



For Immediate Release

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Judge Kavanaugh Has Shown Troubling And Expansive Views On Presidential Power – The American People Must Have Access To His Full Record

[AP](#): Kavanaugh: Watergate Tapes Decision May Have Been Wrong

[CNN](#): Kavanaugh Said Congress Should Investigate A President, Raising Questions About His Views On Mueller

Chairman Grassley On The Elena Kagan Nomination In [2010](#): “In Order For The Senate To Fulfill Its Constitutional Responsibility Of Advise And Consent, We Must Get All Of Her Documents From The Clinton Library And Have Enough Time To Analyze Them”

Recently revealed comments show that Judge Kavanaugh may hold dangerous views on expansive executive power. These revelations further demonstrate the strong need for full access to Judge Kavanaugh’s documents, including his years of service in the Bush White House and his work as a partisan political operative.

Judge Kavanaugh has been nominated to our nation’s highest court, where he could [decide to overturn precedents](#) in ways that would empower President Trump and future presidents. That’s why it’s crucial that the Judiciary Committee and the American people have access to his records. **Republicans must adhere to the same standard they required of Justice Kagan and demand full access to Judge Kavanaugh’s records.**

In Recently Revealed Comments, Kavanaugh Has Shown A Troubling Belief In An Imperial Presidency. The American People Deserve Full Access To His Records.

Associated Press: Kavanaugh: Watergate Tapes Decision May Have Been Wrong. “Supreme Court nominee Brett Kavanaugh suggested several years ago that the unanimous high court ruling in 1974 that forced President Richard Nixon to turn over the Watergate tapes, leading to the end of his presidency, may have been wrongly decided. Kavanaugh was taking part in a roundtable discussion with other lawyers when he said at three different points that the decision in U.S. v. Nixon, which marked limits on a president’s ability to withhold information needed for a criminal prosecution, may have come out the wrong way. ... Kavanaugh’s belief in robust executive authority already is front and center in his nomination by President Donald Trump to replace the retiring Justice Anthony Kennedy. The issue could assume even greater importance if special counsel Robert Mueller seeks to force Trump to testify in the ongoing investigation into Russian interference in the 2016 election. ‘But maybe Nixon was wrongly decided — heresy though it is to say so. Nixon took away the power of the president to control information in the executive branch by holding that the courts had power and jurisdiction to order the president to disclose information in response to a subpoena sought by a subordinate executive branch official. That was a huge step with implications to this day that most people do not appreciate sufficiently...Maybe the tension of the time led to an erroneous decision,’ Kavanaugh said in a transcript of the discussion that was published in the January-February 1999 issue of the Washington Lawyer.” [AP, [7/22/18](#)]

CNN: Kavanaugh Said Congress Should Investigate A President, Raising Questions About His Views On Mueller. “President Donald Trump’s Supreme Court nominee Brett Kavanaugh has raised concerns about indicting a sitting president and expressed his desire to overturn a ruling upholding the constitutionality of an independent counsel. And in newly unearthed video reviewed by CNN, Kavanaugh also implies that he believes there’s only one institution that should be allowed to investigate the conduct of a president: the United States Congress. While the comments are consistent with Kavanaugh’s long-standing legal views, they raise new questions about whether the appeals court judge believes a president can be subjected to an investigation conducted outside of Congress -- significant now that a federal investigation looms over Trump, legal experts say. ‘The implication is that Congress has to take responsibility for overseeing the conduct of the president in the first instance,’ Kavanaugh said at a 1998 event at the Georgetown Law Center in Washington when asked about his view that a sitting president cannot be indicted. ‘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.’ Kavanaugh then added: ‘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.’ ... The 1998 comments, which have not been previously reported, are once again bound to add to speculation about whether Kavanaugh accepts the Mueller probe -- or is hostile to it. ‘It’s impossible to disagree with Kavanaugh that, in a perfect world, Congress would take the lead when it comes to investigating misconduct and malfeasance by the President,’ said Stephen Vladeck, a University of Texas law professor and CNN analyst. ‘But what he seems to be implying here is not only that Congress should take the lead, but that the Constitution might itself foreclose independent prosecutors like Independent Counsel Starr and Special Counsel Mueller.’” [CNN, [7/20/18](#)]

CNN: Trump Supreme Court Pick: I Would 'Put The Nail' In Ruling Upholding Independent Counsel. “Judge Brett Kavanaugh two years ago expressed his desire to overturn a three-decade-old Supreme Court ruling upholding the constitutionality of an independent counsel, a comment bound to get renewed scrutiny in his confirmation proceedings to sit on the high court. Speaking to a conservative group in 2016, Kavanaugh bluntly said he wanted to ‘put the final nail’ in a 1988 Supreme Court ruling.” [CNN, [7/18/18](#)]

Interest in Full Public Access To Judge Kavanaugh's Records Should Be Bipartisan, As It Was For Kagan's Records.

In 2010, then-Chairman Patrick Leahy (D-VT) and Ranking Member Sessions (R-AL) jointly requested "all records containing documents written by, edited by, prepared in whole or part by, under the supervision of, or at the direction of Elena Kagan as well as documents referencing Elena Kagan by name, initials, or title, and documents received by or sent to Elena Kagan." [Letter to the Clinton Presidential Library and Museum, [5/18/18](#)]

As Chairman Leahy wrote in 2010, "Apart from the small number of documents withheld for personal privacy, no documents have been withheld from the Committee on any basis." [Letter to Ranking Member Sessions, [6/24/10](#)]

Senate Republicans Insisted That To Perform Their Constitutional Duty, Senators Needed "All" Documents from the Clinton Library. They Must Adhere To The Same Standard for Judge Kavanaugh.

Judiciary Committee Chairman Chuck Grassley (R-IA): "In order for the Senate to fulfill its constitutional responsibility of advise and consent, we must get all of her documents from the Clinton Library and have enough time to analyze them so we can determine whether she should be a Justice." [Floor Remarks, [6/15/10](#)]

Republican Leader Mitch McConnell (R-KY): "Starting today, both parties will begin the process of carefully reviewing Ms. Kagan's brief litigation experience as well as her judgment and her career in academia, both as a professor and as an administrator. Fulfilling our duty to advise and consent on a nomination of this office requires a thorough process, not a rush to judgment." [Floor Remarks, [5/10/10](#)]

Republican Whip and Judiciary Committee Member John Cornyn (R-TX): **"I'm disappointed that the Chairman set a date so soon. We have just started receiving documents regarding Solicitor General Kagan's nomination, and we have been promised tens of thousands more.** When I met with Solicitor General Kagan yesterday, she told me that the still-unreleased documents will give us invaluable insight into how she would approach her job as a member of the Supreme Court. **It is unreasonable to schedule the nomination hearing without knowing, when, or if, we will have those documents.**" [Press Release, [5/19/10](#)]

Republican Whip and Judiciary Committee Member John Cornyn (R-TX):

REPORTER: Senator, given the volume of documents from the Clinton Library, what is a realistic timeframe for doing the confirmation hearing in your view?

CORNYN: Well, I think it would be a mistake to hold the hearing until we've had a chance to see those documents and any other documents that might exist." ... "I don't think the hearing should be held until we've had an adequate time to review the documents." [Press Conference, [5/18/10](#)]

Then-Judiciary Committee Ranking Member and Current Attorney General Jeff Sessions (R-AL): "Should we get documents from her time as a Clinton aide? I think all the documents that are producible should be produced." [Press Conference, [5/12/10](#)]

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