Twitter Thread by Benjamin Wittes

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A thread with some thoughts on Merrick Garland, whom Politico is reporting has been selected as attorney general by President-elect Joe Biden...

Garland is principally famous outside the D.C. legal world for having been nominated to the Supreme Court by President Obama in 2016 and having been shamefully blocked by Senate Republicans for nearly the entire year. This is a shame. And his treatment ithen is not the reason /2/

why he is the perfect choice for Biden for attorney general. Indeed, his martyrdom on this point actually complicates the picture a little bit; while Republicans generally refrained from attacking him, the very fact of the nomination and their stonewalling of it makes ... /3/

...him appear a more divisive figure from a partisan perspective than he actually is. Which is a somewhat backhanded way of saying that Garland is the closest thing to an above-politics figure as exists in American law today. He is among the most admired federal judges /4/

...on the bench from either political movement. He is admired for his intellect, for his integrity and his fidelity to the law and precedent, and for his temperament. He has been on the bench for a long time—since 1997, if memory serves. /5/

And he thus has had no involvement in any of the recent political controversies. He had no hand in the Russia investigation or in Bush v. Gore or in any of the contentious matters that have divided Democrats and Republicans. He is, rather, a universally-respected figure... /6/

(universally, at least, among people who are knowledgeable about American law and the federal judiciary and are not themselves raging partisans) who has been hands off of the set of issues that have made people controversial over the past two decades. /7/

He has not made speeches. He has not written law review articles. He has not given interviews. He has not written books about how to interpret the law. He has just been a judge—and a really really good judge. /8/

But there's another side of Merrick Garland that is critical to his value as attorney general: He has deep experience with the Department of Justice. Back in the mid-1990s, he was the chief aide to Jamie Gorelick, then the deputy attorney general.

Gorelick had a staff that was truly uncommon; I have not seen anything like it in my years watching the department. And Merrick was the first-among-equals star of that particular constellation. There was some very good coverage of him at the time by @dklaidman and others.

What's more, when the Oklahoma City bombing happened, she dispatched him to effectively run the investigative and prosecutorial response. This was a very big deal, and folks like @AitanGoelman, who worked with him in that period, are worth talking to about it.

In other words, this is a person with a reputation of very deep integrity who is admired across the political spectrum and has deep and granular experience in national security matters—both at DOJ and as a judge reviewing government action.

(looks like I've stopped numbering these tweets. Oh, well. I assume y'all can count on your own)

When you put all of that together, you get something close to a perfect combination of the traits we need right now at the head of the Justice Department. Consider what we need right now:

(1) Someone with the integrity actually to make decisions about how the Justice Department should think about the last four years in a non-political fashion.

(2) Someone whose reputation for integrity will actually make people BELIEVE that he or she is behaving with the integrity described in (1).

(3) Someone with deep experience with the Justice Department who is respected within it and has management experience in running it.

(4) Someone with deep experience with national security decision-making.

There are a lot of people who meet some of these criteria. And there are a few who plausibly meet all of them. There is nobody who more emphatically meets all of them than does Garland.

If Merrick has one deficiency, it is the relative staleness of his national security experience in the executive branch—which is pre-9/11 and predates the creation of the National Security Division. He would benefit from a strong deputy attorney general who would compensate...

...for this. My suggestion on that score would be, Lisa Monaco.

But make no mistake. There was a right answer to this question, and Joe Biden nailed it.

For rule of law restoration purposes, there is no appointment more significant than the choice of attorney general.

And there is no candidate more perfect for the role than Garland.

That's all I got--for now.