

**Senator Dianne Feinstein**  
**Kavanaugh Confirmation Hearing Opening Statement**  
**September 4, 2018**

I think it's really important that people—as well as the judge, the nominee—understand how strongly we feel and why we feel that way.

I want to talk a little bit about one of the big decisions that we have the belief that although you told Senator Collins that you believe it was 'settled law,' the question is really do you believe that it's correct law, and that's *Roe v. Wade*.

I was, in the '50s and '60s, active first as a student at Stanford, I saw what happened to young women who became pregnant. And then subsequently I sat as an appointee of Governor Brown's on the term setting and paroling authority for women in California who had committed felonies.

And so I sentenced women who had committed abortions to state prison and granted them paroles, and so came to see both sides—the terrible side and the human and vulnerable side.

And when you look at the statistics during those days, those statistics that the Guttmacher Institute has put out, are really horrendous.

For you, the president that nominated you has said 'I will nominate someone who is anti-choice and pro-gun.' And we believe what he said—we cannot find the documents that absolve from that conclusion.

So what women have won through *Roe* and a host of privacy cases to be able to control their own reproductive system, to have basic privacy rights, really extraordinarily important to this side of the aisle, and I hope the other side of the aisle as well.

Last year, you drafted a dissent in *Garza v. Hargan*, and that's a case where a young woman in Texas, I believe, was seeking an abortion. In that dissent you argued that even though the young woman had complied with the Texas parental notification law and secured an approval from a judge, she should nonetheless be barred.

In making your argument, you ignored—and I believe mischaracterized—the Supreme Court precedent. You reasoned that Jane Doe should be unable to exercise her right to choose because she did not have family and friends to make her decision.

The argument rewrites Supreme Court precedent, and if adopted, we believe would require courts to determine whether a young woman had a sufficient support network when making her decision, even in cases where she has gone to court.

This reason, we believe—I believe—demonstrates that you are willing to disregard precedent. And if that’s the case, because just saying something is settled law, it really is, is it correct law?

The impact of overturning Roe is much broader than a women’s right to choose. It’s about protecting the most personal decisions we all make from government intrusion.

Roe is one in a series of cases that upheld an individual’s right to decide who to marry—it’s not the government’s right; where to send your children to school—the government can’t get involved; what kind of medical care at the end of life; as well as whether and when to have a family.

And I deeply believe that all these cases serve as the bulwark of privacy rights that protect all Americans from the over-involvement of the government in their lives. And to me that’s extraordinarily important.

Next, I’d like to address the president’s promise to appoint a nominee blessed by the NRA.

In reviewing your judicial opinions and documents, it’s pretty clear that your views go well beyond simply being “pro-gun.” And I’d like to straighten that out.

It’s my understanding that during a lecture at Notre Dame Law School, you said that you would be ‘the first to acknowledge that most other lower-court judges have disagreed’ with your views on the Second Amendment.

For example, in *District of Columbia v. Heller*, you wrote that unless guns were regulated either at the time the Constitution was written or traditionally throughout history, they cannot be regulated now.

In your own words, gun laws are unconstitutional unless they are ‘traditional or common in the United States.’ You concluded that banning assault weapons is unconstitutional because they have not historically been banned. This logic means that even as weapons become more advanced and more dangerous, they cannot be regulated.

Judge Easterbrook, as you know a conservative judge from the Seventh Circuit, concluded that that reasoning was “absurd.” And he pointed out that “a law’s existence can’t be the source of its own constitutional validity.”

In fact, I’m left with the fact that your reasoning is far outside the mainstream of legal thought and that it surpasses the views of Justice Scalia, who was clearly a pro-gun justice.

Even Scalia understood that weapons that are like M-16 rifles, or weapons that are most useful in military service, can in fact be regulated.

And there's no question that assault weapons like the AR-15 were specifically designed to be like the M-16.

The United States makes up 4 percent of the worldwide population but we own 42 percent of the world's guns.

Since 2012, when 20 first graders and six school employees were killed at Sandy Hook Elementary, there have been 273 school shootings. This is an average of five shootings every month, and a total of 462 children, teenagers, teachers and staff shot, and 152 killed.

I care a lot about this. I authored the assault weapons legislation that became law for 10 years and I've seen the destruction.

If the Supreme Court were to adopt your reasoning, I fear the number of victims would continue to grow and citizens would be rendered powerless in enacting sensible gun laws. So this is a big part of my very honest concern.

You're being nominated for a pivotal seat. It would likely be the deciding vote on fundamental issues.

During your time in the White House, when you were staff secretary—some people regard it as kind of a monitor, monitoring things going in and going out. But I think it's much more. And you yourself have said that that's the period of my greatest growth. And so we try to look at it. And the only way we can look at it is to understand the documents and it's very, very difficult.

I don't want to take too much time, but we've heard a lot of noise. Behind the noise is really a very sincere belief that it's so important to keep in this country, which is multi-ethnic, multi-religious, multi-economic—a court that really serves the people and serves this great democracy. And that's my worry. That's my worry.