

# United States Senate

WASHINGTON, DC 20510

October 8, 2019

## VIA ELECTRONIC TRANSMISSION

The Honorable William P. Barr  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

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

Dear Attorney General Barr and Director Wray:

A full year has passed since the Judiciary Committee completed its investigation into allegations of decades-old misconduct by Brett Kavanaugh in the course of its consideration of his nomination to the U.S. Supreme Court. During its investigation, the Committee interviewed numerous individuals claiming to have relevant information. While most of those individuals appear to have contacted the Committee in good faith, some did not. The Committee referred four individuals to the DOJ and FBI for investigation of potential violations of 18 U.S.C. §§ 1001 (materially false statements) and 1505 (obstruction), for false statements made to the Committee during the course of its investigation. It also referred two of those same individuals for potential violations of 18 U.S.C. § 371 (conspiracy). We seek information about what actions DOJ and FBI are taking in response to these referrals.

These criminal referrals were not made lightly. In each of the aforementioned cases, the referred individual(s) made false allegations against then-Judge Kavanaugh. These allegations were taken seriously and carefully investigated by Committee staff, resulting in the diversion of significant resources.

1. The first referral, dated September 29, 2018, relates to a false allegation made by an individual who told the Committee that he had direct knowledge that Judge Kavanaugh assaulted a close friend on a boat in the harbor at Newport, Rhode Island in 1985.<sup>1</sup> After the Committee extensively questioned Judge Kavanaugh about the allegation, the individual recanted and apologized on social media for making the false allegation.
2. The second referral, dated October 25, 2018, relates to false allegations made by Mr. Michael Avenatti and his client, Ms. Julie Swetnick.<sup>2</sup> In a September 23, 2018, email to Committee staff, Mr. Avenatti stated that he and Ms. Swetnick were aware of evidence that during the 1980s, Judge Kavanaugh participated in the “targeting of women with

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<sup>1</sup> Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (September 29, 2018). Available at: <https://www.judiciary.senate.gov/imo/media/doc/2018-09-29%20Grassley%20to%20DOJ,%20FBI%20-%20Referral%20for%20Criminal%20Investigation.pdf>.

<sup>2</sup> Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (October 25, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/2018-10-25%20CEG%20to%20DOJ%20FBI%20\(Swetnick%20and%20Avenatti%20Referral\)\\_Redacted.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-10-25%20CEG%20to%20DOJ%20FBI%20(Swetnick%20and%20Avenatti%20Referral)_Redacted.pdf).

alcohol/drugs in order to allow a ‘train’ of men to subsequently gang rape them.”<sup>3</sup> Committee staff interviewed Judge Kavanaugh and ten other individuals in connection with these allegations, which were outlined in graphic detail in a sworn statement to the Committee purportedly written and signed by Ms. Swetnick. After a thorough investigation, the Committee found no verifiable evidence to support any of the allegations made in the declaration. The Committee also found that both Mr. Avenatti and Ms. Swetnick had a long history of credibility issues and may have criminally conspired to mislead the Committee and obstruct its investigation.

3. The third referral, dated October 26, 2018, relates to evidence that Mr. Avenatti falsified a sworn statement to the Committee in order to provide support for Ms. Swetnick’s unfounded allegations.<sup>4</sup> The sworn statement by an unknown declarant claimed that Judge Kavanaugh had spiked the punch at house parties with Quaaludes and/or grain alcohol in order to make “girls more likely to engage in sexual acts and less likely to say ‘No.’”<sup>5</sup> NBC News later reported on a series of contacts with the purported declarant, who stated that she had denied the key allegations in the declaration both before and after the statement was publicly released and that Mr. Avenatti had “twisted [her] words.”<sup>6</sup>
4. The fourth referral, dated November 2, 2018, relates to allegations made by Ms. Judy Munro-Leighton.<sup>7</sup> On October 3, 2018, Committee staff received an email from Ms. Munro-Leighton stating that she was the author of an unsigned letter containing highly graphic sexual-assault accusations against Judge Kavanaugh previously received by the office of Senator Kamala Harris. Ms. Munro-Leighton included the text of the letter in her e-mail to the Committee, claiming that Judge Kavanaugh and a friend had raped her “several times each” in the back seat of a car.<sup>8</sup> When Committee staff interviewed Ms. Munro-Leighton, she admitted that she falsely identified herself as the author of the letter and its allegations and had only claimed authorship “as a way to grab attention.”<sup>9</sup> When asked by Committee investigators if she had ever met Judge Kavanaugh, she said: “Oh Lord, no.”<sup>10</sup>

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<sup>3</sup> *Id.* at 2.

<sup>4</sup> Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (October 26, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/2018-10-26%20CEG%20to%20DOJ%20FBI%20\(Second%20Avenatti%20Referral\)%20-%20with%20enclosures\\_Redacted.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-10-26%20CEG%20to%20DOJ%20FBI%20(Second%20Avenatti%20Referral)%20-%20with%20enclosures_Redacted.pdf).

<sup>5</sup> *Id.* at 2.

<sup>6</sup> Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018), available at <https://www.nbcnews.com/politics/justicedepartment/newquestions-raised-about-avenatti-claims-regarding-kavanaugh-n924596>.

<sup>7</sup> Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (November 2, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/2018-11-02%20CEG%20to%20DOJ%20FBI%20\(Munro-Leighton%20Referral\)%20with%20redacted%20enclosures.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-11-02%20CEG%20to%20DOJ%20FBI%20(Munro-Leighton%20Referral)%20with%20redacted%20enclosures.pdf).

<sup>8</sup> *Id.* at 9.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> *Id.* at 3.

As the Committee stressed in each of the referrals issued during and after the investigation into allegations against then-Judge Kavanaugh, investigations in support of the judicial nomination process are an essential part of the constitutional role in confirming judges. As Committee members, we are grateful to citizens who come forward with relevant information in good faith, even if they are not entirely sure about the accuracy of that information. But, when individuals intentionally mislead the Committee, they divert important Committee resources during time-sensitive investigations and materially impede its work. Such acts are not only unfair; they are potentially illegal. It is illegal to make materially false, fictitious, or fraudulent statements to Congressional investigators. It is illegal to obstruct Committee investigations.

It is important to protect the constitutional process from being hijacked by bad actors involved in insidious partisan operations. The Committee can bring bad actors to the attention of law enforcement and the American people by being as transparent as possible about its investigative findings. However, it is up to the FBI and the Justice Department to hold those who mislead Congress accountable for the criminal aspects of their behavior. The DOJ has not shied away from selectively filing charges against individuals for alleged violations of 18 U.S.C. §§ 1001 in the past. Martha Stewart, former Illinois governor Rod Blagojevich, and ex-Presidential aide Scooter Libby are just a few individuals who have been charged with lying to federal investigators.<sup>11</sup> Lying to Congress is and should be treated as an equally serious offense.

The next Supreme Court nominee should not have to defend himself or herself against baseless and fabricated allegations, and Committee staff should not have to spend valuable time investigating them.

Accordingly, please respond to the following no later than October 21, 2019:

1. For each criminal referral made by the Committee to the FBI, did the FBI open a criminal investigation? If so, which investigation(s) resulted in a referral to the Justice Department for prosecution? If not, why not?
2. For each case that was referred to the Justice Department for prosecution, which cases were rejected and which were accepted for prosecution?

Thank you for your prompt attention to this matter. If you have any questions, please contact a professional staff investigator in Senator Grassley's Oversight and Investigations Unit at (202) 224-4515.

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<sup>11</sup> Josh Saul, What Do Michael Flynn and Martha Stewart Have in Common? A List of the People Charged With Lying to the FBI, NEWSWEEK (December 1, 2017), available at <https://www.newsweek.com/michael-flynn-martha-stewart-charged-lying-fbi-728874>.

Sincerely,

Chuck Grassley Tom Harkin

John Cornyn Mike Crapo

Tom Tillis Marsha Blackburn

Jeff Flake John Kennedy

JD

cc: The Honorable Dianne Feinstein  
Ranking Member  
Senate Judiciary Committee