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The Washington Times



~~King: Hearing is not 'un-American'~~ EDITORIAL: Detain this judicial nominee *Halligan's Senate testimony looks fudged*

By [THE WASHINGTON TIMES](#)

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There are disturbing discrepancies in Senate testimony by D.C. federal appellate-court nominee Caitlin Halligan. If majority Democrats won't allow a full investigation, a Republican senator should put an indefinite hold on the nomination.

The controversy is over a 2004 New York City bar association report on enemy combatants, which concluded that indefinite detention during wartime is unconstitutional. Ms. Halligan was listed as a signatory on the document but told Sen. Jon Kyl, Arizona Republican, that she first "became aware of the existence of the report" last summer. Now that the report is controversial, she claims its conclusion was "incorrect," that she was "a little bit taken aback by the tone of the report," and that it doesn't represent her work or views.

Edward Whelan, president of the Ethics and Public Policy Center, is suspicious about the timing of Ms. Halligan's skepticism, especially since she listed this on a Judiciary Committee questionnaire among reports for which she had been "a member of the committee approving them." Review of the e-mail trail should show what role Ms. Halligan played and "whether she agreed with the positions that she now distances herself from," Mr. Whelan wrote for NRO.

Ms. Halligan's legal judgment is questionable too. As solicitor general of New York state, she argued that colleges and school districts should be allowed to adopt racial criteria for admissions or school assignments and that people in same-sex-unions "must be treated as spouses for purposes of New York law." The state's highest court ruled against her position on the latter, and the U.S. Supreme Court ruled against her on three of four race cases.

The D.C. circuit has a relatively low caseload. This seat should remain unfilled until Ms. Halligan's record is straightened out.

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