

**Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on the Nominations of Rod Rosenstein to be U.S. Deputy Attorney General
and Rachel Brand to U.S. Associate Attorney General
March 7, 2017**

Good morning. I'm pleased to hold this nominations hearing for two outstanding nominees, Rod Rosenstein and Rachel Brand. They've been nominated to two important senior positions in the Department of Justice: the Deputy Attorney General and the Associate Attorney General. The Deputy Attorney General, who is the second-in-command at the Department, oversees its day-to-day operations. The Associate Attorney General oversees the Department's civil litigating departments. It's critical that we fill these two important positions so the Department can operate at full capacity.

And we couldn't have two better nominees for these positions. Mr. Rosenstein and Ms. Brand share a lot in common. They're both dedicated civil servants. They've both been confirmed by the Senate before—in Ms. Brand's case, twice. And they've both served in Senate-confirmed positions during President Obama's administration. They're both extraordinarily talented and fair-minded lawyers dedicated to the full and even-handed enforcement of our laws. And they will serve the Department with distinction.

Mr. Rosenstein has served the Department for more than three decades. President Bush appointed him to be United States Attorney for Maryland. He continued to serve in that position throughout President Obama's entire two terms in office. I'm sure Senators Cardin and Van Hollen will speak to his accomplishments in this role. And I'd also like to submit for the record a letter from former Senator Mikulski supporting his nomination.

Now, with respect to Mr. Rosenstein's nomination, I have a few things to say about the Attorney General's announcement last week and the supplemental testimony he sent us yesterday.

During his confirmation, Attorney General Sessions told this Committee what he would do if a specific matter arose where he believed his impartiality might be questioned.

He said he would consult with Justice Department professionals and listen to their advice. And to those who questioned his independence from the President, Attorney General Sessions proved them wrong already too, by recusing himself. Last week, he kept his word. Unlike Attorney General Lynch, Attorney General Sessions recused himself.

His recusal means that *if* there is any ongoing matter that deals with the Trump campaign, it will be handled by the Deputy Attorney General.

So, if Mr. Rosenstein is confirmed, the responsibility for any decisions would fall to him. Already, I've heard some calls from the other side that a special counsel should be appointed to take over instead. Any talk of a special counsel is premature at best.

More importantly, any insinuation that Mr. Rosenstein lacks the impartiality or professionalism necessary to handle these matters is out of line. He's a career civil servant who has served with distinction during both the Bush and Obama administrations. His independence is beyond reproach. In fact, in 2012 there was a series of high-level leaks to the media of highly classified information. The leaks looked like they were designed to make the Obama administration look good. Rather than appoint a special counsel, Attorney General Holder placed Mr. Rosenstein and another U.S. Attorney in charge of the leak investigation.

At the time, the Chairman of this Committee said Attorney General Holder made a "good choice" when he put Mr. Rosenstein in charge. He described Mr. Rosenstein as a "tough, honest prosecutor" and "the epitome of a professional prosecutor."

Another Senior Democrat on this Committee said she opposed a special counsel because it "takes a long time."

The Ranking Member also had this to say about Mr. Rosenstein and the other U.S. Attorney assigned to the matter:

"These are two scrupulous men. They are both independent, and I have no reason to believe they cannot work with the FBI and assemble a very strong prosecution team where warranted."

Presumably, my Democratic colleagues haven't changed their minds about Mr. Rosenstein just because the President is now a Republican instead of a Democrat.

Also, Special Counsel inquiries under the current Department regulations are not the best way to ensure transparency and accountability. There is no mandatory public report or other finding at the end of the investigation if no charges are filed. The investigations can just disappear without the public ever understanding what the facts were.

The intelligence committees are investigating these matters. And the other side has asked the Inspector General to investigate as well. Unlike special counsels, Congressional and IG investigations can get the facts and present them to the public. So, the notion that somehow a special counsel will bring facts to light just isn't true.

I can't help but notice the selective nature of these latest calls for a special counsel.

Where were these calls from the other side when Attorney General Lynch was overseeing the Clinton investigation? Attorney General Lynch had been appointed by President Clinton to be a U.S. Attorney. Her law firm had represented the Clintons. Her ability to continue in her job as Attorney General depended on a Clinton victory in the election.

And she had a private meeting with President Bill Clinton on her government airplane while the Department was investigating Secretary Clinton. Where were the calls from Democratic Leadership for a special counsel then?

Where were these calls for a special counsel when Congress referred a criminal contempt citation to the Department of Justice against Attorney General Holder for withholding documents in the Fast and Furious scandal?

He misled Congress about when he learned about Fast and Furious. Where were the calls from the other side to have hearings on that?

The U.S. Attorney was simply ordered to ignore the criminal contempt citation, and my friends on the other side of the aisle were fine with that, unfortunately.

It would be easier to credit calls for special counsels if they were made with some consistency and intellectual honesty.

There are times when special counsels are appropriate. But it's far too soon to tell here. And even if there were evidence of a crime related to any of these matters, once confirmed Mr. Rosenstein can decide how to handle it.

I know of no reason to question his judgment, integrity, or impartiality.

I'll have more to say about Ms. Brand when I introduce her. But for now, let me say that she also is a dedicated public servant with exceptional credentials. Her nomination is supported by former Attorneys General and Deputy Attorneys General. I'll enter a letter from them in the record.

Before I turn to Senator Feinstein for her opening statement, let me say how we'll conduct the hearing today. After Senator Feinstein's opening statement, we'll have the introduction of the nominees. Senator Ernst and I will introduce Ms. Brand, who is a native Iowan. Senators Cardin and Van Hollen will introduce Mr. Rosenstein. Then, the nominees will give their opening statements.

We'll have seven minute rounds of questions. I know there are a number of issues Senators would like to cover with these nominees, so I'll stay here until everyone has had the chance to ask all the questions they want. If we do more than one round of questions, we'll do five minute additional rounds.

Introduction of Rachel Brand

I'm pleased to introduce Rachel Brand, a native Iowan. Although she hasn't lived in Iowa for many years, I know she loved going to the Iowa State Fair as a kid and she still goes back to visit her 94-year-old grandmother. And both sets of her grandparents were dairy farmers.

Ms. Brand is familiar to this Committee. She's appeared before us many times—both as a nominee and as an expert witness. She has already served the country well, and I'm glad to see that she's been nominated once again, this time as Associate Attorney General. I'll note that this is the third time she's been nominated for a Senate confirmed position—both Presidents Bush and Obama also nominated her for roles in their Administration.

Before Ms. Brand graduated from Harvard Law School she was an intern in my DC office. She clerked for a Justice on the Supreme Court of Massachusetts as well as Justice Kennedy on the Supreme Court of the United States.

She's served as Counsel to President Bush and as the Assistant Attorney General of the Office of Legal Policy. In that role, she prepared nominees to be sitting in the seat she's in now. She also specialized in counter-terrorism and national security issues for the Administration.

In 2011, she became Chief Counsel for Regulatory Litigation for the U.S. Chamber of Commerce. Most recently, she was a Member of the Privacy and Civil Liberties Oversight Board (PCLOB). Of course, the PCLOB oversees federal agencies' counterterrorism activities to ensure that privacy and civil liberties are balanced with national security interests.

In addition to her vast career accomplishments, Ms. Brand is on the board of an organization called Doorways. Doorways helps women and children who find themselves in abusive situations. They have a 24 hour hotline and provide shelter and support services for these women.

I'm pleased to support someone so well qualified. With her previous positions in the White House, Office of Legal Policy, and the Privacy and Civil Liberties Oversight Board, she has experience that touches almost every part of the federal government. As the Assistant Attorney General for the Office of Legal Policy, she was a member of the senior management team of the Department of Justice, working with components and law enforcement agencies across the Department.

Similarly, at the Privacy and Civil Liberties Oversight Board, Ms. Brand worked with diverse agencies to ensure that privacy and civil liberties are taken into account while carrying out the important mission of protecting the nation from terrorism.

And during Ms. Brand's tenure in the private sector, she gained extensive litigation management experience that will serve her well as she oversees the civil litigating components.

Congratulations on your accomplishments, Ms. Brand. I'm proud to be able to support your nomination. I think you'll do a fantastic job at the Department.

With that I'll turn to Senator Ernst.

