

Testimony of

The Honorable Orrin Hatch

June 25, 2003

Statement of Chairman Orrin G. Hatch
Before the United States Senate Committee on the Judiciary
Hearing on the nominations of

Allyson K. Duncan to be U.S. Circuit Judge for the Fourth Circuit,
Robert C. Brack to be U.S. District Judge for the District of New Mexico,
Samuel Der-Yeghiayan to be U.S. District Judge for the Northern District of Illinois,
Louise W. Flanagan to be U.S. District Judge for the Eastern District of North Carolina,
Lonny R. Suko to be U.S. District Judge for the Eastern District of Washington, and
Earl Leroy Yeakel III to be U.S. District Judge for the Western District of Texas

Today the Committee is considering six very well qualified nominees for the federal bench. These nominees enjoy bipartisan support, and I am pleased to have them before the Committee this afternoon for a hearing.

Before we turn to the panel of Senators patiently waiting here to introduce our nominees, I would like to say a bit about each nominee.

Our circuit nominee, Allyson Duncan, is a true pioneer. She was the first African-American woman appointed to the North Carolina Court of Appeals, and the first African-American woman to serve on the North Carolina Utilities Commission. Upon her confirmation by the Senate, she will achieve yet another first, this time as the first African-American woman to serve on the Fourth Circuit. Both Senator Dole and Senator Edwards are here to express their strong endorsement of Judge Duncan, and I join them in urging our colleagues to support her historic nomination. Judge Duncan graduated first in her class at Hampton University, and then attended Duke University Law School. There she earned the distinction of appointment as an Earl Warren Legal Scholar, which includes a scholarship awarded to African-American law students demonstrating leadership and an interest in public service. Judge Duncan has undoubtedly lived up to the promise she showed as a law student when she was awarded this scholarship. After law school, she clerked for Judge Julia Cooper Mack on the District of Columbia Court of Appeals, and then joined the Equal Employment Opportunity Commission in 1978. Judge Duncan held several positions at the EEOC, starting as an appellate attorney, serving as the assistant to the Chairman, and ultimately becoming acting legal counsel.

Judge Duncan left the EEOC in 1986 for a teaching post at North Carolina Central University School of Law, where she taught property, employment discrimination, labor law, and appellate advocacy. In recognition of her outstanding skills, she was named Teacher of the Year in 1989.

Judge Duncan left her teaching post in 1990 when she was appointed to the North Carolina Court of Appeals as an associate judge. She served in that capacity for one year, leaving the bench when she was appointed to the North Carolina Utilities Commission, where she was responsible for telecommunications, natural gas, and water regulations. She served as a commissioner until 1998, when she entered private practice with the law firm of Kilpatrick Stockton. She is currently a partner at this prestigious law firm specializing in energy law.

I have no doubt that the Fourth Circuit will benefit greatly from Judge Duncan's ascension to the federal appellate bench, and I look forward to her swift confirmation.

We have five district nominees on our agenda, all of whom are presently serving as state or federal judges.

Our first district court nominee, Robert Brack, has been nominated for the District of New Mexico. After graduating from New Mexico School of Law, Judge Brack began working as a trial attorney in the private sector, first as a staff attorney at the law firm of Teddy L. Hartley and later as a sole practitioner. His practice consisted primarily of general civil litigation in which he represented local individuals and businesses. As an attorney, Judge Brack was routinely appointed to represent indigent respondents in abuse and neglect cases. He also regularly provided legal assistance pro bono to his church, local charities, and other disadvantaged clients. In 1997, he was appointed to the New Mexico Ninth Judicial District Court. In 1998, he was elected to the same court to fill the chief judgeship. Judge Brack comes

to us with strong support from the New Mexico legal community and we are happy to have him before us today. Our nominee for the Northern District of Illinois, Samuel Der-Yeghiayan, is another remarkable candidate. Judge Der-Yeghiayan has contributed much to the legal community over his 25 year career, especially in the area of immigration law. Upon graduation from Franklin Pierce Law Center, Judge Der-Yeghiayan joined the U.S. Department of Justice as a trial attorney with the Immigration and Naturalization Service. He was then promoted to District Counsel for the INS in Chicago. In 2000, he became an immigration judge with the Department of Justice Executive Office for Immigration Review. Judge Der-Yeghiayan has devoted a substantial amount of time to pro bono work by educating congressional staff, state attorneys, bar associations, and law enforcement agents on immigration issues. As a judge, he also provides training to pro bono immigration attorneys.

Judge Louise Wood Flanagan is our nominee for the Eastern District of North Carolina. After earning her law degree from the University of Virginia School of Law in 1988, she served as law clerk for Judge Malcolm Howard on the very court to which she has been nominated. In 1990, she joined the North Carolina law firm of Ward and Smith, where she handled complex commercial litigation. She estimates that she has litigated approximately 300 cases in state, federal, and bankruptcy court. Since 1995, Judge Flanagan has served as a federal magistrate judge.

Lonny Suko, our nominee for the Eastern District of Washington, has been part of the Washington state legal community for over three decades. After graduating from law school in 1968, Judge Suko clerked for Eastern District Judge Charles Powell. In 1969, he joined the Lyon Law Offices, where he litigated civil matters. In 1971, he was appointed as a part-time federal magistrate judge, a position he held while practicing law full-time until 1991. In 1995, Judge Suko ascended to the bench once again when he was appointed as a full-time federal magistrate judge. He thus brings to the federal bench approximately 28 years of judicial experience. Despite his demanding professional career, Judge Suko has served on the boards of the Washington Education Foundation, the Washington State University Foundation, and the Advisory Board to the College of Liberal Arts at Washington State University.

Our final nominee, Earl Yeakel III, has been nominated for the Western District of Texas and has extensive litigation experience. Long before ascending to the Texas Court of Appeals bench, he worked for the Austin law firm of Mitchell, Gilbert & McLean while attending the University of Texas School of Law. Upon graduation, he remained at the firm as an associate counsel, participating in a broad range of litigation-related work. Five years later, Justice Yeakel started his own firm, where he remained until his departure in 1982. In the sixteen years that followed, he served as either an associate or partner in three prominent Austin law firms, litigating both civil and criminal matters at the trial and appellate levels in state and federal courts. In 1998, Judge Yeakel joined the Texas Court of Appeals, where he currently serves with distinction.

I am pleased to welcome these nominees to the Committee today, and I commend the President on selecting them to serve on our federal courts. I look forward to hearing their testimony.

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Statement of Chairman Senator Orrin G. Hatch
Before the United States Senate Judiciary Committee
Hearing on the Nominations of

KAREN P. TANDY
FOR ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION
And
CHRISTOPHER WRAY
FOR ASSISTANT ATTORNEY GENERAL OF THE CRIMINAL DIVISION

I would now like to turn to our final panel today to consider the nominations of Karen Tandy for Administrator of the Drug Enforcement Administration, and Christopher Wray for Assistant Attorney General for the Criminal Division. Good afternoon and welcome to both of you.

I want to congratulate both of you for being chosen by President Bush. It is a true pleasure to have before the Committee two nominees who have so much experience in the areas for which they are being nominated. Your impressive backgrounds and past government service make me confident that you will be great assets to the DEA and the Department of Justice, this Committee and the American people.

With the recent confirmation of the former head of the Criminal Division, Michael Chertoff, to the Third Circuit Court of

Appeals, it is important for the Committee to review Mr. Wray's nomination and act quickly to ensure that the Justice Department's important work on criminal matters, including terrorism, cyber-crime, drug trafficking, violent crime, and other critical issues, continues with as little disruption as possible. The stakes in this area are simply too high to leave this essential position unfilled for any significant length of time.

Equally important to me is the fact that the leadership post at the DEA and several senior positions below the Administrator are currently vacant. For that reason, and given the importance of maintaining our nation's drug enforcement efforts, I am hopeful we can review and act quickly on Ms. Tandy's nomination.

Of course, I am not suggesting that we shirk our duties to review carefully these nominations, but I am asking Members to be mindful of the circumstances in which we are acting and to work together to move these important nominations as quickly as possible.

Now, I want to make a few remarks on each of the nominees. First, let me turn to Karen Tandy. It goes without saying that the Administrator of the DEA plays a critical role in protecting our communities from the dangers of drugs. I would also note that, once confirmed, she will be the first woman to serve as Administrator of the DEA.

Ms. Tandy has gained substantial experience in this area during her impressive 25-year career with the Department of Justice. From 1979 to 1990, she was an Assistant U.S. Attorney in the Eastern District of Virginia and Western District of Washington. From 1990 until today, Ms. Tandy has served in the Justice Department's Asset Forfeiture Section and Narcotics and Dangerous Drugs Section, culminating in her most recent position as Associate Deputy Attorney General and Director of the Organized Crime and Drug Enforcement Task Forces. In that position, she has reinvigorated and refocused the OCEDTF program to target the most significant drug traffickers who threaten our communities.

Since Ms. Tandy took over as Director at OCEDTF, multi-jurisdiction investigations have increased from 9 percent to 84 percent, the number of drug-related financial investigations increased from 16 to 59 percent and the deposits to the Justice Department's Asset Forfeiture Fund have increased by approximately \$30 million in just two years. With such an impressive career in public service, I am confident that Ms. Tandy is someone who can lead the DEA in its important mission.

Christopher Wray is another well-qualified candidate and is nominated to lead the Justice Department's Criminal Division. After graduating from the Yale Law School, he was a law clerk for Judge J. Michael Luttig on the Fourth Circuit Court of Appeals. In 1993, Mr. Wray joined the law firm of King & Spalding, and left in 1997 to become an Assistant U.S. Attorney in Atlanta, Georgia. As a federal prosecutor from 1997 to 2001, he handled a number of significant cases involving public corruption, church arsons, RICO, narcotics trafficking and other important federal prosecutions.

In 2001, Mr. Wray became Associate Deputy Attorney General for the U.S. Department of Justice, and shortly thereafter was promoted to his current position as Principal Associate Deputy Attorney General. In that position, he has distinguished himself through his leadership role in the Deputy Attorney General's Office by overseeing the Criminal Division, the 94 U.S. Attorney's Offices operating across our Nation, and the FBI. He has devoted significant attention to counter-terrorism coordination, the President's Corporate Fraud Task Force and Project Safe Neighborhoods, the Administration's gun violence reduction initiative.

Let me take a moment to highlight three important letters the Committee has received in support of Mr. Wray's nomination.

First, in a letter dated June 24, 2003, Griffin Bell, former Attorney General and partner at King & Spalding states, "When Chris [Wray] was at our firm, we considered him to be a rising star, and his record since then has proven that our judgment was correct. Although some might question his youthfulness as a reflection of inexperience, I can vouch that Chris has a maturity in judgment well beyond his years. I feel certain that he will do a superb job for our country as the Assistant Attorney General for the Criminal Division."

Second, in a letter dated June 23, 2003, Kent Alexander, a former U.S. Attorney for the Northern District of Georgia in Atlanta under the Clinton Administration, states that he "enthusiastically" supports Mr. Wray's nomination, citing Mr. Wray's "legal acumen, sound judgment and effectiveness." Mr. Alexander explains that Mr. Wray's judgment was "always sound and balanced."

Third, in a letter dated June 23, 2003, Mary Jo White, former United States Attorney for the Southern District of New York from June 1993 to January 2002, states that she "had the privilege of working personally with Mr. Wray, in his capacity as Principal Associate Deputy Attorney General, on a variety of issues, including on counterterrorism matters involving Al Qaeda and Osama bin Laden. In my view, Christopher Wray would be an outstanding Assistant Attorney General who would bring intelligence, experience, and exceptional judgment to this important position at a particularly critical time for our nation and the criminal justice system."

I agree wholeheartedly with Mr. Bell, Ms. White and Mr. Alexander's assessment: Mr. Wray is to be commended for his experience, his successes and his efforts in protecting our country from deadly terrorist attacks, bringing to justice corporate scammers who have ripped off the American public, and for promoting aggressive enforcement of federal

gun laws to reduce gun violence in our communities. Mr. Wray's experience shows that he has the qualifications, and the ability to lead the Criminal Division in the Justice Department.

I am hopeful that the Committee will favorably act on these two well-qualified nominees and that the Senate will confirm them quickly.

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