



For Immediate Release

Date: August 21, 2018

President Trump Believes He Can “Run” The Mueller Investigation. Shockingly, His Supreme Court Nominee, Judge Kavanaugh, Seems to Agree.

PRESIDENT TRUMP SAYS HE HAS CONTROL OVER SPECIAL COUNSEL MUELLER’S INVESTIGATION – “I COULD RUN IT IF I WANT”

Reuters: “Trump asserted that he retained the power to intervene in the probe, but that he had chosen not to do so for the moment. His administration, Trump said, was ‘a smooth-running machine, except in that world. And I’ve decided to stay out. Now I don’t have to stay out.’ **I can go in, and I could do whatever — I could run it if I want.** But I decided to stay out,’ he said. **I’m totally allowed to be involved if I wanted to be.** So far, I haven’t chosen to be involved. I’ll stay out.” [Reuters, [8/20/18](#)]

JUDGE KAVANAUGH HOLDS A DANGEROUSLY EXPANSIVE VIEW OF PRESIDENTIAL POWER, SEEMS TO AGREE WITH PRESIDENT TRUMP

Brett Kavanaugh: “The implication is that that Congress has to take responsibility for overseeing the conduct of the President in the first instance. That’s the role I believe the Framers envisioned, and that’s the role that makes sense if you just look at the last 20 years. **It makes no sense at all to have an independent counsel looking at the conduct of the President.** Now to be sure, most criminal investigations are going to involve multiple subjects, so we still need a criminal investigation ongoing. But **when it comes to looking at the conduct of the president, it has to be the Congress.** Congress has to get in this game and not – stop sitting on the sidelines.” [ABA Panel on the Future of the Independent Counsel Statute at Georgetown University Law Center, [2/19/98](#); 1:02:02-1:02:48; CNN, [7/20/18](#)]

Brett Kavanaugh:

LACOVARA: Do you accept the proposition that the attorney general, or the independent counsel, is the country’s chief law enforcement officer?

KAVANAUGH: I do not. **The president is the chief law enforcement officer. That is one of the bedrock principles that has gotten lost since Nixon. The power of the president in these situations has diminished dramatically.** [Wash. Law. 34 (1999), Lawyers' Roundtable: Attorney-Client Privilege; p. [191](#)]

Brett Kavanaugh:

COSSACK: Brett, the independent counsel law is dead and -- but yet we see Janet Reno appoint Senator Danforth to investigate what happened at Waco. It's a different kind of investigation than you worked under. Is it better or worse?

KAVANAUGH: **I think it's better because the attorney general and, ultimately, the president have full supervisory control, which is the way the Constitution set up.** But this shows -- and it's funny to happen so soon after the death of the statute -- when a serious investigation of the administration is needed, people are going to seek out a respected member of the opposite political party to conduct the investigation, whether it's the court appointing him or the attorney general. The same things that are said about Senator Danforth were said about Judge Starr in 1994: a very respected legal figure by both sides. [CNN Burden of Proof, [9/9/99](#); p. 169]

Brett Kavanaugh: "Well I have to say one thing. If the president were the sole subject of a criminal investigation, I would say, no one should be investigating that. That should be turned over immediately to the Congress." [ABA Panel on Independent Counsel Structure and Function, [2/19/98](#)]

Brett Kavanaugh: "A special prosecutor should be nominated by the president and confirmed by the Senate, not by an isolated panel of judges. **The prosecutor should be removable at will by the president.**" [ABA Panel on Independent Counsel Structure and Function, [2/19/98](#); 41:38-41:57]

Brett Kavanaugh: **It is debatable, of course, whether the Constitution allows indictment of a sitting president.** The one thing, during Watergate, that Robert Bork, Leon Jaworski, and President Nixon all agreed upon was that a sitting president could not be indicted, but there is lurking uncertainty. **In my view, Congress should clearly establish that the president can be indicted only after impeachment by the House and removal by the Senate. A criminal indictment and trial of a president is a de facto removal of him, and removal of the president is a process intertwined with its seismic political effects, as Hamilton recognized over two centuries ago, and as Jaworski recognized over two decades ago. It should be handled by a political institution.** And again, sticking with my theme of getting Congress more involved, the Congress must play the central role in overseeing the conduct of the president. Congress needs to get in the game." [ABA Panel on Independent Counsel Structure and Function, [2/19/98](#); 47:29-48:25]

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Brett Kavanaugh: “In returning to the themes and the way I envision the system, the president and the attorney general oversee the special prosecutor, the Congress oversees the president and the attorney general.” [ABA Panel on Independent Counsel Structure and Function, [2/19/98](#)]

Politico: “In his 2000 comments at Duke, Kavanaugh drew on his experience on Kenneth Starr's staff during the independent counsel's investigation of Clinton to ding Congress for opting, ‘in abdication of their constitutional duty,’ to hold off on their own inquiry while Starr finished his work. ‘In the old days, if you had a serious allegation against the president — and there was a common understanding that the president could not be indicted while he was in office — the Congress of the United States would look into the allegation immediately and would get the facts. They can depose witnesses and find out the truth,’ Kavanaugh said at the time.” [Politico, [8/1/18](#)]

Judge Brett Kavanaugh: “Article II, Section 1, the first fifteen words, ‘The executive Power shall be vested in’ one person—you wonder do they mean that. Yes. You see the debates. There’s discussion of a plural executive. James Wilson, the father of the presidency—one person. **One person. They meant one person. That has—we talk about does this have relevance today. Yes. For me, it does at least. When we have cases with agencies that are accountable to the President, yes.** I think that’s in tension, as I’ve said, with the one person. But they meant it. It applies still today.” [GW Law School, A Dialogue with Federal Judges on the Role of History in Interpretation, [11/4/11](#)]

Judge Brett Kavanaugh: “Our Constitution makes one person responsible for the entirety of the Executive Branch, or at least for most of the Executive Branch.” [Remarks to Inn of Court, [5/17/10](#); p. 639-644]

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