

**Prepared Statement for the Record by U.S. Senator Chuck Grassley (R-Iowa)**  
**Ranking Member, Senate Judiciary Committee**  
**Hearing on the Nomination of Judge Merrick Garland to be Attorney General**  
**Monday, February 22, 2021**

Good morning. I want to welcome everyone to this very important hearing to consider the nomination of Judge Merrick Garland to serve as the 86th Attorney General of the United States.

I'd like to echo Chairman Durbin in welcoming our new Members to this Committee. I look forward to working with you all.

I'd also like to extend my congratulations to Senator Durbin in his new role as Chairman of this Committee. He and I have served together for many years and have accomplished some great things, like the First Step Act. When Chairman Durbin joined this Committee, he was my ranking member on the administrative oversight subcommittee. So we go way back and I look forward to working with you, Chairman Durbin.

I'd also like to express my admiration for the previous Democratic leader on this Committee, Senator Feinstein. I enjoyed working with her when I was last Chairman and I think she did an excellent job last Congress with Chairman Graham. I have tremendous respect for her service to the people of California and her leadership in this body. It's too bad that the Committee will have to wait a little longer before it has its first female Chairman. Senator Blackburn: the pressure is on.

I'd also like to say a word about Judge Garland. This is, of course, Judge Garland's first time appearing before this Committee since ascending to the federal bench. I had something to do with that. After the death of Justice Scalia, my Republican colleagues and I decided that it would be inappropriate to hold a hearing for any candidate to the Supreme Court nominated by President Obama at that point in his term. As you recall, it was an election year with divided government. The position I took was consistent with the publicly expressed positions of then-Senator Biden in 1992 and Senator Schumer in 2007, when their party was in charge of the Senate during presidential-election cycles. With that in mind, President Obama nominated Judge Garland anyway, as was his right. I kept my word, and the Senate did not consider the nomination, as was our right.

So yes, it's true that I didn't give him a hearing. I also didn't mischaracterize his record. I didn't attack his character. I didn't go through his high-school yearbook. I didn't make his wife leave the hearing in tears. I took a position on hearings, and I stuck to it. I did everything I could to keep it civil and professional with Judge Garland. As I told him on the phone when we talked recently, I very much enjoyed the breakfast we had during his Supreme Court nomination. I admire his public service. Just because I disagreed with anyone being nominated, didn't mean I had to be disagreeable to him. Unfortunately, that's not always the way it works.

Judge Garland is here, though, as a nominee to be Attorney General. That is what we're here to talk about. I'd like to extend a warm welcome to him and his family. This is a worthy capstone to his storied career.

Judge Garland is a good pick to lead the Department of Justice. I don't think anyone doubts his credentials, and I won't repeat much of what Chairman Durbin just said. He has decades of experience as one of the most respected appellate judges in the country. And before that, he was a great prosecutor. When the domestic terrorist, Timothy McVeigh, was executed for his crimes, we had Merrick Garland to thank for it.

No one doubts that Judge Garland is qualified for this job. But of course Attorney General is more than just qualifications. The top law-enforcement officer of the United States must be committed to enforcing the rule of law. As our former colleague and former Attorney General, John Ashcroft, likes to say, the Department of Justice is the only cabinet agency whose name is an ideal. It's not the Department of Law Enforcement but the Department of Justice. Justice is equality under the law. There's one law for all Americans regardless of race, color, creed, or connection. Is Judge Garland up to that task? I think he is, but today our goal is to find out.

The Department of Justice has taken important steps to live up to these ideals over the last four years.

It has taken many successful initiatives to reduce violent crime:

- It enacted programs like Project Guardian, Operation Legend, and Operation Lady Justice, the task force on Missing and Murdered American Indians and Alaska Natives.
- It prioritized combating the opioid epidemic and fighting the scourge of fentanyl.
- It has successfully executed some of the most heinous murderers in the country, starting with a notorious white supremacist.

It has sought to maintain the rule of law:

- In 2018 the Attorney General issued a memorandum establishing that consent decrees are properly designed to redress constitutional violations without causing federal intrusion in state and local government.
- In 2020 it issued regulations prohibiting the use of guidance documents to create rights or impose obligations on persons outside of the executive branch.
- It has also implemented many policies to limit the ability of activists in government to sidestep Congress, including a final rule ending third-party payment "slush funds."

It has protected our civil liberties:

- It has enacted a new rule regarding the participation of religious entities in federal programs. It published a new memorandum on protecting religious liberty. And it improved protections against anti-religious bias in federal grant programs. It has emphasized its efforts to combat antisemitism.
- It has spearheaded its Elder Justice Initiative to protect the rights and safety of the elderly, most recently during the coronavirus pandemic where it investigated the tragic and preventable deaths that swept through the nursing homes of certain States.

I hope that the Department of Justice continues these initiatives under Judge Garland.

What I don't want is a return to the Obama years. I don't want an attorney general who is a "wing man" to the President, as Eric Holder notoriously described himself. I don't want an attorney general who takes tarmac meetings with President Clinton while she's busy investigating his wife. I don't want a Justice Department that abuses the FISA process to spy on American citizens. I don't want a Justice Department that refuses to defend laws we pass because its officials disagree with them. I don't want consent decrees that federalize law enforcement and cause murder rates to soar. I don't want a Civil Rights Division that goes after school choice. I don't want a return to catch and release on the border. I don't want a return of Operation Chokepoint, where the Justice Department decides which Americans deserve access to banks.

Unfortunately a lot of what we've seen so far from the Justice Department is discouraging. President Biden has already issued 30 Executive Orders. At the Department of Justice we've already seen whiplash-inducing changes in litigation positions on issues like affirmative action, union organizing, and even Obamacare after the case was already argued at the Supreme Court. The Justice Department has already rescinded memos from the past four years including the banning of third-party slush funds in environmental cases. President Biden is also reportedly firing nearly every Senate-confirmed U.S. Attorney regardless of what investigations they are supervising. This is very troubling.

This is why I am especially concerned about the Durham investigation. I'd like to take a minute to discuss that investigation and Crossfire Hurricane. Starting in January 2017, I began an investigation into how the Justice Department and FBI handled Crossfire Hurricane, its investigation into the Trump campaign and administration. Since then, much has been discovered and exposed.

Simply said, Crossfire Hurricane is a textbook example of what shouldn't happen during investigations. That investigation was marred by one mistake after another, starting from the beginning.

The Justice Department Inspector General, for example, found 17 errors and omissions in the FISA applications to spy on Carter Page, an advisor to then-candidate Trump. There were also 50 errors in the "Woods process" for the Carter Page FISA applications.

The Democratic National Committee's Steele Dossier was not sound intelligence. It was political opposition research created to damage then-candidate Trump. And that's what they used to get the Carter Page FISAs. Documents released by me, Senator Graham, and Senator Johnson prove that. For example, in one FBI memo, Steele described President Trump as his "main opponent."

This means that the Obama administration relied on political opposition research to surveil a political opponent, used the Department of Justice to inflict maximum damage on him—all while withholding exonerating evidence from the FISA court.

What the Obama administration did to the Trump campaign, transition, and administration can't ever happen again.

If confirmed, you'll have oversight of Special Counsel Durham's review of Crossfire Hurricane.

When Bill Barr appeared before this committee for his nomination hearing he said, "It's vitally important that the Special Counsel be allowed to complete his investigation."

Of course, he was referring to then-Special Counsel Mueller's investigation.

Today, you'll need to be clear about what your position will be with regard to Special Counsel Durham. When we discussed this over the phone you told me that your predisposition would be to review the record before making a decision. That answer surprised me. It's not an answer this Committee would have accepted from Barr on Mueller. I think your predisposition, frankly, should be to protect and support the ongoing investigation as much as possible.

Additionally, as I'm sure you're aware, Senator Johnson and I opened an investigation into the Biden family's financial dealings.

Our investigation found deep and extensive connections between and among the Biden family and foreign nationals linked to the communist Chinese government.

We asked that Hunter Biden, James Biden and other business associates appear for a transcribed interview. They've refused.

I'd note that when I started my Crossfire Hurricane investigation, Donald Trump Jr. cooperated and sat for a transcribed interview.

The connections between the Biden family and the Chinese government are so extensive that I wrote a letter to the Justice Department requesting that it review whether or not Hunter Biden and James Biden should register as foreign agents under the Foreign Agents Registration Act.

If confirmed, you'll have to answer that letter.

In addition, although our report was widely criticized by the left, Hunter Biden announced that he's under criminal investigation for his taxes and financial dealings, which is the very fact pattern our report exposed.

If confirmed, you'll oversee that investigation and today you must be clear that you'll handle it objectively and without any interference from the White House.

So, Judge Garland, I just want to say that I like you, I respect you, and I think you're a good pick for this job. But I have a lot of questions for you about how you're going to run the Department of Justice.