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United States Senate

WASHINGTON, DC 20510-3905

August 21, 2018

The Honorable Royce C. Lamberth
U.S. District Court for the District of Columbia
333 Constitution Avenue, N.W.
Washington, D.C. 20001

Re: Case 1:18-mc-00112

18 mc 112
let this be filed.
Royce C. Lamberth
U.S.D.J. 8/21/18

Dear Judge Lamberth:

It has been brought to our attention that you are currently considering an emergency request to unseal a report to then-Chief Judge Norma Holloway Johnson, authored by Special Master John W. Kern III in 1999, “concerning allegations that prosecutors within the Office of Independent Counsel [OIC] leaked confidential information to the press in connection with their 1998 investigation of then-President Clinton.”¹

As you may know, one of the OIC prosecutors who was a subject of the Special Master’s investigation is the Honorable Brett M. Kavanaugh, whose nomination to be an Associate Justice of the Supreme Court of the United States is currently before the Senate Judiciary Committee. It has been reported that Judge Kavanaugh was in regular contact with the media during the Starr investigation, which has led some to suggest that his conduct may have violated Fed. R. Crim. P. 6(e).² To the extent Special Master Kern’s report may shed light on this conduct, its immediate disclosure is not only in the public interest, but necessary for us to carry out our constitutional advice and consent responsibilities as members of the Judiciary Committee.

Judge Kavanaugh’s confirmation hearing is scheduled to begin on September 4, 2018. Accordingly, we write to respectfully request that the court employ all available resources to expedite its review of this matter and order the report be unsealed, following precedent set this year by Chief Judge Howell in *In re Unseal Dockets Related to Independent Counsel’s 1998 Investigation of President Clinton*, 308 F. Supp. 3d 314 (2018).

¹ Letter re: Emergency Request to Unseal Special Master’s Report Concerning Allegations of Improper Disclosures of Grand Jury Materials by Independent Counsel Prosecutors in Connection with 1998 Investigation of President Clinton, Case 1:18-mc-00112-BAH (filed August 14, 2018).

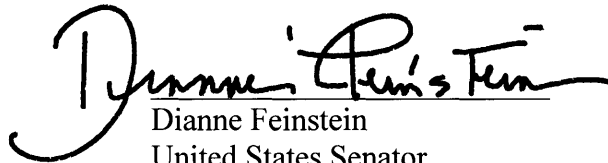
² See, e.g., Josh Gerstein, ‘Brett was involved’: Inside Supreme Court nominee’s work for Bill Clinton probe, POLITICO, July 22, 2018, available at <https://www.politico.com/story/2018/07/22/brett-kavanaugh-supreme-court-bill-clinton-starr-investigation-735082>.

Thank you for your consideration of this important matter.

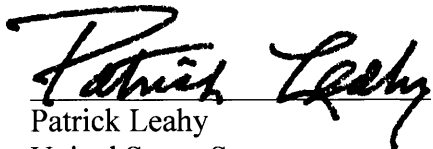
Respectfully,



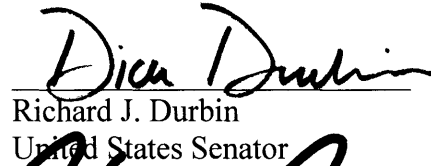
Sheldon Whitehouse
United States Senator



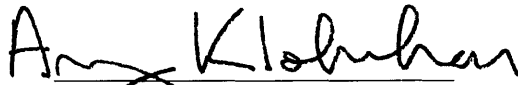
Dianne Feinstein
United States Senator



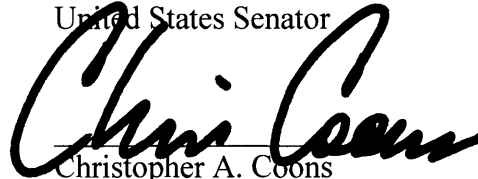
Patrick Leahy
United States Senator



Richard J. Durbin
United States Senator



Amy Klobuchar
United States Senator



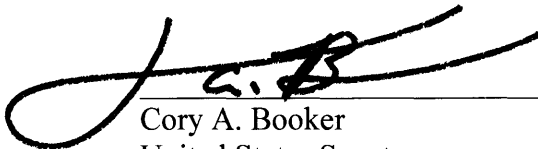
Christopher A. Coons
United States Senator



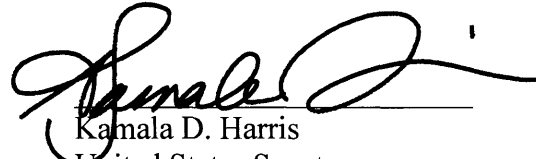
Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Cory A. Booker
United States Senator



Kamala D. Harris
United States Senator

Cc: Andrew D. Freeman, Counsel for American Oversight
Elizabeth Shapiro, U.S. Department of Justice