

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
October 7, 2009

Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Hearing On Executive And Judicial Nominations  
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Today, we will hear from three well-qualified nominees--one for a lifetime appointment on the Federal bench and two for important positions in the executive branch. I thank Senator Cardin for chairing this hearing and I thank the Senators from Virginia, Senator Webb and Senator Warner, for their support and introductions of Justice Barbara Keenan, who has been nominated to fill a vacancy on the Fourth Circuit.

With this hearing today, and with four judicial and three executive branch nominations on the agenda for our Executive Business Meeting tomorrow, the Committee continues to make steady progress in considering nominations. I accommodated the request of the Ranking Member and Republican Senators on the Committee this summer in postponing hearings on other nominations while we considered the Sotomayor nomination. Since then, I have also accommodated their requests to delay consideration of nominees. I hope that we will be able to move forward tomorrow.

This week, with the hard work of Senator Cardin, we were finally able to move forward to confirm Tom Perez to head the Civil Rights Division at the Justice Department. His nomination was stalled for four months before the Senate, despite the fact that he was approved 17 to two by this Committee. At the last minute, Senate Republicans abandoned an ill-fated effort to filibuster the nomination, and asked that the cloture vote be vitiated. He was finally confirmed with more than 70 votes in the Senate.

That still leaves another eight executive branch nominees reported by this Committee for key positions, as well as seven judicial nominations, awaiting action, some after months of needless delay. An opinion piece in The Washington Post today says it well: the Republican opposition has turned the advice and consent role of the Senate into advice "and stall." As Ruth Marcus wrote, advice and consent has "degenerated into sit around and wait." There are still four more Assistant Attorney General nominees to lead key divisions at the Justice Department that are delayed for no good reason. As Ms. Marcus concluded in her column today, "Being in the minority isn't fun. Gumming up the works with holds is one of the few ways to get attention--and action. But it's no way to run a government." The stalling has reached unprecedented proportions. This is the first year of the President's term, when he is traditionally accorded deference and is able to appoint the people he nominates to help administer the executive branch.

With respect to judicial nominees, the story is even worse. President Obama's made his first judicial nomination, that of David Hamilton to the Seventh Circuit, in March, and it has been stalled on the Executive Calendar since early June, despite the support of the senior Republican in the Senate, Senator Lugar. The nomination of Judge Andre Davis to the Fourth Circuit was reported by the committee on June 4 by a vote of 16 to three, but has yet to be considered by the Senate. The nomination of Judge Beverly Baldwin Martin to the Eleventh Circuit has the support of both of Georgia's Senators, both Republicans, and was reported unanimously from the Committee by voice-vote on September 10, but has yet to be considered or scheduled for consideration by the Senate.

The Senate can and must do a better job of restoring our tradition of regularly considering qualified, noncontroversial nominees to fill vacancies on the Federal bench without needless and harmful delays. This is a tradition followed with Republican Presidents and Democratic Presidents. During the 17 months I chaired the Judiciary Committee during President Bush's first term, we confirmed 100 of his judicial nominees and 185 of his executive nominees. And yet, 10 months into President's Obama's first term, we have confirmed only two of his nominations for circuit and district courts and 30 of his executive nominees. Fifteen of the President's nominations, many of which the Judiciary Committee reported unanimously, remain stalled on the Senate's executive calendar.

The delays in considering judicial nominations pose a serious problem in light of the alarming spike in judicial vacancies on our Federal courts. There are now 95 vacancies on Federal circuit and district courts and another 25 future vacancies already announced--that is 120 vacancies total. These vacancies are at near record levels. Justice should not be delayed or denied to any American because of over-burdened courts. We can do better. The American people deserve better.

I hope that, instead of withholding consents and threatening filibusters of President Obama's nominees, the other side of the aisle will join us in treating them fairly. We should not have to fight for months to schedule consideration of the President's nominations for critical posts in the executive branch. Today we will hear from another nominee to be an Assistant Attorney General today, Laurie Robinson, to run the Office of Justice Programs. I hope that her nomination can be considered expeditiously and without delays so she can return to a post in which she has previously served with great distinction.

None of the nominees we hear from today should face obstruction and delay. Each of them is incredibly well-suited for the position to which she has been nominated.

President Obama nominated Justice Barbara Milano Keenan to serve on the Fourth Circuit. She is currently a justice on the Supreme Court of Virginia, with an impressive judicial background. Justice Keenan has been a judge for the last 29 years--half of her life--and has served on each of the four levels of the Virginia State courts.

If confirmed, Justice Keenan would be the first woman from Virginia to serve on the Fourth Circuit. She was also the first female general district court judge in Virginia, the first female circuit court judge in that State, the first woman named to the Virginia Court of Appeals, and the second female justice on the Virginia Supreme Court.

The American Bar Association's Standing Committee on the Federal Judiciary has unanimously rated her "well qualified"--its highest rating--to sit on the Fourth Circuit. The Virginia State Bar rated her "highly qualified" by unanimous vote, and bar associations throughout the State gave her their highest recommendation. Many of the lawyers who make up those associations have practiced before Justice Keenan, so their strong support of her nomination is telling.

I commend Laurie Robinson for her willingness to return to government service. She is a former Assistant Attorney General for the Office of Justice Programs (OJP) who has been nominated for a second tour of duty. Ms. Robinson served as Assistant Attorney General for OJP for seven years, from 1993 to 2000, which already makes her the longest-serving AAG in the 25-year history of that office. Ms. Robinson's substantial experience and institutional knowledge will surely be of immeasurable benefit upon her permanent return to the OJP.

From 2001 until President Obama appointed her be Acting Attorney General for OJP in January 2009, Ms. Robinson was a Distinguished Senior Scholar and Executive Director of the University of Pennsylvania's Forum on Crime & Justice. She was also as the director of the university's Criminology Master of Science Program, which she worked to launch in 2004.

The Judiciary Committee has received numerous letters of support for Ms. Robinson's nomination from prosecutors and defense attorneys, from police chiefs and police unions, corrections officers, local and state government officials, and advocates for the victims of crime. The National Association of Police Organizations wrote that "it strongly believes that Ms. Robinson's distinguished career and institutional knowledge alone qualify her for the position,...yet it is her collaborative relationship with NAPO and other state and local partners that we feel will be invaluable to the position." The National Legal Aid & Defender Association also wrote to the Committee in support of Ms. Robinson's nomination. It noted her "distinguished career[, which] provides ample evidence of her qualifications to lead" and highlighted her "firm understanding of how all the components of the justice system are inextricably intertwined."

President Obama has nominated Ketanji Brown Jackson to serve as a member of the U.S. Sentencing Commission. Ms. Jackson has established herself as dedicated public servant and a top-notch appellate attorney. She is currently of counsel at a Washington, D.C., law firm, Morrison & Foerster, and she formerly served as Assistant Federal Defender for the District of Columbia. Ms. Jackson knows the Sentencing Commission well, having served as Assistant Special Counsel to the Commission. Ms. Jackson was also a law clerk to three Federal judges, including Justice Stephen G. Breyer on the U.S. Supreme Court.

I look forward to hearing from the nominees today and welcome them and their families to the Committee.

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