

# FOIA MARKER

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Folder Title: Justice David Souter - Talking Points				
Original OA/ID Number: 03161				
ID Position:				
Subject File Document ID:				
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18	15	3		3G

# DZ Comments

4th

is a strict  
Constructionist.

Debate

Judicial restraint

Marshall  
Kingst.

THE WHITE HOUSE  
WASHINGTON

Date: \_\_\_\_\_

**TO:**

**FROM: KRISTEN GEAR**  
**Special Assistant to the Deputy Assistant**  
**for Communications**  
**122 OEOB, Ext. 2930**

**The attached is for:**

- |   |   |
|---|---|
| <input type="checkbox"/> Per our conversation   | <input type="checkbox"/> Per your request   |
| <input type="checkbox"/> Information            | <input type="checkbox"/> Review & Comment   |
| <input type="checkbox"/> Direct Response        | <input type="checkbox"/> Appropriate Action |
| <input type="checkbox"/> Draft Reply            | <input type="checkbox"/> Signature          |
| <input type="checkbox"/> File                   | <input type="checkbox"/> Other              |
| <input type="checkbox"/> Please Return by _____ |   |

**Comments:**

Supreme Court Nominee  
David Souter

fair & equitable  
competence → judicial restraint  
excellence

Orr & Reno - Malcolm McLean's firm

May 1 started Appeals Court so has not done  
any writing yet.



best cand he knew w no litmus  
test

unjust. dist. & acc. accomplishment  
inaction



outstanding  
jurist & thoughtful

cong. not reduce to partisan battle

- finalist when Kennedy was selected  
not new on the scene didn't appear  
out of nowhere

John  
Schmidt

# USA TODAY

DATE: 7-27-90

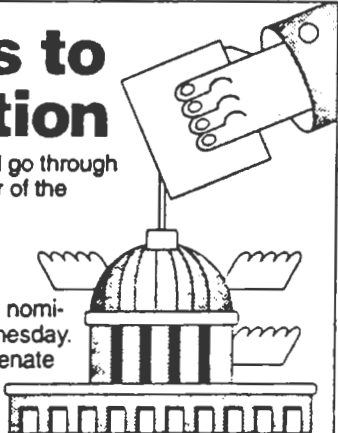
PAGE: 8A

## The steps to confirmation

Here's what David Souter will go through to be confirmed as a member of the Supreme Court:

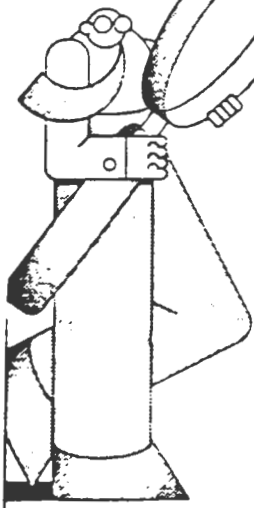
### 1 Nomination

President Bush submitted his nomination to the Senate on Wednesday. Under the Constitution, the Senate has the power to approve or reject judicial nominees.



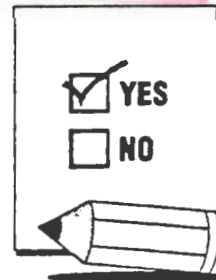
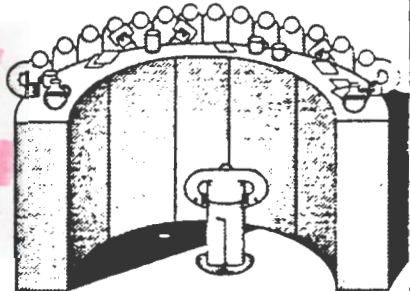
### 2 Probes

- ▶ The FBI, the American Bar Association and Senate Judiciary Committee staff conduct separate probes.
- ▶ FBI investigates for any criminal background; reviews financial records; interviews Souter's friends, family, associates; issues sealed report to committee and White House.
- ▶ ABA reviews Souter's legal writings and rulings to determine nominee's credentials; interviews lawyers and judges; issues report declaring nominee "well qualified," "qualified," or "not qualified."
- ▶ Judiciary Committee staff, using ABA, FBI reports, independent interviews and document searches, assembles witness lists and areas of questioning for hearings.



### 3 Hearings

The Senate Judiciary Committee—with eight Democrats and six Republicans—holds public hearings, interviewing the nominee, critics and supporters.

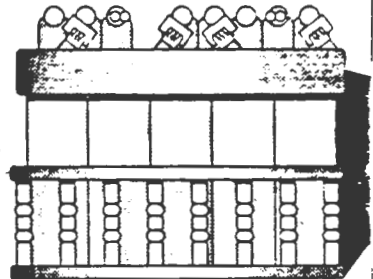


### 4 Vote

The committee votes on a recommendation and sends the nomination to the full Senate. To be confirmed, the nominee needs a majority of those voting.

### 5 Outcome

If a new justice is not confirmed by the opening of the court session Oct. 1, the court will operate with eight justices, creating possible 4-4 votes. In the case of a tie vote, a lower court's decision is upheld.



By Keith Carter, USA TODAY

## The career of David Souter

**Sept. 17, 1939** - Born in  
Melrose, Massachusetts.

**1957-61** - Harvard College

**1961-63** - Rhodes scholar,  
Magdalen College, Oxford

**1963-66** - Harvard Law School

**1966-68** - Employed by Orr and  
Reno, a prestigious Concord  
law firm.

**1968-71** - New Hampshire  
Assistant State Attorney  
General

**1971-76** - Deputy Attorney  
General

**1976-78** - Attorney General

**May 5, 1977** - Made an  
unusual appearance in District  
Court, urging stiffer sentences  
for those found guilty of  
occupying the Seabrook  
nuclear power plant site.

**1978-83** - Associate Justice,  
Superior Court of New  
Hampshire.

**1983-1990** - associate Justice,  
New Hampshire Supreme  
Court.

**Oct. 28, 1987** - Reported on  
President Reagan's short list  
of four or five potential  
nominees to the US Supreme  
Court.

**April 30, 1990** - Appointed to  
1st Circuit Court of Appeals.

**July 23, 1990** - Nominated to  
US Supreme Court.

# WHITE HOUSE DISCUSSION POINTS

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## SUPREME COURT NOMINATION OF JUDGE DAVID SOUTER

"Judge Souter, I believe with all my heart, will prove a most worthy member of the court. His tenure as an Associate Justice of the Supreme Court of the State of New Hampshire, as Attorney General of that state, and more recently, as a federal appeals judge, unquestionably demonstrates his ability, his integrity, and his dedication to public service. And he has a keen appreciation of the proper judicial role rooted in fundamental belief in separation of powers and the democratic principles underlying our great system of government."

--- President Bush nominating Judge Souter as an Associate Justice of the Supreme Court on July 24, 1990

- \* In nominating Judge Souter to the Supreme Court, the President selected a jurist of **extraordinary** ability with impeccable qualifications.
- \* Judge Souter is a man of unquestioned distinction and accomplishment. He is an outstanding judge, **fair**, equitable, and thoughtful.
- \* Judge Souter received the ABA's **highest** rating of "well qualified" before he was nominated for a judgeship on the court of appeals. He was unanimously confirmed for that position by the Senate in April, 1990.
- \* Judge Souter is a believer in judicial restraint, ~~a~~ <sup>ca</sup> ~~tough trial court judge~~ with a **great** legal mind who will interpret the Constitution not legislate from the bench.
- \* The President did not use any litmus test nor did any single issue dominate his decision to choose. There should be no litmus test in the process of confirmation.
- \* Judge David Souter was chosen because of his fidelity to the Constitution and the rule of law. These qualities, coupled with a nominee's education and experience, determine whether a nominee will be a good Justice of the Supreme Court.

For additional information, please contact the Office of Public Affairs at 202-456-2483.

\* He ~~has~~ <sup>is</sup> an experienced prosecutor and was a tough trial court judge on the New Hampshire Superior Court

## WHITE HOUSE DISCUSSION POINTS

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- \* Judge Souter is a man of unquestioned distinction and accomplishment. He is an outstanding jurist, **fair, equitable, and thoughtful.**
- \* Judge Souter received the ABA's **highest** rating of "very qualified" when he was being considered for a judgeship on the court of appeals.
- \* ~~As the President mentioned,~~ Judge Souter is a strict constructionist. ~~He~~ interprets the Constitution and ~~does~~ not legislate from the bench.
- \* ~~David Souter is~~ a **tough** trial court judge with a **great** legal mind.
- \* The President did not use any litmus test, ~~7~~ no single issue - in choosing Judge Souter because ~~that~~ is not appropriate in the selection process of a Supreme Court Justice.
- \* Judge David Souter was chosen because he is true to the life and spirit of the Constitution, a guide that Congress should also use during the confirmation process.

For additional information, please contact the Office of Public Affairs at 202-456-2483.

JUDGE DAVID H. SOUTER

President Bush today announced his intention to nominate Judge David Hacker Souter of New Hampshire to succeed retiring Justice William J. Brennan, Jr., on the United States Supreme Court.

Judge Souter is currently a judge on the United States Court of Appeals for the First Circuit. He was appointed to that court by President Bush on April 30, 1990. Judge Souter is a 1966 graduate of the Harvard Law School. He was a Rhodes Scholar at Oxford University, England, and a Phi Beta Kappa graduate of Harvard College.

Judge Souter was born in Melrose, Massachusetts in September, 1939. He has had a distinguished career in the New Hampshire Bar, having served for two years as Attorney General of New Hampshire (1976-78); five years as Associate Justice of the New Hampshire Superior Court (1978-83); and seven years as Associate Justice of the New Hampshire Supreme Court.

The American Bar Association gave Judge Souter a rating of "well qualified" at the time of his appointment to the First Circuit.

From NH

\* DAVID SOUTER

(worked for Rudman)

former Attny General for N.H.

Federal Appeals Court  
in Boston

Phi  
beta

- Harvard degree
- Rhodes scholar
- judicial restraint
- desist i (Brennan <sup>front</sup> N.E.)

fundamental belief in the  
separation of powers

no libms test

no legal issue

Searched for  
- excellence

- interpret constit. <sup>not</sup> Legist.  
from bench

bright  
scholarly  
non pd.  
"excellence"

- strict constructive -  
right age

# WHITE HOUSE STAFFING MEMORANDUM

*Read to Krista  
7/25 9:35  
SLC*

JUL 25 P2:33

DATE: 7/24/90

ACTION/CONCURRENCE/COMMENT DUE BY: 4:00 TODAY

SUBJECT: TALKING POINTS ON JUDGE SOUTER

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NEWMAN	<input type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input type="checkbox"/>	<input type="checkbox"/>	PORTER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGICH	<input type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	UNTERMEYER	<input type="checkbox"/>	<input type="checkbox"/>
CICCONI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KRISTOL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input type="checkbox"/>	<u>Winston</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HOLIDAY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide your comments/recommendations directly to Chriss Winston's office with a copy to my office by 4:00 TODAY, Tuesda, July 24. Thank you.

RESPONSE:

*minor comment  
JC*

James W. Cicconi  
Assistant to the President  
and Deputy to the Chief of Staff  
Ext. 2702

## WHITE HOUSE DISCUSSION POINTS

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### SUPREME COURT NOMINATION OF JUDGE DAVID SOUTER

"Judge Souter, I believe with all my heart, will prove a most worthy member of the court. His tenure as an Associate Justice of the Supreme Court of the State of New Hampshire, as Attorney General of that state, and more recently, as a federal appeals judge, unquestionably demonstrates his ability, his integrity, and his dedication to public service. And he has a keen appreciation of the proper judicial role rooted in fundamental belief in separation of powers and the democratic principles underlying our great system of government."

--- President Bush nominating Judge Souter as an Associate Justice of the Supreme Court on July 24, 1990

- \* In nominating Judge Souter to the Supreme Court, the President selected **extraordinary competence** and **excellence**.
- \* Judge Souter is a man of unquestioned distinction and accomplishment. He is an outstanding jurist, **fair**, equitable, and thoughtful.
- \* Judge Souter received the ABA's **highest** rating of "very qualified" when he was being considered for a judgeship on the court of appeals.
- \* Judge Souter ~~is a strict constructionist,~~ a tough trial court judge with a **great** legal mind and will interpret the Constitution not legislate from the bench.
- \* The President did not use any litmus test - no single issue - in choosing Judge Souter because it is not appropriate in the selection process of a Supreme Court Justice.
- \* Judge David Souter was chosen because he is true to the life and spirit of the Constitution, a guide that Congress should also use during the confirmation process.

For additional information, please contact the Office of Public Affairs at 202-456-2483.

Document No. \_\_\_\_\_

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	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NEWMAN	<input type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input type="checkbox"/>	<input type="checkbox"/>	PORTER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGICH	<input type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	UNTERMEYER	<input type="checkbox"/>	<input type="checkbox"/>
CICCONI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KRISTOL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input type="checkbox"/>	<u>Winston</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HOLIDAY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide your comments/recommendations directly to Chriss Winston's office with a copy to my office by 4:00 TODAY, Tuesda, July 24. Thank you.

RESPONSE:

*Pls see comments  
7/24*

90:24 P2:36

90:24 P2:36

James W. Cicconi  
Assistant to the President  
and Deputy to the Chief of Staff  
Ext. 2702

# WHITE HOUSE DISCUSSION POINTS

## SUPREME COURT NOMINATION OF JUDGE DAVID SOUTER

"Judge Souter, I believe with all my heart, will prove a most worthy member of the court. His tenure as an Associate Justice of the Supreme Court of the State of New Hampshire, as Attorney General of that state, and more recently, as a federal appeals judge, unquestionably demonstrates his ability, his integrity, and his dedication to public service. And he has a keen appreciation of the proper judicial role rooted in fundamental belief in separation of powers and the democratic principles underlying our great system of government."

--- President Bush nominating Judge Souter as an Associate Justice of the Supreme Court on July 24, 1990

*with impeccable qualifications.*

\* In nominating Judge Souter to the Supreme Court, the President selected ~~extraordinary competence and excellence.~~ *a jurist of ability*

\* Judge Souter is a man of unquestioned distinction and accomplishment. He is an outstanding ~~jurist, fair, equitable, and thoughtful.~~ *judge* *a superb background for the court: he has been a private practitioner,*

\* Judge Souter received the ABA's highest rating of "very qualified" when he was being considered for a judgeship on the court of appeals. *has been a prosecutor, a* *well ?*

\* Judge Souter ~~is a strict constructionist, a tough trial court judge, with a great~~ *keen* *and an appeals court judge. As his record demonstrates he has* legal mind and will interpret the Constitution, not legislate from the bench.

\* The President did not use any litmus test - no single issue - in choosing Judge Souter because it is not appropriate in the selection process of a Supreme Court Justice. *a*

\* Judge David Souter was chosen because he is true to the life and spirit of the Constitution, a guide that Congress should also use during the confirmation process.

For additional information, please contact the Office of Public Affairs at 202-456-2483.

*\* He was unanimously confirmed by the Senate earlier this year to be a member of the First Circuit Court*

# WHITE HOUSE STAFFING MEMORANDUM

10 JL 24 P12: 29

DATE: 7/24/90 ACTION/CONCURRENCE/COMMENT DUE BY: 4:00 TODAY

SUBJECT: TALKING POINTS ON JUDGE SOUTER

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NEWMAN	<input type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input type="checkbox"/>	<input type="checkbox"/>	PORTER	<input type="checkbox"/>	<input type="checkbox"/>
<i>TIP added</i> DARMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGICH	<input type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	UNTERMEYER	<input type="checkbox"/>	<input type="checkbox"/>
CICCONI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS <i>longer, more substance</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KRISTOL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input type="checkbox"/>	<i>Winston</i> →	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HOLIDAY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

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**RESPONSE:**

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- \* Judge Souter received the ABA's highest rating of "very qualified" when he was being considered for a judgeship on the court of appeals. *Insert A*
- \* Judge Souter is a ~~strict constructionist,~~ *believer in judicial restraint,* a tough trial court judge with a ~~great~~ *who* legal mind and will interpret the Constitution not legislate from the bench.
- \* The President did not use any litmus test ~~no single issue - in choosing Judge Souter. because it is not appropriate in the selection process of a Supreme Court Justice.~~ *nor did any* ~~Similarly, Congress should.~~
- \* Judge David Souter was chosen ~~because he is true to the life and spirit of the Constitution, a guide that Congress should also use during the confirmation process.~~ *Insert B*

For additional information, please contact the Office of Public Affairs at 202-456-2483.

*dominate his decision to choose. There should be no litmus test in the process of confirmation.*



90 JUL 24 P4:05

OFFICE OF THE VICE PRESIDENT  
WASHINGTON

July 24, 1990

NOTE TO: JIM CICCONI  
          CHRISS WINSTON ✓

FROM: BILL KRISTOL *BK*

Attached are recommended changes in the "White House Discussion Points" on the Supreme Court nomination of Judge David Souter.

# WHITE HOUSE STAFFING MEMORANDUM

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SUBJECT: TALKING POINTS ON JUDGE SOUTER

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VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NEWMAN	<input type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input type="checkbox"/>	<input type="checkbox"/>	PORTER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGICH	<input type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	UNTERMEYER	<input type="checkbox"/>	<input type="checkbox"/>
CICCONI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KRISTOL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input type="checkbox"/>	<u>Winston</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HOLIDAY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

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RESPONSE: \_\_\_\_\_

James W. Cicconi  
Assistant to the President  
and Deputy to the Chief of Staff  
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# WHITE HOUSE DISCUSSION POINTS

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## SUPREME COURT NOMINATION OF JUDGE DAVID SOUTER

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- \* Judge Souter is a strict constructionist, a **tough** trial court judge with a **great** legal mind, <sup>who</sup> ~~and~~ will interpret the Constitution not legislate from the bench. ✓
- \* The President did not use any litmus test - no single issue - in choosing Judge Souter because it is not appropriate in the selection process of a Supreme Court Justice. *Similarly, Congress should not use a litmus test in the confirmation process.* ✓
- \* Judge David Souter was chosen because <sup>This is the</sup> he is true to the life and spirit of the Constitution, ~~and~~ <sup>is the</sup> guide that Congress should also use during the confirmation process. ✓

For additional information, please contact the Office of Public Affairs at 202-456-2483.

**WHITE HOUSE STAFFING MEMORANDUM**

25 AUG 59

DATE: 7/24/90 ACTION/CONCURRENCE/COMMENT DUE BY: 4:00 TODAY

SUBJECT: TALKING POINTS ON JUDGE SOUTER

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MCCLURE <i>See memo</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NEWMAN	<input type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input type="checkbox"/>	<input type="checkbox"/>	PORTER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGICH	<input type="checkbox"/>	<input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	UNTERMEYER	<input type="checkbox"/>	<input type="checkbox"/>
CICCONI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KRISTOL <i>See Comm</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input type="checkbox"/>	<i>Winston</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HOLIDAY <del>_____</del>	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide your comments/recommendations directly to Chriss Winston's office with a copy to my office by 4:00 TODAY, Tuesda, July 24. Thank you.

RESPONSE:

Please see 2 suggestions made by the Justice Dept. Thanks. Holly Williamson  
7-25-90

James W. Cicconi  
Assistant to the President  
and Deputy to the Chief of Staff  
Ext. 2702

## WHITE HOUSE DISCUSSION POINTS

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### SUPREME COURT NOMINATION OF JUDGE DAVID SOUTER

"Judge Souter, I believe with all my heart, will prove a most worthy member of the court. His tenure as an Associate Justice of the Supreme Court of the State of New Hampshire, as Attorney General of that state, and more recently, as a federal appeals judge, unquestionably demonstrates his ability, his integrity, and his dedication to public service. And he has a keen appreciation of the proper judicial role rooted in fundamental belief in separation of powers and the democratic principles underlying our great system of government."

--- President Bush nominating Judge Souter as an Associate Justice of the Supreme Court on July 24, 1990

- \* In nominating Judge Souter to the Supreme Court, the President selected **extraordinary competence and excellence**.
- \* Judge Souter is a man of unquestioned distinction and accomplishment. He is an outstanding jurist, **fair**, equitable, and thoughtful.
- \* Judge Souter received the ABA's **highest** rating of "**very qualified**" when he was being considered for a judgeship on the court of appeals. *well ✓ (pat)*
- \* Judge Souter is a strict constructionist, a **tough** trial court judge with a **great** legal mind and will interpret the Constitution not legislate from the bench.
- \* The President did not use any litmus test - no single issue - in choosing Judge Souter because it is not appropriate in the selection process of a Supreme Court Justice.
- \* Judge David Souter was chosen *because he is true to the life and spirit of the Constitution, a guide that Congress should also use during the confirmation process.* *✓ (pat)*

For additional information, please contact the Office of Public Affairs at 202-456-2483.

# WHITE HOUSE STAFFING MEMORANDUM

✓

JL 24 P6: 04

DATE: 7/24/90

ACTION/CONCURRENCE/COMMENT DUE BY: 4:00 TODAY

SUBJECT: TALKING POINTS ON JUDGE SOUTER

	ACTION FYI		ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/> <input type="checkbox"/>
SUNUNU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NEWMAN	<input type="checkbox"/> <input type="checkbox"/>
SCOWCROFT	<input type="checkbox"/>	<input type="checkbox"/>	PORTER	<input type="checkbox"/> <input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGICH	<input type="checkbox"/> <input type="checkbox"/>
CARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	UNTERMAYER	<input type="checkbox"/> <input type="checkbox"/>
CICCONI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input checked="" type="checkbox"/> <input type="checkbox"/>
DEMAREST	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KRISTOL	<input checked="" type="checkbox"/> <input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input type="checkbox"/>	<u>Winston</u>	<input type="checkbox"/> <input checked="" type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/> <input type="checkbox"/>
HAGIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/> <input type="checkbox"/>
HOLIDAY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/> <input type="checkbox"/>

REMARKS:

Please provide your comments/recommendations directly to Chriss Winston's office with a copy to my office by 4:00 TODAY, Tuesda, July 24. Thank you.

RESPONSE:

*Good but too short & lacks substantive facts !!*

*Ed*

James W. Cicconi  
Assistant to the President  
and Deputy to the Chief of Staff  
Ext. 2702

## WHITE HOUSE DISCUSSION POINTS

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### SUPREME COURT NOMINATION OF JUDGE DAVID SOUTER

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- \* Judge Souter received the ABA's **highest** rating of "very qualified" when he was being considered for a judgeship on the court of appeals.
- \* Judge Souter is a strict constructionist, a **tough** trial court judge with a **great** legal mind and will interpret the Constitution not legislate from the bench.
- \* The President did not use any litmus test - no single issue - in choosing Judge Souter because it is not appropriate in the selection process of a Supreme Court Justice.
- \* Judge David Souter was chosen because he is true to the life and spirit of the Constitution, a guide that Congress should also use during the confirmation process.

For additional information, please contact the Office of Public Affairs at 202-456-2483.

THE WHITE HOUSE

WASHINGTON

July 24, 1990

34

MEMORANDUM FOR JAMES W. CICCONI  
ASSISTANT TO THE PRESIDENT  
AND DEPUTY TO THE CHIEF OF STAFF

FROM: LEE S. LIBERMAN *LL*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Talking Points on Judge David Souter

In regard to the above talking points, what has been distributed to the staff attorneys needs some work and more favorable talking points should be attained at the conclusion of a meeting to be held later today. In the interim, the attached suggestions are submitted.

Attachment

Suggested Changes in:

Talking Point #1: no change at present.

Talking Point #2: no change at present.

Talking point #3: Judge Souter received the ABA's highest rating of "well qualified" before he was nominated for a judgeship on the court of appeals. He was unanimously confirmed for that position by the Senate in April, 1990. A

Talking point #4: Judge Souter is a believer in judicial restraint, a tough trial court judge with a great legal mind and will interpret the Constitution not legislate from the bench.

Talking point #5: no change at present.

Talking point #6: Judge David Souter was chosen because of his fidelity to the Constitution and the rule of law. These qualities, rather than a person's positions on particular cases, determine whether a nominee will be a good Justice of the Supreme Court. b

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## WHITE HOUSE DISCUSSION POINTS

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### SUPREME COURT NOMINATION OF JUDGE DAVID SOUTER

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