

Statement of
The Honorable Benjamin L. Cardin

United States Senator
Maryland
October 7, 2009

OPENING STATEMENT OF
SENATOR BENJAMIN L. CARDIN
CONFIRMATION HEARING FOR
BARBARA MILANO KEENAN,
U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT
LAURIE O. ROBINSON, AAG FOR
OFFICE OF JUSTICE PROGRAMS
KETANJI BROWN JACKSON,
MEMBER, U.S. SENTENCING COMMISSION
SENATE JUDICIARY COMMITTEE

October 7, 2009

The Committee will come to order. Let me thank Chairman Leahy for asking me to chair today's hearing.

Today we consider three of President Obama's nominations to the federal bench, Department of Justice, and an independent judicial branch agency.

Our first panel consists of Barbara Milano Keenan to be U.S. Circuit Judge for the Fourth Circuit.

I take a special interest in the 4th Circuit, as it includes my home state of Maryland. In May 2008 I chaired the confirmation hearing for Justice Steven Agee, who also served on the Virginia Supreme Court and was confirmed to be a U.S. Circuit Judge for the Fourth Circuit. In April 2009 I chaired the confirmation hearing for Judge Andre Davis of Maryland, who is currently a federal district judge in Baltimore. He was favorably reported by this committee by a strong bipartisan vote of 16 to 3 in June of 2009, but unfortunately the full Senate has yet to vote on this nomination.

I mention these nominations by way of background for my colleagues, because the Fourth Circuit has one of the highest vacancy rates in the country today. Out of the 15 seats authorized

by Congress, 5 are vacant, which means that one-third of the court's seats are now vacant. Our Circuit Courts of Appeals are the final word for most of our civil and criminal litigants, as the Supreme Court only accepts a handful of cases. I hope that President Obama and the Senate move quickly to nominate and confirm qualified candidates for these seats. I also look forward to increasing the diversity of the judges of the Fourth Circuit.

As I evaluate judicial candidates, I use several criteria. First, I believe judicial nominees must have an appreciation for the Constitution and the protections it provides to every American. I believe each nominee much embrace a judicial philosophy that reflects mainstream American values, not narrow ideological interests. I believe a judicial nominee must respect the role and responsibilities of each branch of government. I look for a strong commitment and passion for the continued forward progress of civil rights protections.

Justice Keenan comes to this committee with an impressive amount of experience. She has served on each of the four levels of the Virginia State courts: General District Court, Circuit Court, Court of Appeals, and Supreme Court. She was admitted to the State Bar of Virginia in 1974. She first took the bench at the age of 29, and fittingly has served for a judge for the last 29 years. Before serving as a judge, she worked as an attorney in private practice and as a local prosecutor.

Justice Keenan has presiding over an impressive amount of cases. She presided over several thousand cases of to judgment as a judge of the General District Court of Fairfax County, Virginia, which includes misdemeanors and smaller civil cases. As a circuit court judge, she presided over 600 cases that proceeded to verdict or judgment, and handled a wide range of criminal and civil cases, including both jury trials and bench trials. Finally, Justice Kennan now serves on the Virginia Supreme Court, a position she has held since 1991. I understand that under Virginia law, Supreme Court Justices serve 12 year-terms, and then must seek reappointment by the state General Assembly. Justice Keenan was unanimously reappointed by the General Assembly.

If confirmed, Justice Keenan would be the first woman from Virginia to serve on the Fourth Circuit. I understand that Judge Keenan has already been breaking down barriers in Virginia, when she became the first female general district court judge, the first female circuit court judge, the first female judge on the Virginia Court of Appeals, and the only second female justice on the Virginia Supreme Court.

Justice Keenan earned her B.A. from Cornell University, her J.D. from the George Washington University Law School, and her L.L.M. from the University Of Virginia School Of Law.

She received a unanimous rating of "well qualified" by the American Bar Association's Standing Committee on the Federal Judiciary, which is their highest rating. I look forward to her introduction by Senators Webb and Warner.

Our second nominee today is Laurie O. Robinson, to be the Assistant Attorney General for the Office of Justice Programs.

By way of background, let me agree with Chairman Leahy that this Committee should move quickly to continue restoring the morale and integrity of the Department. I must say that I am disappointed by the pace of our confirmation for many of Attorney General Holder's deputies. Less than half of the current Assistant Attorneys General have been confirmed, leaving major policy-making functions in the DOJ vacant, such as tax, environment, and legal advice and policy. The Senate should vote on these nominees without further delay.

The Office of Justice Programs (OJP) provides leadership to federal, state, local, and tribal justice systems, by disseminating knowledge and best practices across America, and providing grants for the implementation of these crime fighting strategies. OJP does not directly carry out law enforcement and justice activities. Instead, OJP works in partnership with the justice community to identify the most pressing crime-related challenges confronting the justice system and to provide information, training, coordination, and innovative strategies and approaches for addressing these challenges.

OJP has multiple offices under its umbrella including: Bureau of Justice Assistance, Bureau of Justice Statistics, Office of Civil Rights, Office of Victims of Crime, National Institute of Justice, and Office of Juvenile Justice and Delinquency Prevention.

Ms. Robinson, if confirmed, would return to her previous position in government. From 1993 to 200, she served as Assistant Attorney General at the Office of Justice Programs. Ms. Robinson oversaw the largest increase in federal spending on criminal justice research in the nation's history. Under her leadership, the annual appropriations for the Office of Justice Programs grew substantially - from \$800 million in 1993 to over \$4 billion in 2000. During this time, she also spearheaded a number of initiatives in areas ranging from comprehensive community-based crime control to combating violence against women, law enforcement technology, drug abuse and corrections.

Since 2004, Ms. Robinson has been the director of the Master of Science Program in the University of Pennsylvania's Department of Criminology. And since 2001, she also has served as a Distinguished Senior Scholar in the University's Jerry Lee Center of Criminology, and as Executive Director of its Forum on Crime & Justice. Prior to joining the Department of Justice in 1993, Ms. Robinson was the director of the American Bar Association's Section of Criminal Justice for 14 years, where she founded the ABA's Juvenile Justice Center and had responsibility for policy development, work with Congress, and development of special projects in such areas as crime victims, prisons, police procedures, and computer crime.

Ms. Robinson served on a number of national boards relating to the justice system, including the Board of Trustees of the Vera Institute of Justice (which she chairs), the Board of Directors of the Police Foundation, and the Advisory Board for the George Mason University Administration of Justice Program. She has published numerous articles in criminal justice and legal periodicals, and has spoken at hundreds of criminal justice-related conferences and forums. She is a magna cum laude graduate of Brown University and a member of Phi Beta Kappa.

I am also pleased Letters of support for Ms. Robinson including: the US Conference of Mayors, National League of Cities, National Association of Counties, and the International Association of Chiefs of Police. These letters and others relating to this nomination will be made part of the record.

The third and final nominee today is Ketanji Brown Jackson. Ms. Jackson has been nominated to be a member of the U.S. Sentencing Commission. The Commission is an independent agency in the judicial branch of government. Its purpose is to establish sentencing policies and practices for the federal courts, including criminal sentencing guidelines, to advise and assist Congress and

the executive branch in developing crime policy, and to analyze and research criminal justice information.

Ms. Jackson is Of Counsel at Morrison & Foerster, LLP in Washington, D.C., where she has worked since 2007. From 2005 to 2007, she was an Assistant Federal Public Defender in the District of Columbia. From 2003 to 2005, Ms. Jackson served as Assistant Special Counsel to the U.S. Sentencing Commission. For several years, Ms. Jackson was in private practice. She has previously served as a law clerk to the Judge Patti B. Saris, U.S. District Court of Massachusetts, Judge Bruce M. Selya, U.S. Court of Appeals for the First Circuit, and Supreme Court Justice Stephen G. Breyer.

Ms. Jackson graduated with a BA from Harvard University and a JD from Harvard Law School. She is a resident of Bethesda, Maryland.

I will now turn to the Ranking Member for any comments he would care to make, and then we will turn to Senators Webb and Warner to introduce our first nominee.