STATEMENT OF TIM JEFFRIES, FOUNDER, P7 ENTERPRISES

Mr. JEFFRIES. Thank you, Madam Chairman, Senator Sessions, Senator Kyl. I appreciate the humbling invitation to provide my personal testimony in opposition to the honorable Judge Sotomayor's appointment to the U.S. Supreme Court. The views that I express here today are my own and not the views of any organization I may reference.

As my bio shows, I come from a blue collar family. My father's grandfather served in the Union Army during the Civil War and rode for the Pony Express. My mother's grandparents emigrated from Portugal to America in the 1900s with no money in their pocket and no English in their vocabularies.

Similar to thousands of other simple, hardworking Americans, my involvement in the crime victims support movement was borne from unimaginable tragedy. On November 3, 1981, my beloved older brother, Michael, was kidnaped, beaten, tortured and murdered by a transient gang of street criminals in Colorado Springs, Colorado.

The two murderers stabbed my dear, defenseless brother 65 times and ultimately killed Michael by slashing his throat and crushing his skull with the heel of a remorseless, blood-soaked boot.

Based on Federal crime statistics, 17,000 people are murdered in our country every year. On average, someone is murdered every 31 minutes. On average, every 10 weeks, more people are murdered in our country than passed on that brutal, horrible day of September 11.

In fact, since September 11, 115,000 people have been murdered in America. This gut-wrenching level of violence in our country exceeds the approximate population of Santa Clara, California or Gresham, Oregon or Peoria, Illinois or Allentown, Pennsylvania.

Further compounding this epic national crisis, other violent crimes in our country are committed at an appalling rate. Based on the crime clock produced by the Office for Victims of Crime in the Department of Justice, someone is raped in our county every 1.9 minutes. Someone is assaulted in our country every 36.9 seconds. An instance of child abuse or neglect is reported every 34.9 seconds.

Making matters worse, this breathtaking spectrum of heinous violence in our country does not receive the consistent political action it warrants and the constant media focus it deserves.

Prior to my testimony, my wife sent me a text and she asked, "Where are all the Senators?" And perhaps that is a metaphor for what vexes and undermines the crime victims support movement.

The true horror in verifiable existence of evil in our country are often minimized, if not trivialized, with well intentioned, yet sadly misguided equivocations about the troubled lives of guilty criminals and their various personal circumstances.

Unfortunately, based on public statements, Judge Sotomayor has repeatedly offered misplaced sympathy for criminals, despite the fact that justice exists to protect the innocent and to punish the guilty. Forgiveness and mercy are one thing. Punishment and accountability are another.

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In four situations, four different events that are noted in my testimony, Judge Sotomayor sympathy and perhaps empathy for criminals that may be well intentioned, but I feel is tragically misplaced.

At a Columbia Law School public service dinner, she stated, "It is all too easy as a prosecutor to feel the pain and suffering of victims and to forget that defendants, despite whatever illegal act they have committed, however despicable their acts may have been, the defendants are human being."

In January 1995, in receiving the Hogan-Morganthau Award, Judge Sotomayor stated, "The end result of a legal process is to find a winner. However, for every winner, there is a loser, and the loser is himself or herself a victim," forgetting for the fact that when meeting justice, it's not to find a winner, it's to find justice.

On July 12, 1993, in a Federal sentencing hearing that she presided over, over a cocaine dealer, Judge Sotomayor apologized to the cocaine dealer for having to send him to Federal prison.

She stated the mandatory 5-year sentence was a "great tragedy for our country." She also stated she hoped the cocaine dealer "will appreciate that we all understand that you were a victim of the economic necessities of our society." Then she added, "But unfortunately, there are laws I must impose."

Having viewed the autopsy photos of my massacred brother and heard the heartbreaking stories of thousands of victims and survivors of violent crimes in America, I believe Judge Sotomayor's sympathy for criminals at the expense of the burdens carried by crime victims is unworthy of our nation's highest court, where public safety and protection of the innocent should be paramount.

Whereas Judge Sotomayor's biography is admirable and compelling, it is a great American story of which, as an American, I am proud. I am deeply troubled that she has regularly offered well intentioned, yet misguided sympathy to criminals without notable deference to the pain and suffering of the victim.

These are the very people who need government's protection. Statistics show that the most egregious crime in our country disproportionately impacts the poor, the disadvantaged, the downtrodden, the defenseless. These are the very people that the justices in our highest court must have sympathy for, must have empathy for.

Madam Chairman, I appreciate your patience with my testimony that has extended beyond its time.

Senator KLOBUCHAR. That is fine, Mr. Jeffries.

Mr. JEFFRIES. And I would be happy to answer any questions at the appropriate time.

[The prepared testimony of Mr. Jeffries appear as a submission for the record.]

Senator KLOBUCHAR. That is fine, and thank you for sharing that tragic story. It must have been very difficult.

Neomi Rao is our next witness. Neomi Rao is a professor of law at George Mason University. Previously, she served as associate counsel and special assistant to President George W. Bush and served as a counsel to the Senate Judiciary Committee. She is a graduate of the University of Chicago Law School, that is something we have in common.

Professor Rao clerked for Supreme Court Justice Clarence Thomas and Fourth Circuit Judge J. Harvey Wilkinson. I look forward to your testimony. Thank you for being here.

STATEMENT OF NEOMI RAO, PROFESSOR, GEORGE MASON UNIVERSITY LAW SCHOOL

Ms. RAO. Thank you very much, Madam Chairman, Senator Sessions and other distinguished members of this Committee. It is an honor to testify at these historic hearings, which have provided the opportunity to have a respectful public dialog about the important work of the Supreme Court and the judicial philosophy of an accomplished nominee.

I have submitted more detailed written testimony and I should state at the outset that I take no position on the ultimate question of the confirmation of Judge Sotomayor.

In my opening remarks, I would like to highlight some points about the judicial role. During these hearings, Judge Sotomayor has expressed broad principles about fidelity to the law with which we can all agree. But fidelity to the law can mean very different things to different judges.

Although in her testimony she has distanced herself from some of her earlier remarks, her speeches and writings might still be helpful in understanding her view of the judicial process.

First, Judge Sotomayor has explicitly rejected the idea that there can be an objective stance in judging. She has explained that every case has a series of perspectives and thus requires an individual choice by the judge.

This goes beyond recognizing the need to exercise judgment in hard cases or the idea that reasonable judges may at times disagree. If there is no objective view, one can question whether there is any law at all apart from the judge's personal choices.

Second, there is the related issue of the role of personal experiences in judicial decision-making. It would be hard to deny that judges are human and made up of their unique life journeys. Many judges recognize this and explain how they strive to remain impartial by putting aside their personal preferences.

Judge Sotomayor's position, however, has suggested that her personal background, her race, gender and life experiences, should affect judicial decisions.

Throughout her testimony, Judge Sotomayor has reaffirmed that she decides cases by applying the law to facts and that she does not follow what is in her heart. Of course, all nominees to the Supreme Court honestly state their fidelity to the law.

Nonetheless, this leaves open the question of how a judge chooses to be faithful to the law. Judges go about this task in different ways. Following the law could mean, as formalists believe, that the judicial role and the privilege of political independence require judges to stick closely to the actual words of statutes and the Constitution. The basic idea is that by focusing on the written law, judges act as fair and impartial arbiters.

Other judges consider that they are following the law when they interpret it to conform to what is rational or coherent or just. They believe that following the law means trying to bring about what they consider to be the best outcome, all things considered. These