

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

August 24, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley:

Over the past several weeks, we have voiced our concern about the decision to rush Brett Kavanaugh's nomination through the Committee without allowing Senators or the American people to review his record. We are now writing to request a special meeting of the Committee under Senate Rule XXVI(3) to discuss the process being used to consider this nomination and requests for relevant documents. We also ask that, in light of this week's developments, you postpone the hearing on Brett M. Kavanaugh to ensure that we have adequate information and time to evaluate his record.

Over a dozen of the President's Cabinet members and senior aides have resigned, been fired, or withdrawn as a result of corruption, scandal, and allegations of criminal misconduct. Then on Tuesday, the President's former campaign manager was convicted on eight criminal charges, for which he now faces up to eighty years in prison. Equally stunning, the President's personal lawyer Michael Cohen pleaded guilty to eight criminal counts and stated, under oath, that the President directed him to commit a federal crime by violating campaign finance law. This was done in the run-up to the election, with the intent of influencing the outcome.

The lack of due diligence that candidate and President Trump has displayed in selecting advisors and judicial nominees should give every Senator pause. This nominee is being considered for a lifetime appointment to the highest court in the country. If confirmed, he will have the opportunity to rule on issues of critical importance to all Americans for the next several decades. He may also be called upon to decide whether this President should face investigation or possible indictment for criminal wrongdoing.

With all that is at stake, the Senate has a lot more work to do in order to fulfill our constitutional advice-and-consent obligation. Currently, however, 97 percent of Judge Kavanaugh's White House record is being withheld from the public and more than 94 percent is being withheld from the Senate. The Committee is still waiting for more than half the pre-screened documents Bill Burck is providing to meet the inadequate request for a portion – and so far has only received 6 percent – of Judge Kavanaugh's White House records. In addition, the nonpartisan National Archives has played no role in the processing or production of these


documents to the Committee. This means we have no way of knowing why alterations to the documents are being made, or why some documents are not being turned over.

Importantly, there is no legitimate reason for the Senate to rush this nomination and fail to perform its constitutional duty. This is especially true, when the President, who faces significant legal jeopardy, chose the one candidate who has consistently and clearly expressed doubt as to whether a sitting president can be investigated or indicted for criminal wrongdoing.

The American people must have confidence that whoever fills Justice Kennedy's vacancy will place the Constitution and laws of this nation above partisan interests, politics, or ideology. As Judge Kavanaugh himself has said, his actions during his time in the White House, particularly his time as Staff Secretary, would shed valuable light on his ability to do so.

Given the possibility of criminal wrongdoing by the President, doubts that Judge Kavanaugh believes a president can even be investigated, and the unprecedented lack of transparency regarding this nominee's record, we should not move forward with hearings on September 4th. Instead, we should have a special meeting of the Committee to discuss a bipartisan, fair, and transparent process for moving forward.

Sincerely,



DIANNE FEINSTEIN
Ranking Member



PATRICK J. LEAHY
United States Senator



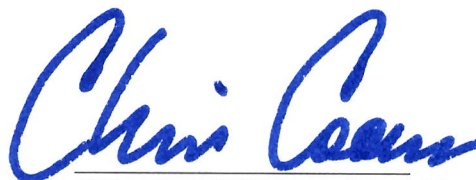
RICHARD J. DURBIN
United States Senator



SHELDON WHITEHOUSE
United States Senator



AMY KLOBUCHAR
United States Senator



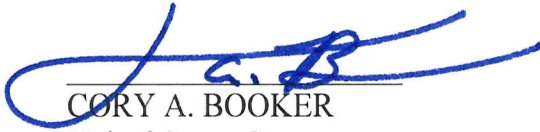
CHRISTOPHER A. COONS
United States Senator



RICHARD BLUMENTHAL
United States Senator



MAZIE K. HIRONO
United States Senator



CORY A. BOOKER
United States Senator



KAMALA D. HARRIS
United States Senator