

Statement of

# **The Honorable Patrick Leahy**

United States Senator  
Vermont  
April 1, 2009

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Chairman, Senate Judiciary Committee,  
Hearing On Judicial and Executive Nominations  
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Today, the Senate Judiciary Committee holds a hearing on President Obama's first judicial nominee, and for two more well-qualified nominees for senior leadership positions in the Executive Branch. Each of these nominees has spent their professional lives in public service. This afternoon we will hear from Judge David Hamilton, a highly-qualified and experienced jurist nominated for the Court of Appeals for the Seventh Circuit. His nomination has the bipartisan support of his home state Senators. I thank Senator Lugar and Senator Bayh for their consideration of this nominee, and I am pleased to welcome them to the Senate Judiciary Committee.

I said when this nomination was announced on March 17 that after the partisan and divisive approach that President Bush took with judicial nominations, I appreciated President Obama's seriousness in making his selection, and his constructive engagement with both Senator Lugar and Senator Bayh, the Republican and Democratic home state Senators. The President is doing his part to remove these matters from partisan politics, and that's a healthy change for the Nation and for all three branches of government. I hope that the Republican members of this Committee will respect the views of Senator Lugar, the most senior Republican serving in the United States Senate, and treat this nomination accordingly. Judge Hamilton is a well-respected Federal judge not known for partisanship or an ideological agenda. He should be confirmed quickly with a strong bipartisan majority.

Judge Hamilton currently serves with distinction as the Chief Judge of the Southern District of Indiana. He had an outstanding record at Yale Law School and Haverford College. After law school, he clerked for Judge Richard Cudahy of the Seventh Circuit. He practiced law for eight years in Indiana with the law firm of Barnes & Thornburg before he entered public service as counsel to then-Governor of Indiana, and now Senator from Indiana, Evan Bayh. He has also taught law as an adjunct professor at the Indiana School of Law.

In 2007, Judge Hamilton was honored with the Indiana Lawyer's Distinguished Barrister Award, which recognizes members of the legal community for their exemplary leadership in the legal profession and devotion to the betterment of their communities. That same year, he was awarded the distinction of being named one of the 500 Leading Judges in America by Lawdragon Magazine for presiding over complex or high profile cases with aplomb. In 1991, Judge Hamilton received the Sagamore of the Wabash Award from the Governor of Indiana, the highest honor that the Governor of Indiana can bestow, for his distinguished service to the State of Indiana.

Mr. Hamilton's nomination has also earned support from across the political spectrum. The President of the Indianapolis Lawyers Chapter of the conservative Federalist Society, Geoffrey Slaughter, who two months ago invited Judge Hamilton to speak before the conservative group, called him "an excellent jurist with a first-rate intellect," and described his judicial philosophy as "well within the mainstream, between the 30-yard lines."

When President Obama first announced this nomination, he noted that "Judge Hamilton has a long and impressive record of service and a history of handing down fair and judicious decisions." In light of his superb record, broad support, and unanimous "well qualified" rating from the American Bar Association, it is no wonder Judge Hamilton's nomination for this important appellate seat has the support of both home state Senators.

I am glad President Obama has picked an experienced jurist and consensus candidate to be his first judicial nominee. I hope the leadership that Senator Lugar and Senator Bayh have shown in coming together to support Judge Hamilton's nomination is a good sign that we will have the bipartisan cooperation that President Obama has called for, that some of us are working hard to create, and that the American people have every right to demand. President Obama is off to a good start. I commend the White House for consulting with the distinguished Senators from Indiana - a Republican and a Democrat - to put forth a consensus nominee whose proven record and bipartisan support should lead to swift approval by this Committee and the Senate.

We will also hear from two more of President Obama's highly-qualified nominees for important posts in the Executive Branch.

Ron Weich is nominated to be Assistant Attorney General for the Office of Legislative Affairs at the Department of Justice. In more than a decade on Capitol Hill, he has advised three Senators: Senator Specter, Senator Kennedy, and Majority Leader Reid. I want to put into the record a letter of support for Mr. Weich I received from Senator Kennedy, a former Chairman of this Committee and a Member for more than four decades. In addition, Mr. Weich has a distinguished record of public service as an Assistant District Attorney in Manhattan, and as a Special Counsel to the United States Sentencing Commission. He is an experienced Senate hand who has earned the respect of Senators on both sides of the aisle. We know him well as a former member of the staff of this Committee. I am confident he will be a welcome addition to the leadership at the Justice Department, and will make the Department more responsive to congressional concerns than we have seen over the last several years.

I thank Senator Specter for agreeing to add the nomination of R. Gil Kerlikowske to today's proceedings, as well. Chief Kerlikowske has 36 years of experience in law enforcement, including his current service as Chief of Police for the Seattle Police Department. He is the former Deputy Director of the Office of Community Oriented Policing Service at the Department of Justice, and is currently President of the Major Cities Police Chiefs Association. He is nominated to serve as the Director of National Drug Control Policy.

Chief Kerlikowske's nomination has received numerous letters of support, including strong endorsements from Republican and Democratic public officials, State and local law enforcement officials, the National Center for Victims of Crime, the United States Conference of Mayors, the

Community Anti-Drug Coalition of America, the Washington Association of Sheriffs and Police, and the National Council on Crime and Delinquency.

Mary Lou Leary, the Executive Director of the National Center for Victims of Crime, describes Chief Kerlikowske as a "strong manager," who is "committed to crime prevention" and who "understands the connection between illegal drugs and crime." Arthur T. Dean, the Chairman and CEO of the Community Anti-Drug Coalition of America, wrote that Chief Kerlikowske understands that drug policy "must be comprehensive and coordinated" and "recognizes that the perspectives of those closest to the ground - state and local enforcement, prevention, treatment, and recovery professionals - play a critical role in this strategy."

As a former prosecutor, I have always advocated vigorous enforcement and punishment of those who commit serious crimes. But I also know that punishment alone will not solve the problems of drugs and violence in our rural communities. I am pleased that Mr. Kerlikowske supports combating drug use and crime with all the tools at our disposal, including enforcement, prevention, and treatment.

His nomination comes at a crucial time given the concerns that many of us - Democrats and Republicans - share about drug policy. The situation along our southern border, and that in Afghanistan, are made all the more difficult by the illegal drug trade. In addition, if he is confirmed, Mr. Kerlikowske will play an important role in formulating a more rational and fair Federal sentencing policy. I look forward to working with Chief Kerlikowske.

It is unfortunate that there has been partisan criticism of our proceeding today. We are proceeding at a reasonable pace for the Committee's consideration of an experienced jurist whom the Senate has previously confirmed by unanimous consent. The fact is Judge Hamilton is rated unanimously well-qualified by the ABA. The fact is his nomination has the support of both home state Senators - a respected senior Republican, and a Democrat. The fact is we now have more than 65 vacancies on the Federal bench, and additional vacancies will arise. And the fact is we have only one judicial nomination before us at this time. There is no good reason in my view to delay, and every reason to proceed promptly.

Some on the other side of the aisle may feel rushed because of the weeks they have spent working to delay consideration of President Obama's nominations to lead the Justice Department. We still have been unable to obtain a time agreement to consider the nomination of Professor Dawn Johnson to head the Office of Legal Counsel, for example, even though her nomination was reported favorably by this Committee two weeks ago on March 19.

I have considered Republican objections and concerns throughout the year and tried to be accommodating. I delayed hearings this year for the nominees to be Attorney General, Solicitor General, and the head the Office of Legal Counsel. Our last confirmation hearing was on March 10, three weeks ago. Despite those accommodations, Senate Republicans have chosen to delay Committee, as well as Senate, consideration of nominees.

I understand that Senators could always use more time to prepare, and that this is a busy week. However, with a two-week Easter recess approaching, I did not want to delay this proceeding another two weeks. Last year, as he had earlier in President Bush's term, Senator Specter proposed a protocol for consideration of judicial nominations that called for hearings on judicial nominees within 30 days of nomination. The demand to delay this hearing on Judge Hamilton's

nomination past the Easter recess would violate that very protocol. I trust that once they consider his qualifications, the Republican members of this Committee will work with us to consider the nomination promptly upon our return, and not needlessly delay proceeding as has been threatened.

In that regard, it was a bad sign that last month all 41 Senate Republicans signed a letter to President Obama threatening filibusters of his judicial nominees before they were even named. I trust that position is being reconsidered in light of the reality that President Obama has consulted with Senators. These threats of obstruction are not helpful.

I urge Republican Senators to work together with the President to fill vacancies on the Federal bench. Our demonstrated ability to work together to fill judicial vacancies will go a long way toward elevating public trust in our justice system, and ensuring that the American people receive equal justice under law.

I believe this President's appreciation for the Constitution, the rule of law, and the role of the courts motivates him to nominate people, like Judge Hamilton, of the highest caliber and qualifications. Just as I have urged Senators to work with the President, I have urged the White House to work with the Senate. I am pleased to see that the President has proceeded expeditiously after consultation to nominate Judge Hamilton. He has also reformed the selection practice by restoring the peer review by the American Bar Association to the front end of the process. That is how every President since Dwight D. Eisenhower had proceeded. When President Bush unilaterally chose to exclude that professional peer review from the process, the result was significant delay because they could not begin their review until after the nomination was made. That meant weeks went by before a nomination was considered ready for a hearing. This hearing shows that restoring that process can result in prompt hearings to fill judicial vacancies.

All three of the nominees before us are exceptionally well qualified to fulfill the duties of the positions to which they have been nominated. I look forward to hearing from them today.

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