

Press Briefing by Press Secretary Josh Earnest, 2/19/2016

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February 19, 2016

The White House

Office of the Press Secretary

For Immediate Release

February 19, 2016

James S. Brady Press Briefing Room

1:00 P.M. EST

MR. EARNEST: Good afternoon, everybody. TGIF. Nice to see you. I do not have any comments at the top, so we can go straight to your questions.

Josh, would you like to start?

Q Sure, thanks, Josh. I'd like to start with the White House's efforts to secure a vote in the Senate for the President's Supreme Court nominee. After there had been some signs that some Republicans might be open to hearings, we have a new joint op-ed from Senators Grassley and McConnell that really are pushing back on that. So I guess my question to you would be the same one I asked you just a few days ago, which is, are you making headway here?

MR. EARNEST: Well, Josh, let me start out by telling you that the President in the last 24 hours or so -- basically since I last saw you -- has begun something that I alluded to yesterday, which is the President will consult a wide variety of individuals with a wide variety of perspectives as he contemplates his nominee to fill the vacancy on the Supreme Court.

That consultation included just in the last 24 hours telephone calls with Leader McConnell, Leader Reid, Chairman Grassley, and Senator Leahy, who is the ranking member on the Senate Judiciary Committee. Obviously, the significance of the call with

Senator Grassley is that he is the chairman of the Senate Judiciary Committee.

And this, again, this will be part of the President's process of making a decision about who the best person is to fill a vacancy on the Supreme Court. And it's interesting that you cite the op-ed because the op-ed was written by two individuals who actually voted to confirm the last nominee to the Supreme Court who was put up for a confirmation vote during a presidential election year. So they know firsthand, based on their own voting record, that there is a clear precedent here. And, in fact, what that Senate did, is it was actually run by Democrats. Both Senator Grassley and Senator McConnell at the time were in the minority.

But what you saw Senate Democrats do is act on the nominee that was put forward by the President in the other party. And they held that vote in a presidential election year. That was their constitutional responsibility. It was President Reagan's constitutional duty to put forward a nominee, and it was the constitutional duty of the United States Senate to give that nominee a fair hearing and a timely yes-or-no vote. That's precisely what the Senate did in 1988. Senators Grassley and McConnell had their own role in that, and we would expect them to do the same thing this time.

Q What more can you tell us about what transpired on those phone calls that you just mentioned? Was the President able to get any sense from congressional leaders that if he were to nominate certain candidates of certain ideological flavor that he might be able to get a vote to confirm them?

MR. EARNEST: Well, Josh, I do want to give the President the ability to consult privately, even if we describe to you what that consultation process looks like. I can tell you that, in those telephone calls, that they were entirely professional and that there was an opportunity for the President to make clear that he is going to nominate someone. The President made clear that he is committed to consulting with Congress as he decides who that nominee should be. And the President made clear that he is doing so, doing all of this because he believes he has a constitutional duty to do so, and he reiterated his firm belief that the Senate has a constitutional obligation here as well.

Q I wanted to ask you also about the U.S. airstrikes overnight in Libya. Was this kind of a one-off, going after a high-level target, similar to what we saw in Libya late last year? Or should we be looking at this as the start of a stepped-up military effort in Libya?

MR. EARNEST: Josh, let's do the details first. I can confirm for you that early this morning, the United States military conducted an airstrike in Libya, targeting both an ISIL training camp near Sabratha and a specific leading ISIL figure named Nouredine Chouchane. This individual is a known ISIL leader, a facilitator, and an individual who has facilitated the flow of foreign terrorist fighters across North Africa. This individual is also wanted because of the role that he played in carrying out a terrorist attack almost a year ago in March of 2015 in Tunis, killing a number of tourists at the Bardo Museum in Tunis.

We at this point cannot confirm the results of the operation, but I do think it is legitimate for you to connect this operation with the operation that U.S. military forces carried out back in November. Back in November, U.S. military forces carried out a strike against the leading ISIL figure in Libya, Abu Nabil. We have concluded that that strike was successful. And both of these military strikes are an indication that the President will make good on his promise to continue to apply pressure to ISIL leaders who threaten the United States and our interests.

And this does demonstrate the important capabilities that the United States has, including in Libya. And it's an indication that the President will not hesitate to take these kinds of forceful, decisive actions to ensure the safety and security of the American people.

And obviously, today is one additional occasion for us to pay tribute to the courage, service, professionalism, and expertise of the men and women who serve in the United States military. Here we have a tangible example of how their service to the country makes all of us safer.

Q And lastly, Senator Sanders in a BET interview that's going to be airing suggested that the reason that Hillary Clinton is wrapping herself in the Obama legacy so much is because she's going after African American voters in particular. The Clinton campaign has taken some issue with that. Does the President consider that to be an appropriate assessment of what Clinton is doing?

MR. EARNEST: Well, I guess for a good assessment of the Clinton campaign strategy, you should check with the Clinton campaign. And it sounds like you might have done that already.

I think there are a couple of facts that I would point out. The first is Senator Sanders stood not too far away from -- stood not too far away from where I'm standing. You can just peek out the window and sort of see the spot where he was standing where he spoke to all of you after having spent an hour with the President of the United States in the Oval Office, where he talked to all of you about how proud he was of the progress our country has made under President Obama's leadership.

And I think that was a pretty strong statement about how supportive and proud Senator Sanders is of President Obama's legacy. And that certainly is consistent with the kinds of comments that we've heard from Secretary Clinton. Both candidates were making those kinds of statements in advance of the Iowa caucuses. And based on even my own personal experience there, I know the proportion of African American voters in the Iowa caucuses is not particularly high. So I suspect that those kinds of comments from both candidates is an indication that, A, they share President Obama's priorities and values when it comes to the direction of the country. Both of them have played their unique role in supporting the President in advancing those values and priorities.

Obviously Senator Sanders on a range of legislative priorities has been supportive of the President's legislative agenda in an important way. And obviously Secretary Clinton had a role as the Secretary of State in the Obama administration to advance the President's foreign policy vision around the world.

So both of them have their own unique perspective here. But I think both of them are making this case about the progress that we've made over the last seven years under President Obama's leadership both to illustrate where it is they stand on the issues, but also to make a case to voters -- especially Democratic voters -- that they're prepared to build on the progress that we've made so far.

Roberta.

Q The op-ed that was written by Leader McConnell and Senator Grassley ran around 8:00 p.m. last night. And I'm wondering if you can say whether the President spoke to them after, whether they talked about the issues that the two senators have brought up in their op-ed.

MR. EARNEST: I can tell you that President Obama had the opportunity to connect with Leader McConnell earlier in the day yesterday than eight o'clock. And he spoke to Senator Grassley just this morning. They tried to connect yesterday, but were able to connect today.

Again, I don't have a lot of details to share with you about the substance of the conversation. But I wouldn't be surprised if those kinds of issues came up. You can check with the two senators' offices to confirm what they raised.

Q And yesterday, Vice President Biden did an interview with Rachel Maddow, and he described how President Reagan had called him into the Oval Office and went through a list of candidates that he was considering. And then-Senator Biden gave his opinions on which ones he thought were possible for the Senate to confirm. And the Vice President said that he thought President Obama should do that with Senator Grassley, sit down with him and go through a list. I'm wondering if you can say whether that's something that the President would be interested or open to doing, or committed to doing?

MR. EARNEST: Well, I think I would say generally that what's notable about the difference in these two situations that the Vice President described is that Vice President Biden, then Chairman of the Judiciary Committee Joe Biden, didn't automatically object to the President's commitment to appointing somebody to fill the vacancy on the Supreme Court. So it would be a little odd at this stage, at least, to have an in-depth conversation about which nominees could be confirmed in the Senate with a senator who is suggesting that they won't consider any nominee. So it's difficult to determine exactly what the conversation would be like.

But I think as evidenced by the President's telephone call, the President is committed to trying to find some common ground with Republicans and to continue to make our case about the constitutional obligation that the President has and the duty that he's prepared to fulfill.

Q So if Senator Grassley showed an openness to possibly having a hearing, then the President might talk to him a little bit more about the candidates he might have in mind?

MR. EARNEST: Well, again, I think what I'm saying is even though Senator Grassley has indicated that he won't support anybody that the President puts forward, the President takes seriously the obligation that he has to consult with the United States Senate.

I also want to assure you that the President's consultations, as he considers this decision, will not just be limited to sitting members of the United States Senate. And as the President has more of those meetings and conversations, we'll do our best to let you know about those, as well. But certainly starting with the two leaders of the Senate and the two leaders of the Judiciary Committee is an appropriate way to begin the conversation about both the President and the United States fulfilling their constitutional duties.

Q But it's fair to say that in his conversations he didn't run through any names that he's considering?

MR. EARNEST: I'm not going to get into the details of their conversations. I wouldn't rule out a discussion about particular nominees. But I just would say that the President is serious about robust consultation with Democrats and Republicans in the United States Senate. Those kinds of conversations will continue, and there is no reason that this necessarily even has to be the last conversation that the President has with Chairman Grassley before he chooses a nominee. I suspect it won't be.

But I do suspect that as long as the Chairman of the Judiciary Committee says that he won't consider anybody that the President puts forward, that that will at least limit the productiveness of those conversations.

Bill.

Q So you indicated I think that normally it has been about a month. And I'm wondering if you've received any indication from the President about the length of time he might want to take before he puts forth a nominee in this case.

MR. EARNEST: Bill, I have observed that both in filling the vacancies that were left by the retirements of Justices Souter and Stevens, that the President appointed -- or nominated a replacement within four or five weeks. I don't have a different timeline to lay out. But I think that gives you an indication of the amount of time that is required to conduct a detailed search and to do the vetting that is necessary to determine who the best person for the job is.

Q Has the President mentioned any kind of timetable to you?

MR. EARNEST: Not one that I'm prepared to share here publicly.

Q Oh, come on.

MR. EARNEST: (Laughter.) But we'll try to keep you apprised of the process as it moves forward. I mean, I guess another thing that I can tell you is that the President's team over the course of this week has spent a lot of time preparing materials for the President's review. And I would expect over the weekend that the President will begin to dig into the materials that have been prepared for him by his team.

These are materials related to some potential nominees. This would include information about these individuals' record, about their professional career and their professional experience -- all of which they would bring to a lifetime appointment to the Supreme Court. And there are, as you know, a large number of lawyers who work at the White House, and they've produced a significant quantity of information, and I suspect the President will be dedicating a significant portion of his weekend digging into that information.

Ron.

Q Just to follow up on that -- at the end of his conversations with Senator Grassley, is it still your feeling that they are not going to look at anyone -- that they will not consider a nominee? Or did he back away from that position in his discussion with the President?

MR. EARNEST: Well, I'll let Senator Grassley characterize his position and characterize what he represented to the President of the United States. The President was clear about representing his view that the President has a constitutional duty to nominate a successor whenever there is a vacancy on the Supreme Court, and the Senate has a solemn constitutional duty to give that person a fair hearing and a timely yes-or-no vote.

Q Beyond the constitutional argument, and when the President talked about this the other day, he said something about how because it's the Supreme Court, this is the time when we should rise above partisanship -- "we" being, of course, the Senate. Does the President think that he has some political leverage here as well in terms of -- would you go so far as to say that if the Republicans don't fulfill their responsibility as he sees it, that there would be some political consequence out there in the country?

MR. EARNEST: Well, I think it's hard -- it's too hard at this point to assess exactly what sort of -- what the political consequences are, knowing the day and age in which we live and the fact that it is, in fact, a presidential election year. I'm confident that there will be a robust political debate around this process. And I'm not suggesting that that somehow is illegitimate. What I am suggesting, however, is that the constitutional duties of the President and of the United States Senate should come before any sort of political considerations. That certainly will be the President's approach to this, and hopefully that will be the approach that the Senate takes as well.

Q Polls notwithstanding, at this point, is the President's sense of the nation that he thinks that the public supports him in this -- therefore, particularly in these places where there are close races in purple states, that there could be consequences for those senators who don't play ball?

MR. EARNEST: Well, look, that's hard to assess. You guys all have polling units that you dedicate significant resources to, and I suspect you'll be evaluating this question. I'm not suggesting that those polls are somehow irrelevant; but I think it's too soon to tell exactly sort of how the argument is resonating. I think what has been interesting to me is that we've seen a number unlikely figures indicate that they share the President's view about the constitutional responsibilities that are before both this President and the United States Senate.

We saw the comments of former Supreme Court Justice Sandra Day O'Connor indicate that she believed that the Senate should get on with it. That was a pretty -- that was her unvarnished assessment, and it certainly is consistent with the sentiment that we have expressed about the President's constitutional responsibility.

I would note that the individual who served as the Attorney General under President George W. Bush indicated his view that "there's just no question in my mind that as President of the United States, you have an obligation to fill a vacancy." That's precisely the case that we have made as well.

So I guess what I would say is that it's too soon to tell whether or not the argument that we're making is resonating with the electorate, but it does seem to me that the argument that we're making is at least consistent with some Republicans who know quite a bit about the law.

Q I'm surprised that you would say that you have some doubts about whether it's -- you didn't use the word "doubts" but it's too soon -- I mean, isn't this an obvious argument that the public should certainly rally around? Or why is there some doubt -- perhaps it's a strong word, but why are you stopping short of being so certain that, in fact --

MR. EARNEST: Well, I guess because I don't want to be in a position where I make a claim that I can't back up.

Q Don't want to be wrong.

MR. EARNEST: I don't think it's that I don't want to be wrong. I will actually say this -- I don't have doubt about the fact that I think most people who take a look at this situation I think draw on maybe not legal expertise, but commonsense in concluding that when there is a vacancy on the Supreme Court, that the President has a responsibility to nominate someone to fill it, and the Senate has a responsibility to give that person a fair hearing and a timely yes-or-no vote.

Look, I think the other thing that is relevant here is the precedent, and I'm not just referring to Justice Kennedy's confirmation vote that occurred in 1988, a presidential election year. I think that is relevant. But what's also relevant is the way that Supreme Court vacancies have been handled in the past. In the last 40 years, there's never been a vacancy that has had an impact on two different terms, but yet that's precisely what would happen if the Senate follows through on the threats that Senator McConnell has made to not even consider the President's nominee. It would be more than a year, and it would have an impact not just on the current Supreme Court term but on the next term that begins in October. And when you consider the important stakes of the kinds of questions that the Supreme Court will be wrestling with, in the President's view, the Supreme Court should function as our Founding Fathers intended, and that means with nine justices.

Q And just lastly, this afternoon, when the President attends the services for Justice Scalia, what can we expect to see? What's that going to look like? Any more detail about what's going to happen?

MR. EARNEST: Well, I've seen a little bit of the television coverage of the events that have already taken place at the Supreme Court today. It's a solemn event, and the country is marking the passing of an influential figure in American life and in American jurisprudence. And over the course of the day, thousands of Americans will have an opportunity to pay their respects to Justice Scalia as he lies in repose in the Great Hall of the Supreme Court. And the President and First Lady will be just among the thousands of people doing the same thing.

And the President doesn't plan to make any remarks or anything. Obviously, he will just be there to offer up his own condolences to the family and to all those who loved Justice Scalia. Justice Scalia had a large family. He had nine children and a couple dozen grandchildren at least. And they're obviously mourning his death in a very personal way.

So this is an opportunity for the President to both pay his personal respects to those who loved Justice Scalia, but also pay tribute to the outsized impact that he had on our country and on our legal system. The President believes that is worthy of respect, and that's why both the President and First Lady will be traveling to the Supreme Court this afternoon.

Kevin.

Q Thanks, Josh. Did the President get word of Harper Lee's passing? And does he have any reaction to the passing of the literary giant, winner of the Pulitzer Prize, and who wrote "To Kill a Mockingbird"?

MR. EARNEST: I did not ask the President about this today, so I don't know if he was aware. But obviously the President has talked publicly before about how much respect he had for Harper Lee. And obviously she was a giant of American literature and wrote "To Kill a Mockingbird," a book that I think all of us can remember having read in school. And obviously, she had her own significant impact in our country and our culture and in our country's perspective on some pretty sensitive topics.

But she had a way of telling stories that does have an influence and resonates with the world view of so many Americans, even so many decades after that book was initially published.

Q If I could ask you about the High Court -- and I know that the process is still ongoing. Is there any doubt in your mind that the President would also consider the Attorney General? And if so, what sort of complications would that pose were he to nominate her?

MR. EARNEST: Kevin, at this point I don't want to comment on any sort of speculation about who the President may appoint. But let me try to provide some insight that could be helpful to you.

The last time there was a vacancy on the Supreme Court was after Justice Stevens announced his intent to retire. And the President selected Elena Kagan to be his nominee to fill that vacancy. She was confirmed by the Senate with bipartisan support.

But Justice Kagan at the time had an important role in America's legal system; she was the Solicitor General. So she was representing the United States government before the Supreme Court on a regular basis. And I guess the point that I'm making is that she was able to have her deputy step up and fulfill some important functions as she was going through the process.

What's also true is there were a handful of cases that she did have to recuse herself from because of her previous involvement with them as Solicitor General. So I guess the point is, it matters if a nominee is someone who is already playing a role, an influential role in the justice system. But even somebody who is as central to that process as a Solicitor General, did not prevent -- did not present obstacles that were insurmountable.

Q If I could just -- I don't want to put too much of a point on this, but given the fact that the Attorney General has already been vetted and has already received bipartisan support and has been confirmed, would that not make the process easier for the President?

MR. EARNEST: Well, it's hard to say at this point. And again, I wouldn't want to speculate on the potential ramifications of nominating one individual or another. But certainly all the things that you said are true.

Attorney General Lynch has served with distinction. She's somebody who did have strong bipartisan support when she was nominated for the Attorney General post. Both Democrats and Republicans in the Senate supported her nomination to that job. And she's only been serving for nine months or so, but she has served with distinction.

Justin.

Q I wanted to ask if you had any details on the call with President Erdogan today, and if you had made a determination on the terror attack, and if there were any policy changes on aid to the Kurdish PYD that you might have coming out of those.

MR. EARNEST: We will be working on a more formal readout of the call a little later today, Justin. But I can confirm for you that President Obama did telephone President Erdogan earlier today. The chief goal of the call was so the President could offer his condolences for the February 17th terrorist attack in Ankara, and the terror attack that occurred a day later against a Turkish military convoy in Diyarbakır province.

The conversation between the two leaders did talk about the situation in Syria. And I think the thing that's notable is that had you asked me this question a year ago, your question would have focused on, rightfully so, why the Turks weren't helping at all in our ongoing efforts to fight ISIL inside of Syria; that they hadn't put forward the kind of resources that we would have liked to see; they hadn't committed to taking the steps along the Turkey-Syria border that we believed were important to shutting down the flow of foreign terrorist fighters into Syria. But over the course of the last year, substantial progress has been made. Over the course of the last year, Turkey did join our counter-ISIL coalition. They are making a substantial contribution to that effort.

At the request of the United States, the Turkish government has taken important steps to close off large sections of their border. There continue to be some sections where we'd like to see them do more. But there's no doubt that the steps that they have taken to secure their border have reduced the flow of foreign fighters to Syria. We know that ISIL relies on that flow of foreign fighters to replenish their ranks of fighters who were taken off the battlefield.

It's also relevant that the Turks have relied on American expertise in putting in place the security along their border. Turkey has also demonstrated a commitment to working with the U.S. military and allowed U.S. military assets to use the airbase in Incirlik to carry out strikes against ISIL targets in Syria. This made it much more efficient for U.S. military pilots and even unmanned aircraft to take strikes inside of Syria. The flight from Incirlik to Syria is much shorter. And that was a big benefit and an important way that Turkey can help in this fight, and that is a step that they have taken just in the last few months.

The other thing that has long been true is that Turkey is bearing a significant burden when it comes to providing for Syrian refugees who are fleeing violence in their own country. And they have been extraordinarily generous and focused on meeting the humanitarian needs of these migrants. The United States has also provided significant humanitarian support -- more than any other country -- to all of the countries in the region, including Turkey, that are providing this important assistance.

You'll recall that Turkey was pretty irritated at the end of last year when there was a Russian fighter jet that they had said had flown into Turkish airspace. And the tensions between Turkey and Russia spiked. And while the United States certainly urged both sides to deescalate, we made it quite clear that the United States stood shoulder to shoulder with our NATO ally in Turkey against Russian provocations and other inappropriate actions that were taken by the Russian military.

The engagement between senior U.S. officials and senior Turkish officials has been extensive. Vice President Biden was in Turkey just a month or so ago. And President Obama on two different occasions within the span of a couple of weeks last fall met face to face with President Erdogan, both in Turkey and in Paris -- when he was in Paris for the climate talks.

So I say all of that to underscore that there is important progress that we have made over the last year in strengthening and solidifying the relationship between the United States and Turkey. And that has yielded important benefits for both our countries particularly in enhancing our effort to degrade and ultimately destroy ISIL.

Part of that effort, though, as you point out, does include supporting a variety of forces on the ground who are taking the fight to ISIL in their own country. We certainly believe that's a critical part of the effort, and we're going to continue to do that.

Q Were you able to come to a determination -- I know you said you weren't yesterday -- over who was responsible?

MR. EARNEST: We've seen the claims of responsibility, but I can't verify those claims at this point. Obviously, the terrorist attack that occurred was outrageous and one that we strongly condemn because there were a lot of innocent lives who were affected.

Q The Senate Intelligence Committee, and some Republicans especially, say they want to consider a bill that would penalize companies like Apple, who didn't assist law enforcement in accessing encrypted devices. I'm wondering if you guys would support this kind of legislation, especially since I think this week has clouded your guys' position a little bit on encryption and whether the administration believes that U.S. companies should be able to sell devices that remain encrypted no matter what.

MR. EARNEST: Well, let me do my best to try to clarify that position for you then, because the steps that were taken by the independent investigators at the FBI are consistent with the view that we've expressed from here on many occasions, which is the President does believe that strong encryption is good. It's good for the U.S. economy. It's also good for protecting the civil liberties of private American citizens.

But at the same time, we don't want to allow terrorists to establish a safe haven in cyberspace. And the good news is that technology companies don't want to see them do the same thing. There are innocent people who lost their lives -- patriotic American citizens who lost their lives in San Bernardino. And the President has made that investigation a top priority because he wants to make sure we can learn everything we possibly can about that situation so that we can take the steps that are needed to protect the country. And that's exactly what FBI investigators are doing. And all of that is consistent not just with our view of these complicated issues, but also consistent with the standard operating practice that the FBI has engaged in for quite some time now in investigating these kinds of matters.

Q All right. Well, that didn't quite answer the question of whether you would be supportive of legislation that would penalize companies when -- like what we've seen in this exact case where Apple has said this a slippery slope, and then this --

MR. EARNEST: I'll be honest, I haven't seen the legislation or been briefed on it, so it's hard for me to comment on it from here. If we do have a position, I'll let you know.

Q One last one, since I know you enjoy bringing up Ted Cruz's birth almost as much as Adam Szubin. (Laughter.)

MR. EARNEST: I thought you were going to say almost as much as Donald Trump. He does it far more often than I do.

Q Yes, a judge in the President's hometown has agreed to hear a lawsuit about his eligibility to be President. So I'm wondering if he has any comment on that.

MR. EARNEST: Yes. Well, it's funny you should ask. I was actually up really late last night preparing my amicus brief in that case. (Laughter.) So I don't know if that makes me eligible for a Supreme Court appointment or not.

But look, obviously this is something that will work its way through the court system. The concern that we have with Senator Cruz is record, and is not questions that have been raised about his birthplace, or his eligibility to serve as President, but rather about the kinds of values and priorities that he would bring to the job. They stand in quite stark contrast to the kinds of priorities that this President has championed.

Michelle.

Q On the calls that were made in the last 24 hours to Senate leadership, I know you don't want to give out specific detail about what was said, but can you tell us about how long they talked, and to whom did the President speak the longest?

MR. EARNEST: I don't have sort of that granular material about how long they spoke. I don't think these were particularly lengthy conversations. But they certainly did provide the President ample time to have a discussion with leaders in the United States Senate in both parties about the constitutional obligation that they have to give the President's nominee a fair hearing and a timely yes-or-no vote.

Look, yesterday was the 28th anniversary of Justice Kennedy being sworn in as a Supreme Court Justice. Twenty-eight years ago -- we can all do the math -- was a presidential election year. Both Senator Grassley and Senator McConnell supported his nomination and voted in that election year to confirm the Republican President's nominee to the Supreme Court. And we're asking them to just do the same thing.

Q So very generally, how would you characterize the tone of those conversations? And do you feel like there was any glimmer of progress or positivity about those conversations?

MR. EARNEST: Well, I think the conversations were, I think as you would expect, were respectful and professional. And the President had the opportunity to lay out his case about why he believes this constitutional duty is so important.

But look, that information is not new to four different individuals who spent a lot of time playing the -- fulfilling the Senate's constitutional duty to offer advise and consent on the President's Supreme Court nominees. So that information isn't necessarily new to them, but it is an opportunity for the President to begin a dialogue about how this process should work, about how the President intends to approach it. And the President's approach will be characterized by frequent consultation, not just with Democrats and Republicans in the Senate, but a variety of voices and individuals that have a perspective on a nomination that is this important.

Q You mentioned all the materials that the President will be looking at this weekend. So does that mean that the short list is complete? Is this everybody that he's considering at this point?

MR. EARNEST: Thank you for asking that question. It is not. The President does not have a short list, and the list has not been completed. This actually is the very beginning of the process.

But this is an opportunity for the President to dig into the materials that his team has prepared for him. This includes biographical information, information about the public record of individuals who may be worthy of consideration. So again, as I sort of jokingly acknowledged earlier, a substantial amount of information has been prepared. And I would expect that the President will spend a significant portion of his weekend digging into those materials.

Q So how many people are we talking about in this group then? Are we talking about five, ten, two?

MR. EARNEST: I don't have a number to share with you. It certainly is more than two. This is not a short list. This is the beginning of a process to evaluate a number of individuals for consideration for a nomination.

Q So it would be safe to say that the material that he has concerns several individuals? Would that be accurate?

MR. EARNEST: The number is greater than two. (Laughter.)

Q Okay.

MR. EARNEST: I guess that means several.

Q Okay, and given the climate now that is obvious and the kinds of conversations that the President has started having, all the debate that's going on ahead of time, is it safe to say that at this point we could rule out that he presents a nominee that could be seen as liberal or that's likely to be seen as liberal?

MR. EARNEST: Well, at this point, I'm not going to speculate about how the President's nominee will be judged. Our expectation is that the President's nominee, when the President puts that individual forward, that that nominee should be evaluated on the merits; that that individual's qualifications and experiences should be evaluated both by the American people but also by the 100 members of the United States Senate that have taken an oath to fulfill their constitutional duty to do their jobs. And that's what we expect that they will do, and we expect that that would entail both a fair hearing and a timely up-or-down vote.

Q So you wouldn't say at this point that this nominee needs to be a moderate?

MR. EARNEST: I think I would rely on the President's description, where he said that this individual, this nominee that he chooses would be somebody whose qualifications were indisputable.

Juliet.

Q Just to follow up on that, Vice President Biden in a few different interviews yesterday specifically said that the President should be looking for, in his words, a "consensus candidate," someone who would be distinct from, say, former Justice Brennan, because he needs to win Republican votes. So the way the Vice President framed it, there was an allusion to maybe not the specific liberal moderate, but this idea that it has to be someone of a political bent that it would win significant Republican support. Would you describe that as an accurate description of the President's mindset, and could you elaborate on that?

MR. EARNEST: Well, there are a number of things that come to mind. The first is that the President has already put forward two Supreme Court nominees who were confirmed in bipartisan fashion by the United States Senate. Both Justice Sotomayor and Justice Kagan got important support from Republicans. Now, at the time, that support was less critical because Democrats were in the majority in the United States Senate, and the situation is different now. And I guess my point is this: Even when the President didn't have to necessarily put forward someone who deserved bipartisan support, that's exactly what he did.

In this case, since Republicans are in the majority, we know that the President's nominee will need bipartisan support and that's what we expect that they will deserve. And here's why -- and I think this is the second thing that I think is important: The criteria that senators use when evaluating presidential nominees to the court is not evaluating whether or not they would have picked this person; their responsibility is to evaluate whether or not this is an individual who can serve the country with honor and distinction in a lifetime appointment to the Supreme Court. That is a substantial responsibility that the President is suggesting that this individual should assume, and the Senate should evaluate whether or not that person, based on their qualifications, their temperament, their experience, their professionalism, whether or not they can handle it. And that's the question that's being asked of them.

There are a hundred different members of the United States Senate, and some of them know a whole lot about the Supreme Court and have spent decades working on these issues. Some of them are new. Even those in the same party, I'm confident, that if you just did a poll, an open-ended questionnaire of the members of the Senate who they believe should be nominated to fill the vacancy, I wouldn't be surprised if you got 100 different people in response.

That's why the question facing the Senate is different. It's the President's constitutional responsibility to name a nominee, and it's the Senate's responsibility to evaluate that nominee, not based on the criteria of whether or not that's the person they would have chose, but based on the criteria of whether or not that individual can serve the country with honor and distinction on the Supreme Court for the rest of their lives.

And that's the way that the process has been laid out. That's the way the process has moved forward in the past. It certainly is consistent with what our Founding Fathers intended. And most importantly, that is a process that both the President and the United States Senate have a constitutional duty to fulfill.

Jordan.

Q Thanks, Josh. I have a question about Zika funding. The chairman of the Appropriations Committee, Hal Rogers, wrote a letter to the White House saying -- basically turning down your request for emergency funding, saying that the Congress should use funding for Ebola to fight and redirect that toward fighting Zika. I know this is an approach that you've rejected in the past, but given opposition coming from Republicans now, are you willing to reconsider that at all?

MR. EARNEST: Well, Jordan, I think I would start out by saying that the important work that the United States has done to fight Ebola and to protect the American people from Ebola is not done. I recognize that that disease has receded from the headlines -- I think we're all pleased about that -- but the important work that needs to be done to build up the public health infrastructure of countries overseas to make sure that those outbreaks don't quickly spiral out of control, we've seen firsthand as recently as a little over a year ago how that can have direct consequences on the safety and wellbeing of the American people even if that outbreak occurs an ocean away. So it's critically important that we follow through on those efforts, and it would be profoundly unwise to take money away from the ongoing effort that's needed to fight Ebola.

Now, is there some funding that could be taken away from -- that could be repurposed without undermining our efforts to fight Ebola? Yeah, there probably is. In fact, that's likely to be part of our request. But those funds, those resources would not be sufficient to take on what we believe is a pretty serious threat from the Zika virus.

We want to make sure that we're prepared, and we're hopeful that when we put forward a proposal, a specific proposal that's coming soon, that the Senate and the House will be prepared to act on it quickly. There's no reason that something like keeping the American people safe from the Zika virus should be some sort of partisan fight. I think Democrats and Republicans in Congress are interested in making sure that pregnant women and unborn children in this country can be properly protected.

And those are the stakes here. And this is a threat that the administration takes quite seriously, and we hope that Democrats and Republicans in Congress will do the same thing.

Q Do you have a timeline for putting that proposal forward?

MR. EARNEST: I don't have a specific timeline to share with you, but it's coming soon.

Andrew.

Q Thanks, Josh. There's a gentleman named Albert Woodfox who is going to be released today, after 42 or 43 years in solitude confinement. Again, this is an issue that the President has discussed a number of times, and I'm wondering if you had a view on the utility of keeping someone in confinement for that long, and whether the White House thinks that that's humane treatment.

MR. EARNEST: Andrew, I have to confess I'm not familiar with this specific case. I can tell you that the President did author an op-ed earlier this year that ran in The Washington Post where he laid out his views about the reforms that he believes should be implemented in our criminal justice system to ensure that things like solitary confinement are used appropriately and sparingly.

Scientists tell us that prolonged incarceration in solitary confinement can have a debilitating and long-term impact on an individual's mental health. And if our ultimate goal of our criminal justice system is to give people a second chance after they paid their debt to society, we're basically setting them up to fail if we don't take seriously the long-term negative consequences of prolonged solitary confinement.

Q If I remember rightly, the President took action on solitary confinement with regard to juveniles and people with mental illness. Did he not act on the broader issue because he thinks it's beyond the scope of his executive power, or is it coming further down the road in justice reform?

MR. EARNEST: Well, what is true is that the kinds of reforms that the President put forward are the kinds of reforms that could only be implemented in the federal prison system. Individual states who, in some cases, maintain their own rather large criminal justice system will have to make their own policies. We're certainly hopeful that the federal policy serves as a template for law enforcement officials in all 50 states to follow. We're hopeful that they will, and we've begun consultations with them about that.

I would note that a number of the other reforms that the President put forward did relate to the way that solitary confinement is used by the adult inmate population, and it related to things like even if you're in solitary confinement that you have more time to walk outside your cell, and that the amount of time -- the amount of sustained time that an individual faced in solitary confinement is limited and carefully monitored.

But we can follow up with you on some more of the details. I have to admit, it's been a little while since I've reviewed those specifics. But there certainly is a lot to consider here in terms of the reforms that the President has proposed.

Mark.

Q Josh, who on the White House staff is point person on the nomination search?

MR. EARNEST: Well, Mark, I don't have a new name to share with you at this point. Obviously --

Q An old name is okay. (Laughter.)

MR. EARNEST: Obviously, the President's legal team at this point has the most prominent role in helping him prepare to make this weighty decision. So obviously, the President's Counsel, Neil Eggleston is playing a prominent role here. But Neil has got a whole team of White House lawyers who can provide the President the information and resources that he needs to consider this decision. There will be other aspects of this that will feature prominently as well. If we're committed to robust congressional consultation -- and we are -- that may require some additional resources to get that done. So we'll keep you posted if we make any changes to our staff in this regard, but right now the President is being very well served by his legal team that's led by Neil Eggleston.

Q Are some of the materials left over from the Kagan search?

MR. EARNEST: Well, as I pointed out to someone yesterday -- or maybe it was the day before -- the fact that somebody has been previously considered for a Supreme Court vacancy does not disqualify them from being considered this time around, too. It doesn't mean that everybody who was considered last time will also be considered this time. But I think, more importantly, Mark, I actually think that the institutional experience that we have in conducting two successful Supreme Court nominations of Justice Sotomayor and Justice Kagan will certainly be valuable to us as we move forward with this process to fill the third vacancy.

Q Do you know whether, during the interim since the Kagan nomination, those records have been updated, that Counsel's Office might say, oh, this is someone we ought to add to the list in case we get another nomination?

MR. EARNEST: I'll be honest, I don't have a good sense of how that works -- when the rest of us are not paying attention to the Supreme Court, what kind of work goes on behind the scenes to keep those records updated. I suspect that there is somebody that's thinking about that all the time. But what's also true is that we've got significant resources, a lot of people with a lot of legal and even Supreme Court expertise here that can get up to speed quickly and ensure that the President has the information that he needs to begin to make this important decision.

Q Does White House Counsel know you're writing amicus briefs? (Laughter.)

MR. EARNEST: That's a good question. I suspect if they said that they were writing press releases I might be a little irritated. (Laughter.) So let me just assure them and you that it was just a joke.

Q I know that.

MR. EARNEST: Okay.

Cheryl.

Q Thanks, Josh. Yesterday, Senator McConnell's office took issue with some words that you used --

MR. EARNEST: Oh, no!

Q I know.

MR. EARNEST: Probably for the first time ever, right?

Q Ever. Saying that -- and you repeated it again today -- saying that the Senate has a duty to vote on the President's nominee. And their pointing to a quote that Senator Reid said in 2005 that nowhere does the Constitution say that the Senate has a duty to vote on presidential nominations. So do you still believe that? Or is that too fine a distinction?

MR. EARNEST: I mean, the problem with this is that this process has been so subjected to politics that we could probably spend like 24 hours reading quotes back and forth when people are on different sides of this issue.

Q Let's do it.

MR. EARNEST: As appealing as that might be to Gardiner -- (laughter) -- why don't I just try to limit myself to one, okay? And it would just be from Senator Grassley -- and I cite this one because it wasn't that long ago. This was July of 2008. Senator Grassley said, "The reality is that the Senate has never stopped confirming judicial nominees during the last few months of a President's term."

So the point is that if we dig into the rhetoric that's been cast by both sides it would be more than a little confusing. I think that's why the President believes that what we should simply do is consider the requirements of the Constitution and the long precedent that's been established by the United States Senate. The Constitution says that when there's a vacancy on the Supreme Court that the sitting President of the United States -- who is filling a four-year term, not a three-year term -- has a constitutional duty to nominate a successor. The Senate then has both the duty and the responsibility of offering their advice and consent. And at least for everybody who is sitting on the Supreme Court right now, that meant a timely up or down vote and a fair hearing.

I guess the other relevant piece of precedent here that I think is notable is that since 1875, every single Supreme Court nominee that was put forward by the President of the United States has gotten a hearing. Now, there are some exceptions to that where you had Presidents put forward a nominee and then withdraw them before the hearing began. But every time the President was calling on the Senate to hold a hearing on a Supreme Court nominee, every time since 1875 the Senate has fulfilled their constitutional duty. And we expect the Senate here in 2016 to do the same thing.

Gardiner.

Q Josh, the Syrian ceasefire didn't happen. And is there a danger that the failure of diplomacy across the Middle East will undermine any military gains the U.S. is able to secure against ISIS in Libya and Syria?

MR. EARNEST: Well, Gardiner, I think you're alluding to a principle that we have applied to the situation from the beginning, which is simply that the situation inside of Syria doesn't have a military solution. There's no military solution that can be applied in Syria to solve all the problems plaguing that country.

What we can do, using the expertise, courage and might of the United States military and our 65 counter-ISIL coalition partners, is use our military to put enormous pressure on ISIL's leadership. We can use our military to begin to roll back territorial gains that ISIL had made. We can use our military to conduct raids and exploit treasure troves of intelligence that would allow us to take steps to further degrade and destroy ISIL. We can even use our military might, as has been publicized over the last few weeks, to reduce ISIL's stockpile of cash. In some ways, that's a particularly good illustration of our ISIL counter-finance efforts being seamlessly integrated into the efforts of our military coalition partners.

Q Do you want to make an aside about someone who was nominated to work on ISIL --

MR. EARNEST: Well, I certainly could, because it does underscore how the expertise of Adam Szubin and advance the success of not just our broad counter-ISIL coalition but even our military efforts.

Q This is part of a drinking game now -- (laughter.)

MR. EARNEST: There you go. There you go. Wait until after the briefing before you take your drink.

So I think you're highlighting something that is entirely consistent with what our approach has been, which is that we need to find a political solution inside of Syria to address the problems that are having such significant consequences around the world.

And that's why Secretary Kerry has been so focused on this effort. And it's why, despite the significant number of obstacles that he has faced, he continues to pursue it. And it's not just because he's particularly tenacious -- which he is. It's not just because he enjoys talking to his Russian counterparts so often -- although, presumably, sometimes they have a pleasant conversation, I think most of the time they don't. But he's doing this because he understands that this is fundamental to ending the violence in Syria and addressing the wide array of problems that have been caused by the political dysfunction inside of Syria that actually do have grave consequences for American national security.

Q Josh, you recently obviously had a military operation in Libya, a bombing operation that seemed to be successful. Can you talk a little bit about this balance between diplomacy and military operations not just in Syria but also with Libya? Because it does seem that your diplomatic options in Libya are even more limited than your ones in Syria.

MR. EARNEST: Well, this is a good example -- let me just take this back one step farther because it's pretty clear what ISIL's strategy is. They look for countries where they can exploit political chaos to establish a foothold. That's what they did inside of Syria, where they started. President Assad began losing his grip on power; he began using the military might of the Syrian nation to attack the citizens of Syria. It caused great turmoil and he lost control of the country, and ISIL capitalized that, set up a toehold inside of Syria. They then spread into Iraq. And we had seen a central government in Iraq that had governed that country along sectarian lines for too long and exposed an alarming weakness in the Iraqi security forces, and ISIL moved in to set up shop there.

Now, there's been a change in the central government inside of Iraq. There is a new prime minister who has been working to unite that country and to govern in a way that reflects Iraq's diversity, and that's why -- that certainly has contributed to the success that Iraq has had in taking back significant territory that ISIL had previously taken.

So the reason I'm walking through all of this is that ISIL is trying to do the same thing in Libya. Libya is another nation that is plagued by political turmoil, and they're trying to capitalize on that turmoil and chaos to establish a foothold inside of Libya. So the kind of approach that the United States has taken to both advancing the diplomatic and political track alongside our military efforts, we're doing the same thing inside of Libya. The good news is that in Libya, they actually are making some long-sought progress, that many political leaders inside of Libya are finalizing the Government of National Accord, which is an essential step toward providing the Libyan people the opportunity to rebuild their country.

And the U.N. has facilitated that process. The United States has been strongly supportive of it. There's a U.S. envoy that has been dedicated to trying to advance that process, and we certainly have been pleased with the steps that they have taken thus far.

What will be important is for that central government to be formed, to take up residence in Tripoli, and to begin providing for the security situation inside of Libya. But until the time that they can do that, the United States may have to carry out actions like we did

overnight to protect the American people and to protect our interests in the region. And so we're going to be prepared to do that even as we continue to be strongly supportive of the political process inside of Libya.

Devon.

Q Josh, I want to ask you about a couple of storylines bubbling on the Democratic side of the campaign. First one -- the Vice President, yesterday in one of his interviews, I think with the Post, sort of gave a critique of Hillary Clinton and Bernie Sanders. For downplaying the economic recovery, he said that it's a "big mistake" -- his words, "big mistake" -- to not more forcefully play up that, the recovery. Does the President think that it's a big mistake that they aren't playing it up enough?

MR. EARNEST: Well, I think what is clear is that both Secretary Clinton and Senator Sanders have very capable campaign teams who are designing their campaign strategy. Obviously, both of the Democratic candidates have their own knowledge and experience of a wide range of economic policies, so they certainly are going to be able to lead that process. And we've heard both candidates articulate their view that the progress that has been made under President Obama's leadership over the last seven years has been a little underappreciated. Secretary Clinton, in particular, often discusses how President Obama doesn't deserve the credit that he -- or hasn't gotten the credit that he deserves for digging us out of a terrible hole that was caused by the Great Recession.

And one of the reasons that the President is quite confident that he will be enthusiastic about whoever is the Democratic nominee is that both Democratic candidates are vowing to build on the progress that we've made thus far, and all of the Republican candidates are making the case that we should actually go back to the policies that created the Great Recession. So it's going to be pretty clear what choice the American people will face in the general election.

Q So he doesn't necessarily share the Vice President's view that right now it's not being adequately touted and promoted?

MR. EARNEST: Well, I haven't asked the President this direct question, but he certainly has noted that both candidates are vowing to build on the progress that we've made.

Look, President Obama has also acknowledged that there's a lot of important work that remains to be done, that there is still more work that we can do to expand economic opportunity for the middle class. There's more work that we can do to put upward pressure on wages. There's more that we can do to help middle-class families balance the obligations that they have at the office with the obligations that they have at home.

There's obviously more that we can do to deepen our country's economic ties with economies around the world -- that that will only serve to strengthen the U.S. economy and make our economy stronger for the middle class.

So there's more important work that needs to be done, and the President certainly hasn't overlooked that. But given how important that work is, that's the reason I think the President will be an enthusiastic supporter and advocate for the presidential candidate that has vowed to build on this progress.

Q And one more question about Hillary Clinton. She gave an interview to CBS yesterday and was asked, have you always told the truth, and she said, "I've always tried to." And Republicans are pouncing on this, saying there's some wiggle room there. Not to speak for her, but the President, her former boss, employer -- do you have an opinion or would you weigh in on her honesty and trustworthiness?

MR. EARNEST: I think Secretary Clinton has a very strong case to make about the kinds of ethics and values and honesty that she has brought to her long career of public service. So I'll let her weigh in on defending herself against those charges.

Pat, why don't I give you the last one -- then we'll do the week ahead.

Q Did the President ask President Erdogan to stop bombing the YPG?

MR. EARNEST: Well, I don't have a detailed readout of the call to share with you.

Obviously, the strategy that we have pursued inside of Syria has been to offer some support to a variety of forces that have been fighting ISIL on the ground inside of Syria.

The President has made clear that we need people in Syria who are fighting for their own country. And there are a variety of ways that we can support them, including carrying out airstrikes to support their efforts on the ground.

But there are a variety of fighters -- some Syrian Arabs, some Turkmen fighters, and we

are seeking to support those groups that are committed to fighting ISIL. That's our number-one goal. And if there are organizations on the ground that we can count on who share that goal, we're going to continue to support them.

Q Did he ask the President to stop bombing them? I mean, it has to be having an impact on your campaign.

MR. EARNEST: Well, again, for any impact on the campaign, I'd refer you to the Department of Defense. But, look, we've been quite clear that we share the concern that Turkey has about the political instability inside of Syria and about the presence of ISIL just across the border from Turkey.

Turkey is quite concerned about this as well. And as our NATO Ally, we're going to continue to work effectively with them to counter that threat. We've been pretty clear about what our strategy is, and there certainly are some additional asks that we have of the Turks, that there is more work that they can do along their border. But we certainly have been appreciative of the kinds of steps that the Turks have taken to facilitate an enhancement of our efforts against ISIL inside of Syria, including access to the base at Incirlik and more effectively closing other parts of the border that have shut down the flow of foreign fighters, and also providing for the basic humanitarian needs of millions of Syrians who are fleeing violence.

Let's do the week ahead, and then you guys can get started on your weekend.

On Monday, the President will deliver remarks and take questions from the National Governors Association here at the White House.

On Tuesday, the President will attend a DNC roundtable here in Washington, D.C.

On Wednesday, the President will host His Majesty King Abdullah II of Jordan at the White House. The United States greatly values its enduring and strategic partnership with Jordan, as well as our shared initiatives on a broad range of diplomatic and security challenges. During their meeting, the President and King Abdullah will discuss efforts to counter ISIL, resolve the Syrian conflict, address the needs of Syrian and Iraqi refugees in Jordan, and discuss how the United States can continue to support the Kingdom's

generosity in hosting those refugees. The two leaders will also discuss how Jordan continues its political and economic reform initiatives. Finally, they'll also discuss how best to advance prospects for a two-state solution to the Israeli-Palestinian conflict and other areas of mutual interest. That will be on Wednesday.

Wednesday evening, the President and First Lady will invite top contemporary artists to the White House as part of its In Performance At the White House series. The event will celebrate the iconic singer, songwriter, composer and musician, Ray Charles.

On Thursday, the President will deliver remarks at an event on precision medicine that we'll be hosting here at the White House.

And then on Friday, next Friday, the President will attend meetings at the White House.

So with that, I hope you all have a great weekend.

END

2:11 P.M. EST