

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Chairman, Senate Judiciary Committee
On Executive Nominations
Executive Business Meeting
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Today the Committee has the opportunity to make progress in considering President Obama's new leadership team at the Department of Justice.

Two weeks ago, before the Presidents' Day recess, I had hoped the Committee could have moved more quickly to report out the nomination of David Ogden to be the Deputy Attorney General, a critical national security post. Unfortunately some Senators did not send their follow up questions to him in time. I said then that I trusted that we would be able to proceed today.

All three of President Obama's nominations on our agenda today are highly qualified. When confirmed, Elena Kagan will break through another glass ceiling to become the first woman confirmed to serve as the Solicitor General of the United States.

As Deputy Attorney General, David Ogden will occupy a critical national security post at a time when we face threats and challenges. As Deputy Attorney General, Mr. Ogden would be responsible for the day-to-day management of the Justice Department, including the Department's critical role of keeping our Nation safe from the threat of terrorism. I hope that this nomination will not be unnecessarily delayed.

One of the recommendations of the bipartisan 9/11 Commission was that after presidential transitions, nominations for national security appointments like Mr. Ogden's be accelerated. In particular, the 9/11 Commission recommendation that "a president-elect should submit the nominations of the entire new national security team, through the level of undersecretary of cabinet departments, not later than January 20." President Obama designated Mr. Ogden to be the Deputy Attorney General on January 5, more than seven weeks ago. I chaired his confirmation hearing three weeks ago. It is time to consider and report out this nomination so that the Senate can act. The problems and threats confronting the country are too serious to delay. The Attorney General needs the other members of his Justice Department leadership team in place at the earliest opportunity.

We also include on today's agenda the nominations of Dean Kagan and that of Thomas Perrelli to be the Associate Attorney General. I hope Senators are prepared to act on those nominations, as well.

Yesterday we held a hearing on the two more highly-qualified nominees for critical posts: David Kris to head the National Security Division and Dawn Johnsen to lead the Office of Legal Counsel. I thank Senator Feinstein for chairing that important hearing.

I know that some from the extreme right have launched scurrilous attacks on some of these nominees. Today, Senators have the chance to act responsibly and join together to help move forward to restore the Justice Department.

That Mr. Ogden, a decent family man and exceptional lawyer, is being smeared is most unseemly. I expect Senators to reject the false attacks. Many of us know David Ogden. Those of us who do not had the opportunity to question him at his hearing and in meetings. Senators on both sides of the aisle have cautioned against opposing nominees based on their legal representations on behalf of clients. When asked about this point in connection with his own nomination, Chief Justice Roberts testified, "it has not been my general view that I sit in judgment on clients when they come" and, "it was my view that lawyers don't stand in the shoes of their clients, and that good lawyers can give advice and argue any side of a case." I trust Republican Senators will apply the same standard when assessing the nominations of President Obama that they applied when considering those of President Bush.

As a former high-ranking official at both the Justice and Defense Departments, David Ogden is the kind of serious lawyer and experienced government servant who understands the special role the Department of Justice must fill in our democracy. He has the knowledge and ability to help restore it.

Mr. Ogden's nomination has received dozens of letters of support, including strong endorsements from Republican and Democratic former public officials and high-ranking veterans of the Department and from nearly every major law enforcement organization. Larry Thompson, a former Deputy Attorney General himself, describes Mr. Ogden as "a brilliant and thoughtful lawyer" who "has the complete confidence and respect of career attorneys at Main Justice. David will be a superb Deputy Attorney General." Chuck Canterbury, National President of the Fraternal Order of Police, wrote that Mr. Ogden "possesses the leadership and experience that the Justice Department will need to meet the challenges which lay before us."

I think his experience at the Department of Defense is noteworthy. He previously serviced as Deputy General Counsel at Defense. A dozen retired military officers who served as Judge Advocates General have endorsed Mr. Ogden's nomination, calling him "a person of wisdom, fairness and integrity, a public servant vigilant to protect the national security of the United States, and a civilian official who values the perspective of unformed lawyers in matters within their particular expertise."

I questioned Mr. Ogden at his hearing and he gave his commitment to vigorously enforce Federal law, regardless of the positions he may have taken on behalf of his clients in private practice. I asked him if he had the right experience to be Deputy Attorney General and he pointed out his

extensive experience managing criminal matters at the Department and in private practice. I asked him to thoroughly review the practice of prosecutors investigating and filing law suits on the eve of elections, and he said he would. I asked him to work with me on a mortgage and financial fraud law, and he was agreeable. I asked about his experience in the type of national security matters that have become more than ever before central to the mission of the Justice Department, and he highlighted his extensive national security experience and lessons he learned as General Counsel for the Department of Defense. On all these matters he was candid and convincing.

David Ogden, like Attorney General Eric Holder, is an immensely qualified nominee whose priorities will be the safety and security of the American people and reinvigorating the traditional work of the Justice Department in protecting the rights of Americans. That is why he will be a critical asset to the Attorney General. I am confident he will be a good Deputy Attorney General.

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