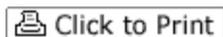




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Sources: White House officials urging liberal pick for court vacancy

By **Bill Mears**, CNN Supreme Court Producer

STORY HIGHLIGHTS

- Sources: List of potential nominees for upcoming Supreme Court vacancy being finalized
- Senior officials are urging president to make a "reliably" liberal pick, sources say
- Sources close to the vetting process say focus is down to three people
- Solicitor General Elena Kagan, Judges Diane Wood and Merrick Garland mentioned

Washington (CNN) -- The White House has begun finalizing its list of potential nominees for the upcoming Supreme Court vacancy, with many senior administration officials privately urging the president to name someone with a proven, "reliable" liberal record, according to sources closely involved in the selection process.

It comes as President Obama has expressed renewed alarm over what he called "activism" by conservative judges, saying part of his criteria in selecting the next person to sit on the high court will be "judicial restraint."

White House officials have been quietly holding small, informal meetings this week with progressive groups, discussing candidates for the court and political issues that could be raised during the Senate confirmation process.

Government sources say top Obama aides have been getting an earful from liberals, who want to ensure a strong voice from the left is chosen, not a so-called "compromise" choice that could ensure a smoother confirmation this summer. They worry a nominee perceived as having a moderate-liberal record could lock Democrats into a position of never being able to win approval of future Obama judicial and executive branch nominees with more liberal views.

"There is the concern this White House may not want a political fight over the court in an election year," said one liberal activist who has talked with administration officials about the pending vacancy. "And we expressed our belief that this is a lifetime appointment, the issues she -- or he -- will decide are monumental, and now is not the time to think small, or think safe."

One issue that has raised particular red flags on the left is executive power, and whether Obama has done enough to reverse the scope of anti-terror policies from the Bush administration dealing with detaining and prosecuting suspects. Some human rights groups say Obama and his aides have in some cases been too eager to embrace an expansive view of unilateral power.

"It's going to be a challenge for the Obama administration to appoint someone, frankly, we think will do the right thing and stand up for constitutional rights," said Vincent Warren, executive director of the Center for Constitutional Rights, which has defended dozens of foreign prisoners held at the Guantanamo Bay prison.

"The difficulty is that we'll likely see justices being appointed as a political compromise," he said, "and that's not the long view the Obama administration should be standing for, and that's frankly a capitulation to the petty politics that are happening in Washington while we have some of the gravest constitutional issues at stake in balance."

About 10 candidates remain on the "short list," which is now being pared down to about three or four finalists. The president is expected to formally meet with those finalists, a step that is often one of the last taken before making his decision. He may already have met privately with a few, but White House officials have been very tight-lipped on the schedule. They do say Obama has informally spoken with some candidates by phone in recent days.

The person selected, if confirmed by the Senate, would fill the seat occupied for 35 years by retiring Justice John Paul Stevens.

Sources with knowledge of the internal vetting process say the focus remains on three people: Solicitor General Elena Kagan; federal appeals judge Diane Wood, based in Chicago; and federal appeals judge Merrick Garland, who works in Washington.

Kagan is believed by many to be the leading candidate, but her lack of judicial experience and her work defending the administration's anti-terror policies worry some progressives.

"There's a real concern about Solicitor General Kagan with respect to national security issues," said Warren. "I certainly can't see anything that would lead me to believe that she would have a less expansive version of what executive power is than, certainly, the current form, and certainly with respect to how George Bush viewed it. So I think there's a real concern for human rights groups, if Elena Kagan is on the court, how that Supreme Court would know expansive and illegal executive power when they see it, and what they would be able to do about it."

Other liberal advocacy groups have praised her intellect, long government experience, and outspoken support of expanded rights for homosexuals.

Abortion rights groups have privately expressed support for Wood, who sits on the 7th U.S. Circuit Court of Appeals in Obama's hometown. They know each other from part-time teaching stints at the University of Chicago Law School. She has issued opinions viewed by liberals as favorable to abortion rights.

NARAL Pro-Choice America, in an e-mail to supporters, urged them to tell the White House to name someone with a firm commitment to abortion rights, "a fair-minded individual who, like Justice Stevens and the majority of Americans, supports the constitutional right to privacy as reflected in Roe."

Wood and Kagan were finalists for the Supreme Court opening last year, and were interviewed for the job by the president before Justice Sonia Sotomayor was chosen.

Conservative groups for their part are prepared for a political fight, and presume the president will make a "liberal" choice for the bench.

"The president and the Democratic Congress have spent the last year or so pushing through a lot of legislation that people are getting very upset about -- the health care legislation, the bailouts, the buyouts -- and he's spent the time, as well, almost viewing the constitutional question to this legislation almost as an inconvenience," said Carrie Severino, chief counsel for the Judicial Crisis Network. "Now we're concerned that he might be appointing a Supreme Court nominee who would take the same view and kind of rubber-stamp the policies that he's made."

Obama told reporters Wednesday that he opposes judges who "ignored the will of Congress, ignored democratic processes, and tried to impose judicial solutions on problems instead of letting the process work itself through politically."

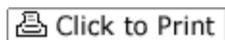
During his January State of the Union address, the president openly slammed the conservative high court majority -- some of whom were in the audience -- for a recent ruling making it easier for corporations to spend greater sums of campaign cash in federal elections.

This week, he noted many liberal judges in the 1960s and 1970s were accused of an activist approach to legal interpretation.

"What you're now seeing, I think, is a conservative jurisprudence that oftentimes makes the same error," he said. "And so I'm not looking at this particular judicial nomination through that prism alone, but I think it is important for us to understand that the concept of judicial restraint cuts both ways."

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