

**Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on Nominations
November 4, 2015**

Good morning. I want to welcome everyone to the 10th nominations hearing this year. Today, we'll consider the nomination of Stuart Delery to be Associate Attorney General, the third highest ranking official at the Justice Department.

This isn't Mr. Delery's first appearance before the Committee. In fact, I voted for him when he was nominated to be Assistant Attorney General for the Civil Division. But, it's certainly important to evaluate his performance in that position before we vote to give him a promotion.

A lot of folks, myself included, are concerned about the extent the Department of Justice has become politicized during the Obama Administration. The National Review argued recently that the Department has advanced this President's policies by basing "its prosecutorial decisions on political preferences." And Operation Choke Point, in my view, is a serious example of such politicization.

Originally, Operation Choke Point was sold to the public as merely an initiative to protect consumers from predatory payday lending practices. But we now know based on internal DOJ documents that from the outset it was specifically designed to prey on the banking industry's fear of civil and criminal liability, with the stated goal of shutting down legal businesses in particular disfavored industries by the Obama Administration.

This is a stunning and dangerous assertion of federal government power. And it's an exercise of government power that should give all of us pause.

And let me just say, this Administration has a track record of using the federal government's power to target political opponents. We're all quite familiar with the IRS targeting scandal, for example. So, Operation Choke Point is particularly unsettling in the broader context because it's not the first time this has happened.

Now, I'm sure we'll hear today that Mr. Delery and the Department were cleared of any wrongdoing by the Office of Professional Responsibility.

Just so everyone understands, OPR looked only at whether DOJ lawyers engaged in "professional misconduct." By its own admission, the Office of Professional Responsibility "did not evaluate whether Operation Choke Point was a worthwhile initiative for the Civil Division to undertake."

OPR's charge to examine Operation Choke Point is considerably more narrow than the Senate's constitutional responsibility to thoroughly examine a nominee's record. Our responsibility includes an examination of the major initiatives nominees approved and managed. And in fact, OPR itself conceded that congressional and industry concerns regarding Operation Choke Point were "understandable."

I suspect we'll also hear as justification for the initiative about the three banks that were prosecuted under Operation Choke Point.

But, three prosecutions out of 60 subpoenas is hardly justification for the scattergun approach the Department undertook.

If a police officer randomly searched 60 people on the street – based only on suspicion of third parties – even if three of those people were ultimately charged with some wrongdoing, that wouldn't justify the means. That's not how law enforcement agencies in this country are supposed to operate.

Finally, it's simply worth noting that 39 of the 60 financial entities who were subpoenaed later received so-called "cold comfort" letters. Stated differently, two-thirds of the entities subpoenaed received letters, which in effect, told them that they were no longer being investigated by DOJ. That fact, in and of itself, should concern all of us, because it strongly indicates this was a fishing expedition, designed to send a chilling effect through the industry without regard to the impact it had on lawful businesses.

So, I have a lot of concerns with Operation Choke Point and Mr. Delery's involvement in it, as well as concerns with a few other topics. I look forward to getting answers to those concerns.