory, conservative commentators and Republican senate staffers were alluding to possible mistaken identity and telling followers to keep an eye on Whelan’s twitter feed.¹⁰⁹ According to the *Washington Post*, Justice Kavanaugh’s team was also privately discussing the strategy.¹¹⁰ Whelan now claims that he was not in contact with the

¹⁰⁴ Chuck Todd, Mark Murray, and Carrie Dann, [Kavanaugh’s testimony is starting to look more and more problematic](https://www.nbcnews.com/politics/first-read/kavanaugh-s-testimony-starting-look-more-more-problematic-n915771), *NBCNews*, Oct. 2, 2018, available at <https://www.nbcnews.com/politics/first-read/kavanaugh-s-testimony-starting-look-more-more-problematic-n915771>

¹⁰⁵ Heidi Przybyla and Leigh Ann Caldwell, [Text messages suggest Kavanaugh wanted to refute accuser’s claim before it became public](https://www.nbcnews.com/politics/supreme-court/mutual-friend-ramirez-kavanaugh-anxious-come-forward-evidenc-e-n915566), *NBCNews*, Oct. 1, 2018, available at <https://www.nbcnews.com/politics/supreme-court/mutual-friend-ramirez-kavanaugh-anxious-come-forward-evidenc-e-n915566>.

¹⁰⁶ *Id.*

¹⁰⁷ Elise Viebeck, Emma Brown, and Robert Costa, [Kavanaugh ally says he did not communicate with White House or Supreme Court nominee about theory of another attacker](https://www.washingtonpost.com/politics/kavanaugh-ally-says-he-did-not-communicate-with-white-house-or-supreme-court-nominee-about-theory-of-another-attacker/2018/09/21/88335f1a-bdaa-11e8-b7d2-0773aa1e33da_story.html), *Washington Post*, Sept. 21, 2018, available at https://www.washingtonpost.com/politics/kavanaugh-ally-says-he-did-not-communicate-with-white-house-or-supreme-court-nominee-about-theory-of-another-attacker/2018/09/21/88335f1a-bdaa-11e8-b7d2-0773aa1e33da_story.html.

¹⁰⁸ Eric Levitz, [Kavanaugh Ally Regrets Tweeting Sexual-Assault Allegation on Basis of Google Maps Search](http://nymag.com/intelligencer/2018/09/ed-whelan-brett-kavanaugh-twitter-theory-christine-ford-supreme-court.html), *New York Magazine*, Sept. 21, 2018, available at <http://nymag.com/intelligencer/2018/09/ed-whelan-brett-kavanaugh-twitter-theory-christine-ford-supreme-court.html>.

¹⁰⁹ *Id.*

¹¹⁰ Seung Min Kim, Josh Dawsey, and Emma Brown, [Kavanaugh accuser won’t testify Monday but open to doing so later next week](https://www.washingtonpost.com/politics/gop-vows-to-move-ahead-with-kavanaugh-vote-if-his-accuser-doesnt-testify-monday/2018/09/20/a7132ee8-bcf5-11e8-8792-78719177250f_story.html), *Washington Post*, Sept. 21, 2018, available at https://www.washingtonpost.com/politics/gop-vows-to-move-ahead-with-kavanaugh-vote-if-his-accuser-doesnt-testify-monday/2018/09/20/a7132ee8-bcf5-11e8-8792-78719177250f_story.html.

Justice or with the White House regarding his theory,¹¹¹ though he was apparently in contact with Senate Republicans.¹¹² There is no question that the development and dissemination of the mistaken identity theory was a coordinated effort, and if Justice Kavanaugh was involved in the effort to discredit his accuser and publicly accuse another man of committing the crime of which he was accused, that would strongly indicate that he does not have the judgment necessary to serve on the U.S. Supreme Court.

Especially given the questions about Justice Kavanaugh's truthfulness that existed before Dr. Christine Blasey Ford came forward, the additional instances of potential perjury at the September 27 hearing demand further examination. And given the seriousness of sexual assault and the allegations made against Justice Kavanaugh, the allegations themselves and his responses to them deserve Congress's thorough investigation. Accordingly, we urge Congress to launch a full investigation into those allegations; into the coordinated responses to the allegations by Justice Kavanaugh, Republican Senators, the White House, and conservative supporters; and into the truthfulness of Justice Kavanaugh's testimony regarding them. We encourage Congress to take the following steps to conduct this thorough investigation:

- Conduct interviews with the 57 witnesses listed in Appendix A, who may be able to speak to the specific allegations made by Dr. Ford and Ms. Ramirez, as well as the circumstances surrounding those allegations and the evidence about which Justice Kavanaugh may have lied.
- Conduct interviews with the following individuals who may have coordinated with, or may know about coordination between, the White House, Justice Kavanaugh, Senate Republicans, and Ed Whelan regarding his mistaken identity theory of the Dr. Ford allegation:
 - Edward Whelan, President, Ethics and Public Policy Center.
 - Leonard Leo, Executive Vice President, The Federalist Society for Law and Public Policy Studies.
 - Don McGahn, former White House Counsel for President Trump.
 - Matt Whitlock, former deputy chief of staff for Senator Hatch who, on September 19, 2018, told his twitter followers to "keep an eye on Ed's tweets the next few days."¹¹³
- Compile and issue a comprehensive, public report addressing the allegations made against Justice Kavanaugh by Dr. Christine Blasey Ford and Deborah Ramirez, including possible perjury in his testimony regarding those allegations and possible unethical behavior in his responses to those allegations.

¹¹¹ Viebeck, Brown, and Costa, *Washington Post*, Sept. 21, 2018.

¹¹² Elana Schor and Burgess Everett, [Grassley extends deadline on Kavanaugh accuser's decision to testify](https://www.politico.com/story/2018/09/21/trump-kavanaugh-christine-blasey-ford-charges-834664), *Politico*, Sept. 21, 2018, available at <https://www.politico.com/story/2018/09/21/trump-kavanaugh-christine-blasey-ford-charges-834664>.

¹¹³ Whitlock, Matt (@mattdizwhitlock). "Keep an eye on Ed's tweets the next few days." Sept. 19, 2018, 7:08 a.m. Whitlock later deleted the tweet, but a screenshot is available at <https://twitter.com/JesseCharlesLee/status/1042965916248694791>.

Conclusion

On October 6, 2018, Justice Kavanaugh was elevated to a seat on the highest court in this country despite a wholly inadequate review of his record and mounting questions about his fitness for the position. We now urge Congress to undertake the review of Justice Kavanaugh that should have been undertaken before he was elevated to that position.

Specifically, we request that Congress review Justice Kavanaugh's complete record from his tenure in the George W. Bush administration and investigate whether he perjured himself during his 2004, 2006, and 2018 hearings before the Senate Judiciary Committee. We further request that Congress review those records to determine whether there are particular issues or cases from which Justice Kavanaugh should be expected to recuse. We request that Congress thoroughly investigate the sexual assault allegations that were made against him by Dr. Christine Blasey Ford and Deborah Ramirez, and whether Justice Kavanaugh lied in his testimony about those allegations. We request that Congress inquire into the circumstances that led to the failure to produce Justice Kavanaugh's White House records or to thoroughly investigate these sexual assault allegations when they were raised last year. Finally, we request that Congress investigate the unexplained debt, and its abrupt repayment, that Justice Kavanaugh reported on his 2016 and 2017 financial disclosure statements.

We appreciate Congress's prompt attention to this matter. The American people deserve no less.

APPENDIX A

27 Witnesses with Information Pertinent to Dr. Christine Blasey Ford's Allegations

Witness Name	Relationship to Dr. Ford and/or Justice Kavanaugh
Christine Blasey Ford	Ford accused Kavanaugh of attempting to rape her while they were both in high school.
Renate Schroeder Dolphin	Dolphin was a high school acquaintance of Kavanaugh. She asked for her name to be removed from a statement of support signed by women who knew Kavanaugh in high school after she became aware of yearbook references thought to be disrespectful to her on the pages of the yearbooks of Kavanaugh and his football teammates.
Michael Fegan ⁺	Fegan was Kavanaugh's classmate at Georgetown Prep. He testified to the Senate Judiciary Committee that he attended many social gatherings with Kavanaugh and never saw Kavanaugh out of control due to drinking.
Russell Ford	Russell Ford is Dr. Ford's husband.
Christopher Garrett*	Garrett (nicknamed "Squi") was one of Kavanaugh's Georgetown Prep classmates. He was named by Ford as the person who introduced her to Kavanaugh.
Timothy Gaudette*	Gaudette was one of Kavanaugh's Georgetown Prep classmates. His name appeared on Kavanaugh's calendar as the host of a party that was similar to the party at which Ford was allegedly attacked.
Jim Gensheimer	Gensheimer is another Ford friend who was told about Kavanaugh's assault of Ford in July 2018. Gensheimer described the conversation in terms similar to Kirsten Leimroth.
Adela Gildo-Mazzon	Gildo-Mazzon is Ford's friend. Ford confided in her about the sexual assault years ago.
Sean Hagan	Hagan was one of Kavanaugh's Georgetown Prep classmates. He claims that Kavanaugh lied about the yearbook references to Renate Schroeder Dolphin.
Jeremiah Hanafin	Hanafin conducted a polygraph examination of Ford.
Joseph Hennessey ⁺	Hennessey, an individual who attended Gonzaga College High School in Washington D.C., submitted a statement to the FBI describing Kavanaugh in high school as "regularly stupid drunk, aggressive, and confrontational towards me because I did not attend Prep."

Mark Judge*	Judge was one of Kavanaugh's Georgetown Prep classmates and was named by Ford as an accomplice to the alleged assault.
Thomas Kane	Kane was one of Kavanaugh's Georgetown Prep classmates. His name appeared on Kavanaugh's calendar as attending a party that was similar to the party at which Ford says she was attacked. He denies knowing anything about the attack.
Leland Keyser*	Keyser was one of Ford's friends. She was named by Ford as being in attendance at the house party where the alleged assault occurred.
Keith Koegler	Koegler is Ford's friend. Ford confided in him about the sexual assault years ago.
Kirsten Leimroth	Leimroth is a family friend of Ford. She says Ford named Kavanaugh as her assailant and told Leimroth at a restaurant in July 2018 that she feared what would happen if her name and her accusation became public.
Bernie McCarthy	McCarthy was one of Kavanaugh's Georgetown Prep classmates. His name appeared on Kavanaugh's calendar as attending a party that was similar to the party at which Ford says she was attacked.
Jim McCarthy ⁺	During the nomination process, McCarthy acted as a representative for a group of Georgetown Prep graduates including Donald Urgo. He said that many of the men in the group take exception to the way their yearbook entries have been distorted in the press.
Rebecca Olsen	Olsen is one of Ford's friends and says Ford confided in her about the assault last year. Ford apparently told Olson that she was sexually assaulted by a man who was then a federal judge.
Elizabeth Rasor	Rasor was Judge's college girlfriend, and told the <i>New Yorker</i> that Judge "told her ashamedly of an incident that involved him and other boys taking turns having sex with a drunk woman."
Paul Rendon ⁺	Rendon attended and graduated from Georgetown Prep with Kavanaugh. Rendon stated to the Senate Judiciary Committee that he personally remembers Kavanaugh making crude jokes about Renate Schroeder Dolphin.
P.J. Smyth*	Smyth was one of Kavanaugh's Georgetown Prep classmates. He was named by Ford as being in attendance at the house party where the alleged assault occurred.
Donald Urgo ⁺	Urgo is one of Kavanaugh's lifelong friends. He said he never saw Kavanaugh pass out or black out.

Angela Walker	Walker was a high school acquaintance of Kavanaugh. She submitted a declaration to the FBI that described attending a house party with Georgetown Prep boys where she was warned not to go upstairs because “it could be dangerous.”
Rebecca White	White is Ford’s friend. Ford confided in her about the sexual assault years ago.
Unidentified FBI Witness 1*	Unidentified FBI Witness 1 is an attorney for one of the witnesses to the Ford assault.
Unidentified SJC Witness 9+	Unidentified SJC Witness 9 graduated from Georgetown Prep with Kavanaugh in 1983 and has remained close friends with him since they met. He claims that Devil’s Triangle is a drinking game he and his friends came up with in high school.

30 Witnesses with Information Pertinent to Deborah Ramirez’s Allegations

Witness Name	Relationship to Ms. Ramirez and/or Justice Kavanaugh
Deborah Ramirez*	Ramirez was one of Kavanaugh’s Yale classmates and was the second woman to accuse him of sexual assault.
Kenneth Appold	Appold was one of Kavanaugh’s Yale classmates. He told the <i>New Yorker</i> that he was “100 percent certain” that he was told Kavanaugh was the male student who exposed himself to Ramirez.
Kerry Berchem	Berchem was one of Kavanaugh’s Yale classmates. She was in contact with a close Kavanaugh friend prior to Ramirez’s allegations being made public. Her texts with that friend call into question whether Kavanaugh lied about when he first learned of the allegations.
Lynne Brookes	Brookes was one of Kavanaugh’s Yale classmates and Ramirez’s roommates who claims Kavanaugh was dishonest about how often and how much he drank.
Kathleen Charlton	Charlton was one of Kavanaugh’s Yale classmates. She has information showing that Kavanaugh was contacting former Yale classmates before the <i>New Yorker</i> story about Ramirez was published.
Bryan Cole	Cole is a former Yale classmate and college friend of Ramirez. He has said that he finds Ramirez’s allegations credible.
Chris Dudley	Dudley was one of Kavanaugh’s Yale classmates who claims he never saw Kavanaugh blackout drunk.

Dino Ewing	Ewing was one of Kavanaugh's Yale classmates. He initially said that what Ramirez alleged happened could not have happened, but later retracted his statement.
Louisa Garry	Garry was one of Kavanaugh's Yale classmates. She initially said that what Ramirez alleged happened could not have happened, but later retracted her statement.
Kevin Genda	Genda was identified as one of Kavanaugh's closest friends at Yale, and was also an acquaintance of Ramirez.
Tracy Harmon	Harmon was identified as one of Ramirez's close friends at Yale.
Stephen Kantrowitz	Kantrowitz was one of Kavanaugh's Yale classmates. He claims that Kavanaugh was lying when he claimed to be a virgin in high school.
Jennifer Klaus	Klaus was one of Ramirez's Yale classmates, and has said she finds Ramirez's story plausible.
Mark Krasburg	Krasburg was one of Kavanaugh's Yale classmates. During the FBI's supplemental investigation, he claimed that he had important evidence regarding the Ramirez allegation but that the FBI was not responsive to his attempts to make contact.
Daniel Lavan	Lavan was one of Kavanaugh's Yale classmates. He claims Kavanaugh was dishonest about how often and how much he drank.
Charles Ludington	Ludington was one of Kavanaugh's Yale classmates. He claims Kavanaugh was dishonest about how often and how much he drank.
Chris Munnelly	Munnelly was one of Kavanaugh's Yale classmates. He has cast doubt on the notion that Kavanaugh drank too much in college.
Dan Murphy	Murphy was one of Kavanaugh's Yale classmates who claims he never saw Kavanaugh blackout drunk or acting aggressively.
Richard Oh	Oh was one of Kavanaugh's Yale classmates. He told the <i>New Yorker</i> that he remembers hearing about an incident similar to the one Ramirez described.
James Roche	Roche was Kavanaugh's roommate at time of the Ramirez's alleged assault, and claims Kavanaugh was dishonest about how much and how often he drank.
William Scheurman	Scheurman is a former Yale classmate who lived in Kavanaugh's residential halls. Scheurman contacted the FBI with a list of residents at the time of the alleged Ramirez incident. The FBI never returned his call after he notified the bureau about his tip.
Elizabeth Swisher	Swisher was one of Kavanaugh's Yale classmates. She claims Kavanaugh was dishonest about how often and how much he drank.
Michael Whetstone	Whetstone was Kenneth Appold's graduate school roommate.

David White	White was identified as one of Kavanaugh’s closest friends at Yale, and was also an acquaintance of Ramirez.
Karen Yarasavage	Yarasavage was one of Kavanaugh’s Yale classmates and was included in the communications that indicate that Kavanaugh was anticipating Ramirez’s allegations months before they were made public.
Unidentified FBI Witness 2*	Unidentified FBI Witness 2 was an eyewitness to the Ramirez assault.
Unidentified FBI Witness 3*	Unidentified FBI Witness 3 was an eyewitness to the Ramirez assault.
Unidentified FBI Witness 4*	Unidentified FBI Witness 4 was a close college friend of Ramirez.
Unidentified SJC Witness 14 ⁺	Unidentified SJC Witness 14 graduated from Yale with Kavanaugh and Ramirez. She testified to the Senate Judiciary Committee that she knew Kavanaugh while he was in law school at Yale, and she cannot recall a single time where he would drink to excess.
Unidentified SJC Witness 15 ⁺	Unidentified SJC Witness 15 was a Yale classmate of Kavanaugh and Ramirez. He testified to the Senate Judiciary Committee that Kavanaugh did not drink any more heavily than those around him in college.

*Indicates a witness who was interviewed by the FBI during the supplemental investigation.

⁺Indicates a witness who was interviewed by the Senate Judiciary Committee.

This list was compiled from the following sources:

- Karen Yourish and Troy Griggs, The F.B.I. Investigation Into Kavanaugh Has Ended. Here’s Who Was Questioned, and Who Was Not., *New York Times*, Oct. 4, 2018, available at <https://www.nytimes.com/interactive/2018/10/01/us/politics/kavanaugh-fbi-investigation-witnesses.html>
- Matt Ferner, Here Are The People The FBI Didn’t Ask About Brett Kavanaugh, *Huffington Post*, Oct. 4, 2018, available at https://www.huffingtonpost.com/entry/brett-kavanaugh-fbi-investigation-christine-blasey-ford-deborah-ramirez_us_5bb684eee4b0876eda9ca281
- Memorandum from the Office of the Chairman, Senator Grassley, to Senate Republicans (Nov. 2, 2018), available at <https://www.judiciary.senate.gov/imo/media/doc/2018-11-02%20Kavanaugh%20Report.pdf>
- Leigh Ann Caldwell and Heidi Przybyla, FBI has not contacted dozens of potential sources in Kavanaugh investigation, *NBCNews*, Oct. 3, 2018, available at <https://www.nbcnews.com/politics/supreme-court/dozens-potential-sources-information-have-not-been-contacted-fbi-kavanaugh-n916146>