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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

DAVID BROG, *Staff Director*
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March 3, 2006

The Honorable Arlen Specter
Chairman
Senate Judiciary Committee
711 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Specter:

At the end of the first session of this Congress, the nomination of Brett Kavanaugh to be a judge on the U.S. Court of Appeals for the D.C. Circuit was sent back to the President, and we were hopeful that the President would consult with Democratic Senators and local officials in the District of Columbia on a proper nominee for this vacancy. Unfortunately, that did not happen, and the President resubmitted Mr. Kavanaugh's nomination on January 25, 2006.

We are writing to renew our request for an additional nomination hearing for Mr. Kavanaugh prior to his placement on the markup agenda of the Senate Judiciary Committee. We initially made this request on May 11, 2005 but did not receive a response. You listed Mr. Kavanaugh on the June 9, 2005 markup agenda but subsequently withdrew his name.

We believe an additional hearing for this nominee is essential for two principal reasons. First, Mr. Kavanaugh failed to provide meaningful and substantive responses to many of the written questions we posed to him following his April 2004 hearing. The flawed and evasive nature of some of his answers is especially troubling in light of the fact that it took him over seven months to provide them. We believe that this seven-month delay – until after the outcome of the 2004 Presidential election – demonstrated disrespect and a lack of regard for the Senate and the Judiciary Committee.

We also believe a new hearing for Mr. Kavanaugh is warranted because several issues have come to light since Mr. Kavanaugh's original nomination in 2003 about which we would like to ask questions. For example, we would like to know his role in the authorization of warrantless spying on Americans, which the President's legal team reviewed and approved. Mr. Kavanaugh was working as Associate White House Counsel at the time. A second hearing with Mr. Kavanaugh would give the Judiciary Committee a meaningful opportunity to put our questions to him directly and attempt to have a genuine dialogue with him about many crucial issues.

Sincerely,

Patrick Leahy

Joe Biden

Jeanne Claitor

Chuck Schumer

Ed Kennedy

Herb Kohl

Murphy O'Connell

Dick Durbin