

MEMO

FROM: Joe Sestak

TO: Arlen Specter

SUBJECT: Democratic Tip Sheet #2 -- Support Key Obama Nominee (This Time)!

Senator Specter, President Obama is giving you a second chance to support his nominee to lead the Office of Legal Counsel. After you joined your Republican colleagues in successfully blocking Professor Dawn Johnsen from receiving a fair up-or-down vote last year, the President has decided to [resubmit her nomination](#) this year.

With Democrat Senator Ben Nelson opposed to Johnsen, but Republican Senator Richard Lugar strongly in favor, that means that all it takes is your vote to put a principled, qualified [progressive](#) in this key position.

The Office of Legal Counsel is one of the most important offices in the Department of Justice and determines the legality of actions by the President and the Executive Branch. Because of your obstruction, President Obama is trying keep the country safe from terrorism, end two wars, and close the prison at Guantanamo Bay without a critical legal adviser.

I understand that when you switched parties you pointed to your unequivocal opposition to the health care [public option](#), your condemnation of the [Employee Free Choice Act](#) as a "bad bill," and your rejection of Professor Johnsen as demonstrations of your commitment to not be a "loyal Democrat" - but you switched your position on the first two, and coming through on a second chance to again change your position and support Professor Johnsen would be a tremendous benefit to the nation.

As you know, the Office of Legal Counsel was home to President Bush's "torture memo" writers, and many of their controversial legal opinions protect Bush Administration officials from potential prosecution. Having Professor Johnsen, a prominent critic of Bush Administration legal practices, take over the office would do much to restore our nation's commitment to the rule of law.

Of course, we understand that you may continue to oppose Professor Johnsen because, despite your occasional rhetorical, as Chairman of the Judiciary Committee you were President Bush's critical ally when he needed you most, like when you:

- **Voted for President Bush's Military Commissions Act** despite declaring that it "would take our civilized society back some 900 years. ... I believe it is unthinkable, out of the question, to enact federal legislation today which denies the habeas corpus."
 - Paying back Rick Santorum will not be considered a valid reason for this vote: "One former Judiciary Committee staff member told me that his change of heart was animated partly by his **loyalty to Rick Santorum**, the conservative Republican who held Pennsylvania's other Senate seat at the time. ... Fearing that Specter's opposition to the bill would hurt his own cause among conservatives -- who still blamed Santorum for Specter's re-election -- **Santorum made a personal plea to Specter to vote for it.**" -- [The New York Times](#)
- **Collaborated with the Bush White House to write legislation to allow wiretapping to continue.**
 - Even though you publicly claimed to oppose illegal wiretapping, you worked with the White House to provide a "**green light for domestic spying**" that would "legitimize whatever it is the NSA is doing -- and a whole lot more." -- *The Washington Post*, ["Wiretap Surrender"](#)
- **Used your power as Chairman of the Judiciary Committee to [secretly insert](#) language** into the PATRIOT Act reauthorization that allowed the Attorney General to appoint U.S. Attorneys without Senate confirmation -- a provision that contributed to the Bush Administration's firing of attorneys who failed to bring politically motivated charges against Democrats.
 - "Sen. Arlen Specter (R-PA) [confirmed](#) that **as Judiciary Committee chairman last year he made a last-minute change to a bill that expanded the administration's power** to install U.S. Attorneys without Senate approval. Seizing upon the new authority granted by Congress last March, the White House has pushed out several U.S. Attorneys, and begun to replace them without the Senate's consent."
- **Voted [against](#) banning water-boarding and other "enhanced interrogation techniques" by the CIA and other intelligence agencies.**

As a Democrat, you will need to repair this record, and allowing Professor Johnsen to lead the OLC will be a good start. To prevent the vote for her nomination from lingering on the Senate calendar for 280 days without ever being taken up -- as it did last year -- you should publicly announce your support for Professor Johnsen and call for a prompt vote when the Senate returns to session.

Joe Sestak was elected to Congress in 2006 after a distinguished 31-year career in the United States Navy, and he is honored to represent the Southeastern Pennsylvania district where he was born and raised. He is a Democratic candidate for the U.S. Senate seat from Pennsylvania. During his Navy career, Joe attained the rank of 3-star Admiral, served in the White House as Director for Defense Policy on President Clinton's National Security Council, served in the Pentagon as Deputy Chief of Naval Operations, and led a series of operational commands at sea, culminating in command of the USS George Washington Aircraft Carrier Battle Group (30 ships, 100 aircraft, and 15,000 sailors/marines/aviators/SEALs) during combat operations in Afghanistan and Iraq. In our nation's time of crisis in the immediate aftermath of 9/11, the Navy turned to Joe Sestak to serve as the first Director of "Deep Blue," the Navy anti-terrorism unit formed in response to the attacks. Joe is the highest-ranking former military officer ever elected to either branch of Congress. He graduated second in his class from the U.S. Naval Academy and holds a Master's in Public Administration and a PhD in Political Economy and Government from Harvard University. Joe lives in Delaware County, Pennsylvania, with his wife, Susan, and daughter, Alex, and proudly represents the 7th District, where his mother and many of his seven siblings still reside.

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