

## Recommended Messaging on the Supreme Court Nominee Announcement

Soon the president will announce his nominee to replace retiring Supreme Court Justice Anthony Kennedy. Though very conservative, Justice Kennedy has been the crucial swing vote on a range of important social justice questions, from reproductive rights, to LGBTQ equality, to affirmative action. By contrast, President Trump's reported candidates to replace Justice Kennedy appear highly likely to undermine those and many other legal protections. Replacing Justice Kennedy with an extreme nominee — especially during a time in which our system of checks and balances is needed more than ever — would have a lasting and devastating impact on the balance of the Court, and on our country's most long-held and fought-for values.

What follows is advice for talking about the nomination, demanding rigorous and careful scrutiny of any nominee by the Senate, and ensuring that confirmation is given only to a nominee with a demonstrated commitment to our nation's highest constitutional values and liberties.

We recommend emphasizing four themes:

### **1. Our Nation's Constitutional Values**

Supreme Court nomination debates are about the values that our nation and Constitution stand for and the extent to which any nominee will demonstrably uphold them. Freedom, Dignity, Fairness, Equal Opportunity, Equal Voice (Democracy), and Accountability (our System of Checks and Balances) are particularly important and at risk with this nomination. Be explicit about these values, what they mean, and why they're at stake.

Remind people of the kind of country we want to be, drawing on our best ideals. In plain terms, talk about the critical role of the Supreme Court in upholding those core values. For some audiences, for

example, describing examples and times in our history when we have lived up to the Constitution's stated value of Equal Justice Under Law is inspiring. And discuss the questions that arise regarding the obligation that the president has to uphold these core values.

## **2. The Nominee's Impact on People's Lives and on the Nation**

Remind audiences that Justice Kennedy's replacement will be deciding immediately and for decades what our Constitution means and how it will affect our lives. In addressing your specific audience, talk about the basic rights and expectations that they and others in our country rely upon that are now at serious risk — including the ability to marry the person you love, to plan a family, and to draw on diversity as our nation's greatest strength. Don't take the bait by repeating or debating the metaphor of Supreme Court Justices as umpires or referees — that's not what Justices do, and it frames the debate inaccurately and not on your terms.

## **3. Thorough and Rigorous Scrutiny**

Demand that the Senate (starting with the Judiciary Committee) fulfill its constitutional responsibility to thoroughly and closely examine this nominee, including his or her past record, as well as his or her candid answers to revealing and insightful questions. At the same time, the news media must have access to and report facts and perspectives that enable the public to reach its own informed conclusions.

There will inevitably be efforts to rush this nomination through to confirmation. Not only must these be rejected, but serious consideration must be given to whether the confirmation process should be suspended until the Special Counsel Investigation of the President has concluded.

## **4. Hope and Action**

Especially during these very challenging times, it's important to remind our base that we have the power to demand and achieve a fair process and an acceptable nominee. Remember to highlight what we want moving forward — and how we can get there — in addition to pointing out what we're

up against. Remind people that the process must take the time to ensure that our Constitution and country's values are upheld. Point to recent activism like the protests against President Trump's cruel border policy as clear evidence that our voices and activism can, and do, make a difference.

The United States Supreme Court represents the last line of defense for our country's most cherished rights, and for our democracy's very stability. The legacy of its rulings endures for generations, and its role in our government as the final arbiter of what the Constitution means must be bolstered, especially for audiences who will be most adversely affected by a nominee who is hostile to civil rights and liberties.

While the challenge is great, and the stakes are high, the ideals of freedom and equality are too important to be ignored in a hasty or perfunctory confirmation process. This is an opportunity to tell the story of the nation we can and should be.