

Documents dispute dominates Kavanaugh hearing

Republicans hope to confirm the judge in time for the start of the new Supreme Court term on Oct. 1

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WASHINGTON — Supreme Court nominee Brett Kavanaugh's confirmation tumbled into highly charged arguing today over whether key documents were being withheld, and one Democrat risked Senate discipline by releasing confidential material. A newly disclosed email revealed that President Donald Trump's pick once suggested Roe v. Wade was not settled law.

The finger-pointing over the unusual vetting process for Trump's nominee made for a rough start for the final day of questioning of Kavanaugh, who has so far avoided major missteps that could block his confirmation. Republican John Cornyn of Texas said senators could be expelled from office for violating confidentiality rules, while Democrats led by Cory Booker of New Jersey, responded, "Bring it on."

The email showed that Kavanaugh had taken a different tone on a 2003 abortion case than he had during Wednesday's hearing when he stressed how difficult it is to overturn precedents like Roe. In the email, Kavanaugh was reviewing a potential op-ed article in support of two judicial nominees while he was working at the George W. Bush White House. It had been held by the committee as confidential.

"I am not sure that all legal scholars refer to Roe as the settled law of the land at the

Supreme Court level since Court can always overrule its precedent, and three current Justices on the Court would do so," Kavanaugh wrote, referring to justices at the time, in an email to a Republican Senate aide. The document is partially redacted.

Asked about it by the committee's top Democrat, Dianne Feinstein of California, Kavanaugh reiterated his previous testimony that "Roe v. Wade is an important precedent of the Supreme Court."

The 15-year-old email underscored a dispute that has dominated part of the hearing over Kavanaugh's unusually long paper trail stemming from his years in the Bush White House. The panel's process resulted in hundreds of thousands of pages of Kavanaugh's documents being withheld as confidential or kept from release under presidential privilege by the Trump White House.

Booker called the process "a bit of a sham." He was chastised by GOP colleagues for having discussed a confidential document about Kavanaugh's legal views on race. Cornyn said it was "irresponsible and conduct unbecoming a senator."

Chairman Chuck Grassley, R-Iowa, said more documents would be released today and stood by his handling of Kavanaugh's paper trail.

"My process was fair," Grassley said as he opened the session.

So far, Kavanaugh appears on track toward confirmation in the Republican-held Senate, but after a marathon



AP Photo/Alex Brandon

Brett Kavanaugh testifies before the Senate Judiciary Committee today.

12-hour session Wednesday, he also does not seem to have changed minds on the committee, which is split along partisan lines.

The judge left unanswered questions over how he would handle investigations of the executive branch and whether he would recuse himself if cases involving Trump under special counsel Robert Mueller's probe end up at the court.

Trump says he's pleased with his nominee's performance, and Republicans are united behind him, eager to add a conservative judge to the court.

Late in the evening, Kavanaugh seemed to stumble at first when questioned by Democrat Kamala Harris of California about whom he might have spoken with at a law firm concerning the investigation into Russian election

meddling. The firm in question was founded by Marc Kasowitz, who has represented Trump.

Kavanaugh eventually said he couldn't think of any such conversations but would need to see a list of the firm's lawyers.

Protesters have repeatedly tried to interrupt the hearing, which has carried strong political overtones ahead of the November congressional elections. Democrats lack the votes to block confirmation but have been pressing Kavanaugh for his views on abortion rights, gun control and other issues.

On Wednesday the judge insisted he fully embraced the importance of judicial independence. But he refused to provide direct answers to Democrats who wanted him to say whether there are limits

on a president's power to issue pardons, including to himself or in exchange for a bribe. He also would not say whether he believes the president can be subpoenaed to testify. Still, he began his long day in the witness chair by declaring that "no one is above the law."

Democrats are concerned that Kavanaugh will push the court to the right and that he will side with Trump in cases stemming from Mueller's investigation of Russian interference in the 2016 election and possible ties to the Trump campaign. The 53-year-old appellate judge answered cautiously when asked about most of those matters, refusing an invitation from Democratic Sen. Richard Blumenthal of Connecticut to pledge to step aside from any Supreme Court cases dealing with Trump and Mueller's investigation.

Under questioning by Republicans, Kavanaugh stressed the importance of judicial independence, "not being swayed by political or public pressure."

On abortion, Kavanaugh noted that Roe has been affirmed "many times." He defended his dissenting opinion last year in the case of a pregnant immigrant teen in federal custody. Kavanaugh would have denied her immediate access to an abortion, even after she received permission from a Texas judge.

Kavanaugh told Sen. Mazie Hirono, D-Hawaii, he had been unaware of the domestic violence allegations against Rob Porter, who was Trump's staff secretary, until they were publicly disclosed. Journalist Bob Woodward's new book about Trump says Kavanaugh recommended Porter for the job.

Kavanaugh had served as staff secretary to George W. Bush, and his work in the White House has figured in the hearing. Democratic senators have fought for access to documents from his three years as staff secretary, saying those could shed light on his views about policies from that era, including the detention and interrogation of terror suspects. Republicans have declined to seek the papers, and instead have gathered documents from his work as White House counsel to Bush.

When questioned about the honesty of his 2006 testimony during his nomination for the appellate court when he said he was not involved in some Bush-era policies, Kavanaugh said he was "100 percent accurate."

Republicans hope to confirm Kavanaugh in time for the first day of the new Supreme Court term, Oct. 1.

Habitat: Study will expand to another 20 acres

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"David Hampton was the big push behind this," Arnold said of the company's co-owner.

Bees and other pollinators — vital to plant, insect and animal biodiversity — have been in drastic decline over the past several decades because of pesticides and habitat loss. David Hampton kept an interest in the issue and thought the company, which manages more than 155,000 acres in Oregon and Washington state to supply its lumber mills, might be able to help.

A recent study led by wildlife biologist Jim Rivers, a professor in Oregon State University's College of Forestry, indicated the removal of slash and other debris and compacting soil in recently harvested forestlands can create prime habitat for bees. In some areas, researchers found a threefold increase in population diversities in recently harvested stands. Similar research has shown prime pollinator habitat in recently burned areas.

Hampton Lumber linked up with the Oregon Bee Project, an effort started by the state Legislature in 2015 between foresters and scientists at Oregon State University to promote bee health, for advice in creating the best habitat. The company then seeded four different sites and 18 acres with plants for bees to forage.

Andony Melathopoulos, a leader of the bee project in the



Colin Murphey/The Daily Astorian

Jed Arnold examines a plant species established at the site to encourage pollinator activity in the area.

university's Extension Service, said that while there have been similar studies on agricultural lands and roadsides, Hampton Lumber is the first major forestland owner he's heard of doing pollinator research.

"They are aware that there is not a lot of good science around this," he said. "It's unknown territory."

The Oregon Bee Project trained Arnold in species sampling techniques and provided nesting boxes that will eventually be sent to the university for researchers to look at the diversity in the stands. Arnold regularly monitors the pilot study areas, trying to identify species of bees and which plants take the strongest

foothold.

"You've got to sit down, hold still and really watch the flowers," Arnold said. "There was one day where there had to have been a dozen different species (of bees) that I saw just in a half an hour."

Christine Buhl, an entomologist with the state Department of Forestry, said Hampton Lumber's pilot study will provide baseline data as the bee project tries to create

research-based land management practices for others to help pollinators. The project is trying to start more pilot studies in different climates around the state and track the change in bee populations over multiple years as new plants and

soil compositions take hold, she said.

The bee project also trains pesticide applicators on best practices to avoid harming bees and runs a citizen science program called the Oregon Bee Atlas, training individuals to identify and report the more than 500 bee species in Oregon. More information is available at oregonbeeproject.org.

Arnold — who previously worked for a soil and water conservation district — credits the family-owned company for taking land stewardship seriously, from building roads to prevent soil erosion and replanting quickly after harvests to helping with stream restoration projects. The company recently worked with state and federal agencies to move the main stem of Big Creek near Knappa to its original channel, opening 13 miles of previously inaccessible spawning habitat for coho salmon and steelhead. Such efforts might fall by the wayside in companies owned by investors and focused more on profit, he said.

This coming winter, Hampton Lumber will expand the pilot study to an additional 20 acres.

"In five to 10 years, the young trees in these study areas will start to shade out the flowers we're planting now," Arnold said. "But by then, we should have new patches of wildflowers coming up in nearby sites."

Bergin: He plans to continue serving full time until term expires

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"During the time Tom's been sheriff, I think the sheriff's office has been highly functional and highly responsive to the needs of citizens," County Manager Cameron Moore said. "We obviously expect that, but we know that comes from the sheriff's leadership."

Bergin is known for being outspoken about his conservative beliefs. The sheriff opposed Measure 88 in 2014, which — if it passed — would have allowed undocumented immigrants to acquire driver's cards.

This year, Bergin has actively supported Measure 105, a November ballot measure that would repeal Oregon's sanctuary law. He wrote a letter last week — with 15 other sheriffs from around the state — outlining his reasons for backing the measure and participating in immigration enforcement.

"Although Tom and I disagree fundamentally on a lot of political matters, I've found him to be a good man and a good sheriff," District Attorney Josh Marquis said.

After the Great Coastal Gale of 2007, when many county roads became impassable, Bergin advocated heavily for legislation

allowing hazardous trees to be removed from state highways. Despite pushback from groups hoping to preserve the trees, a bill was passed in 2012 allowing for the clearances.

During the storm, Bergin helped with field operations, including pulling people out of flooded areas.

"Tom has always been out there in person," Marquis said. "In some ways, he's like an old-fashioned sheriff."

In addition to daily tasks, Bergin has a big item on his agenda over the next several weeks. The sheriff will be the leading voice in support of a November bond measure to relocate the county jail from Astoria to the site of the former North Coast Youth Correctional Facility in Warrenton at a \$20 million price tag. The county has attempted to expand the jail in two previous bond measures, including one with Bergin as sheriff in 2012.

After the election and beyond, Bergin plans to continue serving full time as the county's top cop until his term expires in two years.

"It's just something that's important to me," Bergin said. "You're all stuck with me for a while longer."

Johnston: Will be assigned to person-on-person crimes and more complex cases

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The appointment also allows more fluidity in daily crime investigations. Johnston will be assigned to person-on-person crimes and more complex cases, including internet crimes like identity theft and child pornography.

Johnston spends much of his time collecting search warrants, subpoenas and

recordings in attempts to build cases strong enough for the Clatsop County District Attorney's Office to prosecute.

"It's a lot of writing, I will say," Johnston said.

Johnston is expected to have the option of renewing his appointment when it expires in 2021. The department would review applications from other officers as well, Workman said.

Hotel: There are no plans to build over the water



Edward Stratton/The Daily Astorian

Developers from Kansas City, Missouri, are planning a Marriott or Hilton franchise at the site of the former Bay-side Sentry Market on Marine Drive in Astoria.

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The developers looked at several sites around the city but found the former grocery store the best option, Ferguson said. The property includes 2 acres on land and nearly 20 acres extending over Youngs Bay.

The company does not plan to build over the water, Ferguson said.

Other hotel proposals in Astoria have met stiff resistance over concerns about parking, workforce shortages, historic preservation

and blocking Columbia River views. A four-story Fairfield Inn & Suites proposed by Hollander Hospitality near the former Ship Inn restaurant along the river was significantly revised after being rejected by city design and historic preservation committees.

Such concerns were part of the reason Ferguson said the partnership opted for a site farther away from downtown. The former grocery store is zoned general commercial, with lodgings permitted outright, and is outside any historic district.