

United States Senate

WASHINGTON, DC 20510

October 3, 2018

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

Dear Chairman Grassley:

We are deeply concerned about the Committee Majority's mishandling of confidential background investigation information and urge you to work with us to resolve this matter on a bipartisan basis.

Yesterday the Senate Judiciary Twitter account (@senjudiciary), which is controlled by the Republican Majority staff, posted information about Judge Kavanaugh that is not accurate and that must be immediately corrected.

The Majority tweeted the following at 12:10 PM EST on Tuesday:

- As part of Judge Kavanaugh's nomination to #SCOTUS, the FBI conducted its SIXTH full-field background investigation of Judge Kavanaugh since 1993. As part of these 6 prior FBI investigations, the FBI interviewed nearly 150 different people who know Judge Kavanaugh personally. 1/2
- Nowhere in any of these six FBI reports, which the committee has reviewed on a bipartisan basis, was there ever a whiff of ANY issue – at all – related in any way to inappropriate sexual behavior or alcohol abuse. 2/2

Each of us reviewed the confidential background investigation of Judge Kavanaugh before the hearing. While we are limited in what we can say about this background investigation in a public setting, we are compelled to state for the record that there is information in the second post that is not accurate. We urge you to ensure that these Twitter posts are promptly corrected.

It is troubling that the Committee Majority has characterized information from Judge Kavanaugh's confidential background investigation on Twitter, as that information is confidential and not subject to public release. If the Committee Majority is going to violate that confidentiality and characterize this background investigation publicly, you must at least be honest about it.

Unfortunately, this is not the first instance of Committee Majority staff mischaracterizing or selectively disclosing information regarding the allegations of sexual misconduct by Judge

Kavanaugh. While Republican Senators have falsely claimed without evidence that Committee Minority staff leaked Dr. Ford's letter alleging that Judge Kavanaugh sexually assaulted her, Committee Majority staff have publicly claimed that you possess evidence undermining the allegations while only selectively disclosing that evidence.

For example, the Majority has released an "investigative timeline" that editorializes about information in the Majority's possession in a blatant effort to undermine the credibility of the women who have come forward. Despite Dr. Ford's unequivocal sworn statement that she is "100 percent" certain that it was Judge Kavanaugh who attacked her, the Majority's "timeline" describes statements from two unidentified men who purportedly claim they, not Judge Kavanaugh, assaulted Dr. Ford; however, the Majority has not shared these alleged anonymous statements with the Minority despite repeated requests. This selective public disclosure sends a clear message from Senate Republicans to sexual assault survivors: if you have the courage to step forward, we will attack your credibility.

We are concerned that there may be a similar effort to publicly mischaracterize or selectively leak, for partisan purposes, the results of the FBI's ongoing supplemental background investigation into Judge Kavanaugh. To avoid this possibility, we urge you to call for a full Senate briefing with the FBI on the results of their re-opened investigation so that all Senators hear the same information and have the same opportunity to question the FBI before any floor vote on the Kavanaugh nomination.

We also urge you to meet with Minority members of the Judiciary Committee in advance of that briefing to establish bipartisan ground rules for public discussion of the information provided by the FBI. For example, we assume that since the Majority has already tweeted publicly about how many people were interviewed for Kavanaugh's previous background investigations, the Majority also will permit the public disclosure of the number of people interviewed by the FBI for the supplemental background investigation.

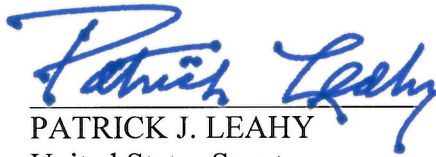
It is critical to the integrity of the United States Senate and the Supreme Court that the American people have confidence in the FBI's supplemental background investigation of Judge Kavanaugh. There has long been a tradition of bipartisan cooperation regarding the handling of confidential background information on judicial nominees. We look forward to working with you to restore this bipartisan tradition.

Thank you for your attention to this important matter.

Sincerely,


RICHARD J. DURBIN
United States Senator


DIANNE FEINSTEIN
United States Senator



PATRICK J. LEAHY
United States Senator




SHELDON WHITEHOUSE
United States Senator



RICHARD BLUMENTHAL
United States Senator



MAZIE H. HIRONO
United States Senator



CORY A. BOOKER
United States Senator



KAMALA D. HARRIS
United States Senator



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Following



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12:10 PM - 2 Oct 2018



Senate Judiciary ✓

@senjudiciary

Following



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12:10 PM - 2 Oct 2018