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Obama Picks A True Blue, Real Deal, Long-Time Police Critic To Head Up Civil Rights Division

Obama's new pick to run the civil rights division is as passionate an advocate for racial justice as you could find. But will that help or hurt her nomination?

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The Obama administration has chosen a harsh critic of the criminal justice system to run the civil rights division of the Justice Department, [even as his party appears on the verge of losing the Senate](#).

The ACLU announced Wednesday that Vanita Gupta, their deputy legal director and head of their Justice Center, was being nominated for the job.

“I think it shows some real commitment to civil rights on the part of the administration that they're putting forth another serious civil rights lawyer after Debo [Adegbile's] nomination,” said Sam Bagenstos, a law professor at the University of Michigan and a former top lawyer in the division.

Gupta is as passionate an advocate for racial justice as you could find. At a time when the Obama administration faces a potential Republican majority in the Senate — and having lost a tough nomination battle over the nominee's connection to a racially charged murder case involving a police officer — they chose a nominee who has spent the last decade attacking racism in the American criminal justice system. Gupta has [called for the decriminalization of marijuana](#), [criticized the militarization of local police](#), and gone after cops engaging in “highway robbery” through [civil asset forfeiture laws](#).

Given Gupta's skill set, it's hard not to imagine that the scenes coming out of Ferguson, Missouri, where tensions between the black community and a mostly white police force [erupted into ongoing protests](#), influenced the administration's decision. In many ways, Gupta's job at the

ACLU was policing the police. As head of the civil rights division, she'll do that [with the power of the federal government at her back](#).

As an attorney with the NAACP LDF, Gupta [helped overturn](#) the drug convictions of dozens of black and Hispanic residents of Tulia, Texas, in a sting orchestrated by a local sheriff who was [later convicted of perjury](#). In her work for the ACLU, Gupta has focused on [ending the War on Drugs](#) and [curtailing mass incarceration](#), policies she sees as having devastated communities of color.

“Our country, at the state and federal level, has used the criminal justice system to wage a merciless drug war selectively in poor communities, especially in black and brown ones,” [Gupta wrote in January](#).

That's significant, because the Obama administration's enforcement of civil rights laws — particularly when it comes to voting rights and housing — has often proved controversial on the right. When Attorney General Eric Holder announced he was resigning last month, Ilya Shapiro, a legal analyst at the Cato Institute, [compared Holder](#) to segregationist politician George Wallace.

Obama's first choice for the job was Debo Adebile, a celebrated Supreme Court litigator and attorney with the NAACP Legal Defense Fund. Democratic control of the Senate couldn't save Adebile's nomination from being shot down over his representation of a man convicted of the murder of a police officer.

While at the NAACP LDF, Adebile helped reverse the decision to sentence Mumia Abu-Jamal to death for the 1981 killing of Officer Daniel Faulkner. The courts found that the judge's instructions to the jury during his sentencing had been improper, [and Abu-Jamal is now serving life in prison](#). Republicans pilloried Adebile over his role in the case, and his nomination became so toxic that a handful of Democrats crossed the aisle to vote down his nomination in March.

Though the catalyst for Republican opposition to Adebile was the Abu-Jamal case, the larger backdrop was an [ongoing ideological dispute](#) between right and left over the continuing impact of racial discrimination and the federal government's role in fighting it.

There's no question about where Gupta comes down in that argument.

Nevertheless, Gupta's work on criminal justice reform has drawn allies from across the political spectrum. Many Republicans and conservative elites have come to believe mass incarceration and the War on Drugs are costly and counterproductive. In announcing her nomination, the ACLU sent out a statement with praise from conservative luminaries Grover Norquist of Americans for Tax Reform and David Keene, the former chair of the American Conservative Union.

A nominee with a background in voting rights or housing discrimination would have had a very difficult time being confirmed. By picking Gupta, Obama has chosen a nominee who has spent her career fighting for racial justice and against the abuses of big government at the same time.

It's an open question whether that will translate to any Republican support in the Senate, where the partisan divide over the role of the federal government in enforcing civil rights laws is no closer to being resolved than it was months ago.

"I think the administration is hoping they will get some Republican support because of Gupta's work with conservatives on criminal justice issues," said Bagenstos. "It's a really polarized environment."