

April 21, 2009

VIA FACSIMILE

Re: *Nomination of Dawn E. Johnsen to be Assistant Attorney General for the Office of Legal Counsel, Department of Justice*

Dear Senator:

On behalf of the undersigned women's and reproductive health organizations, we write in strong support of the nomination of Dawn E. Johnsen to be Assistant Attorney General for the Office of Legal Counsel. The role of the Office of Legal Counsel (OLC) is to provide legal advice to the President and the agencies of the Executive Branch. OLC may well be called upon to address a broad array of legal issues, including constitutional and statutory rights of critical importance to women, under this as under any Administration. Accordingly, it is of the utmost importance that the Assistant Attorney General who leads this office possess not only outstanding qualifications but also a demonstrated commitment to the rule of law.

Professor Johnsen is eminently qualified for this position. She worked at OLC for five years under the Clinton Administration, including as Acting Assistant Attorney General. For the past ten years, she has been a tenured professor at Indiana University School of Law, focusing on complex constitutional issues including executive power and separation of powers.

In addition, Professor Johnsen has clearly demonstrated a commitment to the rule of law. She has written and commented extensively regarding the unique role, and the responsibility, of OLC to provide objective legal advice to the President and the Executive Branch. For example, in 2004, she worked with nineteen other former OLC attorneys, who served under both Democratic and Republican administrations, to create a statement of principles to guide the OLC, drawing upon longstanding best practices of that office. Moreover, she has worked in bipartisan fashion to bring greater transparency and integrity to OLC. Specifically, she worked with Brad Berenson, who had served in the White House Counsel's office during the administration of President George W. Bush, to craft legislation with that goal.

Some have opposed Professor Johnsen, despite her sterling credentials and extensive and highly relevant experience, because she has worked to support *Roe v. Wade*, a case consistently described as "settled law." This opposition presumably rests on the concern that this, or any other aspect of Professor Johnsen's prior career, might affect her work at OLC. But her writings and commentary about the unique role of that office, as well as her testimony before the Senate Judiciary Committee, clearly show that she unquestionably understands that her job as head of OLC will be to provide the President with objective, unbiased legal advice. For example, the first of the "OLC Principles" that she helped author states: "OLC should provide an accurate and honest appraisal of applicable law, even if that advice will constrain the administration's pursuit of desired

policies. The advocacy model of lawyering...inadequately promotes the President's constitutional obligation to ensure the legality of executive action.”

We note that, if approved by the Senate, Professor Johnsen would be the first woman confirmed to this important position in the Department of Justice. But more importantly, Professor Johnsen is uniquely qualified to lead OLC and has clearly demonstrated her dedication to the rule of law. Consequently, the undersigned organizations urge you to support her nomination to be Assistant Attorney General for the Office of Legal Counsel.

Sincerely,

American Association of University Women (AAUW)
Center for Reproductive Rights
Chicago Abortion Fund
Coalition of Labor Union Women
Commission on the Status of Women-Sarasota County
ERA Campaign Network
Feminist Majority
Frontera Women's Organization
Gender Perspectives
Greater New Haven Chapter of NOW
Idaho Women Lawyers, Inc.
Iowa Commission on the Status of Women
Law Students for Reproductive Justice
Legal Momentum
Middlesex County NOW-NJ
Myra Sadker Foundation
NARAL Pro-Choice America
National Abortion Federation
National Congress of Black Women, Inc.
National Council of Jewish Women
National Council of Jewish Women, California
National Council of Jewish Women, Connecticut
National Hook Up of Black Women, Inc.
National Organization for Women (NOW)
NOW-Mid-Suffolk Chapter (NY)
NOW-Sarasota Chapter (FL)
National Council for Research on Women
National Partnership for Women and Families
National Women's Law Center
Planned Parenthood Federation of America
Turning Anger into Change
YWCA of Binghamton and Broome County
YWCA Central Alabama
YWCA of Cortland (NY)

YWCA of Schenectday (NY)
YWCA of Titusville (PA)
Wider Opportunities for Women
West Virginia NOW
Women's Law Project
Women's Research & Education Institute (WREI)
Women Work/Southeast Technical Institute
www.gloriafeldt.com