

February 22, 2021

The Honorable Richard J. Durbin, Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

The Honorable Charles E. Grassley, Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley:

I write in support of the confirmation of Judge Merrick B. Garland for the position of Attorney General of the United States. I have known Judge Garland for many years, and I am pleased to offer my enthusiastic and unqualified endorsement of him for this important position.

Like Judge Garland, I have served in the United States Department of Justice and as a federal judge. After clerking on the Ninth Circuit (Judge Ben C. Duniway) and the United States Supreme Court (Justice Lewis F. Powell, Jr.), I joined the Department of Justice in 1983 as an Assistant United States Attorney in the Eastern District of California. In 1986, I was appointed the United States Attorney for the Eastern District by President Reagan. In 1990, President Bush appointed me to the United States District Court where I served for 17 years until 2007. In 2007, I left the bench to become the Dean of the Duke Law School, where I served for 11 years until July 2018. I am now the Levi Family Professor of Law and Director of the Bolch Judicial Institute at Duke Law School. I am also President of the American Law Institute, which is another one of the nation's leading rule of law organizations, responsible for the Restatements of the Law and model codes, such as the Model Penal Code. I mention these two organizations not because I am speaking on their behalf—I speak only for myself—but because my deep involvement with two rule of law organizations influences my recommendation of Judge Garland.

Judge Garland's career has prepared him perfectly for the role of Attorney General during this unsettled time in our nation's history. Having clerked for two of the finest judges of the last century, Judge Henry Friendly and Justice William J. Brennan, Judge Garland first joined the Department of Justice ("DOJ") as a special assistant to Attorney General Civiletti. After two years, he went into private practice, eventually becoming a partner at one of the preeminent law firms in Washington, D.C. In 1989 he took the unusual step of leaving his law firm partnership to become a line prosecutor in Washington, D.C. In this position he gained trial experience and an understanding of how the justice system operates on the ground and in the trial courts. He then moved back to Main Justice, becoming a highly effective principal deputy associate attorney general. In this role, he supervised many of DOJ's most complex and important criminal cases, including the Oklahoma City Bombing of the U.S. Courthouse and the Unabomber prosecution

that was filed and tried in my district. Because of these two cases, I became aware of Judge Garland's superb organizational and analytical abilities. The management and prosecution of such complex and difficult cases, involving many victims, requires multi-talented and dedicated teams. Judge Garland assembled and supervised those teams.

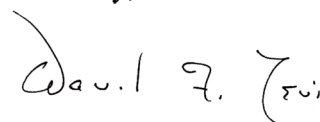
In 1997 Judge Garland was appointed to the D.C. Circuit. He quickly earned a reputation among federal judges as the "gold standard," a judge whose opinions were meticulous, balanced, and clear. A clerkship with Judge Garland was a much sought after prize for graduating law students. The esteem of his colleagues on the D.C. Circuit was evident to all of us in the judiciary. I had the pleasure of serving on a committee with Judge Garland in 2006 to help the Chief Justice select a new Director of the Administrative Office of U.S. Courts. I was greatly impressed by Judge Garland—his understanding of the courts, his perceptiveness as to the personal qualities required for the position, and the care with which he approached the task. It was clear to me then what a pleasure it must be to serve on an appellate court with such a kind, collegial, smart, and insightful judge.

The range and depth of Judge Garland's experiences in the law is remarkable. He has extensive experience at all levels of the Department, from top to bottom. He has seen when it works well and when it does not. He knows the stresses and strains in the field offices and the extraordinary power wielded by individual prosecutors. He has seen the DOJ from outside, from the vantage of the private sector and from that of a judge. He knows that the Department can over-step and over-reach. He also knows the central place of the DOJ in our system of justice. He has been tempered and enlightened by these experiences. And when this lifetime of dedicated public service is combined with the integrity, organizational ability, and legal acumen that Judge Garland possesses, what emerges is the portrait of an unusually talented person uniquely well suited to be an excellent Attorney General.

Of course, an Attorney General cannot do the job on his or her own. Perhaps the most important person to the Attorney General's success is the President, not because of what he does, but because of what he does not and should not do. An Attorney General must have independence to do the job properly. My own father, Edward H. Levi, was a great Attorney General in large part because President Ford assured him of independence and stood by that assurance. It was heartening to hear President Biden give this assurance to Judge Garland on national television in making the nomination. And it was equally heartening to hear Judge Garland comment upon the importance of this assurance. With independence from political forces and partisan objectives, the Department of Justice can be the great upholder of the rule of law in our country. With independence, the Department may demonstrate its commitment to equal justice under law, to the Constitution and democratic processes, and to the wise, fair, and careful exercise of its considerable powers. No one will embody these values more visibly and convincingly than Judge Garland.

It is an honor to support Judge Garland's nomination as the Attorney General of the United States, and I do so without reservation.

Sincerely,

A handwritten signature in dark ink, appearing to read "David E. Levi". The signature is fluid and cursive, with the first name "David" being the most prominent part.