

[Redacted]

(DO) (FBI)

From: [Redacted] (DO) (FBI)
Sent: Friday, August 02, 2019 8:30 AM
To: OCA; [Redacted] (DO) (FBI); [Redacted] (DO) (FBI)
Subject: Fwd: Letter from Senators Whitehouse and Coons
Attachments: 2019-08-01 Ltr to FBI Wray re supplemental Kavanaugh investigation.pdf

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----- Forwarded message -----

From: "Gaeta, Joe (Whitehouse)" [Redacted]
Date: Aug 1, 2019 1:42 PM
Subject: Letter from Senators Whitehouse and Coons
To: [Redacted] (DO) (FBI); [Redacted]
Cc: "Aronson, Alex (Judiciary-Dem)" [Redacted]; Songer, Erica (Judiciary-Dem) [Redacted]

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Attached please find a letter from Senators Whitehouse and Coons to Director Wray. Thank you.

Joe Gaeta
Chief Counsel and Oversight Director
Senator Sheldon Whitehouse (D-RI)

[Redacted]

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SHELDON WHITEHOUSE
RHODE ISLAND

COMMITTEES:
BUDGET
ENVIRONMENT AND PUBLIC WORKS
FINANCE
JUDICIARY

United States Senate

WASHINGTON, DC 20510-3905

August 1, 2019

<http://whitehouse.senate.gov>

(202) 224-2921
TTY (202) 224-7746

170 WESTMINSTER STREET, SUITE 200
PROVIDENCE, RI 02803
(401) 453-5294

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Wray:

We write to follow up on your testimony before the Senate Judiciary Committee on July 23 about the supplemental background investigation the FBI conducted after allegations of sexual misconduct against Justice Brett Kavanaugh came to light. You testified that you met with Bureau personnel to ensure that the Kavanaugh background investigation was “consistent with our long-standing policies, practices, and procedures for background investigations.” We seek to learn more about such policies, practices, and procedures and to evaluate whether they were appropriate for and executed fully in this case.

We understand that the process and purpose of background investigations are different than criminal investigations. The situation presented by the Kavanaugh nomination did not squarely fit into either box. The FBI initially conducted a background investigation of Justice Kavanaugh, which failed to turn up any allegations of possible sexual misconduct by the nominee, including the credible allegations made by Dr. Christine Blasey Ford. When Dr. Ford’s allegations became public, additional allegations of misconduct came to light, including alleged misconduct during Justice Kavanaugh’s time at Yale. The Committee had significant enough concerns about the record at that point that a request was made for the FBI to conduct a supplemental investigation.

Representations were made by the Trump administration to members of the Senate that the supplemental investigation would be conducted “by the book” by the FBI, free from direction or limitation by the White House. However, press reports indicated the White House set the direction of the supplemental investigation and that Republican Senators and/or Senate staff were also involved in setting the scope and mandate of the FBI’s actions. In addition, the process used to begin and conduct the investigation does not appear to meet even the minimal steps taken by the FBI when allegations were raised against Justice Thomas. When the request for a supplemental investigation was made, this was no longer a typical background check; the FBI was tasked with investigating specific and serious allegations of sexual misconduct by a nominee to a lifetime appointment on the highest court in the nation.

At least two law firms contacted the FBI with the names of credible witnesses who had information pertaining to the investigation. One firm provided names of potential witnesses that had information “highly relevant to ... allegations” of sexual misconduct by Justice Kavanaugh.¹

¹ See October 4, 2018, letter from Katz, Marshall & Banks, LLP to Director Wray

The other firm's letter recounted how the counsel of a witness with whom agents had met provided the FBI with "more than twenty additional witnesses likely to have relevant information," and even included an affidavit from a highly credible witness.² As Senator Whitehouse observed during your hearing, there was no clear process by which members of the public or Congress could provide information to the FBI. Senator Coons asked for a clear procedure at the time, to no avail. To the extent members of the public did reach out to provide information—and we know that many did—it appears that information disappeared into a "tip line." We still do not know how leads to the FBI's tip line were processed and evaluated, or whether any were processed and evaluated at all. It is particularly unusual in a background investigation to deploy a "tip line," and we are not aware of that ever being done before.

We do know that in the span of one week, the FBI interviewed ten individuals and the Republican majority concluded there was "no corroboration of the allegations made by Dr. Ford or Ms. [Debbie] Ramirez."³ In our experience, it is not the practice of the FBI to decline to pursue credible leads in an investigation or to fail to interview the accuser and accused.

To better understand what the FBI did and why, we respectfully request that you answer the following questions:

1. What policies and procedures does the FBI follow when allegations of sexual misconduct arise during a background investigation of a judicial or executive branch nominee? What is "the book"?
2. How do those policies and procedures differ from the policies and procedures the FBI uses to investigate wrongdoing in its criminal investigations, and from the policies and procedures of a background investigation without such allegations?
3. What policies and procedures were used to investigate the allegations of misconduct in the supplemental investigation of Justice Kavanaugh?
4. What limitations on duration and scope did the White House or Justice Department place on the FBI's supplemental investigation? Please provide all documents reflecting instructions provided to the FBI regarding this investigation.
5. Was a special agent ever assigned to manage the Kavanaugh background investigation? If not, what was the professional background of the staff who managed the investigation? How long have they been at the Bureau and how many background investigations had they undertaken prior to the Kavanaugh investigation?
6. Who identified which witnesses would be interviewed, and how were they chosen?
7. What was the scope of questions asked of the witnesses? What policies were followed to determine the scope? Who determined the scope of the questions? Were there any limitations placed on the questions to be asked of witnesses?
8. What process was established if the interviews raised additional questions? Were investigators allowed to ask for additional interviews?
9. If additional facts arose, what was the process for handling those? Who made the decision whether to pursue additional facts and leads?

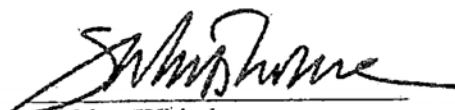
² See October 4, 2018, letter from KaiserDillon PLLC to Director Wray.

³ Supplemental FBI Investigation Executive Summary, Senate Judiciary Committee (Oct. 4, 2018), <https://www.judiciary.senate.gov/press/rep/releases/supplemental-fbi-investigation-executive-summary>.

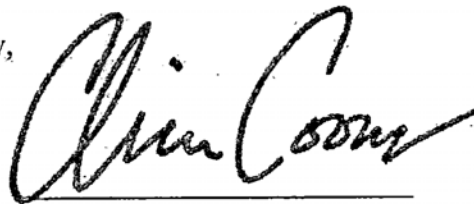
10. Why weren't witnesses identified as having "highly relevant" information interviewed by the FBI? Are there other contexts in which the FBI would not speak with relevant witnesses in the course of an investigation?
11. Has the FBI ever used a tip line in previous background investigations to manage incoming allegations and information regarding a nominee? If so, please provide the details of those events.
12. Did the FBI set up a tip line designated specifically for the Kavanaugh investigation? If not, why not? If so, who decided to set it up? Who was in charge of it?
13. In 2011, the FBI posted a video "Inside the FBI's Internet Tip Line,"⁴ which explains the FBI's procedures for processing information that it receives through its tip line at fbi.gov. How did the procedure for processing tips related to the allegations against Justice Kavanaugh compare with the process described in this video? If it differed, why? If this was a process for criminal or terrorist tips, why was it used in this context?
14. How many calls or electronic submissions did the tip line established for the Kavanaugh background investigation receive? Were these calls recorded? Were these electronic submissions preserved? How were these calls or electronic submissions catalogued and documented?
15. Were any of the tips vetted? Were any evaluated for relevancy or credibility? Were any steps taken to verify information on any of the tips? Who made these decisions?
16. What steps were taken to follow up on any of the tips? If no action was taken, why not? Who made these decisions?
17. In total, how many live or otherwise in-person interviews did the Bureau undertake in the course of the Kavanaugh background investigation?
18. How many live or otherwise in-person interviews did the Bureau undertake in the course of the Kavanaugh supplemental background investigation once it was re-opened to address the newly revealed sexual assault allegations (excluding those interviews that occurred before the investigation was re-opened)?

Thank you for your attention to this matter. We would appreciate the courtesy of a response no later than August 30, 2019. If you have any questions, please do not hesitate to reach out to Joe Gaeta (joe_gaeta@whitehouse.senate.gov) of Senator Whitehouse's staff, or Erica Songer (erica_songer@judiciary-dem.senate.gov) of Senator Coons' staff.

Sincerely,



Sheldon Whitehouse
United States Senator



Christopher A. Coons
United States Senator

⁴ <https://www.youtube.com/watch?v=KJIDZ4OMIMM>.

ORRIN G. HATCH
UTAH

MATT SANDGREN
CHIEF OF STAFF

104 Hart Senate Office Building

TELEPHONE: (202) 224-5251
TDD (202) 224-2849
FAX: (202) 224-6331

Website: hatch.senate.gov

United States Senate

WASHINGTON, DC 20510-4402

September 29, 2018

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LABOR, AND PENSIONS

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JOINT COMMITTEE
ON TAXATION

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

Dear Director Wray:

I write regarding President Donald J. Trump's recent request that the FBI conduct a supplemental investigation to update Judge Brett Kavanaugh's background investigation file. The President noted that this request should be limited in scope and completed in one week from yesterday.

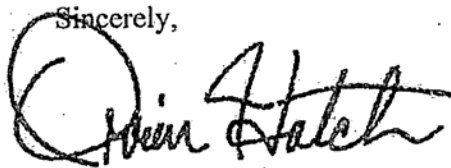
With your leadership and professional career staff handling the matter, I have no doubt that the FBI is capable of conducting the necessary interviews well within that time frame. It is my understanding that Dr. Christine Blasey Ford and those identified as attending the gathering at which the alleged assault took place have publicly agreed to cooperate with the investigation.

I am writing to request, however, that you notify the White House Counsel's Office immediately if any witness(es) or their representatives seek to delay or are uncooperative in this process. One key reason for my concern regarding possible delay comes from testimony during the hearing this past Thursday. According to Dr. Ford, she would have preferred to have been interviewed in California, away from the spectacle of a public hearing. But her lawyers apparently refused to convey to their client numerous offers by Senate Judiciary Committee Chairman Chuck Grassley to conduct a public or private interview in a location of her choosing. The lawyers' refusal led directly to a public hearing, against Dr. Ford's express wishes. This is deeply troubling.

The FBI is widely renowned for conducting fair, thorough, and expeditious investigations. Those Senators and members of the public who feel that additional investigation is required can trust that this matter will be handled fairly.

Thank you for your attention to this matter.

Sincerely,



Senator Orrin G. Hatch

cc: Donald F. McGahn, White House Counsel

[Redacted]

(DO) (FBI)

From: [Redacted] (DO) (FBI)
Sent: Monday, January 28, 2019 12:55 PM
To: [Redacted] (DO) (FBI); [Redacted] (DO) (FBI)
Subject: FW: Letter from Sen. Hatch to FBI Director Wray
Attachments: Letter to FBI Director Wray, Sept. 29, 2018.pdf

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For closeout.

Thx

From: Tyson, Jill C. (DO) (OGA)
Sent: Wednesday, December 26, 2018 5:02 PM
To: [Redacted] (DO) (FBI); [Redacted] OCA [Redacted]
Subject: FW: Letter from Sen. Hatch to FBI Director Wray

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Pursuant to standard protocol, my understanding is that the attached document from Senator Hatch (dated 9/29/018) was forwarded to SECD for further action if deemed necessary. Judge Kavanaugh was confirmed by the Senate on October 6, 2018, to be an Associate Justice of the US Supreme Court. Therefore, no further written response is necessary. The letter can be closed out. Thank you.

Jill C. Tyson
Acting Assistant Director
Office of Congressional Affairs
Federal Bureau of Investigation

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From: Boyd, Stephen E. (OLA) [mailto:Stephen.E.Boyd@usdoj.gov]
Sent: Saturday, September 29, 2018 3:13 PM
To: Tyson, Jill C. (DO) (OGA); [Redacted] Lasseter, David F. (OLA) (JMD) <David.F.Lasseter@usdoj.gov>
Cc: O'Callaghan, Edward C. (ODAG) (JMD) <Edward.C.O'Callaghan@usdoj.gov>; [Redacted] (DO) (FBI)

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Subject: Fwd: Letter from Sen. Hatch to FBI Director Wray

Team: See attached. I confirmed receipt. SB

Sent from my iPhone

Begin forwarded message:

From: "Sandgren, Matthew (Hatch)" [Redacted]
Date: September 29, 2018 at 12:48:57 PM EDT

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To: "stephen.e.boyd@usdoj.gov" <stephen.e.boyd@usdoj.gov>

Subject: Letter from Sen. Hatch to FBI Director Wray

Stephen,

My apologies for the incorrect e-mail. Please see below and attached. Most importantly, please confirm receipt.

Best,

Matt

From: "Sandgren, Matthew (Hatch)" [REDACTED]

Date: Saturday, September 29, 2018 at 12:45 PM

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To: "Stephen.boyd@usdoj.gov" <Stephen.boyd@usdoj.gov>, "christie.dawson@usdoj.gov" <christie.dawson@usdoj.gov>

Cc: [REDACTED]

Subject: Letter from Sen. Hatch to FBI Director Wray

Please see the attached letter from Senator Hatch to FBI Director Wray. Please confirm receipt.

Best,

Matt

Matt Sandgren

Chief of Staff

Senator Orrin G. Hatch (R-UT)

[REDACTED]

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United States Senate
WASHINGTON, DC 20510-0504
<http://feinstein.senate.gov>

September 30, 2018

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

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Mr. McGahn and Director Wray:

On Friday, Chairman Grassley announced he would be requesting that the administration instruct the FBI to conduct a supplemental background investigation with respect to the nomination of Judge Brett Kavanaugh to be an Associate Justice of the Supreme Court. Given the seriousness of the allegations before the Senate, I am writing to request that you provide the Senate Judiciary Committee with a copy of the written directive sent by the White House to the FBI. In addition, if the FBI requests any expansion beyond the initial directive, please provide the names of any additional witnesses or evidence.

Sincerely,


Dianne Feinstein

cc: The Honorable Charles E. Grassley

United States Senate

WASHINGTON, DC 20510

October 1, 2018

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

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Mr. McGahn and Director Wray:

The Senate Judiciary Committee announced last Friday that it would request that the White House instruct the FBI to conduct a supplemental background investigation with respect to the nomination of Judge Brett Kavanaugh to be an Associate Justice of the Supreme Court. Because of the importance of this investigation to the Senate's consideration of this nomination, we are writing to request that you provide an explanation of the scope of the investigation.

On September 12, Ranking Member Feinstein referred Christine Blasey Ford's allegation of sexual assault to the FBI. Since then, the Committee has received serious allegations from two other women -- Deborah Ramirez and Julie Swetnick. These three women have come forward at great personal risk, identified themselves by name, submitted written allegations to the Committee, and requested an FBI investigation.

We believe that all three allegations should be included in the supplemental investigation. We are providing a list of individuals who we believe should be interviewed at a minimum as part of this investigation, along with any others identified by witnesses or the Bureau in the course of its investigation.

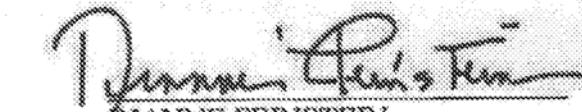
We ask that you confirm that the FBI background investigation will include the allegations of Christine Blasey Ford, Deborah Ramirez and Julie Swetnick and that the FBI will perform all logical steps related to these allegations, including interviewing other individuals who might have relevant information and gathering evidence related to the truthfulness of statements made in relation to these allegations. We ask that you notify us of the scope of the investigation and what the White House directed the FBI to investigate, as well as what steps the

FBI will be taking. We also ask that, upon completion of your work, you provide copies of all witness interviews, a list of all witnesses who refused to cooperate in the Bureau's investigation, and a full report to each member of the Senate.

We believe that providing this important information to the Senate and American people is the best way to ensure public confidence in the results.

Sincerely,


RICHARD BLUMENTHAL
United States Senate


DIANNE FEINSTEIN
United States Senate


PATRICK LEAHY
United States Senate


RICHARD J. DURBIN
United States Senate


SHELDON WHITEHOUSE
United States Senate


MAZIE K. HIRONO
United States Senate


CORY A. BOOKER
United States Senate


KAMALA D. HARRIS
United States Senate


AMY KLOBUCHAR
United States Senate

cc: The Honorable Charles E. Grassley

ALLEGATION WITNESSES

Judge Brett Kavanaugh

Dr. Christine Blasey Ford, Palo Alto, CA; alleges that Kavanaugh sexually assaulted her when they were in high school.

Mark Judge, Current residence unknown; conservative author. Kavanaugh's friend and Georgetown Prep classmate. Represented by Barbara Van Gelder with Cozen O'Connor.

Elizabeth Rasor, Represented by Roberta Kaplan, Kaplan Hecker & Fink LLP.

Patrick J. Smyth, Potomac, MD; Managing Director at PwC (PricewaterhouseCoopers). Kavanaugh's friend and Georgetown Prep classmate. Represented by Eric Bruce with Kobre & Kim.

Timothy Gaudette, Centennial, CO; Colorado Outreach Manager, Small Business Majority. Kavanaugh's friend and Georgetown Prep classmate.

Thomas Kane, D.C. Metro Area; Marketing Manager, Non-Profit Organization.

Bernie McCarthy, Bethesda, MD; Managing Director, Jones Lang LaSalle.

Christopher Garrett, Atlanta, GA; Represented by William Sullivan Jr., Pillsbury Winthrop Shaw Pittman LLP.

Leland Keyser, Former golf coach; Dr. Blasey Ford's high school friend.

Potomac Village Safeway, Potomac, MD; Examine the employment records for this store to verify Dr. Blasey Ford's claims and to determine the relevant time period.

Sean Hagan, Bethesda, MD; Senior Cybersecurity Advisor with the Social Security Administration. Kavanaugh's Georgetown Prep classmate.

Jeremiah P. Hanafin, D.C.-area polygraph examiner. Former FBI Special Agent. Conducted a polygraph examination of Dr. Ford. Found that her responses to questions about the assault were "not indicative of deception."

Russell Ford, Palo Alto, CA; Mechanical Engineer: Dr. Blasey Ford's husband.

Keith Koegler, Palo Alto, CA; Attorney; Close friend of Dr. Blasey Ford and Russell Ford.

Adela Gildo-Mazzon, Palo Alto, CA; Real Estate Agent; Friend of Dr. Blasey Ford.

Rebecca White, CA; Friend of Dr. Blasey Ford.

Deborah Ramirez, Boulder, Co; Volunteer Coordinator, Boulder County Department of Housing & Human Services.

Dr. Richard Oh, Santa Clara, CA; emergency room physician; Kavanaugh's classmate at Yale College.

Dr. Elizabeth Swisher, Seattle, WA; physician and professor of gynecologic oncology, University of Washington School of Medicine; Kavanaugh's friend from Yale College.

Lynne Brookes, Philadelphia, PA; Chief Operating Officer at Synchrony Group; Kavanaugh's friend from Yale College.

James Roche, San Francisco, CA; Chief Executive Officer, HELIX RE, Inc.; Kavanaugh's freshman roommate at Yale College.

Dr. Mark Krasberg, Albuquerque, NM; Assistant Professor of Neurosurgery at the University of New Mexico.

Julie Swetnick, Washington, D.C.; Grew up in Montgomery County, MD; graduate of Gaithersburg High School in Gaithersburg, MD.

Possible Witnesses:

- Unnamed Declaration Witness 1 and 2, residence and profession unknown; in Ms. Swetnick's declaration, she wrote that she shared what had transpired with at least two people.
- A woman who asked to remain unnamed for fear of political retribution sent a letter to Ford's lawyers saying that she had witnessed boys at parties that included Georgetown Prep students engaging in sexual misconduct.

CHRISTOPHER A. COONS
DELAWARE

WWW.COONS.SENATE.GOV

127A RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-6042

United States Senate

WASHINGTON, DC 20510-0905

October 2, 2018

APPROPRIATIONS COMMITTEE
Member

ETHICS SELECT COMMITTEE
Member

FOREIGN RELATIONS COMMITTEE
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JUDICIARY COMMITTEE
Member

SMALL BUSINESS AND
ENTREPRENEURSHIP COMMITTEE
Member

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Wray:

I understand that the FBI is performing a week-long supplemental background investigation regarding the nomination of Judge Brett Kavanaugh to be an Associate Justice of the Supreme Court. I believe that it is critical to ensure that this investigation is as thorough and efficient as possible given the abbreviated timeframe. My office has been contacted by several individuals who would like to share information with the FBI that is relevant to the investigation, and they have had difficulty reaching anyone who will collect their information. Several other members also have received unsolicited information that individuals would like to share with the FBI, and these individuals have experienced similar difficulties relaying their information.

I cannot speak to the relevance or veracity of the information that many of these individuals seek to provide, and I have encouraged them to use the FBI tip portal or contact a regional FBI field office. However, there is one individual whom I would like to specifically refer to you for appropriate follow up: Max Stier [REDACTED] Stier is a Yale College classmate of Kavanaugh and Ramirez with information relevant to Ramirez's allegations

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I would appreciate it if you would provide me with a contact to whom I can supply other information that we receive, so that the FBI can follow up and collect and assess the information these individuals wish to share as appropriate.

Thank you for working to ensure that this investigation is professional and nonpartisan and to ensure the integrity of the Senate's constitutional responsibility to provide advice and consent.

Sincerely,



Christopher A. Coons

cc: Chairman Charles E. Grassley
Ranking Member Dianne Feinstein