

Statement for the Record of Steven A. Engel

Before the Senate Judiciary Committee

May 10, 2017

Chairman Grassley, Ranking Member Feinstein, and members of this Committee, I am honored to appear before you today. Thank you for scheduling this hearing, and for meeting with me over the past few days.

I also would like to thank the President and the Attorney General for the confidence they have shown by entrusting me with the nomination to head the Office of Legal Counsel.

Please allow me to introduce the members of my family who are here today. First, my wife, Susan Engel. Susan and I first met when we clerked together for Judge Alex Kozinski on the Ninth Circuit Court of Appeals. I followed her the next year to the Supreme Court, where I clerked for Justice Kennedy, when she clerked for Justice Scalia—who was himself a former head of the Office of Legal Counsel. Susan is now a partner at Kirkland and Ellis, and one of the most gifted attorneys I

know. I have relied upon her judgment, her love, and her support in all of our endeavors.

Let me also introduce our three daughters. They are easy to see, because they have picked matching dresses for the occasion. Brittany just turned 10 years old; Aidan is 7; and Cameron is 5. This is not our family's only public event today. This afternoon, Aidan will be performing in her school's spring play. So this is a busy day for the family.

With us are my parents, Mark and JoAnn Engel, and my brother Matt. My father has run a small business in the Bronx for nearly 40 years. My mother is a retired school teacher. They raised my brother and me on Long Island, in the town of Port Washington, where they still live. My parents inspired us by their example, and they instilled in us their commitment to hard work, to education, and to service. Everything else has followed from that.

I am also proud to have with me another devoted mother and grandmother, my mother-in-law, Elsie Kearns, who has come down to the hearing from Larchmont, New York. Next to her is Susan's uncle,

Judge John Koeltl, who appeared before this Committee twenty-three years ago, after President Clinton nominated him to serve on the Southern District of New York. Judge Koeltl has served with great distinction in the decades that have followed, and he is well known in New York as one of the hardest working judges on the bench. I am grateful that he too found the time to come down to DC this morning.

I am deeply honored to appear before the Committee as the President's nominee to head the Office of Legal Counsel. The Office plays a critical role in ensuring that ours remains a nation governed by laws. By delegation of the Attorney General, the Assistant Attorney General for OLC has the responsibility of advising the Executive Branch on the requirements of the law, in order to fulfill the President's constitutional duty to "take care that the laws be faithfully executed." It is vital to our Government's commitment to the rule of law that OLC perform its mission well. OLC must provide candid, independent, and principled legal advice, without regard to the aims of policy makers.

The Office of Legal Counsel does not get to choose the legal questions it receives. They are often some of the most pressing and

difficult questions facing the Executive Branch. These are questions, as Justice Jackson famously observed, that may involve a surprising degree of “poverty of really useful and unambiguous authority.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 634 (1952) (Jackson, J., concurring).

Yet while the Office must advise on the questions of the day, its opinions must go beyond the day’s expedients. The Office must do its job by reference to the requirements of the law and to the long-term interests of the Executive Branch and our structure of our government. These things are easier said than done. But it is critical that they be done. And it is the culture of the Office and the Department of Justice that ensures that the Office maintains the perspective necessary to perform that work.

I had the privilege of serving before as a deputy in the Office of Legal Counsel. I have the deepest respect for the Office and its proud traditions. The Office has been home to some of the brightest and most devoted lawyers to have served in our Government. Some of them are still there now. The line-up of those who have headed the Office—

which includes Supreme Court Justices and Attorneys General—is as inspiring as it is humbling.

If I am fortunate enough to be confirmed, I pledge to this Committee that I will honor these standards of integrity, independence, and professionalism. I will discharge those responsibilities with the aim of serving as a faithful steward of the Office, so as to preserve and to build its reputation, and to pass the Office on stronger to its future leadership.

I thank the Committee for its time today, and I look forward to your questions.