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US Senate is a factory of suspicion and contempt

By MICHAEL GERSON

This is the cost when institutions have lost public trust.

The United States Senate is supposed to be a deliberative body, protected by extended terms from contracting the political fevers of the day. This role assumes a certain level of competence, collegiality and goodwill among its members.

None of which has been displayed by the lead Democrat on the Senate Judiciary Committee, Dianne Feinstein. She knew about Christine Blasey Ford's charges against Brett Kavanaugh for nearly two months before they started leaking to the press. This method of revelation—following the end of the Kavanaugh hearings—blindsided Feinstein's colleagues, denied the nominee a proper chance to confront the accusation, and launched an important public issue under a partisan cloud.

So Feinstein is guilty of governing malpractice and has encouraged suspicion and contempt, especially among conservatives, for the institution she represents.

How about the Judiciary Committee more broadly? This is the place where serious-minded investigations of judicial qualifications (and disqualifications) are supposed to take place. The committee has subpoena power and a staff of investigators for a reason. It should be the forum where matters such as the charges against Kavanaugh are considered. And Chairman Chuck Grassley's offer to hear committee testimony by Ford, in public or private, was not unreasonable.

But Democrats view the Republican-controlled Judiciary Committee as highly politicized—and for an understandable reason. The most recent Supreme Court nominee chosen by a Democrat, Merrick Garland, was defeated and mistreated by delaying his vote beyond President Obama's term in office. There was no credible explanation for doing this—except that the ideological stakes were high and Republicans had the ability to impose their will. It was a raw and effective exercise of power, but it had the cost of leaving a bad partisan taste in senatorial mouths.

Over the last few years Republicans have demonstrated an undeniable ruthlessness in the Supreme Court nomination process, encouraging progressive suspicion and contempt.

So how about the FBI? It, at least, should be a respected, trusted arbiter in American life. Why not take the job of investigation away from elected representatives and give it to career professionals?

But who could have possibly pre-

dicted the bureau's reputational roller coaster over the last few years? First, a clownish intervention in the last days of a presidential election that might have helped elect Donald Trump. Then revelations about politicized agents within the FBI who hated Trump. Then almost daily attacks on the bureau by the president of the United States, who calls his trashing of the FBI's credibility "one of my crowning achievements."

The Democratic call for FBI involvement was badly mishandled. By withdrawing Ford's initial agreement to testify before the Judiciary Committee and insisting on a preliminary investigation by the FBI, Ford's lawyers made their strategy seem like a time-wasting partisan maneuver. And we already know how Senate Democrats would overwhelmingly respond to an eventual FBI report. If the FBI finds strong evidence implicating Kavanaugh in a crime, Democrats will oppose him. If there is a muddled mix of accusations and memories, Democrats will oppose him. If Kavanaugh is completely vindicated, Democrats will oppose him.

Americans can be forgiven for thinking that everything involved in Supreme Court nominations—all the institutions, traditions, principles, procedures, solemn oaths and columned buildings—are merely a cover, a disguise for the will to power. Where there is no authority, all that remains is a contest of power.

Out of all this, two things strike me as clear.

First, as it stands, the facts are in Kavanaugh's favor. The charge against him is vague, uncorroborated and completely inconsistent with virtually all other accounts of Kavanaugh's character.

Second, an accusation of attempted rape can't be allowed to hang in the air without a more serious investigation. In matters of such cruelty and lasting damage, there is no exemption for youth and inexperience. I would no more want a Supreme Court justice who had attempted rape than I would want a president who committed sexual assault. That is not too high a standard.

I am on record saying that Republicans should go the extra mile to examine the Ford accusation. But not an extra marathon. Of all our institutions, the FBI retains some shred of moral standing. It should be instructed by the president to conduct an investigation, in a limited amount of time, with a narrow remit: to see if there are any other witnesses or contemporaneous evidence that would make Ford's claim seem likely. If not, Kavanaugh should be quickly confirmed.

(Washington Post Writers Group)

guest column



Demos forget rights of the accused

By DEBRA J. SAUNDERS

The Senate Judiciary Committee's ranking Democrat, Sen. Dianne Feinstein of California, like others in her party, apparently has forgotten that in America, the burden of proof falls on an accuser, not the accused.

Thus Feinstein played a starring role in her party's efforts to slime the reputation of Brett Kavanaugh, an eminently qualified jurist nominated by President Donald Trump to fill a vacancy on the Supreme Court.

On Sept. 13, Feinstein released a statement about an anonymous accuser's unspecified "information" on the judge, which the senator said she referred to federal authorities. Feinstein released the statement without even asking Kavanaugh about the charges.

Feinstein had plenty of time to ask. On July 30, college professor Christine Blasey Ford wrote a letter to the senator in which she asserted that a drunken Kavanaugh—then a high school student—"physically and sexually assaulted" her "in the early 1980s." The then-17-year-old Kavanaugh groped the then-15-year-old Ford, tried to pull off her clothes, and put a hand over her mouth, Ford wrote, before she got away.

Ford provided little detail as to the time—or even year—or the place. Her corroboration was limited essentially to notes taken by a therapist when Ford first revealed the story in 2012.

The Democrat from California maintains that she could not mention the allegation to Kavanaugh without violating Ford's request for confidentiality. Feinstein apparently never informed Ford that accused individuals have a right to face their accusers.

Instead leaks about the Ford letter, presumably by Democrats affiliated

with the Senate committee, revealed the allegation which led Ford to break her silence. Senate Judiciary Committee Chairman Chuck Grassley, R-Iowa, has since invited Ford and Kavanaugh to address his committee on Monday. Kavanaugh accepted the invitation; Ford has said she wants the FBI to first investigate the alleged incident before she testifies.

I tend to believe women who accuse men of sexual misconduct, because these types of episodes happen all the time unfortunately. When I first heard the accusation, I thought it was very possible a drunken teenage boy forced himself on a vulnerable teenage girl, who fortunately got away.

But Kavanaugh denies Ford's charge, the witness Ford named refutes her claim, and the pendulum has swung too far on these stories.

Kavanaugh has led a good life. He's been a good boss, husband and father to the women around him, who enthusiastically vouch for him. He's passed six investigations by the FBI.

One person's unsubstantiated accusation, waged decades after the alleged event and at a politically sensitive moment, should not be enough to topple him.

On Twitter, conservatives have hammered Democrats for their hypocrisy on sexual harassment and misconduct.

Feinstein voted against convicting an impeached Bill Clinton, who was accused of much worse as an adult. Democrats also have hit the mute button after Rep. Keith Ellison, D-Minn., won his party's primary in a bid to become Minnesota attorney general after allegations that he battered a former girlfriend.

They were adults who held public office at the time of the accusations,

yet Democrats are holding them to a lower standard than they have set for a teenager.

But hypocrisy isn't the big problem here. The horror lies in the obscene toxicity behind the left's rush to bury Kavanaugh.

When Trump picked Kavanaugh to replace Justice Anthony Kennedy, Senate Democrats had not gotten over the GOP Senate's decision to block President Barack Obama's Supreme Court nominee, Merrick Garland. The Republicans, Democrats complained, wouldn't even give Garland a hearing.

Garland never was going to win confirmation from a GOP-controlled Senate—not when a presidential election scheduled within the year could produce a president who would keep the conservative 5-4 majority from swinging in the other direction.

But Senate Democrats could not let go of the resentment they felt at the GOP's refusal to hold a hearing for Garland. Before she voted against Trump's first Supreme Court pick, Neil Gorsuch, Feinstein told MSNBC, "The humiliation it caused a very good man resounds with all of us still."

Humiliation? Please. The Republicans spared Garland a hearing for a job he wasn't going to get at the time. Now the Democrats are looking for payback by engineering an unfair hearing for Kavanaugh. They are so determined to lash out at Kavanaugh that they're dredging up dirt from his high school years.

If the left can't smear an eminently qualified jurist on the basis of his judicial record, they'll destroy his reputation. So if he makes it onto the big bench, he'll have a stain on his name likely to haunt every decision he writes until his dying day.

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The price of football is too high

It's fall again! Time for football games and cheering for your team. Heck, football's become so popular even females are playing the game, at least as kickers, while possibly no one would be surprised to learn that females are in the game as quarterbacks and pass catchers.

There is a dark side to our country's perennially-watched grid iron game. But hold on a moment! Is it really in danger of seeing its end? Science argues it is. As we know, football is a sport in which those simply watching the game are entertained as men turn one another's brains into the consistency of overly-boiled rolled oats.

What's been discovered by scientific research is that, in spite of all the protective gear, especially the designed and re-designed head gear, repeated hard impacts that are part and parcel of the game do permanent damage to the human brain. These impacts result in chronic traumatic encephalopathy (CTE). In fact, a recent profile study of over 100 brains of former football players indicated signs of CTE while the longer they had played, the worse the brain damage.

Although the study wasn't random, it does indicate that the risk is high. There are the far too many sad stories of former players who spent their years of retirement in a kind of fog from neurological breakdown to crippled mental capacity.

Initially, the theory was that CTE results from repeated concussions that led the NFL to encourage less hard hits and promote a new concussion protocol to monitor the damage. But ex-

perience with the matter has disclosed that the permanent damage is not the concussions; rather, it is the routine by the hundreds of constant poundings to the heads of players and the obvious fact that these are the way the game is played.

A lot of moms and dads who devote time to reading up on the latest information available to American parents have decided to direct their kids to sports less head-impacting than football. The result is that football has more and more often become the province of poorer kids and minorities who, generally speaking, see the sport as a means to get out of poverty even though constant head traumas bring high risk.

Obviously, there are excessive amounts of really big money in football at the university and professional

levels, resulting in extraordinary efforts by vested interests to protect it from its critics. As a result, we already see the old Phillip Morris strategy at work where when cigarette makers realized that stop smoking programs would cut profits, they went overseas. What's underway now is a search far and wide into other places in the world where health concerns are brushed off and life spans are already short.

My wife and I would not allow our kids to play football, period. We argue strenuously against it for our grandkids, too. I'll readily admit that I've been a fan of a favorite team or two. But, knowing what happens to the heads of those who play, I've mainly weaned myself from watching and thereby not supporting the ever-growing crowd of people who ultimately sacrifice their lives to perpetual murkiness, mental incapacity and premature death.

(Gene H. McIntyre shares his opinion frequently in the *Keizertimes*.)

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