2018-0011-P

# FOIA Marker

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# Records Management, White House Office of

Subject Files - FG050 (Judicial Branch)

Stack: Row: Sect.: Shelf: Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number: O	A Number:
W 11 7 11 1	12136	24999	12172	11962

560851

Folder Title:

# Withdrawn/Redacted Material The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;
002	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	<b>5</b> \\	05/09/2003	P5; P6/b6;
003	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;
004	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;
005	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;

#### **COLLECTION TITLE:**

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SERIES:	
Subject Files - FG050 (Judicial Branch)	
FOLDER TITLE: 560851	
FRC ID: 12136	
RESTR	RICTION CODES
Presidential Records Act - [44 U.S.C. 2204(a)]	Freedom of Information Act - [5 U.S.C. 552(b)]
P1 National Security Classified Information [(a)(1) of the PRA]	b(1) National security classified information [(b)(1) of the FOIA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]	b(2) Release would disclose internal personnel rules and practices of

- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]
- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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- personal privacy [(b)(6) of the FOIA] b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
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Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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DOCUME NO.	NT FORM	SUBJECT/TITLE {	PAGES DA	ATE RESTRICTION(S)
006	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5 05/0	9/2003 P5; P6/b6;
007	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5 05/0	9/2003 P5; P6/b6;
008	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5 05/0	9/2003 P5; P6/b6;
009	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5 05/0	9/2003 P5; P6/b6;
010	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5 05/0	9/2003 P5; P6/b6;

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**Records Management, White House Office of** SERIES: Subject Files - FG050 (Judicial Branch) FOLDER TITLE: 560851 FRC ID: 12136 **RESTRICTION CODES** Presidential Records Act - [44 U.S.C. 2204(a)] Freedom of Information Act - [5 U.S.C. 552(b)] P1 National Security Classified Information [(a)(1) of the PRA] P2 Relating to the appointment to Federal office [(a)(2) of the PRA] P3 Release would violate a Federal statute [(a)(3) of the PRA] an agency [(b)(2) of the FOIA] P4 Release would disclose trade secrets or confidential commercial or b(3) Release would violate a Federal statute [(b)(3) of the FOIA] financial information [(a)(4) of the PRA] P5 Release would disclose confidential advice between the President information [(b)(4) of the FOIA] and his advisors, or between such advisors [a)(5) of the PRA]

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This document was prepared on Friday, August 03, 2018

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2201(3).

# Withdrawn/Redacted Material The George W. Bush Library

DOCUME NO.	ENT FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
011	Email	Additional Suggestions from Judge Gonzales on Judges Speech - To: Colleen Carroll - From: Brett Kavanaugh	1	05/07/2003	P5;
012	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;
013	Speech	- Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;
014	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;
015	Speech	Remarks on Judicial Independence and Judicial Confirmation Process	5	05/09/2003	P5; P6/b6;

COLLECTION TITLE: Records Management, White House Office of	
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**B.** Closed by statute or by the agency which originated the document. C. Closed in accordance with restrictions contained in donor's deed

FORM	SUBJECT/TITLE	이 집에 있는 사람들이 있다.		J	PAGES DATE	<b>RESTRICTION(S)</b>
Speech	Remarks on Indicial	Independence and Indicial	Confirmation Proc	ess	5 05/09/2003	B P5; P6/b6;

Remarks on Judicial Independence and Judicial Confirmation Process

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION: Records Management, White House (	fice of	•
SERIES: Subject Files - FG050 (Judicial Branc		
FOLDER TITLE: 560851	가 있는 것은 가장에 가지도 않는 것은 것은 것을 가지 않는 것을 가지 않는 것을 가지 않는다. 이 것은 것을 것을 수 있는 것을 것을 수 있는 것을 것을 수 있는다.	
FRC ID: 12136	FOIA IDs and Segments:	
OA Num.: 11962	2018-0011-P	, V
NARA Num.: 12172		

**RESTRICTION CODES** 

#### Presidential Records Act - [44 U.S.C. 2204(a)]

#### P1 National Security Classified Information [(a)(1) of the PRA]

- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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#### **Deed of Gift Restrictions**

Speech

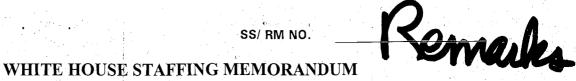
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- Freedom of Information Act [5 U.S.C. 552(b)]
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SS/ RM NO.



ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM Date: 3/6/03 6:15 PM

Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

	ACTION	FYI		ACTION	FYI
	excel Z		HAGIN		
			HOBBS DE		
АВВОТ			MARBURGER		
BARTLETT COM			MIERS Concerts		
BLAKEMAN			MONTGOMERY		
BOLTEN NC			POWELL		
BRIDGELAND			RICE		
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**REMARKS:** 

PLEASE FORWARD YOUR COMMENTS TO ANNE CAMPBELL EXTENSION 60170/FAX 62983, BY 2:00 PM, WEDNESDAY, MAY 7, 2003, AND SEND A COPY TO THE STAFF SECRETARY, EXTENSION 62702/FAX 62215. THANK YOU.

**RESPONSE:** 

FC	DRM	SUBJECT/TITLE				PAGES	DATE	<b>RESTRICTION(S)</b>
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Speech Remarks on Judicial Independence and Judicial Confirmation Process 5 05/09/2003 P5; P6/b6;

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### Cleveland, Carolyn E.

From: Sent: Subject: Besanceney, Brian R. Friday, May 09, 2003 11:58 AM FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

### THE WHITE HOUSE

### Office of the Press Secretary

For Immediate Release

May 9, 2003

## The President's Call to Action on Judicial Nominees

Ø Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-or-down vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9, 2001, nominees represent the mainstream of American law and values, possess extraordinary experience, intellect and integrity, and enjoy strong bipartisan support.

Ø The Senate has a Constitutional responsibility to hold an up or down vote on judicial nominees and to do so within a reasonable time after nomination. As illustrated by the extraordinary delays on these first 11 nominees, the judicial confirmation process is broken. For the sake of the American people and our system of justice, the confirmation process must be fixed. The President reiterated the call he first made in June 2000 – when several Democrat Senators publicly agreed with him -- for a fair and timely Senate confirmation process for every nominee.

Ø Today the President signed an executive order formalizing his commitment to submit nominations within 180 days after receiving notification of a vacancy. Now we are waiting on the Senate to do its duty – and ensure timely up-or-down votes for every nominee.

# Ø Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.

ü Since President Bush took office, more appeals court nominees have waited at least a year for a hearing than in the last 50 years *combined*.

ü During President Bush's first two years in office, only 53% of appeals court nominees were confirmed compared to a rate of over 90% during the same period for the last 3 Presidencies.

ü A minority of Senators are now engaging in unprecedented filibusters of two highly qualified appeals court nominees who have the support of a majority of Senators. And more filibusters are threatened.

ü Yesterday, a minority of Senators for the 6th time blocked a vote on Miguel Estrada and for the 2nd time blocked a vote on Priscilla Owen.

ü Some Senators are applying a double standard to Miguel Estrada and Priscilla Owen.

### Ø The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.

ü When the federal courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.

ü There is now a 12% vacancy rate in the U.S. Courts of Appeals.

ü Fifteen of the appeals court seats for which the President currently has nominations pending have been declared

1

"judicial emergencies" by the Judicial Conference of the United States.

ü The President has submitted 42 superb nominees for the federal courts of appeals. Eighteen of them are still waiting for a vote in the Senate – and 8 of those 18 have been waiting more than a year.

### $\varnothing$ The President's nominees are highly qualified and deserve a vote.

ü The President's nominees are known for their character, experience and intellect.

ü Each shares the President's philosophy that judges should follow the law, and not make the law.

ü Each of the nominees has strong bipartisan support.

ü The President's nominees represent the mainstream of American law and values.

ü All of the President's appeals court nominees who have been rated have received a "qualified" or "well-qualified" rating from the American Bar Association.

### Ø It is time to fix the broken confirmation process.

ü It's time to restore dignity and fairness to the judicial confirmation process and to address the vacancy crisis, particularly in the appeals courts, as Republican Senator Cornyn and Democrat Senator Pryor recently advocated on behalf of the 10 new United States Senators.

ü The President has proposed a comprehensive three-Branch plan to fix the process and end the vacancy crisis. He has proposed that judges give one-year advance notice of retirement when possible, that Presidents submit nominations within 180 days of receiving notice of a vacancy or intended retirement, and that the Senate vote up or down on nominees within 180 days after nomination. The plan would apply now and in the future no matter who is President or which party controls the Senate.

ü The Judicial Conference has done its part. In March they adopted the President's proposal for one-year advance notice by judges of an intended retirement.

ü The President is submitting nominations within 180 days of receiving notice of a vacancy or intended retirement, and today he signed an executive order formalizing his commitment to prompt nomination.

**ü** Now it is time for the Senate to act. Every nominee deserves a vote in a reasonable amount of time, a principle that Senators on both sides of the aisle have advocated:

ü Senator Harkin on September 14, 2000 stated: "... I'll just close by saying that Governor Bush had the right idea. He said the candidate should get an up or down vote within 60 days of their nomination."

U Senator Leahy on October 3, 2000 stated: "Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree.... [T]hat is what we are paid to do in this body. We are paid to vote either yes or no – not vote maybe. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting maybe, but we are doing a terrible disservice to the man or woman to whom we do this."

ü Senator Daschle on October 5, 1999 stated: "... I find it simply baffling that a Senator would vote against even voting on a judicial nomination."

**ü** Senator Biden on March 19, 1997, stated: "I respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor."

Ø Let each Senator vote as he or she thinks best – but give every nominee a vote.

2

# The President's Call to Action on Judicial Nominees

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- The Senate has a Constitutional responsibility to hold an up or down vote on judicial nominees and to do so within a reasonable time after nomination. As illustrated by the extraordinary delays on these first 11 nominees, the judicial confirmation process is broken. For the sake of the American people and our system of justice, the confirmation process must be fixed. The President reiterated the call he first made in June 2000 when several Democrat Senators publicly agreed with him -- for a fair and timely Senate confirmation process for every nominee.
- Today the President signed an executive order formalizing his commitment to submit nominations within 180 days after receiving notification of a vacancy. Now we are waiting on the Senate to do its duty and ensure timely up-or-down votes for every nominee.
- Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.
- ✓ Since President Bush took office, more appeals court nominees have waited at least a year for a hearing than in the last 50 years *combined*.
- ✓ During President Bush's first two years in office, only 53% of appeals court nominees were confirmed compared to a rate of over 90% during the same period for the last 3 Presidencies.
- A minority of Senators are now engaging in unprecedented filibusters of two highly qualified appeals court nominees who have the support of a majority of Senators. And more filibusters are threatened.
- ✓ Yesterday, a minority of Senators for the 6<sup>th</sup> time blocked a vote on Miguel Estrada and for the 2<sup>nd</sup> time blocked a vote on Priscilla Owen.
- ✓ Some Senators are applying a double standard to Miguel Estrada and Priscilla Owen.
- > The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.
- ✓ When the federal courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- ✓ There is now a 12% vacancy rate in the U.S. Courts of Appeals.
- ✓ Fifteen of the appeals court seats for which the President currently has nominations pending have been declared "judicial emergencies" by the Judicial Conference of the United States.
- The President has submitted 42 superb nominees for the federal courts of appeals. Eighteen of them are still waiting for a vote in the Senate and 8 of those 18 have been waiting more than a year.
- > The President's nominees are highly qualified and deserve a vote.
- ✓ The President's nominees are known for their character, experience and intellect.
- Each shares the President's philosophy that judges should follow the law, and not make the law.
- Each of the nominees has strong bipartisan support.
- The President's nominees represent the mainstream of American law and values.
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Let each Senator vote as he or she thinks best - but give every nominee a vote.

### WHITE HOUSE STAFFING MEMORANDUM

Date: 5-9-03, 6:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

-14

3 Section

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	FYI
			HAGIN		
CARD	ľ	+*	HOBBS		
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**REMARKS:** 

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.

RESPONSE:

# The President's Call to Action on Judicial Nominees

- Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-ordown vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9 nominees represent the mainstream of American law and American values, possess extraordinary experience, intellect, and integrity, and enjoy strong bipartisan support.
- The Senate has a Constitutional responsibility to hold an up or down vote on judicial nominees and to do so within a reasonable time after nomination. As illustrated by the extraordinary delays on these first 11 nominees, the judicial confirmation process is broken. For the sake of the American people and the American system of justice, the confirmation process must be fixed. Every person nominated to the federal bench should receive a timely vote. Today, the President reiterated the call he first made in June 2000 when several Democrat Senators publicly agreed with him -- for a fair and timely Senate confirmation process.
- Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.
- Since President Bush took office, more judicial nominees have waited at least a year for a hearing than in the last 50 years combined.
- During President Bush's first two years in office, only 50% of appeals court nominees were confirmed compared to a rate of over 90% during the same period in the last 3 Presidencies.
- ✓ A minority of Senators are now engaging in unprecedented filibusters of two highly qualified appeals court nominees who have the support of a majority of Senators. And more filibusters are threatened.
- Yesterday, a minority of Senators for the 6<sup>th</sup> time blocked a vote on Miguel Estrada and for the 2<sup>nd</sup> time blocked a vote on Priscilla Owen.
- Some Senators are demanding information and seeking confidential attorney-client memos that have not been required from past nominees. And they are applying a double standard to Miguel Estrada and Priscilla Owen.

> The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.

- When the Federal Courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- ✓ There is currently a 12% vacancy rate in the U.S. courts of appeals.
- Fifteen of the appeals court seats for which the President currently has nominations pending are "judicial emergencies."
- ✓ The President has submitted 42 superb nominees for the federal court of appeals. Eighteen of them are still waiting for a vote in the Senate and 8 of those 18 have been waiting more than a year.

### > The President's nominees are highly qualified and deserve a vote.

- ✓ Each nominee is known for character, experience, intellect, and following the law.
- Each shares the President's philosophy that judges should follow the law, and not make the law.
- Each of the nominees has strong bipartisan support.
- Each of the nominees represents the mainstream of American law and American values.
- > It is time to fix the broken confirmation process.
- It's time to restore dignity and fairness to the judicial confirmation process and to address the vacancy crisis, particularly in the appeals courts, as Republican Senator Cornyn and Democrat Senator Pryor recently advocated on behalf of the 10 new United States Senators.
- ✓ The President has proposed a comprehensive three-Branch plan to fix the process and end the vacancy crisis. He has proposed that judges give one-year advance notice of retirement where possible, that Presidents submit nominations within 180 days of learning of a vacancy or intended retirement, and that the Senate vote

up or down on nominees within 180 days after nomination. The plan would apply now and in the future no matter who is President or which party controls the Senate.

- ✓ The Judicial Conference has done its part and in March adopted the President's proposal for one-year advance notice by judges of an intended retirement
- The President is submitting nominations within 180 days of learning or a vacancy or intended retirement, and today he signed an executive order formalizing his commitment to prompt nomination.

✓ Now it is time for the Senate to act. Every nominee deserves a vote in a reasonable amount of time, a principle Senators on both sides of the aisle have advocated:

- Senator Harkin on September 14, 2000 stated: "...I'll just close by saying that Governor Bush had the right idea. He said the candidate should get an up or down vote within 60 days of their nomination."
- Senator Leahy on October 3, 2000 stated: "Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. . . [T]hat is what we are paid to do in this body. We are paid to vote either yes or no not vote maybe. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting maybe, but we are doing a terrible disservice to the man or woman to whom we do this."
- Senator Daschle on October 5, 1999 stated: "...I find it simply baffling that a Senator would vote against even voting on a judicial nomination."
- Senator Biden on March 19, 1997, stated: "I respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor."

### Barclay, Barbara A.

From: Sent: To: Cc: Subject: Snee, Ashley Thursday, May 08, 2003 11:16 PM Staff Secretary Fleischer, Lawrence A.; Kavanaugh, Brett M. Fact Sheet for Friday Morning

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Please put me down for the contact. Please send remarks by 9:30 AM ph: 62115 fax: 60126



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Thank you!

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## WHITE HOUSE STAFFING MEMORANDUM

Date: 3/6/03 6:15 PM ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

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PLEASE FORWARD YOUR COMMENTS TO ANNE CAMPBELL EXTENSION 60170/FAX 62983, BY 2:00 PM, WEDNESDAY, MAY 7, 2003, AND SEND A COPY TO THE STAFF SECRETARY, EXTENSION 62702/FAX 62215. THANK YOU.

**RESPONSE:** 

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RESPONSE:

FORM SUBJECT/TITLE		PAGES	DATE RESTRICTION(S)
Speech Remarks on Judicial	Independence and Judicial Confirmation Process	5	05/09/2003 P5; P6/b6;

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COLLECTION: Records Management, White House Office of	
SERIES: Subject Files - FG050 (Judicial Branch)	
FOLDER TITLE: 560851	
FRC ID: 12136	FOIA IDs and Segments: 2018-0011-P
OA Num.: 11962	2010-0011-F
NARA Num.: 12172	

#### **RESTRICTION CODES**

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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**Records Not Subject to FOIA** 

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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#### **Deed of Gift Restrictions**

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
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Speech Remarks on Judicial Inc	lependence and Judicial	Confirmation Process	5	05/09/2003	P5; P6/b6;

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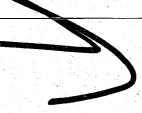
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Comments marked. Jon Burks

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REMARKS:

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PLEASE FORWARD YOUR COMMENTS TO ANNE CAMPBELL EXTENSION 60170/FAX 62983, BY 2:00 PM, WEDNESDAY, MAY 7, 2003, AND SEND A COPY TO THE STAFF SECRETARY, EXTENSION 62702/FAX 62215. THANK YOU.

**RESPONSE:** 

FORM SUBJECT/TITLE		PAGES DATE RESTRICTION(S)
Speech Remarks on Judic	al Independence and Judicial Confirmation Process	5 05/09/2003 P5; P6/b6;

# This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

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#### **RESTRICTION CODES**

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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#### **Records Not Subject to FOIA**

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

SS/,	RM	NO.	
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WHITE HOUSE	STAFFING	MEMORA	NDUM.
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Date: 3/6/03 6:15 PM ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM

Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

	ACTION	FYI		ACTION	FYI	
VICE PRESIDENT			HAGIN		'ö₽	7 <sup>7</sup> ami0:i7
CARD			HOBBS			
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REMARKS:

PLEASE FORWARD YOUR COMMENTS TO ANNE CAMPBELL EXTENSION 60170/FAX 62983, BY 2:00 PM, WEDNESDAY, MAY 7, 2003, AND SEND A COPY TO THE STAFF SECRETARY, EXTENSION 62702/FAX 62215. THANK YOU.

RESPONSE:

No comments.

05/07/14 16:21 FAX 202 456 5557

DOMESTIC POLICY COUNCIL

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#### SS/ RM NO.

### WHITE HOUSE STAFFING MEMORANDUM

Date: 3/6/03 6:15 PM ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM

Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
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**RESPONSE:** Suggertin Attrached. GAMMMARC

FORM	SUBJECT/TITLE		PAGES DATE RESTRICTION(S)
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Remarks on Judicial Independence and Judicial Confirmation Process

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COLLECTION: Records Management, White House Office of	
SERIES: Subject Files - FG050 (Judicial Branch)	
FOLDER TITLE: 560851	
FRC ID: 12136	FOIA 1Ds and Segments:
OA Num.: 11962	2018-0011-Р
NARA Num.: 12172	

#### **RESTRICTION CODES**

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

5

05/09/2003

P5: P6/b6:

- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

#### **Deed of Gift Restrictions**

Speech

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C: Closed in accordance with restrictions contained in donor's deed of gift.

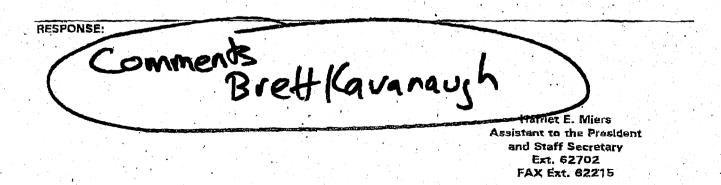
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REMARKS:

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FORM	SUBJECT/TITLE				PAGES	DATE RESTRICT	ION(S)
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FORM SUBJECT/TITLE	and the second second	PAGES	DATE RESTRICTION(S)

Additional Suggestions from Judge Gonzales on Judges Speech - To: Colleen Carroll - From: Brett Kavanaugh

#### 1 05/07/2003 P5;

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COLLECTION: Records Management, White House Office of	
SERIES: Subject Files - FG050 (Judicial Branch)	
FOLDER TITLE: 560851	
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OA Num.:	2018-0011-P
11962 NARA Num.:	
<b>12172</b>	

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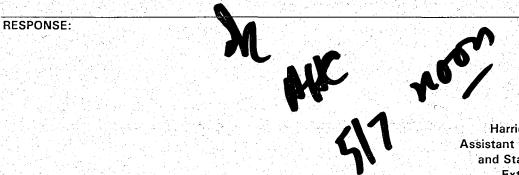
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#### **REMARKS:**

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Speech Remarks on Judicial Independence and Judicial Confirmation Process

05/09/2003 P5; P6/b6;

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**Records Not Subject to FOIA** 

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#### OFFICE OF THE VICE PRESIDENT

WASHINGTON

03 MAY 7 PH2:11

## May 7, 2003

## MEMORANDUM FOR ANNE CAMPBELL EXECUTIVE ASSISTANT TO THE DIRECTOR OF SPEECHWRITING

## FROM: JOE LEVENTHAL TC DEPUTY STAFF SECRETARY TO THE VICE PRESIDENT

## SUBJECT: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

The Office of the Vice President has reviewed the above-referenced draft and recommends the changes marked on the attached copy. The attached comments, where applicable, are provided with explanation to ensure the remarks are historically and legally accurate.

## Attachment

cc: Harriet Miers Staff Secretary

SS/ RM NO.

WHITE HOUS	E STAFFING	MEMORA	NDUM

Date: 3/6/03 6:15 PM ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM

Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

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REMARKS:

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RESPONSE:

Harriet E. Miers Assistant to the President and Staff Socretary Ext. 62702 FAX Ext. 62215 P.02

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FORM	SUBJECT/TITLE						PAGES	DATE	RESTRIC	CTION(S)
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COLLECTION:	
Records Management, White House Office of	
SERIES:	
Subject Files - FG050 (Judicial Branch)	
FOLDER TITLE: 560851	
FRC ID: 12136	
OA Num.: 11962	
NARA Num: 12172	

#### **RESTRICTION CODES**

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**Records Not Subject to FOIA** 

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

03/07/03 13:29 FAX

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## WHITE HOUSE STAFFING MEMORANDUM

Date: 3/6/03 6:15 PM ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM

Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
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BLAKEMAN			MONTGOMERY		
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FLEISCHER			CLERK		
FRIEDMAN					
GAMBATESA					
GERSON					
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**RESPONSE:** 

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Date: 3/6/03 6:15 PM ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM

Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

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VICE PRESIDENT			HAGIN		
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BLAKEMAN			MONTGOMERY		
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**REMARKS:** 

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**RESPONSE:** 

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P5: P6/b6: Speech Remarks on Judicial Independence and Judicial Confirmation Process 05/09/2003

# This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION: Records Management, White House Office of	
SERIES: Subject Files - FG050 (Judicial Branch)	
FOLDER TITLE: 560851	
FRC ID: 12136	FOIA IDs and Segments:
OA Num.: 11962	2018-0011-P
NARA Num.: 12172	
Presidential Records Act - [44 U.S.C. 2204(a)] RESTRICTION	CODES dom of Information Act - [5 U.S.C. 552(b)]

- iolate a Federal statute [(a)(3) of the PRA] P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]
- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

**Deed of Gift Restrictions** 

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document. C. Closed in accordance with restrictions contained in donor's deed of gift.

- an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA] b(4) Release would disclose trade secrets or confidential or financial
- information [(b)(4) of the FOIA] b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

**Records Not Subject to FOIA** 

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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<sup>1</sup>09 MAY 7 PH5:45

Date: 3/6/03 6:15 PM ACTION / CONCURRENCE / COMMENT DUE BY: 3/7/03 2:00 PM

Subject: REMARKS ON JUDICIAL INDEPENDENCE (DRAFT #3, MAY 9, 2003)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	V		HAGIN		
CARD	Ľ		HOBBS		
ABBOT			MARBURGER		
BARTLETT	ľ		MIERS		
BLAKEMAN			MONTGOMERY		
BOLTEN			POWELL		
BRIDGELAND			RICE		
CONNAUGHTON			ROVE		
DANIELS			SPELLINGS		
FLEISCHER			CLERK		
FRIEDMAN					
GAMBATESA					
GERSON					
GONZALES					

**REMARKS:** 

PLEASE FORWARD YOUR COMMENTS TO ANNE CAMPBELL EXTENSION 60170/FAX 62983, BY 2:00 PM, WEDNESDAY, MAY 7, 2003, AND SEND A COPY TO THE STAFF SECRETARY, EXTENSION 62702/FAX 62215. THANK YOU.

**RESPONSE:** 

Harriet E. Miers Assistant to the President and Staff Secretary Ext. 62702 FAX Ext. 62215

SS/ RM NO.

# Withdrawal Marker The George W. Bush Library

FORM	SUBJECT/TITLE			х	P	AGES DATE	RESTRICTION(S)
					an a		
Speech	Remarks on Jud	licial Independence	e and Judicial Co	onfirmation Proce	SS	5 05/09/2003	P5; P6/b6;

# This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:	
Records Management, White House Office of	
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FOLDER TITLE: 560851	
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OA Num.:	2018-0011-P
11962	
NARA Num.:	그는 말 아이는 것을 가 못했는 것을 가 많다.
12172	

#### **RESTRICTION CODES**

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]

- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
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Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA] b(4) Release would disclose trade secrets or confidential or financial
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**Records Not Subject to FOIA** 

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.



SS/ RM NO.

Date: 5-9-03, 6:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
CARD			HOBBS		
ABBOT			MARBURGER		
BARTLETT			MIERS		
BLAKEMAN			MONTGOMERY		
BOLTEN			POWELL		
BRIDGELAND			RICE		
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**REMARKS:** 

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.



- Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-ordown vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9 nominees represent the mainstream of American law and American values, possess extraordinary experience, intellect, and integrity, and enjoy strong bipartisan support.
- The Senate has a Constitutional responsibility to hold an up or down vote on judicial nominees and to do so within a reasonable time after nomination. As illustrated by the extraordinary delays on these first 11 nominees, the judicial confirmation process is broken. For the sake of the American people and the American system of justice, the confirmation process must be fixed. Every person nominated to the federal bench should receive a timely vote. Today, the President reiterated the call he first made in June 2000 when several Democrat Senators publicly agreed with him -- for a fair and timely Senate confirmation process.
- Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.
- Since President Bush took office, more judicial nominees have waited at least a year for a hearing than in the last 50 years combined.
- ✓ During President Bush's first two years in office, only 50% of appeals court nominees were confirmed compared to a rate of over 90% during the same period in the last 3 Presidencies.
- A minority of Senators are now engaging in unprecedented filibusters of two highly qualified appeals court nominees who have the support of a majority of Senators. And more filibusters are threatened.
- Yesterday, a minority of Senators for the 6<sup>th</sup> time blocked a vote on Miguel Estrada and for the 2<sup>nd</sup> time blocked a vote on Priscilla Owen.
- ✓ Some Senators are demanding information and seeking confidential attorney-client memos that have not been required from past nominees. And they are applying a double standard to Miguel Estrada and Priscilla Owen.
- > The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.
- When the Federal Courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- ✓ There is currently a 12% vacancy rate in the U.S. courts of appeals.
- ✓ Fifteen of the appeals court seats for which the President currently has nominations pending are "judicial emergencies."
- The President has submitted 42 superb nominees for the federal court of appeals. Eighteen of them are still waiting for a vote in the Senate and 8 of those 18 have been waiting more than a year.

## > The President's nominees are highly qualified and deserve a vote.

- ✓ Each nominee is known for character, experience, intellect, and following the law.
- Each shares the President's philosophy that judges should follow the law, and not make the law.
- Each of the nominees has strong bipartisan support.
- Each of the nominees represents the mainstream of American law and American values.
- > It is time to fix the broken confirmation process.
- It's time to restore dignity and fairness to the judicial confirmation process and to address the vacancy crisis, particularly in the appeals courts, as Republican Senator Cornyn and Democrat Senator Pryor recently advocated on behalf of the 10 new United States Senators.
- ✓ The President has proposed a comprehensive three-Branch plan to fix the process and end the vacancy crisis. He has proposed that judges give one-year advance notice of retirement where possible, that Presidents submit nominations within 180 days of learning of a vacancy or intended retirement, and that the Senate vote

up or down on nominees within 180 days after nomination. The plan would apply now and in the future no matter who is President or which party controls the Senate.

- The Judicial Conference has done its part and in March adopted the President's proposal for one-year advance notice by judges of an intended retirement
- The President is submitting nominations within 180 days of learning or a vacancy or intended retirement, and today he signed an executive order formalizing his commitment to prompt nomination.
- Now it is time for the Senate to act. Every nominee deserves a vote in a reasonable amount of time, a principle Senators on both sides of the aisle have advocated:
  - Senator Harkin on September 14, 2000 stated: "...I'll just close by saying that Governor Bush had the right idea. He said the candidate should get an up or down vote within 60 days of their nomination."
- Senator Leahy on October 3, 2000 stated: "Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. . . [T]hat is what we are paid to do in this body. We are paid to vote either yes or no not vote maybe. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting maybe, but we are doing a terrible disservice to the man or woman to whom we do this."
- Senator Daschle on October 5, 1999 stated: "...I find it simply baffling that a Senator would vote against even voting on a judicial nomination."
- Senator Biden on March 19, 1997, stated: "I respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor."

#### 05/09/2003 FRI 06:37 FAX

#### TRANSMISSION OK

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SS/ RM NO.

# WHITE HOUSE STAFFING MEMORANDUM

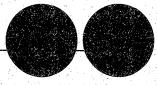
Date: 5-9-03, 6:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	FYI
			HAGIN		
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ABBOT			MARBURGER		
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DANIELS			SPELLINGS		
FLEISCHER			CLERK		
FRIEDMAN					
GAMBATESA					
GERSON					
GONZALES					

**REMARKS**:

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY FRIDAY 5-9-03 WITH COPY TO STARE SECRETARY TURNEY OUT



## WHITE HOUSE STAFFING MEMORANDUM

SS/ RM NO.

Date: 5-9-03, 6:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
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BOLTEN			POWELL		
BRIDGELAND			RICE		
CONNAUGHTON			ROVE		
DANIELS			SPELLINGS		
FLEISCHER			CLERK		
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GONZALES	<b>F</b>				

#### **REMARKS:**

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#### TRANSMISSION OK

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SS/ RM NO.

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Date: 5-9-03, 6:00 AM \_\_\_\_\_ ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

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CONNAUGHTON			ROVE		
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**REMARKS:** 

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN

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	- 1		HAGIN		
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GONZALES					

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**RESPONSE:** 

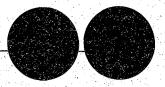
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- > The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.
- When the Federal Courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- ✓ There is currently a 12% vacancy rate in the U.S. courts of appeals.
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SS/ RM NO.



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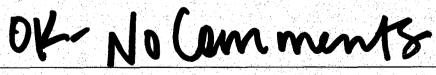
Date: 5-9-03, 6:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

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	ACTION	FYI		ACTION	FYI	
VICE PRESIDENT			HAGIN			
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DANIELS			SPELLINGS			
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GAMBATESA						
GERSON						
GONZALES						

## Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

**REMARKS:** 

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.



**RESPONSE:** 

- Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-ordown vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9 nominees represent the mainstream of American law and American values, possess extraordinary experience, intellect, and integrity, and enjoy strong bipartisan support.
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- When the Federal Courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- ✓ There is currently a 12% vacancy rate in the U.S. courts of appeals.
- Fifteen of the appeals court seats for which the President currently has nominations pending are "judicial emergencies."
- ✓ The President has submitted 42 superb nominees for the federal court of appeals. Eighteen of them are still waiting for a vote in the Senate and 8 of those 18 have been waiting more than a year.
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#### WHITE HOUSE STAFFING MEMORANDUM

Date: 5-9-03, 6:00 AM

ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

## Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	"OF WAY	<u> 9</u> ам <u>9</u> :02
VICE PRESIDENT			HAGIN			
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GONZALES						

REMARKS:

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.

RESPONSE:

No comment.

Harriet E. Mlers Assistant to the President and Staff Secretary Ext. 62702 FAX Ext. 62215 P.01/01

SS/ RM NO.

Cel

## WHITE HOUSE STAFFING MEMORANDUM

Date: 5/8/03 7:45 PM \_\_\_\_ ACTION / CONCURRENCE / COMMENT DUE BY: 5/9/03 1200 000 AM9:02

## Subject: REMARKS ON THE ECONOMY - NEBRASKA (DRAFT #4, MAY 12, 2003)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
CARD			HOBBS		
ABBOT			MARBURGER		
BARTLETT			MIERS		
BLAKEMAN			MONTGOMERY		
BOLTEN	L.		POWELL		
BRIDGELAND			RICE		
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DANIELS	E		SPELLINGS		
FLEISCHER			CLERK		
FRIEDMAN			Mankow		
GAMBATESA					
GERSON					
GONZALE			· · · · · · · · · · · · · · · · · · ·		

#### REMARKS:

PLEASE FORWARD COMMENTS DIRECTLY TO ANNE CAMPBELL (6-0170/FAX 6-2983), BY NOON, FRIDAY, MAY 9, 2003, WITH A COPY TO THE STAFF SECRETARY (6-2702/FAX 6-2215).

RESPONSE:

OK - NO

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05/09/03 FRI 09:06 FAX 4566702

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SS/ RM NO.

## WHITE HOUSE STAFFING MEMORANDUM

Date: 5-9-03, 6:00 AM

ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

## Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

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	ACTION	FYI		ACTION	FYI	]
VICE PRESIDENT			HAGIN	0		
CARD			HOBBS			
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BLAKEMAN			MONTGOMERY	<b></b>		
BOLTEN			POWELL			
BRIDGELAND			RICE	G		
CONNAUGHTON			ROVE			
DANIELS			SPELLINGS			
FLEISCHER			CLERK			
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**REMARKS:** 

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**RESPONSE:** 

Missing pesied on 4th line, Otherwise OK 2nd page Assistant to the President and Staff Secretary

and Staff Secretary Ext. 62702 FAX Ext. 62215

- Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-ordown vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9 nominees represent the mainstream of American law and American values, possess extraordinary experience, intellect, and integrity, and enjoy strong bipartisan support.
- The Senate has a Constitutional responsibility to hold an up or down vote on judicial nominees and to do so within a reasonable time after nomination. As illustrated by the extraordinary delays on these first 11 nominees, the judicial confirmation process is broken. For the sake of the American people and the American system of justice, the confirmation process must be fixed. Every person nominated to the federal bench should receive a timely vote. Today, the President reiterated the call he first made in June 2000 when several Democrat Senators publicly agreed with him for a fair and timely Senate confirmation process.
- Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.
- Since President Bush took office, more judicial nominees have waited at least a year for a hearing than in the last 50 years combined.
- ✓ During President Bush's first two years in office, only 50% of appeals court nominees were confirmed compared to a rate of over 90% during the same period in the last 3 Presidencies.
- ✓ A minority of Senators are now engaging in unprecedented fillbusters of two highly qualified appeals court nominees who have the support of a majority of Senators. And more fillbusters are threatened.
- ✓ Yesterday, a minority of Senators for the 6<sup>th</sup> time blocked a vote on Miguel Estrada and for the 2<sup>nd</sup> time blocked a vote on Priscilla Owen.
- ✓ Some Senators are demanding information and seeking confidential attorney-client memos that have not been required from past nominees. And they are applying a double standard to Miguel Estrada and Priscilla Owen.
- > The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.
- When the Federal Courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- There is currently a 12% vacancy rate in the U.S. courts of appeals.
- ✓ Fifteen of the appeals court seats for which the President currently has nominations pending are "judicial emergencies."
- The President has submitted 42 superb nominees for the federal court of appeals. Eighteen of them are still waiting for a vote in the Senate and 8 of those 18 have been waiting more than a year.
- > The President's nominees are highly qualified and deserve a vote.
- Each nominee is known for character, experience, intellect, and following the law.
- Each shares the President's philosophy that judges should follow the law, and not make the law.
- Each of the nominees has strong bipartisan support.
- Each of the nominees represents the mainstream of American law and American values.
- > It is time to fix the broken confirmation process.
- It's time to restore dignity and fairness to the judicial confirmation process and to address the vacancy crisis, particularly in the appeals courts, as Republican Senator Cornyn and Democrat Senator Pryor recently advocated on behalf of the 10 new United States Senators.
- The President has proposed a comprehensive three-Branch plan to fix the process and end the vacancy crisis. He has proposed that judges give one-year advance notice of retirement where possible, that Presidents submit nominations within 180 days of learning of a vacancy or intended retirement, and that the Senate vote

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- up or down on nominees within 180 days after nomination. The plan would apply now and in the future no matter who is President or which party controls the Senate.
- The Judicial Conference has done its part and in March adopted the President's proposal for one-year advance notice by judges of an intended retirement a
- The President is submitting nominations within 180 days of learning or a vacancy or intended retirement, and today he signed an executive order formalizing his commitment to prompt nomination.
- Now it is time for the Senate to act. Every nominee deserves a vote in a reasonable amount of time, a principle Senators on both sides of the aisle have advocated:
- ✓ Senator Harkin on September 14, 2000 stated: "...I'll just close by saying that Governor Bush had the right idea. He said the candidate should get an up or down vote within 60 days of their nomination."
- Senator Leahy on October 3, 2000 stated: "Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. . . [1]hat is what we are paid to do in this body. We are paid to vote either yes or no not vote maybe. When we hold a nominee up by not allowing them a vote and not taking any action one
  - way or the other, we are not only voting maybe, but we are doing a terrible disservice to the man or woman to whom we do this."
- Senator Daschle on October 5, 1999 stated: "...I find it simply baffling that a Senator would vote against even voting on a judicial nomination."
- Senator Biden on March 19, 1997, stated: "I respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor."

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#### OFFICE OF THE VICE PRESIDENT

WASHINGTON

TO: EMA E YAM EO

May 9, 2003

## MEMORANDUM FOR ASHLEY SNEE ASSISTANT PRESS SECRETARY

# FROM: JOE LEVENTHALM TO THE VICE PRESIDENT

SUBJECT:

Fact Sheet – The President's Call to Action on Judicial Nominees

The Office of the Vice President has reviewed the above-referenced draft and recommends the changes marked on the attached copy.

Attachment

cc: Harriet Miers Staff Secretary OVP

SS/ RM NO.

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WUTE HOUSE	STAFFING MEMOR	I STORY G
<b>TY FLILE, FLILING</b>		

Date: 5-9-03, 6:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
CARD			HOBBS		
ABBOT			MARBURGER	. 🗖	
BARTLETT			MIERS	Ð	
BLAKEMAN			MONTGOMERY		
BOLTEN			POWELL		
BRIDGELAND			RICE		
CONNAUGHTON			ROVE	F	
DANIELS			SPELLINGS		
FLEISCHER			CLERK		
FRIEDMAN					
GAMBATESA					
GERSON					
GONZALES					

REMARKS:

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.

**RESPONSE:** 

Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-ordown vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9 nominees represent the mainstream of American law and American values, possess extraordinary experience, intellect, and integrity, and enjoy strong bipartisan support.

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- The Senate basic Constitutional responsibility to fold an up or down vote on judicial nominees and to do so within a reasonable time after nomination. As illustrated by the extraordinary delays on these first 11 nominees, the judicial confirmation process is broken. For the sake of the American people and the American system of justice, the confirmation process must be fixed. Every person nominated to the federal bench should receive a timely vote. Today, the President reiterated the call he first made in June 2000 when several Democrat Senators publicly agreed with him for a fair and timely Senate confirmation process.
- Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.
- Since President Bush took office, more judicial nominees have waited at least a year for a hearing than in the last 50 years combined.
- During President Bush's first two years in office, only 50% of appeals court nominees were confirmed compared to a rate of over 90% during the same period if the last 3 Presidencies.
- A minority of Senators are now engaging in unprecedented filibusters of two highly qualified appeals court nominees who have the support of a majority of Senators. And more filibusters are threatened.
- Yesterday, a minority of Senators for the 6<sup>th</sup> time blocked a vote on Miguel Estrada and for the 2<sup>nd</sup> time blocked a vote on Priscilla Owen.
- a vote on Priscilla Owen. Some Senators are demanding information and seeking confidential attorney-client memos that have not been required from past nominees. And they are applying a double standard to Miguel Estrada and Priscilla Owen.

## > The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.

- ✓ When the Federal Courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- There is currently a 12% vacancy rate in the U.S. courts of appeals.
- Fifteen of the appeals court seats for which the President currently has nominations pending are "judicial emergencies."
- The President has submitted 42 superb nominees for the federal court of appeals. Eighteen of them are still waiting for a vote in the Senate and 8 of those 18 have been waiting more than a year.

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- Each of the nominees has strong bipartisan support.
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- > It is time to fix the broken confirmation process.
- It's time to restore dignity and fairness to the judicial confirmation process and to address the vacancy crisis, particularly in the appeals courts, as Republican Senator Comyn and Democrat Senator Pryor recently advocated on behalf of the 10 new United States Senators.
- The President has proposed a comprehensive three-Branch plan to fix the process and end the vacancy crisis. He has proposed that judges give one-year advance notice of retirement where possible, that Presidents submit nominations within 180 days of learning of a vacancy or intended retirement, and that the Senate vote

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- The Judicial Conference has done its part and in March adopted the President's proposal for one-year advance notice by judges of an intended retirement
- The President is submitting nominations within 180 days of learning or a vacancy or intended retirement, and today he signed an executive order formalizing his commitment to prompt nomination.
- ✓ Now it is time for the Senate to act. Every nominee deserves a vote in a reasonable amount of time, a principle Senators on both sides of the aisle have advocated:
  - Senator Harkin on September 14, 2000 stated: "...I'll just close by saying that Governor Bush had the right idea. He said the candidate should get an up or down vote within 60 days of their nomination."
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## WHITE HOUSE STAFFING MEMORANDUM

Date: 5-9-03, 6:00 AM ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM HAY 9 AM 3:42

SS/ RM NO.

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

OPD

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
CARD			HOBBS		
ABBOT			MARBURGER		
BARTLETT			MIERS		
BLAKEMAN			MONTGOMERY		
BOLTEN			POWELL		
BRIDGELAND			RICE		
CONNAUGHTON			ROVE		
DANIELS			SPELLINGS		
FLEISCHER			CLERK		
	-				
GAMBATESA					
GERSON					
GONZALES					

**REMARKS:** 

05/09/03 08:32 FAX

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.

EC. "No Comments

**RESPONSE:** 

SS/ RM NO.

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BRIDGELAND			RICE		
CONNAUGHTON			ROVE		
DANIELS			SPELLINGS		
FLEISCHER			CLERK		
FRIEDMAN					
GAMBATESA					
GERSON					
GONZALES					

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RESPONSE:

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## WHITE HOUSE STAFFING MEMORANDUM

Date: 5-9-03, 6:00 AM \_\_\_\_ ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

		ACTION	FYI		ACTION	FYI
	VICE PRESIDENT			HAGIN		
	CARD			HOBBS		
	ABBOT			MARBURGER		
	BARTLETT			MIERS		
	BLAKEMAN			MONTGOMERY	ľ	
	BOLTEN	-		POWELL		
	BRIDGELAND			RICE		
	CONNAUGHTON			ROVE		
	DANIELS			SPELLINGS		
	FLEISCHER	Ľ		CLERK		
	FRIEDMAN	Ľ				
	GAMBATESA					
	GERSON					
4.1	GONZALES					

**REMARKS:** 

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.

**RESPONSE:** 

Harriet E. Miers Assistant to the President and Staff Secretary Ext. 62702 FAX Ext. 62215

Commt S

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 05/09/03	09:29	<u>FAX</u>	
05/09/03	08:37	FAX	

SS/ RM NO.

## WHITE HOUSE STAFFING MEMORANDUM

203 MAY 9 AM10:33

ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM Date: 5-9-03, 6:00 AM

OPD

Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
CARD			HOBBS		
ABBOT			MARBURGER		
BARTLETT			MIERS		
BLAKEMAN			MONTGOMERY		
BOLTEN			POWELL		
BRIDGELAND			RICE		
CONNAUGHTON			ROVE		
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GAMBATESA				• • • • • • • • • • • • • • • • • • •	
GERSON				- D	
GONZALES				. 🛛	

REMARKS:

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**RESPONSE:** 

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- Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-ordown vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9 nominees represent the mainstream of American law and American values, possess extraordinary experience, intellect, and integrity, and enjoy strong bipartisan support.
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- Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.
- Since President Bush took office, more judicial nominees have waited at least a year for a hearing than in the last 50 years combined.
- During President Bush's first two years in office, only 50% of appeals court nominees were confirmed compared to a rate of over 90% during the same period in the last 3 Presidencies.
- A minority of Senators are now engaging in unprecedented filibusters of two highly qualified appeals court nominees who have the support of a majority of Senators. And more filibusters are threatened.
- ✓ Yesterday, a minority of Senators for the 6<sup>th</sup> time blocked a vote on Miguel Estrada and for the 2<sup>nd</sup> time blocked a vote on Priscilla Owen.
- Some Senators are demanding information and seeking confidential attorney-client memos that have not been required from past nominees. And they are applying a double standard to Miguel Estrada and Priscilla Owen.

> The delays in the process are causing vacancy crises in many of our nation's federal appeals courts.

- When the Federal Courts are understaffed, they cannot act in a timely manner to resolve disputes that affect the lives and liberties of Americans.
- There is currently a 12% vacancy rate in the U.S. courts of appeals.
- Fifteen of the appeals court seats for which the President currently has nominations pending are "judicial emergencies."
- The President has submitted 42 superb nominees for the federal court of appeals. Eighteen of them are still waiting for a vote in the Senate and 8 of those 18 have been waiting more than a year.
- > The President's nominees are highly qualified and deserve a vote.
- Each nominee is known for character, experience, intellect, and following the law.
- Each shares the President's philosophy that judges should follow the law, and not make the law.
- Each of the nominees has strong bipartisan support.
- Each of the nominees represents the mainstream of American law and American values.

## > It is time to fix the broken confirmation process.

- It's time to restore dignity and fairness to the judicial confirmation process and to address the vacancy crisis, particularly in the appeals courts, as Republican Senator Cornyn and Democrat Senator Pryor recently advocated on behalf of the 10 new United States Senators.
- The President has proposed a comprehensive three-Branch plan to fix the process and end the vacancy crisis. He has proposed that judges give one-year advance notice of retirement where possible, that Presidents submit nominations within 180 days of learning of a vacancy or intended retirement, and that the Senate vote

OPD .

up or down on nominees within 180 days after nomination. The plan would apply now and in the future no matter who is President or which party controls the Senate.

- The Judicial Conference has done its part and in March adopted the President's proposal for one-year advance notice by judges of an intended retirement
- The President is submitting nominations within 180 days of learning or a vacancy or intended retirement, and today he signed an executive order formalizing his commitment to prompt nomination.
- Now it is time for the Senate to act. Every nominee deserves a vote in a reasonable amount of time, a principle Senators on both sides of the aisle have advocated:
  - Senator Harkin on September 14, 2000 stated: "...I'll just close by saying that Governor Bush had the right idea. He said the candidate should get an up or down vote within 60 days of their nomination."

✓ Senator Leahy on October 3, 2000 stated: "Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. . . [T]hat is what we are paid to do in this body. We are paid to vote either yes or no – not vote maybe. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting maybe, but we are doing a terrible disservice to the man or woman to whom we do this."

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- Senator Biden on March 19, 1997, stated: "I respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor."



## WHITE HOUSE STAFFING MEMORANDUM

Date: 5-9-03, 6:00 AM

ACTION / CONCURRENCE / COMMENT DUE BY: 5-9-03, 9:30 AM

SS/ RM NO.

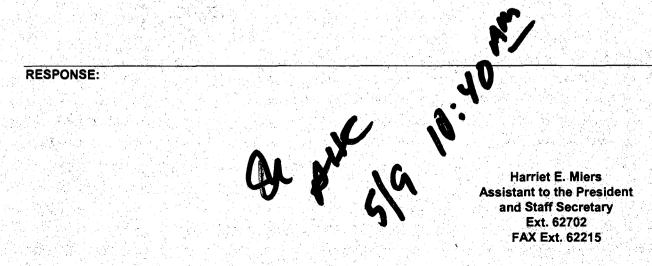
TOB WAY BAN11:03

## Subject: FACT SHEET: THE PRESIDENT'S CALL TO ACTION ON JUDICIAL NOMINEES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT			HAGIN		
CARD	→ E		HOBBS		
ABBOT			MARBURGER		
BARTLETT			MIERS		D
BLAKEMAN			MONTGOMERY		
BOLTEN			POWELL		
BRIDGELAND			RICE		
CONNAUGHTON			ROVE	Ľ	
DANIELS			SPELLINGS		
FLEISCHER			CLERK		
FRIEDMAN	ľ				
GAMBATESA					
GERSON					
GONZALES					

REMARKS:

PLEASE SEND COMMENTS TO ASHLEY SNEE, EXT. 62115, FAX 60126, NO LATER THAN 9:30 AM TODAY, FRIDAY, 5-9-03, WITH COPY TO STAFF SECRETARY. THANK YOU.



- Two years ago today, President Bush announced his first 11 nominees to the federal appeals courts and asked the Senate to rise above the bitterness of the past and give every nominee fair treatment and a timely up-ordown vote. But 8 of those 11 nominees then waited more than a year without a Senate vote. And today, 3 of these highly qualified nominees still have not received a vote. They are Miguel Estrada, Priscilla Owen, and Terry Boyle. All of the May 9 nominees represent the mainstream of American Iaw and American values, possess extraordinary experience, intellect, and integrity, and enjoy strong bipartisan support.
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- Some Senators are engaging in unprecedented obstructionist tactics and delaying the confirmation process.
- Since President Bush took office, more judicial nominees have waited at least a year for a hearing than in the last 50 years *combined*.
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