



Urge Your Senator to Vote Now to Confirm President Obama's Nomination of Dawn Johnsen to Head the Justice Department's Office of Legal Counsel

- The U.S. Senate should vote now to confirm Dawn Johnsen to head the Justice Department's Office of Legal Counsel.
- That office plays a key role in protecting our constitutional rights.
- Johnsen, who has the support of a Senate majority, is highly qualified and is being held hostage by a threatened filibuster by Senate Republicans to further their partisan political agenda.
- Instead of further delay, the Senate should hold a vote and get back to other priority issues such as the economy, health care, and education.

What's at stake – upholding the Constitution and the law

The Office of Legal Counsel in the Justice Department has a special and important role.

- It tells the president and the rest of the executive branch whether proposed executive orders or other actions are within the Constitution and the law.
- This is a key responsibility in ensuring that our government respects constitutional rights such as freedom of speech and association; freedom of religion; the right to privacy; and equal treatment under the law, without discrimination.

During the Bush administration, the Office failed to do that job.

- Instead of upholding the Constitution and the law, it provided legal cover for whatever political agenda the White House wanted to pursue.
- An example now in the news is the abuse of the Office to authorize illegal torture.
- Other examples include authorization of wiretapping without warrants.

Why President Obama chose Dawn Johnsen to head the OLC

- **Practical experience.** She served in the Office of Legal Counsel for five years in the 1990s, including as acting director. She knows what it takes to tell the president what is legal and constitutional, whether it's what he wants to hear or not.
- **Legal expertise.** She is a distinguished law professor at Indiana University whose academic writings have focused on how to protect against abuses of executive power. She spearheaded an effort by legal experts who served in the Clinton administration to develop guidelines to ensure that the Office of Legal Counsel fulfills its proper role in the future.
- **Proven judgment and independence.** Johnsen has been an outspoken critic of the failure of the Office to uphold the law during the Bush administration.
- **Support throughout the legal community.** Johnsen's nomination is supported by a wide range of experts, including Brad Berenson, White House Counsel's Office under George W. Bush; Walter Dellinger, Solicitor General and head of the Office of Legal Counsel under President Clinton; Doug Kmiec, Principal Deputy of the Office of Legal Counsel under Bush Sr.; and Lawrence Wilkerson, former Chief of Staff to Republican Secretary of State Colin Powell.

Why Republican senators are threatening to filibuster the nomination so it never comes to a vote even though a majority of senators support it

- **Political agenda.** The Senate's job is to vote on qualified nominees to key positions in the executive branch. Even though Johnsen is highly qualified, Republican senators are holding her nomination hostage to advance their political agenda.
 - For example, they want assurances from the Obama administration that no top Bush administration officials will be held accountable for illegal actions related to torture.
 - They also oppose Johnsen, who teaches Sunday school at the United Methodist Church in Bloomington, because, like a substantial majority of Americans, she does not share the Republican leadership's political opposition to established law protecting a woman's right to choose regarding the private matter of abortion.
- **Sexism.** Sen. John Cornyn (R-Texas) ridiculed President Obama's choice of Johnsen, saying she does not possess the "seriousness" for the job.
 - Clearly, Republican senators would not make such remarks about a male nominee who had previously held the job to which they were being nominated and who had a distinguished academic record directly relevant to the responsibility they would be assuming.
 - Indeed, Republican senators enthusiastically supported President Bush's nomination of Jay Bybee to the job. Bybee was the author of the recently publicized memo authorizing the Bush administration to engage in illegal torture.
- **Hypocrisy.** Such senators as Sam Brownback (R-Kansas), and John Kyl (R-Arizona), are all on the public record saying flatly that presidential nominations should always be subject to an up-or-down, majority vote and not filibustered by a minority.

"Finally, neither filibusters nor supermajority requirements have any place in the confirmation process." Sam Brownback (R-Kansas)

"The President should get to pick his own team." John Kyl (R-AZ)

Yet, Republicans in the Senate have not committed to allowing a vote on Johnsen,

- **Blocking changes that America needs.** Senate Republicans have voted against expanding access to healthcare for children (SCHIP), the economic stimulus package, and the president's budget that takes initial steps toward more access to affordable health care, creation of "green jobs," and a fairer tax code.