

September 29, 2018

The Honorable Charles E. Grassley
Chairman
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley,

In order for the FBI investigation regarding Judge Brett Kavanaugh's nomination to be complete, it is imperative the bureau must not only look into the accusations made by Dr. Ford, Deborah Ramirez and Julie Swetnick, it should also examine the veracity of his testimony before the Judiciary Committee.

The Senate should not constrain the FBI to one week and must allow time for a full investigation. I would request that you inform the FBI that you will not consider their work complete until they examine the truthfulness of Judge Kavanaugh's statements under oath while testifying before the Senate throughout his career, given the very serious fact that lying to Congress is a federal crime.

If you are concerned with a delay in this confirmation process, remember that Senate Republicans refused to allow the Senate to consider Merrick Garland's nomination to the Supreme Court for nearly a year.

In addition to investigating the accusations made by multiple women, a thorough investigation should include a review of Judge Kavanaugh's numerous untruthful statements in his previous testimony before Congress. Specifically:

- In his previous testimony before Congress, Judge Kavanaugh was asked more than 100 times if he knew about files stolen by Republican staffers from Judiciary Committee Democrats. He said he knew nothing. Emails released as part of these hearings show that these files were regularly shared with Kavanaugh while he was on the White House staff. One of the emails had the subject line "spying." Was Judge Kavanaugh being truthful with the committee?
- In 2006, Judge Kavanaugh told Congress he did not know anything about the NSA warrantless wiretapping program prior to it being reported by the *New York Times*. This year, an email revealed that while at the White House he might have been involved in some conversations about this program. Was Judge Kavanaugh being truthful with the committee?

- In 2004, Judge Kavanaugh testified that William Pryor's nomination to the 11th Circuit "was not one that I worked on personally." Documents now contradict that statement. Newly released documents also call into question whether Judge Kavanaugh was truthful when he stated that the nomination of Charles Pickering "was not one of the judicial nominees that I was primarily handling." Was Judge Kavanaugh being truthful with the committee?
- In 2006, Judge Kavanaugh testified, "I was not involved and am not involved in the questions about the rules governing detention of combatants." New evidence released as part of these confirmation hearing contradicts that assertion. Was Judge Kavanaugh being truthful with the committee?
- Kavanaugh testified before the committee that he did not believe polygraphs were reliable. In 2016 he wrote, "As the Government notes, law enforcement agencies use polygraphs to test the credibility of witnesses and criminal defendants. Those agencies also use polygraphs to 'screen applicants for security clearances so that they may be deemed suitable for work in critical law enforcement, defense, and intelligence collection roles.' . . . The Government has satisfactorily explained how polygraph examinations serve law enforcement purposes." (*Sack v. United States Department of Defense*, 823 F.3d 687 (2016)). What changed his opinion or was he misleading the committee as to his beliefs about the reliability of polygraph tests?

Additionally, several statements made by Judge Kavanaugh under oath regarding his treatment of women and his use of alcohol appear not to be true. The scope of the FBI's investigation must include investigating the following statements:

- Judge Kavanaugh repeatedly told the committee he never drank to the point where he didn't remember something. He also denied ever becoming aggressive when he drinks. However there have been many reports from those Judge Kavanaugh attended high school, college and law school with that contradict this assertion. Was he being truthful with the committee?
- Judge Kavanaugh testified he treated women "as friends and equals" and "with dignity and respect." Numerous entries in his school yearbook would seem to contradict this characterization. Was Judge Kavanaugh's statement to the committee truthful?
- Judge Kavanaugh claimed that he and Dr. Ford "did not travel in the same social circles." Dr. Ford said she dated Chris Garrett, referenced as a friend in his yearbook. In fact, she testified Garrett introduced her to Kavanaugh. Was Judge Kavanaugh's statement to the committee truthful?
- Kavanaugh claimed he did not drink on weeknights but an entry on his calendar for Thursday July 1 states, "Go to Timmy's for Skis w/ Judge, Tom, Pj, Bernie, Squi." Kavanaugh clarified to Sen. Booker that "Skis" referred to beer. Was his original statement to the committee truthful?

A fundamental question the FBI can help answer is whether Judge Kavanaugh has been truthful with your committee. This goes to the very heart of whether he should be confirmed to the court. If a thorough investigation takes longer than a week, so be it. First and foremost, we need the truth.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bernard Sanders". The signature is fluid and cursive, with a prominent initial "B".

Bernard Sanders
UNITED STATES SENATOR