

Testimony of
The Honorable John Warner

February 5, 2009

Introduction Statement by Senator John Warner

Chairman Leahy, Senator Specter, and Members of the Senate Judiciary Committee - it is my privilege to come before you today to introduce to you a long-time Virginian, Mr. David Ogden. David has been nominated by the President to serve as the Deputy Attorney General of the United States.

David is joined here today in support by members of his family, including his wife Anne; his son Jonathan who once served as a page for me; his daughter Elaine; his mother Elaine; his three sisters - Celia, Jessica, and Connie; Connie's two twin daughters; and his Uncle Bill, who had his own well respected legal career at the Washington, DC law firm of Steptoe and Johnson. I should also note that David and Anne just had a baby girl four weeks ago, Natalie, who is not here with us today.

The position of Deputy Attorney General of the United States is one of the most important positions in government. The Deputy Attorney General is the second-highest ranking official in the United States Department of Justice, and he or she oversees the day-to-day operation of the Department - a Department that has a more than \$20 billion annual budget and more than 100,000 employees nationwide.

How fortunate America is to have someone as knowledgeable and experienced as David Ogden to step up and serve our great nation in this challenging role. David has been practicing law for more than a quarter of a century, and he has devoted more than a decade of this legal career to public service - mostly in various senior Department of Justice roles.

After graduating, summa cum laude and Phi Beta Kappa from the University of Pennsylvania, David attended Harvard Law School. He graduated from Harvard, magna cum laude, and as Editor of the Harvard Law Review in 1981.

Subsequent to law school, David served as a judicial law clerk - working for the Honorable Abraham Sofaer, a district court judge in the southern district of New York. Upon completion of this one year clerkship, David was selected to serve as a United States Supreme Court law clerk for the Honorable Harry Blackmun - a position David held from 1982-1983.

After completing his two clerkships, David entered private practice and was eventually promoted to partner at the well respected law firm of Jenner & Block. In 1994, he left private practice to serve as Deputy General Counsel and Legal Counsel at the United States Department of Defense. During his time at the DoD, David was awarded the Medal for Distinguished Public Service - the DoD's highest civilian award.

In 1995, David left the Department of Defense and began his service in the U.S. Department of Justice. At the Department, David worked in a variety of roles, including Associate Deputy Attorney General; Chief of Staff and Legal Counsel to the Attorney General, and as Assistant Attorney General for the Civil Division.

Since leaving government service in 2001, David has worked as a partner at the law firm of Wilmer, Cutler, Pickering, Hale and Dorr. At the firm, he is co-chair of the Regulatory and Government Affairs and Litigation Department.

I first met David nearly ten years ago when he was nominated to serve as an Assistant Attorney General. While I never had the pleasure of serving on the Senate Judiciary Committee during my thirty years in the United States Senate, David came to visit me, as his home state Senator, prior to his confirmation hearing. During that initial meeting it quickly became apparent to me - based on his stellar legal experience, his academic background, his reputation as a lawyer's lawyer, and his steady demeanor that this man was eminently qualified.

Consequently, I came before this Committee and introduced and recommended him. As you can see by my presence here today, I stand by that recommendation. In fact I am privileged to give it once again to this Committee.

David Ogden was deemed qualified to receive the Senate's confirmation nearly a decade ago, having had experience as an Assistant Attorney General, he is even more experienced to serve as Deputy Attorney General.

Mr. Chairman, as a part of my preparation for appearing at this hearing, I discussed with Mr. Ogden my view that the Department of Justice plays an integral role in protecting our national security. The duty to work with departments of state, defense, and intelligence community to keep our nation safe and deter the many diverse threats against our security while protecting our civil liberties. The gathering of intelligence relating to these threats is essential and that responsibility has rested, for many generations on the shoulders of the most dedicated, courageous public servants. Often their duties involve great personal risk. While no man is "above the law" they deserve the utmost of fair and objective consideration where facts support a finding that they acted in good faith, in reliance on court decisions and legal opinions, as they discharged their duties in collecting intelligence.

The Congressional Record of February 2, 2009 records the excellent debate in the subject. My views are consistent with those Senators, Republicans and Democrats, who spoke in support of Mr. Holder to be Attorney General. I quote from that record, "Senator Bond: 'I invite my colleagues to the following written assurance given by Mr. Holder to Senator Kyl about a week ago concerning the investigation of intelligence officials conducting interrogation activities. He said: "Prosecutorial and investigative judgments must depend on the facts and no one is above the law. But where it is clear that a governmental agent has acted in responsible and good faith reliance on Justice Department legal opinions authoritatively permitting his conduct, I would find it difficult to justify commencing a full blown criminal investigation, let alone a prosecution.'" President Obama has made similar public statements on this issue.

I thank the Committee, once again, for the opportunity to be here today to speak on the nominee's behalf and to offer him my unqualified support.

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