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Confirmation of New U.S. Attorney for the V.I. Further Stymied as Republicans Block Process in Rebuke to U.S. Dept. of Justice

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Senator Tom Cotton (R-AR) on March 2 blocked an attempt by Senator Dick Durbin (D-III) to swiftly confirm a number of U.S. attorney and U.S. marshal nominees, among them Asst. U.S. Attorney Delia Smith, who upon confirmation would replace U.S. Attorney for the V.I. Gretchen Shappert.

Delegate to Congress Stacey Plaskett [in February said](#) Ms. Smith's nomination had finally made it to the Senate floor, but Mr. Durbin's attempt on March 2 to confirm the six nominees by unanimous consent, a process that bypasses debate and a recorded vote, was objected by Mr. Cotton. The action fulfilled Mr. Cotton's promise to block U.S. D.O.J. nominees because of what he has described as an insufficient response from the D.O.J. regarding legal representation for four

federal law enforcement officers being sued over their defense of the Portland federal courthouse in 2020 during racial justice protests stemming from the [police killing of George Floyd](#).

A similar outcome unfolded in February on the Senate floor, when several Democrats joined Mr. Durbin in an attempt to confirm the nominees.

In a release on Thursday, Mr. Durbin chided Mr. Cotton. "How can you claim, as he does, to be tough on crime if you are blocking well-qualified law enforcement officials from serving... We hear the complaint 'oh they want to defund the police.' Well you heard last night, when President Biden said 'we need to fund the police' and got a standing ovation from everybody."

Mr. Cotton responded by stating that his concerns were unrelated to defund the police stances. "If Merrick Garland and the Democrats want their political nominees to be confirmed on a fast-track basis, then they need to protect their career law enforcement officers from financial ruin and bankruptcy," he said.

The Republican senator's initial block of the nominees came in early February, after Mr. Cotton wrote to the Dept. of Justice seeking information on how it was representing the four U.S. marshals. In a response provided the following week, the D.O.J. said it was providing direct representation or otherwise paying for private counsel to support over 70 employees based on requests arising from the Portland protests. However, the D.O.J. said it denied a single request while three were under review.

"In light of significant confidentiality interests and applicable privileges, the Department cannot comment further on any specific representation decision," the D.O.J. said in the letter to Mr. Cotton, who responded by stating that the D.O.J. did not answer his question regarding adequate representation for the four U.S. marshals.

"They deserve to be represented, or we deserve a credible, fact-based explanation," Mr. Cotton said on the Senate floor Wednesday.

The nominees Mr. Durbin sought to confirm were Ryan K. Buchanan as U.S. attorney for the Northern District of Georgia, Jason M. Frierson as U.S. attorney for the District of Nevada, Andrew M. Luger as U.S. attorney for the District of Minnesota, Mark A. Totten as U.S. attorney for the Western District of Michigan, Marisa T. Darden as U.S. attorney for the Northern District of Ohio, Delia L. Smith as U.S. attorney for the District of the Virgin Islands, Eddie M. Frizell as U.S. marshal for the District of Minnesota and LaDon A. Reynolds as U.S. marshal for the Northern District of Illinois.

Ms. Smith's approval in the U.S. Senate would lead to the removal of current U.S. Attorney for the V.I., Gretchen Shappert, who [received an interim appointment](#) from former Attorney General Jeff Sessions on January 4, 2018. On April 23rd, 2018, the Virgin Islands District Court appointed her as the U.S. Attorney for the Virgin Islands. Since then, she has overseen a flurry of cases in federal court: from drugs, to [public corruption](#) and gun violence.

"Gretchen Shappert has served this department well for more than 25 years," said Mr. Sessions at the time of the appointment. "For five of those years, she led federal prosecutions in Western North Carolina as United States Attorney. I am confident that, with this extensive experience, she will be an excellent leader as Interim U.S. Attorney for the Virgin Islands."

According to a description on the U.S. Attorney's website, Ms. Shappert has served as the Assistant Director for the Indian, Violent and Cyber Crime Staff in the Executive Office for U.S.

Attorneys (EOUSA), since 2010. Prior to joining EOUSA, Ms. Shappert served as the United States Attorney for the Western District of North Carolina from 2004-2009 and as an Assistant United States Attorney (AUSA) from 1990-2004. As the United States Attorney and as an AUSA, Ms. Shappert prosecuted a wide range of criminal defendants including outlaw motorcycle gangs and violent drug organizations. Ms. Shappert also served as an Assistant District Attorney, an Assistant Public Defender, and in private practice prior to her federal service. She received her B.A. from Duke University in 1977 and her J.D. from Washington & Lee University School of Law in 1980

Ms. Plaskett has called for the removal of Ms. Shappert, contending that the position should be filled by a local representative. A local nominee is "of critical importance to the Virgin Islands community," she said in September. Ms. Smith has served as an assistant U.S. attorney for several years.

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