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To: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

Subject: : Re: >Check_Subject

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TO: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

READ: UNKNOWN

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I'll be on vacation all next week (though email accessible). When I get back, I'd like to try to synthesize some of these comparative numbers. So let's talk further then.

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07/26/2002 06:04 PM

I agree completely with all of that. I think (a) needs to be assessed against historical benchmarks to assess what is reasonable and doable.

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Yes, and what I'm saying is that the most appropriate comparison is a combination of (a) the raw number of judges confirmed (which reflects the pace at which vacancies are being addressed), (b) the rate, (c--and arguably most important) the average elapsed time between nomination and final Senate action, and (d) the number of nominees waiting too long (say, over a year) for final Senate action. It seems to me that all of these numbers are relevant to the comparison.

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07/26/2002 05:15 PM

One way to assess the Senate's performance is by comparing confirmation rates. The current Senate in the first two years is well behind past Senates in their first two years. But some say that Senators have a duty not to vote

for
those they do not think should be on the bench, so you cannot compare mere
confirmation rates. Even accepting that assertion arguendo, another
analysis of
good faith is whether the Senate is giving reasonably prompt hearings. And
it
turns out that the current Senate is smashing (not just breaking) records
for
delay in hearings for circuit nominees. In short, whether it is circuit
confirmation rates or delays in granting hearings to circuit nominees, the
current Senate is charting new territory.

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Interesting...
It does seem to me this is a somewhat misleading way to construct the list,
since it means that Kagan counts but Snyder doesn't. It seems to me the
relevant numbers--considering only circuit court nominees--would be the
number of people who waited more than a year between nomination and a full
senate vote (counting, of course, people who never got one).

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07/26/2002 02:47 PM

Remember that this is circuit nominees who waited more than one year for a hearing. I need to re-check stats on how many were first-Term nominees; I think only Beaty, but I also seem to remember that White was a 1995 nominee. We'll check again, but my list (just did this) is as follows:

Beaty
White
Fletcher
Paez
McKeown
Rangle
Goode
Johnson
Kagan
Duffy
Wynn
Lewis
Moreno

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Can those number be right? Do they include people who never received a hearing during the Clinton administration? Can you send me lists of the people who make up the figures?

Thanks.

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In the 8 years of the Clinton Administration, 13 circuit nominees were forced to wait more than a year for a hearing (3 of whom were subsequently confirmed). In the 4 years of George H.W. Bush Administration, the number was

2. In the 8 years of Reagan Administration, the number was 3.

In only 1.5 years of the Bush Administration, 11 circuit nominees already have been forced to wait more than a year for a hearing and the number will rise to 15 by November 8 (with Steele and 3 Michigan CA6 nominees).

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