

July 17, 2013

The Honorable Patrick Leahy  
Chairman  
Senate Judiciary Committee  
United States Senate  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Senators Leahy and Grassley:

We write as lawyers with extensive experience in law enforcement to support the confirmation of Cornelia (Nina) Pillard to the U.S. Court of Appeals for the D.C. Circuit. Some of us have been prosecutors; others have worked for the FBI or other law enforcement bodies. Among our signatories are two former Deputy Attorneys General, the former Assistant Attorney General in charge of the National Security Division, a prosecutor in the case against Timothy McVeigh and Terry Nichols for the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, a former FBI General Counsel, and a former assistant U.S. Attorney who led the Southern District of New York's unit specializing in investigating and prosecuting government corruption. Some of us have worked directly and extensively with Ms. Pillard, in government or elsewhere; others of us know her mainly by reputation, or through her academic work and published writing; but all of us believe that she would be an excellent judge. We urge her confirmation because she is unquestionably eminently qualified, and is a sensible and fair-minded lawyer and scholar who has worked extensively with law enforcement in her career. She brings to the bench sensitivity to the compelling need for effective and legitimate law enforcement in the modern era. She stands for fidelity to the law above all, and has demonstrated an unwavering commitment to the important, albeit limited, role of the courts in our federal system.

Ms. Pillard has devoted most of her career to public service, and much of that time she has represented and advised law enforcement officials. She served in both the Office of the Solicitor General and the Office of Legal Counsel. As an attorney in the Solicitor General's office, she briefed and argued several important cases that helped ensure that prosecutors and the police are able to do their jobs efficiently and effectively. In *Behrens v. Pelletier*, 516 U.S. 299 (1996), for example, Ms. Pillard won an important victory ensuring that local, state, and federal government officials can defend themselves adequately when sued, overturning an appellate court decision that had limited such officials' ability to appeal rulings denying them "qualified immunity." In *Ornelas v. United States*, 517 U.S. 690 (1996), she successfully defended the United States' position on the standard of appellate review of reasonable suspicion and probable cause, the defining thresholds for police searches and seizures. In *Lewis v. United States*, 518 U.S. 322 (1996), she successfully argued that the Sixth Amendment jury right does not extend to petty offenses, even in cases charging more than one such offense, thus protecting prosecutors'

ability efficiently to try such cases. In addition to those and other cases pressing law enforcement interests in the Supreme Court, in the Solicitor General's Office Ms. Pillard worked on countless other matters defending criminal convictions and shielding federal officials from civil damages lawsuits.

Ms. Pillard also served as a Deputy Assistant Attorney General in the Office of Legal Counsel, the office charged with advising the President, the Attorney General and federal law enforcement agencies on the scope of their authorities in criminal, civil and national security matters. Among others, that office provides advice to the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Homeland Security, and the Department of Defense. One of the OLC attorney's most important roles is to ensure that law enforcement officials and intelligence agencies have the tools necessary to keep Americans safe while simultaneously ensuring that these tools conform to constitutional and statutory limitations. Ms. Pillard's experience navigating that line gives her unique understanding of the obligations and needs of law enforcement.

As a scholar, Ms. Pillard has written on issues concerning law enforcement with a sensitive and balanced attention both to ensuring that law enforcement activities are consistent with constitutional constraints, and that law enforcement officials have the authority and the protection necessary to do their jobs effectively. She has written leading articles on how the OLC and the Solicitor General's office pursue national law enforcement and national security interests within legal and constitutional bounds, and on immunity doctrines as they affect law enforcement officials' daily activities. These articles show Ms. Pillard to be a careful and sensible scholar, rigorously attentive to legal doctrine, and cognizant of the ways that law affects government operations and the safety of our people and nation.

This letter takes no position on the ongoing controversy surrounding the appropriate number of judges on the D.C. Circuit. But we believe that if additional judges are to be confirmed, Ms. Pillard is superbly qualified, and will bring to the bench a wealth of experience and sound judgment in dealing with constitutional and statutory law as it affects the implementation of national security and law enforcement on a daily basis. We urge her swift confirmation.

Sincerely,

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