

S. HRG. 115-207

**CONFIRMATION HEARING ON THE
NOMINATION OF HON. JEFF SESSIONS
TO BE ATTORNEY GENERAL
OF THE UNITED STATES**

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION

JANUARY 10 and 11, 2017

Serial No. J-115-1

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| Leadership Conference on Civil and Human Rights, The, Washington, DC, December 1, 2016, letter: https://www.judiciary.senate.gov/imo/media/doc/Sessions%20Nomination%2012%201%2016.pdf | 1395 |
| Liebman, James S., Associate Professor of Law, Columbia University School of Law, appendix to January 9, 2017, letter: https://www.judiciary.senate.gov/imo/media/doc/Appendix%201%20to%20Liebman%20Letter%20re%20Sessions%20Nomination%20010917.pdf | 1395 |
| National Association for the Advancement of Colored People (NAACP), “NAACP Federal Legislative Report Card, 113th Congress, January 3, 2013, through December 16, 2014,” Washington, DC, report: https://www.judiciary.senate.gov/download/naacp_report-on-sessions .. | 1395 |
| National Association for the Advancement of Colored People Legal Defense and Educational Fund, Inc. (LDF), “Report in Opposition to the Nomination of Jefferson Beauregard Sessions III to be Attorney General of the United States,” New York, New York, and Washington, DC, January 9, 2017, report: https://www.judiciary.senate.gov/imo/media/doc/2017-01-09%20NAACP%20LDF%20Report%20in%20Opposition%20to%20Sessions.pdf . | 1395 |
| Patrick, Deval L., Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, “Notice of Findings from Investigation of Easterling Correctional Facility,” March 27, 1995, letter and report: https://www.judiciary.senate.gov/imo/media/doc/Hitching%20Post%20Report%20-%20Easterling1.pdf | 1396 |
| Patrick, Deval L., Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, “Notice of Findings from Investigation of Julia Tutwiler Prison for Women,” March 27, 1995, letter and report: https://www.judiciary.senate.gov/download/01/10/2017/hitching-post-report_tutwiler | 1396 |
| UltraViolet, Nita Chaudhary and Shaunna Thomas, Co-Founders, petition: https://act.weareultraviolet.org/constituents/?tcid=767.tc7597.HKXtdS ... | 1396 |
| <i>United States Steel LLC v. TIECO Inc.</i> , U.S. Court of Appeals, Eleventh Circuit, August 17, 2001, decision: http://caselaw.findlaw.com/us-11th-circuit/1481550.html | 1396 |

**CONFIRMATION HEARING ON THE
NOMINATION OF HON. JEFF SESSIONS
TO BE ATTORNEY GENERAL
OF THE UNITED STATES**

TUESDAY, JANUARY 10, 2017

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m., in Room SR-325, Russell Senate Office Building, Hon. Charles E. Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Flake, Feinstein, Leahy, Durbin, Whitehouse, Klobuchar, Franken, Coons, Blumenthal, and Hirono.

Chairman GRASSLEY. Before we actually start the hearing, I am going to give a point of personal privilege to former Chairman and my friend, Senator Leahy, to speak for a few seconds that he asked to do, and I think it is very appropriate that you do what you said you were going to do.

**OPENING STATEMENT OF HON. PATRICK LEAHY,
A U.S. SENATOR FROM THE STATE OF VERMONT**

Senator LEAHY. Well, thank you, Mr. Chairman, and I appreciate the courtesy. The Senate Judiciary Committee convenes for the first time in the 115th Congress, a historic moment in the Committee's 200-year history. Last week, Senator Dianne Feinstein was named the Committee's Ranking Member, the first time in American history when a woman has served in this capacity. And having been either Chairman or Ranking Member for the past 20 years, I cannot think of anybody better.

It is striking that 352 Members have served on the Committee, and only six of those, who happen to be Democrats, have been women. Three of those six women are proudly serving on this important Committee today: Senator Feinstein, Senator Klobuchar, and Senator Hirono.

So after these 20 years, I welcome Senator Feinstein. When we grapple with some of the most pressing issues facing our country, we Americans can be proud that she is here, and I applaud you for this.

[The prepared statement of Senator Leahy appears as a submission for the record.]

Senator FEINSTEIN. Thank you.

Chairman GRASSLEY. Thank you, Senator Leahy.

Good morning. I welcome everyone to this very important hearing to consider the nomination of our colleague Senator Sessions to serve as the 84th Attorney General of the United States.

First, I want to set out a couple of ground rules. I want to handle this hearing the same way that I handled the hearing for Attorney General Lynch's nomination. And it is also the same way that Chairman Leahy handled previous hearings. I want everyone to be able to watch the hearing without obstruction. If people stand up and block the views of those behind them or speak out of turn, it is simply not fair, it is simply not considerate to others, so officers will immediately remove those individuals.

Now, before my opening statement, let me explain how we will proceed.

Senator Feinstein and I will give our opening remarks. Then Senators Shelby and Collins will introduce the nominee. Following Senator Sessions' opening remarks, we will begin our first round of questions. Each Senator will have an initial 10-minute round for questions. After the first round, we are going to do 8-minute rounds of questions. I want everyone to know that I am prepared to stay here as long as Members have questions that they would like to ask. Again, that is the way I handled Attorney General Lynch's nomination. I think that is the most fair way to proceed for both Members as well as our distinguished nominee.

I welcome our new Members to this Committee. I look forward to working with all of the new Members as well as the ones that are repeating serving on this Committee. I would also like to recognize and welcome a number of important audience members: former Attorneys General Meese and Mukasey, and also our former colleague Senator Kyl, a former Member of this Committee; and I see the Attorney General for Ohio is here as well, a former colleague of ours.

Finally, before my opening remarks, I congratulate Senator Feinstein on your appointment and the decision to take over the Ranking Membership. We have always had a good working relationship through several things we have done, both legislatively and as leaders of the Drug Caucus, and I appreciate very much the opportunity to work with you.

Senator FEINSTEIN. Thank you.

Chairman GRASSLEY. Thank you. With that I will now start my opening comments.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY,
A U.S. SENATOR FROM THE STATE OF IOWA**

Our hearing today hardly introduces Senator Sessions to the Committee. No; we are here today to review the character and the qualifications of a colleague who has served alongside us in the Senate for 20 years. That includes his time as a Ranking Member of this Committee. We know him well. We know the policy positions he has taken as a legislator. I have been on both sides of debates with the distinguished Senator Sessions. Having served with him for so long, we pretty well know whether he supports your policy positions or opposes them. He tells us so with his usual thoughtfulness, humility, and, more importantly, respect. As a

former Chairman of this Committee has put it, Senator Sessions is “wonderful to work with.” We know him to be, as another senior Democrat on this Committee described him, “a man of his word.” As a third senior colleague put it, a Democrat as well: “He is always a gentleman. He is straightforward and fair.”

Most of all, the Members of this Committee know him to be a leader who has served the people of Alabama—and all Americans—with integrity, with dedication, and with courage. That describes how I know the nominee for the 20 years that I have served with him.

As former Chairman Leahy observed the last time a new President took office, it is “important that the Justice Department have a senior leadership in place without delay We need the Justice Department to be at its best.”

Perhaps my good friend Senator Schumer said it best when he observed that we should “move to a vote, hopefully sooner rather than later.” And when we do, as he said, we “won’t be voting for or against the President’s policies.” In summary, Senator Schumer said we will be voting for a colleague with a first-rate legal mind whose record proves his commitment to just law enforcement and eminently qualified to lead the Department of Justice.

I have been encouraged by the initial support many of our colleagues on both sides of the aisle have expressed for Senator Sessions’ nomination. So I look forward to hearing from Senator Sessions and moving to his appointment without delay.

Senator Sessions’ record is a life of public service. And so we know his story. He was raised in the small town of Hybart, Alabama, where his father owned and ran a small country store. He then studied at Huntingdon College and the University of Alabama before practicing law in Russellville and Mobile. Senator Sessions has always been an active member of his community. He taught school before attending law school and taught Sunday School at Ashland Place United Methodist Church. He served our Nation in the Army Reserve, attaining the rank of Captain.

After his time in private practice, Senator Sessions served as an Assistant U.S. Attorney in the Southern District of Alabama. He then headed that office after the Senate confirmed him as U.S. Attorney, a post he held for a dozen years. So all told, this Senator, colleague of ours, has served 15 years as a Federal prosecutor in the Department that he will soon head.

It was during that time that he oversaw the investigation of Klansman Francis Hays for the brutal abduction and murder of a Black teenager, Michael Donald. He made sure that case was brought to State court where the defendant was eligible for and received the punishment that he justly deserved—the death penalty. His office then successfully prosecuted that murderer’s accomplice in Federal court.

Based on his prosecutorial record, the people of Alabama elected him their Attorney General and then their Senator. He has served with us since 1997. And as our former Chairman observed, this Committee has relied on him for his prosecutorial experience during the course of his Senate service.

Throughout his public service, both within the Department and outside of the Department, he has raised his hand and served

when called upon. He has done his duty, enforced the law fairly, and let the chips fall where they may.

Reflecting on this record of service, it is no surprise then that Senator Sessions was also an Eagle Scout. Other Members of this Committee know, as I do, that the Scouts' motto, "Be Prepared," sits on his desk in his Senate office.

Senator Sessions' entire life of dedicated public service has prepared him for this day. If he is confirmed—and I expect that he will be—Senator Sessions will shed his role as a legislator who writes law and he will take on the task of enforcing the laws Congress has written. He has made this transition before, when the people of Alabama elected him their Senator based on his record of service as U.S. Attorney and Alabama Attorney General.

As one Member of this Committee observed about a lawyer's transition into the role of a judge: "There are turning points in a person's life when they put away things of the past and move into new responsibilities." Serving as our Nation's Attorney General will mark another such turning point in Senator Sessions' distinguished career. And every Member of this Committee knows from experience that, in his new role, Senator Sessions will be a leader for law and order administered without regard to person.

Leadership to that end is exactly what the Department now needs. It should go without saying that the Department is tasked with the responsibility of enforcing our laws—all of our laws—in a dispassionate and evenhanded way.

We write the laws. The Executive enforces them, faithfully. This is a simple but very foundational principle.

Unfortunately, for the last several years, the Department has simply declined to enforce some laws the executive branch found obnoxious. The Department's failure to enforce the law has run the gamut of issues from criminal law to our Nation's duly enacted immigration laws.

It is true that each branch of Government has an independent duty to assess the constitutionality of the laws it writes, it administers, and it adjudicates. But it is equally true that the Executive has a constitutional responsibility to, as we all know, "take care that the laws be faithfully executed." I know our colleague, this Senator Sessions, respects the legislative process and the prerogative of Congress to write the law. As he explained during the confirmation hearing that we held for John Ashcroft's nomination to serve as Attorney General, "The Attorney General is a law enforcer. There is a big difference between a politician and a Senator where we vote on policy and executing that policy."

I look forward to hearing from Senator Sessions on how he will transition from voting on policy matters to enforcing the laws he has labored so long to improve and to sustain.

Just as he respects Congress' duly enacted laws, Senator Sessions knows and respects the importance of an independent Attorney General at the Department's helm. When he has questioned other candidates for the Office of Attorney General, he has made plain the priorities of an Attorney General's independence. He sought assurances on this account during the confirmation hearing for Attorney General Eric Holder—a nominee that, it happens, Senator Sessions and I both supported despite policy disagreements

with Eric Holder. Senator Sessions asked at that time: “You are not threatening and not guaranteeing you are going to prosecute people until you fairly evaluate all the facts and the evidence and the law they thought they were dealing with at the time?”

During this Committee’s hearing on the confirmation of another Attorney General, Senator Sessions reflected on the obligations of the people as he knew them from his service in Alabama: “You speak for the legal interests of the State.” As a result, he said, “there are times when the Attorney General represents the State, he has an obligation and a duty regardless of what the parties to a litigation may say”—including when one of those parties is the Government—“to ensure that it is fair for all the people of the State.”

This firm grasp on the separation of powers equips Senator Sessions to provide the Department with independent leadership of the highest priority. He knows the Department’s obligations well—not only because he knows the Department but because he has seen those obligations observed in the breach from his seat beside us in the Senate.

To this legislator, the Department’s failure in the just enforcement of our laws is not just a policy disappointment on a particular issue. It is an affront to the very separation of powers that defines our role and the voice of the people that warrants our votes. I imagine Senator Sessions may have thoughts on that question as well, and I hope to hear those points.

On this Committee, we do not always agree on the right way to handle the complex policy issues we consider. And when you have served in the Senate as long as Senator Sessions and I have, you are bound to find at least a few points of disagreement with even the most like-minded colleagues.

But Senator Sessions’ two decades of service beside me testify without question to this: He is a man of honor and integrity, dedicated to the faithful and fair enforcement of the law, who knows well and deeply respects the Department of Justice and its constitutional role. I look forward to hearing from him about this vision and plans for the Department.

[The prepared statement of Chairman Grassley appears as a submission for the record.]

And now it is Senator Feinstein’s turn for her words.

**OPENING STATEMENT OF HON. DIANNE FEINSTEIN,
A U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. Thank you very much, Mr. Chairman, and I would like to thank Senator Leahy also for his words.

If I may, I would like to begin by just quickly introducing some Californians in the audience: Congresswoman Maxine Waters from Los Angeles, Congresswoman Barbara Lee from the Bay Area, also Denise Rojas, who is a DREAMer who has been enormously successful, I had the privilege of writing an article about her, and also the Reverend Dr. Amos Brown, whom I have known for 40 years, and the Reverend Dr. Frederick Haynes. They are part of the ministerial delegation here today.

The Senator before us this morning is someone that many of us on this Committee have worked with for some 20 years, and that

makes this very difficult for me. I committed to Senator Sessions in our private meeting, and I will say it again here: The process is going to be fair and thorough.

But, today, we are not being asked to evaluate him as a Senator. We are being asked to evaluate him for the Attorney General of the United States, the chief law enforcement for the largest and best democracy in the world.

As Attorney General, his job will not be to advocate for his beliefs; rather, the job of the Attorney General is to enforce Federal law, even if he voted against the law, even if he spoke against it before it passed, even if he disagrees with the precedent saying that the law is constitutional. Most importantly, his job will be to enforce Federal law equally—equally—for all Americans. And this job requires service to the people and the law, not to the President.

The President-elect said to his opponent during a debate, “If I win, I am going to instruct my Attorney General to get a special prosecutor to look at your situation.”

Mr. Chairman, that is not what an Attorney General does. An Attorney General does not investigate or prosecute at the direction of the President. Nor do Attorneys General wear two hats—one as the President’s lawyer and one as the people’s lawyer. That model has failed. Rather, the Attorney General must put aside loyalty to the President. He must ensure that the law and the Constitution come first and foremost, period.

President Lincoln’s Attorney General, Edward Bates, I think said it best when he said this: “The office I hold is not properly political, but strictly legal; and it is my duty, above all other ministers of state, to uphold the law and to resist all encroachments, from whatever quarter.” That is the job of the Attorney General.

If confirmed, Senator Sessions will be the top official charged with faithfully and impartially enforcing all Federal law and protecting our fundamental right to vote from all incursions, whether they be foreign or domestic. His duty will be to enforce and protect our civil rights and constitutional freedoms, including a woman’s right to choose. He will run the Department that ensures those who commit hate crimes are held accountable. And he will be charged with protecting consumers and taxpayers from fraud and making sure that corrupt public officials are held accountable. He will prosecute polluters based on Federal law. And it is the Attorney General who must ensure that this Government follows the law, does not ever torture again. This is an awesome responsibility and an enormous job.

What we must do now in these hearings is determine what type of Attorney General Senator Sessions will be, if confirmed. And let me express a deep concern. There is so much fear in this country. I see it, I hear it, particularly in the African-American community, from preachers, from politicians, from everyday Americans.

As Mrs. Evelyn Turner of the Marion Three said in her passionate letter to this Committee: “I am very troubled by his stance against civil rights in the more recent past. As a U.S. Senator, he supported no laws or causes which suggest that he has changed.”

Throughout his Senate career, Senator Sessions has advocated an extremely conservative agenda. For example, he voted “no” and spoke for nearly 30 minutes in this Committee against a Leahy

amendment 2 years ago that expressed the sense of the Senate that the United States would not bar people from entering this country based on their religion. He voted against each of three bipartisan comprehensive immigration bills—in 2006, 2007, and 2013.

Twice he voted against the DREAM Act, the bill for undocumented youth, known as “DREAMers,” who were brought here as children through no choice of their own, calling it a “reckless proposal for mass amnesty.”

He voted against efforts to prohibit the use of waterboarding and other so-called enhanced interrogation techniques, calling them lawful and praising Attorney General Mukasey in 2008 for refusing to rule out the use of waterboarding in the future. These interrogation techniques are, and were at the time, illegal. And thanks to a provision Senator McCain placed in the Defense Authorization Bill this past year, they are now prohibited from use.

In addition, Senator Sessions voted against the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, which, among other things, expanded the hate crimes law to cover sexual orientation and gender identity. Arguing against the hate crimes law in 2009, he said this: “Today I am not sure women or people with different sexual orientations face that kind of discrimination. I just do not see it.”

Well, this Senator, regretfully, sees it. Hate crimes are happening. The Department of Justice must see it, must investigate it, and prosecute it appropriately. Those are votes that are deeply concerning. They are recent, they are important, and they clearly show this Senator’s point of view.

Now, for all these reasons, this hearing must determine clearly whether this Senator will enforce laws he voted against. We, the American people, want to know how he intends to use this awesome power of the Attorney General if he is confirmed. Will he use it fairly? Will he use it in a way that respects law and the Constitution? Will he use it in a way that eases tensions among our communities and our law enforcement officers? Will he be independent of the White House? Will he tell the President “no” when necessary, and faithfully enforce ethics laws and constitutional restrictions?

So we will ask questions, and we will press for answers. Ultimately, we must determine whether Senator Sessions can be the Attorney General for all of our people.

Mr. Chairman, I would like to conclude with one final point. We cannot ignore that there are deep concerns and anxieties throughout America. There is a deep fear about what a Trump administration will bring in many places, and this is the context in which we must consider Senator Sessions’ record and nomination to become the chief law enforcement officer of America. Communities across this country are concerned about whether they will be able to rely on the Department of Justice to protect their rights and freedoms. These freedoms are so cherished. They are what make us unique among nations.

There have been sit-ins, protests, and write-ins, and the Committee has received letters of opposition from 400 different civil rights organizations, 1,400 law professors, 1,000 law students, a broad task force of organizations that oppose domestic violence, 70

reproductive health organizations, and many, many others. All these letters express deep anxiety about the direction of this country and whether this nominee will enforce the law fairly, evenly, without personal bias.

So I hope today's questions are probing and the answers are fulsome. Ladies and gentlemen, this is the only way we have to know whether this man can detach himself from the President and from his record and vote in full accordance with the laws of the United States of America.

Thank you very much, Mr. Chairman.

Chairman GRASSLEY. And thank you, Senator Feinstein.

Before I turn to Senators Shelby and Collins for their opening statement, I would note that the Committee received a letter from former Secretary of State Condoleezza Rice indicating that she had hoped to join our colleagues in introducing Senator Sessions. She strongly supports his nomination. It is a powerful letter, and I hope my colleagues will take time to read it, and I would like to have it entered in the record at this point.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Now to Senator Shelby and Senator Collins, in that order. Proceed.

PRESENTATION OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA AND NOMINEE TO BE ATTORNEY GENERAL OF THE UNITED STATES, BY HON. RICHARD SHELBY, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SHELBY. Chairman Grassley, Ranking Member Feinstein, thank you for allowing me to be a part of this historic hearing today.

Although my friend and colleague Jeff Sessions is well known to the Members of this Committee, it is my distinct privilege to introduce him as President-elect Donald Trump's nominee to serve as our next United States Attorney General.

Before joining the Senate, Jeff Sessions began his distinguished career as a practicing attorney and then served as the United States Attorney for Alabama's Southern District before ultimately becoming the Attorney General of the State of Alabama.

During the past 20 years here in the U.S. Senate that I have served with Jeff Sessions, I have had the opportunity to know him well, not just as a skilled attorney with an accomplished record as a prosecutor and as a legislator, but as a man of extraordinary character. I have the highest regard not only for his intellect but for his integrity.

Unfortunately, since the announcement of his nomination, Jeff's political opponents have attacked his character with baseless and tired allegations. But, in reality, Jeff Sessions' extensive record of treating all Americans equally under the law is clear and well documented.

Throughout his decades of public service, including his impressive tenure on this Committee, Jeff's commitment to upholding the rule of law I believe is unparalleled. The integrity, humility, and gravity with which Jeff Sessions will approach the office of Attorney General of the United States is unquestionable.

I have no doubt, Mr. Chairman, that he will apply the law with the impartiality that is required of the job. I am also confident that this Committee will report favorably and expeditiously Jeff Sessions' nomination to be the next Attorney General of the United States.

Chairman GRASSLEY. Thank you, Senator Shelby.
Now, Senator Collins.

PRESENTATION OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA AND NOMINEE TO BE ATTORNEY GENERAL OF THE UNITED STATES, BY HON. SUSAN COLLINS, A U.S. SENATOR FROM THE STATE OF MAINE

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Chairman, Senator Feinstein, Members of this distinguished Committee, I am pleased to join Senator Shelby in presenting my friend and colleague, Senator Jeff Sessions, and to offer my support for his nomination to be our next Attorney General.

[Outburst in audience.]

Senator COLLINS. Jeff Sessions and I were first sworn in to the United States Senate on the very same day. In the 20 years since, we have worked closely on some issues and on opposite sides on others. In fact, it would be fair to say that we have had our share of vigorous debates and policy disagreements.

Through these experiences, I have come to know Senator Sessions professionally as a trusted colleague and personally as a good friend. I can vouch confidently for the fact that Jeff Sessions is a person of integrity, a principled leader, and a dedicated public servant.

As a Senator, Jeff Sessions has worked across the aisle to lead important legislative reforms. He has worked with Senator Dick Durbin to pass the Fair Sentencing Act, a law that addressed the unfair racial disparity in crack cocaine sentencing. He worked with Senator Ted Kennedy to pass the Prison Rape Elimination Act and with Senator Chris Coons on the reauthorization of the Victims of Child Abuse Act.

An area where Senator Sessions and I have worked together is in opposing unfair trade agreements and practices that hurt American workers.

What I want this Committee and the American people to know is that Jeff Sessions is the same genuine, fair-minded person in unguarded private moments as he is in the halls of the Senate.

We first came to know each other during dinners with other Members of our Senate class where we discussed everything from our politics to our families. I have never witnessed anything to suggest that Senator Sessions is anyone other than a dedicated public servant and a decent man.

In 1980, long before he ran for the Senate, or even dreamed of being Attorney General, Jeff Sessions sponsored the first African-American member of the Mobile Lions Club. As U.S. Attorney, he provided leadership in the successful convictions of two Klan members who had murdered an African-American teenager. As Ranking Member of the Senate Judiciary Committee in 2009, he appointed the first African American to serve as Chief Counsel to the Repub-

lican Members. My friends, these are not the actions of an individual who is motivated by racial animus.

In spite of this strong record, Senator Sessions' nomination has generated controversy. He has had to withstand some very painful attacks on his character, both years ago and again today, with little or no acknowledgment of his accomplishments and actions or the responses he has made to the accusations levied against him.

As this Committee debates this nomination, I would draw your attention to an important epilogue to Jeff Sessions' nomination 31 years ago to be a Federal judge. The late Senator Arlen Specter of Pennsylvania was a Member of the Judiciary Committee when the Sessions nomination was considered in 1986. Senator Specter, then a Republican, voted against Jeff Sessions. Years later, in 2009, Senator Specter had switched parties. He was asked by a reporter if he regretted any of the more than 10,000 votes he had cast. Out of all of those votes, then-Democratic Senator Specter cited just one. It was his vote against confirming Jeff Sessions as a Federal judge.

When asked why, Senator Specter replied, "Because I have since found that Senator Sessions is egalitarian." In other words, once Senator Specter served with Jeff Sessions and had the opportunity to get to know him, he changed his mind.

I hope that you will keep Arlen Specter's reflections in mind as this Committee evaluates Senator Sessions' public service, his character, and his fidelity to the rule of law. The Members of this Committee have an advantage that Senator Specter did not. The vast majority of you have already served with Senator Sessions, and you know him well. If this Committee places its trust in him, I have every confidence that Jeff Sessions will execute the office of Attorney General honestly, faithfully, and fully in the pursuit of justice.

Thank you, Mr. Chairman. Thank you, Ranking Member Feinstein and Members of this Committee.

Chairman GRASSLEY. And I thank both of our colleagues for your powerful statements. I appreciate it very much. And you are free to go, and we will call the nominee at this point.

[Pause.]

Chairman GRASSLEY. Senator Sessions, before you are seated, I would like to administer the oath. Would you raise your hand, please, and answer this question? Do you swear that the testimony you are about to give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Senator SESSIONS. I do.

Chairman GRASSLEY. Thank you, and please be seated.

Senator Sessions, it is our normal process, if you desire, to introduce people that are with you, including your family I am sure you are very proud of. You are free to do that, and then go immediately to your opening statement.

STATEMENT OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA AND NOMINEE TO BE ATTORNEY GENERAL OF THE UNITED STATES

Senator SESSIONS. Thank you, Mr. Chairman. I believe we have been joined by my grandchildren. It is an honor for me to be here and to have my family with me.

First, my wife, Mary, my best friend, of 47 years. Without her love and support, none of this would have been possible for me.

And we are so proud of our three children who are here today. Mary Abigail Reinhardt, our oldest, is married to a naval officer, Commander Paul Reinhardt of the USS Alabama. They are now stationed in the Pacific Coast. They have two children, Jane Ritchie and Jim Beau, and they wish me well this morning.

My daughter Ruth Walk—Ruth, would you stand up?—and her husband, John Walk. John is an attorney with the Department of Homeland Security, and they have four children, as you see before you today: Gracie and Hannah, and Joanna and Phoebe. Phoebe and Joanna are twins, and we are so proud of them.

My son, Sam, is a graduate of Auburn and Alabama Law School. Sorry, Sam, about the game last night.

[Laughter.]

Senator SESSIONS. Lindsey, congratulations, wherever he is.

Sam is an attorney in Birmingham, and he is married to Angela Stratas. They have four children: Alexa, Sophia, Lewis, and Nicholas.

Ten grandchildren, the oldest is 9, and you can imagine the week we had at the beach this summer in Alabama.

Finally, I want to express how humbled I am to have received such overwhelming support and encouragement from our Nation's law enforcement community. Many are here today.

Mr. Chairman, with your permission, I would like to ask those present please to stand and be recognized, the law enforcement members that are here today. Would you please stand? Every major law enforcement organization in America has endorsed my candidacy. I feel the weight of the confidence they have placed in me, and, gentlemen and ladies, I will do my best to be worthy of that. And if I may, Mr. Chairman, yesterday was Law Enforcement Officer Appreciation Day. Sadly, on that day we lost two of our brave officers.

Orlando Police Department Master Sergeant Debra Clayton, one of the first officers to respond to the Orlando night club shooting in June, was shot and killed while confronting a subject wanted for murder. Sergeant Clayton, a 17-year veteran of the force, was married with two children.

While assisting in the search for that assailant, Orange County Deputy First Class Sheriff Norman Lewis was killed in a traffic accident on his motorcycle. He was an 11-year veteran of the sheriff's office. These honorable individuals have dedicated their lives to keeping their communities safe, and we should remember their service and keep them and their families in our prayers.

Chairman Grassley, Ranking Member Feinstein, distinguished Members of the Committee, I am honored to appear before you today. I thank you for the opportunity to respond to your questions as you discharge your duty in the appointment process as prescribed by our Constitution.

[Outburst in audience.]

Senator SESSIONS. Mr. Chairman, if I might, I want to thank my dear friends and colleagues, Senator Richard Shelby and Senator Susan Collins, for their kind and generous introductions. It was

very touching. It is hard to believe, really, that the three of us have served together in this body for almost 20 years.

When I arrived in the Senate in 1997, I probably would not have anticipated becoming so close with a colleague from Maine—two people from the northern-most and southern-most parts of our country.

[Outburst in audience.]

Senator SESSIONS. It took us a while to understand each other's accents, but once we did, we became fast friends. Of course, Richard Shelby and I never had that problem. He has been a steadfast friend, and I think we have been a pretty good team representing the interests of Alabama and the United States.

I want to thank President-elect Donald Trump for the confidence and trust he has shown in me by nominating me to serve as the Attorney General of the United States. I feel the weight of an honor greater than I have aspired to. If I am confirmed, I will commit to you and to the American people to be worthy of the office and the special trust that comes with it.

So I come before you today as a colleague who has worked with you for years and some of you 20 years. You know who I am. You know what I believe in. You know that I am a man of my word and can be trusted to do what I say I will do. You know that I revere the Constitution, that I am committed to the rule of law; and you know that I believe in fairness and impartiality and equal justice under law.

Over the years, you have heard me say many times that I love the Department of Justice. The Office of Attorney General of the United States is not a normal political office, and anyone who holds it must have total fidelity to the laws and the Constitution of the United States. He or she must be committed to following the law. He or she must be willing to tell the President or other top official "no" if he or she overreaches. He or she cannot be a mere rubberstamp. He or she must set the example for the employees of the Department to do the right thing and ensure that, when they do the right thing, they know the Attorney General will back them up, no matter what politician might call or what powerful special interest, influential contributor, or friend might try to intervene. The message must be clear: Everyone is expected to do their duty.

That is the way I was expected to perform as an Assistant United States Attorney working for Attorney General Meese in part of my career. And that is the way I trained my assistants when I became United States Attorney. And, if confirmed, that is the way I will lead the Department of Justice.

In my over 14 years in the Department of Justice, I tried cases personally of every kind: drug trafficking, very large international smuggling cases, many firearms cases, other violent crimes, a series of public corruption cases of great significance, financial wrongdoing, and environmental violations. Our office supported historic civil rights cases and major civil cases. Protecting the people of this country from crime, and especially from violent crime, is a high calling of the men and women of the Department of Justice. Today, I am afraid, it has become more important than ever.

Since the early 1980s, good policing and prosecutions over a period of years have been a strong force in reducing crime, making

our communities safer. Drug use and murders are half what they were in 1980 when I became a United States Attorney. I am very concerned that the recent jump in the violent crime and murder rates are not anomalies, but the beginning of a dangerous trend that could reverse those hard-won gains that have made America a safer and more prosperous place. The latest FBI statistics show that all crime increased nearly 4 percent from 2014 to 2015—the largest increase since 1991—with murders increasing nearly 11 percent—the single largest increase since 1971.

In 2016, there were 4,368 shooting victims in Chicago. In Baltimore, homicides reached the second highest per capita rate ever. The country is also in the throes of a heroin epidemic, with overdose deaths more than tripling between 2010 and 2014. Tripling. Nearly 50,000 people a year die from drug overdose. Meanwhile, illegal drugs flood across our southern border and into every city and town in the country, bringing violence, addiction, and misery.

We must not lose perspective when discussing these statistics. We must always remember that these crimes are being committed against real people, real victims. It is important that they are kept in the forefront of our minds in these conversations and to ensure that their rights are protected.

These trends cannot continue. It is a fundamental civil right to be safe in your home and your community. If I am confirmed, we will systematically prosecute criminals who use guns in committing crimes. As United States Attorney, my office was a national leader in gun prosecutions nearly every year. We will partner with State and local law enforcement to take down these major drug-trafficking cartels and dismantle criminal gangs. We will prosecute those who repeatedly violate our borders. It will be my priority to confront these crimes vigorously, effectively, and immediately.

Approximately 90 percent of all law enforcement officers are not Federal, but they are State and local. They are the ones on the front lines. They are better educated, trained, and equipped than ever before. They are the ones who we rely on to keep our neighborhoods and playgrounds and schools safe. But in the last several years, law enforcement as a whole has been unfairly maligned and blamed for the unacceptable actions of a few of their bad actors. They believe the political leadership in the country has abandoned them. They felt they had become targets. Morale has suffered. And last year, while under intense public criticism, the number of police officers killed in the line of duty increased by 10 percent over 2015; and firearms deaths of police officers are up 68 percent. So this is a wake-up call, colleagues. It cannot continue.

If we are to be more effective in dealing with rising crime, we will have to rely on and work more effectively with local law enforcement, asking them to lead the way. To do that, they must know they are supported. And if I am so fortunate as to be confirmed as Attorney General, they can be assured they will have my support in their lawful duties.

As I discussed with many of you in our meetings prior to this hearing, the Federal Government has an important role to play in this area also. We must use the research and the expertise and the training that has been developed by the Department of Justice to help these agencies in developing the most effective and lawful law

enforcement methods to reduce crime. We must re-establish and strengthen the partnership between Federal and local officers to enhance a common and unified effort to reverse the rising crime trends. I did this as United States Attorney. I worked directly and continuously with local and State law enforcement officials. If confirmed, this will be one of my priority objectives.

There are also many things the Department can do to assist the State and local officers to strengthen relationships with their own communities where policies like community-based policing have absolutely been proven to work. I am committed to this effort and to ensuring that the Department of Justice is a unifying force for improving relations between the police in this country and the communities they serve. This is particularly important in our minority communities. Make no mistake, positive relations and great communication between the people and their police are essential for any good police department. And when police fail in their duties, they must be held accountable. I have done these things as United States Attorney. I have worked to advance these kind of policies.

In recent years, our law enforcement officers have been called upon to protect our country from the rising threat of terrorism that has reached our shores. If I am confirmed, protecting the American people from the scourge of radical Islamic terrorism will continue to be a top priority. We will work diligently to respond to threats, using all lawful means to keep my country safe. Partnerships will also be vital to achieving much more effective enforcement against cyber threats, and the Department of Justice clearly has a lead role to play in that essential effort.

We must honestly assess our vulnerabilities and have a clear plan for defense, as well as offense, when it comes to cybersecurity. The Department of Justice must never falter in its obligation to protect the civil rights of every American, particularly those who are most vulnerable.

A special priority for me in this regard will be aggressive enforcement of our laws to ensure access to the ballot for every eligible voter, without hindrance or discrimination, and to ensure the integrity of the electoral process, which has been a great heritage of the Department of Justice.

Further, this Government must improve its ability to protect the United States Treasury from fraud, waste, and abuse. This is a Federal responsibility. We cannot afford to lose a single dollar to corruption and you can be sure, if I am confirmed, I will make it a high priority of the Department of Justice to root out and prosecute fraud in Federal programs and to recover moneys lost due to fraud and false claims, as well as contracting fraud and issues of that kind.

The Justice Department must remain ever faithful to the Constitution's promise that our Government is one of laws, and not of men. It will be my unyielding commitment to you, if confirmed, to see that the laws are enforced faithfully, effectively, and impartially. The Attorney General must hold everyone, no matter how powerful, accountable. No one is above the law, and no American will be beneath its protection. No powerful special interest will cower this Department.

I want to address personally the fabulous men and women that work in the Department of Justice. That includes personnel in Main Justice, here in Washington, but also the much larger number that faithfully fulfill their responsibilities every day throughout the Nation. As a United States Attorney, I worked with them constantly. I know them and the culture of their agencies. The Federal investigative agencies represent the finest collection of law officers in the world. I know their integrity and professionalism and I pledge to them a unity of effort that is unmatched. Together we can and will reach the highest standards and the highest results. It would be the greatest honor for me to lead these fine public servants.

To my colleagues, I appreciate the time that each of you have taken to meet me one-on-one. As Senators, we do not always have enough opportunity to sit down and discuss matters face-to-face. I had some great visits. I understand and respect the conviction that you bring to your duties. Even though we may not always be in agreement, you have always been understanding and respectful of my positions, and I of yours.

In our meetings over the past weeks you have had the opportunity to share with me, and relating to the Department, from unprosecuted crimes on Tribal lands, a matter that is greater than I had understood: to the scourge of human trafficking and child exploitation, to concerns about cuts in grant programs, to the protection of American civil liberties, and the surge of heroin overdose deaths, to just name a few things.

I learned a lot during those meetings, and particularly in my meeting with Senator Whitehouse, where we discussed cyber security. He has a great deal of knowledge there. I am glad, Senator Whitehouse, that you and Senator Graham have taken a lead on this important issue, and I think we can work together and make some progress.

Senator Graham, congratulations on your football victory last night.

Senator GRAHAM. How about that last one?

Senator SESSIONS. So I want to assure all of my colleagues that I have given your concerns earnest reflection and will bear them in mind as I move forward. I will sincerely endeavor to keep these lines of communications open and hope that we can continue our collegiality and friendships.

In that regard, if I am confirmed, I commit to all of you that the Department of Justice will be responsive, Mr. Chairman, to Congress, and will work with you on your priorities, all of you, and provide you with guidance and views where appropriate. The Department will respect your constitutional duties, your oversight role, and the critically important separation of powers between the executive and legislative branches.

Let me address another issue straight on. I was accused in 1986 of failing to protect the voting rights of African Americans by presenting the *Perry County* case, the voter-fraud case. And of condemning civil rights advocates and organizations and even harboring, amazingly, sympathies for the KKK. These are damnably false charges.

The voter-fraud case my office prosecuted was in response from pleas from African-American incumbent elected officials who claimed that the absentee ballot process involved a situation in which ballots cast for them were stolen, altered, and cast for their opponents. The prosecution sought to protect the integrity of the ballot, not to block voting. It was a voting rights case.

As to the KKK, I invited Civil Rights attorneys from Washington, DC, to help us solve a very difficult investigation into the unconscionable, horrendous death of a young African-American man, Michael Donald, coming home from the 7-Eleven store at night, simply because he was Black. We actively backed the attorneys throughout the case and they broke that case. That effort led to a guilty plea and a life sentence in court for one defendant and his testimony against the other defendant. There was no Federal death penalty at the time. I felt the death penalty was appropriate in this case and I pushed to have it tried in State court, which was done. That defendant was indeed convicted and sentenced to death and 10 years later, ironically as Alabama's Attorney General, my staff participated in the defense of that verdict and sentence and a few months after I became a United States Senator, that murdering Klansman was indeed executed.

I abhor the Klan and what it represents and its hateful ideology. I assisted Morris Dees, of the Southern Poverty Law Center, in his lawsuit that led to the successful collapse of the Klan, at least in Alabama, and the seizure of their building at least for that period of time.

As Civil Rights Division attorneys have testified before the Committee, I supported fully the historic cases that the Justice Department filed to advance civil rights—including cases to desegregate schools, abolish at-large elections for cities, county commissions, and school boards. These at-large elections were a mechanism used to block African-American candidates from being able to be elected to boards and commissions. It was a deliberate part of a systemic plan to reduce the ability of African Americans to have influence in the election and governing process.

I never declared the NAACP was un-American or that a Civil Rights attorney was a disgrace to his race.

There is nothing I am more proud of than my 14 years of service in the Department of Justice. I love and venerate that great institution. I hold dear its highest ideals. As God gives me the ability, I will work every day to be worthy of the demands of this august office.

You can be absolutely sure that I understand the immense responsibility I would have. I am not naive. I know the threat that our rising crime and addiction rates pose to the health and safety of our country. I know the threat of terrorism. I deeply understand the history of civil rights in our country, and the horrendous impact that relentless and systemic discrimination and the denial of voting rights has had on our African-American brothers and sisters. I have witnessed it. We must continue to move forward and never back.

I understand the demands for justice and fairness made by our LGBT community. I will ensure that the statutes protecting their civil rights and their safety are fully enforced.

I understand the lifelong scars born by women who are victims of assault and abuse. And if I am so fortunate as to be confirmed as your Attorney General, you can know that I understand the absolute necessity that all my actions must fall within the bounds of the Constitution and the laws of the United States.

While all humans must recognize the limits of their abilities, and I certainly do, I am ready for this job. We will do it right. Your input will be valued. Local law enforcement will be our partners. Many friends in Federal Government that I have had in law enforcement will be respected.

I have always loved the law. It is the very foundation of this country. It is the exceptional foundation of America. I have an abiding commitment to pursuing and achieving justice, and a record of doing that. If confirmed, I will give all my efforts to this goal. I only ask that you do your duty as God gives you the ability to see that duty as you are charged by the Constitution.

Thank you for your courtesies. I look forward to the hearing. Thank you, Mr. Chairman.

Chairman GRASSLEY. Before I ask questions, I want to thank you, Senator Sessions, for your service in the Senate but more importantly, for taking on this responsibility you have been nominated for and to thank you for your opening statement. I am glad that you were able to mention the names of a lot of your family that are with you and there are a lot of other people that we may not have their names and I would ask the staff to put in the record the names of all the other people who are accompanying you today as well, if they are willing to give us that name. And it is a proud day for you, your wife, son, and daughters, and their families. I welcome all of you very much.

Now to the questioning. I will take 10 minutes and Senator Feinstein, we will go back and forth as we usually do.

The Attorney General of the United States is, of course, the Nation's chief law enforcement officer. He or she is not the President's lawyer, nor is he the President's wingman as Attorney General Holder described himself. Rather, he or she has an independent obligation to the Constitution and to the American people. Now I know you care deeply about this foundational principle. So I am going to ask you a question I have heard you ask other nominees for Attorney General.

Occasionally you will be called upon to offer an opinion to the President who appointed you. You will have to tell him "yes" or "no." And sometimes Presidents do not like to be told "no." So I would like to know, will you be able to stand up and say "no" to the President of the United States if in your judgment the law and your duty demands it? And the reason I ask that is because I know you worked very hard for the President-elect.

Senator SESSIONS. Mr. Chairman, I understand the importance of your question, I understand the responsibility of the Attorney General and I will do so. You simply have to help the President do things that he might desire in a lawful way and have to be able to say "no" both for the country, for the legal system, and for the President to avoid situations that are not acceptable. I understand that duty, I have observed it through my years here, and I will fulfill that responsibility.

Chairman GRASSLEY. Just so my colleagues do not think I am taking advantage of time, somebody did not start the clock. Well, the light is not working, I am sorry. I can read it now.

So, I heard what you said, but just to emphasize, let me follow up.

Well if you disagree with the President's chosen course of action and you told him so and he intends to pursue that course of action anyway, what are your options at that point?

Senator SESSIONS. Mr. Chairman, I think an Attorney General should first work with the President, hopefully that Attorney General would have the confidence of the President, and avoid a situation that would be unacceptable. I do believe that if an Attorney General is asked to do something that is plainly unlawful, he cannot participate in that. He or she would have to resign, ultimately, before agreeing to execute a policy that the Attorney General believes would be unlawful or unconstitutional.

I would say, Mr. Chairman, that there are areas that are clear and right, there are areas that may be gray, and there are areas that are unacceptable. And a good Attorney General needs to know where those lines are to help the President, where possible, and to resist improper, unacceptable actions.

Chairman GRASSLEY. You served in this Department for 14 or 15 years, you served as your State's Attorney General, and, of course, you have served on this Committee for a long time. And we have oversight over the Department that you might head. And you have done that all for 20 years.

I have had my share of disagreements with the Department's leadership over the last few years. Some of those were purely policy disagreements, but some issues were especially troubling to me in that the Department failed to perform fundamental functions to enforce the law.

As Attorney General day in and day out, you will be faced with difficult and sometimes thorny legal problems. What will your approach be to ensuring that the Department enforces the law and, more broadly, what is your vision for the Department?

Senator SESSIONS. Mr. Chairman, the ultimate responsibility of the Attorney General in the Department of Justice is to execute the laws passed by this Congress and to follow the Constitution in that process and carry its principles out. So you can be sure I understand that. We may have had disagreements here about whether a law should be passed, but once passed I will do my dead level best to ensure it is properly and fairly enforced.

I do believe that we have a crime problem. I will not perhaps go into now, unless you want me to, what we can do to address that. And there are other challenges this country faces. I would be pleased to recognize the influence of the legislative branch and to welcome the insights that you might have.

Chairman GRASSLEY. Since that is a very important issue with me and I suppose every colleague here, let me emphasize by saying, is it fair to say then that regardless of what your position may have been as a legislator, your approach as Attorney General will be to enforce the law regardless of policy differences?

Senator SESSIONS. Absolutely, Mr. Chairman. I do not have any hesitation or any lack of ability to separate the roles that I have

had. To go from the legislative branch to the executive branch is a transfer, not only of position, but of the way you approach issues. I would serve an executive function, an enforcement function of the laws this great legislative body might pass.

Chairman GRASSLEY. During the course of the Presidential campaign, you made a number of statements about the investigation of former Secretary of State Hillary Clinton relating to her handling of sensitive emails and regarding certain actions of the Clinton Foundation. You were not alone in that criticism. I was certainly critical in the same way as were millions of Americans on those matters. But now you have been nominated to serve as Attorney General. In light of those comments that you made, some have expressed concern about whether you can approach the Clinton matter impartially in both fact and appearance. How do you plan to address those concerns?

Senator SESSIONS. Mr. Chairman, it was a highly contentious campaign. I, like a lot of people, made comments about the issues in that campaign. With regard to Secretary Clinton and some of the comments I made, I do believe that that could place my objectivity in question. I have given that thought. I believe the proper thing for me to do would be to recuse myself from any questions involving those kinds of investigations that involve Secretary Clinton and that were raised during the campaign or could be otherwise connected to it.

Chairman GRASSLEY. Okay. Let me emphasize then with a follow-up question. To be very clear, you intend to recuse yourself from both the Clinton email investigation and any matters involving the Clinton Foundation if there are any?

Senator SESSIONS. Yes.

Chairman GRASSLEY. Let me follow up again because it is important. When you say you will recuse, you mean that you will actually recuse and the decision will therefore fall to, I assume, a Deputy Attorney General?

I ask because after Attorney General Lynch met with President Clinton in Phoenix, she said she would "defer" to the FBI, but she never officially recused.

Senator SESSIONS. No, she did not officially recuse. And there is a procedure for that which I would follow. And I believe that would be the best approach for the country because we can never have a political dispute turn into a criminal dispute. This cannot be handled in any way that would suggest anything other than absolute objectivity. This country does not punish its political enemies, but this country ensures that no one is above the law.

Chairman GRASSLEY. You touched on something that is very dear to me and that is working with having executive branch people work with Members of the Congress. And you also mentioned working with us on oversight. But since that is very important to me, let me say that the executive branch has always been one of my top priorities regardless of who occupies the White House. I have often said I am an equal opportunity overseer.

Now, over the years, I have asked quite a few executive nominees, but Republican and Democrat, to make commitments to respond to oversight. You said you would, but in my experience nominees are usually pretty receptive to oversight requests during these

type of hearings, but after they have been confirmed, oversight does not seem to be a high priority for them.

As I told you when we met privately in my office, sometimes I think nominees should go ahead and be a little more straightforward during their hearings. And instead of saying yes to everything we ask about oversight, it would be more honest to say “maybe” when asked if they would respond to our questions.

Now, because you have served on this Committee and understand the importance of oversight, I am hoping you will be different than your predecessors in response to oversight questions.

And so I have with me, that I will give to one of your staff, a whole bunch of letters that have not been answered yet, one of them even you have signed with me to the Department of Justice. And I hope that you would go to great lengths to see that these get answered so that next May or June if I am contacting you that they have not been answered then, you know, the Trump administration might be blamed for it and these are all a result of not getting answers from the last administration. So I hope you will help me get answers to these, at least the one you helped me to write.

[Laughter.]

Senator SESSIONS. Mr. Chairman, you are correct that this Committee has oversight, but it goes beyond that. This Committee and the Congress funds the various departments of the executive branch, and you have every right before you fund our agencies and departments to get responsive answers to questions that are proper. Sometimes Congress has asked for answers on issues that maybe there is legitimate reason to object to. But they should object and state why.

Mr. Chairman, I will be responsive to your requests and I understand your history, perhaps more than anyone in this Congress, to advance the idea that the executive branch needs to be held accountable. And I salute you for it.

Chairman GRASSLEY. And if Senator Feinstein contacts you, do not use this excuse, as so many people use, that if you are not Chairman of a Committee you do not have to answer the question. I want her questions answered just like you would answer mine.

Senator SESSIONS. I understand that.

Chairman GRASSLEY. Senator Feinstein.

Senator FEINSTEIN. Thank you. Thank you.

[Laughter.]

Senator FEINSTEIN. Thank you. That was above and beyond the call. Thank you, Mr. Chairman.

I would like to begin with the second-largest criminal industry in this country, which is now, believe it or not, by revenues produced, human sex trafficking.

And trafficking victims are among the most vulnerable in our society. The average age is 12 to 14. They are beaten, raped, abused, at times handcuffed at night so they cannot escape, and often moved from place to place, forced to have sex with multiple men each night.

The Justice for Victims of Trafficking Act, signed into law in 2015, created a Domestic Trafficking Victims’ Fund for victim services, to be administered by the Department of Justice. Part of that

fund contains up to \$30 million for health care or medical items or services to trafficking victims.

These funds are subject to the Hyde amendment which says no appropriated funding can be used to pay for abortion. However, the Hyde amendment does not apply in cases of rape.

On the Senate floor, Senator Cornyn discussed the Hyde language and said, "Everyone knows the Hyde amendment language contains an exception for rape and health of the mother. So under this act, these limitations on spending would not have anything to do with the services available to help those victims of human trafficking." In short, Senator Cornyn asserted that the Hyde amendment, which contains an exception for rape, would not affect the availability of services for these victims.

The Domestic Trafficking Victims' Fund will be under the jurisdiction of the Department of Justice. Here is the question: Will you ensure that these grant funds are not denied to service providers who will assist victims of human trafficking in obtaining comprehensive services they need, including abortion, if that is what is required for a young girl impregnated during this horrific abuse?

Senator SESSIONS. Senator Feinstein, I appreciate that question. And I do appreciate the fact that our country has been talking and, I believe, taking action for a number of years to deal with sex trafficking more effectively. I do not know that we have reached the level of actual effectiveness we need to, but Congress and you and others have been very, very outspoken about this. And there are all kinds of great citizens groups that have focused on it. It is a very important issue.

I was not aware of how the language for this grant program has been established. I do appreciate your concerns on it. It is a matter that I have not thought through. But, ultimately, it is a matter for this U.S. Congress, not so much a matter for the Attorney General.

We need to put our money out to assist in this activity according to the rules established by the Congress.

Senator FEINSTEIN. Well, I am delighted that Senator Cornyn is here. I quoted him directly from the floor that the Hyde amendment would not prevent the distribution of these funds. And so I hope you would agree to that. And that is certainly most important to me because Congress has spoken and the bill is law.

Senator SESSIONS. I understand that. And we would follow the law.

Senator FEINSTEIN. Okay. As you know, the Constitution also protects a woman's right to have access to health care and determine whether to terminate her pregnancy in consultation with her family and her doctor.

I am old enough to remember what it was like before, when I was a student at Stanford and thereafter. In the early 1960s, I actually sentenced women in California, convicted of felony abortion, to State prison for maximum sentences of up to 10 years, and they still went back to it because the need was so great—so was the morbidity and so was the mortality.

This right, passed now by the Constitution, as recognized in *Roe*, *Planned Parenthood v. Casey*, and the Supreme Court's recent decision in *Whole Woman's Health v. Hellerstedt*—in fact, the Court re-

cently struck down onerous regulations imposed by Texas on women's health clinics.

You have referred to *Roe v. Wade* as "one of the worst colossally erroneous Supreme Court decisions of all time." Is that still your view?

Senator SESSIONS. It is. I believe it violated the Constitution and really attempted to set policy and not follow law. It is the law of the land. It has been so established and settled for quite a long time and it deserves respect. And I would respect it and follow it.

Senator FEINSTEIN. On November 14th, 2016, appearing on the TV show, "60 Minutes," the President-elect said that the issue of same-sex marriage was "already settled, it's law, it was settled in the Supreme Court, it's done and I am fine with that."

Do you agree that the issue of same-sex marriage is settled law?

Senator SESSIONS. The Supreme Court has ruled on that. The dissenters dissented vigorously, but it was 5-4 and five justices on the Supreme Court, a majority of the court, has established the definition of marriage for the entire United States of America and I will follow that decision.

Senator FEINSTEIN. Here is another question: If you believe same-sex marriage is settled law, but a woman's right to choose is not, what is the difference?

Senator SESSIONS. Well, I have not said that the woman's right to choose or that *Roe v. Wade* and its progeny is not the law of the land or not clear today, so I would follow that law.

Senator FEINSTEIN. Thank you. I would like to ask one question based on the letter that we received from 1,400 law professors. They are from 49 States, only Alaska is left out. I inquired why and they said because Alaska does not have a law school. So it is a pretty comprehensive list representing law professors in every State that has a law school.

What they said, and this is what I want you to respond to, is, "Nothing in Senator Sessions' public life since 1986 has convinced us that he is a different man than the 39-year-old attorney who was deemed too racially insensitive to be a Federal district court judge. . . . All of us believe it is unacceptable for someone with Senator Sessions' record to lead the Department of Justice."

So I want your response to this and answer to the question, how do you intend to put behind you what are strongly felt personal views, take off the political hat, and be an Attorney General who fairly enforces the law and the Constitution for all?

Senator SESSIONS. Well, Senator Feinstein, I would direct their attention to, first, to the remarks of Senator Specter who, in his entire career, said he made one vote that he would regret and that was the vote against me. He indicated he thought that I was an egalitarian, a person who treated people equally and respected people equally.

This caricature of me in 1986 was not correct. I have become a United States Attorney. I supported, as the Civil Rights attorney said, major civil rights cases in my district that integrated schools, that prosecuted the Klan, that ended single-member districts that denied African Americans the right to hold office. I did everything I was required to do.

And the complaints about the voter fraud case and the complaints about the Klan case that I vigorously prosecuted and supported are false. And I do hope this hearing today will show that I conducted myself honorably and properly at that time and that I am the same person, perhaps wiser and maybe a little better, I hope so, today than I was then. But I did not harbor the kind of animosities and race-based discrimination ideals that I was accused of. I did not.

Senator FEINSTEIN. Thank you.

Thank you, Mr. Chairman.

Chairman GRASSLEY. Okay. Senator Hatch and then Senator Leahy.

Senator HATCH. Well, thank you, Mr. Chairman.

Chairman GRASSLEY. Before your time starts, I would like to mention that the Committee received a letter in support of Senator Sessions' nomination from Attorneys General Ashcroft, Barr, Gonzales, Meese, and Mukasey, as well as a number of former Deputy Attorneys General.

They wrote, in part, as follows, a sentence from that letter, "Based on our collective and extensive experience, we also know him to be a person of unwavering dedication to the mission of the department to assure that our country is governed by a fair and evenhanded rule of law."

I ask consent to put that letter in the record.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Senator Hatch.

Senator HATCH. Well, thank you, Mr. Chairman. I first want to thank you for your fair approach to this, our first hearing of the 115th Congress. You have scheduled and you have structured this hearing in line with this Committee's precedence. In fact, you are including more witnesses in this hearing than the past average for Attorney General nominees.

Senator Sessions has provided this Committee with more than 150,000 pages of material relevant to his nomination. That is 100 times what Attorney General Lynch produced and almost 30 times what Attorney General Holder provided.

This material comes from someone we know, someone many of us have served with in the Senate and on this very Committee, yet some on the far left will stop at nothing to defeat this nomination.

They oppose this nomination precisely because Senator Sessions will not politicize the Justice Department or use its resources to further a political agenda. They make up one thing after another to create a caricature that bears no resemblance to the nominee, who is actually before us here today.

Now, I have been on this Committee for a long time and I have seen these dirty tactics used before. And they are not going to work this time.

Senator Sessions, it sounds a little strange to say this, but welcome to the Senate.

[Laughter.]

Senator SESSIONS. Thank you.

Senator HATCH. The Senate Judiciary Committee. I am sure there will be some need to address false claims and fabricated charges during this hearing. Believe it or not, however, I actually

have some questions about issues and policies that you will be addressing when you become Attorney General.

The first is one I have raised with every incoming Attorney General nominee for nearly 25 years and it concerns enforcement of Federal laws prohibiting obscenity.

In the 108th Congress, you introduced Senate Concurrent Resolution 77, expressing the sense of the Congress that Federal obscenity laws should be vigorously enforced throughout the United States. It pleased the Senate, or excuse me, it passed the Senate unanimously; it pleased it, too. In fact, it is the only resolution on this subject ever passed by either the Senate or the House.

Now, Senator Sessions, with your permission, I want to share with you that resolution adopted last year by the Utah legislature outlining why pornography should be viewed as a public health problem, as well as some of the latest research into the harms of obscenity.

Is it still your view that Federal laws prohibiting adult obscenity should be vigorously enhanced?

Senator SESSIONS. Mr. Chairman, those laws are clear and they are being prosecuted today and should continue to be effectively and vigorously prosecuted in the cases that are appropriate.

Senator HATCH. In making this a priority for the Justice Department, would you consider re-establishing a specific unit dedicated to prosecuting this category of crime?

Senator SESSIONS. So that unit has been disbanded? I am not sure I knew that, but it was a part of the Department of Justice for a long time, and I would consider that.

Senator HATCH. Okay. For several years now, Senator Chris Coons and Representatives Tom Marino and Suzan DelBene, and I, have raised the importance of safeguarding data privacy on an international scale from unauthorized Government access. So that is why we continue to push forward the International Communications Privacy Act, which establishes a legal standard for accessing extraterritorial communications.

The need for a legislative solution was reinforced in July when the U.S. Court of Appeals for the 2nd Circuit held in *Microsoft v. United States* that current law does not authorize U.S. law enforcement officials to access electronic communications stored outside the United States.

If confirmed, will you and your staff work with us to strike the needed balance to strengthen privacy and promote trust in the United States technologies worldwide while enabling law enforcement to fulfill its important public safety mission?

Senator SESSIONS. That would be a high responsibility, Senator. I know you have worked hard on that for a number of years, as have others, Members of this Committee, Senator Coons, and others. So working that out, understanding the new technology, but the great principles of the right to privacy, the ability of individuals to protect data that they believe is private and should be protected, all of those are great issues in this new technological world we are in. And I would be pleased to work with you on that. And I do not have firm and fast opinions on the subject.

Senator HATCH. Well, thank you so much. And I would like to turn now to rapid DNA technology that will allow law enforcement

officials to speedily process DNA samples in 90 minutes or less. FBI Director Comey told this Committee that rapid DNA would help law enforcement “change the world in a very, very exciting way.” Legislation authorizing law enforcement to use this technology, which you cosponsored, passed the Senate last year. I was disappointed, however, that it got tied up with criminal justice reform efforts in the House.

And I have two questions. First, do you agree with FBI Director Comey and with law enforcement leaders across the country that rapid DNA legislation is important and will help law enforcement to do their jobs better and faster?

And second, do you agree with me that we should work to pass this legislation sooner rather than later and should avoid tying it to efforts on other legislative issues whose path forward is unclear?

Senator SESSIONS. Mr. Chairman, rapid DNA analysis is a hugely important issue for the whole American criminal justice system. It presents tremendous opportunities to solve crimes in an effective way and can produce justice because it is the kind of thing that you cannot fake or mislead. So I am very strongly in favor of that.

In my personal view, after many years in the law enforcement community, is that one of the biggest bottlenecks, colleagues, of all of our laws involving prosecutions of criminal activity is the bottleneck of the scientific analysis, is the forensic sciences, where we fail sometimes to get DNA back, fail to get back fingerprint analysis, fail to get back drug analysis, chemical analysis. And all of this slows down and stops cases that should long since have been brought forward and disposed of.

Senator HATCH. Okay. Now, I have read that some Democratic Senators accuse you of opposing the Violence Against Women Act. That caught my attention because, like I did, you actually voted to reauthorize it.

As I recall, in 2013 there were not one, but two bills to reauthorize VAWA, the Violence Against Women Act. One had controversial provisions that had never been received in a hearing, the other did not.

Am I right that you supported reauthorizing the Violence Against Women Act?

Senator SESSIONS. Absolutely. I supported it in 2000 when it passed. I supported it in 2005 when both of those bills I supported became law. And then in this cycle, Senator Grassley had a bill that I thought was preferable. And I supported his bill that actually had tougher penalties than the other bill.

And it is kind of frustrating to be accused of opposing VAWA, the Violence Against Women Act, when I have voted for it in the past. There was some specific add-on revision in the bill that caused my concern and I think other people’s concern.

Senator HATCH. And Mr. Chairman, I ask consent to place in the record an op-ed published in USA Today on this subject by Penny Nance, president of Concerned Women for America, the Nation’s largest public policy and women’s organization, if you can.

Chairman GRASSLEY. Without objection, it will be included.
[The op-ed article appears as a submission for the record.]

Senator HATCH. Now, I have a question about the Justice Department's Civil Rights Division. The division enforces the Religious Land Use and Institutionalized Persons Act which protects the right of prison inmates to worship, and protects churches and religious institutions from burdensome zoning and other restrictions.

So I introduced this legislation in 2000. It passed without objection in both the Senate and the House. I would note for the record that next Monday, January 16th, is Religious Freedom Day. I hope that you will make the religious freedom of all Americans a priority under your leadership.

The Civil Rights Division also has a unit dedicated to combating human trafficking. It was created in 2007, and one of my former Judiciary Committee counsels, Grace Chung Becker, was its first head.

Perhaps you could comment on the significance of issues such as religious freedom and human trafficking and why it is important to include them within the civil rights agenda of the Department.

Senator SESSIONS. Mr. Chairman, religious freedom is our great heritage in America. We respect people's religion. We encourage them to express themselves and to develop their relationships with the higher power, as they choose. We respect that. It is mandated in the Constitution.

But there are situations in which I believe we can reach accommodations that would allow the religious beliefs of persons to be honored in some fashion as opposed to just dictating everything under a single provision or policy.

So I believe you are correct. We should recognize religious freedom. It would be a very high priority of mine.

Senator HATCH. Well, that means a lot to me.

Now, Mr. Chairman, let me close by asking consent to place in the record letters from the National Center for Missing and Exploited Children and the Boys and Girls Clubs of America. They attest to Senator Sessions' work on behalf of the vulnerable children and young people.

And I also ask consent to place in the record a letter supporting this nomination from nearly two dozen men and women who have served as Assistant Attorneys General in 10 different offices and divisions that says that, as both U.S. Senator and U.S. Attorney, "Senator Sessions has demonstrated a commitment to the rule of law and to the evenhanded administration of justice." I cannot agree more.

Senator SESSIONS. Thank you.

Chairman GRASSLEY. Without objection, those will be included.

[The letters appear as submissions for the record.]

Senator HATCH. Thank you.

Chairman GRASSLEY. Senator Leahy.

Senator LEAHY. Thank you, Mr. Chairman.

And welcome, Senator Sessions and Mrs. Sessions.

Senator SESSIONS. Thank you.

Senator LEAHY. Let me just follow up. You were just asked about the Violence Against Women Act and your support. Let us deal with the facts. Let us deal with what was actually voted on. Let

us deal with the Violence Against Women Act that you voted against.

You strongly opposed the Violence Against Women Reauthorization Act of 2013, spoke against it; you voted against it. That law expanded protections for some of the most vulnerable groups of domestic violence and sexual assault survivors—students, immigrants, LGBTQ victims, and those on Tribal lands.

Now, the Justice Department, by all accounts, has done an excellent job implementing and enforcing it over the last three years.

I believe—we are both prosecutors. I went to a lot of domestic violence scenes, crime scenes, as a young prosecutor. I believe that all victims of domestic and sexual violence deserve protection.

Why did you vote against expanding protections for LGBT victims, students, immigrants and Tribal victims of domestic violence and sexual assault? Why did you vote “no”?

Senator SESSIONS. Mr. Chairman, I did indeed support the bill in 2000 and in—

Senator LEAHY. I am talking about the bill that is the law today.

Senator SESSIONS. I understand what you are saying.

Senator LEAHY. The law today, that was passed in 2013 by an overwhelming margin in the Senate and by an overwhelming margin in the Republican-controlled House, signed into law by President Obama. I am asking about that. Why did you oppose it?

Senator SESSIONS. Mr. Chairman, a number of people opposed some of the provisions in that bill, not the entire bill.

Senator LEAHY. I am just asking about you.

Senator SESSIONS. I am trying to answer.

Senator LEAHY. Go ahead.

Senator SESSIONS. So when we voted in the Committee, eight of the nine Republicans voted against the bill. One of the more concerning provisions was one that gave Tribal courts jurisdiction to try persons who were not Tribal members—I believe, the only time that has ever happened. That was the big concern that I raised, I believe, primarily, on the legislation.

So I voted with the Chairman and the legislation he had, that I thought did the job for protecting women, to reauthorize the Violence Against Women Act but at the same time did not have other things attached to it that I thought were concerning.

Senator LEAHY. Well, on the Tribal courts, those have now been prosecuted very carefully. Defendants receive due process rights; they have to. None of the non-Indian defendants that have been prosecuted have appealed to Federal courts.

Many feel it has made victims on Tribal lands safer. Do you agree with that? Do you agree with the way the Justice Department has handled such cases?

Senator SESSIONS. Mr. Chairman, I do believe that the law has been passed by Congress. I am interested to see how it plays out in the real world, and I will do my best to make my judgment about how to enforce that as Attorney General.

Senator LEAHY. Well, we—

Senator SESSIONS. Certainly, the law itself has many powerful provisions that I am glad were passed and that are in law, and that provide protections to women victims of violence.

Senator LEAHY. On the Tribal lands, it has been used and prosecuted for 3 years. Do you feel it has been handled correctly?

Senator SESSIONS. Mr. Chairman, I have no understanding of that, but I am interested in the results of it so far. First time I have heard it commented on.

Let me say this to you directly. In meeting with Senators prior to this hearing, quite a number of you raised this issue and I learned a lot about it. I learned a lot about the fact that non-Indians have been going onto Tribal lands and committing crimes, including rape, yet have not been effectively prosecuted.

Now, under current law and historically, they would be prosecuted in the Federal Government by the United States Attorneys, and that has not been happening sufficiently, I am now convinced. So I do think the FBI, particularly maybe the Bureau of Indian Affairs investigators, should be beefed up, and the U.S. Attorneys need to do probably a better job of prosecuting cases that need to be prosecuted in Federal court.

Senator LEAHY. Those were facts that came out pretty clearly in the hearings before you voted against that provision. That is why Senator Crapo and I and others included it in the bill.

There have not been any tests of that. Nobody has appealed this; nobody has objected to it. If somebody does, would you be able to defend it in court?

Senator SESSIONS. I would defend the statute, if it is reasonably defensible, yes. It is passed by Congress; it would be the duty of the Attorney General, whether they voted for it or support it, to defend it.

Senator LEAHY. Now——

Senator SESSIONS. Did I call you “Mr. Chairman” a while ago? I think I did. You have been my Chairman many years now.

Senator LEAHY. Well, that is okay. It has been 20 years back and forth, and I am delighted to turn it over to Senator Feinstein and Senator Grassley.

Senator SESSIONS. Well, you will be handling all the money of the United States, I understand, in your new position.

[Laughter.]

Senator LEAHY. In 2009, I offered the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act as an amendment to the Defense bill. It extended hate crimes protections to LGBT individuals, women, and individuals with disabilities. It passed the Senate overwhelmingly. You opposed it. You stated at a hearing that you are not sure women or people of different sexual orientations face that kind of discrimination. And then you said, “I just do not see it.”

Do you still believe that women and LGBT individuals do not face the kind of discrimination that the hate crimes legislation was passed to prevent?

Senator SESSIONS. Senator Leahy, having discussed that issue at some length, that does not sound like something I said or intended to say. What I did intend——

Senator LEAHY. Well, you did say it.

Senator SESSIONS. Well, I understand, but I have seen things taken out of context and not give an accurate picture. My concern is and was that it appeared these cases were being prosecuted ef-

fectively in State courts, where they would normally be expected to be prosecuted.

I asked Attorney General Holder to list cases that he had that indicated they were not being properly prosecuted. I noted that Mr. Byrd's assailant was given the death penalty in Texas for his offense, and Mr. Shepard's had two life sentences imposed as a result of the situation in his State.

So the question simply was, do we have a problem that requires an expansion of Federal law into an area that the Federal Government has not been historically involved? Senator Hatch had a proposal that we do a study to see the extent of the problem, and that we should have evidence that indicates a shortage of prosecutions and a lack of willingness to prosecute before adding this law.

Senator LEAHY. As far as the study, last year the FBI said that LGBT individuals were more likely to be targeted for hate crimes than any other minority group in the country. I mean, we can study this forever, but that is a pretty strong fact.

Senator SESSIONS. Well, I will tell you, Senator—

Senator LEAHY. And in 2010, you stated that expanding hate crime protections to LGBT individuals was unwarranted, possibly unconstitutional. You said the bill has been said to cheapen the civil rights movement.

Especially considering what the FBI has found, do you still feel that way?

Senator SESSIONS. Mr. Chairman, the law has been passed. The Congress has spoken. You can be sure I will enforce it.

Senator LEAHY. Thank you.

I do not want to go as much over time as Senator Hatch did, but I will ask you one question.

The President-elect has repeatedly asserted his intention to institute a ban on Muslim immigrants to the United States.

In December 2015, you voted against a resolution that I offered in this Committee that expressed the sense of the Senate that the United States must not bar individuals from entering into the United States based on their religion. All Democrats and most Republicans, including the Chairman, were in support of my resolution. Do you agree with the President-elect that the United States can or should deny entry to members of a particular religion? Based on their religion? We do background checks for terrorism, but based on their religion, do you agree with the President-elect that the United States can or should deny entry to all members of a particular religion?

Senator SESSIONS. Senator Leahy, I believe the President-elect has, subsequent to that statement, made clear that he believes the focus should be on individuals coming from countries that have a history of terrorism, and he has also indicated that his policy and what he suggests is strong vetting of people from those countries before they are admitted to the United States.

Senator LEAHY. Then why did you vote against the resolution?

Senator SESSIONS. Mr.—I almost called you Mr. Chairman again. Senator Leahy, my view and concern was that the resolution was suggesting that you could not seriously consider a person's religious views. Sometimes, though not in the majority of cases, people do

have religious views that are inimical to the public safety of the United States.

I did not want to have a resolution that suggested that that could not be a factor in the vetting process before someone is admitted. But I have no belief and do not support the idea that Muslims as a religious group should be denied admission to the United States. We have great Muslim citizens who have contributed in so many different ways in America—as I said in my remarks at the occasion that we discussed it in Committee. I am a great believer in religious freedom and the right of people to exercise their religious beliefs.

Chairman GRASSLEY. Before I turn to——

Senator LEAHY. May I ask consent to put some items in the record?

Chairman GRASSLEY. Yes. So without objection, your inserts will be included.

[The information referred to appears as submissions for the record.]

Chairman GRASSLEY. I have a letter from Solicitor General Ted Olson in support of Senator Sessions, quoting in part, with respect to civil rights, he says, “As a lawyer who has devoted years of effort to litigating and vindicating the civil rights of our fellow gay, lesbian, and transgender citizens, I recognize that people of good faith can disagree on legal issues. Such honest disagreement should not disqualify them from holding public office. In particular, I have no reservations about Senator Sessions’ ability to handle these issues fairly, in accordance with law and to protect the civil rights of these and all of our citizens.”

I would like to include that in the record, without objection.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman. We are about to get an answer to the age-old question: Can you be confirmed Attorney General of the United States over the objection of 1,400 law professors?

[Laughter.]

Senator GRAHAM. I do not know what the betting line in Vegas is, but I like your chances.

Speaking of football——

[Laughter.]

Senator GRAHAM [continuing]. I want to congratulate the University of Alabama for one heck of a streak. One of the most dominant football teams in the history of college football. And I want to acknowledge the Clemson Tigers, where I live five miles from the stadium, that that was the finest college football game I think I have ever seen.

Dabo Swinney and the Tigers represent everything good about college athletics. And while we were on different teams early this morning, I want to let the good people of Alabama know that in terms of their Senator, Jeff Sessions, he is a fine man, an outstanding fellow who I often disagree with, I have traveled the world with. I have gotten to know him and his family, and I will enthusiastically support you for the next Attorney General of the United States.

Now, let us talk about issues. Some people believe that the only way you can get justice in this world is for the Federal Government to administer it. Have you heard such thoughts?

Senator SESSIONS. Well, I have.

Senator GRAHAM. Yes.

Senator SESSIONS. I think I know what you are talking about.

Senator GRAHAM. Yes, I think I do too. I think the whole point is, for the Federal Government to take over an area of the law, there should be a good reason. Do you agree with that?

Senator SESSIONS. Yes.

Senator GRAHAM. If a State is not prosecuting crimes against people based on their sex, their race, whatever reason, then it is proper for the Federal Government to come in and provide justice. Do you agree with that?

Senator SESSIONS. I do.

Senator GRAHAM. When the State is doing its job, the Federal Government should let the States do their job.

Senator SESSIONS. That is correct. That is the general principle and there is not a general Federal crime, Federal statute, that federalizes all crime in America. There has never been one.

Senator GRAHAM. Because people are listening. That is just the way we think. You may not agree with that, but we think that way. And I think we have really got a good reason to think that way. I think that is the way they set up the whole system.

Muslims. As you know, me and the President-elect have had our differences about religious tests. Would you support a law that says you cannot come to America because you are a Muslim?

Senator SESSIONS. No.

Senator GRAHAM. Would you support a law that says that if you are a Muslim, and you say you are a Muslim, and when we ask you what does that mean to you, well, that means I have got to kill everybody that is different from me, it is okay to say they cannot come?

Senator SESSIONS. I think that would be a prudent decision.

Senator GRAHAM. I hope we can keep people out of the country who want to kill everybody because of their religion. I hope we are smart enough to know that is not what most people in the Muslim faith believe. So——

Senator SESSIONS. It can be the religion of that person.

Senator GRAHAM. That is right. That is the point we are trying to make here.

About the Wire Act, what is your view of the Obama administration's interpretation of the Wire Act to allow online video poker, or poker gambling?

Senator SESSIONS. Senator Graham, I was shocked at the enforcement memorandum that the Department of Justice issued with regard to the Wire Act, and I criticized it. Apparently, there is some justification or argument that can be made to support the Department of Justice's position, but I did oppose it when it happened and it seemed to me to be an unusual——

Senator GRAHAM. Would you revisit it?

Senator SESSIONS. I would revisit it and I would make a decision about it based on careful study. At this time, I have not reviewed it so far as to give you an opinion today.

Senator GRAHAM. Immigration. You have said that the Executive order of President Obama you believe is unconstitutional, the DACA law. Do you still have that position?

Senator SESSIONS. I did, for a number of reasons.

Senator GRAHAM. But I am not—I mean, I agree with you.

Senator SESSIONS. Right.

Senator GRAHAM. Now we have got 800,000 people have come out of the shadows, that have been signed up. Will you advise the next President, President Trump, to repeal that Executive order?

Senator SESSIONS. That will be a decision that needs to be studied and that he would need to agree to. But it is an Executive order—really, a memorandum of the Department of Homeland Security.

It would certainly be constitutional, I believe, to end that order, and our Department of Justice, I think, could have no objection to a decision to abandon that order. Because it is very questionable, in my opinion, constitutionally.

Senator GRAHAM. Once we repeal it—and I agree that I believe it is an overreach—what do we do with the 800,000 kids who have come out of the shadows?

Senator SESSIONS. Senator Graham, fundamentally we need to fix this immigration system. Colleagues, it has not been working right. We have more and more millions of people entering illegally into the country. Each one of them produces some sort of humanitarian concern, but it is particularly true for children.

So we have been placed in a bad situation. I really would urge us all to work together. I would try to be supportive to end the illegality and put us in a position where we can wrestle with how to handle these difficult, compassionate decisions.

Senator GRAHAM. Right. And the best way to do it is for Congress and the administration to work together and pass a law, not an Executive order.

Senator SESSIONS. Exactly.

Senator GRAHAM. Okay. When it comes to the law of war, do you believe that people who join al-Qaeda or affiliated groups are subject to being captured or killed under the law of war?

Senator SESSIONS. I do, Senator. I just do not see how we could see it otherwise. And it is the responsibility of the military to protect the United States from people who attack us.

Senator GRAHAM. Do you believe the threats to the homeland are growing or lessening?

Senator SESSIONS. I believe they are growing and we are seeing that now in Europe and we are also seeing it right here in America.

Senator GRAHAM. Do you support the continuation of Gitmo as a confinement facility for foreign terrorists?

Senator SESSIONS. Senator Graham, I think it is designed for that purpose. It fits that purpose marvelously well. It is a safe place to keep prisoners. We have invested a lot of money in that, and I believe it should be utilized in that fashion so I have opposed the closing of it.

But as Attorney General—
[Protestors interrupting.]

Senator GRAHAM. I just wanted to see if they were still listening. I think they are on the fence about Gitmo, but I am not sure.

[Laughter.]

Senator GRAHAM. Let me tell you. I support this administration's effort to make sure we prosecute terrorism as a military action, not a law enforcement action. They are not trying to steal our cars or rob your bank account. They are trying to destroy our way of life, and I hope you will go after them without apology, apply the law. And the law is the law of war, not domestic criminal law. And you will have a friend in Senator Graham if you intend to do that.

Cyber attacks. Do you think the Russians were behind hacking into our election?

Senator SESSIONS. I have done no research into that. I know just what the media says about it.

Senator GRAHAM. Do you think you could get briefed anytime soon?

Senator SESSIONS. Well, I will need to.

Senator GRAHAM. Well, I think you do, too.

You like the FBI?

Senator SESSIONS. Do I like them?

Senator GRAHAM. Yes.

Senator SESSIONS. Some of my best friends are FBI.

Senator GRAHAM. Do you generally trust them?

Senator SESSIONS. Yes.

Senator GRAHAM. Are you aware of the fact that the FBI has concluded that it was the Russian intelligence services who hacked into the DNC and Podesta's emails?

Senator SESSIONS. I do understand that.

Senator GRAHAM. From your point of—

Senator SESSIONS. At least that is what has been reported, and I have not been briefed by them on the subject.

Senator GRAHAM. Right. From your point of view, there is no reason for us to be suspicious of them?

Senator SESSIONS. Of their decision?

Senator GRAHAM. Yes.

Senator SESSIONS. I am sure it was honorably reached.

Senator GRAHAM. How do you feel about a foreign entity trying to interfere in our election? I am not saying they changed the outcome, but it is pretty clear to me they did. How do you feel about it and what should we do?

Senator SESSIONS. Senator Graham, I think it is a significant event. We had penetration, apparently, throughout our Government by foreign entities. We know the Chinese have revealed background information on millions of people in the United States, and I suppose this is ultimately part of international big-power politics.

But when a nation uses their improperly gained or intelligence-gained information to take policy positions that impact another nation's democracy or their approach to any issue, then that raises real serious matters.

It really, I suppose, goes in many ways to the State Department, the Defense Department, and how we as a Nation have to react to that, which would include developing some protocols where when people breach our systems, that a price is paid even if we cannot prove the exact person who did it.

Senator GRAHAM. I agree. I have got 20 seconds left.

I have known you for, I guess, 15 years now, and we have had a lot of contests on the floor and sometimes we agree, sometimes we do not.

I am from South Carolina, so I know what it is like sometimes to be accused of being a conservative from the South. That means something other than you are a conservative from the South, in your case. People have fairly promptly tried to label you as a racist or a bigot or whatever you want to say.

How does that make you feel? And this is your chance to say something to those people.

Senator SESSIONS. Well, that does not feel good.

[Protestor interruption.]

Senator GRAHAM. If nothing else, I am clearing the room for you.

[Laughter.]

Senator GRAHAM. And I would suggest that the freedom of speech also has some courtesy to listen.

So what is your answer?

Senator SESSIONS. Senator Graham, I appreciate the question. When you have a Southern name, you come from South Alabama, that sounds worse to some people. South Alabama. And when I came up as a United States Attorney, I had no real support group. I did not prepare myself well in 1986, and there was an organized effort to caricature me as something that was not true. It was very painful. I did not know how to respond and did not respond very well.

I hope my tenure in this body has shown you that the caricature that was created of me was not accurate. It was not accurate then and it is not accurate now. And I just want you to know that as a Southerner who actually saw discrimination and have no doubt it existed in a systematic and powerful and negative way to the people, great millions of people in the South, particularly, of our country, I know that was wrong. And I know we need to do better.

We can never go back. I am totally committed to maintaining the freedom and equality that this country has to provide to every citizen, and I assure you that that is how I will approach it.

Chairman GRASSLEY. Senator Durbin.

Senator DURBIN. Thank you, Mr. Chairman.

Senator Sessions, let me first say it is—I am glad that you brought your family with you today. It is a beautiful family, with your wife and your son and daughters and those four beautiful little granddaughters. You have kept as quiet as you could for as long as you could, so thank you so much for being here today. I am sure it was great moral support and part of your effort here today.

When you came by my office last week, I talked to you about a man named Alton Mills. And with the permission of the chair, I would like to—he is my guest today—ask Mr. Mills if he would please stand up. Alton, thank you for being here today.

I would like to tell you a story so you can understand my question a little better.

When Alton Mills was 22 years old, unemployed, he made a bad decision. He started selling crack cocaine on the streets of Chicago. He was arrested twice for possession of small amounts of crack cocaine.

The third time that he was arrested, the kingpins who had employed him turned on him and, as a consequence, he ended up being prosecuted under the three-strikes-and-you're-out law. At the age of 24, he was sentenced to life without parole.

He had never been in prison before and, as I mentioned, there were no allegations made against him other than possession and sale. No violence, no guns, nothing of that nature.

Alton Mills ended up—despite the sentencing judge's admonition that he believed this was fundamentally unfair and his hands were tied, Alton Mills ended up spending 22 years in Federal prison, until December 2015 when President Obama commuted his sentence. He was finally able to go home to his family.

Senator Sessions, 7 years ago you and I co-sponsored a bill known as the Fair Sentencing Act, which Senator Collins referenced earlier, and that reduced the brutal sentencing disparity for crack cocaine crimes over powder cocaine.

It was originally 100-to-1. We agreed—in the Senate gym, I might add—to bring that down to 18-to-1. Inmates, overwhelmingly African-American, were spared thousands of prison years because of our joint effort in this injustice.

Yet when I asked you to join me in appealing to the Sentencing Commission to follow our law, and when I asked you to join Senator Grassley and me in permitting the almost 5,000 still serving under this unfair 100-to-1 standard to petition individually for leniency, you refused.

And you said of President Obama's pardoning of people like Alton Mills, "President Obama continues to abuse Executive power in an unprecedented, reckless manner to systematically release high-level drug traffickers and firearms felons." "So-called low-level, non-violent offenders simply do not exist in the Federal system," you said.

Senator Sessions, Alton Mills and many more just like him do exist. So if you refuse to even acknowledge the fundamental injustice of many of our sentencing laws, why should you be entrusted with the most important criminal prosecution office in America?

Senator SESSIONS. Senator Durbin, I think that is rather unfair, based on our relationship and how we work together. In 2001, I introduced legislation very similar to the bill that you and I successfully made law. It would have reduced it to 20-to-1. Our bill went to 18-to-1, a little better, but fundamentally that.

I was criticized by the Bush Department of Justice. My legislation was opposed by them. It was 7 years later or so or longer before our bill ever passed. So I stepped out against my own Republican administration and said openly on the floor of the Senate that I believed these crack cocaine laws were too harsh and particularly it was disadvantageous to the African-American community, where most of the punishments were falling. And it was not fair and we ought to fix it.

I just want to say I took a strong stand on that. You and I did not agree on the retroactivity because a lot of these were plea-bargain cases and may not have been totally driven by the mandatory minimums. So I thought the Court had basically now agreed that it is retroactive. I do not know what group is not being covered by

it, but a large group was covered by a Court decision. We sort of left it open, as I remember it.

Senator DURBIN. We did.

Senator SESSIONS. You and I discussed it.

Senator DURBIN. Let me say on the issue of fairness, I will acknowledge you stepped out on this issue. And you and I both recognized the brutal injustice of a 100-to-1, and we agreed on 18-to-1. That is how laws are made. And now we have 5,000 prisoners sitting in Federal prison, still there under this brutal, unjust 100-to-1. And all I have asked and all Senator Grassley has asked, allow them as individuals to petition to the judge, to the prosecutor, to the Department of Justice so that their sentences could be considered. That is something you have opposed.

So in fairness, tell me why you still oppose that.

Senator SESSIONS. Well, first, I will tell you with absolute certainty that it is a decision of this body. It is not the Attorney General's decision about when and where a mandatory minimum is imposed and whether it can be retroactively altered.

I will follow any law that you pass, number one. Number two, I understood the sincere belief you had on that issue, and it was a difficult call, and that is why we really never worked it out.

So I understand what you are saying, but I did believe that you are upsetting finality in the justice system, that you are suggesting that these kind of factors were not considered when the plea bargaining went down. So it is an honorable debate to have, and I respect your position on it.

Senator DURBIN. Senator, you have been outspoken on another issue, and I would like to address it, if I could. I have invited here today Sergeant Oscar Vazquez, if he would be kind enough to stand up and be recognized. Sergeant, thank you for being here.

I will tell you his incredible story in a short form. Brought to the United States as a child, in high school he and three other DREAMers started a Robotics Club and won a college-level robotics competition. They made a movie out of this story. He graduated from Arizona State University with an engineering degree. The Obama administration granted him a waiver and allowed him to become a citizen and enlist in the United States Army, where he served in combat in Afghanistan.

Senator Sessions, since joining the Senate in 1997, you have voted against every immigration bill that included a path to citizenship for the undocumented. You described the DREAM Act, which I introduced 15 years ago to spare children who are undocumented through no fault of their own, as "a reckless proposal for mass amnesty." You opposed the bipartisan comprehensive immigration reform bill which passed the Senate 4 years ago. You have objected to immigrants' volunteering to serve in our armed forces, saying, "In terms of who is going most likely to be a spy: somebody from Cullman, Alabama, or somebody from Kenya?"

When I asked what you would do to address the almost 800,000 DREAMers, like Oscar Vazquez, who would be subject to deportation if President Obama's Executive order was repealed, you said, "I believe in following the law. There is too much focus on people who are here illegally and not enough on the law."

Senator Sessions, there is not a spot of evidence in your public career to suggest that as Attorney General you would use the authority of that office to resolve the challenges of our broken immigration system in a fair and humane manner. Tell me I am wrong.

Senator SESSIONS. Well, you are wrong, Senator Durbin. I am going to follow the laws passed by Congress. As a matter of policy, we disagreed on some of those issues. I do believe that if you continually go through a cycle of amnesty that you undermine the respect for the law and encourage more illegal immigration into America. I believe the American people spoke clearly in this election. I believe they agreed with my basic view. And I think it is a good view, a decent view, a solid legal view for the United States of America that we create a lawful system of immigration that allows people to apply to this country, and if they are accepted, they get in; if they are not accepted, they do not get in. And I believe that is right and just, and the American people are right to ask for it. We have not delivered that for them.

Senator DURBIN. Senator Graham asked this question, and I listened to your answer when he asked you what would happen to those 800,000 currently protected by President Obama's Executive order known as DACA, who cannot be deported for 2 years—it is renewable—and can work for 2 years, and you said, "Let Congress pass a comprehensive immigration reform bill."

You opposed the only bipartisan effort that we have had on the Senate floor in modern memory. And what is going to happen to those 800,000 if you revoke that order and they are subject to deportation tomorrow? What is going to happen to them? What is the humane legal answer to that?

Senator SESSIONS. Well, the first thing I would say is that my response to Senator Graham dealt with whose responsibility this is. I had a responsibility as a Member of this body to express my view and vote as I believed was correct on dealing with issues of immigration. That is not the Attorney General's role. The Attorney General's role is to enforce the law. And as you know, Senator Durbin, we are not able financially or any other way to seek out and remove everybody that is in the country illegally.

President Trump has indicated that criminal aliens, like President Obama indicated, certainly are the top group of people and so I would think that the best thing for us to do—and I would urge my colleagues to understand this. Let us fix this system. And then we can work together after this lawlessness has been ended, and then we can ask the American people and enter into a dialogue about how to compassionately treat people who have been here a long time.

Senator DURBIN. That does not answer the question about the 800,000 who would be left in the lurch, whose lives would be ruined while you are waiting on Congress for a bill that you opposed.

Senator SESSIONS. Well, I thought it did answer it pretty closely, what you asked, and I understand your concerns.

Chairman GRASSLEY. Senator Cornyn.

Senator CORNYN. Senator Sessions, congratulations to you and your family on this once-in-a-lifetime honor to serve as the head of the Department of Justice.

You know, sitting here listening to the questions and some of the comments that have been made, both by the protesters and others, it strikes me that many people have been surprised to learn more about your record, your outstanding record as a prosecutor, as somebody who treated that responsibility to uphold and enforce the law and the Constitution without fear or favor. I think some people here listening today have been somewhat surprised by your record in complete context.

Those of us who have served with you in this Senate, some as many as 20 years, like Senator Shelby and Senator Collins, testified to your character. But I like to think that those of us who served with you most closely in the Senate, particularly here on the Judiciary Committee, know more about you than just your record and your character. We know your heart. We know what kind of person you are. You are a good and decent and honorable man. You have got an outstanding record that you should be proud of, and I know you are. And you should be.

For example, when somebody says that you unfairly prosecuted some African Americans for voter fraud in Alabama, it strikes me as "incomplete," is the most charitable thing I can say, when they leave out the fact that the very complainants in that case were also African Americans. In other words, the people you prosecuted were African Americans, but the people whose voting rights you were trying to vindicate were African Americans. Is that not correct?

Senator SESSIONS. That is correct.

Senator CORNYN. Does that strike you as a fair characterization of your approach toward enforcing the law that people would leave that important factor out?

Senator SESSIONS. It is not, Senator Cornyn, and it has been out there for a long time. If you ask people who casually follow the news, they probably saw it otherwise. These were good people who asked me to get involved in this case. In 1983, a majority African-American grand jury with an African-American foreman asked the Federal Government to investigate the 1982 election. I declined. I hoped that that investigation would have stopped the problem. But 2 years later, the same thing was happening again. We had African-American incumbent officials pleading with us to take some action. We approached the Department of Justice in Washington, the Public Integrity Voting Section. They approved an investigation, and it developed into a legitimate case involving charges of vote fraud, taking absentee ballots from voters, opening them up, and changing their vote and casting them for somebody they did not intend the vote to be cast for. It was a voting rights case, and I just feel like we tried to conduct ourselves in the right way. I never got in the argument of race or other matters. I just tried to defend myself as best I could.

I would note, colleagues, that just in the last few days, the son of Albert Turner has written a letter and said I was just doing my job, and he understood the reason and the justification for the prosecution and that I would be a good Attorney General. So that was gratifying to me, and that is the real truth of the matter.

Senator CORNYN. Senator Sessions, I know the nature of these confirmation hearings is that people pick out issues that they are concerned about or where there may be some good faith disagree-

ment on policy, and that is what they focus on. But let me just ask you—maybe it is not a great analogy, but let me try anyway. You have been married to your wife, Mary, almost 50 years, right?

Senator SESSIONS. Well, it has not gotten to 50 yet. Forty-seven, soon to be 48.

Senator CORNYN. Forty-seven, okay. Well, that is a good run. Let me just ask you, are there—

Senator SESSIONS. Let it continue. I have been blessed.

Senator CORNYN. Are there occasions when you and your wife disagree?

Senator SESSIONS. No, Senator.

[Laughter.]

Chairman GRASSLEY. You are under oath.

Senator SESSIONS. Wait a minute. I am under oath. On occasion we do, yes.

Senator CORNYN. Do you think it would be fair to characterize the nature of your relationship with your wife based upon those handful of disagreements that you have had with her over time?

Senator SESSIONS. That is a good point. Thank you for making it. No, I do not.

Senator CORNYN. Well, and to your original point, your wife is always right.

Senator SESSIONS. That is correct.

Senator CORNYN. You are under oath.

[Laughter.]

Senator CORNYN. Well, so this is the nature of these confirmation hearings. People are identifying specific issues where there are policy differences, but my point is that does not characterize your entire record of 20 years in the United States Senate or how you have conducted yourself as a prosecutor representing the United States Government in our Article III courts.

Let me get to a specific issue, to a couple, in the time I have remaining. I was really pleased to hear you say in your opening statement that many in law enforcement feel that our political leaders have on occasion abandoned them. You said police ought to be held accountable. But do you believe that it is ever under any circumstances appropriate for somebody to assault a police officer, for example?

Senator SESSIONS. There is virtually no defense for that kind of action, and I do believe that we are failing to appreciate police officers who place their lives at risk. This sergeant, who was just killed yesterday, was trying to deal with a violent criminal and vindicate the law when she was killed. That is the kind of thing that too often happens. We need to be sure that when we criticize law officers, it is narrowly focused on the right basis for criticism. And to smear whole departments places those officers at greater risk, and we are seeing an increase in murder of police officers. It was up 10 percent last year.

I could feel in my bones how it was going to play out in the real world when we had what I thought oftentimes was legitimate criticism of perhaps wrongdoing by an officer, but spilling over to a condemnation of our entire police force. And morale has been affected, and it has impacted the crime rates in Baltimore and crime rates in Chicago. I do not think there is any doubt about it. I regret that

is happening. I think it can be restored, but we need to understand the requirement that the police work with the community and be respectful of their community, but we as a Nation need to respect our law officers, too.

Senator CORNYN. Well, I for one appreciate your comments, because we ought to hold our police and law enforcement officers up in the high regard to which they deserve based on their service to the communities. And your comments remind me to some extent of Chief David Brown's comments, the Dallas police chief, following the tragic killing of five Dallas police officers recently, where he said that police ought to be held accountable, but under no circumstances could any assault against a police officer be justified based on what somebody else did somewhere at some time. So I for one appreciate that very much.

You mentioned Baltimore and Chicago, and we have seen an incredible number of people, frequently in minority communities, who have been killed as results of crimes related to felons who perhaps are in possession of guns that they have no legal right to be in possession of. Earlier, you talked about prosecuting gun crimes, and I am glad to hear you say that. Project Exile, which originated I think in Richmond, Virginia, which targeted felons and other people who cannot legally own or possess firearms, was enormously effective. And when I look at the record of the last 5 and 10 years at the Justice Department, prosecution of those kinds of crimes down 15.5 percent in the last 5 years, down 34.8 percent in the last 10 years.

Can you assure us that you will make prosecuting those people who cannot legally possess or use firearms a priority again in the Department of Justice and help break the back of this crime wave that is affecting so many people in our local communities like Chicago or Baltimore, and particularly minority communities?

Senator SESSIONS. I can, Senator Cornyn. I am familiar with how that plays out in the real world. My best judgment, colleagues, is that, properly enforced, the Federal gun laws can reduce crime and violence in our cities and communities. It was highlighted in Richmond in Project Exile. But I have to tell you, I have always believed that. When I was United States Attorney in the 1980s and into the early 1990s, we produced a newsletter that went out to all local law enforcement called "Project Triggerlock," with the Federal law enforcement, too, and it highlighted the progress that was being made by prosecuting criminals who use guns to carry out their crimes.

Drug-dealing criminals are most likely the kind of people who will shoot somebody when they go about their business. And if those people are not carrying guns because they believe they might go to Federal court, be sent to a Federal jail for 5 years, perhaps, they will stop carrying those guns during their drug dealing and their other activities that are criminal. Fewer people will get killed.

So I truly believe that we need to step that up. It is a compassionate thing. If one of these individuals carrying a gun shoots somebody, not only is there a victim; they end up with hammering and a sentence in jail for interminable periods. The culture, the communities are safer with fewer guns in the hands of criminals.

Senator CORNYN. Thank you.

Chairman GRASSLEY. Before we go to Senator Whitehouse, Members have asked me about our break, and if it is okay with Senator Sessions, it would work out about 1 o'clock if we have three on this side and three on this side for 1 hour, because it is noon right now. Is that okay with you, Senator Sessions?

Senator SESSIONS. Mr. Chairman, I am at your disposal.

Chairman GRASSLEY. This will give my colleagues an opportunity, if they want, to go to the respective political party caucuses. And we would take a recess of about 30 to 40 minutes.

Senator LEAHY. That is very fair.

Chairman GRASSLEY. Okay. Thank you, Senator.

Now, Senator Whitehouse.

Senator WHITEHOUSE. Senator Sessions, hello.

Senator SESSIONS. Thank you, Senator Whitehouse.

Senator WHITEHOUSE. When we met, I told you that I was going to ask you a particular question, so I am going to lead off with that particular question.

Following the Gonzales scandals at the Department of Justice, the Department adopted procedures governing communications between the White House and the Department of Justice consistent with constraints that were outlined years ago in correspondence between Senator Hatch and the Reno Justice Department limiting contacts between a very small number of officials at the White House and a very small number of officials at the Department of Justice. Will you honor and maintain those procedures at the Department of Justice?

Senator SESSIONS. I will, Senator Whitehouse.

You as an honorable and effective United States Attorney yourself know how that works and why it is important. Attorney General Mukasey issued a firm and——

Senator WHITEHOUSE. And very clear about supporting that policy, yes.

Senator SESSIONS. Maybe still pending, and I would say to you—well, that is the appropriate way to do it. After you and I talked, I read the Reno memorandum, the Gorelick memorandum, and I think I would maintain those rules.

Senator WHITEHOUSE. On the subject of honorable prosecutions, when is it appropriate for a prosecutor to disclose derogatory investigative information about a subject who was not charged?

Senator SESSIONS. That is a very dangerous thing, and it is a pretty broad question, as you ask it. But you need to be very careful about that, and there are certain rules, like grand jury rules, that are very significant.

Senator WHITEHOUSE. And is it not also true that it is customary practice because of the concern about the improper release of derogatory investigative information that the Department customarily limits its factual assertions even after an individual has been charged to the facts that were charged in the information or the indictment?

Senator SESSIONS. I believe that is correct, yes. That is a standard operating policy in most offices. There may be some exceptions, but I think that is standard operating procedure in the United States Attorneys' Offices like you and I had.

Senator WHITEHOUSE. As a question of law, does waterboarding constitute torture?

Senator SESSIONS. Well, there was a dispute about that when we had the torture definition in our law. The Department of Justice memorandum concluded it did not necessarily prohibit that. But Congress has taken an action now that makes it absolutely improper and illegal to use waterboarding or any other form of torture in the United States by our military and by all our other departments and agencies.

Senator WHITEHOUSE. Consistent with the wishes of the United States military.

Senator SESSIONS. They have been supportive of that. And, in fact, I would just take a moment to defend the military. The military—

Senator WHITEHOUSE. You do not need to defend them from me. I am all for our military.

Senator SESSIONS. I know. But I just—so many people, I truly believe, think that the military conducted waterboarding. They never conducted any waterboarding. That was by intelligence agencies. And their rules were maintained. I used to teach the Geneva Conventions and the Rules of Warfare as an Army Reservist to my personnel, and the military did not do that.

Senator WHITEHOUSE. And General Petraeus sent a military-wide letter disavowing the value of torture, as we both know.

Another question, another question as a matter of law: Is fraudulent speech protected by the First Amendment?

Senator SESSIONS. Well, fraudulent speech, if it amounts to an attempt to obtain a thing of value for the person the fraudulent speech is directed—

Senator WHITEHOUSE. Which is an element of fraud.

Senator SESSIONS [continuing]. Is absolutely fraud and can be prosecuted, and I think we see too much of that. We see these phone calls at night to elderly people. We see mailings go out that seem to me to be awfully far from truth and seducing people to probably make unwise decisions.

Senator WHITEHOUSE. So fraudulent corporate speech would also not be protected by the First Amendment.

Senator SESSIONS. That is correct, and it is subject to civil and/or criminal complaint.

Senator WHITEHOUSE. And speaking of civil complaints, was the Department of Justice wrong when it brought and won the civil RICO action against the tobacco industry?

Senator SESSIONS. Well, Senator, they won those cases. They took them to court and eventually won a monumental victory. That is correct. And it is part of the law and firmly established.

Senator WHITEHOUSE. Hard to say they were wrong if they won, right?

Senator SESSIONS. That is correct.

Senator WHITEHOUSE. As you know, the United States has retaliated against Russia for its interference with the 2016 elections. In Europe, Baltic States, Germany, and Italy have raised concerns of Russia meddling in their countries' elections. I know this has been touched on before, but I want to make sure it is clear. Will the Department of Justice and the FBI under your administration be al-

lowed to continue to investigate the Russian connection even if it leads to the Trump campaign and Trump interests and associates? And can you assure us that in any conflict between the political interests of the President and the interests of justice, you will follow the interests of justice even if your duties require the investigation and even prosecution of the President, his family, and associates?

Senator SESSIONS. Well, Senator, if there are laws violated and they can be prosecuted, then, of course, you will have to handle that in an appropriate way. I would say that the problem may turn out to be, as in the Chinese hacking of hundreds of thousands, maybe millions of records, it has to be handled at a political level. And I do think it is appropriate for a nation who feels that they have been hacked and that information has been improperly used to retaliate against those actions. It is just——

Senator WHITEHOUSE. And I know we share a common interest in advancing the cybersecurity of this Nation, and I look forward to continuing to work with you on that.

Let me ask you a factual question. During the course of this boisterous political campaign, did you ever chant, “Lock her up”?

Senator SESSIONS. No, I did not. I do not think. I heard it in rallies and so forth, sometimes I think humorously done. But it was a matter on which I have said a few things. A special prosecutor, I favored that. I think that probably is one of the reasons I believe that I should not make any decision about any such case.

Senator WHITEHOUSE. And you understand that the good guy lawman in the movies is the one who sits on the jailhouse porch and does not let the mob in.

Senator SESSIONS. Exactly. Exactly.

Senator WHITEHOUSE. So I am from Rhode Island, as you know, Senator. We have NAACP and ACLU members who have heard you call their organizations—who have heard that you called their organizations “un-American.” We have a vibrant Dominican community who look at “Big Papi,” David Ortiz, swinging his bat for the Red Sox, and wonder why you said, “Almost no one coming from the Dominican Republic to the United States is coming here because they have a provable skill that would benefit us.” I represent a lot of Latinos who worry about modern-day Palmer raids breaking up parents from their kids and Muslims who worry about so-called patrols of Muslim homes and neighborhoods. And I have heard from police chiefs who worry that you as Attorney General will disrupt law enforcement priorities that they have set out and disrupt the community relations that they have worked hard over years of community engagement to achieve.

Time is short, but I noticed that in your prepared remarks these are no unforeseeable concerns, and your prepared remarks did very little to allay the concerns of those people. Is there anything you would like to add now in our closing minute?

Senator SESSIONS. Well, thank you. My comment about the NAACP arose from a discussion that I had where I expressed concern about their statements that were favoring, as I saw it, Sandinista efforts and Communist guerrilla efforts in Central America. And so I said they could be perceived as un-American and weaken their moral authority to achieve the great things they had been accomplishing in integration and moving forward for reconciliation

throughout the country. And I believe that, clearly, and I never said—and accused them of that.

Number two, with regard—

Senator WHITEHOUSE. So what would you tell the representative of the NAACP in Rhode Island right now? He is the head of the NAACP—

Senator SESSIONS. Well, I would say please look at what I have said about that and how that came about, and it was not in that context. It was not correct. I said in 1986 that NAACP represents one of the greatest forces for reconciliation and racial advancement of any entity in the country, probably number one. That is what I said then. I believed it, and I believe it now. And it is an organization that has done tremendous good for us.

With regard to the Dominican Republic, I had gone on a codel with Senator Specter. We came through the Dominican Republic. We visited public service housing projects that seemed to be working and did other things of that nature, and I went and spent some time with the consular official there, just asking about things. And what I learned was that there is a good bit of fraud in it, and he was somewhat discouraged in his ability, he felt, to do his job. And we also understood and discussed that the immigration flow is not on a basis of skills. The immigration flow from almost all of our countries, frankly, is based on family connection and other visas rather than a skill-based program more like Canada has today. And that is all I intended to be saying there.

Tell anybody who heard that statement, please do not see that as a diminishment or a criticism of the people of the Dominican Republic. It was designed to just discuss in my remarks the reality of our immigration system today. I would like to see it more skill-based, and I think that would be helpful.

Senator WHITEHOUSE. Mr. Chairman, my time has expired. Thank you for your patience.

Chairman GRASSLEY. Thank you, Senator Whitehouse.

Before I go to Senator Lee, there is an evaluation of the work of Senator Sessions during his time as U.S. Attorney that I think speaks to his outstanding record. I am made aware of this because Senator Feinstein requested an evaluation of Senator Sessions' office from the Department of Justice, and I would note just a few points from their evaluation back in 1992, a couple of short sentences: "All members of the judiciary praise the U.S. Attorney for his advocacy skills, integrity, leadership of the office, and accessibility."

And the second quote: "The USAO for the Southern District of Alabama is an excellent office with outstanding leadership, personnel, and morale. The district is representing the United States in a most capable and professional manner."

Without objection, I will put that in the record.

[The information referred to appears as a submission for the record.]

Senator WHITEHOUSE. Mr. Chairman?

Chairman GRASSLEY. Yes?

Senator WHITEHOUSE. While we are putting things into the record, could I join?

Chairman GRASSLEY. Yes, please do that.

Senator WHITEHOUSE. In a unanimous consent that a December 5, 2016, letter from leaders of the U.S. environmental movement and a January 5, 2017, letter from the National Task Force to End Sexual Violence and Domestic Violence Against Women be added to the record?

Chairman GRASSLEY. Yes, and those will be included, without objection.

[The letters appear as submissions for the record.]

Chairman GRASSLEY. Senator Lee.

Senator LEE. Hello, Senator Sessions.

Senator SESSIONS. Hello.

Senator LEE. I have enjoyed working with you over the last 6 years and always found you to be someone who treats colleagues, regardless of differing viewpoints, with dignity and respect. You have taught me a great deal in the 6 years I have been here, and I have appreciated the opportunity to work with you.

I think a lot of this has to do with the fact that we are both lawyers, although being a lawyer around here, certainly having a law degree is not unusual. One of the things that sets you apart and makes you different, I get the sense from you that you think of yourself not so much as a Senator who used to be a lawyer, but as a lawyer who is currently serving as a Senator. And I think that is an important thing, especially for someone who has been named to be the next Attorney General of the United States.

Even though you and I have never had the opportunity to discuss the intricacies of the Rule Against Perpetuities or the difference between the Doctrine of Worthier Title and the Rule in Shelley's Case, I get the sense that you would eagerly engage in such banter when occasion arises. So maybe in a subsequent round, we will have the opportunity to do that.

But this does raise a discussion that I would like to have with you about the role of the lawyer. As you know, a lawyer understands who his or her client is. Anytime you are acting as a lawyer, you have got a client. This is a simple thing if you are representing an individual because in almost every instance, unless the client is incapacitated, you know who the client is. The client has one mouthpiece, one voice, and you know what the interests of that client are, and you can evaluate those based on the interests expressed by the client.

It gets a little more complicated when you are representing a corporate entity. Typically, you will interact either with a general counsel or the chief executive, of course. The bigger an entity gets, the more complex it gets. There might be some ripples in this relationship between the lawyer and the client.

In the case of the U.S. Government and the Attorney General's representation of that client, this is a particularly big and powerful client, and that client has many interests. In a sense, the client is, of course, the United States of America, but at the same time, the Attorney General is there put in place by the President of the United States and serves at the pleasure of the President of the United States. And so in that respect, the Attorney General has several interests to balance and must at once regard him- or herself as a member of the President's Cabinet, remembering how the Attorney General got there and can be removed at any moment by

the President; and at the same time the Attorney General has the obligation to be independent, to provide an independent source of analysis for the President and for the President's team and Cabinet.

How do you understand these things as a former U.S. Attorney, as a former line prosecutor, and as a Senator who served on the Judiciary Committee? You have had a lot of opportunities to observe this process. How do you see the proper balancing between all these interests from the standpoint of the Attorney General?

Senator SESSIONS. That is a very insightful or probing question, and it touches on a lot of the important issues that I, as Attorney General, would need to deal with. There are even some times that these Government agencies act like foreign countries, they negotiate memorandums of understanding that are akin to a treaty, actually. They cannot seem to work together oftentimes in an effective way and so the Attorney General is required to provide opinions on that. The Attorney General ultimately owes his loyalty to the integrity of the American people and to the fidelity to the Constitution and the legitimate laws of the country. That is what he is ultimately required to do. However, every Attorney General has been appointed by a President, or they would not become Attorney General, and they have been confirmed by the Senate or they would not have been made Attorney General. They do understand, I think, that if a President wants to accomplish a goal that he or she believes in deeply, then you should help them do it in a lawful way, but make clear and object if it is an unlawful action.

That helps the President avoid difficulty. It is the ultimate loyalty to him, and you hope that a President, and I hope President-elect Trump has confidence in me so that if I give him advice that something can be done, or cannot be done, that he would respect that. That is an important relationship, too, but ultimately you are bound by the laws of the country.

Senator LEE. Some of that, I assume, could come into play when you are dealing with a politically sensitive case—with a case that is politically sensitive because it relates to a member of the administration, or to the interplay between the executive branch and the legislative branch, for example.

In some of those instances there could be calls for a special prosecutor. On the one hand this is a way of taking the Attorney General out of the equation so that it could be handled in a manner that reflects a degree of separation between the administration and the case. On the other hand, there are Constitutional questions that are sometimes raised, and sometimes people argue that this poses too much of a presumption that the special prosecutor will seek an indictment in order to justify the expense and the time put into appointing a special prosecutor.

For reasons that relate to the complexity of these considerations, there are, of course, guidelines in place that can help guide the determination to be made by the Attorney General as to when, whether, how, to put in place a special prosecutor. But even within these guidelines, there is a lot of flexibility, a lot of discretion in the hands of the Attorney General in deciding how to do that. Do you have anything that you would follow? What can you tell us

about what considerations you would consider in deciding whether or not to appoint a special prosecutor?

Senator SESSIONS. Well, it is not a little matter. It is a matter that has created controversy over the years. I do not think it is appropriate for the Attorney General just to willy-nilly create special prosecutors. History has not shown that has always been a smart thing to do. But there are times when objectivity is required and the absolute appearance of objectivity is required. And now perhaps a special prosecutor is appropriate. Attorney General Lynch, for example, did not appoint a special prosecutor on the Clinton matter. I did criticize that. I was a politician, we had a campaign on. I did not research the law in depth, just the reaction as a Senator of a concern. But great care should be taken in deciding how to make the appointment or if an appointment of a special prosecutor is required.

At the Department of Justice you are not required to be a judge to be a prosecutor. One judge said, "There's nothing wrong with a prosecutor who likes his work and doesn't think laws should be violated." Is that a bias? I do not think so. I think that is a strength. So I just would say that is the best I could give you at this point, Senator Lee.

Senator LEE. Thank you, that is helpful. Another challenging issue that relates to this duty of independence that Attorneys General have relates to the Office of Legal Counsel. You know, it is, of course, the job of the Office of Legal Counsel, or OLC, as it is sometimes known, to issue opinions, within the executive branch on a wide array of subjects. Some are subjects that a lot of people would find interesting; others are subjects that only a lawyer could love. And sometimes only a lawyer specializing in something esoteric or specific.

There is one recent OLC opinion entitled, "Competitive Bidding Requirements Under the Federal Highway Aid Program." There are not, perhaps, that many people who would find that interesting, but there are a lot of others that would capture immediately the public's interest.

What is significant about all of these, though, no matter how broad or narrow the topic, no matter how politically sexy or dull the topic might be, they, in many instances, almost conclusively resolve a legal question within the executive branch of Government. And in many instances they are doing so on the basis of constitutional determinations that may or may not ever be litigated, such that the broaching of a constitutional topic might be opened, studied, and resolved entirely within the executive branch, largely as a result of how the lawyers within the Office of Legal Counsel decide to do their jobs.

What can you tell me about what you would do, if confirmed, to ensure that the Office of Legal Counsel maintains a degree of professionalism and independence, requisite for this task?

Senator SESSIONS. Senator Lee, that office is important. It does adjudicate, or actually opine, on important issues related to conflicts or disputes within the great executive branch of the American Government. Like you said, what kind of competition is required before you get a highway grant? There may be a disagreement about that and OLC is asked to review it and stay to one position,

that the Government of the United States is one. It is not a multiple government. These departments are not independent agencies and so that office is so exceedingly important as you indicate, because many times those opinions hold. And they set policy and they affect things.

Sometimes it also has the power, and I am sure you would be sensitive to, to expand or constrict the bureaucracies in their ability to execute under statutes. In other words, is this within their power, or is it not within their power? So there are some of the things like that that could impact the American people over time in a significant way.

Senator LEE. Thank you.

Chairman GRASSLEY. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Good to see you, Senator Sessions. You and I have worked together on a number of bills, including leading the International Adoption Simplification Act, which I believe made a big difference to a lot of families in keeping their siblings together when they were adopted. Senator Cornyn and I led the Sex Trafficking Bill, that passed last year, and you had some important provisions in that. And then we worked together on law enforcement issues and I appreciate your respect and the support that you have from that community and I also thank you for your work on drug courts, something we both share as former prosecutors and I believe in the purpose of those courts.

I wanted to lead first with another part of the Justice Department's jobs, and that is protecting civil rights and the right to vote. My State had the highest voter turnout in the last election, of any State. We are pretty proud of that. And as county attorney for 8 years for Minnesota's biggest county, I played a major role in making sure that the election laws were enforced and that people who were able to vote could vote and that people who should not vote, did not vote.

Since the Voting Rights Act became law more than 50 years ago, we have made progress, but I have been very concerned about some of the movements by States to restrict access to voting. In recent years we have not been able to pass the Bipartisan Voting Rights Advancement Act forward last Congress. I just think it is an area that is going to be ripe for a lot of work going forward.

You and I talked about how at one point you previously called the Voting Rights Act an "intrusive piece of legislation" and I wondered if you could explain that, as well as talk about how you will actively enforce the remaining pieces of the Act; that would be Section 2 which prohibits voting practices or procedures that discriminate on the basis of race; and this Section 3 bail-in provision, through which more States can be subject to preclearance. And you do not have to go into great detail on those two sections, you could do it later, but if you could just explain your views of the Voting Rights Act moving forward and what would happen in terms of enforcement if you were Attorney General.

Senator SESSIONS. The Voting Rights Act passed in 1965 was one of the most important Acts to deal with——

[Audience interruption.]

Senator SESSIONS [continuing]. Racial difficulties that we face. And it changed the whole course of history, particularly in the South. There was a clear finding that there were discriminatory activities——

[Audience interruption.]

Senator SESSIONS [continuing]. In the South, that a number of States were——

[Audience interruption.]

Senator SESSIONS [continuing]. Were systematically denying individuals the right to vote. And if you go back into the history you can see it plainly, actions and rules and procedures were adopted in a number of States with the specific purpose of blocking African Americans from voting. And it was just wrong. And the Voting Rights Act confronted that, and it, in effect, targeted certain States and required even the most minor changes in voting procedure——

Senator KLOBUCHAR. Right.

Senator SESSIONS [continuing]. Like moving a precinct across the——

Senator KLOBUCHAR. So how would you approach this going forward? For instance, the Fifth Circuit's decision that the Texas voter ID law discriminates against minority voters that was written by a Bush appointee. Do you agree with that decision? How would you handle this moving forward?

Senator SESSIONS. Well I have not studied that. There is going to be a debate about it, courts are ruling on it now—that is, voter ID and whether or not it is an improper restriction on voting that adversely impacts disproportionately minority citizens. So that is a matter that has got to be decided. On the surface of it, it does not appear to me to be that. I have publicly said I think voter ID laws properly drafted are okay, but as Attorney General it will be my duty to study the facts in more depth, to analyze the law. But fundamentally that can be decided by Congress and the courts as they interpret the existing law.

I did vote to extend this Voting Rights Act several years ago. It included Section 5, but later Section 5 was eliminated by the Supreme Court, on the basis that——

Senator KLOBUCHAR. And how about the commit——

Senator SESSIONS [continuing]. Progress had been made and on an intrusive question, let me answer that.

Senator KLOBUCHAR. Yes.

Senator SESSIONS. It is intrusive, the Supreme Court on more than one occasion has described it legally as an intrusive act, because it only focused on a certain number of States, and normally when Congress passes a law, it applies to the whole country. So it is a very unusual thing for a law to be passed that targets only a few States. But they had a factual basis. They were able to show that it was justified in this fashion. So that is the foundation for it and that is why I supported it, its renewal.

Senator KLOBUCHAR. And I think you will understand as you look at this issue that there are many voters, people who are trying to vote that some of these rules that are put in place are intrusive for them, because it makes it harder for them to vote and I think that is the balance that you are going to need.

Senator SESSIONS. I hear——

Senator KLOBUCHAR. And I just hope, coming from a State that has such high voter turnout, that has same-day registration, a very good turnout in Iowa as well, right below us, States that have put in place some really expansive voter laws and it does not mean Democrats always get elected. We have had Republican governors in Minnesota, they have a Republican governor in Iowa, and I just point out that I think the more we could do to encourage people to vote, the better democracy we have.

And I want to turn to another quick question on a democratic issue, as in a democracy issue that was raised by Senator Graham and Senator Whitehouse. I just returned with Senators McCain and Graham from a trip to Ukraine, Baltics, Georgia, and learned there about how these intrusive cyber attacks are not just unique to our country, not just unique to one party, not just unique to one election, and they have seen that movie before in those countries. And do you have any reason to doubt the accuracy of the conclusion reached by our 17 intelligence agencies that, in fact, Russia used cyber attacks to attempt to influence this last election? I am not asking if you believe that it influenced it, just if you believe the report of our intelligence agencies.

Senator SESSIONS. I have no reason to doubt that and have no evidence that would indicate otherwise.

Senator KLOBUCHAR. Thank you. Violence Against Women Act. Senator Leahy asked some of those questions really important to me. You and I discussed it. I just have one question there. If confirmed, will you continue to support the life-saving work being done by the Office on Violence Against Women?

Senator SESSIONS. Yes.

Senator KLOBUCHAR. Okay. Thank you. Immigration. You and I have some different views on this, and I often focus on the economic benefits of immigration—the fact that we have 70 of our Fortune 500 companies headed by immigrants. At one point 200 of our Fortune 500 companies were either formed by immigrants or kids of immigrants. Roughly 25 percent of all U.S. Nobel laureates were foreign-born. And just to understand in a State like mine where we have entry-level workers in dairies who are immigrants, major doctors at the Mayo Clinic, police officers who are Somali, if you see that economic benefit of immigrants in our society?

Senator SESSIONS. Well, immigration has been a high priority for the United States. We have been the leading country in the world in accepting immigration. I do not think American people want to end immigration. I do think that if you bring in a larger flow of labor than we have jobs for, it does impact adversely the wage prospects and the job prospects of American citizens. I think as a nation we should evaluate immigration on whether or not it serves and advances the national interest, not the corporate interest. It has to be the people's interest first, and I do think too often Congress has been complacent in supporting legislation that might make businesses happy, but it also may have had the impact of pulling wages down.

Doctor Borjas at Harvard has written about that. I think he is the world's, perhaps most effective and knowledgeable scholar, and he says that does happen. Wages can be diminished, and one of the big cultural problems we have today is middle and lower economic

classes of Americans have not had the wage increases that we would like to see them have. In fact, wages are still down from what they were in 2000.

Senator KLOBUCHAR. Yes. I just see that we can do a mix of making sure that we have jobs for people here and then understanding that we are a country of immigrants.

Senator SESSIONS. On that subject, for me with Canada——

[Audience interruption.]

Senator KLOBUCHAR. Mr. Chairman, if I could just have another 30 seconds here, I had one last question.

Senator SESSIONS. It may be 45 seconds, Mr. Chair. I would just say that you are close to the Canadian system. And I think it may be some of those policies ought to be considered by the United States.

Senator KLOBUCHAR. My last question, Mr. Chairman, is on the reporters issue. Free press, I believe, is essential to our democracy. And I have always fought to ensure that those rights are not compromised. My dad was a reporter, a newspaper reporter for years. And I am especially sensitive to the role of the press as a watchdog.

You have raised concerns in the past about protecting journalists from revealing their sources. You did not support the Free Flow of Information Act.

In 2015, the Attorney General revised the Justice Department rules for when Federal prosecutors can subpoena journalists or their records. And he also committed to releasing an annual report on any subpoenas issued or charges made against journalists and committed not to put reporters in jail for doing their job.

If confirmed, will you commit to following the standards already in place at the Justice Department? And will you make that commitment not to put reporters in jail for doing their jobs?

Senator SESSIONS. Senator Klobuchar, I am not sure, I have not studied those regulations. I would note that when I was a United States Attorney, we knew, everybody knew that you could not subpoena a witness or push them to be interviewed if they were a member of the media without approval at high levels of the Department of Justice. That was in the 1980s.

And so I do believe the Department of Justice does have sensitivity to this issue. There have been a few examples of where the press and the Department of Justice have not agreed on these issues. But for the most part, there is a broadly recognized and proper deference to the news media.

But you could have a situation in which a member of the media is really not part of the unbiased media we see today. And they could be a mechanism through which unlawful intelligence is obtained. There are other dangers that could happen with regard to the Federal Government that normally does not happen to the media covering murder cases in the States.

Senator KLOBUCHAR. All right. Well, thank you. And I will follow up with that in a written question when you have a chance to look at that.

Senator SESSIONS. If you would, I would be——

Senator KLOBUCHAR. Thank you. Thank you.

Chairman GRASSLEY. I call for the first time on a new Member of the Committee, Senator Sasse from Nebraska.

Senator SASSE. Mr. Chairman, thank you, and thank you for having me.

Before I get started, I would like to enter into the record a letter of support from 25 current State Attorneys General, including Doug Peterson, the Attorney General from my State of Nebraska. The letter reads in part, "No one is more qualified to fill this role than Senator Sessions." This is obviously important testimony from the top law enforcement officers of 25 States.

I ask unanimous consent, Mr. Chairman, to include this in the record.

Chairman GRASSLEY. Without objection, it will be included.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Proceed, Senator Sasse.

Senator SASSE. Thank you. Senator Sessions, when you were introducing your grandkids, and I am amazed that they stayed around as long as they did, mine would have been more disruptive earlier, I was thinking about all the time I spend in schools.

We have a crisis in this country of civic ignorance. Our kids do not know basic civics. And we have a crisis of public trust in this country in that many Americans presume that people in this city are overwhelmingly motivated by partisan perspectives rather than the public good.

Tragically, our current President multiple times over the last 3 or 4 years has exacerbated this political polarization by saying that he did not have legal authority to do things and then subsequently doing exactly those things, quite apart from people's policy perspectives on these matters.

This is a crisis when kids do not understand the distinction between the legislative and the executive branches and when American voters do not think that people who serve in these offices take their oaths seriously. So it is not always as simple as "Schoolhouse Rock" jingles on Saturday morning.

But could you at least start by telling us what you think the place for Executive orders and Executive actions are?

Senator SESSIONS. That is a good question and a good premise that we should think about. People are taught "Schoolhouse Rock" is not a bad basic lesson in how the Government is supposed to work. Legislators pass laws, the President executes laws, as does the entire administration, as passed by Congress, or it follows the Constitution, and the judicial branch decides disputes as a neutral umpire, an unbiased participant, any sides of the controversy and does it objectively, so I think every day that we get away from that is really dangerous.

It is true that if a President says, "I do not have this authority," and other people say the President does not have certain authority and then it is done by the President, it confuses people.

I think, colleagues, we too little appreciate something that is corrosive happening out in our country. There is a feeling that judges just vote when they get a big case before them on what their political agenda is and not what the Constitution actually requires. The judges can redefine the meaning of words to advance an agenda

that they have that may not be the agenda of the American people. And that inevitably is corrosive to respect the law.

Senator SASSE. Thank you. But take it one step further, because there are going to be many cases, there will be many instances where the administration in which you are likely going to end up serving will want to do things and they will want to know what the limits of their Executive discretion is. Some pieces of legislation that have been passed around here in recent years sometimes are, you know, well over a thousand pages with all sorts of clauses “the Secretary shall—dot, dot, dot” fill in the law. So this Congress has regularly underreached and invited executive overreach. This Congress has regularly failed to finish writing laws and then invited the executive branch to do it.

What are some of the markers that you would use to help understand the limits where the executive branch cannot go?

Senator SESSIONS. We really need to re-establish that. Professor Turley, Jonathan Turley, has written about this. It is just powerful. He is certainly an objective voice in American jurisprudence. And he says that Congress has just fallen down on its job.

Now, of course, there are two ways. One of them is that it writes laws that are too broad. And I would urge all of you to be sure that when we pass a law or you pass a law, if I am confirmed, that that law is clear and sets limits. When it does not set limits, then you can have the secretary of this agency or that agency claiming they have certain authorities and we end up with a very muddled litigation maybe resulting from it. So re-establishing the proper separation of powers and fidelity to law and to limits is an important issue. And I think, hopefully, I think that is what you are suggesting.

Senator SASSE. Could you tell me under what circumstances, if any, you think the Department of Justice can fail to enforce a law?

Senator SESSIONS. Well, it can fail to enforce it by setting prosecutorial policies with regard to declining to prosecute whole chunks of cases and, in effect, eliminate a statute. If a new tax is passed and the Department of Justice says it cannot be collected, then the law is not followed.

You also have circumstances that can redefine the statute or alter it. If we are talking about improper actions, it could expand the meaning of the words of the statute far beyond what Congress ever intended. And that is abuse, too.

Senator SASSE. And not to interrupt you too soon, the improper, but also, what is proper? Because this administration has made the case regularly that they need to exercise prosecutorial discretion because of limited resources. And obviously, there are not infinite resources in the world, so what are some proper instances, in your view, when an administration might not enforce a law?

Senator SESSIONS. Well, critics of the immigration enforcement, the DAPA and the DACA laws, said that the prosecutorial discretion argument went too far. It basically just eliminated the laws from the books.

Second with regard to that, the President’s—well, the order came from Homeland Security, not from the Department of Justice, but Homeland Security’s order not only said we are not going to enforce the law with regard to certain large classifications of people, but

those people who had not been given legal status under the laws of the United States were given photo IDs, work authorization and Social Security numbers and the right to participate in these Government programs; that would appear to be contrary to existing law. So that would, to me, suggest an overreach.

Senator SASSE. And in parallel before the courts, what instances would it be legitimate, if any, for the Solicitor General to not defend a law in court?

Senator SESSIONS. That is a very good question, and sometimes it becomes a real matter. In general, the Solicitor General, as part of the Department of Justice and the executive branch, states the position of the Department of Justice. And it has a duty, the Department of Justice does, to defend the laws passed by this body, by Congress. And they should be defended vigorously whether or not the Solicitor General agrees with them or not, unless it cannot be reasonably defended.

Sometimes you reach a disagreement about whether it is reasonably defensible or not, but that is the fundamental question. And the Department of Justice should defend laws that Congress passed unless they are unable to do so in a reasonable way.

Senator SASSE. What is the place of independent agencies in a unified executive branch? And do you envision that you will be making any recommendations to the President to reign in independent agencies in an effort to preserve the constitutional distinction between the powers of the Congress and the administrative responsibilities of an executive branch?

Senator SESSIONS. Senator, that is a good question, kind of a historic question at this point in time because it does appear to me that agencies oftentimes see themselves as independent fiefdoms. And sometimes you even hear the President complain about things clearly under his control.

I remember President Clinton complaining about the death penalty processes of the department of the Federal Government when he appointed the Attorney General who had just appointed a committee to make sure the death penalty was properly carried out. So whose responsibility is this? You are in charge, you can remove the Attorney General if you are not happy. Those kind of things do continue out there that we need to be careful about. And I thank you for raising it.

Senator SASSE. I have less than a minute left, so last question. But going back to something that Senator Lee was asking about, could you just give a topline summary of what you view the responsibilities of the OLC to be and what the relationship would be between the OLC, the Office of the Attorney General, and the White House?

Senator SESSIONS. Well, OLC has statutory duties to make opinions. The OLC team reports to the Attorney General who could reverse, I suppose, or remove the OLC head, the Deputy Attorney General, if he thought that department was not following the law. But essentially, they are given the power. As Attorney General, I had an opinions section in Alabama and they rendered opinions on a whole host of matters when called upon from school boards and highway departments and that sort of thing.

This OLC does represent a key position in the Department of Justice. They must have extraordinary legal skill. They have to be terrific lawyers. They have to understand the constitutional order of which we are a part. And they should render objective decisions day after day, week after week. It is ultimately the responsibility of the President and the Attorney General to ensure that we have that kind of quality at OLC.

Senator SASSE. Thank you.

Chairman GRASSLEY. Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

Senator, congratulations on your nomination.

Senator SESSIONS. Thank you.

Senator FRANKEN. In 2009 when you became the Ranking Republican on this Committee, you were interviewed about how you would approach the Committee's work and nominations specifically. You said that Democrats should expect you to be fair because you had been through this process yourself back in 1986 and you felt that back then the Committee had distorted your record. You said that moving forward, "We are not going to misrepresent any nominee's record and we're not going to lie about it." And we certainly do not want to do that to our colleague.

But I also think it is fair to expect that sitting before us today that you are not going to misrepresent your own record. That is fair to say, right?

Senator SESSIONS. That is fair.

Senator FRANKEN. Good. Now, in that same interview, you said, "I filed 20 or 30 civil rights cases to desegregate schools and political organizations and county commissions when I was United States Attorney." So 20 or 30 desegregation cases. Did I misread that quote?

Senator SESSIONS. I believe that is what I have been quoted as saying, and I suspect I said that.

Senator FRANKEN. Okay. Okay, now that was 2009. But in November of this year, your office said, "When Senator Sessions was U.S. Attorney, he filed a number of desegregation lawsuits in Alabama"; not 20 or 30 this time, but "a number."

So tell me, did you file 20 or 30 desegregation cases or is it some other number?

Senator SESSIONS. Well, thank you, Senator Franken. It is important for us to be accurate. The records do not show that there were 20 or 30 cases actually filed. Some of the cases involved multiple defendants and multiple parties, like to a school board and a county commission being sued for racial discrimination, things of that nature. But the number would be less than that as we have looked at. So I—

Senator FRANKEN. What do you think would have caused you to say that you filed 20 or 30 desegregation cases?

Senator SESSIONS. I do not know. I thought—well, we had cases going throughout my district, and some of them were started before I came and continued after I left. Some of them were brought and then settled promptly. And so it was extraordinarily difficult and actually I was surprised to get a record by checking the docket sheets to find out exactly how many cases were involved.

Senator FRANKEN. Okay.

Senator SESSIONS. I heard one lawyer from the Department of Justice, I believe, with that large number.

Senator FRANKEN. Let me move on. Right.

Senator SESSIONS. But I do not—the record does not justify it.

Senator FRANKEN. The questionnaire you have submitted for today asks you to list and describe the “10 most significant litigated matters you personally handled.” Personally handled. And among the cases that you listed that you personally handled are three voting rights cases and a desegregation case.

Last week, I should note, three attorneys who worked at DOJ and who actually brought three of the four cases wrote an op-ed piece in which they say, “We can state categorically that Sessions had no substantive involvement in any of them.” Now, you originally said that you personally handled three of these cases, but these lawyers say that you had no substantive involvement.

Chairman GRASSLEY, I would ask that that op-ed from last Tuesday’s Washington Post be entered into the record.

Chairman GRASSLEY. Without objection, it will be entered.

[The op-ed article appears as a submission for the record.]

Senator FRANKEN. Are they distorting your record here?

Senator SESSIONS. Yes. In fact, one of the writers there, Mr. Hebert, spent a good bit of time in my office. He said I supported him in all the cases he brought, that I was more supportive than almost any other U.S. Attorney and that I provided office space, I signed the complaints that he brought. And as you may know, Senator Franken, when a lawyer signs a complaint, he is required to affirm that he believes in that complaint and supports that complaint and supports that legal action, which I did.

We sued——

Senator FRANKEN. So that is your personal involvement was that your name was on it?

Senator SESSIONS. Well, look, you can dispute the impact or the import of the questionnaire. Another attorney, Paul Hancock, who brought cases in our district said, well, Attorney General claims credit for the cases in the Department of Justice, he saw nothing wrong with my claiming that this was a case that I had handled.

Senator FRANKEN. Okay. Two of the——

Senator SESSIONS. So you can disagree with that, but those cases——

Senator FRANKEN. Okay. I want to get through this and I do not want any——

Senator SESSIONS. Those cases have my signature on the docket sheet.

Senator FRANKEN. I want to get through this.

Senator SESSIONS. My name is listed number one as the attorney for the case.

Senator FRANKEN. Okay, look, I am not a lawyer. I am one of the few Members of this Committee who did not go to law school, and usually I get by just fine. But it seems to me that a lawyer, if a lawyer has his name added to a document here or filing there, that lawyer would be misrepresenting his record if he said he had personally handled these cases.

Two of the lawyers who wrote the op-ed have also submitted testimony for today’s hearing, Mr. Gerry Hebert and Mr. Joe Rich.

Mr. Hebert says he “litigated personally two of the four cases” you listed. He said, “I can state with absolute certainty that Mr. Sessions did not participate personally in either.” Mr. Rich worked on one of the four cases you listed. He said, “I never met him at that time nor any other time and he had no input to the case.” These represent three of the four cases that you claimed that were among the top 10 cases that you personally handled.

Now, in your 1986 questionnaire, you used phrases like, “I prepared and tried the case as sole counsel” and “I was the lead prosecutor on this case” assisted by so-and-so. Why did you not use the same level of detail in your 2016 questionnaire?

Senator SESSIONS. In looking at this questionnaire, we decided that that was an appropriate response since these were major historic cases in my office. Let me just reply, Senator Franken, in this fashion. Mr. Hebert in 1986, when he testified at my hearing, said, “We have had difficulty with several U.S. Attorneys in cases we have wanted to bring. We have not experienced that difficulty in the cases I have handled with Mr. Sessions. In fact, quite the contrary.” He goes on to say, “I have had occasion numerous times to ask for his assistance and guidance. I have been able to go to him and he has had an open-door policy and I have taken advantage of that and found him cooperative.” And that is an accurate statement.

I do not know Mr. Rich. Perhaps he handled a case that I never worked with. He goes on to say, “The”——

Senator FRANKEN. Well, one of the cases——

Senator SESSIONS. No, I want to—you raised this question, Senator Franken.

Senator FRANKEN. One of the cases that you listed was a case that Mr. Rich handled. So if you do not know him, it is hard for me to believe that you personally handled it.

Senator SESSIONS. Well, when I found these cases, I had been supportive of them.

Senator FRANKEN. You filed them.

Senator SESSIONS. I am sure I was—Mr. Hebert says, “And yet, I have needed Mr. Sessions’ help in those cases and he has provided that help every step of the way. In fact, I would say that my experience with Mr. Sessions has led me to believe that I have received more cooperation from him, more active involvement from him because I have called upon him.” Quote, “I have worked side by side with him on some cases in the sense that I have had to go to him for some advice.”

Senator FRANKEN. In some cases, not necessarily the ones you listed.

Senator SESSIONS. Well, look, this is 30 years ago. And my memory was of this nature and my memory was my support for those cases.

Senator FRANKEN. Your memory. Okay. Look, I am not—I am one of the few Members of this Committee who is not a lawyer. The Chairman, the Ranking are not. But when I hear “I filed a case,” you know, I do not know some of the parlance, if it might have a special meaning in legal parlance. But to me as a layman, it sounds to me like “filed” means “I led the case” or “I supervised the case.” It does not mean that my name was on it.

And it seems to me, look, I will close, Mr. Chairman, setting aside any political or ideological differences that you or I may have, DOJ is facing real challenges, whether it is protecting civil rights or defending national security, and our country needs an Attorney General who does not misrepresent or inflate their level of involvement on any given issue.

Senator SESSIONS. I hear you.

Senator FRANKEN. So I consider this serious stuff as I know that you would if you were in my position.

Senator SESSIONS. Well, you are correct, Senator Franken. We need to be accurate in what we say. When this issue was raised, I did do a supplemental that I "provided assistance and guidance to Civil Rights Division attorneys, had an open-door policy with them, and cooperated with them on these cases."

I signed them, I supported cases and attempted to be as effective as I could be in helping them be successful in these historic cases. I did feel that they were the kind of cases that were national in scope and deserved to be listed on the form. If I am in error, I apologize to you. I do not think I was.

Senator FRANKEN. Well, you could not find 20 or 30 desegregation cases that you stated you had participated in and it does not sound like you personally handled cases that you said you personally handled.

Thank you.

Senator SESSIONS. Well, I was on a radio interview without any records and that was my memory at the time.

Chairman GRASSLEY. I think you answered the question.

Senator FRANKEN. Thank you.

Chairman GRASSLEY. Senator Flake. Now, it is 12:59, so at 1:09 we will adjourn for lunch. I will be back here then at 1:39 and whoever is present will start then. But I hope everybody can be back here at least by 1:45. Go ahead, Senator Flake.

Senator FLAKE. Well, thank you. It is always nice to be the last one standing between lunch.

[Laughter.]

Chairman GRASSLEY. Let us have order for Senator Flake.

Senator FLAKE. Hey, I just want to say at the outset how much I have enjoyed working with you and being your colleague. I appreciate having you as a friend.

It is no secret we have had our difference of opinion on immigration legislation that we put forward. You have had different ideas. But I have no doubt that as Attorney General you will faithfully execute the office. And I appreciate the answers that you have given today.

Let me ask unanimous consent to submit a column written by our own Attorney General in Arizona, Mark Brnovich, for The Hill newspaper this week, supporting your nomination.

Chairman GRASSLEY. Without objection, it will be included.

[The newspaper column appears as a submission for the record.]

Senator FLAKE. Let me talk to you about an aspect of immigration that is important in Arizona. As you know, we have a large border with Mexico. We have a program called Operation Streamline that has, over the years, been tremendously effective in cutting down recidivism in terms of border crossers. What it is, basically,

it is intended to reduce border crossing by expeditiously prosecuting those who enter the country illegally under a no-tolerance or zero-tolerance policy. It is credited with being instrumental in achieving better border security, specifically in the Yuma Sector along the western side of Arizona's border with Mexico.

Nevertheless, in recent years, the U.S. Attorney's Office for the District of Arizona adopted a policy that ended prosecutions for those who cross but for—well, without a criminal history other than simply crossing the border. I have asked Attorney General Holder and Attorney General Lynch as well as Secretary Johnson at Homeland Security on what is being done here and I have not gotten a straight answer, no matter how many times I ask the question. So I am looking forward to a little more candor here.

As Attorney General, if you are confirmed, what steps will you take to restore Operation Streamline to a zero-tolerance approach that has been so successful in Arizona, in a portion of Arizona's border?

Senator SESSIONS. Thank you, Senator Flake. I have enjoyed working with you. And I know the integrity with which you bring your views on the immigration system. Like you, I believe that Streamline was very effective. And it was really a surprise that it has been undermined significantly.

The reports I got initially, some years ago, maybe a decade or more ago, was that it was dramatically effective, and so I would absolutely review that. And my inclination would be, at least at this stage, to think it should be restored and even refined and made sure it is lawful and effective. But I think it has great positive potential to improve legality at the border.

Senator FLAKE. All right. Well, thank you. It has been effective in Yuma, and I can tell you there is concern there among the Sheriff's Office, Sherriff Wilmot and others, concerned that we are seeing an increase in border crossings simply because the cartels understand very well where there is a zero-tolerance policy and where there is not. Word spreads. And we could quickly get to a situation where we have a problem in the Yuma Sector, like we do in the Tucson Sector.

Is there any reason why we have not expanded this program to the Tucson Sector if it has been successful elsewhere?

Senator SESSIONS. I do not know what reason that might be. It seems to me that we should examine the successes and if they cannot be replicated throughout the border.

Senator FLAKE. All right. Well, thank you. I look forward to working with you on that.

Senator SESSIONS. I appreciate that opportunity to work with you on that because I have long felt it is the right direction for us to go.

Senator FLAKE. All right, thank you. When we have a successful program, it is difficult to see it scrapped and to see the progress that has been made in certain parts of the border done away with.

Let me get to another subject here: victims' rights. This is an area of the law that you have shown particular interest in over your time as a Senator. I have with me letters of support for your nomination from various victims' groups and advocates, the Victims of Crime and Leniency, Verna Wyatt, Victims and Friends United,

oped by Professors Paul Cassell and Steve Twist, all in support of your nomination. I would ask that these documents be placed as part of the record.

Chairman GRASSLEY. Without objection, they will be placed in the record.

[The letters appear as submissions for the record.]

Senator FLAKE. As Attorney General, what steps will you take to ensure that victims' rights are protected?

Senator SESSIONS. We cannot forget victims' rights. We have victim witness legislation that creates within each United States Attorney's Office a victim-witness coordinator. And the job of that person is to make sure the concerns of the victims are heard. If they have to come to court, to help them get there, to make sure that they do not feel threatened and are protected. That is a direct responsibility of the Department of Justice and the criminal justice system as directed by Congress. So I really think that is one step and that is the fundamental mechanism.

I think Senator Kyl was a strong advocate for that. And it helped really improve the treatment of victims in Federal criminal cases. There is just no doubt about it.

Senator FLAKE. Well, thank you. I was going to note the presence of former Senator Kyl, my predecessor in this office, who did so much work in this area, partnering with you. So thank you for that answer.

Senator SESSIONS. I am honored that he is giving of his time to assist me in this effort, honored very greatly.

Senator FLAKE. Thank you. Let us talk about the Prison Rape Elimination Act. It was mentioned previously, I think, by Senator Collins. As Attorney General, you will lead not only the department of prosecutors and law enforcement officials, but also the Bureau of Prisons. You will be responsible for 190,000 Federal inmates currently in custody. This is an often overlooked part of the Attorney General's role, but it is an important part of the position that you are being nominated for.

I believe one of the highlights in your record in the Senate is your leadership in passing the Prison Rape Elimination Act of 2003, or PREA, which passed both Chambers without objection and was signed into law by George W. Bush. This was a bipartisan bill. You worked across the aisle with the late Senator Kennedy as well as with Republican Representative Frank Wolf, Democrat Representative Bobby Scott in the House, and I have letters of support from anti-prison-rape activists that I would also like to put as part of the record, without objection, if I could.

Chairman GRASSLEY. Without objection.

[The letters appear as submissions for the record.]

Senator FLAKE. Thank you. With the law approaching its 15th anniversary, 11 States have certified that they are in compliance with the national standards, another 41 States and territories have provided assurances that they are working toward compliance. Only four States and territories have chosen not to participate.

Is PREA meeting the expectations you had for it when you introduced the bill in 2003?

Senator SESSIONS. I do not think there is any doubt that it has improved the situation. As to whether it has reached its full poten-

tial, I do not think I am able to tell you with certainty, but I certainly think it has made a positive difference.

You know, it was a special time for me. Senator Kennedy was a strong critic of me in 1986. And he said, you know, as we were working on this, he said I have wanted to work with you on legislation like this. And I think it was sort of a reconciliation moment. We also worked on another major piece of legislation for several years. It would have been rather historic, but it was private savings accounts for lower-wage workers in America that I guess the financial crisis of '07 or some things happened that ended that prospect.

But I believe that it is important for the American people to know that when an individual is sentenced to prison they are not subjected to cruel and inhuman punishment under the Constitution at a minimum.

And the idea that was so widely spread that there is routine sexual abuse and assaults in prisons and other kind of unacceptable activities was widespread in our media and widespread among the American people. One of our goals was to establish just how big it was, to require reporting, and to create circumstances that helped ensure that a person who should be prosecuted for violence in the prison actually does get prosecuted—that was a real step forward. We do not need to subject prisoners to any more punishment than the law requires.

Senator FLAKE. Thank you. And in just the remaining seconds I have, let me just say there is another area that we have worked on and hopefully we can continue to work on and that is the area of duplicative DOJ grants. As you know, the department awarded approximately \$17 billion in grants over the years. OIG reports, GAO reports have all shown that there is duplication and waste, sometimes fraud and abuse.

Will you continue to commit to work to root out this kind of duplicative action there?

Senator SESSIONS. Well, I know you have had a history of being a staunch defender of the Treasury against those who would abuse it. And I believe the same way, it is the taxpayers' money. Every dollar that is extracted from an American citizen that goes into the Government needs to get to productive, valuable activities. And any of it that is delivered for political and insufficient reasons is a cause of great concern.

I will make it a priority of mine to make sure that the dollars we have are actually getting to the purposes they are supposed to go for. It is one thing to say I did a great thing, I got more money for this good purpose. But did it really efficiently and effectively go there? Did it really make a positive difference? So I think the Department of Justice can utilize those grant programs to help valuable activities, and it needs to guard against improper activities.

Senator FLAKE. Thank you, Senator Sessions.

Thank you, Mr. Chairman.

Chairman GRASSLEY. We will break for about 30 minutes. We will reconvene at 1:40, and Senator Coons would be next up, and he has indicated he will be here on time. So recess for now.

[Whereupon, at 1:10 p.m., the Committee was recessed.]

[Whereupon, at 1:49 p.m., the Committee reconvened.]

Chairman GRASSLEY. Before I call on Senator Coons, I want to explain why one of the Members on my side of the aisle cannot be here. Senator Tillis is unable to attend Senator Sessions' confirmation hearing today because his brother is being sworn in to the Tennessee General Assembly.

He also—Senator Sessions, he also wants me to know that he will submit questions for you to answer in writing.

Senator Coons, as we announced before, will be the first one this afternoon. Proceed. And Senator Sessions, if there is any—I will not know unless you tell me—if there is any sort of 15-minute break or anything you need, let me know.

Senator SESSIONS. Thank you, Mr. Chairman.

Chairman GRASSLEY. We will do that at the end of some person asking questions.

Senator Coons.

Senator COONS. Thank you, Chairman Grassley.

Welcome, Senator Sessions. Congratulations to you and Mary and your whole family on your nomination.

The position of Attorney General of the United States is one of the most important positions on which this Committee will ever hold hearings. And the next Attorney General of the United States will assume leadership of the Justice Department, on the heels of an election in which there were many issues thrown about in the course of the campaign, some of which have been asked about previously—calls for a Muslim ban or patrols, issues of a potential Russian cyberattack affecting our democracy, calls for mass deportations and chants at some rallies to “lock her up” for one of the candidates. And given the divisiveness of this election, I think it is critical that the next Attorney General be well suited for this position and this time. And as such, I think a successful nominee has to be able to persuade this Committee that he will act fairly and impartially administer justice, and advance justice for all Americans.

Senator Sessions, we have served on this Committee together for 6 years, and we have worked well together on a few issues—on State and local law enforcement issues, on the reauthorization of the Victims of Child Abuse Act and on the restoration of funding for Federal public defenders. And I appreciate that partnership. But there has also been many issues on which we disagreed. Issues from immigration to civil liberties to civil rights to criminal justice, voting rights, and torture. And I am concerned about your views on a number of these issues, as we discussed when we met last week. So I am grateful to the Chairman and to you that we are going to have a full and fair hearing on all of these issues today.

Let me start with some questions about your time when you were Alabama Attorney General and how you understood some direction you received from the U.S. Department of Justice. At that point, Alabama was the only State in the country that handcuffed prisoners to hitching posts. And we talked about this when we met before, and I said I would ask you about this in this hearing.

A hitching post was used as a punishment for prisoners perceived as being unwilling to work or participate in the daily lives of prison, whether serving on a chain gang or participating in work, and they would be cuffed by both wrists to a pole at chest

height, sometimes for 7, 8, or 9 hours, unprotected from sun, heat, or rain, without access, in some cases, to water or even a bathroom. And as the Attorney General, you and the Governor received letters from the U.S. Department of Justice telling you that Alabama's use of the hitching post in both men and women's prisons was unconstitutional and unjustified. But as I understand it, the use of the hitching post continued throughout your term, and you did not act to stop it.

During this same period, the State of Alabama was sued not just about hitching posts, but also about chain gangs. Prison policies in Alabama said a man could be put on a chain gang if he failed to shave or keep his bed clean, if he disrespected a member of the staff, and would end up doing hard labor breaking rocks while being chained together in groups of five, shackled with eight feet of chain between men. And these practices, the case that was brought demonstrated, were disproportionately affecting African Americans.

In later litigation, the practice of using the hitching post was called by an Alabama judge the most painful and torturous punishment in Alabama, short of electrocution. And in 2002, the U.S. Supreme Court said using the hitching post was clearly unconstitutional when it was used in Alabama.

Can you please, Senator, tell me your view today of the use of the hitching post and chain gang in Alabama corrections, and what your view is of what action you would take today if these practices were restored?

Senator SESSIONS. Thank you very much, Senator. That was an issue by the Governor, who campaigned and promised that prisoners should work and he was determined to make that happen. I believe the litigation occurred after my time as Attorney General, according to my records, but we could be wrong. I will supplement the records for you. Certainly the decision by the Supreme Court and the Federal courts were after I left office, I believe. So, working of prisoners is an issue that we have dealt with in the Congress of the United States and by State legislatures. I think a good employment of a prisoner is a healthy thing.

I do not favor personally this kind of work. I think it should be more productive work, work to kind of help the individual develop a discipline that they could use when they go on to private life after they leave prison. After the Supreme Court ruling, I think it is crystal clear what the law is. That was disapproved and disallowed and found to be unconstitutional, and I would absolutely follow that as Attorney General.

Senator COONS. In your view, did it take a ruling by the U.S. Supreme Court to clarify that this constituted torture, that it was not just bad corrections policy; it was actually substantively torture of prisoners?

Senator SESSIONS. Senator Coons, I do not recall ever personally being engaged in the studying of the constitutional issues at stake. It is perfectly legitimate for prisoners to work, but in decent conditions, and I think it should be the kind of work that is productive and could actually lead to developing good habits. I have heard some evidence on that subject.

So I do not have a legal opinion about the case, have not studied the details of it.

Senator COONS. Just to be clear, what I was pressing you on there was the use of the hitching post, which is a disciplinary measure that had been abandoned by all States but Alabama. It is really reminiscent more of the stocks, the stockade that was used centuries ago and, to me, somewhat troubling that it continued without challenge.

Let me ask you more broadly, as you know, both Republicans and Democrats on this Committee have worked together to address ways in which our criminal justice system is broken and to address the disparate racial impact of over-incarceration that has resulted the last 30 years.

Senator Tillis and I just yesterday published an op-ed that we wrote jointly about the importance of responsible, balanced criminal justice reform. And Senators Grassley and Cornyn, Lee and Graham, and Flake—all your fellow Republicans—have supported meaningful reforms to address excessive mandatory sentences and incarceration. And in my experience here, in 6 years with you, you have steadfastly opposed all of these efforts at bipartisan sentencing reform.

Help me understand why you have blocked efforts at reducing mandatory minimum sentences, at creating opportunities for the revisitation of sentences that may have been overly harsh when initially imposed, and help me understand whether you think it is ever proper for a prosecutor to charge anything less than the most serious offense available and carrying the longest sentence.

Senator SESSIONS. Well, that was a lot of questions there, Senator Coons.

Senator COONS. Yes.

Senator SESSIONS. So the Sentencing Act has one foundational requirement now, and that is the minimum mandatories. The guidelines have been either made voluntary by the Sentencing Commission and the courts and the policies of the Attorney General. So the thing that does stand in place are the minimum mandatories. The minimum that can be sentenced for a certain offense.

I offered legislation in 2001—it was opposed by the Bush Justice Department—that would have reduced the sentencing guidelines. And in fact, what passed a number of years later, unfortunately, essentially could have been done in 2001. I made a speech in favor of it saying what you are saying, that it was disproportionately impacting our African-American community and we needed to fix it, and eventually that was passed. So I have a record of doing that, number one.

Number two, so these other things happened in the meantime. The guidelines were reduced; the Justice Department has reduced its requirements. The Justice Department now allows a prosecutor to present a case to the judge that does not fully reflect the evidence that they have in their files about a case. That is a problematic thing. I think it is problematic and difficult to justify a prosecutor charging five kilos of heroin when the actual amount was 10, to get a lower sentence. Now, there may be circumstances when

somehow proof and other issues could justify that, but I just would say, as a principle, you have got to be careful about it.

Finally, colleagues, sentencing guidelines are within the breadth of the Congress. They are mandated by law. I was concerned about what we are beginning to see—a rise in crime—and, at the same time, a decline in sentences. Sentences are down 19 percent already, as based on the Sessions–Durbin legislation and guidelines changes. So that is a matter of interest. And I felt we should slow down a bit before we go further and make sure we are not making a mistake, Senator Coons.

Senator COONS. It is my hope that if you are confirmed and we do make progress on bipartisan criminal justice reform, that as Attorney General you will carry out whatever legislative decisions that might be made by this body.

Last, let me just say that in my 6 years here, in addition to not working with us on a number of bipartisan proposals on criminal justice reform, that you have been one of the few Senators to repeatedly and steadfastly vote against congressional attempts to prohibit torture in the military context, or in the interrogation context, and to repeatedly defend enhanced interrogation practices.

Are you clear now that our statutes prohibit torture, and if the President were to attempt to override that clear legal authority, what actions would you take?

Senator SESSIONS. On your previous question, I would note that the Federal prison population has already dropped 10 or more percent and will drop another 10,000 this year. So what is happening now is reducing the Federal population. This law only dealt with the Federal prison population, and that represents the most serious offenders. Our Federal DEA and U.S. Attorneys are prosecuting more serious cases.

With regard to the torture issues, I watched them for some time, and have been concerned about what we should do about it. This bill that passed last time was a major step. I thought it was really not the right step. Senator Graham, I know, has been a steadfast opponent of torture and supported a lot of different things opposed to it. It basically took what I was teaching the young soldiers at the Army Reserve Unit as a lecturer, as a teacher, the Army Field Manual, and it made that the law for the entire Government, including the intelligence agencies and other departments.

I thought that was an unwise step, to take something that directs even the lowest private to do, to make that the rule for higher-ups.

Senator COONS. Well, Senator—

Senator SESSIONS. But it is the law. It is the law, and it needs to be enforced. Absolutely.

Senator COONS. As we both know, there was a bipartisan effort to review our experience with enhanced interrogation that concluded it was not effective.

Senator SESSIONS. Yes, there was. And of course Senator Graham was a JAG officer, as I was, for a little bit.

Chairman GRASSLEY. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman.

Senator Sessions, congratulations on your nomination.

Senator SESSIONS. Thank you.

Senator CRUZ. You are a friend; you are a man of integrity. You and I have worked closely together on this Committee, on the Armed Services Committee, and I have every confidence you are going to make a superb Attorney General.

You know, this has been an interesting day at this hearing, listening to Democratic Senator after Democratic Senator give speeches in praise of the rule of law. And I am heartened by that. I am encouraged by that, because for 8 years it has been absent. For 8 years, we have seen a Department of Justice consistently disregarding the rule of law.

When Eric Holder's Department of Justice allowed illegal gun transactions, illegally sold guns to Mexican gun traffickers as part of "Fast and Furious," guns that were later used to murder Border Patrol agent Brian Terry, the Democratic Members of this Committee were silent.

When Eric Holder was found in contempt of Congress for refusing to cooperate with Congress' investigation into "Fast and Furious," once again the Democratic Members of this Committee were silent.

When the IRS illegally targeted United States citizens for exercising the First Amendment views—for exercising their roles in the political process, Democratic Members of this Committee were silent. When the Department of Justice refused to fairly investigate the IRS targeting citizens and indeed assigned the investigation to a liberal partisan Democrat who had given over \$6,000 to President Obama and Democrats, Democrats on this Committee were silent.

When numerous Members of this Committee called on the Attorney General to appoint a special prosecutor to ensure that justice was done in the IRS case, Democrats on this Committee were silent.

When the Justice Department began using Operation Choke Point to target law-abiding citizens that they disagreed with politically——

[Audience interruption.]

Senator CRUZ. You know, free speech is a wonderful thing.

When the Department of Justice used Operation Choke Point to target legal businesses because they disagreed politically with those businesses, the Democrats on this Committee were silent.

When the Obama Justice Department sent millions of dollars of taxpayer moneys to sanctuary cities that were defying Federal immigration law, the Democrats on this Committee were silent.

When the Obama administration refused to enforce Federal immigration laws and unilaterally rewrote those laws, the Democrats on this Committee were silent.

When the Obama administration released tens of thousands of criminal illegal aliens, including rapists and murderers, into the general population, Democrats on this Committee were silent.

When the Department of Justice signed off on the Obama administration paying a nearly \$2 billion ransom to Iran, contrary to Federal law, the Democrats on this Committee were silent.

When the Obama administration ignored and rewrote provision after provision of Obamacare, contrary to the text of the law, the Democrats on this Committee were silent.

When the Obama administration signed off on illegal recess appointments that the Supreme Court had to strike down unanimously, the Democrats on this Committee were silent.

And when the Obama administration released five Guantanamo terrorists without the required notification to Congress, the Democrats on this Committee were silent.

That pattern has been dismaying for 8 years, but I take today as a moment of celebration. If once again this Committee has a bipartisan commitment to rule of law, to following the law, that is a wonderful thing and it is consistent with the tradition of this Committee going back centuries.

Now, if we were to play a game of tit for tat, if what was good for the goose were good for the gander, then a Republican Attorney General should be equally partisan, should disregard the law, should advance political preferences favored by the Republican Party.

Senator Sessions, do you believe that would be appropriate for an Attorney General to do?

Senator SESSIONS. No, I do not. I think we do have to be aware that when something like this is done, and some of the things I am familiar with enough to agree with you that I thought were improper, I do believe it has a corrosive effect on public confidence and the constitutional republic of which we are sworn to uphold.

Senator CRUZ. I think you are exactly right. You and I are both alumni of the Department of Justice, and it has a long bipartisan tradition of staying outside of partisan politics, of simply and fairly enforcing the law.

I will say right now, if I believed that you would implement policies, even policies I agreed with contrary to law, I would vote against your confirmation. And the reason I am so enthusiastically supporting your confirmation is I have every degree of confidence you will follow the law faithfully and honestly. And that is the first and most important obligation of the Attorney General.

Now, earlier in this hearing, Senator Franken engaged you in a discussion that I think was intended to try to undermine your character and integrity, and in particular, Senator Franken suggested that you had somehow misrepresented your record.

It is unfortunate to see Members of this body impugn the integrity of a fellow Senator with whom we have served for years. It is particularly unfortunate when that attack is not backed up by the facts. Senator Franken based his attack primarily on an op-ed written by an attorney, Gerald Hebert. There is an irony in relying on Mr. Hebert, because as you well know, in 1986 during your confirmation hearing, Mr. Hebert testified then and attacked you then, making false charges against you. And indeed, I would note, in the 1986 hearing, 2 days later, Mr. Hebert was forced to recant his testimony, to say that he had given false testimony to this Committee and indeed to say, "I apologize for any inconvenience caused Mr. Sessions or this Committee by my prior testimony." So an individual who has testified falsely once before this Committee, his op-ed is now the basis for Senator Franken's attack on you. And indeed, the basis of Senator Franken's attack is he claims you were uninvolved in several civil rights cases that were listed on your questionnaire.

In 1986, Mr. Hebert testified—this is a quote from him—“I have needed Mr. Sessions’ help in those cases and he has provided that help every step of the way.” Is that correct, that that is what Mr. Hebert testified?

Senator SESSIONS. Yes, that is correct.

Senator CRUZ. Now, in the four cases Senator Franken referred to, you reported all four of them in your supplement to the Judiciary Committee, is that right?

Senator SESSIONS. That is correct.

Senator CRUZ. Mr. Franken did not mention that, and let me point out, here is how you describe your involvement in your written submission to this Committee: “For the cases described in two, four, eight, and nine, my role, like most U.S. Attorneys in the Nation and with non-criminal civil rights cases, was to provide support for the Department of Justice Civil Rights Division’s attorneys.

“I reviewed, supported, and co-signed complaints, motions, and other pleadings and briefs that were filed during my tenure as U.S. Attorney. I provided assistance and guidance to the Civil Rights attorneys, had an open-door policy with them, and cooperated with them on these cases. For the cases described in six, I supervised litigation and signed the pleadings.”

Now, that is consistent with the 1986 testimony that you provided help every step of the way, is that correct?

Senator SESSIONS. Well, I think so, yes.

Senator CRUZ. There is no question you have been forthright with this Committee, and I would note that Members of this Committee do not have to search far and wide to know who Jeff Sessions is. We have known every day, sitting at this bench alongside you.

I want to shift to a different topic, and it is the topic I opened with, which is the politicization of the Department of Justice. The Office of Legal Counsel has a critical role of providing sound legal and constitutional advice, both to the Attorney General and the President. And in the last 8 years, we have seen a highly politicized OLC, an OLC that has given politically convenient rulings, whether on recess appointments, whether on Executive amnesty, and early on, perhaps that was started by 2009 Attorney General Holder overruling OLC concerning legislation trying to grant the District of Columbia representation in Congress. And it may well be that that sent a message to OLC that its opinions were to be political and not legal in nature.

Tell me, Senator Sessions. What will you do as Attorney General to restore professionalism and fidelity to law to the Office of Legal Counsel?

Senator SESSIONS. Senator Cruz, I think any short-term political agenda gains that come from the abuse of the lawmaking processes and requirements of the Department of Justice just do not make sense. It will always, in the long run, be more damaging, the short-term gain that one might have.

The Office of Legal Counsel, all of us who served in the Department know, is a big-time position. You need a mature, smart, experienced person who understands this Government, who understands the laws and is principled and consistent in their application of the laws. That will help the President, it will help the Con-

gress, and it will help the American people. I do believe we need to work hard to have that, and I will do my best to ensure we do have it.

Senator CRUZ. One final question. In the last eight years, the Department of Justice's Solicitor General's Office has also, I believe, been unfortunately politicized. And it has sustained an unprecedented number of unanimous losses before the U.S. Supreme Court.

Indeed, President Obama's Justice Department won less than half of its total cases before the Supreme Court, which is the lowest Presidential win rate since Harry Truman. The average historically for the last 50 years has been about 70 percent. Numerous of those cases were unanimous with, indeed, both Obama's Supreme Court appointees voting against the lawless positions of this Justice Department, including their assertion that the Government has the authority to supervise and direct the appointment, the hiring, and firing of clergy in the church.

What will you do as Attorney General to ensure the integrity of the Office of Solicitor General, that it is faithful to the law and not advancing extreme political positions like the Obama Justice Department did that have been rejected over and over again by the Supreme Court?

Senator SESSIONS. I think the problem there is a desire to achieve a result sometimes that overrides their commitment to the law. In the long run, this country will be stronger if we adhere to the law, even though somebody might be frustrated in the short term of not achieving an agenda.

The Solicitor General should not advocate to alter the meaning of words to advance an agenda. That is an abuse of office, and I would try to seek to have a Solicitor General who is faithful to the Constitution, serves under the Constitution, does not feel it has the power to rise above it and make it say what it wants it to say.

Senator CRUZ. Thank you, Senator Sessions.

Chairman GRASSLEY. Senator Blumenthal goes—I think we have votes still scheduled for 2:45. It is my idea that we would continue this, going—like I will go at the end of the first vote and then vote and come back, and I hope other people will preside and keep asking questions while the two votes are going on so we can finish at a reasonable time today.

[Exchange aside.] Oh, that is right. Did we get a decision? You can stay here during that voting.

Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman, and thank you for conducting this hearing in such a fair-minded and deliberate way. And I want to join you in thanking Senator Sessions for his public service over so many years, and his family, who have shared in the sacrifices that you have made.

I am sure that my colleagues and I appreciate your service and your friendship. This experience for us is a difficult one, not only because you are a colleague, but I consider you to be a friend and someone who is well liked and respected in this body, understandably. And I know if you were sitting here, you would be pretty tough on me, maybe tougher than I am going to be on you. But it

is not personal, as you understand, because we have an obligation to advise and consent, to ask those kinds of tough questions.

You and I have shared some experiences; both of us have been United States Attorneys and Attorneys General of our State. And I want to thank you as well for thanking our law enforcement community, which is so important to this Nation. And it makes sacrifices, and those sacrifices often are not only in time and forgone income, but also in lives. And I join you in respecting the law enforcement officers who were victims most recently of gun violence.

I want to begin just by asking you a question which I asked in a letter. Will you recuse yourself from voting on your own nomination and the nominations of other Cabinet secretaries?

Senator SESSIONS. I do not have plans to vote on my nomination. I have not thoroughly examined all the issues, but if I think there could be a conflict of interest or a violation of the ethics rule, then I would comply with the rules.

Senator BLUMENTHAL. I believe it would be a conflict of interest for you to vote on other Cabinet secretaries, as they are nominated by the President, who is also your boss. And I think that—I hope you will consider recusing yourself from those votes as well, because I think it will set a tone for what you will do in cases of conflicts of interest.

I want to talk a little bit about conflicts of interest, because I think that the Attorney General of the United States has a unique and special role, especially at this point in our history. He should be a champion, a zealous advocate of rights and liberties that are increasingly under threat in this country, and he is not just another Government lawyer or another Cabinet secretary. He is the Nation's lawyer. And so any appearance of conflict of interest or compromising positions because of political involvement I think is a real danger to the rule of law and respect and credibility of the rule of law.

I would hope that you would consider appointing special counsel in cases where there may be a conflict of interest involving the President. And one of those cases involves Deutsche Bank. The President of the United States owes Deutsche Bank several hundreds of millions of dollars. It is currently under ongoing investigation. Will you appoint an independent counsel to continue the investigation of Deutsche Bank?

Senator SESSIONS. Well, Senator Blumenthal, I am not aware of that case. I have not researched it or even read some of the public's articles about it. So I am totally uninformed about the merits, or lack of it, of the case. I do not know that the President is implicated simply because he has borrowed from a bank. But I would say that, as I think Senator Lee raised in his questioning, you do not want to be in a position where every time an issue comes up, the Attorney General recuses himself. But at the same time, when serious questions arise, the Attorney General should recuse himself under the appropriate circumstances. And I guess that goes with the appointment of a special counsel, which is a somewhat different issue.

Senator BLUMENTHAL. Would you—

Senator SESSIONS. There are a lot of criticisms of that, but I think it is a useful tool in the appropriate circumstances.

Senator BLUMENTHAL. Would you agree with me that the Emoluments Clause applies to the President of the United States?

Senator SESSIONS. Well, the Emoluments Clause applies. I guess the dispute is and the discussion is to what extent does it apply and how does it apply in concrete situations——

Senator BLUMENTHAL. If there is evidence——

Senator SESSIONS [continuing]. Which I have not studied.

Senator BLUMENTHAL. If there is evidence that the President of the United States has violated or may be violating the Emoluments Clause, will you appoint a special counsel?

Senator SESSIONS. We would have to examine that. I would not commit, at this time, to appointing a special counsel when I am not aware of a precise factual situation that would be in play.

Senator BLUMENTHAL. If there is a violation by the President's family of the STOCK Act, which prohibits the use of private or insider information for personal gain, will you apply special counsel?

Senator SESSIONS. Well, we will have to evaluate that if such a circumstance occurs, and I would do my duty as I believe I should do it at the time.

Senator BLUMENTHAL. I would suggest that in those cases an independent counsel is not only advisable but required to avoid a conflict of interest, and I would hope that you would be sensitive to those concerns.

Senator SESSIONS. Well, there are reasonable arguments to be made for that. I suggested that Attorney General Lynch should appoint a special counsel in the Clinton matter. I do not know whether you supported that or not.

Senator BLUMENTHAL. One reason I am asking the question is that you have advocated a special counsel in other instances where, in fact, the argument for it was weaker than it would be in these cases, and I think it would be appropriate. Let me——

Senator SESSIONS. Well, I will suggest that during the campaign sometimes we get excited, but as Attorney General, you have to follow the law, you have to be consistent, and you have to be honorable in your decisionmaking. And I respect the question you are raising.

Senator BLUMENTHAL. Let me ask you about another group. I welcome your condemnation of the Ku Klux Klan. You may be familiar with a group called "Operation Rescue," and Operation Rescue endorsed you. In fact, Troy Newman, the head of Operation Rescue, said, "We could not be happier about the selection of Senator Jeff Sessions as the next Attorney General."

Operation Rescue has, in fact, advocated "execution" of abortion providers, and as an example of its work, this poster was circulated widely in the 1990s and early 2000s about a doctor, George Tiller, who subsequently was murdered. After his murder, Operation Rescue said that his alleged murderer should be treated as a political prisoner. Dr. Tiller was murdered in 2009, and I am sure you are familiar with this case. Will you disavow their endorsement of you?

Senator SESSIONS. I disavow any activity like that, absolutely, and a group that would even suggest that is unacceptable. And I will enforce the laws that make clear that a person who wants to receive a lawful abortion cannot be blocked by protesters and disruption of a doctor's practice. I might not favor that. I am pro-life,

as you know, but we have settled on some laws that are clearly in effect, and as Attorney General, you can be sure I would follow them.

Senator BLUMENTHAL. You would use the FACE statute, the Freedom of Access to Clinic Entrances Act, to empower and mobilize the FBI, the Federal Marshals Service, or the Bureau of Alcohol, Tobacco, and Firearms to protect clinics if there were harassment or intimidation?

Senator SESSIONS. I would use the appropriate Federal agencies, and I do believe it is in violation of the law to excessively or improperly hinder even the access to an abortion clinic.

Senator BLUMENTHAL. Will you rigorously enforce statutes that prohibit purchase of guns by felons or domestic abusers or drug addicts and use the statutes that exist right now on the books to ban those individuals from purchasing guns?

Senator SESSIONS. Well, Congress has passed those laws. They remain the bread-and-butter enforcement mechanisms throughout our country today to enforce gun laws. The first and foremost goal, I think, of law enforcement would be to identify persons who are dangerous, who have a tendency or have been proven to be lawbreakers and been convicted and those who are caught carrying guns during the commission of a crime. Both of those require mandatory sentences. As United States Attorney in Alabama, it was a high priority of mine. I calculated a number of years we were one of the top—even though a small office—on a percentage basis we were one of the top prosecutors of those cases. I think it saves lives, Senator Blumenthal. My judgment, at least, tells me it can help create a more peaceful community.

Senator BLUMENTHAL. Will you support laws necessary to effectively apply those laws, including universal background checks that are necessary to know whether the purchaser is a felon or a drug addict or a domestic abuser?

Senator SESSIONS. Well, I believe in background check laws, and many of them are appropriate. But in every instance—there are some instances when it is not practical, like, say, for example, somebody inherited a gun from their grandfather. Those transactions I am not sure should require that kind of universal background check.

Chairman GRASSLEY. For the first time I call on a new Member of this Committee, Senator Crapo. Welcome to the Committee, and you may proceed.

Senator CRAPO. Thank you, Mr. Chairman, and I too want to thank you for the way you are handling this hearing, and I appreciate your service here in the Committee.

Senator SESSIONS. I also want to join those who have congratulated you on your nomination to be the Attorney General of the United States. I am one of those who has had the opportunity to work with you for years and know you very well. I consider you well qualified and look forward to your service as Attorney General of the United States if you are confirmed, and I expect you will be. I know you to be a man of your word. I know that you are committed to the Constitution of the United States of America, and you are committed to enforcing the law of this country, as you have

said multiple times here in this Committee. So I thank you for that.

I want to go in my questions into just a couple of other areas beyond just the notion of the enforcement of the law but the manner in which the Department of Justice enforces the law. Three basic areas: one, the abuse of the power or discriminatory enforcement of the law; two, regulatory overreach that we are seeing across this country and what role the Department of Justice plays in trying to deal with that; and then, finally, cooperation with the States. We live in a Union of 50 States, and under our Constitution there are appropriate roles for the Federal Government and the States, and the Department of Justice has a very powerful influence on that. So if I could get into those three areas.

The first one I am just going to use as an example of the kind of abusive use of power that I hope you will help stop and prevent from continuing to happen. This example is one that was already referenced by Senator Cruz, Operation Choke Point. Operation Choke Point, for those that are not familiar with it, the only appropriate thing about it, in my opinion, is its name. It was a program designed by the Department of Justice to help choke financing away from businesses and industries that were politically unacceptable or, for whatever reason, unacceptable to the administration.

The Justice Department, working with, and I think perhaps even pressuring, some of our financial regulatory agencies, created this program to give additional scrutiny—indeed such aggressive scrutiny that it pressured them out of their access to financing—to certain industries. I do not know how these industries got on the list, but I will just read you several that are on the list: ammunition sales, coin dealers, firearms sales, installment loans, tobacco sales. This list is a list of 30 that was put out by the FDIC. When they actually realized they should not have put the list out, they quickly took it back. And the FDIC says that they are not pursuing this program anymore. But when we tried to de-fund it earlier, the administration fought aggressively to make sure we did not get the votes to de-fund it.

This program is one where the justification is, well, the businesses who operate in these industries have not done anything wrong. But these are industries that might do things wrong more than other industries, and, therefore, we are going to pressure people out of these industries. It reminds me of a 2002 movie called "Minority Report." It was a Tom Cruise movie, and that was one about an advanced police force in the future that had determined or developed the ability to know if you were going to commit a crime before you commit the crime. And then their job was to go arrest you. It was really good at stopping crime because they arrest you before you even commit it. And then one of them came up on the list, and that is the story of that movie.

My point is we cannot really tell for sure whether Operation Choke Point is still operating, although we still have people in these industries who cannot get financing. If that kind of thing is going on in the Department of Justice, will you assure that it ends?

Senator SESSIONS. I will. At least as you have framed this issue and as I understand the issue, from what little I know about it,

but, fundamentally, a lawful business should not be attacked by having other lawful businesses pressured not to do business with the first business. That to me would be hard to justify. I guess maybe they have got some arguments that would be worth listening to, but, fundamentally, that seems to me—Senator Crapo, you are a great lawyer, but it seems to me that goes beyond what would be legitimate in a great economy like ours.

Senator CRAPO. Well, I would hope the Department of Justice would not be a partner with any of our Federal agencies in this kind of conduct.

Another one which I will throw out as an example is the National Instant Criminal Background Checklist, which is now being utilized by the Veterans Administration and by the Social Security Administration to put people's names on the list so that they can be denied access to owning or purchasing a firearm. And the way they put their name on the list is to say that they are mentally deficient. If they need a little help on their Social Security benefits, if they are a veteran who put their life on the line for us and goes to war and receives a head injury and so they need a little bit of assistance, then they get their name often put on the list.

I know that these are not the agencies that you supervise, but I know the Department of Justice supervises the NICS list. And I would just encourage your help, whether it is here or anywhere else in our Government. As we see agencies using their power to achieve political purposes or some other discriminatory purpose of the administration, I would hope you would stand solidly against it.

Senator SESSIONS. Well, thank you, Senator Crapo. I know you have worked on that issue. So I would be sympathetic and be willing to receive any information that I know you have gathered to form your views about it.

Senator CRAPO. All right. I appreciate that.

Let me move on to the question of regulatory overreach. I will just use one example there. I am one who believes that today we have gone—we talked a lot in this hearing today about the rule of law. In America, statutes are passed by Congress and signed into law by a willing President. But now we have multiple agencies that are doing rulemakings that, in my opinion, are going far beyond the legal authority of the laws under which they operate. I will use one example: the Waters of the United States rule that has been implemented or is seeking to be implemented by the EPA and the Army Corps of Engineers. In my opinion, that is totally unfounded in law, and often the Department of Justice is partnered up with these agencies as they try to defend their activities in court. And I am not sure I actually know the proper role there.

Does the Department of Justice simply have to litigate on behalf of these agencies? Or does it have the ability to advise these agencies that they are pursuing activities beyond the bounds of the law?

Senator SESSIONS. It can be that an agency would ask an opinion of the Office of Legal Counsel, the Department of Justice, as to whether their interpretation is sound or not. That opinion, until reversed at some point, stands for the entire Government. But, basically, these agencies oftentimes just set about their own agendas without asking for an opinion, and often they are narrow-minded

or they are focused only on what they feel are the goals of their agency and do not give sufficient respect to the rule of law and the propriety of what they are doing. In particular, did the Congress really intend this? Did this law really cover this? Or is it just something you want to accomplish and you are twisting the law to justify your actions? Those are the kinds of things that we do need to guard against.

Senator CRAPO. Well, I appreciate that, and I hope that under your leadership we will have a Justice Department that will give strong advice where it can and have strong influence where it can across the United States system, across our agencies in this country, to help encourage and advise that they stay within the bounds of the law.

The last thing, and I will just finish with this—and you can give a quick answer, I am running out of time here—and that is, cooperation with the States. As I said earlier, our system of Government is comprised of 50 States in a Union under a Constitution that establishes a Federal Government. And you and I both know well that the Tenth Amendment says that those rights and powers that are not specifically granted to the Federal Government in the Constitution are reserved to the States and to the people, respectively.

Many of our States feel that that proper respect for their sovereignty is being abused, again, by Federal agencies, not just the Department of Justice, but the Justice Department often gets involved in this through providing the legal services that it does to our agencies. And, you know, I could go through a ton of more examples and lists of litigation that is ongoing right now with my State and other States around the country where, if we simply had a better level of respect for the role of States in this Union and under our Constitution, we could work out a lot more of these issues rather than having the heavy hand of the Federal litigation system come to play into forcing compliance by States.

I will not go into any specific details, but would just ask your feelings about that importance of respecting the role of States in this country.

Senator SESSIONS. There is no general Federal crime. So, many things like larceny and even murder, when there is no civil rights connection, have traditionally been totally the responsibility of the States. As a young prosecutor in the 1970s, I remember almost all the cases had an interstate commerce nexus. It was not the theft of an automobile that you prosecuted. It was interstate transportation of a stolen vehicle. So a lot of that is just—now we have forgotten that distinction, that limitation on Federal power.

Senator CRAPO. We have. And a lot of what I am talking about happens in the Environment and Natural Resource Division or in others. There is a lot of litigation out there. I would just encourage you—I see I am out of time.

Chairman GRASSLEY. Let me make a suggestion before I introduce Senator Hirono, and she is welcomed back to the Committee. She has been off 2 years. To make efficient use of our time, when she is done, it would be Senator Kennedy's turn. But you probably have to go vote, so if there is somebody back here that can start

the second round, do it, and then we will call on Senator Kennedy to finish the first round.

Senator HIRONO.

Senator HIRONO. Thank you, Mr. Chairman. It is good to be back on this Committee. And aloha to you, Senator Sessions.

Senator SESSIONS. Aloha.

Senator HIRONO. I will do my best to be nice to you.

[Laughter.]

Senator SESSIONS. Well, that will not be hard for you.

Senator HIRONO. Thank you very much. I know that the Attorney General has broad prosecutorial discretion. You noted in some of your responses to questions from Senator Durbin around the issue of what would happen to the 800,000 DACA-registered people if the President-elect rescinds that program, and you indicated that I think at that point the AG's office has only so many resources and that may not be a high priority for you. But you indicated that is why we needed immigration reform.

So my series of questions will center around how you would exercise your prosecutorial discretion, which I think you would acknowledge is wide as Attorney General, would you not?

Senator SESSIONS. In many cases, you do—the Federal prosecutors set discretionary limits, but you have to be careful that it does not exceed a reasonable judgment about what a discretion should be.

Senator HIRONO. I agree. It is not totally unfettered, but wide prosecutorial discretion, so my questions will center around how you would exercise prosecutorial discretion with regard to some specific issues. You probably know, Senator Sessions, that I am an immigrant, and you indicated in one response that you would want immigration reform to center around skills-based immigration reform. And if that were the case, my mother who brought me to this country to escape an abusive marriage would not have been able to come to this country, and she acquired her skills later. But I just want to let you know that this is one of the reasons that issues relating to immigration are very important not just to me but to millions of people in this country. And I have heard from them. I have heard from immigrants in this country, LGBT Americans, women, and religious minorities who are terrified that they will have no place in President-elect Trump's vision of America. And based on what I have heard, since the election, I am deeply concerned that their fears are well founded. I am hoping that you can address some of these concerns today.

I mentioned the exercise of prosecutorial discretion. When you came to see me, we did talk about whether or not you would support a ban on Muslims coming to this country based on the fact that they were Muslims, and you said you would not support that. But you also indicated that you would support basically what would be considered enhanced vetting of people with extreme views. What would characterize an extreme view to you? And how would you go about ferreting out people with extreme views? And there are millions of people legally coming into our country.

And also a related question: The fact that you would consider vetting of people with extreme views to be a proper use of our governmental authority, there must be a connection in your mind that

people with extreme views, which I hope you will describe what you mean by, will do something that would compromise the safety of Americans? Could you respond to my series of questions relating to extreme views?

Senator SESSIONS. Well, I do think, first of all, the vetting process is in the hands of the State department, the consular offices, and those offices that are meeting people abroad and evaluating them for admission to the United States. So the Department of Justice really does not dictate that, as long as it is within constitutional order.

I think the approach that is preferable is the approach that would be based on areas where we have an unusually high risk of terrorists coming in, people that could be clearly violent criminals, and those certainly justify higher intensity of vetting. I think that maybe responds to your question. But, again, the ultimate decision about that would be done through the State Department and by the President.

Senator HIRONO. I am sure they would ask for the Attorney General's opinion as to the limits of the Constitution in requiring these kinds of questions to be asked of people who come to our country. You did indicate that one's religious views would be a factor in determining whether somebody has extreme views.

Let me turn to——

Senator SESSIONS. If their religious views——

Senator HIRONO. Not in and of itself.

Senator SESSIONS [continuing]. Encompass extremism, if their interpretation of their religious views encompasses dangerous doctrines and terrorist attacks, I think they should certainly deserve more careful scrutiny than someone whose religious views are less problematic.

Senator HIRONO. Yes, Senator Sessions, you did say that one's religious views would be a factor in determining whether one has extreme views that would not enable them to come to our country.

Let me turn to the question of abortion. On *Roe v. Wade*, you did say, "I firmly believe that *Roe v. Wade* and its descendants represent one of the worst, colossally erroneous Supreme Court decisions of all time," and it was an "activist decision." My question is: Do you still hold that view? I believe you answered yes to someone who asked you that question previously, that you believe that *Roe v. Wade* was a bad decision.

Senator SESSIONS. Well, I——

Senator HIRONO. Do you still believe that?

Senator SESSIONS. Well, I guess I have said that before. I am a pro-life——

Senator HIRONO. Thank you.

Senator SESSIONS [continuing]. Advocate. But, fundamentally, the problem as I see it with *Roe v. Wade* is that it denies the people the right to make laws that they might feel appropriate. Did the Supreme Court have that power? I concluded they did not because the Constitution did not answer that question, but——

Senator HIRONO. Senator Sessions, I——

Senator SESSIONS [continuing]. I respect people——

Senator HIRONO. I hate to interrupt you, but I have less than 2 minutes, so I do not want to get into the substance of *Roe v. Wade*.

I realize you still believe that that was a bad decision, although it was based on constitutional privacy protections. So we can expect the makeup of the Supreme Court to change, and we can very well end up with a Supreme Court that will be very open to overturning *Roe v. Wade*. And should you be the Attorney General, would you direct or advise your Solicitor General to weigh in before that Supreme Court which has an opportunity to overturn *Roe v. Wade*? And would your Solicitor General go in and weigh in to repeal—or to overturn, I should say, *Roe v. Wade*?

Senator SESSIONS. Well, *Roe v. Wade* is firmly ensconced as the law of the land, and I do not know if we would see a change in that. You are asking a hypothetical question. Those cases seldom come up on such a clear issue. They come up at the margins. I just would not be able to predict what well-researched, thoughtful response would be to matters that could happen in the future.

Senator HIRONO. I think most of us know that the next opportunity for the Supreme Court to weigh in on whether or not to change *Roe v. Wade* would be a very close decision and likely possibly a 5–4 decision, and that it is not just a hypothetical but it is a real concern to a lot of people.

Let me turn to the Voting Rights Act. While the Supreme Court did eliminate parts of the Voting Rights Act, it still retains Section 2, which prohibits States from enacting laws that would have a discriminatory impact. The Attorney General's office was a party to challenging two States' laws—I believe it was Texas and there was another State—that the Supreme Court ultimately agreed with the Attorney General's position that these laws violated the Voting Rights Act Section 2. Would you, should you become the Attorney General, just as vigorously prosecute those kinds of State laws that have a discriminatory voting impact?

Senator SESSIONS. Well, this administration's Attorney General has intervened when it felt it was appropriate and not intervened when it did not feel it was appropriate. So I think my responsibility would be to ensure that there are no discriminatory problems regarding the Voting Rights Act in a State. If there is, if it violates the Voting Rights Act or the Constitution, I think the Attorney General may well have a responsibility and a duty to intervene. You cannot allow improper erosion of the right of Americans to vote.

Senator HIRONO. Well, we know that since the Supreme Court's decision that did away with major parts of the Voting Rights Act that numerous States, perhaps 13 States, have already enacted laws that could be deemed contrary to the Voting Rights Act. So I would hope that as Attorney General you would vigorously review those kinds of laws and to prosecute and to seek to overturn those State laws, just as your predecessors have done.

I want to turn to VAWA. I know that you voted against the most recent iteration of VAWA because you had concerns about how non-Indians would be prosecuted under Tribal law. And you indicated that, yes, you do acknowledge that non-Indians do go on Tribal lands, commit crimes, and that these kinds of crimes should be prosecuted at the Federal level. And I would expect that should you become Attorney General that you will do that.

But at the same time, my question is: Would you then seek to overturn that part of VAWA that allows the Tribal courts to proceed?

Senator SESSIONS. That would be a strictly legal decision. We should give respect to the laws of Congress that have been passed. As a Member of Congress, I was uneasy with it, did not think it was a good approach, and I believe eight out of nine Republicans on the Committee shared that concern and did vote against it.

As I noted earlier, I voted for the Violence Against Women Act in 2000, 2010, and I voted for the Grassley version of the Violence Against Women Act this past time, even though I did vote against the version that became law.

Senator HIRONO. So as Attorney General, you would not do anything to challenge that part of VAWA that allows for Tribal courts to proceed, right?

Senator SESSIONS. Well, I would have to make a legal decision on that. I am not able to do so today.

Senator HIRONO. Thank you, Mr. Chairman.

Senator LEE [presiding]. Thank you.

Senator Sessions, as you are aware, in many instances, Congress, when enacting a law, will choose to issue a broad sort of mandate, a broad aspirational statement, leaving the details of the actual lawmaking process to a regulatory system that then has to follow certain procedures in turn to effectively make laws. We call those regulations, typically, and sometimes an executive branch agency will go a step further and, outside the process that has to be followed when promulgating a new regulation, they will just issue a guidance document—a guidance document outlining what the agency feels is the status of the law in this area. Guidance documents have received a lot of criticism from members of the public who point out that they are bereft of any kind of safeguard and that they have not gone through a legislative process; they have not even gone through any type of review process that would normally accompany the regulatory rulemaking cycle.

As a matter of policymaking, will the Department of Justice, under your leadership, assuming you are confirmed, use guidance documents as a matter of course in promulgating legal interpretations?

Senator SESSIONS. Senator Lee, a guidance document that is clearly within the intent of Congress and the law's plain words can be beneficial. I think they are normally issued by the agency or department that administers it, like, for example, the Department of Health and Human Services, Homeland Security, Department of Commerce. Sometimes, they ask the Office of Legal Counsel for their opinion about what the proper interpretation of a statute is. But I do think you raise a valid concern. A guidance document cannot amount to an amendment of a law. Bureaucrats do not have—that is a pejorative term, but department and agency attorneys and members do not have the ability to rewrite the law to make it say what they would like it to say.

If we get away from that principle, we erode the respect for law and the whole constitutional structure where Congress makes the laws, not the executive branch.

Senator LEE. What about in the context of litigation, where you are litigating a case involving one of these guidance documents, and you are representing the Federal agency in question? Will the Department, under your leadership, assuming you are confirmed to this position, ask courts to defer to nonbinding guidance documents in the same way that courts are routinely asked to defer to regulations?

Senator SESSIONS. Well, that is a good question from a good lawyer, I have to say. In other words, the question you are suggesting is, established law of the land or the courts is that they give certain deference to well-established, properly established regulations issued pursuant to statute. But what if a Secretary just issues a guidance document? Is the court entitled to give full deference to that? First of all, I do not know. I have not researched it, but I do think that that would be a pretty bold step to go that far, and would be dubious about it.

Senator LEE. Thank you. As you know, from time to time, the Department of Justice receives subpoenas, or one of the entities being represented by the Department of Justice might receive requests from Members of Congress, from Committees in Congress, including some Committees that have the power to issue subpoenas, in other instances, just letters or other types of requests from Congress for documents.

I suspect that there may be a number of outstanding requests of this nature that are left pending at the end of this Administration, requests that were issued during the 114th Congress, the Congress previous to this one, but that will still need to be handled within the Department after you are confirmed, assuming you are confirmed.

Will you commit to reviewing any of those that remain pending, and doing so in a manner that is timely and showing the respect for a coordinate branch of Government?

Senator SESSIONS. Senator Lee, if you would, repeat for me what kind of request?

Senator LEE. Pending requests for documents that might be left over from the previous Congress.

Senator SESSIONS. Requests for documents in what kind of proceeding?

Senator LEE. Requests for documents either from the Department, itself, or in matters where the Department is involved representing an entity within the Federal Government. I just want to make sure that those do not get left behind, that they do not get ignored simply because they have not been dealt with by the previous administration.

Senator SESSIONS. Well, I do think they are entitled to be evaluated and proper requests, I would assume, would continue to be valid. We would try to follow whatever the law requires in that regard.

Senator LEE. Thank you. I appreciate that.

I want to talk about the attorney-client privilege by members of the executive branch, by executive branch officials. In a 1998 opinion, the U.S. Court of Appeals for the D.C. Circuit reached a conclusion that executive branch officials do not enjoy the same com-

mon law attorney-client privilege as ordinary lawyers—lawyers who are not executive branch officials.

Justice Scalia, while he was serving as the Assistant Attorney General over the Office of Legal Counsel, authored a legal opinion stating that executive branch officials do not enjoy the privilege unless they are dispensing with personal legal advice. Instead, in that view, executive branch officials need to assert the executive privilege, rather than the traditional common law attorney-client privilege.

And yet, executive branch agencies routinely can be observed asserting the attorney-client privilege, instead of the—in much the same way they would in the traditional context, rather than just invoking the executive privilege. Would you agree with that? That that might raise some questions?

Senator SESSIONS. Senator Lee, I have not studied that opinion of Justice Scalia. I would be reluctant to comment, except I would say that it is probably good for the American Republic that Department and Agency officials seek legal advice before they act. In the long run, that is probably better.

I think having some expectation that they can have a candid comment with their attorney is of value. I had not thought about, and never given study to, the question of whether it should be under executive privilege or attorney-client. Although, I can imagine the difficulties.

Senator LEE. Yes. I appreciate your candor on that point. It gives me some comfort knowing that you are aware of the situation and you will look at those.

I would like to talk about some antitrust issues in the moments I have remaining, and then perhaps we will get back to these during a subsequent round.

Antitrust regulators, when they are reviewing potentially competitive harms that might arise as a result of a merger, will sometimes impose conditions on the merger moving forward, saying unless you do A, B, and C, this merger cannot go forward. But if you do A, B, and C in order to address whatever concerns we, the antitrust regulators have, then the merger can be consummated.

It is my view that there is a temptation for antitrust regulators sometimes to impose conditions that do not involve anticompetitive concerns, and that that raises some red flags because the role of the antitrust regulator is to look out for anticompetitive concerns arising out of the merger. That is where their inquiry ought to be focused, and that is where their conditions ought to be focused. Do you disagree with that?

Senator SESSIONS. I would agree with that. As you formulated, I believe it would be wrong to further some other separate, discrete agenda that is not reasonably connected to the merger itself. So I think we should ensure that we have the highest integrity in antitrust adjudications because they can have great impact. The law is not crystal clear about what is lawful, and what is not lawful, and what the Antitrust Division is required to do. It leaves dangers, if not politicization of it—it remains—dangers of policy agendas getting embroiled in it. So it is an important division. It requires great integrity, and ability, I believe, in the leadership at the Antitrust Division.

Senator LEE. Thank you.

Senator Leahy.

Senator LEAHY. Thank you. Thank you, Mr. Chairman.

I listened to Senator Lee asking these questions. It occurred to me that you are one of a very, very, very small minority of Members who opposed the USA Freedom Act that I drafted with Senator Lee. It passed with a super-majority in both the House and the Senate.

Even though you voted against it—and this, of course, stopped the bulk collection by NSA that both Senator Lee and I opposed—do you agree the executive branch has to follow the law, that they cannot reinstate the bulk collection of America's phone records without amending Federal statutes?

Senator SESSIONS. Senator Leahy, that appears to be so, and I cannot swear that that is absolutely, totally always true, but it appears to be so.

Senator LEAHY. Wait a minute. We either passed the law or we did not pass the law. A super-majority voted for the Lee-Leahy law. The President signed it into law. You voted against it. Will you uphold the law?

Senator SESSIONS. I will follow the law, yes, sir.

Senator LEAHY. And will you commit that you are not going to allow the NSA to engage in bulk collection of Americans' records in violation of the USA Freedom Act based on a theory that somehow whoever is President has the power to disregard the statute?

Senator SESSIONS. I do not believe that the statute can be disregarded, and it should be followed.

Senator LEAHY. Thank you. I appreciate that.

We had a dust-up in the press, as you recall, when Mr. Trump bragged about how he had grabbed women and so on, shortly after the tape came out, and I realize an explanation here—you said, "I do not characterize that as sexual assault." But then you said later, "The Weekly Standard's characterization of comments I made following Sunday's presidential debate is completely inaccurate. My hesitation was based solely on confusion of the content of the 2005 tape. A hypothetical proposed by the reporter which was asked in a chaotic post-debate environment. Of course, it is crystal-clear that assault is unacceptable. I would never intentionally suggest otherwise."

Especially what you said—after the confusion on your first comment. Is that correct?

Senator SESSIONS. I believe that is correct.

Senator LEAHY. Thank you.

Is grabbing a woman by her genitals without consent—is that sexual assault?

Senator SESSIONS. Clearly, it would be.

Senator LEAHY. Thank you.

If a sitting President or any other high Federal official was accused of committing what the President-elect described in a context in which it could be federally prosecuted, would you be able to prosecute and investigate?

Senator SESSIONS. The President is subject to certain lawful restrictions, and they would be required to be applied by the appropriate law enforcement official when appropriate, yes.

Senator LEAHY. And the conduct described, based on the description, would be sexual assault?

Senator SESSIONS. Well, the confusion about the question was a hypothetical question, and it related to what was said on the tape. I did not remember at the time whether this was suggested to be an unaccepted, unwanted——

Senator LEAHY. Let us——

Senator SESSIONS. That would certainly meet the definition. If that is what the tape said, then that would be——

Senator LEAHY. My question is very simple: Is grabbing a woman by her genitals without consent, is that sexual assault?

Senator SESSIONS. Yes.

Senator LEAHY. Thank you.

Now you were asked earlier about having called the NAACP and ACLU un-American. You said that was before you were a Senator. But as a Senator you have continued to be hostile to them. You have criticized nominees for having what you call “ACLU DNA.”

Now, I remember when Republicans led the Justice Department, its Inspector General found the Bush administration engaged in unlawful politicized hiring practices. That is the Republican administration’s own Inspector General. It said the Ashcroft Justice Department used a litmus test whether applicants would be sufficiently conservative. If they were ever in the ACLU, they could not have a job.

You said in a radio interview, “Justice has to be saved from secular, progressive liberals.”

All right. Let me ask you a couple simple questions. Are an individual’s religious beliefs relevant to their employment at the Justice Department?

Senator SESSIONS. Not unless it is such that they cannot perform their duties in an honorable way, consistent with the law.

Senator LEAHY. What would be an example of that?

Senator SESSIONS. Well, if an individual so strongly believed that abortion should be unlawful that they used their position to block constitutionally approved abortions, I think that would make them not subject to being employed in the Department of Justice.

Senator LEAHY. Are you going to have a litmus test at the Department of Justice for people who worked at civil rights organizations?

Senator SESSIONS. No.

Senator LEAHY. Senator Graham mentioned you have long been a champion of State’s rights. Certainly you and I have had enough discussions on that, and I realize those are deeply held beliefs. But States have also voted on the issue of marijuana and regulation. I believe your own State of Alabama permits the use of a derivative of marijuana known as CBD oil, legal in Alabama, illegal under Federal law.

If you are confirmed as the Nation’s chief law enforcement official, and you know that we have very, very limited Federal resources—in fact, we spend about a third of our budget now just to keep the prisons open because of mandatory minimums and what-not.

Would you use our Federal resources to investigate and prosecute sick people who are using marijuana in accordance with their State laws, but might violate Federal law?

Senator SESSIONS. Well, I will not commit to never enforcing Federal law, Senator Leahy, but absolutely, it is a problem of resources for the Federal Government.

The Department of Justice under Lynch and Holder set forth some policies that they thought were appropriate to define what cases should be prosecuted in States that have legalized, at least in some fashion, some parts of marijuana——

Senator LEAHY. Do you agree with those guidelines?

Senator SESSIONS. I think some of them are truly valuable in evaluating cases, but fundamentally, the criticism I think that was legitimate is that they may not have been followed. Using good judgment about how to handle these cases will be a responsibility of mine. I know it will not be an easy decision, but I will try to do my duty in a fair and just way.

Senator LEAHY. The only reason I mention it, you have some very strong views. You even mandated the death penalty for anyone convicted of a second drug trafficking offense, including marijuana, even though mandatory death penalties are, of course, unconstitutional.

Senator SESSIONS. Well, I am not sure under what circumstances I said that, but I do not think that sounds like something I would normally say. I will be glad to look at it, but——

Senator LEAHY. Would you say that is not your view today?

Senator SESSIONS. It is not my view today.

Senator LEAHY. Thank you very much.

Senator LEE. I perked up when he started talking about federalism. Of course, everything Senator Leahy said was interesting, but the federalism stuff is particularly interesting.

Senator LEAHY. I am praising your legislation.

Senator LEE. Yes, exactly. I appreciated that, too. That was great.

Federalism is an issue that is near and dear to many of us, and I know it is important to you. The notion that our Federal Government possesses powers that James Madison described as few and defined, and those reserved to the States are numerous and indefinite.

We were supposed to be a different legislative body. Our Federal Government was always intended as a limited-purpose national government, not a general-purpose national government, one possessing complete police powers. We have seen a slow but steady drift over the last 80 years away from this principle of federalism, such that powers exercised at the Federal level today could no longer be described as few and defined, but more appropriately described as numerous and indefinite.

In light of the Supremacy Clause in the Constitution, any powers we do exercise through the Federal Government are, by definition, replaced from the States. In other words, when our action conflicts with State action, it is our action that prevails in light of the Supremacy Clause. It is one of the reasons why federalism needs to be looked out for so carefully. One of the reasons why a view that I think both you and I share is that U.S. Government officials in

all three branches of government, whether they wear a black robe or not, are expected when they swear an oath to uphold the Constitution, to look out for basic structural protections in the Constitution like federalism so that we do not have an excessive accumulation of power in the hands of the few.

The Founding Fathers set up this system in which we have these structural protections. We have the vertical protection we call federalism, which we just described, and the horizontal protection we call separation of powers. It says, within the Federal Government in order to protect us against the risks associated with the excessive accumulation of power in the hands of few, we are going to have one branch that makes the laws, another branch that enforces the laws, and a third branch that interprets the laws.

As long as we keep each branch within the same lane, the people are protected from what happens when one person, or a group of people, gets too powerful. But over the last 80 years, just as we have seen a deterioration of federalism, we have also seen a deterioration of separation of powers.

You have an interesting set of circumstances with our laws, our controlled substances laws concerning marijuana, in that for the first time in a very long time, you have seen some attention paid to federalism, but in the limited area associated with marijuana. In other words, there are Federal laws prohibiting the use of marijuana, the sale of marijuana, the production of marijuana that apply, regardless of whether a State has independently criminalized that drug as every State, until recently, had.

Then you had some States coming along and decriminalizing it, sometimes in the medical context, other times in a broader context. The response by the Department of Justice during the Obama administration has been interesting, and it has been different than it has in other areas. They have been slow to recognize principles of federalism elsewhere. They chose to recognize it here.

My question to you is, did the way they responded to that federalism concern run afoul of separation of powers? Did the Department's approach to this issue that they identified as a federalism issue contravene the understanding that we are the lawmaking body, the executive branch is the law-enforcing body?

Senator SESSIONS. Well, I am not sure I fully understand the point of your question, but—you are talking about separation of powers within the Federal Government?

Senator LEE. Yes.

Senator SESSIONS. The three branches of Federal Government.

Senator LEE. Yes.

Senator SESSIONS. And how does that implicate the marijuana laws?

Senator LEE. Yes. Are there separation of powers concerns arising out of the Department of Justice's current approach to State marijuana laws?

Senator SESSIONS. Well, I think one obvious concern is that the United States Congress has made the possession of marijuana in every State and distribution of it an illegal act. If that is something that is not desired any longer, Congress should pass a law to change the rule. It is not so much the Attorney General's job to de-

cide what laws to enforce. We should do our job and enforce laws effectively as we are able.

Senator LEE. Thank you. I would like to get back to antitrust issues for a moment. In 2010, you cosponsored some legislation that extended the Antitrust Division's leniency program and extended it all the way out to 2020. So it was a 10-year extension at the time, you helped move that through. The legislation provided that members of a cartel could receive reduced penalties if they reported cartel activity to the Department and cooperated with any investigation the Department had in connection with that antitrust cartel.

Now the Antitrust Division within the Department of Justice considers this tool "its most important investigative tool for detecting cartel activity," because it creates an incentive for cartel members to self-report, to come forward, and to identify things that the Antitrust Division needs to be aware of. So I applaud your leadership in this area because it has been very helpful to the enforcement of our antitrust laws of the Department.

I have two questions related to this program looking forward: First, given its importance, do you think the program should be made permanent; and second, are you open to any other ideas that might strengthen the program?

Senator SESSIONS. Senator Lee, I would not commit to you that I have formed an opinion on that. These are very complex areas of the law. I am not a Member of the Antitrust Subcommittee as a number of Members of our Committee are and have achieved levels of expertise, like Senator Klobuchar, and you, and others.

I would just have to commit to you that I am open to hearing the views of this Congress and that Subcommittee, and would try to work with you, but I do understand that antitrust policy is an important issue for America, and we need to get it right, and that would be my goal.

Senator LEE. Thank you. One important question sometimes arises in the antitrust context. It relates to what role the Department of Justice should play in communicating with foreign authorities, authorities in other countries that deal with competition laws, deal with things analogous to our antitrust laws in this country. The Department of Justice has typically played a leading role, but in recent years it has also allowed the Federal Trade Commission, the FTC, to become heavily involved.

To my mind, this raises some potential concerns because the FTC is an independent agency as compared to the Department of Justice, of course, which is headed by a presidential appointee who, with Senate confirmation, serves at the pleasure of the President.

Do you have any opinion on this point, that the Department of Justice, which is more accountable to the President, and therefore, has some connection to the people, should be more actively involved in communicating with foreign antitrust or competition authorities?

Senator SESSIONS. I really would not attempt to comment today on that. I would be glad to hear your thoughts on it. I think it can be problematic if U.S. officials encouraged foreign officials to join with them to—against an action of a private company. They put—could put so much excessive pressure on them that they are not able to resist, when they may have a lawful basis to resist. But—

so these are big issues and you have to be sensitive to the power that the Department of Justice has, the Antitrust Division has, and make sure that there is a principled policy and lawful basis for what is done.

Senator LEE. Thank you, Senator Sessions. I see our Chairman is back. Oh, he is not back.

Senator Feinstein.

Senator FEINSTEIN. It is my understanding that Senator Durbin has not yet had his second round, and so I would like to defer to him.

Chairman GRASSLEY. Senator—oh, I am sorry.

Senator FEINSTEIN. I am going to defer to Senator Durbin because he somehow got missed.

Senator DURBIN. Thank you very much. I want to thank the Chairman and my friend Senator Feinstein.

This morning, before the Senate Intelligence Committee, Director Comey of the FBI was testifying on the question of investigating the Russian involvement in this last election and he was asked if there was any ongoing investigation about contacts between Moscow, the Russians, and any Presidential campaigns, and he refused to answer, said he was not going to discuss any ongoing investigations publicly.

I would like to ask you a question related to recusal. You stated earlier today that you had made the decision—and you have not given us a real background on it—but made the decision that you would recuse yourself from any prosecutions involving Hillary Clinton or the Clinton campaign and emails.

Then I understand—I was not present—but Senator Blumenthal asked you for some other hypotheticals as to whether you would recuse yourself on an emolument question or some other things, and you said you would take it on a case-by-case basis.

What if, hypothetical, same as Hillary Clinton, we are dealing with an investigation that involves the Trump campaign, or anyone in the Trump campaign. Would you recuse yourself as Attorney General from that prosecution?

Senator SESSIONS. Well, my response to the—to my recusal issue was because I had made public comments about it that could be construed as having an opinion on the final judgment that would have to be rendered. I do not think I made any comments on this issue that go to that, but I would review it and try to do the right thing as to whether or not it should stay within the jurisdiction of the Attorney General or not.

Senator DURBIN. It would strike me that this is an obvious case for a special prosecutor if it involves a campaign leading to a candidate who selected you as the Attorney General. Would not an abundance of caution suggest that you would not want any questions raised about your integrity in that type of prosecution?

Senator SESSIONS. Senator Durbin, I think it would be incumbent upon anybody who is holding the office of Attorney General at that time to carefully think his way through that to seek the advice and to follow the normal or appropriate special prosecutor standards, and so I would intend to do that, but I have not expressed an opinion on the merits of those issues, to my knowledge.

Senator DURBIN. Senator Sessions, there has been a lot of controversy about refugees. The United States had a dubious record on refugees during World War II, refusing to accept Jewish refugees who were then, in some cases, returned to Europe and the Holocaust, and perished. After World War II, a new policy emerged in the United States, bipartisan policy, and the United States became more open—in some cases generous—to accepting refugees.

The numbers—I have heard various numbers, but 650,000 Cuban refugees who came to the United States during the ascendancy of the Castro regime; 125,000 or more Soviet Jews accepted in the United States, spared from persecution in the Soviet Union; 400,000 from Eastern Europe after World War II; 400,000 from Vietnam; 150,000 from the former Yugoslavia.

In the audience today is Omar al-Muqdad. I do not know—if he could please stand here. Mr. al-Muqdad is a Syrian refugee. His story is a story of a journalist who, for more than a decade, publicized human rights abuses by the Assad regime, arrested seven times, imprisoned for 2 years. When he refused to stop writing after that, the prison guards broke his hands.

After his release from prison, he continued to write about the abuses of the Syrian security forces. When he was again pursued by the regime, he fled to Turkey. He was resettled in the United States by Catholic Charities after receiving refugee status.

There have been some strong words spoken about Syrian refugees. In fact, during the course of the campaign there were some who said we should accept none, and many have questioned whether we should accept any refugees from anywhere. Despite the lengthy vetting process and background checks, some have said no refugees, we are finished with that business.

One of your responsibilities as Attorney General will be the involvement of prosecutorial discretion, decisions that have to be made about the fate of men like Alton Mills, I introduced earlier, who had served 22 years of a life sentence for the possession of crack cocaine; the case of Oscar Vasquez, a man who was a DREAMer and wanted to serve the United States in uniform; and this case involving Omar al-Muqdad.

The American Bar Association standards say the duty of a prosecutor is to seek justice, not merely to convict. It is an important function of the prosecutor to seek to reform and improve the administration of criminal justice.

When it comes to cases like these, in your role as the leading prosecutor in the United States of America, what is your feeling about your discretion to make the decision as to whether or not to spare individuals like those I have described?

Senator SESSIONS. I have been made aware in the last several years how this process works. It is really the Secretary of State, usually through consultation with the President, that decides how many refugees should be admitted to the country. There is little Congress can do, other than getting into a funding argument with the President, about that.

So Secretary Kerry met with Members of the Judiciary Committee to announce what he planned to do on refugees. That would be how it would be decided, and legally the President appears to

have that power. But it would be my responsibility, I think, to make sure that it was exercised within the bounds of law.

Senator DURBIN. But you have a responsibility, too. You oversee the Office of the Pardon Attorney, who recommends that sentences like those of Alton Mills be commuted. You oversee the immigration courts, which are responsible for interpreting how our Nation's immigration laws apply to DREAMers and refugees like Mr. al-Muqdad.

So this is not another agency, it is the Department of Justice, and you will be the leader of that department. You will have the authority and prosecutorial discretion. You cannot point to Congress and you cannot point to the State Department; there is a responsibility within your own department.

Senator SESSIONS. Well, a refugee is admitted or not admitted to the United States on the approval or disapproval by the Secretary of State and its consular officials. It is not a trial or not a litigation, so that is how that would be determined.

The gentleman from Syria that you mentioned should have—be able to make a strong case for his acceptance as a refugee because he has been damaged and injured and attacked and at risk for his writings, so that would give him a more—proving that should give them—put him at a higher level of potential acceptance.

Senator DURBIN. Well, you and I can disagree on this one point and your authority over immigration courts as Attorney General, but I hope that we both agree that there are compelling cases of people who are victims around the world, of terrorism and war, discrimination and maltreatment, men and women, and many of them look to the United States as the last possible place for them to find safety and security.

I hope, after the heated language of this last election campaign, that we can come back to some of the standards that have guided this Nation since World War II.

Senator SESSIONS. Well, we will not end the refugee program. I would not favor that. But we do have a responsibility to be careful and make sure that those who are admitted have been properly vetted and are not a danger.

Senator DURBIN. Thank you.

Chairman GRASSLEY. Before I—this is what I would like to do. The vote has kind of made this a convoluted rounds that we are in here. One person has had a third round, we have got one person with no round. So this—or not—without his first round. And then Senator Sessions would like to take a break.

So here is what I would like to do, Senator Sessions, if it is okay with you. I want to go with Senator Hatch, Senator Feinstein for their second rounds, and then Senator Kennedy for his first round, and give you a short break at that point. Is that okay?

Senator SESSIONS. That would be good. Thank you.

Chairman GRASSLEY. And for the benefit of the rest of you, I kind of got lost out of this, but I have got to be here for the rest of the meeting, where maybe some of you do not have to be. So I will wait and do my second, third, and fourth round when everybody else is gone.

Senator FEINSTEIN. Oh, is that nice!

Senator SESSIONS. How many?

[Laughter.]

Chairman GRASSLEY. So now it is Senator Hatch.

Senator HATCH. Senator Sessions, I think you have done a terrific job. I have known you all your 20 years. I have watched you work diligently on the Judiciary Committee and on your other Committees as well. You are an honest, decent man and you have tremendous abilities in law enforcement, and you have proven it here today and you are showing it here today. It is hard for me to understand why anybody would be against you.

Let me ask just a couple of questions. I want to emphasize that you have wide support for your appointment among law enforcement, including the National Sheriff's Association, National District Attorney's Association, the National Association of Police Organizations, the National Association of Assistant U.S. Attorneys, National Narcotic Officers Association, the Fraternal Order of Police, the Federal Law Enforcement Officers Association, the International Union of Police Associations, and the Associations of Major County Sheriffs and Major City Chiefs of Police. I am not sure I have seen anybody that had all that kind of massive support for this position.

Now, I draw attention to this for an important reason. This agreement about political—or policy positions are one thing, but accusations about your commitment to fairness or suggestions that you are not sensitive to race is another.

Would these law enforcement organizations enthusiastically support someone who was biased? We know they would not. Of course not. Would they endorse someone who would fail to be impartial? Of course not.

Such accusations, especially without any evidence to support them whatsoever, are not simply attacks on Senator Sessions, they are also smears against organizations like these which have similarly examined the record and found Senator Sessions worthy of support. So I am grateful to you for your willingness to take this on, knowing that you might be sneered by certain organizations. It takes some guts to do this, but we all know you have guts and we all know that you believe in what you are doing. We all know that you have a tremendous integrity, we all know that you have a tremendous intellectual ability as well. And even though you and I have disagreed on some issues that are important to both of us, you have always acted with distinction, and with fairness and decency, and I would expect you to do the same thing as Attorney General of the United States. One thing I know: you would be giving it everything you have, and that is a lot. You have a lot to give.

Let me just say that this morning one of my Democratic colleagues said that the standards for evaluating your nomination is whether you will “enforce the law fairly, evenly, without personal bias.” Now, do you agree that the Attorney General has a duty to do that?

Senator SESSIONS. That is the core responsibility of the Attorney General, absolutely.

Senator HATCH. I have no doubt, knowing you, that you will live up to that. No doubt whatsoever. I think everybody should have to agree with that. The real question is how we can be confident that you will fulfill that responsibility, and most of the questions this

morning were about statements you made, positions you took, or votes you cast as a Senator on legislative issues. Some of these questions suggested that you could not enforce a law you had not voted for or that you would not enforce a law or policy that you might have questioned or personally disagreed with.

Now, I would personally categorically reject that, and you have, too. Am I right?

Senator SESSIONS. That is correct.

Senator HATCH. You are darned right it is.

Some of my friends would also reject the suggestion that a liberal could not be impartial. I think liberals can be impartial.

Senator SESSIONS. I do, too, Senator Hatch. Some people—I do not think it would be hard for me to be impartial and to enforce laws that I did not vote for. I just do not think that is going to be a—I think I can separate my personal votes, maybe years ago, from what my responsibility is today and I hope that my colleagues can believe that.

Senator HATCH. Well, the answer to the question whether you can, as Attorney General, enforce the laws fairly evenly and without personal bias, it is a resounding yes, you can, and anybody who disagrees with that has not been listening, has not observed you over the last 20 years, or anytime over the last 20 years. There is not a shred of evidence from your entire record to undermine that conclusion.

Now, does the fact that you have already served in both the executive and legislative branches strengthen even further your commitment to the duty of fairness and impartiality? It seems to me it does. Am I right?

Senator SESSIONS. Well, thank you. Yes, I do believe that I have conducted myself according to principles that I think are valid and try to be consistent and honest in my evaluation of the many complex issues that we have here. Sometimes good people can certainly disagree on them.

Senator HATCH. Well, anybody who knows you knows that that is true.

Now, the Justice Department has a duty to defend, in court, the laws enacted by Congress. As a Member of this Committee for 20 years, you have heard Attorney General nominees profess their commitment to fulfill that duty, regardless of politics.

Now, in my opinion, the Justice Department, under the outgoing administration, reneged on its duty to do so in a number of respects. In some key instances, they made decisions on political rather than legal grounds.

How important is it for the Justice Department to defend Congress' statutes, and will you commit to do so even when, as a legislator, you would have opposed those statutes?

Senator SESSIONS. Senator Hatch, you have been through these issues for many years and I certainly respect your judgment, but I do believe that the lawyer for Congress, the lawyer for the United States that represents the U.S. Government in court, should be the lawyer that defends an act lawfully passed in Congress whenever a reasonable defense can be found, and I commit to you I will do that.

Senator HATCH. Well, I believe you and I know that is true, and I have a rough time seeing why anybody would find any real flaws or fault with your nomination. I just want to personally thank you for being willing to go through this, for your willingness to be able to do this, and for your integrity that you have shown, and exhibited, and demonstrated over the last 20 years. I can personally testify about you and about what a fine, really good person you are.

And we have differed on some pretty important issues from time to time. I have respect for you because you stand up for what you believe, however wrong you may have been.

[Laughter.]

Senator SESSIONS. I heard my wife laugh at that.

[Laughter.]

Senator HATCH. Well, I have a lot of respect for you and I hope that the rest of this proceeding goes really well and that we can get you confirmed as soon as possible, because I know you will do a terrific job and I am very proud of you for being willing to accept this.

Thanks, Mr. Chairman.

Senator SESSIONS. I am honored to have your support, Senator Hatch.

Senator HATCH. Thank you. You have it.

Chairman GRASSLEY. Senator Feinstein.

Senator FEINSTEIN. Thanks very much, Mr. Chairman.

Just to begin, I would like to ask unanimous consent that all statements and written testimony sent to the Committee concerning Senator Sessions be made part of the record, and I have some testimonies and letters.

Chairman GRASSLEY. Without objection, so ordered.

[The information referred to appears as submissions for the record.]

Senator FEINSTEIN. Thank you very much.

Senator Sessions, when I was a small child it was during World War II, and my father took me to a racetrack south of San Francisco called Tanforan. It had become a detention camp for Japanese American citizens. During the length of World War II—well, thousands of families were held in this compound. We checked with CRS who says no Japanese American was ever convicted of any sabotage against the United States during that period of time.

Senator Lee, Senator Cruz, and I have tried, together, to enact a bill to assure that no American citizen or lawful permanent resident detained in the United States can be held indefinitely without charge or trial, pursuant to authorization of military force.

So here is the question: Do you believe that the Government can, pursuant to a general authorization to use military force, indefinitely detain Americans in the United States without charge or trial?

Senator SESSIONS. Senator Feinstein, that is an important question. Classically, the answer is yes. Classically, if you captured a German soldier, they could be held until the war ended. That was done, I am sure, at the Civil War and most wars since.

Senator FEINSTEIN. I am talking about Americans.

Senator SESSIONS. I hear you. So then the question is, we are in a war like we have now that has gone on multiple years and I

would think the principle of law certainly would appear to be valid. But as reality dawns on us, and wars might be even longer, you know, it is important to discuss those issues. So I respect your willingness to think about that and what we should do, but in general I do believe—and Senator Graham has argued forcefully for many years—that we are in a war and when members who—unlike the Japanese who were never proven to be associated with a military regime like the Japanese government, these individuals would have to be proven to be connected to an enemy, a designated enemy of the United States. I probably explained more than I should, but that is basically the argument and the issue we are facing. I respect your concerns and I am sure they will continue to be debated in the future.

Senator FEINSTEIN. Well, let me just say a few things about that. I have served on the Intelligence Committee for 15 years. I read all of it. I think I know as much as anybody about what is happening in the United States and this is not—these are Americans that we are talking about that can be picked up and detained and held without benefit—

Senator SESSIONS. You are talking about American citizens?

Senator FEINSTEIN [continuing]. Of trial, indefinitely, and that should not be the case.

Senator SESSIONS. Well, I understand your point. A citizen of the United States has certain important rights. They cannot be abrogated. It is absolutely so, they cannot be detained without undergoing a habeas review and the Government surely has to prove that they are indeed connected sufficiently with an enemy action against the United States or they could not be detained. And if—

Senator FEINSTEIN. Well, I appreciate that.

Let me go on to another subject. You were one of nine Senators to vote against the Detainee Treatment Act of 2005. It prohibited the imposition of cruel, inhuman, or degrading treatment or punishment of any person in the custody or control of U.S. personnel. You also voted against an amendment sponsored by Senator McCain in the 2016 Defense Authorization bill to limit interrogations to the techniques provided by the Army Field Manual, which does not include waterboarding.

Do you agree that the CIA's former enhanced interrogation techniques, including waterboarding, are prohibited by this provision of law, as now codified at 42 U.S.C. § 2000dd?

Senator SESSIONS. It does appear to be clear that the last Act, the McCain Amendment, would prohibit waterboarding.

Senator FEINSTEIN. And you would enforce that?

Senator SESSIONS. I would enforce the law, yes.

Senator FEINSTEIN. Thank you very much.

Now, my third question is—and this was in The Washington Post, a report last night—that you failed to disclose to this Committee and to the Office of Government Ethics subsurface rights to oil or other minerals on more than 600 acres in your home State, some of which, I gather, are adjacent to a Federal wildlife preserve.

Apparently, “Alabama records show that the Senator leased undivided mineral interests to Chief Capital, a Texas firm, in 2015.” Do you in fact own these interests?

Senator SESSIONS. Senator Feinstein, I believe that is so. And the way it happened was that many years ago, at least 50 or more years ago, my family ancestors sold some land and reserved mineral rights. Later, there was a dam built on the river and a desire to take land that was going to be flooded and to add additional land for a duck preserve, and they negotiated and the family sold land to the Government and retained the mineral rights, per the agreement. At least, that is my understanding. So by an odd series of events, the properties fell to me. I have never reviewed the deeds, I have never known how much land is out there that I own mineral rights on, although oil companies are pretty good about making sure they contact real owners before they drill a well. So you are correct that we reported the income on my return as—

Senator FEINSTEIN. I saw that, \$4,000. I saw that.

Senator SESSIONS [continuing]. As coming from the property that I own and the property where the oil well is. I did not note in that report specifically that it was oil income because the blank said “royalties.” So I would just say this to you, this is something I have taken no action on. I have one of the simplest, clearest, fairest, financial reports you can see. My assets and my wife’s assets are almost entirely Vanguard Funds and municipal bonds. I own no individual stocks because I want to be sure that I do not have conflicts of interest. I want to adhere to high standards. We are going to find out what we did or did not do and correct it.

Senator FEINSTEIN. Good. Thank you.

Chairman GRASSLEY. I welcome brand-new Senator Kennedy, not only to this Committee but to the Senate as well.

Senator Kennedy, you are allowed 10 minutes now.

Senator KENNEDY. Good afternoon, Senator.

Senator SESSIONS. Thank you.

Senator KENNEDY. My name is John Kennedy. That is really my name.

[Laughter.]

Senator KENNEDY. Just so you will know, I used to have a law partner named Jose Canseco. It caused a lot of confusion when we would go to meetings together.

Senator SESSIONS. I guess.

Senator KENNEDY. I have been impressed, in preparing for the hearings, with the deep support you enjoy from law enforcement. In fact, one of my sheriffs from Louisiana—I do not know if Greg is still here—Sheriff Greg Champagne, who also happens to be a lawyer, came all the way up from Louisiana to lobby other Senators on your behalf. And I have noticed that a lot of the organizations that are supporting you are organizations that have not always agreed with your positions on the issues, and that impressed me.

I just wanted to read you one quick excerpt. This is from a statement by the Sergeants Benevolence Association from the NYPD, New York, about as far away from Mobile as you can get. This is what the letter said: “As a union representing law enforcement officers, over the years the SBA”—that is the Sergeants Benevolence Association—“has worked as both an ally and a respectful opponent of Senator Sessions. This experience has shown us that Senator Sessions is a man of unquestionable integrity, devoted to the rule

of law and the best interests of our Nation. It is for these reasons and many others that we believe Senator Sessions is the absolute right choice to serve as America's chief law enforcement officer."

Now, that impressed me. I would like to know what you intend, as Attorney General, to do to further partner with State and local law enforcement?

Senator SESSIONS. That is so important. The U.S. Attorneys throughout the country, as in Louisiana and Alabama, are key players in this. All U.S. Attorneys, colleagues, are funded to have law enforcement coordinating officers. I had two in my small office. We had regular meetings. In the early '80s, this is when it started. This is the first time.

Instead of having a law enforcement plan produced in Washington, DC, the U.S. Attorneys were directed to get all the Federal agencies and all the State and local agencies to sit down and identify what their main threats are and to direct their resources to deal with these real threats in that district, and they would be different in different districts around the country. I sense that that has been eroded somewhat, so we need to go back to a lot of that.

The Department of Justice has great resources for identifying tactics and strategies that work on crime. We ought to be able to always help the State and local police officers have the best data on what works and how to create safer and better communities. The Federal Government cannot dictate to these agencies. It would be a disaster. They would not accept it, number one, and any influence you might have would be eliminated. We need to be partners.

The Federal Government, through its power internationally and nationally, can help a local investigative agency solve a complex criminal case that they do not have the subpoena power, or they do not have—a Louisiana U.S. Attorney or sheriff does not have power to have investigations conducted in Texas or Denver. So these are the things that are all important. And I truly believe from a matter of public policy, we need to see the big picture, and we are all in it together. Ninety percent of the law officers in America are State and local, and they are the ones that are the eyes and ears of law enforcement. So I really think, Senator Kennedy, you are correct that we need to do this. I think there is a feeling among law enforcement that that has not been happening sufficiently, and the fact that I think I understand that explains why I have had as much strong and enthusiastic support as I have had.

Senator KENNEDY. You know, when a radical Islamist terrorist drives a truck into a group of people and kills them, we are told that we should not judge all Muslims by the act of a few. Now, I agree with that. Do you not think the same rule ought to apply when one or two law enforcement officers make a mistake, do you not think that same rule ought to apply to all the other 99.9 percent law enforcement officials out there who just get up every day and go to work and try to protect us?

Senator SESSIONS. Well, I really do, and I think those of us in high public office do need to be cautious about demeaning whole departments and whole groups of people because within those—most any department you can find in America, surely most of the people are just wonderful servants, public servants trying to do the right thing.

So when we say these things, we can increase risks for them. We can make it harder for them to have relationships with constituents where they are serving, and actually result in an increase in crime and ineffectiveness in law enforcement. So, we cannot miss these issues. We cannot make big mistakes like we may be making now. So I commit to doing my best as a law officer to engender the kind of unity and comprehensive effort, State, local, Federal, that will be the most effective engine to fight crime and make our community safer.

Senator KENNEDY. In Louisiana, Senator, we believe that love is the answer, but we also believe that we have the right under the Constitution to own a gun just in case.

Could you share with me your thoughts on the Second Amendment?

Senator SESSIONS. Well, I do believe the Second Amendment is a personal right. It is a historic right of the American people and the Constitution protects it, and explicitly states it. It is just as much a part of the Constitution as any of the other great rights and liberties that we value. So my record is pretty clear on that.

However, people can forfeit their right to have a gun, and it can be a factor in receiving sentences and being prosecuted if you carry a gun, for example, during the commission of a crime. That can add penalty and convictions to you. I think that is a legitimate and responsible restraint on the Second Amendment right to keep and bear arms.

Senator KENNEDY. I think they believe this in Alabama too, but in Louisiana we also believe that nothing makes it easier to resist temptation than a good upbringing, a strong set of values, and witnesses. I would like to know your thoughts on the Freedom of Information Act.

Senator SESSIONS. Well, the Freedom of Information Act is law. I would see it is carried out. The policies of the country need to be followed.

Senator KENNEDY. I have got one final question. I read the Inspector General's report about the Department of Justice. I think it came out in about the middle of 2016, last year. The Inspector General talked about problems with the Department's massive grant programs. The Inspector General said that approximately \$100 million over the last 5 years went for "questionable expenditures" or funds that "could have been put to better use." Now, this is taxpayer money. It did not just fall from heaven. We thank heaven for it, but it came out of people's pockets.

I would like to know your thoughts about the IG report if you are familiar with it and what you plan to do once you are confirmed, and I believe you will be confirmed to help our friends at the Justice Department prioritize their spending a little bit.

Senator SESSIONS. Thank you, Senator Kennedy. That report raises real concerns. I believe that any responsible public official should recognize that when their own Inspector General says that their department is not performing according to high standards, they should listen to that report and take action and review what is happening and make sure it does not continue. The American people have no desire, and they absolutely should not have their money sent to Washington and then be wasted. We can do a lot

more with the money that we have—having been Ranking Member of the Budget Committee, I know how difficult it is—but one way to get extra money, free money, is to use the money you have got wisely for things that are valuable.

Senator KENNEDY. Senator, I do not know you well, but I followed your career with respect and admiration for a lot of years, and I just want to tell you that. You will be a great Attorney General. Thank you very much.

Chairman GRASSLEY. Senator Sessions, you asked for a short break. I hope, maybe, 15 minutes will be adequate.

Senator SESSIONS. That would be adequate. Absolutely.

Chairman GRASSLEY. We stand in recess.

[Whereupon, at 3:57 p.m., the Committee was recessed.]

[Whereupon, at 4:13 p.m., the Committee reconvened.]

Chairman GRASSLEY. We will resume with Senator Whitehouse, but I was wondering if the staff or Members could give my staff some indication of how many people still want to ask questions, and it does not matter how many it is, I am going to stay here as long as people want to ask questions, because I have not had my second round yet, and if I could ascertain that, I would appreciate it. I know we have at least one or two Republicans that want to.

Senator Whitehouse, you go ahead.

Senator WHITEHOUSE. As you know, the Department of Justice has at its heart the career, prosecutor, and attorney core that staffs it. On social media, conservative bloggers are already circulating names of career attorneys in the Department who they say should be demoted or reassigned, because of positions they argued under Attorneys General Holder and Lynch.

One commentator for the Heritage Foundation has made the comparison to “filth” within the Department of Justice and suggested that like the Augean Stables, you need to run rivers through the Department and wash out the agency from top to bottom. And you yourself have criticized Department attorneys for being secular. Now that was as recently as November. Now, in Rhode Island, we have a long tradition back to Roger Williams, of separating church and state and as an Attorney General and as a U.S. Attorney, we also have a tradition of allowing career attorneys to follow the policy dictates of other administrations and not holding the career people responsible for that.

I am wondering how you would react to this. Do you have a problem with career attorneys if their private religious beliefs are secular ones? Will you support the career attorneys against the pressure from these right-wing organizations, seeking to, “wash them out like filth,” to paraphrase the Heritage Foundation?

Senator SESSIONS. The Department of Justice is composed primarily of career professionals, as you know, Senator Whitehouse. You served there ably as United States Attorney, and I give them the highest respect. Most of those attorneys reach high standards and they are willing to follow lawful orders and directions from their superiors, even if they might have a different philosophy. I do think that they are often put into non-career spots and can then go back to career spots, but I do not know how exactly that works.

I am sure the Obama administration made changes in the leadership of the department, they put career people in positions that

they thought would be most advantageous for them to advance the causes they believed in, and that is sort of within the rules of the game. But to target people, and to any way demean them, if they were fine public servants and they were following the law, and carrying out a legitimate policy of their supervisors, would be wrong and I think we should respect them.

Senator WHITEHOUSE. Does a secular——

Senator SESSIONS [continuing]. And I would do that.

Senator WHITEHOUSE [continuing]. Attorney have anything to fear from an Attorney General Sessions in the Department of Justice?

Senator SESSIONS. Well, no. And I use that word at the 90,000-foot level. I am a little concerned that we as a Nation, I believe, are reaching a level at which truth is not sufficiently respected; that the very ideal, the idea of truth, is not believed to be real and that all of life is just a matter of your perspective and my perspective, which I think is contrary to the American heritage. But we are not a theocracy, nobody should be required to believe anything. I shared Thomas Jefferson's words on the Memorial over here, "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man," and I think we should respect people's views and not demand any kind of religious test for holding office.

Senator WHITEHOUSE. And a secular person has just as good a claim to understanding the truth as a person who is religious, correct?

Senator SESSIONS. Well, I am not sure. In what method?

Senator WHITEHOUSE. In the method——

Senator SESSIONS [continuing]. Objectively committed to——

Senator WHITEHOUSE [continuing]. It is that an attorney would bring to bear it.

Senator SESSIONS. Well, let me just say we are going to treat anybody with different views fairly and objectively. And the ideal of truth in trying to achieve the right solution to me is an important goal of the American jurisprudential system and, actually, our legislative system. What is the right thing, what is true? Let us act on it and do the right thing.

Senator WHITEHOUSE. On the subject of what is truth, you may——

Senator SESSIONS. It is an age-old question.

Senator WHITEHOUSE [continuing]. You may be in a position as Attorney General to either enforce laws, or bring actions that relate to the problem of carbon emissions and the changes that are taking place, both physically and chemically in our atmosphere and oceans, as a result of the flood of carbon emissions that we have had. It is the political position of the Republican party in the Senate as I have seen it that this is not a problem, that we do not need to do anything about it, that the facts are not real and that we should all do nothing whatsoever. That is the Senate.

You, as Attorney General of the United States, may be asked to make decisions for our Nation that require a factual predicate that you determine as the basis for making your decision. In making a decision about the facts of climate change, to whom will you turn? Will you, for instance, trust the military, all of whose branches

agree that climate change is a serious problem of real import for them? Will you trust our national laboratories, all of whom say the same? Will you trust our national science agencies? By the way, NASA is driving a rover around on the surface of Mars right now. So their scientists, I think, are pretty good. I do not think there is a single scientific society, I do not think there is a single credited university, I do not think there is a single nation that denies this basic set of facts. And so, if that situation is presented to you and you have to make a decision based on the facts, what can give us any assurance that you will make those facts based on real facts and real science?

Senator SESSIONS. That is a good and fair question and honesty and integrity in that process is required and if the facts justify a position on one side or the other on a case, I would try to utilize those facts in an honest and appropriate way. I do not deny that we have global warming. In fact, the theory of it always struck me as plausible and it is just a question of how much is happening and what the reaction would be to it. So that is what I would hope we could see occur.

Senator WHITEHOUSE. Indeed, I will bet you dollars against those lovely Krispy Kreme doughnuts that we have out back that if you went down to the University of Alabama and if you talked to the people who fish out of Mobile, they would already see the changes in the ocean and they would be able to measure the pH changes, and they would know that acidification is happening and that there is no actual dispute about that, except in the politics of Washington, DC.

Senator SESSIONS. I recognize the great interest in time that you have committed to the issue and I value your opinion.

Senator WHITEHOUSE. I do come from an ocean State, and we do measure the rise in the sea level and we measure the warming of Narragansett Bay, and we measure the change in pH. It is serious for us, Senator.

Thank you, my time is expired.

Senator SESSIONS. Thank you.

Chairman GRASSLEY. Now it looks like it will be the Senator from Texas, and Senator from Texas, I am going to step out for a minute and when your 8 minutes are up, would you call on Senator Klobuchar?

Senator CRUZ [presiding]. Sure. Thank you Mr. Chairman.

Senator Sessions, I want to congratulate you in making it through a lengthy hearing and then performing admirably. And I think your performance today has reassured this Committee and even more importantly, has given comfort to the American people that you will be an Attorney General who will faithfully apply the law without partiality, without partisan lens, but with fidelity to the Constitution and the laws of the United States.

I also want to do something I do not do very often, which is, I want to commend the Democrats on this Committee, for, I think, showing admirable restraint. At the beginning of this hearing I had concerns that it would turn ugly with accusations that do not belong in this hearing. And I think my friends on the Democratic side of the aisle have largely restrained from going down that road. I

think that was the right decision to make, but I commend them for that.

You know, I would note that in the recesses of the internet, and in some of the groups that are speaking on this nomination, and indeed in the view of some of the protestors who have made their voices heard today, there have been racial charges raised, and indeed some of the protestors have chanted "KKK." And you and I have both talked about this a number of times. That is one of the easiest charges for someone to make when they do not have an argument on the merits, when they do not have the facts behind them. And it is a particularly hurtful argument that can be directed at someone, particularly when it is countered by the facts.

What I want to focus on principally in this round is spending a little bit of time highlighting an aspect of your record, which is your involvement in the prosecution of Henry Hays, a member of the Ku Klux Klan. Because I suspect it is something that very few people watching this hearing have ever heard of. And it is striking and, I think, highly revealing, so I would like to just walk through some of the facts. I know you are very familiar with them, but I suspect some of the folks at home watching this hearing may not be.

In 1981, in Mobile, Alabama, the Ku Klux Klan ordered the murder of a random African-American man, Michael Donald. KKK members Henry Hays and James "Tiger" Knowles abducted 19-year-old African-American Michael Donald. They beat him, they strangled him, they cut his throat, and they hung him from a tree. Absolutely shameful and disgraceful.

You were a U.S. Attorney at the time. Your office, along with the FBI, along with the local District Attorney, investigated the murder. The Department of Justice attorneys Barry Kowalski and Bert Glenn worked on the case. When asked about your work on this case, Mr. Glenn testified that, "During the entire course of the investigations, he"—meaning Sessions—"has provided unqualified support and cooperation to us, and independently as an individual who absolutely wanted to see that crime solved and prosecuted." Is that accurate, Senator Sessions?

Senator SESSIONS. I think it is, yes. That is exactly what I intended to do. It actually occurred before I became a United States Attorney. A wrong group of people had been indicted in State court that complicated matters. The case was not making the kind of progress it needed to make and so we had a discussion. And we invited Civil Rights Division attorneys, Bert Glenn and Barry Kowalski, both of which were exceptionally fine, and along with Assistant Thomas Figures in my office, they broke that case. And I thought they deserved a great deal of credit. But I was with them, I was in the grand jury with them. I called the grand jury at their convenience, whenever they wanted to come to the State. I actually used and empaneled a special grand jury so they could be called when they desired it. It had already been called for another special purpose, but we added that to their purpose. And so they had the flexibility and it was, I thought, a brilliantly conducted investigation. I guess Barry Kowalski was the lead attorney in it.

Senator CRUZ. Now, Bobby Eddy was the chief investigator for the Mobile County District Attorney's office. He testified, "Without

his”—meaning Sessions’—“cooperation, the State could not have proceeded against Henry Hays on the capital murder charge.” Chris Galanos, who was the Mobile County District Attorney in 1981, stated, “We needed some horsepower, which the Feds, through Jeff Sessions, provided. Specifically we needed the investigative power of the FBI and the power of the Federal grand jury. I reached out to him”—Sessions—“and he responded, ‘Tell me what you need and you’ll have it.’” And indeed, your office prosecuted Hays’ accomplice in Federal court, where he pleaded guilty. And Mr. Eddy testified that Tiger Knowles, the accomplice, pled guilty on a civil rights violation and received a life sentence, the highest sentence he could receive under Federal law, in Federal prison. And he continued to say Henry Hays was tried in State court by Mr. Galanos’ office and found guilty and sentenced to die in the electric chair. And this made Hays the first White man executed in Alabama for murdering a Black person since 1913.

When you were the Attorney General of Alabama, you later argued to uphold Hays’ death penalty. And in 1997, five months after you joined this party as a Senator, Hays died in Alabama’s electric chair. And I would note not only that, not only did you assist in the prosecution of the face of evil, a Ku Klux Klan murderer who saw ultimate justice, but as it so happened, you also prosecuted Hays’ father, KKK Grand Titan Bennie Jack Hays, who ordered his son to kill an African American and you prosecuted him for attempting to defraud his home insurer in order to collect money to pay for his son’s legal defense. Is that correct?

Senator SESSIONS. That is correct.

Senator CRUZ. And beyond that, your office cooperated with Morris Dees in the Southern Poverty Law Center to bring a civil suit against the KKK, and Mr. Galanos explained, “After the criminal cases were over, the Southern Poverty Law Center took the evidence we had developed and gave to them and they sued civilly, and got a 7-million-dollar verdict on behalf of Ms. Donald. And the 7-million-dollar civil judgment against the KKK in Alabama bankrupted the Klan, leading to its demise in the State.” Is that correct?

Senator SESSIONS. That is essentially correct, yes. In fact, they sold the Klan headquarters to help satisfy the judgment.

Senator CRUZ. Well I would say, Senator Sessions, it is easy for people reading things on the internet to believe whatever is raised, and passions get hot. And I know the protestors who stand up and chant “KKK” they, in all likelihood, believe what they are saying, because they are reading and being encouraged on the internet. But I have not seen any appointee to the Cabinet, Democrat or Republican, who has a record like you do of prosecuting Klansmen, putting them on death row, bankrupting them, and putting them out of business, and doing so as you had. I will tell you, I admire your doing so, and I will issue a challenge to our friends in the news media. I noticed every time a protestor jumped up all the photographers took pictures of the protestors. I suspect we are going to see them in all the papers. I would encourage the news media, cover this story. Tell the story on the six o’clock news about Jeff Sessions helping prosecute a Klansman who had murdered an innocent African-American man, and putting him on death row, and bankrupting—helping bankrupt the Klan in Alabama. That is

a story that needs to be told. And Senator Sessions, I thank you for your record, I thank you for your service.

Senator SESSIONS. Thank you, Senator Cruz, and I would say it has been very disappointing and painful to have it suggested that I thought the Klan was okay when we did everything possible to destroy and defeat and prosecute the Klan members who were involved in this crime. And it was a good joint effort. I was supportive of it every step of the way and some great lawyers worked very hard on it.

Senator CRUZ. Thank you, sir.

Senator KLOBUCHAR.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Senator Sessions, just this week backpage.com announced that it was taking down the adult services section of its website. Senator Cornyn and I led the bill on the Judiciary Committee, you contributed to it, which we appreciate. And then we also had work by Senator Portman and Senators McCaskill and Heitkamp and others on this issue. We had 48 arrests around the towns of New Ulm and Mankato, Minnesota, alone, where Backpage was part of the operation and so this was a good result. They took the Fifth today in front of Homeland Security while you were testifying.

But I wanted to know what your plans would be. The Justice Department finally came out with the national strategy on sex trafficking, which was part of our bill. And so it will be in your hands if you are confirmed as Attorney General to implement it. And could you just give me your thoughts on this issue?

Senator SESSIONS. Well I am glad that the entire Nation seems to be giving priority to this. A lot of great people have given real focus to the problem of sex trafficking and the degradation and destruction that results from it. So I think it would be a firm and important part of the Department of Justice's priorities and I would look forward to following up on the legislative successes and other things that are happening to see if we can make a real impact against this abominable practice.

Senator KLOBUCHAR. I will say, Attorney General Lynch and the Deputy Attorney General Yates as former prosecutors like yourself, they have worked really hard in this area, so it would be worth talking to them about the work they have done as well.

Antitrust. Senator Lee and I have long chaired that Committee. We rotate, depending on who is in charge of the Senate, as Ranking Member. I care a lot about this. We are in the midst of a merger wave. Between 2010 and 2015, the number of mergers reported to the Government increased over 50 percent, from 716 to 1,801, and over the last 18 months we have seen substantial mergers in pharmaceutical, agriculture, cable, insurance, beer. Recently, across the political spectrum there has been a lot of concern about concentration, because, you know, you need to have an even playing field if competition is going to flourish. And that means that is better for consumers, if you have strong competition.

Will you commit to making vigorous antitrust enforcement a priority? Kind of a sideline to that, there is some concern, based on some of the statements from the President-elect that maybe certain companies or industries could be targeted, depending on if they are in favor or not. These are not statements that you have made.

Could you comment about independence of the Attorney General when it comes to considering these cases?

Senator SESSIONS. The antitrust policies of the United States have to be consistent and as clear as possible. As you know, that is not always as easy as some people might think. I could say with confidence that you and Senator Lee, as leaders on the Antitrust Subcommittee, have been more attuned to the details and the special issues that are involved in that section of the Department of Justice. So we would work resolutely on it. I have no hesitation to enforce antitrust law. I have no hesitation, if the finding justifies it, to say that certain mergers should not occur, and there will not be political influence in that process.

Senator KLOBUCHAR. Thank you. I am going to put a series of some other questions on the record. One is on synthetic drugs. We are working hard. Senator Grassley and I have long worked on this issue with Senator Feinstein and Senator Graham, and we have a new bill that we are working on to make it easier to go after synthetic drugs, and maybe on the record we could get your comments on that.

Drug courts. Again, one of my top priorities. I think that they have worked very well in jurisdictions that are devoted to seeing themselves not just as businesses that want to see repeat customers, but getting people off of the treadmill of crime and drugs.

And then, a very Minnesota-focused issue. Minnesota was just—got a designation called HIDTA, for High-Intensity Drug Trafficking Area. A lot of it is based on heroin and some of the opioid addictions that we have seen, and somehow it was set up so the money came through Wisconsin. If you know anything about the Vikings-Packers rivalry, this makes our sheriffs very concerned. I thought I would maybe just on the record—again, I am not going to get into detail—discuss this with you on the record and ask you some questions about making sure we get our due for the funding for Minnesota.

But the last thing I want to talk about was just the refugee issue. We have the biggest Somali population in the country. Our U.S. Attorney and the Justice Department have done an excellent job in taking on some ISIS cases, as well as al-Shabaab cases, dozens of cases that have been successfully prosecuted, and I know that work will continue—I want that work to continue.

We also have—the vast majority of them are law-abiding, an important part of our community. And as you know, there has been a lot of anti-Muslim rhetoric out there. We had—I heard the story in Minneapolis of a family that went out to eat. They had lived in our town forever. They had two little kids. They go out to eat and this guy walks by and looks at them and says, “You four, you go home. You go home to where you came from.” And the little girl looks up at her mom and she says, “Mom, I don’t want to go home. You said we could eat out tonight.”

You think of the words of that innocent child. She only knows one home, and that is my State. She only knows one home, and that is America. So a big part of the job of the Attorney General, to me, is not just enforcing those laws, as we have in our State, against terrorist activities, but it is also protecting the innocents among us.

So I wondered if you could close your questions from me by commenting about your view of how you would uphold all of our Nation's laws, the basic value of religious freedom, but also the protection of people from larger crimes than the remark I just talked about, but actually bullying and those kinds of things, because I just think it has no place in our country.

Senator SESSIONS. Thank you. That is an important principle that you have touched on, which is the principle that in America you are free to exercise your religious beliefs as you deem fit, as long as it does not violate established law. So we have that provided for in the Constitution. We cannot establish a religion and we cannot prohibit free exercise, and I believe Americans value that principle and support it and we should always hold it high and we should not back away from it, and that includes Muslim friends and neighbors, as well as any other religion.

You are right, overwhelmingly, there is not violence and radicalism among our Muslim friends and neighbors, and we should not ever think that and treat people in a discriminatory basis. When people apply to come to the country it is appropriate, I believe, to vet them—from countries that may have had a history of violence, to be careful about who we admit because basically the admission process is a process that should serve the national interest. So that is sort of my view about it. I believe it is an acceptable and good view and would try to carry that out. But the decision about admitting and not admitting is really not the Attorney General's decision at all. It is the policy of the President and the State Department. And so we would just simply make sure, if it is done, it is done in a proper fashion and not unlawfully.

Senator KLOBUCHAR. Thank you.

And Mr. Chairman, I also have some statistics on immigration in response to some of the first exchanges that Senator Sessions and I had about what Minnesota—the business/economic value of immigrants in our community. I will just put that on the record later. So, thank you. Thank you.

Chairman GRASSLEY. Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

Senator Sessions, thanks to Senator Grassley and Senator McConnell I now find myself as a Member not only of this Committee, but also the Intelligence Committee, for which I am grateful. One reason why I thought it was so important for another Member of the Senate Judiciary Committee to get on the Intelligence Committee is because while the Intelligence Committee conducts a lot of the oversight, it is the Judiciary Committee that confers the authorities on our intelligence officials and law enforcement officials to do what they do.

My hope is that during this process, where we are coming off of a very contentious election, that our colleagues across the aisle will join us in making sure that the new President has his National Security Cabinet members, at least, confirmed on an expedited basis. And of course, I would include the office of Attorney General as one of those. As you know, the Attorney General and the Department's National Security Division work with members of the intelligence community and help oversee the collection of foreign intelligence information.

I know earlier Senator Leahy and perhaps Senator Lee asked you a little bit about the USA Freedom Act and the National Security Agency, but I want to highlight something you are well aware of, and that is the sunset of Section 702 of the Foreign Intelligence Surveillance Act. According to the Privacy and Civil Liberties Oversight Board, which Congress appropriately appointed to oversee the activities of the intelligence community, Section 702, which will expire at the end of this year, has been responsible for disrupting more than 100 known terrorist plots, including the New York subway bomb plot in 2009 and other plots outside the United States. As I said, if we do not act by the end of the year, that authority will expire. I think we are fortunate on the Judiciary Committee to also have, in addition to our other colleagues, Senator Feinstein, who has until recently served as the Ranking Member on the Senate Intelligence Committee, and now of course she is Ranking here. I hope she, along with Chairman Grassley, will make sure that all of the Committee Members are thoroughly briefed and comfortable with the reauthorization of Section 702, and to make it one of our highest priorities this year.

In addition to Section 702, as you know, there are other legal and policy challenges that you are going to face as the next Attorney General. Our national security investigators and law enforcement officers are facing incredible challenges, many of them technical challenges, like growing encryption of communications, whether it is hardware or in the—or software.

We saw that being relevant to what happened in San Bernardino, where the FBI had to pay third parties a substantial amount of money to get at the communications contained in the telephones of the actors in the San Bernardino attacks, or in Garland, in my home State of Texas, where the last time the FBI Director came before this Committee said there were still a multitude of communications on the devices of the two shooters in Garland that they still had not been able to get access to. So the FBI Director said this is a part of the tradecraft now of terrorists, and he referred to it as “going dark.” Thankfully, Chairman Grassley held a hearing on that just this last year. We know there are other statutes, including the Electronic Communications Privacy Act, things like the Electronic Communications—the so called ECTR fix, which would allow the use of national security letters to get IP addresses—not content without a warrant, but IP addresses, or metadata—which is important to these national security investigations.

I think I know the answer to this, but as Attorney General I just would like your verbal commitment here to continue to do what you have always done, and that is, put the safety and security of the American people first, and you will continue to work with us, in a cooperative fashion, to make sure that all the needs of all the stakeholders are being met, including the brave men and women who defend us each and every day in the intelligence and law enforcement community. Will you do that?

Senator SESSIONS. I will, Senator Cornyn, and thank you for your hard work and leadership on these important issues.

Senator CORNYN. Let me ask you about the Freedom of Information Act. I do not know whether Senator Grassley had a chance to

ask you about this or not. As you may know, Senator Grassley and I are—excuse me—Leahy and I are kind of the odd couple on Freedom of Information Act reforms. As a conservative, I have always felt that the best antidote to abuse or waste is sunlight where possible. You do not have to pass another law or another regulation where people change their behavior because they know people are watching. And Senator Leahy and I have worked closely together to see a number of reforms passed and signed into law, many of which I know you have supported or consulted with us on. It is not a blank slate. Sometimes you have to be careful about disclosing information that ought not to be public information, or is law enforcement sensitive, or classified, or the like.

But I just would hope that you would continue to work with us, and I am confident you will, but I would just like to get your verbal commitment to continue to work with us to make sure that the public's right to know is protected. I am not suggesting that the public has a right to know everything because, frankly, as I have said, classified law enforcement sensitive information needs to be protected for important policy reasons. But will you continue to work with us to make sure that we protect the public's right to know to the extent feasible?

Senator SESSIONS. I will, Senator Cornyn, and I would value your judgment and insight on this important issue. I appreciate your work.

Senator CORNYN. Thank you.

Thanks, Mr. Chairman.

Chairman GRASSLEY. Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman. Before I move on to my questions, I would like to respond very briefly to what Senator Cruz said earlier. It is important, in my view, that the Members of this Committee get clarity with regard to the nominee's record. That is our job and it is important.

Now, let us be clear: Senator Sessions said in his questionnaire that he “personally handled four civil rights cases.” Some of the lawyers who worked on those cases disputed that characterization, and Senator Sessions himself, after his questionnaire was in, felt the need to file a supplement in which he clarified that he merely provided “assistance and guidance” to Civil Rights Division attorneys on these four cases. Now, if that is a distinction without a difference, I am not sure why Senator Sessions felt the need to clarify. But I want to move on.

Senator Sessions, in late November, President-elect Trump tweeted, “In addition to winning the electoral college in a landslide, I won the popular vote if you deduct the millions of people who voted illegally.” Now, let us be clear: President-elect Trump lost the popular vote by more than 2.8 million votes, so what he is saying here is that more than 2.8 million fraudulent votes were cast. Do you agree with President Trump that millions of fraudulent votes were cast in the Presidential election?

Senator SESSIONS. Senator Franken, I do not know what the President-elect meant when he made that comment, or what facts he may have had to justify his statement. I would just say that every election needs to be managed closely and we need to ensure

that there is integrity in it, and I do believe we regularly have fraudulent activities occur during election cycles.

Senator FRANKEN. Well, the Department of Justice is tasked with protecting voting rights and prosecuting fraud, so if millions upon millions of fraudulent votes were cast, I would imagine that the next Attorney General would be quite concerned about that.

Did the President-elect tell you anything about what caused him to come to this conclusion?

Senator SESSIONS. I have not talked to him about that in any depth, particularly since the election.

Senator FRANKEN. Uh-huh. So he did not share any evidence of voter fraud with you? Because I would imagine, as the man who wants—that he wants to make responsible for combatting fraud at the ballot box, that he would want to make sure that you had all the evidence necessary to take action and to protect the vote. So he did not do that, evidently.

Before I move on, I should note for the record that State election and law enforcement officials surveyed in mid-December found virtually no credible reports of fraud among the nearly 138 million votes that were cast, and no States reported indications of any widespread fraud. What is truly troubling about this, I believe, are these bogus claims of voter fraud. They are routinely used to justify voter suppression. Thanks to the Supreme Court's disastrously decided *Shelby County* decision which gutted the Voting Rights Act, it is easier than ever before for States to make it harder for people to vote.

Now, Senator Sessions, you have a complicated history with the Voting Rights Act. Ten years ago when voting rights was a bipartisan issue, you voted to reauthorize the Voting Rights Act, everyone did. It passed 98 to nothing. But you have also called the Voting Rights Act "an intrusive piece of legislation." You have complained that the Act's preclearance requirement unfairly targeted certain States, and you said that there is "little present-day evidence that State and local officials restrict access to the franchise." You said that the Voting Rights Act has "eliminated that discrimination."

Well, Senator, after the *Shelby County* decision, which you celebrated, States began testing the limits of what they could do, in many cases, citing the risk of so-called voter fraud as a justification for their actions. Now, that is what happened in North Carolina, for example. Just a few months after *Shelby County*, the State enacted one of the Nation's strictest voter ID laws and enacted other restrictions without any evidence. The State described these changes as necessary to prevent fraud.

Well, the courts disagreed. North Carolina's restrictions were challenged, and in July, the Fourth Circuit found the primary purpose of the restrictions was not to fight fraud, but to make it harder for Black people to vote. Here is what the court said: "The new provisions target African Americans with almost surgical precision. They constitute inept remedies for the problems, assertively justifying them, and in fact impose cures for problems that did not exist."

Senator, do you still believe that there is little present-day evidence of States restricting access to the franchise? And if you do,

what do you think the Fourth Circuit got wrong when it found that North Carolina targeted Black voters “with almost surgical precision”? Do you accept that North Carolina was targeting African-American voters, but not believe that it was engaging in discriminatory conduct?

Senator SESSIONS. Well, you cannot create laws designed to inhibit the right of any class of citizens to vote, and so if the Fourth Circuit found that, and there is a factual basis to support it, then any law that is passed would be subject to being either eliminated or altered. So I support your concern that laws of this kind cannot be used for that purpose.

I do believe, not long ago, that the Supreme Court did uphold voter ID laws, but there are ways to do it and ways you probably cannot do it. I am not familiar with the details of the North Carolina law, but you are correct, any finding that there is a racial animus in the passing of a law that would restrict voting would render that unsustainable.

Senator FRANKEN. Now, North Carolina is one of the States who would have been covered by preclearance, was it not?

Senator SESSIONS. North Carolina would be. Of course—

Senator FRANKEN. It would have been. So now we are—

Senator SESSIONS. I would just suggest that Section 2 allows all the remedies, and that is what I suppose they filed the action under in this case. It is just not a preclearance question. That preclearance policy is intrusive, as the Supreme Court has said, and I did not mean that in any pejorative way. I was asked, do you believe it is intrusive, is that correct? I said it is intrusive, but the Voting Rights—I said this in 1986—but the Voting Rights Act was absolutely essential to reverse the problem that we had in the South of systemic voter suppression.

Senator FRANKEN. Mr. Chairman? Mr. Chairman, let me just respond to that, please. Okay. Here is the thing.

Senator SESSIONS. Well—

Senator FRANKEN. Okay. Because we had this debate after *Shelby*. Chairman Leahy tried to introduce something, a substitute, so that we could have preclearance again, which was fought by you. The whole point is the section—Section 2 of the Voting Rights Act, you are right. But how many years after North Carolina did that? So how many times, how many elections were conducted in North Carolina where African-American votes were suppressed? That is why you need preclearance. And as soon as *Shelby* came down, you saw Texas, you saw North Carolina go, “Oh, good, now we can suppress votes.” That is the reason you have preclearance and that is the reason that you cannot rely on the District Court or the Circuit Courts to rule.

Senator SESSIONS. Mr. Chairman, I voted a few years ago to extend the Voting Rights Act for 25 years. It included preclearance in it. We all knew at that time that the Supreme Court would probably take up a case before long that would have wrestled with the question of whether there is a sufficient basis for the extraordinary remedy of requiring only a few States in the country to first have permission, even with ministerial acts like moving a voting precinct, by the Department of Justice.

The Supreme Court found that that could no longer be justified. The Supreme Court decided that we did not have to have preclearance. But Section 2 of the Voting Rights Act allows these kind of challenges that Senator Franken is talking about. That is what was brought in North Carolina, that is what is being litigated today, and the court there did in fact find that the voter ID law was improper, as I understand it. So I believe we have proceeded in a lawful fashion, and I did feel in one sense that it was a good feeling that the Supreme Court had concluded that there had been substantial improvement in our area of the country as to voting rights, sufficiently so that Section 5 could no longer be justified. But I voted for it.

Senator FRANKEN. Thank you, Mr. Chairman, for your indulgence. As Justice Ginsberg said, an umbrella means you do not get wet when it is raining and you do not take the umbrella away.

Chairman GRASSLEY. I will put in the record a letter that I just today received in support of Senator Sessions' nomination from the National Shooting Sports Foundation. Senator Sasse. Without objection, I should say.

[The letter appears as a submission for the record.]

Senator SASSE. Thank you, Mr. Chairman.

Senator Sessions, I would like to talk a little bit about the Sarah Root case. I know that you and I have discussed it briefly last summer. Sarah Root was a woman who was killed a year ago this month in Omaha. She had just graduated from college, and she was killed by a drunken street racer. Omaha authorities believed that this guy had been engaged in similar activity many times in the past. He was an illegal immigrant. He ran into her car, killed her right after her graduation. He was detained by Omaha police. They ultimately notified the Department of Homeland Security this guy is a flight risk. He was able to post a fairly insignificant bond and he disappeared. The Department of Homeland Security did nothing to detain the guy, despite the fact that the Douglas County sheriff and the Omaha Police Department asked that he be detained. The Obama administration determined that it was not an enforcement priority.

I do not want to hold you to specifics on this case here, but I want to get your pledge in this context. I want to hear you talk generally about the coordination between State and local enforcement on illegal immigration activities, and particularly in cases where serious crimes have been committed.

But I wonder if you would pledge now that if I send you a letter the day after you are confirmed, would you give expeditious attention to responding with some of these details about how enforcement priorities are set inside the Federal Government?

Senator SESSIONS. Thank you, Senator Sasse. I certainly will. It does represent unjustifiable failures that we are seeing too often in our system today.

Senator SASSE. Do you have any top-line thoughts on the way local and State officials interact with Federal officials on immigration cases?

Senator SESSIONS. Well, the immigration enforcement procedures, the courts have held, are exclusively the power of the Federal Government. But it is also clear that a State official has the

right to arrest somebody for their offense of crossing the border illegally. They have the right to arrest people who have entered the country illegally or repeatedly entered the country illegally for any kind of offense, including that of illegal reentry. The cooperative system should work in a way whereby the Federal Government then evaluates whether or not it wants to put a hold on in order not to release that person until they can take them and see them be deported.

It is failing in a whole number of ways. You have got the sanctuary cities that refuse to tell Homeland Security they have got somebody that has committed a serious crime so they can be deported. They refuse to honor detainers. On the other side, we have got Homeland Security too often having standards or failing to follow up on serious offenses of people who should be deported. So in both aspects, I think, Senator Sasse, we can do much better. This country has every right to deport persons who are here unlawfully, who violate our criminal laws in some other aspect, and they should indeed be promptly deported.

Senator SASSE. Thank you. We will follow up with a letter, because this guy, Edwin Mejia, who killed Sarah Root, it was obvious to everybody engaged locally, lots of law enforcement and the family whose daughter was killed, that this guy was a flight risk and everyone was screaming to the Feds, please do not let this guy disappear before he can stand trial. He is now on the Top Ten Most Wanted list, and nobody thinks he is ever going to be found. Everybody believes he left the country.

This kind of case is not an isolated case, it is a kind of hand-off between Federal and local law enforcement that could happen repeatedly if you do not have a Federal Government that has any clear policy. So we would like to—so I would like to send you a letter, right after your confirmation, asking for clarity about how enforcement discretion and enforcement actions are prioritized.

Senator SESSIONS. And Senator Sasse, I would note that fundamentally that would be a Homeland Security issue initially, and they need to set the standards of what they should and should not do. And I would think that General Kelly would be quite willing to also talk with you about it, as will I.

Senator SASSE. I will likely be addressing the letter to both you and General Kelly, so thank you.

A completely different line of questioning. This morning, you were asked some hard and appropriate questions about the responsibility of a chief law enforcement officer for the Federal Government. When you have—if there are cases where there might be a conflict between your oath of office to the Constitution of limited government and a separation of executive and legislative authorities and the people that you report to when you work inside an administration, you said in the course of that answer that there could ultimately be cases where someone might have to resign because they were being forced to do something that conflicted with their oath.

I wonder if you could unpack that a little bit and talk about, you know, the Justice Department's responsibilities and Attorneys General—Attorneys General past—over the past few decades. Can you name instances where a resignation might be in order and what

kinds of lines would you envision being crossed, and ways that you as the Attorney General might push back on an administration if asked to do things that you regarded as inconsistent with your oath to the Constitution?

Senator SESSIONS. It would be difficult to speculate on that. We saw what you are alluding to during the Nixon administration. But there could clearly be a circumstance in which there is such a relationship breach that an Attorney General would not be an effective member of a President's administration. Maybe the Chief Executive could even be correct and the Attorney General could be wrong. But the Attorney General's duty is to give the best judgment that the Attorney General can give, and, therefore, if it is rejected on a very fundamental area, then that causes great concern. Maybe in another area of less importance, you could afford to disagree. But I just think that that result should be very rare, has not happened very often in the history of this country. Actually, I only know of one. And, therefore, the reason is that usually the Chief Executive—and I would expect with President Trump—that when confronted—or advised that certain policies are not acceptable, he would accept that advice. I am confident that he would. But you raise a hypothetical, and I have at least given you my thoughts about it.

Senator SASSE. Just to conclude, because I am inside my last minute, but going back to the connection between this question and the OLC line of questioning that Senator Lee posed this morning, if a head of OLC, if the Assistant Attorney General from OLC was coming to you and saying, "I have been asked to try to justify a certain position, I have been asked to write a memo to support this position, and I do not think we can get there, I do not think that the Department of Justice's considered wisdom and insight into the law is that we can ultimately write the memo that will authorize certain actions," how do you as the Attorney General envision that conversation going? Just tell us the parts between an OLC, an Attorney General's office, and the White House?

Senator SESSIONS. Well, Attorney General Mukasey, who I think is still here—yes, and I am honored to have him here today. He issued a memorandum about how the communications could be effectively carried out, and it restricted communications from the political officials to the Justice Department in a way that guaranteed integrity. But there is nothing wrong, as I understand it, if it goes through the proper chain of command that a request for an OLC opinion on a certain subject—there is nothing wrong with the White House asking for that. Indeed, you want that. You do not want the White House acting unadvised. You want it to seek legal advice. And, generally, historically things get sort of worked out.

If the OLC comes back and says, "Mr. President, you can do this, but you cannot do it this way, maybe you can do it that way, maybe it will not give you everything you want, but that is safe, that is legal, that is within the realm of action that the President can take, this we believe is not." And, usually, an Attorney General has the confidence of the President, and the President knows that he or she is giving him the best advice, advising him of what he can and cannot do. And you need the best lawyers, and you need to be very careful because these things set precedents. They also

can result in lawsuits and all kinds of controversy that should not happen as a result of a bad OLC opinion.

Senator SASSE. Thank you. The stewardship of the integrity of that office is critically important. Thank you for your forthrightness.

Chairman GRASSLEY. Senator Coons.

Senator COONS. Thank you, Chairman Grassley, Senator Sessions.

Senator SESSIONS. Thank you, Senator Coons.

Senator COONS. To return to an issue a number of Senators asked about before, but I just want to get clarity about a particular concern I had. The intelligence community has issued a unanimous opinion with high confidence that at the highest levels, the Russian Government engaged in an organized cyber attack that was designed to influence the American elections, and it is, as you have mentioned before, emblematic of the kinds of threats that the United States faces, whether it is China stealing our intellectual property or hacks into our Federal database that affects a lot of Federal workers or in this case a direct attack on democracy. And you mentioned in response to a previous question you have not been fully briefed on this. But there is a bipartisan bill that has been introduced to strengthen and sustain sanctions against Russia for this attack on our democracy. Is that something you would support?

Senator SESSIONS. That is something that is appropriate for Congress and the Chief Executive to consider. In other words, how do you respond to what is believed to be a cyber attack from a major nation? It is difficult just to say, well, we are going to prosecute the head of the KGB or some group that has participated in it—no longer the KGB, of course. So in many ways, the political response, the international foreign policy response, may be the only recourse. And it would help in that regard that more clarity be established, which, Senator Coons, you probably understand more than I the discussions about having the world know that if you do X to us, you can expect we are going to do Y to you.

Senator COONS. Well, I think this bipartisan bill is designed to be a forceful response to provide predictable preemption of other countries that might believe that they could engage in a successful cyber attack to influence future elections, whether at the Federal or local level. So I urge you to get briefed up on it, as all Senators can now, and to have a clear public stance on it.

Let me move to immigration, if I might. Alabama had a State statute that enforced its schools to check students' immigration status before allowing them to enroll in school. Are you concerned at all that that statute might target innocent children and discourage school attendance for juveniles?

Senator SESSIONS. First, I had no involvement in that statute. Second, I believe the Court struck that statute down. I am not sure.

Senator COONS. I believe that is correct.

Senator SESSIONS. Some of the act was declared improper, and some not. What was your question exactly?

Senator COONS. Well, I will follow up, if I could. There was a statute in Alabama that was designed to require teachers, school

administrators to check the immigration status of students before enrolling them. And I believe at that point 5 years ago, you made a public statement that we have allowed a sad situation for decades where large numbers of people are in this country illegally, and it is going to have unpleasant and unfortunate consequences.

Some took that to mean that you felt that it was an unfortunate consequence but appropriate that children who were brought here illegally by their parents could be denied access to education.

Senator SESSIONS. But they cannot be denied access to education. The courts have decided that, as I understand it. The question is: Could you even ask if you are lawfully in the country or not? And I do not know what the law is on that subject.

But what I was getting at was that this is a continual problem and will continue to be a problem if we do not end the lawlessness. I mean, you would rather have children of immigrants here that came lawfully rather than unlawfully. It creates a problem that we do not need to have, and I believe it is within our grasp to fix, and I believe people of good will will support that. And we need to get that done. A lot of problems in our country will be fixed and a lot of our ability to create a more harmonious system in the future could become possible once this illegal system is fixed.

Senator COONS. Well, as you know, Senator, on this Committee together, many of us worked, put great effort into crafting a bill that ultimately passed the Senate by a strong bipartisan margin, would have invested heavily in securing the border, and addressed a lot of unresolved issues in immigration. But my recollection was you did not support that bill. It is my hope that we can find a bill, as you say, that you could support.

Let me move to another point. We worked together to restore funding to the Federal Public Defenders Service when it was cut by sequestration, and I think that is because we both agree that outcomes are more fair when there is effective representation on both sides. One of the amendments I offered to that immigration bill would have provided counsel to children who were applying for refugee status because they were fleeing violence in their home countries in U.S. immigration proceedings. Is that something you would support?

Senator SESSIONS. Senator Coons, as I understand it, that is the law, that you cannot provide lawyers to illegal entrants into the country, and I do not believe it distinguishes between minors and adults. But I may be wrong about that. I presume that is why you have offered legislation to that effect, to change established law. But, in general, I do not believe we can afford nor should we undertake to provide free lawyers for everybody that enters the country unlawfully. I think that would be a massive undertaking.

So you are talking about children specifically. I understand that. I think that is a matter—

Senator COONS. Specifically, those who are applying for asylum.

Senator SESSIONS [continuing]. That Congress would need to decide what to do about it.

Senator COONS. Let me ask you another question, if I might. There was a lot of discussion in the course of the campaign—it was a very vigorous campaign—about the role of immigrants and, in particular, Muslims in this country. And I just want to make sure

I have understood this. You believe it is improper for the Government to discriminate based solely on a person's religion, correct?

Senator SESSIONS. That is incorrect. I believe that religion, as practiced by and understood by an individual, could make that individual subject to being denied admission if that individual's practice of their religion would present a threat to the country. So we have no requirement to admit somebody who claims to be religious who would present a threat to the United States, and I strongly think we have every right to inquire into those kind of radical and dangerous ideas that some might—

Senator COONS. So there are about 3 million Muslims in the United States today. There have been Muslims in America since its founding. Thomas Jefferson had a copy of the Koran. Would you support a national registry of Muslims? And what sort of surveillance of mosques do you think would be appropriate within the constraints of civil liberties and respect for free exercise?

Senator SESSIONS. I would not favor a registry of Muslims in the United States. No, I would not. And I think we should avoid surveillance of religious institutions unless there is a basis to believe that dangerous or threatening illegal activity could be carried on there. I am not aware that there is a legal prohibition on that under current law.

Senator COONS. Let me ask a last question, if I might. As Alabama's Attorney General—this is back in 1996—there was a conference planned at the University of Alabama, and this was for LGBT students, a conference to talk about a wide range of issues, from health to status in society, for the LGBT community. And based on a State law, you sought to prevent that conference from happening. And a Federal district court held that the existing State statute, Alabama State statute, that prevented "gatherings in public buildings for the advocacy of sodomy and sexual misconduct"—I am quoting—the district court held that that clearly violated the First Amendment, the free speech rights of students to gather and talk about their lives. And you publicly announced that you intended to do everything you could to stop that conference and I believe sought an injunction, which was later denied, and the Eleventh Circuit later held that this law was unconstitutional on its face.

Would you think, looking back on this now, given your statement earlier that you understand the needs for justice of the LGBTQ community, that it was a poor use of State resources to defend a law that was so facially unconstitutional?

Senator SESSIONS. Senator Coons, that litigation started in another university before I became Attorney General. It was going on for about a year, and I believe the litigation arose from the group filing a declaratory judgment against the law, and as Attorney General, I felt I should attempt to defend the law. And the court ruled against it. It would have been better if we had not passed a law. It would have been better if the controversy had not occurred.

Senator COONS. Thank you.

Chairman GRASSLEY. Before I go to Senator Crapo, I have a letter here from a former colleague, Senator Lieberman of Connecticut, and in that letter he makes an important point. There are two sentences I would like to repeat: "Do I agree with everything

he”—meaning Senator Sessions—“has ever said or done? Of course not. But I do not agree with everything anyone I know has ever said and done, including myself. If I were in the Senate today, I would vote aye on his nomination.”

I ask consent to put that in the record.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Senator Crapo.

Senator CRAPO. Thank you, Mr. Chairman.

Senator Sessions, one issue that has been gone over a lot today which I am going to return to is the question of the rule of law and whether you would honor it. Many times an administration will not agree with a particular statute, even though the language and intent of Congress are crystal clear. And, in addition, many times the individual who has been appointed to enforce the laws does not personally agree with a law that is on the books. Yet, as Attorney General, it will be your job, as you have already indicated, to enforce and defend the laws as written by the legislative branch, regardless of your own personal philosophical views. And I know that you have done this. Let me talk about a few examples.

Even though you support the death penalty, you agreed to drop the death sentence of a defendant when you determined that the aggravating circumstances standard in the statute for applying the death penalty did not apply to their particular convicted double murder.

Even though you had supported a Republican Governor when you were Alabama’s Attorney General, when this Governor violated the ethics laws, you agreed and argued to uphold his conviction.

Again, when you were the Alabama Attorney General, you declined to prosecute a former Alabama insurance commissioner who was a Democrat, even though you received criticism for this. You did not prosecute because you believed there was actually a criminal—there was not actually a criminal violation.

You also prosecuted the Alabama Republican Party Vice Chairman even though you are from the same party. So it seems to me that your history shows that you can make those kinds of judgment calls and do what the job demands.

I already know the answer to this question because I have seen it in your record and because I have known and worked with you for a number of years, but I ask anyway, again: If you are confirmed, will you commit to enforce and defend the laws and the Constitution of the United States, regardless of your personal and philosophical views on the matter?

Senator SESSIONS. I will, Senator Crapo. And I would note on the death penalty case, my appellate lawyers gave a little briefing of the cases that were coming up, and they said, “We will be defending this death case, but we are probably going to lose.” I said, “Why are we going to lose?” And they said, “It did not have the aggravating factor you needed to carry out a death penalty.” And I said, “We cannot go before the Supreme Court and argue for a death penalty if it does not meet the standard for a death penalty.” To which the lawyers said, “Well, the local people are really fired up about it, and we usually just do what they want and let the Court decide.” And I said, “Well, no, we should not do that.”

Well, that turned out to be an easy decision to make that day. But when I was running for the United States Senate, maybe a year later, it became one of the biggest ads and biggest attacks on me that I had failed to defend the jury conviction for murder in this county. But you just have to do the right thing, and some of these others cases reflect the same thing.

Indeed, that case was taken by the Governor's team to the State D.A. who prosecuted the case and convicted the man, but it was reversed on appeal. The Court of Appeals found that he did not commit a crime, just like we had concluded originally. So these are tough calls. Sometimes I have not always made them right. But I do believe you have to put the law first, Senator Crapo, and I have tried to do that, tried to teach my people that. And none of us are perfect, but we should strive to get it right every time.

Senator CRAPO. Well, thank you, Jeff. And I knew that answer, as I said, before I asked the question. But one of the other Senators here today said that it is important to get your record out, and I think it is important to get your record correctly understood, and I think that there unfortunately is too much inaccurate reporting about your record.

Another instance in that context: As you know, I am the Republican sponsor of the Violence Against Women Act that we passed recently here in the U.S. Senate and the Congress. You have been criticized for not supporting that act, but I want to give you a chance again to correct the record and to fully state the record. If I understand it right, you voted for the original and supported the reauthorization of that act at least twice, and that your objection to the act that did pass this last time, the reauthorization, was not at all based on the question of whether to have the statute in place. It was instead based on an issue with regard to jurisdiction on Tribal lands and other related matters.

Could you again restate your position on the issue?

Senator SESSIONS. Well, thank you, Senator Crapo. And, you know, I came here as a lawyer, tried to conduct myself properly, and consider what some might consider legal technicalities but I think are pretty important. The bill, as I understood it, was controversial primarily because of this situation in which a non-Tribal member could be tried in a Tribal court, which apparently, I think it is fair to say, is not constructed in a way that is consistent with the Constitution, and in a way that we have never done before.

And so eight of the nine Republicans on the Judiciary Committee concluded that this was not appropriate. So by voting against that version of the Violence Against Women Act, if it had failed, we would not then, I am confident, have had a bill. We would have been able to pass a Violence Against Women Act that did not have that provision in it. So that is sort of where we were in the political process, and one of the bad things about modern American politics is if you take that position, you are not portrayed as being wrong on the Tribal issue; you are portrayed as being against a bill that would protect women from violence. And I think that is unfair, and thank you for giving me the chance to respond.

Senator CRAPO. Well, thank you, and I appreciate that, and I can again confirm because, as I said, I am the Republican sponsor of that bill, and that description you have given is exactly one of just

a couple issues which were being seriously litigated, if you will, here, which we were trying to resolve. And those of you who took that position, again, were not in any way objecting to the act. You had multiple times before supported it, and you were trying to help resolve one specific issue on the bill. And so I just wanted to clarify that with you and, again, get the record straight about where you stand on the issue.

I see my time is pretty much gone, Mr. Chairman. I will not go to my next question.

Chairman GRASSLEY. Before I call on Senator Blumenthal, out of consideration for you, I want to explain what I think we have left here. And if you need a break, tell me.

We have got two Democrats and two Republicans to do a second round besides the Chairman, but I am going to wait until later to do my second round. We have got two Democrats, I have been told, at least, who want a third round. And so what I would like to do is, first of all, if you need a break, we will take a break whenever you say so now. And in the meantime, I would like to have my colleagues take into consideration something I want to do. I want everybody to get over here that wants to ask questions, and I am not going to take up anybody's time until everybody else is done. And then I want to take about maybe 15 or 20 minutes of your time to do the equivalent of a couple rounds with questions I have not asked yet. So what is your desire?

Senator SESSIONS. I am ready to go.

Chairman GRASSLEY. Okay. Senator—

Senator SESSIONS. I may need a break at some point.

Chairman GRASSLEY. Well, you just say when you want to take a break.

Senator SESSIONS. Thank you. Thank you, Mr. Chairman.

Chairman GRASSLEY. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman. Thank you, Senator Sessions.

I was pleased to hear you disavow and denounce Operation Rescue in response to my last questions. I want to ask about a couple of other groups and individuals.

In 2003, at an event called "Restoration Weekend," you gave a speech praising a man named David Horowitz as "a man I admire." David Horowitz has said, among other things, that "all the major Muslim organizations in America are connected to the Muslim Brotherhood," and "80 percent of the mosques are filled with hate against Jews and Americans." He has also made a number of statements about African Americans, as in, "Too many Blacks are in prison because too many Blacks commit crimes." You praised him as "a man I admire."

That statement was omitted from your response to the Committee. Did you omit it because you were embarrassed about praising David Horowitz?

Senator SESSIONS. No, and I did not know David Horowitz had made those comments. I read his brilliant book—what is the name of it? I have a hard time remembering. But it was about his transformation, having grown up in, as he described it, a "communist family." He was editor of Ramparts magazine, the radical magazine, and I believe "Radical Son" was the name of his book. And

it was a really powerful and moving story of how he moved from the unprincipled totalitarian radical left to a more traditional American person.

Senator BLUMENTHAL. I find it——

Senator SESSIONS. He has written a number of other books and I have read, I think, one of them. But he is a most brilliant individual and has a remarkable story. I am not aware of everything he has ever said or not.

Senator BLUMENTHAL. Well, these statements have been reported publicly repeatedly over many years. You first came to know him in 2003. In fact, you received an award from the David Horowitz Freedom Center in 2014. You are unaware of any of the apparently racist comments that he made over——

Senator SESSIONS. I am not aware of those comments, and I do not believe David Horowitz is a racist or a person that would treat anyone improperly, at least to my knowledge. And he did give me——

Senator BLUMENTHAL. Well, let me just——

Senator SESSIONS. The award he gave me was the Annie something Johnson Award, and that was the lady that went over Niagara Falls in a barrel. That is the award that I received.

[Laughter.]

Senator BLUMENTHAL. Let me ask you about another group which also you left out of your questionnaire, a group that the Southern Poverty Law Center, cited earlier by Senator Cruz, listed as a hate group. And you received from the Federation for Fair Immigration Reform an award known as the Franklin Society Award. The founder of that group has said, “I have come to the point of view that for European-American society and culture to persist requires a European-American majority, and a clear one at that.” He said also, “Too much diversity leads to divisiveness and conflict.” The founder, John Tanton, also through his political action committee, contributed twice to your campaigns in 2008 and 2014, \$1,000 in each donation.

Will you denounce those statements and disavow that award and that support from that organization?

Senator SESSIONS. I do not accept that statement. I believe the United States should have an immigration policy that is fair and objective and gives people from all over the world the right to apply. And that we should give preference to people who have the ability to be prosperous and succeed in America and can improve their lives and improve the United States of America. And that is sort of my view of it. I do not accept that kind of language——

Senator BLUMENTHAL. Will you return the award——

Senator SESSIONS [continuing]. It would be contrary to my understanding of the American vision of life.

Senator BLUMENTHAL. Will you return the award?

Senator SESSIONS. Well, I do not know that I have to. I do not know whether he had any involvement in choosing the award or not. Presumably, the recipient of the award is chosen based on some contribution or criteria, but I was not involved in that decision.

Senator BLUMENTHAL. This award similarly was left out of your response to the questionnaire, and I guess the question, Senator

Sessions, is: How can Americans have confidence that you are going to enforce anti-discrimination laws if you have accepted awards from these kinds of groups and associated with these kinds of individuals and you will not return the awards?

Senator SESSIONS. Well, first of all, I do not know that I defer to the Southern Poverty Law Center as the final authority on who is a radical group. So I would first challenge that. They acknowledged publicly, and have in the last few weeks, that I was a strong assister to them in prosecuting the Klan, but they said they oppose me because of their views on immigration. Well, I believe my views on immigration are correct, just, decent, and right. Somebody else can disagree, but that is what I think. I do not—

Senator BLUMENTHAL. Would you also disavow support from Frank Gaffney at the Center for Security Policy, who gave you an award in August 2015, similarly having made statements about Muslims and supporting your candidacy for Attorney General?

Senator SESSIONS. Well, they chose to give me the award. They did not tell me what they gave it to me for. And I do not adopt everything that that center would support, I do not suppose. I am pretty independent about those things. I would acknowledge—

Senator BLUMENTHAL. But you can understand—

Senator SESSIONS [continuing]. That Ronald Reagan, Dick Cheney, Joe Lieberman also have received that award from that institution.

Senator BLUMENTHAL. Well, he has not been nominated to be Attorney General.

Senator SESSIONS. Well, he has not. But he ran for Vice President on your party's ticket.

Senator BLUMENTHAL. And the people of the United States might be forgiving for including that the kinds of attitudes and the zealousness—or lack of it—that you bring to enforcement of anti-discrimination laws might be reflected in your acceptance of awards from these organizations, your association with these kinds of individuals. So, I am giving you the opportunity to completely repudiate and return those awards.

Senator SESSIONS. Senator Blumenthal, I just feel like the reason I was pushing back is because I do not feel like it is right to judge me and require that I give back an award if I do not agree with every policy of an organization that gave the award. I was honored to be given awards.

A lot of prominent people, I am sure, have received awards from either one of these groups. And David Horowitz is a brilliant writer and I think has contributed to the policy debate. Do I agree with everything he said? I am sure I do not. Some of the language that you indicated he has used, I am not comfortable with. It is all right to ask that question. But I do not believe it would be proper for you to insist that I am somehow disqualified for Attorney General because I accepted an award from that group.

Senator BLUMENTHAL. Given that you did not disclose a number of those awards, are there any other awards from groups that have similar kinds of ideological, negative views of immigrants or of African Americans, or Muslims, or others, including awards that you may have received from the Ku Klux Klan?

Senator SESSIONS. Well, I would not receive it from Henry Hayes, I will tell you that. He no longer exists. So no, I would not take an award from the Klan.

Senator BLUMENTHAL. I want to give you the opportunity—

Senator SESSIONS. So I would just say that I received hundreds of awards. I do not think—I probably somehow should have made sure that the—Annie Johnson jumping off the Niagara Falls, I should have reported that. But I would just say to you, I have no motive in denying that I received those awards. It was probably publicly published when it happened. I have received hundreds—multiple hundreds of awards over my career, as I am sure you have.

Senator BLUMENTHAL. My time has expired, Mr. Chairman. I apologize, and I will return on the third round. Thank you.

Chairman GRASSLEY. I do not find any fault with the questions you are asking, except for this business that somebody that is in the United States Senate ought to remember what awards we get. I do not know about you, but I will bet every other week somebody's coming into my office to give me some award, and you take these plaques, or whatever they give you, and you do not even have a place to hang them. You store them someplace. I do not know whether, even if I went down to that storage place, I could tell you all the awards I got. I do not need any more awards. It is kind of a problem that they give you the awards.

[Laughter.]

Chairman GRASSLEY. And obviously I will bet Senator Sessions feels that way right now.

[Laughter.]

Senator BLUMENTHAL. I do not differ with you. Mr. Chairman, I do not differ with you that, sitting here, none of us on this side of the table could probably recall every single award we have ever received. But the questionnaire from this Committee asked for the information as to all awards, and I think it is fair to observe that a number of these awards were omitted from the responses.

Chairman GRASSLEY. Okay. Well, if somebody asked me to fill out that same questionnaire, it would never be complete, and I do not know how you ever could make it complete.

Before I go to you, I have a statement here from the Alabama State Senate, Quinton Ross, a Democrat, Minority Leader. He says, "I know him," meaning Senator Sessions, "personally and all of my encounters with him have been for the greater good of Alabama. We have spoken about everything from civil rights to race relations, and we agree that as Christian men, our hearts and minds are focused on doing right by all people."

I do not think we should forget that Senator Sessions got re-elected to the United States Senate without a primary opponent or a general election opponent. Ye gods, you know, would we not all like to do that?

Senator Graham.

Senator GRAHAM. I have been unable to do that.

Chairman GRASSLEY. For the record, without objection.

[The information appears as a submission for the record.]

Senator GRAHAM. Thank you. I had six primary opponents.

Chairman GRASSLEY. I can understand why.

Senator GRAHAM. There you go. I will probably have 10. I will probably have 10 next time. But here is what I want them to know: I, too, received the Annie Taylor Award.

Senator SESSIONS. The Annie Taylor Award.

Senator GRAHAM. Yes, there it is. I was there. I got it, too. I do not get enough awards; you can speak for yourself, Mr. Chairman. [Laughter.]

Senator GRAHAM. Yes, I got the award. I went to the dinner, and Chris Matthews interviewed me. So I do not know what that means, other than I will do almost anything for a free dinner.

[Laughter.]

Senator GRAHAM. You know, I like Senator Blumenthal, but you know, we did this for Alito, this whole guilt by association stuff. You have been around 15 years.

Senator SESSIONS. Twenty.

Senator GRAHAM. Twenty. Well, 15 with me. I am pretty sure you are not a closet bigot. And I got the same award you did. That other award—who got it, Joe Lieberman?

Senator SESSIONS. He got the award at the Gaffney.

Senator GRAHAM. Okay. Well, anyway, all I can tell you is that this whole idea that if you receive recognition from some group, you own everything they have ever done or said, is probably not fair to any of us. We can go through all of our records about donations. The bottom line is, Senator Sessions, there is no doubt in my mind that you are one of the most fair, decent, honest men I have ever met. And you know what I like most about you? If you are the only person in the room who believes it, you will stand up and say so. I have seen you speak out when you were the only guy that believed what you believed, and I admire the heck out of that. So if I get nominated by Trump, which I think will come when hell freezes over—

[Laughter.]

Senator GRAHAM [continuing]. I am here to tell you I got the Annie Taylor award, too.

So let us talk about the law of war. I think you were asked by Senator Feinstein about indefinite detention. *Hamdi v. Rumsfeld*. This is Sandra Day O'Connor's quote: "There's no bar to this Nation's holding one of its own citizens as an enemy combatant." That case involved a U.S. citizen that was captured in Afghanistan and was held as an enemy combatant. Are you familiar with that case?

Senator SESSIONS. Generally, yes. Not as familiar as you because I know you have studied it in great depth.

Senator GRAHAM. Well, being a military lawyer, this was sort of part of what I did.

Do your constitutional rights as a U.S. citizen stop at the Nation's shores or do they follow you wherever you go?

Senator SESSIONS. Well, you have certain rights wherever you go.

Senator GRAHAM. So if you go to Paris, you do not give up your Fourth Amendment right against illegal search and seizure. Could the FBI break into your hotel room in Paris and basically search your room without a warrant?

Senator SESSIONS. I do not believe—

Senator GRAHAM. No, they cannot. Your constitutional rights attach to you. So to the people who say, well, he was in Afghanistan,

that does not matter. What the court is telling us, no American citizen has a constitutional right to join the enemy at a time of war. *In re: Quirin*, that case involved German saboteurs who landed in Long Island. Are you familiar with this?

Senator SESSIONS. I am very familiar with that case. I have read it.

Senator GRAHAM. They were German saboteurs and had American citizen contacts in the United States. They were all seized by the FBI and tried by the military. So what I would tell Senator Feinstein and my other colleagues, the law is well settled here, that a United States citizen in other wars have been held as enemy combatants when the evidence suggests they collaborated with the enemy.

Under the current law, if you are suspected of being an enemy combatant within a certain period of time—60 days, I think—the Government has to present you to a Federal judge and prove, by a preponderance of the evidence, that you are a member of the organization they claim you to be a member of. Are you familiar with that, your habeas rights?

Senator SESSIONS. Correct. Yes.

Senator GRAHAM. So as to how long an enemy combatant can be held, traditionally under the law of war, people are taken off the battlefield until the war is over or they are no longer a danger. Does that make sense to you?

Senator SESSIONS. It does make sense, and that is my understanding of the traditional law of war.

Senator GRAHAM. And the law of war is designed to, like, win the war. The laws around the law of war are designed to deal with conflicts and to take people off the battlefield, you can kill or capture them, and there is no requirement like domestic criminal law that at a certain point in time they have to be presented for trial because the goal of the law of war is to protect the Nation and make sure you win the war. So when you capture somebody who has been adjudicated a member of the enemy force, there is no concept, in military law or the law of war, that you have to release them on an arbitrary date, because that would make no sense.

All I am saying is that I think you are on solid ground, and this idea of an American citizen being an enemy combatant is part of the history of the law of war. And I am very willing to work with my colleagues to make sure that indefinite detention is reasonably applied and that we can find due process rights that do not exist in the traditional law of war, because this is a war without end.

When do you think this war will be over? Do you think we will know when it is over?

Senator SESSIONS. I have asked a number of witnesses in Armed Services about that, and it is pretty clear we are talking about decades before we have a complete alteration of this spasm in the Middle East that just seems to have legs, and will continue for some time.

Senator GRAHAM. So let me—

Senator SESSIONS. That is most likely what would happen.

Senator GRAHAM. You are about to embark on a very important job in an important time, and here is what my suggestion would be: That we work with the Congress to come up with a legal regime

that recognizes that gathering intelligence is the most important activity in the law against radical Islam. The goal is to find out what they know. Do you agree with that?

Senator SESSIONS. That is a critical goal.

Senator GRAHAM. And I have found that under military law and military intelligence gathering, no manual I have ever read suggested that reading Miranda rights is the best way to gather information. As a matter of fact, I have been involved in this business for 33 years, and if a commander came to me as a JAG and said we just captured somebody on the battlefield—you name the battlefield—they want their rights read to them, I would tell them, they are not entitled to Miranda rights. They are entitled to Geneva Convention treatment, they are entitled to humane treatment, they are entitled to all the things that go with the Geneva Convention because the court has ruled that enemy combatants are subject to Geneva Convention protections.

I just want to let you know, from my point of view, that we are at war. I am encouraged to hear that the new Attorney General recognizes the difference between fighting a crime and fighting a war, and that the next time we capture bin Laden's son-in-law, if he has got any more, I hope we do not read him his Miranda rights in 2 weeks. I hope we keep him, humanely, as long as necessary to interrogate him to find out what the enemy may be up to. Does that make sense to you?

Senator SESSIONS. Well, it does. We did not give Miranda warnings to German and Japanese prisoners we captured, and it has never been part of the—and so they are being detained and they are subject to being interrogated properly and lawfully anytime, any day, and they are not entitled to a lawyer, and so forth.

Senator GRAHAM. Right. And Miranda and all did not exist back in World War II but it does now, but the law, the *Hamdi* case says—this is very important—that you do not have to read an enemy combatant their Miranda rights. They do have a right to counsel in a habeas proceeding—

Senator SESSIONS. In a habeas court. You are correct.

Senator GRAHAM [continuing]. To see if the Government got it right. You can hold them as long as is necessary for intelligence gathering, and you can try them in Article III courts, you can try them in military commissions. As Attorney General of the United States, would you accept that military commissions could be the proper venue, under certain circumstances, for a terrorist?

Senator SESSIONS. Yes.

Senator GRAHAM. Thank you.

Chairman GRASSLEY. Senator Hirono, then Senator Kennedy, then you should take a break, because I want one.

[Laughter.]

Chairman GRASSLEY. Proceed.

Senator HIRONO. Thank you.

Senator Sessions, in 1944, the Supreme Court handed down what is considered one of the worst rulings in the history of our country, and that case is *Korematsu v. United States*, which upheld the constitutionality of the internment of Japanese Americans in internment camps.

Despite the near-universal condemnation today of the court's ruling, this past November, Carl Higby, a spokesman for a pro-Trump Super PAC and a surrogate for President-elect Trump, cited *Korematsu* as precedent for a program which would require Muslims in the United States to register with the Government.

Here are my questions: First, would you support such a registry for Muslim Americans? In other words, U.S. citizens?

Senator SESSIONS. I do not believe we need a registration program for U.S. citizens who happen to be Muslim. Is that the question?

Senator HIRONO. Yes. My question is whether you would support such a registry for U.S. citizens who happen to be Muslims.

Senator SESSIONS. No.

Senator HIRONO. Thank you.

So since the President may go in that direction, what kind of constitutional problems would there be for U.S. citizens who happen to be Muslims to be required to register?

Senator SESSIONS. Well, my understanding is, as I recall, the later comments by President-elect Trump do not advocate for that registration, but he will have to speak for himself on his policies. But I do not think that is accurate at this point, as his last stated position on it.

Senator HIRONO. Since you do not support such a registry for U.S. citizen Muslims, is that because you think that there are some constitutional issues involved with such a requirement for U.S. citizen Muslims?

Senator SESSIONS. It would raise serious constitutional problems because the Constitution explicitly guarantees the right to free exercise of religion. I believe Americans overwhelmingly honor that and should continue to honor it, and it would include Muslims for sure. I do not believe they should be treated differently, fundamentally. They should not be treated differently.

Senator HIRONO. Thank you.

And in addition to the freedom of religion provisions, perhaps there would be some equal protection constitutional problems, possibly some procedural due process constitutional problems with that kind of registry requirement.

Turning to consent decrees, there are more than 18,000 law enforcement agencies in the United States. America's police officers are the best in the world, and that is due in large part to their bravery, skill, and integrity in what they do. Our Constitution ensures that the Government is responsible to its citizens, and that certain rights should not be violated by the Government. But that does not mean that things always work perfectly, as you noted in one of your responses, in the real world.

So while the vast majority of police officers do exemplary work and build strong relationships with their communities to keep the public safe, there have been specific use-of-force deadly incidents that have sparked nationwide outrage.

Some of these incidents have led the Attorney General's Civil Rights Division to do investigations into whether individual police departments have a "pattern of practice" of unconstitutional policing and to make sure our police departments are compliant with the law.

When these investigations find that police departments are engaged in unconstitutional policing, they are frequently resolved through consent decrees with the Department of Justice, which requires police departments to undertake certain important reforms that are overseen by independent monitors to ensure that necessary changes are being made in these departments.

Senator SESSIONS, you once wrote that "consent decrees have a profound effect on our legal system, as they constitute an end run around the democratic processes." Currently, more than 20 police departments around the country are engaged in consent decrees with the Justice Department. In Maryland, Baltimore Mayor Catherine Pugh said Monday she expects her city to finalize a consent decree with the Justice Department this week, as noted in the Baltimore Sun.

My question is, will you commit to maintaining and enforcing the consent decrees that the Justice Department has negotiated during this administration?

Senator SESSIONS. Those decrees remain in force if and until and if they are changed. And they would be enforced. The consent decree itself is not necessarily a bad thing, could be a legitimate decision. There can be circumstances in which police departments are subject to a lawsuit, which is what starts this process, ultimately ending in a consent decree.

But I think there is concern that good police officers and good departments can be sued by the Department of Justice when you just have individuals within the department who have done wrong and those individuals need to be prosecuted.

These lawsuits undermine the respect for police officers and create an impression that the entire department is not doing their work consistent with fidelity to law and fairness, and we need to be careful before we do that, is what I would say to you, because filing a lawsuit against a police department has ramifications, sometimes beyond what a lot of people think. It can impact morale of the officers, it can impact and affect the view of citizens to their police department. I just think that caution is always required in these cases.

Senator HIRONO. Senator Sessions—

Senator SESSIONS. I would not pre-judge a specific case.

Senator HIRONO. I understand that, but showing a pattern of practice needs to be shown, so these are not just a rogue police officer doing something that would be deemed unconstitutional.

So are you saying that with regard to negotiated consent decrees that you will revisit these consent decrees and perhaps give police departments a second bite at the apple so that they can undo some of the requirements on them?

Senator SESSIONS. Well, presumably the Department of Justice, under the Holder-Lynch leadership, would be expecting to end these decrees at some point, so I just would not commit that there would never be any changes in them. If departments have complied or reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that.

Senator HIRONO. Well, usually consent decrees require when they end it is because they have complied with the provisions of the

consent decree. So I am just trying to get a simple answer. And I hope that you would——

Senator SESSIONS. Well, I will give you a simple answer.

It is a difficult thing for a city to be sued by the Department of Justice and to be told that your police department is systematically failing to serve the people of the State or the city. So that is an august responsibility of the Attorney General and the Department of Justice.

Senator HIRONO. So——

Senator SESSIONS. So they often feel forced to agree to a consent decree just to remove that stigma, and sometimes there are difficulties there. So I just think we need to be careful and respectful of the departments.

Senator HIRONO. I understand that. But as to the consent decrees that were negotiated with both parties in full faith to do what is appropriate, that you would leave those intact unless there are some exigent or some extraordinary circumstances.

Of course, going forward as Attorney General you can enter into whatever consent decrees you deem appropriate. So my question really is the existing consent decrees, which took a lot to negotiate, by the way. And it is not the vast majority of police departments in this country, it is 20.

Chairman GRASSLEY. You can answer that if you want to, and then we will move on.

Senator SESSIONS. I understand what you are saying. One of the impacts of a consent decree is it does require judicial approval of any alteration in it, and that raises pros and cons.

Senator HIRONO. Thank you.

Chairman GRASSLEY. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Senator, could you tell the Committee a little bit more about what it was like to be a U.S. Attorney? What was your management style? Did you enjoy it? How was it compared to serving in the State government as a State Attorney General?

Senator SESSIONS. I loved being a U.S. Attorney. Almost everybody that has held the job says it is the greatest job if you like law enforcement and trying to protect citizens and prosecuting criminals. It was just a fabulous job, and we had great assistants. I loved it, and our team did. Those were Camelot days for me. So I did feel that. I only had 2 years as Attorney General. We had this monumental deficit when I got elected and we had to lay off a third of the office because we did not have money to pay the electric bill, and it was just one thing after another. Then I was running for the Senate, so I did not get to enjoy that job.

But the United States Attorney's job was a really fabulous experience, and I believe in the course of it I worked with FBI, DEA, U.S. Customs, Marshals Service, all the Federal agencies, ATF, IRS, Postal Service and their inspectors, and you get to know their cultures and their crimes that they investigate, the officers and what motivates them, and how a little praise and affirmation is so important for them. They get the same salary, you know. If they are not being appreciated, they feel demeaned, their morale can decline. So that kind of experience was wonderful, and I do think it would help me be a better Attorney General.

Senator KENNEDY. I have made up my mind. I yield back my time. I hope you will be a raging voice of common sense at the Department of Justice, Senator.

Senator SESSIONS. Well, thank you.

Chairman GRASSLEY. Before you take a break, I hope that all the people that still want to do a third round will come back in about maybe 15 minutes, or a little less. Is that okay?

Senator SESSIONS. Yes.

Chairman GRASSLEY. Okay. We stand in recess for 15 minutes or so.

[Whereupon, at 6 p.m. the Committee was recessed.]

[Whereupon, at 6:26 p.m., the Committee reconvened.]

Chairman GRASSLEY. For third round, I call on Senator Franken.

Senator FRANKEN. Well, thank you.

Senator, last Friday, the Director of National Intelligence—we have covered this a little—representing 16 agencies, released a declassified intelligence report stating, “we assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. Presidential election,” and yet despite the consensus among our intelligence agencies, President-elect Trump has remained persistently skeptical.

During the first Presidential debate, he wondered aloud whether the responsible party could be China or “somebody sitting on their bed that weighs 400 pounds.” Last month, he called reports of Russian hacking “ridiculous” and “another excuse for the Democrat loss.” He said, “It could be somebody sitting in a bed someplace again. I mean, they have no idea.”

And even after the release of the declassified report, the President has really yet to acknowledge Russia’s role in the hacking. You said earlier that you accept the FBI’s conclusion. To my mind, it is absolutely extraordinary to see a President-elect so publicly refuting, and without evidence so far as I can tell, the assessment of our intelligence agencies.

Why do you think President-elect Trump has been so unwilling to acknowledge Russian involvement in the hacking?

Senator SESSIONS. I did mean to indicate I respect the FBI and I respect the fact that if they give a conclusion, they believe it is accurate. I am not able to comment on the President-elect’s comments about it.

Senator FRANKEN. Okay.

CNN has just published a story—and I am telling you about a news story that has just been published, so I am not expecting you to know whether it is true or not—but CNN just published a story alleging that the intelligence community provided documents to the President-elect last week that included information that “Russian operatives claimed to have compromising personal and financial information about Mr. Trump.”

These documents also allegedly stated, “There was a continuing exchange of information during the campaign between Trump surrogates and intermediaries for the Russian government.” Now again, I am telling you this as it is coming out, so, you know—but if it is true, it is obviously extremely serious. If there is any evidence that any one affiliated with the Trump campaign commu-

nicated with the Russian government in the course of this campaign, what will you do?

Senator SESSIONS. Senator Franken, I am not aware of any of those activities. I have been called a surrogate at a time or two in that campaign and I did not have communications with the Russians, and I am unable to comment on it.

Senator FRANKEN. Very well.

Without divulging sensitive information, do you know about this or know what compromising personal and financial information the Russians claimed to have?

Senator SESSIONS. Senator Franken, allegations get made about candidates all the time, and they have been made about President-elect Trump lots of times. Most of them—virtually all of them—have been proven to be exaggerated or untrue. I would just say to you that I have no information about this matter. I have not been in on the classified briefings and am not a Member of the Intelligence Committee, and so I am just not able to give you any comment on it at this time.

Senator FRANKEN. Okay. Totally fair.

Last week, Julian Assange, the founder of WikiLeaks, claimed that the Russian government was not the source of the hacked emails WikiLeaks published during the campaign. Now, Assange did not identify his source, nor did he say whether his source worked with or received information from the Russians. But again, American intelligence agencies have concluded the Russian government directed the hacking operation. Nonetheless, immediately following that interview, President-elect tweeted, “Julian Assange said a 14-year-old could have hacked Podesta. Why was DNC so careless? Also said Russians did not give him the info!”

Senator Sessions, does it concern you that our future Commander-in-Chief is so much more willing to accept what Julian Assange says instead of the conclusions of our intelligence agencies, and why do you think President Trump finds Assange trustworthy?

Senator SESSIONS. Senator Franken, I am not able to answer that. I have not talked to the President-elect about any of these issues. It is often inaccurate, what gets printed in the papers.

Senator FRANKEN. Well, back in 2010, back when WikiLeaks was publishing stolen American diplomatic cables and military secrets, you voiced concern about the Obama administration’s response. You said that WikiLeaks publishing sensitive documents should be “pursued with the greatest intensity.” You said, “The President from on down should be crystal clear on this, and I haven’t seen that. I mean, he comes out of the left, the anti-war left. They’ve always glorified people who leak sensitive documents. Now he’s the Commander-in-Chief, so he’s got a challenge.”

President-elect Trump, by contrast, said, “WikiLeaks, I love WikiLeaks.” Do you believe that by holding up Julian Assange, who traffics in leaked and stolen documents, often classified documents, as a legitimate source of information that President-elect Trump is glorifying people who leak sensitive documents?

Senator SESSIONS. Well, I would say this, that if Assange participated in violating the American law, then he is a person subject to prosecution and condemnation.

Senator FRANKEN. Well, we know that in regard to what he did in 2010, and yet the President-elect said, "WikiLeaks, I love WikiLeaks." Does it not seem like perhaps if you were not sitting before us today as an Attorney General nominee, and if President Obama was publicly embracing Julian Assange, that perhaps you might take a more critical view?

Senator SESSIONS. As a Member of the Senate, as you, and I remain for, hopefully, not too much longer—depends on you and your colleagues—but I feel it is a lot easier to be vigorous and outspoken. But it is different as you begin to think about the awesome responsibility of serving as an Attorney General, with the possibility of having to handle certain cases. You need to be more cautious about what you say. So I think it is just not appropriate for me to be the person for you to seek political responses from.

Senator FRANKEN. Okay. I am out of time. I will try to stick around for one more quick round.

Chairman GRASSLEY. Okay. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman.

Mr. Sessions, thank you for your endurance today.

Senator SESSIONS. Thank you.

Senator CRUZ. Let us turn to a different topic, one that has been addressed some in this hearing but one that I know is a particular passion of yours and one on which you have built a remarkable record, and that is immigration. I want to focus in particular on the problem of criminal aliens in the United States and this administration's non-enforcement of the laws, and take a moment just to review some of the numbers, which you know very well but I think it is helpful to review for those watching this hearing.

We have had an administration that consistently refuses to enforce our immigration laws, so in October 2015, I submitted that there were 929,684 aliens present in the United States who had been ordered to leave the country but who had not done so. Of those over 929,000 aliens with removal orders, 179,027 had criminal convictions. In addition to the 179,027 criminal aliens with final orders of removal, there were at least 194,791 known criminal aliens who were at the time in removal proceedings. We also know that 121 criminal aliens released by ICE between fiscal year 2010 and 2014 went on to commit homicides, and between Fiscal Year 2009 and Fiscal Year 2015, ICE released 6,151 aliens with sexual offense convictions from its custody.

My question for you, Senator Sessions, is can you commit to this Committee and to the American people that as Attorney General you will enforce the laws, including the Federal immigration laws, and you will not be releasing criminal illegal aliens into the public, especially those with violent convictions, such as homicide or sexual assault convictions?

Senator SESSIONS. Senator Cruz, you and I have talked about this and you know that I believe we have failed in dealing with criminal aliens. President Obama set that as a priority, but I do not think they have been as effective as needed. I believe that should be increased and stepped up. The actual policies, as you know, are Homeland Security policies. The Secretary of Homeland Security will determine those policies. There are ways in which the

Department of Justice can fulfill a role in it, but the overall policies and priorities would be set by Homeland Security.

I just believe that as we go forward and reduce the flow of illegal immigrants into America, then there are fewer people illegally per investigative officer and you get a better handle—you are in a virtuous cycle instead of this dangerous cycle that we are in today where things tend to get worse. So I believe we can turn that around. This is one of the policies that has to be given priority. Donald Trump has also said that he believes criminal aliens obviously should be the top priority, and I believe this Government will work effectively to deal with it. I would do my part.

Senator CRUZ. You know, there are few issues that frustrate Americans more than the refusal to enforce our immigration laws. Not too long ago, I was down on the border in Texas visiting with Border Patrol officials, visiting with law enforcement, local sheriffs. I will tell you, it was after the election and there was a palpable sense of relief, that finally we would have an administration that did not view the laws as obstacles to be circumvented, but rather an administration that would be willing to enforce the laws on the books and stop releasing criminal aliens in communities where the citizens are at risk.

One of the most tragic instances that we are all familiar with is Kate Steinle, beautiful young woman in California who lost her life, who was murdered, by a criminal illegal alien who had seven prior felonies, and yet over and over and over again the system failed and young Kate Steinle lost her life in her father's arms, saying, "Daddy, please save me." You and I are both the fathers of daughters and I cannot think of a more horrific experience than having to hold your daughter at that moment of agony.

Can you share—this has been an issue you have been leading for so long. Can you share your perspective as to the responsibility of the Federal Government to keep the American people safe and not to subject the American people to murderers and other repeat felons who are here illegally, not to release them to the public?

Senator SESSIONS. Senator Cruz, you touched on the right issue here. First and foremost, the immigration policy of the United States should serve the national interest, the people's interest. That is what an immigration system should do.

Number two, under the laws and world agreements, when a citizen from a foreign country is admitted by visa to the United States and commits a deportable act or otherwise needs to be removed, that country has to take them back. When they cease to do that, then you have a serious breach of collegial relations between the two countries. No country, particularly the United States, should ever allow in so many individuals who committed crimes here, often when they entered illegally, and not even coming on a lawful visa. They need to be deported promptly. The reluctance of carrying this out is baffling to me. It should have total bipartisan support. It is said that it does, but somehow it is never accomplished. So it is very, very frustrating. The basic summary of that is, it is perfectly proper, decent, and correct that this Nation not allow people who come here on a visa or illegally to remain here after they have committed crimes.

Senator CRUZ. Well, thank you, Senator Sessions. As you know, I have introduced legislation in the Senate, Kate's Law, which would provide, for those who illegally re-enter with a violent criminal conviction, a mandatory 5-year prison sentence. This past Senate that failed to pass. It is my hope that Congress will pass that legislation and give additional tools to the administration to keep the American people safe.

Let me turn to one additional aspect of illegal immigration, which is the national security component of it. Since August 2015, you and I have joined together to send three separate letters to the Departments of Justice, Homeland Security, and State, as well as a letter to the President, seeking information on the immigration histories of individuals who have been convicted or implicated in a terrorist attack in the United States, and over and over again the current administration has stonewalled our efforts as Senators to get basic facts that I think the American people are entitled to.

You and I were able to piece together from the public record that at least 40 people who were initially admitted to the United States as refugees were subsequently convicted or implicated in terrorism, and more broadly, of a list of 580 individuals who were convicted of terrorism or terrorism-related offenses between 2001 and 2014, at least 380 were born in foreign countries, many from terror spots in the Middle East, Africa, and Central Asia. Of the 198 U.S. citizens you and I were able to find on that list, at least 100 were born abroad and subsequently naturalized.

As I mentioned, the administration has stonewalled us. Will you commit to work with this Committee to provide the data that we have been seeking, that I think the American people are entitled to know, of those who are committing terror plots against us, how many are coming in through a broken immigration system, through a broken refugee system, and to working with this Committee to prevent that from happening in the future to keep the people safe?

Senator SESSIONS. I would do that. I do believe that is a Homeland Security's primary responsibility, but it was a bit frustrating because what those numbers tend to indicate is that it is not true that refugees do not commit terrorist acts. There is a danger, even in the refugee population, and good vetting is critical in that process.

Senator CRUZ. Thank you, Senator.

Chairman GRASSLEY. Senator Coons.

Senator COONS. Thank you, Mr. Chairman.

Senator Sessions, if I might, I would like to take us to an area I do not think has been explored much today, but of grave concern to me, which is disability rights, another area where, if confirmed as Attorney General, you would be charged with protecting among the most vulnerable Americans and those whose rights have only recently been fully recognized and enforced.

You have previously said that the IDEA, which provides for access to education for those with intellectual disabilities, creates "lawsuit after lawsuit, special treatment for certain children, and is a big factor in accelerating the decline in civility in classrooms all over America." In a different setting, you were critical of the Supreme Court's decision in *Atkins v. Virginia* in 2002 which held that executing individuals with intellectual disabilities violates the

Eighth Amendment. In a floor speech 6 days later after that ruling you said that you were “very troubled” by the Court telling States “they could not execute people who were retarded.” If a State was scheduled to execute someone with intellectual disabilities, would you insist on the Justice Department now taking vigorous action to stop it? And given your previous comments about the IDEA, do you still believe it unfairly benefits some children and hurts others?

Senator SESSIONS. We made real reform in IDEA. I led that effort. We ended up having the vote of Hillary Clinton and Dick Durbin, Senator Durbin. We worked on it very hard and I was very pleased with the way it worked out. It was true that the IDEA community pushed back against the reforms I was proposing, but in the end I think it worked out fine.

The reason was that the burden was on the school systems. I was in a Blue Ribbon, great little school in Alabama on the first day of school and the principal told me, it is now 3; at 5, I will go to a meeting with lawyers and parents about a child on whether or not they will be in the classroom all day or half a day, and the child had serious disabilities. So he said, I am trying to get this school up and running and I am having to spend this extraordinary amount of time on this. So we created a legal system that made it better and the schools got a little more deference in being able to monitor it, and it was a big issue. It was a disruptive force in big-city schools in New York and Chicago and other places like that.

So on the question of intellectual disabilities, I suppose we can disagree, as a matter of policy. Perhaps I was questioning the legal mandate. But a person with intellectual disabilities, that should be considered as a factor in the sentencing jury or the judge’s opinion before they go forward. But obviously if a person knows the difference in right and wrong, historically they would be held to the same standard, even though their intellectual ability would be less.

Senator COONS. Let me revisit a question about consent decrees that Senator Hirono was asking about previously, because consent decrees have been used in this area, in disability rights, to make sure that folks with intellectual disabilities have access to services and education, but also in policing.

Police chiefs and elected officials, as we have spoken about, in communities across the country have in some cases invited DOJ to open civil rights investigations of their police departments and have invited them to enter into consent decrees in order to implement reforms to law enforcement in order to make sure that they improve the quality of police-community relations and respect for civil rights.

Do you plan to continue to assist cities with these investigations when asked, if Attorney General, and under what circumstances would you commence a civil rights investigation of a law enforcement agency that may have violated Federal law?

Senator SESSIONS. Well, those are difficult questions for me to answer explicitly today, but I would note on the consent decrees or the language Senator Hirono quoted, that my statements were simply part of the foreword to a booklet.

Consent decrees have been criticized in a number of areas. I am not familiar with how they have worked out in the disabilities

arena, but with regard to police departments, I think it is a good thing that a police department might call on Federal investigators and a team to work with their police department to identify any problems and to help select remedies that the community might feel were more valid because the Department of Justice validated them and agreed to them. So, as I think you and I talked, it really is important that the people trust the police departments and the police departments have respect from the communities. When you do not have that, people's safety is at risk.

Senator COONS. Well, I hope we can find ways to continue to work together to combat violent crime and to improve police-community relations.

Let me just briefly ask you about trade secret theft and intellectual property, something we have also talked about. There is a significant problem for American inventions, companies, entrepreneurs, of having their innovations stolen, sometimes by cyber hack, by intrusions, sometimes physically through industrial espionage. The Obama administration has made real progress in increasing enforcement and in going after those who would steal America's inventions.

Is that something that you would intend, to continue vigorous enforcement to protect American inventions?

Senator SESSIONS. I do. I think a lot of that may be through the U.S. Trade Representative, it could be done through the Commerce Department and other departments, and the Department of Justice may have a role—

Senator COONS. It does.

Senator SESSIONS [continuing]. In criminal activities or civil enforcement. I would not say for certain what that role would be at this point, but my view, as you and I have talked, is that you are correct about this. When we enter into a trade agreement with a foreign nation, we have to understand that it is just a simple contract and we will comply, we will deal with you on this basis, and if a party to that contract is not acting honorably, then you have every right to push back.

And if it ultimately means you have to pull out of the agreement, then you pull out of the agreement if it is serious enough. I do not think we have been as aggressive as we should have been in those agreements.

Senator COONS. Let me ask one last question, if I may, Mr. Chairman. I just wanted to reflect on something you said in your opening, and something we have talked about. You were born in Selma, roughly 70 years ago. I have been to Selma several times with Congressman Lewis and a number of others, and last year many of us joined Congressman Lewis for the 50th anniversary of that famous march across the Edmund Pettus bridge when he faced violence and the response—the conscience of the Nation was stirred by this horrible event, and it spurred Congress to pass the bipartisan Voting Rights Act.

There has been a lot of questioning back and forth about your comments about whether the Voting Rights Act was intrusive in the *Shelby County* decision, and I just wanted to make sure I came back to an important point, which was that Senator Leahy and I, and a number of others, tried hard to find Republican partners to

advance the Voting Rights Advancement Act, which would have replaced the now 50-years-old, roughly, preclearance formula with a new one that would be national in scope, would not disadvantage any region, and would be simply based on enforcement actions.

Previous questioning by, I think, Senator Franken and others focused on recent enforcement actions, the Fourth Circuit finding that North Carolina's post-*Shelby* voter ID law violated the law because it targeted African Americans. You said in your opening statement that you witnessed the civil rights movement as it happened near you, that you witnessed the depredations of segregation. In a ceremony last year during the presentation of the Congressional Gold Medal to the foot soldiers of the civil rights movement, you said, "I feel I should have stepped forward more."

What more do you think you perhaps could have done, or should have done, in recent years as a Senator to take more active action so that folks from around the country could have confidence in your commitment to continuing the journey of civil rights in this country?

Senator SESSIONS. Well, I do not think we have to agree on everything. Just because you think this was a necessary thing, you may be right, and if I do not think so I do not know that I am necessarily wrong. I would say that I did sponsor the Congressional Gold Medal Act that gave the Gold Medal to the Selma and Montgomery marchers with Senator Cory Booker. We were the two lead sponsors on it.

I was at that event and have a wonderful picture I cherish with John Lewis and other people on the bridge, celebrating that event. It changed the whole South. African Americans were being discriminated against systematically in voting. They were being flatly denied, through all kinds of mechanisms, and only a very few in many instances were allowed to vote, if any. So this was an unacceptable thing. As I said at the hearing in 1986, I was asked about it being intrusive. Please, Senator Coons, do not suggest in any way that that word means that I was hostile to the act. I said then and I say now, it was necessary that the act be intrusive because it had to force change, and it would not have happened without the power of the Federal Government. That is a plain fact.

Senator COONS. Senator, what I am suggesting is an alternative path forward for the Voting Rights Act that would not have been singling out one region or one State or one history, but that would have allowed the Voting Rights Act to continue to be effective in the face of the recent record showing ongoing discrimination, ongoing denial of the right to vote in different States across the country, now no longer isolated to the South. When presented with an opportunity to continue and strengthen the Voting Rights Act post-*Shelby*, you did not take that step.

Senator SESSIONS. Well—

Chairman GRASSLEY. Senator Sessions, if you need to answer that, go ahead and answer it.

Senator SESSIONS. I will be short.

Chairman GRASSLEY. I want to go to Senator Blumenthal.

Senator SESSIONS. As I said, I supported the reauthorization of the Voting Rights Act with Section 5 in it. When the Supreme Court said it was no longer necessary that Section 5 be in it, I did

not support the language that you and Senator Leahy offered that would basically put it back in. So I do not apologize for that. I think that was a legitimate decision.

With regard to the question of voter ID, I am not sure it has been conclusively settled one way or the other whether a properly conducted voter ID system is improper and discriminatory. Indeed, the Supreme Court has held that voter ID is legitimate, at least under certain circumstances.

Chairman GRASSLEY. Okay. Before Senator Blumenthal, I have another thing that has come to our attention, so I would put this in the record without objection, a letter that we received from some lawyers about the IDEA issue. These lawyers litigate cases on this issue. They say certain stories about the issue took Senator Sessions' comments out of context, and then they go on to note that Senator Kennedy and others later reached an agreement with Senator Sessions on the issue.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman.

Senator Sessions, I want to pursue this conversation about voting rights. In October 2015, there was a report, widely reported, that the State of Alabama intended to close a number of DMV offices. Congresswoman Terry Sewell wrote to the Attorney General, Loretta Lynch, urging an investigation, stating, I am quoting, "This decision will leave 8 out of 10 counties with the highest percentage of non-White registered voters without a Department of Motor Vehicles, DMV, to issue an Alabama driver's license." She noted that, "an estimated 250,000 Alabamians who do not have an acceptable form of photo identification to cast a ballot."

As you know, subsequently the Department of Transportation initiated an investigation under Title VI of the Civil Rights Act, and that year-long investigation found that Alabama's conduct caused "a disparate and adverse impact on the basis of race." Did you believe, or do you believe now, that it was a problem that 250,000 estimated citizens of your State did not have the requisite ID to vote?

Senator SESSIONS. There is a system, I understand, that makes those IDs available. The driver's license offices were part of a budget-cutting process within the State, which I had absolutely nothing to do with, and did not know about until it was done. And they claim that they were simply identifying the areas with the lowest population and trying to do some consolidation and trying to make the system more efficient and productive.

It was later that these objections arose, and they have reversed that, I believe. So that is the way that went. I hope there was no intent at the time to be racially insensitive, but indeed many of the closures were in counties with large African-American populations.

Senator BLUMENTHAL. Did you believe then that there was a problem in denying 250,000 people an access to photo identification they needed to vote?

Senator SESSIONS. Well, it did not deny 250,000 people the right to vote. That would be utterly wrong and should be stopped immediately. But in this instance, it might have required people to go to the closest driver's license office in the next county which might

be closer for you to go to than the one that was closed. But it was, in general, perceived as detrimental to African Americans, and included within that detriment was the possibility of an ID for voting. So you are correct. It was controversial, and it was fixed.

Senator BLUMENTHAL. Did you agree with the Department of Investigation finding that it had an adverse and disparate impact on people on the basis of race?

Senator SESSIONS. Oh, I have never expressed an opinion upon it and I never studied that issue in depth. But apparently somebody must have agreed, because it was changed.

Senator BLUMENTHAL. Did you agree with that conclusion?

Senator SESSIONS. Well, yes; I was happy that that solution was reached, yes. Very much. You know, we should remember those things as we move forward, setting policy, what kind of ramifications it could have. I do not think they had voting on their minds at all, but it could impact voting to some degree, for sure.

Senator BLUMENTHAL. But you took no action at the time? You expressed no conclusion at the time, despite what was found to be a disparate and adverse impact on voting rights of 250,000 members of the citizens of your State?

Senator SESSIONS. Well, they did not ask my opinion before they did it, and it was purely a State matter. And I did not actively intervene, you are correct.

Senator BLUMENTHAL. I want to ask you about the DACA young people, the DREAMers, who have submitted information to the Federal Government about their whereabouts, their identities, a lot of personal details. And I know that your response, I think to a question about it, was that Congress must act.

But would it not violate fundamental fairness, whether due process or some standard of constitutional due process, to use that information, in fact, against them? Obviously, we are not talking about a criminal proceeding, so there is no double jeopardy. But I guess I am asking for your commitment, as a prospective Attorney General, your respect for the Constitution, to make a commitment that those young people will not be deported, that you will continue that policy that has been initiated.

Senator SESSIONS. Certainly you are correct that that cohort of individuals should not be targeted and given priority anything like that which should be given to criminals and people who have had other difficulties in the United States—those who have been ordered deported and had final orders of deportation. I understand what you are saying there. I think, until I have had a chance to think it through and examine the law and so forth, I would not opine on it myself.

Number two, importantly, this is a policy of Homeland Security. They have got to wrestle with the priorities of their agents, how they should spend their time, and try to do that in the most effective way. So General Kelly will have to think that through. Simply, if some matter were litigated, we would try to be supportive of the litigating position, if possible. But it is really a Homeland Security question.

Senator BLUMENTHAL. I understand that Homeland Security may be involved, but ultimately, orders to deport are the responsibility of the Department of Justice to enforce. You are the nominee to be

the Nation's chief law enforcement officer. And more importantly, in some sense you are a source of the Nation's conscience, legal conscience. And so I am asking you, as a prospective United States Attorney General, whether your conscience would be violated by using information submitted in good faith, by countless young people who have been in this country since infancy, many of them, and who trusted the Government of the United States of America to give them the benefit of that policy articulated by the President of the United States.

You may have disagreed with that policy, but the submission of that information in good faith on the basis of representations by the United States of America, it seems to me, involve a prospective commitment on your part in representing the United States of America.

Senator SESSIONS. Well, you make a good point, and that is a valid concern. I know of no policy that would suggest that something like that would be done, and I would not push for it. But ultimately the decision would be made by the Homeland Security Department. They decide their priorities for enforcement. I would not want to be in a position to say they would never be used, and I cannot make that commitment today. I have not thought it through as to what laws might be implicated. But if somebody were a terrorist or had other criminal gang connections, could you never use that information? I do not know. I am just not prepared to answer that today. It may not be possible to use it.

Senator BLUMENTHAL. Well, I recognize, Mr. Chairman, my time is up. But I will pursue this line of questioning again, because I feel I am midway through a number of questions.

Thank you, Senator.

Chairman GRASSLEY. Before I call on the Senator from Hawaii, I would like to note that Pat Edington, former vice chair of the Alabama Democratic Party, wrote to our Committee in support of this nomination. Mr. Edington says, "I truly hope our party will not make this vote on party lines, but instead vote on the man." Quote again, "I have known him for approximately 40 years, and while we have had our policy differences, I know his instincts are fundamentally humane and just." I will, without objection, enter that in the record.

[The letter appears as a submission for the record.]

The Senator from Hawaii.

Senator HIRONO. Thank you, Mr. Chairman.

Our Muslim-American community is gravely concerned about what a Trump presidency would mean for them. So can the Muslim Americans count on you, as Attorney General, to protect their constitutional and civil rights?

Senator SESSIONS. Yes.

Senator HIRONO. Thank you. Very reassuring.

[Laughter.]

I had asked you earlier about consent decrees, to relate to police departments. I have a question along those lines, but it involves another part of civil rights. In 2015, a Federal district court in Alabama, your State, approved a consent decree order filed by the Department of Justice in the Huntsville City Schools case. And this was a school desegregation case.

A number of other school districts throughout the country are under desegregation orders. Would you commit to maintaining and enforcing those decrees?

Senator SESSIONS. Those decrees still remain in effect in a number of districts. Huntsville is a very strong, healthy, and well-managed school system. I believe they have good leadership. But a consent decree remains in effect until it is altered by the Court.

Senator HIRONO. So your answer is——

Senator SESSIONS. They would be enforced until there is an alteration of it, yes.

Senator HIRONO. Thank you. I have a question about violence and the increasing number of threats against providers of health care services and abortion services to women.

Since the November election, the number of threats online, many of them online, against the providers have more than tripled. Given the increasing numbers of violence targeting abortion providers, how high of a priority will it be for you to prosecute violence targeting abortion providers under the Freedom of Access to Clinic Entrances Act?

Senator SESSIONS. They deserve the same protection that any entity—business or otherwise—is entitled to, when people violate the law and carry out improper threats or blockades of their business.

Senator HIRONO. Well, where there is——

Senator SESSIONS. Even more so, because we have a specific law about abortion clinics, I believe.

Senator HIRONO. Yes. So there is a specific law that Congress passed that protects access to these clinics and where there is evidence of increasing number of threats of violence, I hope that that gets on your radar screen as a priority for enforcement.

Senator SESSIONS. As the law is to be applied, yes. I do not know exactly how the threats are worded, but if it is improperly done, they can be subject to criminal prosecutions and they would be evaluated properly, in my administration.

Senator HIRONO. And certainly where Congress cared enough about this particular area of access, that I hope that you would have a commitment to making sure that that law is being enforced in the way that we intended.

Regarding birthright citizenship, people born in this country are U.S. citizens, regardless of the citizenship status of their parents. And there are those who argue that that is not enough to confer citizenship.

Do you believe that there should be more required to become U.S. citizens?

Senator SESSIONS. Well, under the current state of the law, it is accepted that they do obtain their citizenship. There are two obstacles to changing that. One would be congressional enactment, I believe, to change it, and even that congressional action could be construed as violative of the Constitution and not be a constitutional act. I have not reviewed the details of that. I do know there is some dispute about whether or not the Congress could change that status.

Senator HIRONO. But it is certainly not anything that, in the order of priorities, that you would pursue as Attorney General to

ask Congress to change the law to require more than being born in this country to confer U.S. citizenship?

Senator SESSIONS. I would be focusing my attention on enforcing the laws that exist, and I guess it would be Congress' duty to wrestle with whether to change it or not.

Senator HIRONO. On turning to a change in the law that came about after the Lilly Ledbetter case, the Lilly Ledbetter Act, and I know you are familiar with the factual circumstance in which Lilly Ledbetter did not know that she had been given disparate pay—that was illegal. She did not find out about it, and the Supreme Court said you only have 180 days in order to find this out, in order to have your day in court.

So Congress had a bill which you voted against, and I am wondering why you voted against that bill. Because in making that decision, the Court basically abrogated years and years of legal precedent. It was a surprise to a lot of us that suddenly they were imposing 180-day, you-must-know kind of a requirement.

But you voted against that bill. Can you tell us briefly why?

Senator SESSIONS. We had a hearing on it in the Judiciary Committee. A number of witnesses testified, and the testimony, as I understood it, was that she did in fact have notice, that the Court found that she had notice, and that is why they held that the statute of limitations was enforced.

You need a statute of limitations of some kind, and if they do not know, then you can allow it to continue indefinitely. But as I understood it, that was the ruling. So it was less problematic for future cases than was discussed, but my recollection is not perfectly clear on that issue. That was one of the factors I remember being involved in my decision.

Senator HIRONO. My recollection of the holding in that case is different from yours, because often in these pay discrimination cases, unlawful pay discrimination, the victim is not aware and has no way of finding out that such discrimination is occurring. And that is why the law made it very clear that every instance of a disparate paycheck would constitute a new violation, and that is all this bill did. Otherwise, the Lilly Ledbetters of the world would really be—would be foreclosed from their day in court.

So you obviously have a different understanding of the holding of the case.

Senator SESSIONS. My memory is not that good. But if you have explicit notice, hypothetically, should every paycheck for the next 20 years restart the statute of limitations? So that was the legal question. However, my recollection is not perfect.

Senator HIRONO. I was very concerned about that case, and so I would say that perhaps my recollection of the holding is more accurate than yours.

Let me turn to corporate wrongdoing. When I just met with you, you indicated that nobody is above the law. And there is, I think, an ongoing investigation on the part of the Department of Justice what Wells Fargo did in basically defrauding millions of their customers.

So would you continue to pursue this kind of investigation, and would you also hold accountable individual corporate officeholders should there be found to have been a violation of law?

Senator SESSIONS. Corporations are subject as an entity to fines and punishment for violating the law, and so are the corporate officers. And sometimes it seems to me, Senator Hirono, that the corporate officers who caused the problem should be subjected to more severe punishment than the stockholders of the company who did not know anything about it.

Senator HIRONO. That could not agree with me more.

Thank you, Mr. Chairman.

Chairman GRASSLEY. Senator Franken, you said you had one more question you wanted to ask?

Senator FRANKEN. Could I ask two?

Chairman GRASSLEY. Go ahead.

Senator FRANKEN. By the way, Chairman, I must compliment you. You have deferred your time to us all, and I thank you.

Chairman GRASSLEY. I have not given it up. I have just—

Senator FRANKEN. No, you deferred it.

Chairman GRASSLEY. Please proceed. You are taking time.

[Laughter.]

Senator FRANKEN. Okay.

Senator, I would like to briefly return to something you said earlier about your opposition to VAWA and our courtesy visit. The second item of substance that we discussed was violence against Native women. I told you how important the issue is to me and to Tribes all over the country, and they have highlighted that for me time and time again. And when I provided you with a statistic demonstrating just how prevalent violence against Native women is and at the hands of non-Indians, you expressed shock and said that you did not realize the extent of the problem.

Over 84 percent of Native women experience domestic or sexual violence, and over 97 percent of them are victimized by non-Indians. That is a recent stat. But in 2012, all you had to do was talk to one Tribe, and you would have learned that women in Indian Country are regularly abused by non-Indians, who go unprosecuted and unpunished.

If you take the issue of domestic and sexual violence seriously, I think it is incumbent upon you to visit at least one Tribe. I think Alabama has nine Tribes that are recognized in the State, is that correct?

Senator SESSIONS. Well, I believe, only one Tribal group that has properties on Tribal lands.

Senator FRANKEN. The Poarch?

Senator SESSIONS. Poarch Creek. Used to be in my district; I have had good relations with them. Been on that small Tribe's lands a number of times and visited their clinics.

Senator FRANKEN. Okay, good. Well, I would—if you are Attorney General—and even if you are not, but certainly if you are Attorney General, when you are back home you might take some time to talk with them about this issue. Earlier, you told Senator Hirono that you cannot commit to not challenging VAWA on these grounds. But you have also admitted that you did not understand the gravity of the problem of violence against Native women when you voted on it in 2013, or the extent of non-Indian violence.

Would you just commit to me to spending a little bit of time with the Poarch Tribe? Thank you. That would be good.

Senator SESSIONS. They have been supportive of me.

Senator FRANKEN. Thank you.

I want to talk about one last thing.

Chairman GRASSLEY. You have got one more question.

Senator FRANKEN. Thank you. Thank you, Mr. Chairman.

The day before the election, Candidate Trump came to my State for his only rally during the campaign. And let me tell you what he said. He was standing before a large crowd, and he accused Democrats of planning to “import generations of terrorism, extremism, and radicalism into your schools and throughout your communities. Here in Minnesota,” he said, “you have seen firsthand the problems caused with faulty refugee vetting and large numbers of Somali refugees coming into your State without your knowledge, without your support or approval, and with some of them joining ISIS and spreading their extremist views all over our country and all over the world.”

I cannot begin to tell you how angry those comments made me, to see Candidate Trump hold his only rally in Minnesota at an airport where about a thousand Somalis, immigrants, work—Somali Minnesota immigrants—work and earn—well, refugees, really. And to stoke that kind of fear and hatred was an insult, I believe, to every Minnesotan. It was offensive, it was irresponsible, but it was not really surprising. Candidate Trump made scapegoating immigrants and refugees and banning Muslims from entering our country a centerpiece of his campaign. Now, some of his advisers tried to spin or walk back his comments on the so-called Muslim ban, but you, Senator, no, you said that the idea was “appropriate to discuss.”

In June you said, “We must face the uncomfortable reality that not only are immigrants from Muslim-majority countries coming to the United States, radicalizing, attempting to engage in acts of terrorism, but also their first-generation American children are susceptible to the toxic radicalization of terrorist organizations.”

You said that our Nation has an “unprecedented assimilation problem.” You know, Senator, part of what makes that assimilation challenging is when people seeking to lead this country exploit fear and anxiety and redirect that fear toward our immigrant and refugee communities.

Right after the election, my office got a call from a middle school teacher in St. Paul. Her school has a very sizable population of Somali-Americans, Somali-Minnesotan kids. Now, they are smart kids, so they have been paying attention to the election, and they were terrified. The teacher called my office and said, please, please have Senator Franken come to the school and give them some assurance. These kids did not know what to make of a country, their country, electing a leader who describes them and their families as worthy of hatred and suspicion. So I did my best to alleviate their fears that day. I told them, “You are Americans.” I said, “You kids, you are Americans. Do not be afraid.”

A couple of weeks later, I talked to the French Ambassador to the United States. I said to him, “Who is defined as a Frenchman in France?” And he said, “Somebody who can trace back a couple of centuries to their family in a French village.” Well, these kids are Americans, and we consider them American. And what we saw

in Paris and what we saw, which was caused by Belgians, is because they take that attitude in Europe. We do not take this attitude, and it is dangerous to take it.

One of the most beautiful events I have been to was the graduation—high school graduation, Wilmer, Minnesota, in June. I invited myself there because one of our pages, our Senate pages, was from Wilmer and she is Somali. A Somali Minnesota girl. When I saw her on Election Day, I was at the University of Minnesota; she graduated and went to the University of Minnesota. She told me her sister, her younger sister, was named the Wilmer Homecoming Queen. In Europe, they do not assimilate people. Here in the United States, we vote them Homecoming Queen.

Thank you.

Chairman GRASSLEY. Senator Tillis.

Senator SESSIONS. They are Americans.

Chairman GRASSLEY. Senator Sessions, if you want to respond, go ahead.

Senator SESSIONS. Well, I think Senator Franken makes some important points, and I appreciate his comments.

Senator FRANKEN. Thank you.

Chairman GRASSLEY. Senator Tillis.

Senator SESSIONS. Although I do believe my comment was unrelated to the event in your State.

Chairman GRASSLEY. Senator Tillis, you are entitled to 10 minutes—first round, but you do not have to use it all.

[Laughter.]

Senator TILLIS. I have learned nothing else except to understand what the Chairman means when he says that.

Chairman GRASSLEY. I want to do my second and third round.

Senator TILLIS. No, Mr. Chair, I am not going to take long. And Mr. Chair, you know, and Senator Sessions, I think that you know that I was in Tennessee today for the proud moment of seeing my brother sworn in to the legislature. However, I got up and watched the opening comments, your opening comment. You did an extraordinary job. And to be honest with you, I think you have demonstrated more stamina today than the Crimson Tide did last night against a worthy adversary.

But Senator Sessions, I am not going to ask a lot of questions. I am going to tell you I thank you for your leadership. I think you and I have talked about this before, but I want to thank you again publicly about your leadership as a balanced chair and I think, as the late Arlen Specter said, an egalitarian.

I have seen you sit on the Immigration Subcommittee, and you have seen me come to every one of those meetings and you know you and I have a difference of opinion on that matter. What is remarkable about you is you bring balanced panels to discuss the issue so that both sides can be heard, and you never, ever hesitated to let me speak as long as I want to, which I am sure was a lot longer than you wanted me to. And I really appreciate your leadership, because that is what is missing oftentimes up here in the Senate. And we are going to miss you, and I am going to look forward to voting for you and for your confirmation.

I asked the same question of the Attorney General that was before this Committee two years ago, and I want to ask you because

it is very important to me. I think the Department of Justice has issues. I think that the Inspector General's report is a good example, back in 2014, when I simply said, an Inspector General's report that says that they need to increase accountability in the Department of Justice—and I will get to a specific question in a minute—that we should act on it. I got a non-answer to that question. In fact, I got a better answer to a deputy who came back in, which is why I supported the deputy and I did not support the AG nominee.

Could you tell me if you have had an opportunity to take a look at those recommendations and to what extent those recommendations would be instructive to you, now that you have become the—when you become the Chief Executive of that agency?

Senator SESSIONS. I am glad you raised it and I hope you will stay on the Department of Justice to respond to it. I have not studied it. Some time ago, I believe, I had a briefing on the nature of it, but it does appear to me to raise fundamental questions about the good management of the people's money. That money needs to be managed effectively—every single dollar—to get positive results, not wasted. And I will be glad to hear any suggestions you have and it will be a priority of mine.

Senator TILLIS. Thank you.

Senator SESSIONS. In fact, you are the third person that has raised it, and so I think what we need to do, and I will do, is an immediate analysis of it if I am so fortunate as to be confirmed.

Senator TILLIS. Thank you, because we will be following up on it. This is something that I think is very important to me. And really a specific question in that regard, I hope you will look at it, and when you get confirmed, make it a priority to look into.

As a part of the report, I believe it was said that some DOJ employees engaged in prosecutorial misconduct and perjured themselves in court. If you find that to be substantiated, what would you do with the people in the DOJ who were guilty of such actions?

Senator SESSIONS. The Department of Justice is a great institution. Most of the people are people of the highest character and ability.

Senator TILLIS. Without a doubt.

Senator SESSIONS. However, we have had a series of problems over time that seem to me to be worthy of concern, broadly. And I think it would be important for the next Attorney General to try to revitalize and re-emphasize the absolute commitment that a Federal prosecutor must have to do justice and not just win a case.

And also, it is hard for lawyers in Washington who get sent out to the field to try a big, important, high-profile case; they do not know the community very well. Maybe they have not tried as many cases as a United States Attorney in the field that does that every day. Things can go wrong. We need to do better.

Senator TILLIS. Well, I thank you for that. Also, just by way of comment, the Chair lifted a stack of letters that remained unanswered by the current Attorney General and the DOJ. He did cite that he expects you to respond, at least to the one that you signed, but I hope you will actually respond to all of them. To the Chair's credit, not only from the Chair, but from the Ranking Member and

Members of this body who are trying to make the DOJ the best it can possibly be.

Finally, I will just yield back the rest of my time after saying that I watched—I probably watched a good 3 hours of the proceedings today. I was struck at one point when some were casting doubt about you in terms of your view of ethnicity and a number of other backgrounds. What struck me the most about that picture on TV was your wife's eyes welling up because she and your son know you well. Many of us know you well. And I think all of us know that you are going to make a great Attorney General. You are a fair-minded man, and you are going to obey the law. You will no longer be a lawmaker, which I know from time to time is probably going to frustrate you. But I have no doubt in my mind you will be one of the best Attorney Generals; you will faithfully execute the law, you will enforce the law, and you will do it in a fair and impartial manner. And I cannot wait to see you in action.

Thank you, Senator Sessions. Thank you, Mr. Chair.

Senator SESSIONS. Thank you.

Chairman GRASSLEY. Before we start the fourth round, I do not think you have had your third round, Senator Sasse, so proceed.

Senator SASSE. Thank you, Mr. Chairman.

Chairman GRASSLEY. You have got 8 minutes. You do not have to use it all.

Senator SASSE. Thank you for the counsel for a rookie. I also did not think I could talk about college football, but Senator Tillis already broke that bubble. Senator, Nebraska 1995 remains the best team in the history of college football. I think we can all agree after last night.

[Laughter.]

Senator SASSE. I would like to ask you a question about sue and settlement. I have heard from Nebraskans how regulations are gamed by activists to try to change Federal policy through lawsuits and settlements rather than through the making of law in the Congress. Federal agencies and activist groups are often assumed to have been sort of colluding to do this to circumvent the Congress, and I am curious as to what you think when plaintiffs and the Government enter into a settlement to try to change policy.

What is the appropriate role of the Department of Justice to make sure that that agreement does not circumvent the law and the Congress and the Administrative Procedure Act?

Senator SESSIONS. The Department of Justice has final settlement authority in any case against the United States, although they can listen to and see their role as being supportive of the agency. So if Homeland Security or the Department of Education or EPA is being sued, they have the power to make the final judgment, and their responsibility is to protect the public interest, the national interest, and to make sure the law is followed.

There has been in State court, and sometimes in Federal court this sue and settlement, this consent decree that we have been talking about. I pointed out that it is, at times, controversial. So if the officials at the Environmental Protection Agency believe that a law should be expanded and they are sued by a group that wants to expand the law in the same way, and if the Department of Justice goes along with the agency and agrees to a settlement and gets

a court to order this to occur, then the Government is bound by their settlement agreement. The democratic process is eroded because a decision is being made by unelected people and not the legislature.

So you understand, and I think that was a fundamental part of your question, I do believe a good Department of Justice needs to be alert to that and should not feel obligated to settle a case on the terms that any agency might think, but make sure the settlement is legal and justified and in the national interest.

Senator SASSE. And there have been occasions, there have been reports that it has been the practice of DOJ at times to force violators to make certain payments to approved third parties as a condition of settlement. As a hypothetical, there have been discussions about whether or not a bank that was, again hypothetically, fined by the DOJ might see its penalties reduced if it made payments to a designated not-for-profit.

When, if ever, is it appropriate for the Department of Justice to require payments to any third party as a part of a settlement?

Senator SESSIONS. I think that is a very dubious practice. I would be cautious about it, and we would have to make sure it is justified. And normally that is not the best way to settle a case, in my opinion.

Senator SASSE. And, finally, the Judgment Fund that the Department of Justice administers is a general fund that is available to compensate those who sue the Government and win. Unfortunately, how this money ultimately gets used is not fully known by the Congress.

Will you commit to making public the use of these funds?

Senator SESSIONS. The funds that are not paid out or funds that are paid out as part of a litigation?

Senator SASSE. In the Judgment Fund, the Department has the discretion to determine how to settle these cases and what payments to make. But the Congress and the public often do not know where this money goes.

Would you commit, as Attorney General, to being transparent with where the funds go out of the Judgment Fund?

Senator SESSIONS. I would be surprised if it is not public, and it should be available to the public. They should know how a lawsuit is settled and where the money went, absolutely.

Senator SASSE. Thank you, Senator.

Chairman GRASSLEY. Before Senator Blumenthal follows up on some things he wanted to, we received a letter in support of Senator Sessions' nomination from 108 former U.S. Attorneys who served under every President since President Nixon. They say, "We have no doubt that Senator Sessions can do the job well, bringing to this critically important office his own unique and extraordinary strengths of courage, humility, experience, and an inviolable promise to treat all people equally under the law."

Without objection, I will insert that in the record.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman.

Senator Sessions, in response to one of Senator Tillis' questions, you said that the job of the Attorney General is to do justice, not

necessarily to win a case. And I think that is almost an exact quote from Justice Jackson when he was United States Attorney General. It is one of my favorite quotes. I think he said the role of the United States Attorney or a Government lawyer is to do justice, not necessarily win a conviction. And that is why I feel that the role of Attorney General ought to be the legal conscience for the Nation, as I was remarking earlier.

So I hope that you will reconsider what you have said about the DACA policies and assert an independent view based on the Nation's conscience, or what it should be, about what has happened to those young people. Likewise, on issues like Deutsche Bank, which you and I have discussed privately, and where I think there ought to be an investigation focusing on individual culpability, and perhaps in some of these other investigations as well, where an independent counsel may be necessary; and, similarly, your response on recusal from votes on your prospective colleagues appointed by the President-elect where you have not yet responded to the letter that I wrote.

I am not going to take more time this afternoon or tonight, but I think that I remain unsatisfied on those questions. And, in general, I think that the role that you would have as United States Attorney General ought to be not just another Government lawyer, but as a champion of civil rights and liberties and the Nation's legal conscience. And thank you, Mr. Chairman, for giving me this opportunity.

Senator SESSIONS. Thank you, Senator Blumenthal, and I respect your history as a prosecutor and United States Attorney and time in the Department of Justice.

Senator BLUMENTHAL. Thank you.

Chairman GRASSLEY. Thank you, Senator Blumenthal.

Senator Sessions, you have been a vocal champion for American workers, especially as we have heard so much about how American workers are being laid off and replaced by cheaper foreign labor imported through some of our visa programs. You have been a co-sponsor of a bill sponsored by me and Senator Durbin that would reform H-1B visa programs by ensuring that qualified American workers are considered for high-skilled job opportunities before those jobs can be offered to foreign nationals. It also would prohibit companies from hiring H-1B employees if they employ more than 50 people and more than 50 percent of their employees are H-1B or L-1 visa holders.

This provision would crack down on outsourcing companies that import a large number of H-1B and L-1 workers for short training periods and then send these workers back to their home countries to do the work of U.S. workers.

In 2013, you and I seemed to be the lone Senators on this Committee who fought for U.S. workers. We argued that the Gang of Eight bill that would have increased the number of foreign workers who came in on H-1B visas and actually hurt Americans who were qualified and willing to do those jobs, we said that the bill failed to adequately protect U.S. workers and neglected to hold employers accountable for misusing the H-1B and L-1 visa programs.

We tried to provide more protection for U.S. workers. We tried to ensure that no business imported foreign workers before making

a good faith effort to hire people at home. We tried to expand the ability for Government to audit employers. We offered amendments that were supported by the AFL-CIO. In April 2015, you helped lead eight other Senators in a letter to then-Attorney General Holder, Secretary of Homeland Security Johnson, and Secretary of Labor Perez on this issue. Some of those who signed that letter sat on this panel today, for instance, Senator Durbin and Senator Blumenthal. That letter requested that the Obama administration investigate abuse of H-1B visa programs by companies, including Southern California Edison, Disney, and IBM, that have been laying off American workers and replacing them with H-1B workers, in some cases reportedly making the American workers train their own replacements.

The Office of Special Counsel for Immigration-Related Unfair Employment Practices is an office within your Department that you will head. That enforces the anti-discrimination provisions of the Immigration and Nationality Act. While the office is designed to protect foreign nationals with employment visas from discrimination, it is also charged with ensuring that American workers are not discriminated against in the workplace.

Many U.S. worker advocates believe, for example, that the layoff of American workers and the replacement by cheaper, foreign H-1B workers constitutes de facto nationality-based discrimination against American workers. The Obama administration has failed to protect American workers here.

This is my question: Will you be more aggressive in investigating the abuses of these visa programs?

Senator SESSIONS. Mr. Chairman, you know, I believe this has been abused, and I have been pleased to support your legislation, and some others' too, that I believe could be helpful. It needs to be addressed. It is simply wrong to think that we are in a totally open world and that any American with a job can be replaced if somebody in the world is willing to take the job for less pay. We have borders. We have a commitment to our citizens. And you have been a champion of that. I have been honored to work with you on it. Thank you for your leadership. I would use such abilities that I have to help address that.

I think it also does require legislation like you have offered—you and Senator Durbin. I believe legislation may be necessary to have the kind of reforms that we need.

Chairman GRASSLEY. I appreciate your answer. We will continue to push for the legislation. We have been very difficult moving that legislation along because of business oppositions within our country. So whatever you can do in regard to being more aggressive, investigating the abuses of our visa programs, will help solve some of the problems if we do not get legislation passed. But we still intend to pursue that.

Now on another point, as you know, relationships between law enforcement and the communities they serve have been strained. You have already spoken to that in your opening comments. In many instances, police have been specifically targeted.

Now tomorrow, it is my understanding, the president of the Fraternal Order of Police will testify about this issue. But I would also like to hear from you on this point. We obviously need to figure out

a way to fix these relationships and restore mutual trust and respect for law enforcement.

What role can you play as Attorney General in this, and what role can the Department play more broadly?

Senator SESSIONS. It is essential that this Nation support those that we send out to provide public safety and affirm their good deeds. If they make mistakes and commit crimes, then they have to be prosecuted like anyone else would who commits a crime and violates the law, but fundamentally, the overwhelming majority of our law officers are dedicated, faithful individuals, serving their country and their community with discipline and integrity and courage.

So I think this is an important matter. We need to guard against the kind of public statements that have troubled me in recent months and years in which we seem to dismiss and take sides against the entire law enforcement community, where we suggest that the law enforcement community is not a positive factor, and that all officers are not performing at a high level. So, I believe that. I will do my duty to correctly distinguish between wrongdoing by individuals and the entire law enforcement community.

Deaths of law enforcement officers are up 10 percent over the last year. The number of policemen and law officers who have been killed with a firearm is up, I think, 58 percent. Some stunning numbers, and part of this is a corrosion of respect between the communities and law officers. I think it is a dangerous trend we must reverse and reverse soon.

Chairman GRASSLEY. My next question deals with agricultural antitrust. I do not believe that there should be political decisions involved in antitrust decisions in your Department. But there are several high-level agricultural mergers going on right now, one before DOJ, one before the FTC, and then there is another one I do not think has been assigned yet. I come from the standpoint of being in agriculture with a general—just a very, I guess ideological belief that when you have less companies, you have less competition, you have higher prices for inputs. That is in agriculture, but that would be true of any segment of the economy.

I also—before I ask this question—want to make a point that I do not think there are enough people in the Department of Justice that know much about farming. And one time, maybe 10, 15 years ago, I got some administration—I do not know if it was a Clinton one or the Bush one—to say they were going to have somebody in the Antitrust Department that knew something about agriculture, and I think they did put somebody there. I do not know whether that person is still there or not.

So this is my question: I am concerned about increased consolidation and possible anticompetitive business practices in the agricultural industry. Currently, the Antitrust Division is reviewing several significant mergers and acquisitions in the agricultural sector.

Do I have your commitment that the Justice Department will pay close attention to agribusiness, competition matters, and carefully scrutinize proposed agriculture mergers and acquisitions, and can you assure me that the agricultural antitrust issues will be a priority for the Justice Department if you are confirmed as U.S. Attorney General?

Senator SESSIONS. There has been controversy on a number of those issues over the years that I am, generally, aware of. Without committing and commenting on any particular case, I will, Senator Grassley, be pleased to honor your request.

Chairman GRASSLEY. In 1986, 10 years before you came to the United States Senate, I got the False Claims Act passed. It has brought 53 billion dollars back into the Federal Treasury since then.

If you are confirmed, will you pledge to vigorously enforce the False Claims Act and devote adequate resources to investigating and prosecuting False Claims Act cases?

Senator SESSIONS. Qui tam provisions are a valid and effective method of rooting out fraud and abuse. I even filed one myself one time as a private lawyer. So these are important issues that you have been a leader on. It has saved this country lots of money and probably has caused companies to be more cautious because they could have a whistleblower that would blow the whistle on them if they try to do something that is improper. So I think it has been a very healthy thing. You are to be congratulated for that, and I do support that act.

Chairman GRASSLEY. You took care of my second question I was going to ask you on qui tam. And you said that whistleblowers are very important. I am glad to hear you say that. I do not know whether they get enough support. I hope you give priority to that, because a great number of the qui tam places come from the outside, not from the inside.

Will you provide Congress with regular—this is the last point on this one. Will you provide Congress with regular timely updates on the status of FCT, False Claims Act cases, including statistics as to how many are under seal and the average length of seal time?

Senator SESSIONS. I would do that. My experience has been that they take an awfully long time.

Chairman GRASSLEY. That is exactly why I am asking the question. And updates from time to time, I think, will keep people within your Department more responsive and responsible.

Senator SESSIONS. I understand that. I do not know if a report is required now, but I do not see why it would be particularly difficult to provide that to you.

Chairman GRASSLEY. Okay. I have a long lead-in to another question. I am just going to ask you if you would tell us, for the record, your reasons for opposing the 2013 Immigration Bill.

Senator SESSIONS. Mr. Chairman, fundamentally, I believe that it would not end the lawlessness, and it would grant amnesty. That is the position that fundamentally caused you concern, because in 1986, there was an amnesty given and a promise of enforcement in the future. And it did not happen.

So, instead of 3 million people, the estimates are that we now have 11 million people here unlawfully. This is not the kind of policy a great nation must have. We need to have a lawful system that we can be proud of, that the world knows works, that people stop coming illegally because they do not think they will be successful in the attempt, and we could see a dramatic reduction in illegality and we could all be pleased to see that result occur. We will have to call on Congress to help some.

You understand the issue, and you have been supportive, but we may have to pass some legislation. Not a lot can be done with current law, but I would love to be part of an effort with this Committee to restore the immigration system to the high level at which it ought to be.

Chairman GRASSLEY. I want to return to the issue of Violence Against Women Act. I know that for me, that bill did not do enough to fight fraud and abuse. That is why I introduced a substitute amendment that would have given more money to victims by fighting fraud and abuse that was discovered in the program. It would have ensured that no money under the program was used to lobby Congress. It also would have had limited the amount of funding in the program that could be used for administrative fees and salaries.

In addition, my substitute amendment developed harsher penalties for Federal conviction of forcible rape, which the bill that passed weakened. It also addressed child pornography, and aggravated sexual assault, neither of which were addressed in the bill that is now law. Finally, my substitute amendment combatted fraud in the award of U visas to ensure true victims were protected.

My question, as you mentioned, you voted for my substitute amendment that was stronger in many respects than the bill that was passed: Will you enforce the law that was passed?

Senator SESSIONS. Yes, I will, Mr. Chairman.

Chairman GRASSLEY. That is probably the tenth time you answered that today, but thank you for being with me.

I want to speak about the Board of Immigration Appeals. It is the highest administrative body for interpreting immigration laws, hearing appeals rendered by immigration judges. This Board, which is under the Attorney General's purview, has published some very problematic precedent decisions the past several years. The Board of Immigration Appeals decisions are binding on all immigration officers, including Homeland Security Officers and Immigration Judges unless overturned by the position you are seeking or a Federal court.

Will you, or someone on your team, commit to taking a hard look at all precedent decisions made by this Board?

Senator SESSIONS. Mr. Chairman, that does appear to be a power or an ability of the Attorney General which I have not thoroughly studied. Any changes would need to be carefully done, and thought out in a principled and honorable way. I would do that, and if changes need to occur, and I have the ability to do it, I will try to conduct myself properly in making those changes.

Chairman GRASSLEY. Two more points. Oversight by Congress is important. You have already said that. I am glad you know the necessity of that. But Congress cannot do all the oversight needed on its own. We need to rely on strong Inspectors General to provide another independent assessment on the operations within the executive branch. That is why that position was set up in 1979, I believe.

Do you agree that independence is the hallmark of an Inspector General's integrity and effectiveness and if you do, please elaborate. The reason I ask the question is, probably it happens in more

departments, but I pay a lot of attention to DOJ, and I think there has been some problems within DOJ of recognizing and cooperating with the independence of the Inspector General.

Senator SESSIONS. Yes, that independence should be respected and should be had. I am familiar with some cases in which the independence of the Inspector General is less than that, in general, throughout the Congress, and I have been willing and interested in strengthening their independence.

It is a challenge. The Inspector General is appointed by the agencies for the most part, I believe. But if they are not seen as independent, then they cannot be the effective body that we would like them to be. They have staffs. They have the ability to contribute to saving money. I believe in the Inspector General's process.

Chairman GRASSLEY. Before I ask the last question, whatever reputation I have for investigation and oversight, probably, maybe even 90 percent of the leads we get come from whistleblowers. And whistleblowers within an agency are generally treated like skunks at a picnic. I hope that—I do not know how many thousands or tens of thousands of employees you are going to be administering over. You cannot possibly know what goes on with all those employees. I hope you will give encouragement to whistleblowing, and that you will listen to them.

Once in a while you have a crank, but for the most part, these are just patriotic people that want the Government to do what the Government is supposed to do, or spend money the way the Government is supposed to spend it. And then when they do not get anything going up the chain of command, that is when they become whistleblowers and they come to us. And by that time, even if they are protected under law, they still ruin themselves professionally. So I hope that you see them as a source, so you can administer a better Department and do what the Government is supposed to do.

In regard to that, I would appreciate it if you would provide Congress with accurate and timely information regarding any action taken, administrative or criminal, against individuals who retaliate against whistleblowers because it is against the law to retaliate.

Senator SESSIONS. You are correct about that. And it is not acceptable to retaliate against a whistleblower. Some have been known to be cranks, as you indicated, but you cannot effectively manage this Government without good citizens and good employees speaking up when they see wrongdoing. You have established a reputation as someone willing to receive that information and act on it and then defend the individual who had the courage to come forward. We need more of that in this Government.

Chairman GRASSLEY. I thank you very much. I would like to have you and other people listen to a couple of points I want to make at the tail end.

I want people to know that we will keep the record open until Monday for questions, and you know what to do with those when you get them.

I want to thank everybody who participated, including those in the audience, but most importantly, thank you for your testimony today, and for answering our questions, and doing it very thoughtfully and very thoroughly. You performed, I think, admirably, and showed this entire country what we all know from serving with

you. You are eminently qualified to serve as Attorney General, and I have every confidence that you are going to do a superb job.

Senator Sessions, you are excused. We will reconvene tomorrow morning at 9:30 for Panel II.

[Whereupon, at 8:02 p.m., the Committee was recessed, to reconvene at 9:30 a.m., Wednesday, January 11, 2017.]

[Additional material submitted for the record for Day 1 follows Day 2 of the hearing.]

**CONFIRMATION HEARING ON THE
NOMINATION OF HON. JEFF SESSIONS
TO BE ATTORNEY GENERAL
OF THE UNITED STATES**

WEDNESDAY, JANUARY 11, 2017

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in Room SR-325, Russell Senate Office Building, Hon. Charles E. Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Flake, Tillis, Sasse, Crapo, Feinstein, Leahy, Durbin, Whitehouse, Klobuchar, Franken, Coons, Blumenthal, and Hirono.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY,
A U.S. SENATOR FROM THE STATE OF IOWA**

Chairman GRASSLEY. Good morning, everybody. I welcome everyone back for our second day of the hearing on Senator Sessions' nomination for Attorney General. As I said yesterday, I want everyone to be able to watch the hearing without obstruction. If people stand up and block the views of others behind them, or if they speak out of turn, it is not fair or considerate to others, so officers will remove individuals, as they have previously.

Before we begin with opening statements from the panel, I want to go over a couple of housekeeping items and explain how we are going to proceed today.

Senator Whitehouse will be acting as Ranking Member today, and I will give an opening statement, and he can if he wants to as well. I welcome that. Then we will turn to our witnesses for their opening statements. Following their statements, we will begin with the first round of questions in which each Senator will have 7 minutes. After we finish asking questions of the first panel, we will turn to the final panel for their testimony. And in regard to the timing of that, it will kind of depend upon when this panel is completed. But if we get this panel completed, let us say, around lunch or 12:30 or 1 o'clock, we may adjourn for an hour or so at that time. But I will not be able to make that determination until we finish here with this panel.

Yesterday, we met here from 9:30 until about 8 p.m. so that every Senator, both Democrat and Republican, could ask Senator Sessions as many questions as they wanted to. We had great co-

operation yesterday, and I should thank everybody for that cooperation, and we will press ahead today.

We heard from Senators Shelby and Collins who gave their strong endorsement of Senator Sessions. Their introductions described Senator Sessions' extensive experience, outstanding qualifications, and character.

I also want to note that yesterday Senator Feinstein participated in her first nomination hearing as the new Ranking Member. I am looking forward to working with her in her new capacity, as I said yesterday.

In her opening statement yesterday, Senator Feinstein correctly observed, and I would like to quote, a fairly long quote: "Today we are not being asked to evaluate him"—meaning Senator Sessions—"as a Senator. We are being asked to evaluate him for the Attorney General of the United States—the chief law enforcement for the largest and best democracy in America." She continued, "As Attorney General, his job will not be to advocate for his beliefs. Rather, the job of Attorney General is to enforce Federal law, even if he voted against a law, even if he spoke against it before it passed, even if he disagrees with the precedent saying that the law is constitutional." Then she concluded, "This hearing must determine whether this Senator will enforce the laws that he voted against."

And yesterday, through 10½ hours of testimony, we got a clear and unequivocal answer to this threshold question. He was asked repeatedly if he would enforce the law, even if he disagreed with that law as a matter of policy.

Time and again, Senator Sessions reaffirmed his commitment to this fundamental principle. As Attorney General of the United States, his solemn duties, as we all know and expect, are to the Constitution and to enforce the laws duly enacted. His fundamental commitment to the rule of law emerged as a central theme of our discussion yesterday. And as I made clear in my opening statement, that is what I believe the Department desperately needs.

Yesterday's testimony further convinced me that Senator Sessions is the right choice to serve as our Nation's chief law enforcement officer at this critical time. We know that he is very well qualified for the position, having served for 15 years as a prosecutor and now 20 years as a Senator, so that is three decades of public service.

We all know Senator Sessions will be up front with you. When he says that he is going to do something, he will do it. Senator Sessions will be an independent Attorney General, as he has been asked so many times yesterday and about his enforcement of the law. That is the bottom line.

I now turn to Senator Whitehouse.

**OPENING STATEMENT OF HON. SHELDON WHITEHOUSE,
A U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator WHITEHOUSE. Thank you very much, Chairman. Let me just make some very brief remarks.

First, I cannot help but note, as a general proposition, hearing after hearing, the effort to push nominees into confirmation hearings before their FBI background checks are complete, before their ethics and financial disclosure filings are concluded, and I would

like to put into the record of this hearing the letter that Senator Schumer, Minority Leader Schumer, wrote to Majority Leader McConnell in which he took a letter that Majority Leader McConnell had written to—Minority Leader McConnell had written to Majority Leader Reid and simply changed the names. He wrote “Dear Mitch” in place of “Dear Harry,” and he signed his own name at the bottom. And it was, thus, a verbatim letter, and what we have been asking for is exactly what Republicans have asked for over and over again, what has long been the tradition of the Senate.

It is not the Senate’s fault that the Trump administration was not prepared and that it did not have its nominees vetted in place. I know that Senator Sessions has been one of the nominees who has been prepared, but I cannot help but point out that across the board, the ramming of unvetted nominees, the stacking of hearings on top of hearings, and the jamming of all of this up against an unprecedented vote-a-rama for a no-hearing budget creates, I think, an unfortunate new precedent in the Senate.

The point that I will make about the Department of Justice, as somebody who has served in the Department of Justice, like many of my colleagues or a number of my colleagues, is that I think there is legitimate concern based on the hectoring in the right-wing groups for a general housecleaning of career staff and for a particular targeting of named career staff. As I mentioned in my questioning yesterday, one of the Heritage Foundation spokespeople made the comparison to the Augean stables and “filth” as having to be washed out of the Augean stables. I do not think it is fair to characterize the career employees of the United States Department of Justice as “filth,” nor do I think it is proper to assert that this should not be secular. And I think it is a matter of concern when an Attorney General thinks that a secular attorney may have a lesser or a different appreciation of truth than a religious attorney. Particularly coming from Rhode Island, where freedom of conscience has been such a principle of core value since the days of Roger Williams when Providence was a tiny settlement in the wilderness where people who thought freely were able to get away from the theocracy of Massachusetts, we have a long history of concern about that kind of evaluation of career department professionals.

Finally, I would say that after a very divisive campaign that left a lot of Americans and a lot of communities feeling very wounded and very vulnerable and very set upon, and after a promise that he would be President for all Americans over and over and over and over again, we are seeing an array of Cabinet nominees who run far to the right and, frankly, in many cases come out of the swamp that the President-elect promised to drain.

So I thank you, Mr. Chairman, for the, I think, thoughtful and fair way in which you have run this hearing. I thought that Senator Sessions handled himself very well by staying until all the questions were answered. I appreciate the procedure that you have gone through, but I did want to make a record of those concerns from our side about the larger process in which these nominations hearings are taking place.

And with that, I yield back to you, sir.

Chairman GRASSLEY. Thank you.

Before we swear witnesses and I introduce them, I promised Senator Coons a point of personal privilege on one of the nominations.

Senator COONS. Thank you, Mr. Chairman. I had asked for the opportunity to introduce my friend and colleague from law school, Cornell Brooks, but I am perfectly happy to wait to do so until there are other introductions afoot or to do it right now.

Chairman GRASSLEY. I would rather have you do it now, if you would, please.

Senator COONS. Okay. Thank you, Mr. Chairman.

I am pleased to introduce Dr. Cornell Brooks, the president and CEO of the NAACP as one of our many witnesses on this distinguished panel here today. Mr. Brooks has dedicated his entire career to ensuring that Americans truly enjoy the promise of equal protection of the law.

Before assuming leadership of the NAACP in 2014, he was head of the Newark, New Jersey-based Institute for Social Justice, and fittingly for a hearing on the nominee to lead the Department of Justice, his early experience was being a part of the Department of Justice as a trial attorney, where he secured the then-largest Government settlement for victims of housing discrimination and filed the Government's first lawsuit against a nursing home alleging discrimination based on race.

He was also executive director of the Fair Housing Council of Greater Washington, a trial attorney with the Lawyers' Committee for Civil Rights Under Law, and a law clerk to the Honorable Samuel J. Ervin, III, on the Court of Appeals for the Fourth Circuit. He is a fellow alum of Yale Law School, holds a Master of Divinity degree from Boston University School of Theology. He is not just a lawyer and social advocate but a fourth-generation ordained minister in the African Methodist Episcopal Church, a husband, and father of two sons.

Mr. Brooks, thank you for your leadership in the work of justice around our Nation, and I look forward to your testimony here today.

Thank you, Mr. Chairman.

Chairman GRASSLEY. You bet.

I am going to ask you to stand and swear you in before I introduce you. Would you raise your right hand? Do you affirm that the testimony you are about to give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MUKASEY. I do.

Sergeant VAZQUEZ. I do.

Mr. KIRSANOW. I do.

Ms. SWADHIN. I do.

Ms. SEPICH. I do.

Mr. BROOKS. I do.

Mr. CANTERBURY. I do.

Mr. COLE. I do.

Mr. THOMPSON. I do.

Chairman GRASSLEY. Okay. I notice that all of you have affirmed that. Thank you very much. Please sit down.

The 81st Attorney General of the United States was the Honorable Michael Mukasey. Mr. Mukasey has also served as a U.S. At-

torney and a district court judge in the Southern District of New York. We thank him for coming.

Our second witness is Oscar Vazquez. He became a citizen of the United States in 2011 and served honorably in Afghanistan with the U.S. Army. We welcome you and thank you, obviously, for your military service.

Our next witness, Peter Kirsanow, is a member of the U.S. Commission on Civil Rights and is very familiar with this Committee, and we are familiar with you. Thank you for coming.

Next is Amita Swadhin. She is a sexual assault survivor and co-founder of Mirror Memoirs. I hope I am right on that. Welcome to you.

Then we have Jayann Sepich, the mother of Katie Sepich. She is the founder of Surviving Parents Coalition.

Our next witness, Cornell Brooks, you have heard introduced, but let me further say that he is president of the National Association for the Advancement of Colored People, and he is well known to us as well. Thank you for being here today.

Chuck Canterbury is the national president of the Fraternal Order of Police. He is familiar to a lot of us as well, so we welcome you.

Next we will hear from David Cole, national legal director of the American Civil Liberties Union. He is also a professor at the Georgetown Law Center. We welcome you.

And, finally, we will hear from Larry Thompson. He served as Deputy Attorney General under President Bush, as a well-known U.S. Attorney for the Northern District of Georgia, and welcome back to the Committee, Mr. Thompson.

So I think we will start with Mr. Mukasey, and we are going to hear testimony from all of you, and then we will have questions, as I indicated, 7-minute rounds. So proceed, will you, General Mukasey?

STATEMENT OF HON. MICHAEL B. MUKASEY, FORMER ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. MUKASEY. Thank you, Chairman Grassley, Ranking Member Whitehouse, Members of the Committee. This is one of those occasions that is both an honor and a pleasure: an honor to appear before this Committee and a pleasure to speak to the qualifications of Senator Sessions to serve as Attorney General.

I have submitted a statement to the Committee, and I am happy to answer any questions relating to it or to any other subject that the Committee thinks is relevant to passing on the qualifications of the Committee, not simply to orate. And after watching yesterday's hearing and Senator Sessions' responses to the Committee's questions, I think the only thing I have to add to what I have already submitted at this point is to say that the person you saw and heard yesterday is very much the person I came to know beginning in 2007 when I first appeared before this Committee: principled, intelligent, knowledgeable, thorough, modest, and thoroughly dedicated to the rule of law and to the mission of the Department, which is to enforce the law and to preserve our freedoms.

So I thank you very much for hearing me.

[The prepared statement of Mr. Mukasey appears as a submission for the record.]

Chairman GRASSLEY. Does that complete your testimony?

Mr. MUKASEY. It does.

Chairman GRASSLEY. Thank you.

Now, Sergeant Vazquez, thank you. Please proceed.

**STATEMENT OF OSCAR VAZQUEZ, FORMER DREAMER,
U.S. ARMY VETERAN, FORT WORTH, TEXAS**

Sergeant VAZQUEZ. Chairman Grassley, Ranking Member Whitehouse, thank you for the opportunity to testify before the Committee. My name is Oscar Vazquez, and I am proud to be an American.

I was born in a small town in Mexico. I was 12 years old when my mother and I boarded a bus for the border. Although I did not make the choice to come to America, this country quickly became my home. As soon as we were settled in America, my parents made sure that I was enrolled in school because they wanted me to understand the value of education. It was at this point that I started to develop a passion for math and science since the formulas and equations transcended the language barrier.

In high school, I joined the JROTC program where my two instructors were Vietnam veterans. They taught us the value of selfless service, whether you were able to provide it in the military or not. They wanted us to be better Americans. I loved the order and discipline and was eventually awarded the JROTC Officer of the Year. During my sophomore year, soon after 9/11, I saw the "Band of Brothers" miniseries, and I knew then I wanted to join the Army. But when I met with a recruiter, I was told that I could not enlist because I was undocumented. I left that meeting not knowing what to do or what was next. I was devastated.

I knew I had to figure out what else I could do with my life. At the beginning of my senior year, I joined the robotics club. Our team of undocumented students entered a NASA-sponsored national competition, and we designed an underwater robot, which we named "Stinky." Beyond our wildest dreams, my high school team won the grand prize for the competition against some of the country's top technical universities.

Winning the competition was proof that we as DREAMers had something to offer to the country we always considered our home. Although I could not contribute to my country by joining the military, I enrolled at Arizona State University and decided I could contribute by becoming an engineer.

In 2005, I married my wife, Karla, a U.S. citizen. She started the process of petitioning for my legal status, but as is the case with many DREAMers, there were enormous legal obstacles and substantial risks.

While I was a student at Arizona State, the Arizona Legislature passed a law prohibiting undocumented students from receiving in-State financial aid and paying in-State tuition. Even though Arizona had been my home for many years and I was married to a U.S. citizen, I was treated like an outsider. The law tripled my tuition, but through private scholarships and by working construction,

I scraped the money together to pay for college and support my family. I graduated in 2009 with a degree in mechanical engineering.

This was 3 years before the Deferred Action for Childhood Arrivals was established, so even though I had a STEM degree and there were jobs available, no one would hire me in this field because I did not have legal status.

In 2010, after completing a legal process that involved substantial hardship to my family, I was able to get a green card. Having legal resident status changed my life. I was able to get a driver's license, travel freely within the United States, and pursue my career in engineering. The biggest change that I noticed was the fear. I was no longer afraid of being deported or being forcibly separated from my family. I could also pursue my dream of joining the military and become a paratrooper. I enlisted in the United States Army and started basic training in February 2011. I wanted to fight for the country that raised me. Saying I love this country was not enough. I wanted to let my actions speak for themselves.

Shortly before I finished basic training, I became a U.S. citizen. A couple of weeks later, I found myself jumping out of a C-130 flying over Fort Benning, Georgia. And a couple of months after that, I was deployed to Afghanistan. I looked forward to combat because I wanted to protect the United States. Serving in the Army allowed me to contribute more fully to this country and make it safer. I was following in the footsteps of countless other immigrants who have proudly served the United States. In Afghanistan, I fought side by side with my Army brothers. We wore the same uniform with the U.S. flag on the same shoulder. It mattered more that we were willing to die for each other and for our country than where we came from.

To this day, I remember how I felt after our first firefight in Afghanistan. I had put my life on the line for my brothers and for my country, and I felt really proud to be an American. I felt then for the first time that no one could again question whether I am an American. It has been a great honor to serve my country.

My son, Oskar Maximus, is 4 years old and in preschool. My daughter, Samantha, is 8 years old and in third grade. We live outside of Fort Worth, Texas, where I volunteer at two different high schools in their respective robotics programs. I feel that my family is living the American dream. But I want to continue serving my country, and I will soon join the Army Reserve.

I think now about all the doors that were unlocked for me when I gained lawful permanent residence—the ability to get the job of my dreams, provide for my family, and live without fear. I cannot imagine what it would be like to have that taken away from me today. I also cannot imagine what it is like today for my former teammates and the nearly hundred thousand DACA recipients who do not have a legal status and who are afraid of what could happen to them in a matter of days. Of course, DACA is only a temporary solution, and now even that is at risk.

I hope that you will not view my story as that of someone exceptional; rather, I am where I am today because of the many great people that have believed in me and have given me a chance.

I also want to acknowledge that most DREAMers and most undocumented immigrants do not have a path to legal status right now. I wanted to come here today because our country's top law enforcement officer must be someone who understands that immigrants make our country stronger. Most Americans agree that it is not right to deport someone who was brought here as a child and deport them to a country they might not even remember. We need an Attorney General who will protect the American people from those who would do us harm, but who will also show mercy to those who deserve it.

Thank you again for the opportunity to testify. I look forward to answering your questions.

[The prepared statement of Sergeant Vazquez appears as a submission for the record.]

Chairman GRASSLEY. Thank you very much, Sergeant.

Now, Mr. Kirsanow. Have you pushed the red button or whatever color the button is?

**STATEMENT OF PETER KIRSANOW, COMMISSIONER,
U.S. COMMISSION ON CIVIL RIGHTS, CLEVELAND, OHIO**

Mr. KIRSANOW. Thank you, Chairman Grassley, Ranking Member Whitehouse, and Members of the Committee. I am Peter Kirsanow, a member of the U.S. Commission on Civil Rights and a partner in the Labor and Employment Practice Group of Benesch, Friedlander. I am here in my personal capacity.

The U.S. Commission on Civil Rights was established pursuant to the 1957 Civil Rights Act to, among other things, act as the national clearinghouse for matters pertaining to denials of equal protection, discrimination, and voting rights, and in furtherance of that clearinghouse function, my assistant and I reviewed the bills sponsored and cosponsored by Senator Sessions in his tenure in the Senate, as well as his public activities and actions that are at least arguably related to civil rights.

Our examination found that Senator Sessions' approach to civil rights matters both in terms of his legislative record and his other actions is consistent with mainstream textual interpretation of relevant statutory and constitutional authority, as well as governing precedent.

Our exam also reveals that Senator Sessions' approach to civil rights is consistent, is legally sound, intellectually honest, and has an appreciation and understanding of the historical bases for civil rights laws. And our examination found that several aspects of Senator Sessions' record, unfortunately, have been mischaracterized and distorted to portray him as somehow being indifferent if not hostile to civil rights.

The facts emphatically show otherwise. Among other things—and this is probably least consequential—Senator Sessions has sponsored or cosponsored a plethora of bills honoring significant civil rights leaders, events, icons, such as Reverend Martin Luther King, Jr., Coretta Scott King, Reverend Shuttlesworth's fight against segregation, three separate bills honoring Rosa Parks, a Senate apology to the descendants of victims of lynching, a bill to honor participants in the Selma Voting Rights March, a bill to honor the victims of the 16th Street Baptist Church bombing, and on and on

and on. But Senator Sessions' commitment to civil rights transcends simple resolutions in support of civil rights. He has authored, cosponsored, or sponsored a number of bills to protect and enhance voting rights, such as the Federal Election Reform Act of 2001, the Voter Fraud Protection Act of 2009, a number of bills to protect and enhance the voting rights of servicemembers, particularly those serving overseas.

He is a strong proponent of religious liberty, having sponsored or cosponsored several bills to prevent discrimination against the religiously observant and to prevent the Government from substantially burdening the free exercise of a person's religious beliefs. But in our estimation, his most profound and important impact is on preserving and protecting the rights of American workers, particularly Black workers.

The employment and wage levels of Black workers in America have been abysmal for several decades. The labor force participation rate for Black males is 61.8 percent and falling. The unemployment rate for Black males is nearly double that of White males. Evidence adduced before the U.S. Commission on Civil Rights shows that 40 percent of the 18-point decline in Black employment levels is attributable to Government failure or refusal to enforce existing immigration laws, and this has a cascade effect by increasing the competition within the unskilled and low-skilled marketplace, driving out Black workers, slashing wages, particularly among Black males. And this has resulted in hundreds of thousands if not slightly over a million Blacks having lost their jobs directly due to this phenomenon. And it has broader sociological implications as well related to incarceration and family formation rates.

No one has been more committed or engaged than Senator Jeff Sessions in protecting and enhancing the prospects of Black workers in America. But for his indefatigable efforts in this regard, the plight of Black workers now and in the immediate future, in the foreseeable future would be demonstrably worse. His leadership on this matter and his leadership on the Subcommittee on Immigration and the National Interest has been key to forestalling an even deeper downward trajectory for Black workers in this country.

I will conclude, Mr. Chair, by simply respectfully offering that his record on civil rights legislation, his actions as a U.S. Attorney and State Attorney demonstrate an unwavering commitment to equal protection under the law and a genuine fidelity to the rule of law that should make him an outstanding Attorney General.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Kirsanow appears as a submission for the record.]

Chairman GRASSLEY. Thank you.

Ms. Swadhin.

**STATEMENT OF AMITA SWADHIN, FOUNDER,
MIRROR MEMOIRS, LOS ANGELES, CALIFORNIA**

Ms. SWADHIN. Good morning. My name is Amita Swadhin. I am a resident of Los Angeles, California, born in Ohio to two immigrants from India and raised in New Jersey. And I am grateful to Chairman Grassley, Ranking Member Whitehouse, and Members of the Committee for the opportunity to be here today.

In October, hot mic tapes were released of President-elect Trump describing forcibly kissing women and grabbing women by the genitals. In the wake of these comments becoming public, Senator Sessions was quoted stating he does not characterize that behavior as sexual assault.

Millions of sexual assault survivors were triggered in the wake of these events. I was one of those survivors. My father raped me at least once a week from age 4 to age 12. I endured psychological, verbal, and physical abuse from him for years. I also grew up watching my father abuse my mother in a textbook case of domestic violence and marital rape.

When I disclosed the sexual abuse to my mother at age 13, she called a therapist, engaging mandated reporting. The prosecutor threatened to prosecute my mother for being complicit. They told me I would be harshly cross-examined by the defense attorney and did not connect me to any victim support services. I was too afraid to tell them my story. My father received 5 years' probation and no jail time, and his violence continued for 2 years until my mother finally found the support to leave him.

I am here today on behalf of rape and sexual assault survivors to urge you not to confirm Senator Sessions as Attorney General. As a publicly out survivor of child sexual abuse, many people have downplayed the impact of this violence on my present-day life. I live with complex post-traumatic stress disorder and struggle every day to be well. It directly and negatively impacts me when people minimize sexual assault. So to hear Senator Sessions initially say President-elect Trump's comments do not constitute sexual assault and then to consider him leading the Department of Justice has been incredibly worrisome.

I am unfortunately far from alone in my experience. More than 320,000 Americans over age 12 are raped or sexually assaulted every year. One in four girls and one in six boys will be sexually abused before age 18. These are public health issues occurring in the private sphere. In 80 percent of adult sexual assaults and 90 percent of cases of child sexual abuse, victims know and trust our perpetrators. For this reason, most victims of violent crime never seek healing or accountability from the State. Most violent crimes remain unreported.

Thankfully, we have improved the response of the criminal justice system with the creation of the Violence Against Women Act in 1994. The STOP Formula Grants under VAWA provide training to judges, prosecutors, police officers, and other law enforcement personnel to better support survivors. In 1991, the police did not contact victim services for me, but today, thanks to VAWA, law enforcement is encouraged to provide victims an advocate to support them in breaking their silence.

Yet despite this progress, rape, sexual assault, and domestic violence still happen at epidemic rates, and survivors at the intersections of oppression are especially vulnerable. LGBT people and particularly transgender women of color are disproportionately victimized. One in two transgender people will be raped or sexually assaulted in their lifetime.

Furthermore, the majority of hate violence homicide victims are transgender women. In fact, only 11 days into the new year, two

transgender women of color have already been murdered: Mesha Caldwell, an African-American transgender woman from Mississippi; and Jamie Lee Wounded Arrow, a two-spirit Oglala Lakota woman from South Dakota.

We need an Attorney General who is committed to improving and enforcing our laws to ensure the most vulnerable victims of crime can come forward to seek accountability and to access healing. Time and again, Senator Sessions' voting record has shown us he is not the man for the job. Despite his claim to be a champion for victims of violent crime, he has not been a friend to vulnerable survivors. While Senator Sessions voted in favor of the Violence Against Women Act in the bill's early years, when VAWA was expanded in 2013 to ensure LGBT, immigrant, and Tribal populations of domestic violence and sexual assault survivors are protected and have access to services, Senator Sessions voted against the bill.

We must trust the Attorney General to enforce and apply our laws fairly per our Constitution's provisions on equal protection. We must trust the Attorney General to respect the humanity of all Americans, and especially to be committed to seeking justice for our most vulnerable victims of crime. Given his voting record on VAWA and on LGBT rights, we have no reason to put our faith or our trust in Senator Sessions as Attorney General.

In conclusion, I want to emphasize that members of the National Task Force to End Sexual and Domestic Violence, including, but not limited to, the National Coalition Against Domestic Violence, the YWCA, the National Council of Jewish Women, UGEMA, the National Center on Violence Against Women in the Black Community, the National Alliance to End Sexual Violence, the National Coalition of Anti-Violence Programs, Break the Cycle, and Jewish Women International oppose Senator Sessions' nomination because of the issues I am raising today.

Thank you.

[The prepared statement of Ms. Swadhin appears as a submission for the record.]

Chairman GRASSLEY. Thank you very much.

And now we will go to Ms. Sepich.

**STATEMENT OF JAYANN SEPICH, CO-FOUNDER,
DNA SAVES, CARLSBAD, NEW MEXICO**

Ms. SEPICH. Good morning, Chairman Grassley, Ranking Member Whitehouse, and Members of the Committee. My name is Jayann Sepich, and thank you for the opportunity to testify today in support of the nomination of Senator Sessions as Attorney General of the United States.

In 2003, my daughter Katie, a vivacious 22-year-old graduate student, was brutally raped, murdered, and set on fire. It is never easy to lose a child for any reason, but the pain and horror of losing our daughter in this violent manner is beyond description.

No suspects emerged in Katie's case, but Katie fought for her life, and underneath her fingernails were found the blood and skin of her attacker, and a DNA profile was extracted and uploaded into the national forensic DNA database called "CODIS." I made the comment to investigators that the man who had killed Katie was

such a monster that surely he would be arrested for another crime, his cheek would be swabbed, and we would soon know his identity, and he would not be able to harm another young woman. That is when I learned it was not legal in New Mexico, my home State, or in most States to take DNA at the time of a felony arrest. It could only be taken after conviction.

I was stunned. We do not use DNA to accurately identify persons arrested for serious crimes? We release them from law enforcement custody without a check of the DNA database for a possible match to other unsolved crimes? We collect fingerprints, mug shots, and check what other crimes a person may have been involved in, but we do not collect DNA?

After considerable research, I became a national advocate for the collection of DNA upon arrest. My husband and I started the non-profit association DNA Saves. We know we cannot bring Katie back, but we absolutely believe that we may be able to prevent new crimes—prevent this horrible pain from being visited on other families—by advocating for laws that allow for the collection of DNA from persons arrested for serious crimes.

To date, 30 State legislatures and the U.S. Congress have enacted laws requiring that a DNA sample be taken for qualifying felony arrests. In June 2012, the U.S. Supreme Court upheld these laws, ruling that taking DNA at the time of booking for a felony arrest is “a legitimate police booking procedure that is reasonable under the Fourth Amendment.” Senator Sessions helped craft the legislative language that became the DNA Fingerprint Act to provide Federal authorities with the authorization to collect DNA from arrestees.

In 2008, Senator Bingaman, along with Senator Schumer as an original cosponsor, introduced the Katie Sepich Enhanced DNA Collection Act, which was passed in 2012. This Federal law provides additional funding, through the Debbie Smith DNA Backlog Elimination Act, to those States that have enacted laws to expand their databases. Once again, as the Judiciary Committee’s Ranking Member during that time in which this legislation was pending, Senator Sessions played a significant role in helping us to craft a bill that would gain bipartisan support and eventually passed Congress unanimously.

As a result of stronger State and Federal DNA database laws, we have seen many heinous criminals identified through arrestee DNA testing. My home State of New Mexico has seen over 1,200 cases matched. California is seeing ten cases matched every day on their DNA database. The Alabama Department of Forensic Sciences remains one of the most successful programs in the country, and they credit Senator Sessions for much of the success largely due to the support he has provided from the outset of the State’s forensic DNA program during his term as Alabama Attorney General. Alabama has utilized the DNA database to solve over 6,500 previously unsolved cases.

In Katie’s case, after more than 3 long years, DNA finally identified Gabriel Avila as Katie’s killer. But he would have been identified after only 3 months if law enforcement had been permitted to collect DNA at arrest.

Over the past 11 years, our family has worked to change DNA laws across the country. We have been supported by lawmakers of both parties. We have also seen opposition from both Republicans and Democrats. Forensic DNA is a very complex issue, and it is vitally important that policymakers take the time to fully understand these complexities in a truly nonpartisan manner.

Senator Sessions has done that. And with that understanding, he has stood in strong support of the use of forensic DNA to both identify the guilty and exonerate the innocent. He knows that when a DNA match is made on CODIS, it is completely blind to race, ethnicity, and socioeconomic status. DNA is truth. It is science.

Senator Sessions said in a 2002 floor speech, "We are spending only a pittance on getting our scientific evidence produced in an honest and effective way. As a result, justice is being delayed, and justice delayed is justice denied."

I believe that Senator Sessions is committed to the philosophy that it is the core responsibility of our Government to protect public safety. He cares about victims. He has been a leader on forensics policy for years and consistently has supported vital funding for DNA.

In conclusion, our lives were shattered when our daughter was brutally murdered. We know intimately the pain that violent crime brings to families. Senator Sessions has shown he understands the pain of victims and has put that understanding into action to help make changes that will make a difference. Senator Sessions will provide strong leadership to the United States Department of Justice, and I hope you will support his nomination for Attorney General.

Thank you.

[The prepared statement of Ms. Sepich appears as a submission for the record.]

Chairman GRASSLEY. Thank you, Ms. Sepich.

Now, Mr. Brooks.

STATEMENT OF CORNELL WILLIAM BROOKS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, BALTIMORE, MARYLAND

Mr. BROOKS. Good morning, Chairman Grassley, Ranking Member Whitehouse, and esteemed Senators of this Committee. My name is Cornell William Brooks. I serve as president and CEO of the NAACP. I greatly appreciate the invitation to testify before you today and to express the deep concerns of the NAACP regarding the nomination of Senator Jefferson Sessions to be U.S. Attorney General.

As you well know, the Attorney General is the chief law enforcement officer of the United States. Particularly for such a time as this, with racial divisions deepening, hate crimes rising from sanctuaries to schoolyards, with State-imposed, racially motivated voter suppression spreading in State legislatures, as well as being struck down in Federal courts, with police-involved shootings reduced to hashtag #homicides and viralized videos, it is critical that this Committee closely examine Senator Sessions' entire record as a

prosecutor and as a legislator to determine whether he is fit to serve as the chief enforcer of our Nation's civil rights laws.

Based upon a review of the record, the NAACP firmly believes that Senator Sessions is unfit to serve as Attorney General. Accordingly, representing multiple civil rights and human rights coalitions, we urge this Committee not to favorably report his nomination to the full Senate. As our written testimony details, Senator Sessions' record reveals a consistent disregard for civil and human rights of vulnerable populations, including African Americans, Latinos, women, Muslims, immigrants, the disabled, the LGBT community, and others. Further, his Senate voting record reflects a fundamental disregard for many of the Department of Justice's programs which are vital for the protection of Americans.

Senator Sessions' votes against the Hate Crimes Prevention Act of 2000, 2002, 2004, 2007, and 2009 and the Violence Against Women Act in 2012 and 2013 demonstrate a disturbing lack of concern regarding violent crimes: rape, assault, murder committed against minorities, and an American majority—women. These crimes in particular make victims of individuals as well as the groups to which they belong and the American values we cling to.

His opposition to the Lilly Ledbetter Fair Pay Act indicates a hostility to the claims of employment discrimination and more specifically to allowing legal redress for pay discrimination against women.

His consistent opposition to any meaningful gun controls shows an unwillingness to stand up to the firearms lobby and a lack of concern regarding the destructive impact of gun violence on our children and communities.

His failure to condemn the President-elect's call for an unconscionable and unconstitutional ban on Muslim immigrants as well as his opposition to a Senate resolution condemning a Government-imposed litmus test on a global religion evidences an unwillingness to protect the rights of the vulnerable and the unpopular, which is something an Attorney General must do.

His call for the re-evaluation of a basic constitutional principle, that persons born in this country are citizens of this country, reflects a form of an unconstitutional xenophobia that is fundamentally inconsistent with the duty of the Attorney General to protect the rights of all Americans.

His calling into question the legitimacy of consent decrees causes us to question whether he will use this powerful tool to hold accountable police departments such as Ferguson that engaged in predatory policing and a pattern and practice of discrimination.

With his consistent support for mandatory minimums as a prosecutor and a legislator, he stands in opposition to bipartisan efforts to bring to an end this ugly era of mass incarceration, with 2.3 million Americans behind bars, with overpopulated prisons and jails, and depopulated families and communities.

It is Senator Sessions' record on voting rights, however, that is perhaps the most troubling. As this Committee is well aware, the infamous Marion Three case in which civil rights activists were prosecuted by then-U.S. Attorney Sessions for voter fraud, all of whom were acquitted by a jury in less than 4 hours on 29 counts. This chilling prosecution against innocent civil rights workers who

were later given Gold Medals by Congress painfully reverberates in the hearts of Black voters in Alabama and the history of this country.

Senator Sessions' record of prosecuting so-called voter fraud and both intimidating and suppressing voters then is now reflected in a legislative record of supporting voter ID requirements that suppress votes based on the myth of voter fraud today. His record of vote suppression prosecution is connected to a record of vote suppression legislation today. Rather than condemn, he has commended voter ID laws like that in his own State of Alabama affecting a half million voters, similar to laws struck down in Texas and North Carolina in the Fourth and Fifth Circuits.

If we can imagine Senator Sessions leading a Department of Justice in Michael Brown's Ferguson, Freddie Gray's Baltimore, towns with rising hate crime, communities of vulnerable populations, and a democracy divided by voter suppression in this Twitter-age civil rights movement—we can imagine that. Imagining that, we must face the reality that Senator Sessions should not be our Attorney General.

With that said, thank you for this opportunity to testify. I welcome your questions.

[The prepared statement of Mr. Brooks appears as a submission for the record.]

Chairman GRASSLEY. Thank you, Mr. Brooks.

Mr. Canterbury.

STATEMENT OF CHUCK CANTERBURY, NATIONAL PRESIDENT, GRAND LODGE, FRATERNAL ORDER OF POLICE, WASHINGTON, DC

Mr. CANTERBURY. Good morning, Mr. Chairman, Ranking Member Whitehouse, distinguished Members of the Committee, and, of course, my own Senator, Lindsey Graham.

My name is Chuck Canterbury, the national president of the 330,000 rank-and-file police officer organization. I am very pleased to have the opportunity to be here today to testify before this Committee. I have testified before on Cabinet nominations, agency head nominations, and even a nominee for the Supreme Court of the United States. I can say without reservation that I have never testified with more optimism and enthusiasm than I do today for Senator Jeff Sessions. We wholeheartedly support his position and nomination as Attorney General of the United States.

Following the news that President-elect Trump intended to tap Senator Sessions, we immediately issued a statement to the press indicating our strong support for his nomination. He has been a true partner to law enforcement in his time as a U.S. Attorney, Attorney General for the State of Alabama, and throughout his tenure in the United States Senate.

Senator Sessions has demonstrated commitment not just to so-called law-and-order issues, but also to an issue very important to my members: officer safety. He was the leading cosponsor of the FOP's efforts to enact the Law Enforcement Officers Safety Act, which was authored by our friend and former Chairman of this Committee, Senator Leahy. In 2010, Senator Sessions was the Republican lead cosponsor of S. 1132, the Law Enforcement Officers

Safety Act Improvements, which made important and needed changes to the original law. He has provided true leadership in this successful and bipartisan effort.

More recently, Senator Sessions was deeply involved in the passage of S. 2840, the Protecting Our Lives by Initiating COPS Expansion Act. He helped build bipartisan support for the legislation, which passed the Senate and then the House before being signed into law by the President. That law gives the Office of Community-Oriented Policing Services the authority to award grants to State, local, and Tribal law enforcement agencies to get active shooter response training for their officers. The need for this training has obviously been identified by numerous law enforcement leaders and by the FOP.

Senator Sessions played a key role in the efforts to pass the Fallen Heroes Flag Act, the bill which provides a flag flown over this Capitol to surviving members of public officers killed in the line of duty.

Now, this may not sound like much to you, but in a time when officers are being assassinated at the highest rate since the 1970s and officers are being assaulted at record rates, officers in the field want to know: Who has my back? Who will protect me while I protect my community? Bills like this, which acknowledge and respect the sacrifices made by the rank and file truly resonate with my members and with the public safety community.

Members of the Committee may remember the years that were spent trying to do away with the disparity between the sentencing on possession of crack cocaine versus powder cocaine. There was a considerable gulf between the position of the FOP and many Members of this Committee. But in 2001, Senator Sessions introduced a bill to address this issue, and he worked tirelessly to bring it together. He made sure the voice of law enforcement was heard and also asserted his belief that the disparity as existed in the current law was unjust. In 2010, as the Ranking Member of this Committee, he brokered the compromise that led to the passage, with our support, of the Fair Sentencing Act. We accepted that compromise because it was fair, it was just, and it reflected the perspective of law enforcement in the law enforcement community. The importance of his direct role in this issue cannot be overstated. Without Jeff Sessions, I believe we might be here today still trying to remain unsolved.

That said, I understand that there is a certain amount of partisanship, and it is expected in these nomination hearings. But I ask all the Members of this Committee to recollect that Senator Sessions has worked in a bipartisan manner on many issues, officer safety issues, with the FOP and Members of the left. More than many times that I have been here has Senator Sessions been one of the sole Members to stand up for law enforcement, especially when it came to the issue of asset forfeiture. Without his leadership and support, the equitable sharing program may have been dismantled. For us, that demonstrates that Jeff Sessions is a man who can reach across the aisle to get things done for the rank-and-file officer and to protect the citizens of this country.

Senator Sessions has worked tirelessly and faithfully for the majority of his adult life. He is above all a man who reveres the law

and reveres justice. I believe he will be an exemplary Attorney General, and we urge you to move this nomination forward to the Senate for passage.

Thank you, sir.

[The prepared statement of Mr. Canterbury appears as a submission for the record.]

Chairman GRASSLEY. Thank you, Mr. Canterbury.

Now, Mr. Cole.

**STATEMENT OF DAVID COLE, NATIONAL LEGAL DIRECTOR,
AMERICAN CIVIL LIBERTIES UNION, WASHINGTON, DC**

Mr. COLE. Thank you for inviting me to testify.

The ACLU is a nonpartisan organization with a longstanding policy of neither endorsing nor opposing nominees for Federal office. We rarely testify in confirmation hearings as a result. We do so today because we believe Senator Sessions' record raises serious questions about the fitness of Senator Sessions to be an Attorney General for all the American people.

We take no position on how you should ultimately vote, but we urge you to painstakingly probe the many serious questions that his actions, words, and deeds raise about his commitment to civil rights and civil liberties.

Our concerns arise from his conduct as a prosecutor and from his record as a Senator. As a prosecutor, when he exercised the power to prosecute, the most serious power that any Government official in the United States exercises, he abused that power. Cornell Brooks has already talked about his prosecution, ultimately baseless, of civil rights heroes for seeking to increase the Black vote in Alabama. He did not investigate those who sought to help White voters in Alabama, but he did investigate and prosecute those who sought to aid Black voters. Many of the charges in that case were dismissed before they even went to the jury because they were baseless. The jury then acquitted them of all of the charges.

In a second case, the TIECO case, Senator Sessions collaborated with campaign contributors to his senatorial campaign to use the office of the criminal prosecutor to intervene in a private business dispute on behalf of his campaign contributors. He filed a 222-count indictment against TIECO, an engineering supply corporation. All charges in the case were dismissed. Many were dismissed because, again, they were baseless. There was no evidence whatsoever to support them. The others were dismissed on grounds of prosecutorial misconduct, and the judge who dismissed them said this was the worst case of prosecutorial misconduct he had seen in his career on the bench. Mr. Sessions' successor, Mr. Pryor, did not even appeal that decision. So those actions raise serious questions about his fitness to become the most powerful prosecutor in the land.

Second, his record as a Senator. Here he has shown blindness or outright hostility to the concerns of the people whose rights he will be responsible to protect. On voting rights, he supported felon disenfranchisement laws and voter ID laws that suppress the Black vote. When the Supreme Court gutted the single most effective provision of the Voting Rights Act, the most important statute in get-

ting African Americans the right to vote in this country, Senator Sessions called that “a good day for the South.”

On religious tolerance, he called Islam a “toxic ideology.” It is, in fact, a religion practiced by millions of Americans. Imagine if he called Christianity a “toxic ideology.” Now he says he opposes a Muslim ban on entrance to the United States, but when Donald Trump proposed that, he stood up and opposed a resolution introduced here in the Senate to keep religion out of immigration decisions.

On women’s rights, now he says that grabbing women’s genitals is sexual assault. But when Donald Trump’s tape recording bragging about his doing precisely that was made public, Senator Sessions said, and I quote, “I don’t characterize that as a sexual assault. That is a stretch.”

When he voted against extending the hate crimes law to crimes motivated by gender and sexual orientation, he said, and I quote: “I am not sure women or people with different sexual orientations face that kind of discrimination. I just don’t see it.” Well, if you do not see discrimination, you cannot very well enforce the laws against discrimination.

On torture, he now says that waterboarding is illegal, but he praised Michael Mukasey for not ruling out waterboarding. And he opposed Senator McCain’s amendment which was designed to make it clear that waterboarding was illegal.

On criminal justice, he is an outlier, departing even with many of his Republican colleagues who seek to make the criminal justice system more fair and less harsh.

If someone applying to intern for one of your offices had as many questions in his record as Senator Sessions has, racist comments, unethical conduct, padding of his resume, you would not hire him absent the most thorough investigation and inquiry, if then.

Senator Sessions is not seeking to be an intern. He is nominated to be the most powerful law enforcement officer in the Nation. The Senate and, more importantly, the American people deserve satisfactory answers to these questions before Senator Sessions is confirmed.

Thank you very much.

[The prepared statement of Mr. Cole appears as a submission for the record.]

Chairman GRASSLEY. Thank you, Mr. Cole.

Now, Mr. Thompson.

STATEMENT OF HON. LARRY THOMPSON, FORMER DEPUTY ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. THOMPSON. Chairman Grassley, Ranking Member Whitehouse, and other Members of this distinguished Committee, I appreciate the opportunity to appear before you today in support of the nomination of Senator Jeff Sessions to be Attorney General of the United States.

I want to add this morning a bit of a personal perspective on Senator Sessions. I have known Senator Sessions for over 30 years, and I am honored to consider him a good friend. Over the years,

we have talked frequently, had dinners together, and enjoyed each other's counsel and support.

When I first met Senator Sessions, he was the United States Attorney in Mobile and I was the United States Attorney in Atlanta. In order to stretch our limited Government per diems on travel to Department of Justice conferences, we sometimes shared a room together. We were simply two young prosecutors trying to save money.

In 1982, when I was asked by Attorney General William French Smith to head the Southeastern Organized Crime Drug Enforcement Task Force simply because of the strategic location in Atlanta, where my office was, a delicate situation was presented. The task force consisted of 11 other United States Attorneys' Offices, but any potential problem was avoided because my friend, Senator Sessions, rallied the other United States Attorneys around our common cause and my leadership. Senator Sessions had a lot to do with the success of the task force under my leadership.

Senator Sessions was highly thought of by his colleagues and served on the prestigious Attorney General's Advisory Committee. Membership to this committee is by invitation only. I have thought about this a lot and can identify for you without any equivocation whatsoever three themes by which the Senator will lead the Department of Justice.

First, Senator Sessions will vigorously but impartially enforce our laws. Senator Sessions has a strong record of bipartisan accomplishment on criminal justice matters. He also understands the importance of what former Attorney General Robert Jackson said about what constitutes a good prosecutor, that being one who displays a sensitivity to fair play and who appreciates his or her task with humility.

Next, Senator Sessions will continue to make certain that the traditional role of Federal law enforcement is carried out with vigor, effectiveness, and independence. The Department of Justice under his leadership will tackle such critical crime problems as complicated fraud schemes by individuals and organizations, civil rights violations, serious environmental violations, terrorism, and espionage.

Finally, Senator Sessions will seriously look at the role of Federal law enforcement to help our citizens achieve a greater sense of personal safety in their homes and neighborhoods. This will be especially important for some of our minority and low-income citizens against whom violent crime has a disproportionate impact. Of all our important civil rights, the right to be safe and secure in one's home and neighborhood is perhaps the most important.

We all know that Senator Sessions has strongly but honestly held political and policy views, but the Senator also has a record of bipartisan leadership in the Senate, especially on criminal justice issues. We talked yesterday, a great deal was presented to the Committee, on Senator Sessions' effort under the Fair Sentencing Act of 2010 and his work with Senator Durbin on that important legislation. It is interesting that, as the Deputy Attorney General of the United States in the Bush administration, I opposed this legislation. Senator Sessions was right and I was wrong.

A son of the South who has had up-close experiences with our great civil rights movement, Senator Sessions is not oblivious to the fact that we have more to do in the area of racial equality. He noted in a speech praising the foot soldiers of the civil rights movement that, "More needs to be done. We need to join closer hands."

So as a lawyer myself who has spent a fair amount of time during my 43-year legal career supporting diversity in our great profession and equal rights, this statement touched me greatly because it reflects the man I have known for over 30 years and who I am proud to call my friend. Senator Sessions deserves confirmation as our next Attorney General.

Thank you.

[The prepared statement of Mr. Thompson appears as a submission for the record.]

Chairman GRASSLEY. Thank you.

We will have 7-minute rounds now and I am going to start with General Mukasey. Senator Sessions himself has noted the Attorney General is not the President's lawyer. In your opinion, would Senator Sessions have the independence, and of course the ability, to say "no" to the President, if they disagreed?

General MUKASEY. Absolutely. And I think he made that both clear and explicit yesterday, saying that if necessary, the alternative was to resign.

Chairman GRASSLEY. Also, we heard Senator Sessions testify about the appropriate scope of communication between the White House and the Department of Justice. He said he thought that there was merit in your December 2007 memo on that topic, so could you tell us what you believe the merits of your approach to be, which would be your explaining in further detail what Senator Sessions said yesterday?

General MUKASEY. Okay. What is in the memo is that contact between the White House and the Justice Department is limited to the Attorney General and the Deputy Attorney General, with a couple of exceptions. Those exceptions are, pending legislation, which is the subject of communication between lower level people in the White House and people in the Office of Legal Policy and other routine budget matters. Other than that, there is to be no contact between anyone at the Justice Department and anyone in the White House and if anybody gets such a call, they are instructed that the polite response is, "Thank you very much, I will refer you to the person who can respond to you."

Chairman GRASSLEY. Mr. Thompson, you have known Senator Sessions for 35 years and in that time you worked very closely with him, so you have already said something about your service together, but could you tell us about that service and might be more detailed than you did in your opening statement?

Mr. THOMPSON. Yes, Senator Grassley. I have known, as I have said, Senator Sessions for a number of years. He has a great deal of respect for the Department of Justice. He had been an Assistant United States Attorney when I had met him. He had already been promoted to become the United States Attorney. He is a fine lawyer, was a very effective prosecutor, and has great fidelity to the principles of fair prosecution and the traditions of the Department of Justice.

Chairman GRASSLEY. And would you, knowing him as you do, would you say that he is going to be that independent head that we expect of the Department of Justice?

Mr. THOMPSON. Absolutely. I would expect Senator Sessions to understand and appreciate and to practice the traditional independent role of the Department of Justice and he would be an Attorney General, I think, that all the Senators on this Committee would be proud of.

Chairman GRASSLEY. Further, since you know him, how do you think he would fare standing up to a strong-willed President who wants to take certain actions as Senator Sessions, in his capacity as Attorney General, would feel would be inappropriate?

Mr. THOMPSON. That is a good question. As I said, Senator Sessions is not only an experienced prosecutor, but he is a mighty fine lawyer. He would understand his role to counsel the President and to bring the President around to what position is appropriate, but he, at the end of the day, would be independent if the President insisted upon doing something that was inappropriate.

Chairman GRASSLEY. Mr. Canterbury, of course you are no stranger to these sort of Attorney General hearings. You testified in support of Attorney General Eric Holder 8 years ago. Reflecting on the last 8 years of leadership, the Department of Justice from the perspective of arguably the largest law enforcement advocacy group, how did DOJ fare, and how might it be different if the person you are supporting today were Attorney General?

Mr. CANTERBURY. Senator, it is our position that we have to work with whoever is in that office, and we have historically worked with every Attorney General. Personally I have worked with every Attorney General since Janet Reno. And we believe that with Senator Sessions, the communications, the lines of communications will be more direct than they have been. We have had good success with career employees at DOJ. They are very professional. We believe it is an outstanding organization, but we also believe with Senator Sessions, information and the knowledge that he has had from serving on this Committee, he will be able to serve us well in the area of criminal justice, with reform efforts and with training and equitable sharing and those type of things. We feel the communications will be excellent with Senator Sessions.

Chairman GRASSLEY. Another question for you. The sheriff's association at the national level recently noted that in the past year this country has seen the highest number of law enforcement fatalities in 5 years, including 21 officers who were ambushed, shot and killed. If confirmed for the position of Attorney General, what steps do you think that Senator Sessions could take to reverse the trend?

Mr. CANTERBURY. First and foremost, we believe that Senator Sessions, as Attorney General, will not speak out on incidents that arise before a thorough and full investigation. And we believe that the anti-police rhetoric comes from people that make comments without knowledge of the situation prior to the facts being released to the media. And so we believe that there will be a much more positive tone about reconciliation. Nobody in this country wants our communities and police to reconcile more than my members, Senator.

Chairman GRASSLEY. Mr. Kirsanow, Senator Sessions has received some criticism for his enforcement of voting rights while he was a Federal prosecutor and Alabama Attorney General. Would you evaluate Senator Sessions' record on voting rights? This will probably have to be my last question.

Mr. KIRSANOW. Thank you, Mr. Chair, I would be happy to. I have heard testimony and I have heard media reports with respect to cases related to voting rights that Senator Sessions was prosecuting and if he had failed to prosecute the Perry County case, that would have been an extraordinary dereliction of duty. I would advise everybody who is interested in facts, as opposed to optics, to read the indictment, to read all the available pleadings, read all of the contemporaneous reporting and you will have wasted about 2 days doing so, as I did. The multi-count indictment, if you go through it, details in excruciating detail all of the violations here.

If you look at the facts of the case, what happened is, you had two separate factions of Black Democrats in Perry County, who were vying for seats. One faction went to the U.S. Attorney's Office and said, "Wait a minute here, we believe there is rampant voter fraud going on here." And in fact, if you look at the FBI's affidavit related to this, they found 75 forged signatures on absentee ballots. There were multiple counts where individuals who were part of—who were candidates who were taking absentee ballots, changing them, altering them, or filling them out on behalf of individuals and then giving them to the elections board.

One family had a candidate, for whom they voted, who was their cousin. All six members testified that their ballot, nonetheless, was checked for the other person. And they said it was false. There was copious evidence that in fact there was voter fraud, in fact that it occurred.

Now, it is true, these people were acquitted, but we have seen this circumstance before. The person who literally wrote the book on voter fraud prosecutions, Craig Donsanto, who is the legendary former head of the Public Integrity Section of DOJ was the man who told Senator Sessions, "Go forward with this." He surmised, as did many other contemporary witnesses, that this was a classic case of voter nullification. I think as he testified, or he indicated, that this is a matter in which there was no way in the world a jury was going to convict these individuals who were, in fact, civil rights advocates. The facts of the case established that had a prosecutor not taken this and pursued this, there would have been some serious questions about his integrity.

Chairman GRASSLEY. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Mr. Canterbury, I was my State's Attorney General, and Rhode Island is one of the States where the Attorney General has full prosecutive authority, there are only three. So I worked very closely with my police department. I was also my State's United States Attorney and in that capacity I worked very, very closely with police chiefs. My experience was that a police chief in Providence, which is an urban good-sized city, and a police chief in small coastal Narragansett, Rhode Island, would have very different law enforcement priorities. And that it, in my view, is appropriate for a

police chief to be able to pursue their own law enforcement priorities within their communities. Would you agree with that?

Mr. CANTERBURY. Yes, sir, Senator, the same thing with sheriffs, the Constitution-elected officers, they are going to police their communities as they think they need to be policed and set priorities that way.

Senator WHITEHOUSE. And an important part of that, for a police chief, is to maintain the kind of community relations between the department and the community that support effective pursuit of those law enforcement priorities. Is that not the case also?

Mr. CANTERBURY. I do not think it is any different in a city with five police officers than it is in Providence. Wherever you are—

Senator WHITEHOUSE. Community relations—

Mr. CANTERBURY. Community relations is the key to successfully performing our job.

Senator WHITEHOUSE. And it is going to be different in different communities. The method is going to be different of effective community relations in different communities.

Mr. CANTERBURY. It can be, yes, sir.

Senator WHITEHOUSE. And so, would you agree that for the Department of Justice to try to dictate what local law enforcement priorities should be, or how a police department should choose to deal with its community, could be a stretch too far?

Mr. CANTERBURY. In matters of law, no, but in matters of policy and procedure, yes, sir, I would agree.

Senator WHITEHOUSE. And prioritization, as well, correct?

Mr. CANTERBURY. Absolutely.

Senator WHITEHOUSE. Yes. The reason I ask that is that one of the concerns that I have heard from Rhode Island police chiefs has been that a relentless or unthinking pursuit of very low-level immigration violations could disrupt everything from orderly community relations with a Latino community to even ongoing significant gang investigation in which cooperators might lose their willingness to cooperate if somebody came in and decided to try to deport their mother. My point is not that one is right or the other is wrong. My point is that the decision at the community level as to priorities and to maintaining community relations is an important one, correct?

Mr. CANTERBURY. Yes, sir, it would be. But to cut more to the core of what I think you are asking, Sanctuary City decisions are usually made by politicians and not police chiefs. And very rarely—

Senator WHITEHOUSE. "Sanctuary City," in fact, is not even a legal term, is it?

Mr. CANTERBURY. And very rarely should law enforcement officers make those decisions. As you know, Senator, politicians pass the laws and we are charged with enforcing them, we do not necessarily have to agree—

Senator WHITEHOUSE. And in doing so—

Mr. CANTERBURY. Or disagree with them.

Senator WHITEHOUSE [continuing]. And in doing so, you do establish law enforcement priorities.

Mr. CANTERBURY. Yes, sir, we would.

Senator WHITEHOUSE. You do not put people out on the street to do jaywalking, you go after murders first, you go after robberies first. That is standard law enforcement practice, correct?

Mr. CANTERBURY. Emergency protocol requires the highest level of crime first and down from there.

Senator WHITEHOUSE. Down from there.

Mr. Thompson, Mr. Canterbury said earlier something that I agree very much with, which was to applaud the career employees of the Department of Justice and to say that right now the Department of Justice was an outstanding organization. You and I and others have served as United States Attorneys. What do you think about the career attorney core of the Department of Justice?

Mr. THOMPSON. Well the career attorneys at the Department of Justice, through my years of experience, Senator, like yours, these are very good lawyers. They are dedicated to law enforcement, they are dedicated to the work of the Department of Justice. I have had nothing but positive experiences in my years at the Department of Justice, and in dealing with the Department of Justice as a defense lawyer.

Senator WHITEHOUSE. Should a career attorney in a new administration be punished for following properly the policy direction of a previous administration?

Mr. THOMPSON. I do not actually think a career attorney should be punished for anything other than not doing his or her work.

Senator WHITEHOUSE. Clearly a career attorney should not be judged on whether they are secular or religious in their lives, correct?

Mr. THOMPSON. Absolutely not.

Senator WHITEHOUSE. Mr. Brooks, the Sessions candidacy has achieved expressions of support from people like David Duke and from what has been described as a White supremacist neo-Nazi news site called The Daily Stormer, whose site founder wrote that the Sessions appointment was, "like Christmas. Basically we're looking at a Daily Stormer Dream Team in the Trump Administration." Now you cannot fault a nominee for the people who choose to be enthusiastic about his candidacy. This is not obviously Senator Sessions' fault. But do you believe that he has distinguished himself away from whatever the causes are for that support so that you feel comfortable going forward that he has addressed that?

Mr. BROOKS. Based on the record, I do not believe that the Senator has sufficiently described a Department of Justice fully committed to enforcing the Nation's civil rights laws. Where we have hate crime rising, most of which is perpetuated not in bars, not in streets, but in K through 12 schools. Speaking out against hate crimes, making it clear that you are going to prosecute hate crimes, making it clear that you are going to enforce the Nation's civil rights laws, the Voting Rights Act to the full measure in a full-throated way, I do not believe we have heard that. So, he is not responsible for who endorses him, but he is in fact responsible for what he endorses and his vision for the Department of Justice.

Senator WHITEHOUSE. Thank you, Chairman, my time has expired.

Chairman GRASSLEY. Thank you, Senator Whitehouse. Now Senator Hatch.

Senator HATCH. Well thank you, Mr. Chairman.

General Mukasey, welcome back to the Judiciary Committee. You became Attorney General after nearly two decades as a Federal District Court Judge. The current Attorney General had nearly two decades of experience as a Federal prosecutor. Jeff Sessions will become Attorney General after two decades as a U.S. Senator.

No matter where an Attorney General comes from, he or she has the duty described yesterday by one of my Democratic colleagues as enforcing the law fairly, evenly and without personal bias. You were here yesterday and heard, as I did, the repeated suggestion that Senator Sessions would not be able to enforce the law that he personally disagrees with. Do you agree that someone's political party, general ideological perspective, or personal opinions do not by themselves mean that he or she cannot be impartial and fair?

General MUKASEY. I certainly agree that a person's political background does not disqualify that person from enforcing the law and does not disable that person from enforcing the law. And I think Senator Sessions made it entirely clear that he understood the difference between advocating a position on the one hand as a legislator and the oath that he takes to enforce the law on the other. He was very clear, very precise about that. And I think everybody who passes from one status to another, be it from a judge to Attorney General, be it from a lawyer to a judge, understands that they are changing their responsibilities. And he is not alone in that but he certainly is very much alive to it.

Senator HATCH. How comfortable are you that Senator Sessions, a conservative Republican Senator, would enforce the law fairly, evenly and without personal bias?

General MUKASEY. Well, I think his statements yesterday make it entirely clear that he understands his responsibility to do that and I see no reason why he will not do it.

Senator HATCH. Mr. Kirsanow, in his written testimony, Mr. Brooks argued that Senator Sessions lacks the judgment and temperament to serve as Attorney General. Even more, he questioned whether Senator Sessions would actually prosecute hate crimes. I would welcome your response to that.

Mr. KIRSANOW. I have not known Senator Sessions as long as Mr. Thompson has, but I have known him for more than 10 years. And what I can tell you is that I have worked with several Senators here who have been very concerned about issues related to civil rights, particularly with respect to one issue that is within my wheelhouse as a labor attorney, and that is the interests of Black and other workers and their employment prospects.

We had hearings at the Civil Rights Commission, several hearings at the Civil Rights Commission about a lot of deleterious policies to the prospects of Black employment. And these were rectifiable policies, but they had pronounced effects, negative effects on Black employment. We even had a hearing where every single witness that spanned the ideological spectrum from left to right agreed, for example, that massive illegal immigration has a decidedly negative impact on wage and employment levels.

I provided these reports to a number of Senators and other Congressmen. Many of the Senators here were alarmed by it and questioned me about it and we had interactions and other members of

the Civil Rights Commission. I also provided it to Members of Congress, including Members of the Congressional Black Caucus. The one Senator who reached out, being very alarmed and pursuing this case with ultimate vigor was Senator Sessions. He was very concerned about this. In a number of private conversations we talked about a number of the steps that could be taken aside from reforming immigration law, which we all know here is something that is a significant challenge. But what could we do to improve employment prospects of Black Americans? He was the only Senator to act in that fashion. I heard nothing whatsoever from the Congressional Black Caucus, despite copious detail about the negative impact of this.

I am ultimately convinced that Senator Sessions would take the appropriate actions to enforce the law as written, because that is what we were talking about, existing immigration law, and he was adamant in doing that. Without fear or favor and without bias.

Senator HATCH. Knowing him as well as I do, I agree with you.

Mr. Canterbury, I want to thank you so much for what you and thousands of officers who represent us each and every day have said here for Senator Sessions.

The Pew Research Center, today, released one of the largest polls of police officers ever conducted involving some 8,000 officers in departments across the country. As a result of the high-profile fatal encounters between officers and Blacks, three-quarters of officers are more reluctant to use force when it is appropriate, and 72 percent have become less willing to stop and question people who seem suspicious.

Now I believe this effect stems from what has become almost a presumption that police have done something wrong when such encounters occur. That is a pernicious and dangerous shift in the general attitude toward our police and it is totally without foundation. Now it seems to me that this change in attitude cannot only negatively affect officers and actually put police safety at risk, but also make much more difficult important efforts at community policing. Do you agree with me on that?

Mr. CANTERBURY. Absolutely agree with you. I think the case in Chicago of the young female officer that decided to take a beating rather than deploy a taser because she said it was not worth what she would put herself through to deploy a taser is a microcosm of what is happening in law enforcement where it is not worth what you may have to put yourself through.

Senator HATCH. Well that same poll found that 93 percent of officers had become more concerned about their own safety in this country. Yesterday, the Chairman noted that the number of police killed in the line of duty has significantly increased. You have made that point. Also yesterday, Senator Sessions noted that most police are local rather than Federal. The Fraternal Order of Police and other national law enforcement groups support his nomination. How do you think that a change in leadership of the Justice Department can concretely affect and improve things at the local level?

Mr. CANTERBURY. Well, first of all, the Byrne JAG Grant Program, the COPS program, the community-oriented policing teams, consent decrees, pattern-of-practice investigations, when you have

open lines of communication, where rank-and-file management as well as citizen and activist groups can discuss those cases, I think you can get to a place where the communities will feel safer and the police officers will feel safer. And we have got to reduce the violence in this country. You know, Senator Hatch, we have been saying for a long time, systemic poverty is an issue that law enforcement is not charged with, nor has the ability to fix. But we are willing to be good partners and we believe, with Jeff Sessions as Attorney General, we will be able to work in all of those sections of the Justice Department, to try to improve.

Senator HATCH. We are pleased that you are here today and we are pleased that you are willing to testify for and on his behalf.

Thank you, Mr. Chairman.

Chairman GRASSLEY. Senator Durbin.

Senator DURBIN. Thank you very much, Mr. Chairman.

I want to thank all of the members of the panel who are here today, and especially Oscar Vazquez, who came as my invitee, for telling his inspiring life story. Thank you. You have given a face to an issue which is near and dear to my heart and the hearts of millions of Americans, and thank you for serving our country.

General Mukasey, during the course of this hearing I sensed that there is an evolving context relative to Russia and the involvement of Russia in the election. Many of the questions we posed to Senator Sessions related to his values, his votes. And now, I think, there is a growing concern of a question that you have addressed yourself to him and I asked you to speak to again about his role if he becomes Attorney General, vis-a-vis the White House, the President.

We now have allegations, unconfirmed, relative to Russian activity related to the President-elect. As I said, alleged, unconfirmed. And Director Comey of the FBI saying that at this point he would not talk about whether there was an ongoing investigation relative to Russia's role in the election.

So can you give me some clarity? And I think you have addressed this, and forgive me if I am asking you to repeat. Could you give me some clarity: When you served as Attorney General, if you received a call from on high, from the White House, from any person in the White House, relative to an investigation, an ongoing investigation, or a prosecution, what do you believe was the appropriate response in that situation?

Mr. MUKASEY. The appropriate response is that, whatever investigation it is, is going to be pursued to its logical conclusion, which is to say where the facts and the law lead. And I am glad that the question was in the hypothetical because I, in fact, did not get such a call, although I have gotten to get calls with respect to other matters. And my response was generally that the department would pursue its agenda as already set.

Senator DURBIN. Is it your position the Attorney General is independent in this decisionmaking when it comes to other members of the executive branch?

Mr. MUKASEY. Correct. The Attorney General is, obviously, is a member of an administration and pursues priorities that are set by an administration. But when you are talking about particular investigations and particular cases, that is something altogether dif-

ferent. And I think Senator Sessions made it clear he understood it was altogether different.

Senator DURBIN. May I ask you another question related to that? Investigations undertaken by the Federal Bureau of Investigation: What authority does the Attorney General have over the commencement or the conclusion of those investigations?

Mr. MUKASEY. Well, the Attorney General theoretically is—the FBI director reports to the Attorney General. I say “theoretically” because occasionally one gets the idea that the FBI director is independent. If we had more time, I could tell you a story, but it will have to wait until an informal meeting.

The FBI director works for the Attorney General.

Senator DURBIN. So I guess my question, repeatedly Senator Sessions has called for Attorneys General to recuse themselves rather than participate in investigations with political ramifications. Most recently, he called for Attorney General Lynch to appoint a special counsel for Hillary Clinton in an op-ed that he wrote on November 5th of last year.

I am trying to work this through. I asked him pointedly whether he would recuse himself if there were any accusations against the President-elect, once he becomes President, or other people involved in the Trump campaign. And he basically answered me that he was going to take this on a case-by-case basis.

If—he has the authority and power to stop an investigation at the FBI, is that what you are telling me?

Mr. MUKASEY. Yes.

Senator DURBIN. So if there is an investigation underway, he could stop it if he wished.

Mr. MUKASEY. Yes.

Senator DURBIN. And when it comes to the appointment of a special counsel involving the conduct of the President, is it your feeling that the Attorney General should, as a general rule, consider special counsel?

Mr. MUKASEY. No. It would depend on the case. A special counsel is to be appointed when there is a good reason why the department headed by the Attorney General cannot pursue that case. And I think what Senator Sessions had—I am not familiar with the op-ed that you mentioned, so I am speculating, but I think it sounds like what he had in mind was not simply the position of the Attorney General, but rather the tarmac conversation with President Clinton that put her in a difficult situation. I do not think that simply had to do with the fact that she was Attorney General appointed by the President.

Senator DURBIN. I see, thank you.

Mr. Brooks, since the *Shelby County* decision, the Voting Rights Act is in a perilous situation. And I commended to my colleagues and I commend to you a book entitled “White Rage” by Carol Anderson, teaches at Emory. And she talks about the evolution of the issue of race since the Civil War.

It strikes me now that we are in dangerous territory about the future of the Voting Rights Act. If preclearance is not required and the Department of Justice is reacting after the fact, there could be some delay in justice here in an intervening election or no action taken.

I asked my staff to give me a listing of the cases initiated by the Department of Justice relative to the Voting Rights Act for the last several years, and it goes on for pages. Can you address this issue about your belief of the commitment of Senator Sessions to enforce the Voting Rights Act in principle, post-*Shelby County*?

Mr. BROOKS. Certainly. So as you well know, Senator, the Voting Rights Act is regarded as the crown jewel of civil rights statutes. And Section 5 was regarded as the most effective provision of the most effective civil rights statute.

And so in the wake of the *Shelby County v. Holder* Supreme Court decision, which debilitated Section 5 via Section 4(b), we have seen nothing less than a Machiavellian frenzy of voter disenfranchisement from one end of the country to the other.

And so that means that the Department of Justice has taken on more responsibility and civil rights organizations have taken on more responsibility with fewer tools. It has meant the debilitation, literally, of our democracy where we have citizens who have to wait for the violation to occur, as we saw in North Carolina where the Fourth Circuit, the U.S. Court of Appeals for the Fourth Circuit, held that the State legislature engaged in intentional racial discrimination with respect to voter suppression, carried out with surgical precision.

It took an army of lawyers, an army of experts in order to vindicate the rights of the people, and a mass movement by the North Carolina State conference of the NAACP with so many others and so many other legal groups.

The point being here is the Department of Justice, not only is our democracy in a perilous place, but the Department of Justice is in a perilous place. It needs strong leadership. It needs resources. And we need a Voting Rights Advancement Act to fix the Voting Rights Act.

Senator DURBIN. And post-*Shelby County*, if the Attorney General is not timely and aggressive in enforcing the Voting Rights Act, the damage will be done.

Mr. BROOKS. The damage is absolutely done. And when we think about all of the many Members of this body that went to Selma, that commemorated the foot soldiers of the movement on the Edmund Pettus Bridge, all that they died for, all that they sacrificed for is hanging in the balance. So we need strong leadership there because literally, literally we can squander the fruit of their efforts and the civic sacrament of our democracy, namely the right to vote.

Senator DURBIN. Thank you.

Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you, Senator.

Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

There is a lot to cover in 7 minutes, so let me try to be somewhat selective.

First of all, thanks to all of you for being here. I cannot help but believe that in spite of the fact that we have had a national election that the election is still ongoing, the campaign is still ongoing. I respect each one of your rights to express your point of view, but at the same time it is amazing to me that with the Senator having cast 6,000 votes in the United States Senate we are focused on a

handful of policy differences and somehow people are saying that those are dispositive of the qualification of this person who we have served alongside of for 15 years, in my case, and 20 years in the case of others.

So I guess our job is sort of like the jury in a regular lawsuit. We have to give weight to the testimony and we have to figure out whose testimony is entitled to greater weight because, frankly, the descriptions we have heard today are so wildly disparate that I would imagine for people who did not know Senator Sessions and know his record as I do and those of us who have served with him, it would be hard to reconcile.

But I want to ask General Mukasey, Senator Hatch alluded to this, but this is really important to me and I just want to reiterate this.

You have had the distinction of serving in two branches of our three branches of government, as a Federal district judge with great distinction, then as Attorney General in the executive branch. I, at a much lower level, have had the chance to serve now in three branches myself as a State court judge and as an Attorney General of my State and now as a legislator here at the Federal level.

Each of those roles are different, are they not? And indeed, I think that is the point that Senator Sessions made eloquently yesterday. Even though he may have some policy differences or had cast a vote against a bill in the Senate, he would respect the Constitution and enforce the law. Is that not what you understood?

Mr. MUKASEY. That is precisely what I understood. And he recognized the difference in the different roles that he plays as a legislator from what he would play as Attorney General.

Senator CORNYN. And I thought yesterday he did a magnificent job responding to the questions and acknowledging that policy differences do exist. That is just the way it is.

Mr. Canterbury, let me ask you a little bit about the role of the Federal Government and the Attorney General's office and the Department of Justice in supporting local and State law enforcement.

I believe the figure is roughly \$2 billion a year that the Federal Government hands out or distributes in terms of grants to local and State law enforcement. I think in your testimony, you mentioned the active shooter training that we have tried to enhance through the Police Act which passed this Congress and was signed by President Obama, making sure that more officers got that training, which is even more relevant, sadly, today than perhaps even in the past.

I would just add to that the work that we did recently on mental health and its intersection with the criminal justice system. The Mental Health and Safe Communities Act that was part of the 21st Century Cures bill, again, recognizing that our jails and our streets and our emergency rooms have become the treatment centers by default for people with mental illness.

We need to do more to try to get people who need help the help they need, but not treat mental illness as a crime, per se.

We also need to make sure that we train our law enforcement officials because we know how dangerous, at least from the stories and the statistics that we see, how dangerous it can be when a po-

lice officer encounters a person with mental illness and they do not have the training they need in order to de-escalate the scene.

But could you talk a little bit about your experience and your organization's experience as law enforcement officials dealing with people with mental illness?

Mr. CANTERBURY. Well, I would say in the last 10 or 15 years the number of mentally ill individuals that law enforcement comes in contact with has exponentially gone up as mental health services at the State and local level have gone down.

And I have explained this recently to Vice President Biden when he asked about that same question, and my response was, in many of these situations, regardless of whether a police officer or a law enforcement professional realizes that there is a mental illness, the circumstances are dictated by the actions.

And so whether or not we can recognize the particular mental illness is not as important as recognizing that there is an issue. The problem is that there is very little assistance at that level anymore for street-level mental illness. And making sure that they are not a danger to themselves or others should not, cannot be the responsibility of a first-responding officer. We just will never have the training to be able to do it to that extent. So it is a huge issue for local and State officers. And I do not know what we are going to do to fix that. But the biggest thing is that the community-based mental health facilities are just not there anymore.

Senator CORNYN. Well, I think you will find a friend in Senator Sessions as Attorney General in recognizing the priorities for local and State law enforcement and making sure that the Mental Health and Safe Communities Act, which will provide priority for that kind of training and assistance for local and State law enforcement, is there.

Ms. Sepich, thank you for your outstanding work and arising out of a terrible tragedy you and your family experienced in your lives. But I know you are committed to making sure not only that that does not happen to other families, but also that through your work on DNA Saves that we are able to bring people responsible to justice. There has been so much work that we have done here, and Senator Sessions has been front and center, as you have noticed. Things like Senator Hatch's Rapid DNA legislation act, the Paul Coverdell National Forensic Science Improvement Act, which was just renewed in the Justice for All Act that Senator Leahy and I cosponsored and was signed by President Obama.

But it is so important to make sure that we do provide all of these essential tools and good science to make sure that we do convict the guilty, but we also exonerate people who are innocent of crimes.

And would you—I just want to say thank you. I know the Chairman has got his gavel in his hand, he is getting ready to gavel me out of order here. But I just want to express my gratitude to you for your leadership on that issue.

But you are right, Senator Sessions has been front and center at all of those efforts to not only convict the guilty, but also exonerate the innocent.

Ms. SEPICH. Thank you, Senator.

Senator CORNYN. Thank you, Mr. Chairman.

Chairman GRASSLEY. And now Senator Leahy.

Senator LEAHY. Thank you. I was not going to interrupt Senator Cornyn as long as you are praising the legislation you and I wrote together. I mention it only because, contrary to what people believe, Republicans and Democrats do work together on a lot of things here in the Congress.

Mr. Thompson, you and I have worked together on things, as you know.

And I just want to say something to Sergeant Vazquez. I watched some of your testimony earlier. It is so moving. And my wife did, too, and we both are so proud of you and thank you for what you have done in your service for the country. And as parents of one who served in the military, we, like all parents everywhere, you worry about those who serve and you worry about what they do, but you thank everybody, the fact that we have people who are willing to serve our country.

Are you concerned about what might happen under the new administration for young people registered under DACA?

Sergeant VAZQUEZ. Definitely, Mr. Senator. There is a huge concern for those roughly 800,000 people that raised their hand and said they were undocumented, right? I think that the biggest point that that makes is that when there was a path, there was a way for us to come out of the shadows, right? Eight hundred thousand people raised their hand and said they were undocumented. Now, the fact of the matter is that there was no other way, right? Congress, the Senate has not passed any meaningful laws that could guarantee them a path to citizenship, to—to whatever you want to call it.

But unless there is a path, unless there is a way they can find a permanent solution, we are definitely concerned that the next administration is going to stop the DACA and that those students are going to have to go back into the shadows.

Senator Sessions stated yesterday that there is not enough financial support to deport 800,000 people, and at the same time he opposed every single legislation that would have given them a way to become legal. So what are the students to do? What are the young adults to do when they are faced with that position? So it is definitely concerning.

Senator LEAHY. You must know an awful lot of people who are here under DACA. Is there a sense of concern about the rhetoric that we are hearing with the new administration?

Sergeant VAZQUEZ. There is definitely a sense of concern. There is a lot of fear most of all. I know students, one of the other—my teammates that won the competition so many years ago, he is a father to two U.S. citizen children now and he will be facing—he is facing the unknown, given the next administration.

I mean, there has been statements saying that DACA is going to be repealed, maybe there is not, so we are not sure what is going to happen in that scenario. There is a lot of fear out there.

Senator LEAHY. Thank you.

Ms. Swadhin, I raised—nobody had, I thought I should raise the question yesterday at our hearing about comments that the President-elect had made regarding sexual assault and gave Mr. Sessions a chance to explain. His first response is that he seemed to

be basically minimizing it and approving of what the President-elect had said. He expanded what he meant yesterday. And yesterday he was under oath. I will accept that.

But I think of my own daughter. I think of my three beautiful granddaughters. And I think about somebody in a Hollywood video when the President-elect jokes about what is sexual assault.

Mr. Sessions, now when he is asked further about it, admits that what President-elect Trump bragged about doing is sexual assault.

You have dedicated your life to helping others heal after sexual assault. You are a survivor yourself. So I have a two-part question: What kind of a message does it send when somebody, especially somebody in power, trivializes sexual assault, even jokes about it? I was a prosecutor, I prosecuted sexual assault cases. What does it do for a victim's willingness to come forth if they see people in power trivialize something that might be a lifelong trauma for them? And I yield to you.

Ms. SWADHIN. Thank you for the question, Senator Leahy. You know, it is highly relevant on several levels that the impact that it has on survivors watching people in power, and in this case someone who, you know, has been elected to be the President of the United States, make these kind of jokes and brag about this kind of so-called "locker room behavior" about sexually assaulting women. I think it is important to go back to the point I made in my testimony that the majority of victims of violent crime are assaulted by people who they know intimately. In cases of adult rape and sexual assault, it is 80 percent of survivors know their assailant. And in 90 percent of cases of child sexual abuse, the person sexually abusing a child is known and trusted and often loved by the person who is perpetrating the violence.

So it is already so hard for survivors to come forward because it means that we have to testify against the people that we put our trust in. My case, it was my father and that is not an uncommon story. It is someone very close to you. That is how these crimes happen. And so to be able to trust the State more than we fear our intimately known perpetrators, we have to see people in control of the State who take a hardline stance against sexual assault and who, you know, say publicly that they would support and believe survivors.

And unfortunately in this political climate, we are looking at an administration led by a man who not only does not seem to prioritize helping sexual assault survivors heal and come forward and be able to trust the State, but, you know, may have actually engaged in sexual assault himself, the things that he was bragging about, so it is incredibly concerning.

Add to that the fact that the violence that we live through has very traumatizing impacts. I, myself, live with complex PTSD, so your mental health on a day-to-day basis is already negatively impacted. So to be able to stay grounded enough to come forward and put your trust in a stranger, a social worker, a prosecutor, a police officer, in order to get the services, the healing, and the accountability that you deserve, it is incredibly difficult.

Senator LEAHY. Thank you, because I remember on these sexual assault cases with detectives in my office, the assistant prosecu-

tors, and myself having to tell people you can trust us, we actually care about what you say, we do believe it is a crime.

And frankly, those who trivialize it and say it is not a crime are ignoring too many people in this country.

Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you, Senator Leahy. Now Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman. I want to thank all the members of this distinguished panel for being here today. And I want to take a special moment to thank Larry Thompson who was my boss at the Department of Justice, although I would note that you should not hold Larry accountable for my many missteps in the years that followed.

I want to start, Mr. Cole, by addressing your testimony. And I would note that the ACLU—I have worked alongside the ACLU on any number of issues here in the Senate, including we have worked alongside each other on issues of indefinite detention, we have worked on the same side concerning the USA Patriot Act, we have worked on the same side working to stop the efforts of Senate Democrats to amend the Constitution and to amend the free speech protections of the First Amendment. And so I am grateful for many of the good things the ACLU does. You are a professor at Georgetown. I would like to ask you, as a professor, how would you react to a student who submitted an exam with a one-sided and biased account of the facts that included only the facts supporting the student's views and omitting everything else?

Mr. COLE. Well, first of all, Senator Cruz, thank you for where you have worked with us and we hope to work with you in the future where our interests align. You know, what we did here with respect to Mr. Sessions was to—

Senator CRUZ. I will get into the facts for a moment.

Mr. COLE. Yes, so I think—

Senator CRUZ. If you will indulge me and answer the question.

Mr. COLE. Right. So I think it would depend. If the question were to the student, is grabbing a woman by the genitals sexual assault or not and they responded, yes, it is, I would say that is a correct answer. If they responded by saying, actually—

[Interruption from the audience.]

Mr. COLE. If they responded by saying, no, I would not characterize grabbing a woman by her genitals as sexual assault, I think that is a stretch, as Mr. Sessions did—

Senator CRUZ. Mr. Cole, I—

Mr. COLE. Then I would say that is not a good answer. So it depends on the question.

Senator CRUZ. We will get into the facts and substance in a moment.

I think I am on firm ground observing that if you had a student who presented a one-sided and biased answer you would grade them very poorly. I would also note you and I are both Supreme Court litigators. And any court would not look kindly at a litigant who omitted any facts or law that were to the contrary.

Would you agree with that? That if you file a Supreme Court brief or do an oral argument and the case law that is against you, the facts that are against you, you just stick your head in the sand

and ignore, that does not tend to be looked on too kindly by the Supreme Court or by any court?

Mr. COLE. No, I think you have to address the questions that are presented by the case, as I think we did with respect to Senator Sessions.

Senator CRUZ. Okay, good. Well, then let us get into the facts. You blasted—and I will note that your testimony—I have to say, your testimony both written and oral is disappointing to me. You characterized it as “strictly nonpartisan,” and yet you blasted Senator Sessions for prosecuting African-American civil rights leaders as a U.S. Attorney in the 1980s, insinuating that doing so somehow made him a racist.

And yet, you did not mention in your written or oral testimony the fact that the complaints asking him to do so were brought by African-American citizens who felt that their votes were being abused and stolen. And indeed, I would like to read a quote from LaVon Phillips, who is an African-American investigator for the Perry County District Attorney’s Office, who said, “There was an ongoing, Black-on-Black power struggle in Perry County. In 1982, the office received numerous complaints from incumbent Black candidates and Black voters that absentee ballot applications were being mailed to citizens’ homes without their request. People were going to the polls trying to vote. They were told that they had already voted absentee when they did not. A grand jury, a majority of which was African American, asked in its official report for a Federal investigation of voter fraud in Perry County because it was becoming very abusive and the Black incumbent candidates at the time were rather terrified.” That is the case Senator Sessions brought as U.S. Attorney.

And my question to you, Mr. Cole, is, in your written and oral testimony, why did you omit the fact that the complaint came from African-American citizens, from elected African-American incumbent politicians, and the indictment came from a grand jury that was a majority African-American? Why did you omit those facts?

Mr. COLE. Well, I do not think I intentionally omitted those facts, Senator Cruz. What I did was to express our concerns about several aspects of that case, namely that Senator Sessions, as the U.S. Attorney, investigated only counties, not just Perry County, but only counties where Black votes had gone up, not where White votes had gone up, but only where Black votes had gone up, number one.

Number two, that he had conducted the investigation in an extremely intrusive way, addressing Black voters at their homes, asking them how they voted, why they voted, et cetera.

Number three, that he took the position, the legal position that advising somebody on how to vote, on who to vote for, was a crime.

Now, you, Senator Cruz, when you were running for President, advised people on how to vote for yourself. That was not a crime.

Senator CRUZ. Well, you also omitted the fact that the evidence in the case showed absentee ballots had been tampered with. And indeed, the defendant in the case admitted that he had changed absentee ballots. He argued it was with the voters’ consent, but he admitted he had changed absentee ballots.

Mr. COLE. And if you are——

Senator CRUZ. And my point is simple, Mr. Cole. This Committee can assess what occurred there. But any law student or any litigant who presented such a one-sided picture of the fact, conveniently omitting every single fact that is to the contrary, would not be treated as a credible witness and would not be treated, as you describe your testimony, as strictly nonpartisan.

Let me turn briefly to a second issue you brought up, which was the TIECO case. You said the TIECO case undermines Sessions' fitness for the job as Attorney General. And likewise, there are a number of facts that you just omitted from your discussion.

Number one, the basis of your complaints was submitted to the Alabama Ethics Commission. And on July 10th, 1996, the Ethics Commission unanimously dismissed the charges against Sessions for insufficient facts. Now, you briefly mention that in your written testimony, but you omitted it from your oral testimony.

Fact number two, the Alabama State Bar—one of TIECO's lawyers filed a complaint with the Alabama State Bar, based on the trial court's order that you quoted, alleging over 20 ethical violations. The Alabama State Bar adjudicated that matter and on February 16th, 2000, the State bar unanimously dismissed the complaint. Again, you omitted that fact from both your written and your oral testimony. That is nowhere to be found.

But third, most strikingly, the language you rely on as the basis for your testimony, the Federal Court of Appeals, the Eleventh Circuit, concluded that that precise language concerning prosecutorial misconduct was "particularly unreliable and misleading." It reversed a civil verdict based on it. And the Eleventh Circuit concluded there was "no evidence in the record to support a finding that TIECO's Federal constitutional rights were violated," and concluded that "probable cause existed to prosecute TIECO." You omitted that fact that the Federal Court of Appeals profoundly repudiated that State court ruling you are relying on. And that, again, is not credible or impartial testimony.

Now, I would ask the Chairman for consent to introduce into the record the Federal court opinion, the ethics complaint dismissal, the State bar complaint dismissal, and related materials. And I would also like to introduce a memo from Professors Ronald Rotunda and William Hodes concluding that, "The mere nonspecific allegations of a party uncritically adopted by a State court judge and rejected by the State agencies with jurisdiction over ethics complaints cannot possibly have any bearing on Senator Sessions' ethical standing today."

Chairman GRASSLEY. Without objection, so ordered.

[The information referred to appears as submissions for the record.]

Mr. COLE. Can I respond? No? Can I respond. Just briefly, and thank you.

First of all, I did not omit that the Ethics Commission concluded there was not an ethics violation, but that was a year before the case was dismissed for rampant prosecutorial misconduct.

Second, I did not omit the fact that the Eleventh Circuit reversed a lower court decision for introducing that trial court opinion. I addressed it and I explained that that Eleventh Circuit decision in no way questioned the factual validity of the trial court's findings that

Senator Sessions' office engaged in the worst misconduct that he had ever witnessed.

What the court held was that, because it was hearsay, because it was hearsay and, therefore, the defendants were not able to cross-examine the information and because it was very prejudicial, it was improperly introduced. But the court did not have before it any facts that would allow it to assess whether the judge's findings based on the judge's record in the State trial court were right or wrong. And in fact—

Senator CRUZ. So you say the Federal court did not question the reliability. The quote from the Eleventh Circuit is that the State court's opinion was, "particularly unreliable and misleading."

Mr. COLE. And what it meant was—but if you read the opinion, which I did, and, Senator Cruz, you are now presenting misleading information, because if you read the opinion, the opinion makes it very clear that the decision is based on a rule of hearsay and its relation to prejudice. In the abstract it is a legal ruling, it is not a factual determination in any way, shape, or form.

And so you present one side, I present another side. I urge the Committee to look at the facts of this case where Senator Sessions worked on behalf, closely collaborated with people who were making campaign contributions to him, filed a 222-count indictment, every count was thrown out.

Senator CRUZ. Mr. Cole, my time is expired, but I would simply note the Federal Court of Appeals said, and I quote, "The statement of facts was intended to exculpate TIECO and, thus, it was self-serving and unreliable." That is a verbatim quote from the Federal Court of Appeals and it is contrary to what you have just told this Committee.

Chairman GRASSLEY. Senator Franken.

Senator FRANKEN. Before my time starts, can I just note that Senator Cruz's time went over 4 minutes. And I want to respond to something Senator Cruz said.

Chairman GRASSLEY. [Off microphone.]

Senator FRANKEN. I know, but can I maybe have a couple of extra minutes because I want to respond to something that Senator Cruz said about omitting facts.

Chairman GRASSLEY. [Off microphone.]

Senator FRANKEN. Well, you are the Chairman. Yesterday I developed this line of questioning with Senator Sessions where he mischaracterized civil rights cases that he had been involved in.

He said that he had personally handled—among the 10 most important cases he personally handled, four of them were civil rights cases. And I put into evidence testimony from an op-ed article co-authored by Gerry Hebert.

Mr. Cruz, in following me, said that Mr. Hebert's testimony in '86 was discredited, that he recanted it and it was discredited. He did not recant his whole testimony. He recanted a small piece of his testimony. It was actually in the recanting of it—was Senator Sessions' favor. And he did it before—he did it in time so it was before the vote.

It was one little piece where he had misidentified. He said that Sessions had stopped him from pursuing, or not given him approval to do a civil rights case, and he had looked back at his records and

got that wrong. Every other part of his testimony he did not recant, and he was not discredited.

So if the Senator is going after a witness for not being balanced, I would suggest that the Senator look at his own methods of making arguments.

Now, I want to know, does anybody here, anybody on this panel, have any evidence at all, any reason to believe that there were 3 million fraudulent votes cast in this election?

[Voice off microphone.]

Senator FRANKEN. Yes.

Okay. Now, voting rights is a big deal. It is a really big deal. And so when we are going to be—we are talking about the Attorney General here, it is important that the Attorney General care about voting rights, because that is a part of his job.

Now, Mr. Brooks, North Carolina. When was that—that was thrown out by the Fourth Circuit. When was that enacted—was thrown out by the Fourth Circuit?

Mr. BROOKS. I think 2 years ago.

Senator FRANKEN. How many?

Mr. BROOKS. I think 2 years ago, I am not sure.

Senator FRANKEN. Yes, 2 years ago, right? So in the intervening time, there have been elections, right?

Mr. BROOKS. Yes, sir.

Senator FRANKEN. And what did the Fourth Circuit say about how this was targeted?

Mr. BROOKS. The Court held that the voter suppression was intentional, racially intentional, and that it was carried out with surgical precision with respect to African-American voters.

Senator FRANKEN. Okay. So in other words, the North Carolina State Legislature, with surgical precision, went after African-American voters to prevent them from being able to vote.

And because we did not have preclearance, there were elections allowed to happen in which votes were suppressed, right?

Mr. BROOKS. Yes, Senator.

Senator FRANKEN. Is that how our democracy is supposed to work?

Mr. BROOKS. No, Senator. As you well know, that when the preclearance provision was in effect, for years and years on end, these kinds of changes were regularly rejected by the Department of Justice—at least 20 or so a year. And so in the wake of the *Shelby* decision, what we have now is a political landscape in which the violation has to occur, and then ordinary citizens have to find lawyers, have to find experts, they have to find organizers, have to reach out to the NAACP to right a wrong in their democracy, where resources that they do not have in communities often under siege, civically speaking, and this is expensive. And it imposes a cost not only on the litigants, one of whom I walked with from Selma to DC last year, at 90-some-odd years of age. So this is not merely a matter of legal costs, but also costs on our fellow citizens.

Senator FRANKEN. Now, because we had *Shelby*, we did not have preclearance, and because of that, elections were held in which Black votes were suppressed. That we know. That we know is a fact.

Now, if we do not have preclearance, we have—and Senator Sessions said that this was targeted at the States—of course it was targeted at States like North Carolina and States that have a history of doing this. That is for a reason. And we can get a new formula, as Senator Coons has tried to get passed through here.

But in the meantime—and does anyone—can anyone guess why I asked about the evidence on 3 million suppressed votes, or supposedly fraudulent votes? I think you know why I brought it up. Because when you are saying that there are 3 million fraudulent votes, that is your excuse to suppress votes. There was no—none of the States, nobody came forth with evidence of any widespread fraud. Zero fraud mainly is what we heard.

And so what I want is—and I will just finish up with this sentence—I want an Attorney General who is going to protect people's right to vote. And I do not think, with Senator Sessions, we are going to have that.

Chairman GRASSLEY. Senator Graham.

Senator GRAHAM. Thank you very much.

Does anybody on the Committee doubt that there are cases of voter fraud in America? They all said they do not doubt it.

Do you doubt it? If you do, now is the time to speak up.

Mr. BROOKS. Senator, various studies have indicated that when you compare the number of ballots cast in the hundreds of millions, the number of instances where voters are impersonating voters for the purpose of casting a ballot are a literal handful.

So if you look at the research of Ari Berman, any number of scholars will indicate that it is virtually zero. It is a relative handful, to hundreds of millions of ballots cast.

Senator GRAHAM. So you are saying there really is no evidence of voter fraud. What happens if a county has more votes than there are people in the county?

That does not seem right to me. But anyway, the bottom line is I think you want to do two things, at least I do—make sure people can vote, and nobody votes illegally. Indiana has an approach; North Carolina has an approach. We will keep working on it.

Mr. Brooks, do you give a scorecard to Members of Congress?

Mr. BROOKS. The NAACP does, indeed.

Senator GRAHAM. Okay. Do you know what score was given to Senator Sessions in the 113th Congress?

Mr. BROOKS. The Senator has received a low grade, as in a failing grade, for years on end.

Senator GRAHAM. Okay. He got 11 percent. What did I get?

Mr. BROOKS. Senator, I will have to consult the scorecard for you.

Senator GRAHAM. I got 25 percent. Hatch got 25 percent. Grassley got 11 percent. Lee got 11 percent. Cruz got 11 percent. Sasse is yet to be determined. Flake, 29 percent. Crapo, 14 percent. Tillis, not rated. Kennedy, not rated.

What did the Democrats get on this Committee? Feinstein got 100 percent. Leahy got 100 percent. Durbin got 100 percent. Whitehouse got 100 percent. Klobuchar got 100 percent. Franken got 100 percent. Coons got 96.

[Laughter.]

Senator GRAHAM. Blumenthal got 100 percent and Hirono got 100 percent.

Why do—would you say that there seems to be a difference in terms of the parties and how well they do with NAACP's legislative agenda?

Mr. BROOKS. Yes. The new questions—the report cards are based on legislation, not party affiliation.

Senator GRAHAM. Well, is it not kind of odd that one party gets 100 percent and nobody else does very well on our side?

Mr. BROOKS. Senator, I do not think it is odd. It simply reflects the—

Senator GRAHAM. I think it is really odd. I think it—well, it speaks for itself. Name one—it means that you are picking things that conservative Republicans do not agree with you on and liberal Democrats do. I hope that does not make us all racist and all of them perfect on the issue.

Can you name one person you think would be a good Attorney General on the Republican side?

Mr. BROOKS. Senator, my purpose here, as you well know, as a witness, is to speak to the nominee's fitness to serve as Attorney General. And I might note, with respect to our report card, we have done that for the better part of a century, not based on—

Senator GRAHAM. If I may, I think that the report card says volumes about how you view Republican conservatives, and all of us are in Jeff Sessions' boat when it comes to your organization. Maybe we are all wrong and maybe you are all right. I doubt if it is that way.

Mr. MUKASEY, you have been Attorney General.

Mr. MUKASEY. Yes.

Senator GRAHAM. You know the job pretty well.

Mr. MUKASEY. As well as you can learn it in the time that I was there.

Senator GRAHAM. So what makes you believe that Jeff is capable of doing the job?

Mr. MUKASEY. I think he has all the qualities of passing issues of competence and knowledge. He has all the qualities of mind and character that it takes to do the job, plus he has tremendous skill as a lawyer. He has also got an advantage that I did not have, which is to say he had 20 years in this body, so he understands relationships with Congress. It does not have to be a learned skill for him, and has the dedication to the rule of law that is required to do the job properly.

I have no hesitation in supporting him.

Senator GRAHAM. Thank you.

Mr. Canterbury, you are—do you work with Democrats and Republicans at the FOP?

Mr. CANTERBURY. Absolutely, Senator. Many good friends on both sides of the aisles.

Senator GRAHAM. Have you found Jeff Sessions willing to work with the other side when he finds common ground?

Mr. CANTERBURY. Absolutely. And we have disagreed with Senator Sessions on issues, but always willing to listen to us.

Senator GRAHAM. Have you found him—he will fight like a tiger for what he believes in?

Mr. CANTERBURY. Yes, sir.

Senator GRAHAM. How do you say your name, Peter—

Mr. KIRSANOW. Kirsanow.

Senator GRAHAM. You have been a big supporter of Senator Sessions' immigration position, is that fair to say?

Mr. KIRSANOW. That is correct.

Senator GRAHAM. And I have been a big opponent of that.

Mr. KIRSANOW. That is correct.

Senator GRAHAM. Your observations about the man I agree with, substantively, on the issue, I disagree, but I appreciate you coming forward and speaking.

Mr. Vazquez—is that right?

Sergeant VAZQUEZ. Yes, sir.

Senator GRAHAM. If I have my way, then we will find a way to replace the Executive orders with legislation to protect the 800,000 people who have come out of the shadows. Look forward to working with you on that. Do you support deporting people who have committed felonies?

Sergeant VAZQUEZ. I believe that the real spirit of immigration when coming to this country is to come here to pursue a better life. I can speak for the people I know, my parents, right? We came here to work. We came here to pursue a better life, and—

Senator GRAHAM. My question is, do you support deporting people who have committed felonies?

Sergeant VAZQUEZ. If you are going to come here to work and you are here to do other issues, then perhaps you are not representing us, and you should not be given the same opportunities.

Senator GRAHAM. Thank you all.

Chairman GRASSLEY. Senator Coons.

Senator COONS. Thank you, Mr. Chairman, and I would like to thank the witnesses of this panel today for their moving testimony and for sharing with us their experiences and their struggles, their work for public safety, for justice, for civil liberties, and civil rights.

The role of an Attorney General is not to be a bystander or a mere witness to the passing of time. Fundamentally, the top law enforcement officer of our country has an obligation to enforce the law. But that is too simplistic a framing. In a world of limited resources and competing demands, not every violation of law is enforced equally at all times in every situation.

The Attorney General of the United States has enormous power to shape the strategy of the Justice Department and deploy its resources of \$27 billion and 100,000 employees. And at times we heard yesterday a more moderate, more reflective Senator Sessions, who gave encouraging answers to a number of pointed questions. But I am very concerned that Senator Sessions' 30-year record reflects many extreme positions far out of the mainstream, not just of our legislative work here, but out of the Republican Party.

More than that, I am concerned that Senator Sessions' record demonstrates that when there was an opportunity to stand up for the vulnerable, to promote civil rights or advance justice, he did not take action, or even actively opposed bipartisan work that would advance justice. So I have just a few quick questions.

First, I would like, Mr. Chairman, to introduce into the record a letter from Coretta Scott King that was sent to the Chairman and Ranking—at that point, Senator Biden—back in 1986 that was

apparently omitted from the record, that I think ought to be made a part of the record.

[The letter appears as a submission for the record.]

Senator COONS. And I would like to first ask, if I might, Dr. Brooks about Senator Sessions' record. He has been criticized for actions he took ranging from the 1980s to the current day. And based on his record, many have expressed concern that, as Attorney General, he might not fully enforce a variety of civil rights laws and help advance them.

And after the Supreme Court's decision in *Shelby County* striking down preclearance—the most important piece, I would argue of the Voting Rights Act—a Voting Rights Act that was really forged in the crucible of the march in Selma.

A number of us worked to try and find a fix that addressed his concerns about the formula being outdated, that the formula was based on things that had happened decades ago. And despite diligent, disciplined work to try and find a bipartisan solution, we did not find a partnership with him.

Tell me, do you believe that Senator Sessions as Attorney General would not just be a witness to actions, but would act to advance justice?

Mr. BROOKS. Based upon the record, we do not believe that. And the reason being here is that the Voting Rights Act has been debilitated in the wake of *Shelby*. We have seen these voter ID laws affecting at least 21 million Americans. We have seen these voter ID laws based upon the false predicate of voter fraud. We saw that in Alabama. We have not heard the Senator speak out on the voter suppression in his own State.

A voter ID law in that State, or similar to the one in Alabama, has been invalidated both in the Fourth Circuit and in the Fifth Circuit, North Carolina and Texas. The Senator has referred to the Voting Rights Act as—or I should say, the debilitation of it—as good for the South. He has referred to the Voting Rights Act as intrusive. He has not spoken in any way commendable, has not done anything to strengthen the Act in the wake of *Shelby*, has not recognized the voter suppression in his own State, has not spoken out in any way significantly in terms of the voter suppression that has occurred in the wake of *Shelby*. So we have no reason to be confident that as a chief law enforcement officer of the country, that he would do all that is necessary to protect the rights of Americans. In other words, being a prosecutor is not merely a binary matter; you do it or you do not. There is a matter of discretion, there is a matter of judgment, there is a matter of allocation of resources, and a matter of using the resources of the Department of Justice to bring about justice. We have no reason to be confident that he will do that.

Senator COONS. And to make it clear, Dr. Brooks, Senator Franken was just asking about this. The allegation that there were 3 million fraudulent votes in this last election was made by the President-elect, without any foundation. We have had hearings in this Committee. There have been hearings in other places and in other legislatures. There is no evidence of widespread fraud to justify the voter ID statutes that have been enacted. And subsequent reviews, not just in North Carolina but in other places, have found

them to be unconstitutional, yet the nominee for Attorney General has been silent about those issues and concerns. Is that your case?

Mr. BROOKS. That is in fact the case. And let us note this. Let us just be very clear about this. Empirically speaking, one is as likely to see the tooth fairy standing next to Santa Claus at the ballot box as to encounter an actual instance of voter impersonation, voter fraud. Those are simply the facts. So for this kind of voter fraud to be a predicate for voter suppression is a shame in our democracy. There is no such case of voter fraud on the magnitude that has been described by the President-elect.

Senator COONS. Thank you, Dr. Brooks.

Mr. Cole, the ACLU has published a report outlining a number of concerns about Senator Sessions' nomination, ranging from voting rights to criminal justice to LGBT rights to torture to religious freedom.

I would like to note that in the audience today, I have marked, Mr. Khizr Khan is here with us. He has spoken passionately about his son's sacrifice for our Nation in combat in Iraq and has submitted a letter that I think is worth review by all Members. I would like to submit it for the record, if I might.

[The letter appears as a submission for the record.]

But Mr. Chairman, Mr. Khan, in his letter, spoke about his Muslim faith, about what it means to be an American and what it means to have real concerns about the Attorney General nominee and his commitment to the enforcement of religious liberty and protection of civil liberties.

Out of all the issues raised by the ACLU, what concerns you most?

Mr. COLE. Well, I think it is the pattern, the pattern of abuse when he exercised prosecutorial power, and the pattern while he was Senator of not just an ideological difference as some have put it, but of blindness at best and hostility at worst toward the interests and the rights that the Attorney General of the United States is—has a responsibility to protect.

So when you say—you can vote against the Hate Crimes Act, but when you say the reason I am voting against the Hate Crimes Act is because I do not think gays and lesbians and women are victims of discrimination, that is a blindness. When you say that Islam is a toxic ideology, that is hostility.

When you defend the President when he proposed—the President-elect, when he proposes a blatantly unconstitutional action using religion as a test for immigration, and you in the Senate are one of four people who defend that position and oppose a resolution that does no more than underscore what the Establishment Clause requires, which is that Government officials be neutral vis-a-vis religion, that gives us great pause.

So I think it is the entire record here. It is not an individual disagreement, it is about a failure to recognize discrimination and a hostility to some of the very rights that the Justice Department is designed to protect.

Senator COONS. Thank you both for your testimony. Thank you, Mr. Chairman.

Chairman GRASSLEY. I want to put in the record the fact that there has been a lot of discussion of the *Perry County* case. It is

worth noting that the Turner's son, Albert F. Turner, Jr., thinks Senator Sessions handled their case fairly. He said this in the letter, "My family and I have literally been on the front line of the fight for civil rights my whole life, and while I respect the deeply held positions of other civil rights advocates who oppose Senator Sessions, I believe it's important for me to speak out with regard to Senator Sessions personally"—I appreciate Mr. Turner's attitude—"he was a Federal prosecutor at the Federal level with a job to do." So without objection, I will put the statement in the record and turn to Senator Blumenthal.

[The letter appears as a submission for the record.]

Chairman GRASSLEY. Oh. Well, did you show up before I called on him?

Senator BLUMENTHAL. I would be happy to yield, if the Chairman so wishes.

Chairman GRASSLEY. Senator Tillis, go ahead. I am sorry. I did not see you come in when I called him.

Senator TILLIS. Thank you, Senator Blumenthal. Actually, I have got to preside before too long, so this will be my last opportunity. So, thank you very much for the courtesy.

Mr. Vazquez, I want to thank you for your service and I want to thank you for coming up and speaking on behalf of folks, where I for one happen to be on the spectrum where I think some sort of immigration reform policy is something I hope we accomplish over the next couple of years. I look forward to working with other colleagues on this issue.

But now I want to go to Mr. Kirsanow. Am I pronouncing your name right, Mr.—

Mr. KIRSANOW. Close enough.

Senator TILLIS. Okay. Kirsanow. You sat on a panel that I referred to in general yesterday. I do not know if you recall the panel where it was primarily Senator Sessions and myself in a kind of a debate club in the Immigration Subcommittee, but I pointed to that as an example of his sense of fairness, because we came to that Committee with very different views about the immigration issue.

I do share many of the concerns—I am going to ask you a question in a moment about it—that you expressed. But what I was most struck by were the multiple rounds of discussions that we had and how quick he was to give me another round when he knew full well that what I was going to talk about was at odds with what he, as the Chair of that Committee, really wanted to have the discussion be about. So that, to me, is just another testament of the fair nature of Senator Sessions and I look forward to supporting his nomination.

Mr. Kirsanow, I actually hope—and this relates to a question that Senator or Chairman Grassley asked yesterday. I actually hope, and do you believe, that an Attorney General Sessions would likely prosecute examples of where visa programs are being abused and calling out the people who are abusing the work visa programs that we have today? Do you think he is going to do that?

Mr. KIRSANOW. I am fairly certain he will, based on his public actions and the discussions we have had. He is concerned about enforcing the law as it exists, fairly, impartially. I think one of the

frustrations that he has expressed, as many people have expressed, is that existing immigration laws and other laws simply are not being enforced. As General Mukasey has indicated, it is his job to enforce the law as an Attorney General as opposed to a legislator who makes the law.

Senator TILLIS. And Mr. Vazquez, the reason why I like the answer to that question is that there are those of us who want to make progress on immigration reform need to get to the facts around where the abuses are occurring and how we eliminate them, because once we eliminate the abuses, then we can have the legitimate discussion about labor shortages and demographic trends that are probably going to get—have to get us to the right place on allowing legal immigration to occur.

But until we have a top law enforcement official who is willing to actually make sure that the law is followed today so that I can come back and say that there is a need for migrant workers, there may be a need for highly skilled workers, and we have an Attorney General who is actually enforcing the law to get rid of the abuses that take us further away from that result?

I think, interestingly enough, that an Attorney General Sessions may get us closer to a solution on immigration reform that both you and Mr. Kirsanow may find acceptable over time. Maybe idealistic, I have only been in this job for a couple of years, but having somebody who will get to the facts and who will actually get us to a point to where we can discuss the facts in this meeting about the reality of immigration reform and demographic trends is something I think that Mr. Sessions is going to help us do.

Mr. Thompson, you have spent a fair amount of personal time—if you roomed with Senator Sessions, then that means you spent a lot of personal time with him. Tell me a little bit about his experience as U.S. Attorney that you think make him highly qualified for the role of Attorney General, and also your personal observations with him when he was in the role as U.S. Attorney?

Mr. THOMPSON. So my response to your question, Senator, really will go to some of the questions that have been asked about Senator Sessions' ability and willingness to enforce the laws. Over the years, I have known, you know, some bad prosecutors and over the years I have known some good prosecutors.

I can assure you that Senator Sessions will be aggressive with respect to potential violations of the law. He will strike hard blows, he will not strike foul blows. And I do not think anyone here should have any concern about his willingness to enforce our laws fairly, impartially. He is a professional. He will be a complete professional in this job.

Senator TILLIS. Mr. Canterbury, I thank you and all the men and women who serve in our communities keeping us safe. There is another element to, I think, an Attorney General Sessions that I believe will help us get through the variations that we have in illegal seizures. I know that the Chair has had some concerns with forfeitures and seizures.

I think a part of that has to do with the past execution of the current Department of Justice, and maybe the leadership in the past. I firmly believe that this is another issue to where maybe we can have a discussion about a proper execution of seizures and for-

feitures that will make people in this Committee who are concerned with abuses less concerned with that. Would you agree with that statement?

Mr. CANTERBURY. Absolutely. I mean, we stand ready to work with the Committee as well to find a solution to the issues on the less-than-credible seizures. But the vast majority of the seizures, as Senator Sessions has commented many times, are crooks paying for law enforcement.

Senator TILLIS. And I tend to agree with that. Because my time is limited and I want to stay under, particularly in deference to Senator Blumenthal, I just want to thank General Mukasey. I actually had a question for you, but I am not going to ask it so I will not go over, except to thank you because you may be the first attorney who has come before a panel in this Judiciary Committee who answers yes/no questions with either yes or no. So, thank you very much.

I yield back the balance of my time.

Chairman GRASSLEY. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman. Thank you all for being here. This is a very distinguished panel and each of you brings a perspective that is very valuable to our Committee.

Let me begin with Mr. Thompson, who has a wealth of experience, both as a private practitioner and as Deputy Attorney General.

Mr. THOMPSON. And you used to be my Senator.

Senator BLUMENTHAL. That is correct. And we welcome you here. I am very concerned, as Senator Coons articulated so well, about a number of Senator Sessions' views on issues which seem to be out of the mainstream and hostile to basic civil rights and liberties, his views on immigration, his statements about Muslims, and his views on voting rights.

You served as Deputy Attorney General. You were responsible for enforcing the Voting Rights Act. I assume that you feel that it served a valid purpose. Do you agree that the *Shelby County v. Holder* decision was "good news," which is what Senator Sessions called it?

Mr. THOMPSON. I am not that familiar with that case, Senator, but let me respond this way, please.

Senator BLUMENTHAL. Well, let me just tell you, you may not be familiar in depth with it but essentially it gutted the act's most important enforcement provisions and it lifted the obligation, which you were responsible for enforcing as Deputy Attorney General, on many States with a history of voting discrimination to clear voting changes with the Department of Justice.

Mr. THOMPSON. As I understand the decision and as I understand the voting rights laws, the decision did leave in place provisions that allowed the Department of Justice to deal with important areas of voting rights. I now live in the South and one of the things about the way we have administered and implemented voting rights is that—I can tell you, I have lived in your home State and I have lived in the South, and I can tell you there are problems in both States.

So for a lot of people who live in the South, the idea to be—the idea in this day and age to be subject to provisions that Con-

necticut, for example, is not subject to, or other northern States are not subject to, is something that is hard to swallow for a number of people.

Now, let me respond about Senator Sessions, what we are talking about in terms of his ability and willingness to——

Senator BLUMENTHAL. Let me just——

Mr. THOMPSON. Enforce the law. I—we all go about choosing our friends in different ways. I have friends with all kinds of different political philosophies, all kinds of different beliefs, liberal friends, conservative friends. But when you go to the character of Senator Sessions, as someone who is going to be the Attorney General of the United States and his willingness to enforce all laws in an aggressive and fair and impartial manner, I have no problem with him.

I do not—I think he will be a very good Attorney General. You may not believe in that in terms of my own background, but I have practiced law for 43 years. I have spent a lot of time being concerned about diversity in our profession. I have spent a lot of time being concerned about equal rights. Jeff Sessions will be a very good Attorney General and I have no problem with his character as it relates to his willingness to enforce our laws.

Senator BLUMENTHAL. Would you not agree that there is a continued need for enforcement of voting rights laws in the South, and other areas of the country? I am not singling out the South.

Mr. THOMPSON. Yes. Yes.

Senator BLUMENTHAL. And would you not urge Senator Sessions that a decision that essentially guts one of the essential features of that law is not really good news for the South or the country?

Mr. THOMPSON. I have never been a legislator, but that really will not be his concern as Attorney General. That will be the concern of this Committee in terms of dealing with legislation that might change and improve the voting rights laws.

Senator BLUMENTHAL. Thank you.

Mr. Vazquez, have you submitted information to the Federal Government in connection with your status, and do you know of others who have as well who could be subject to enforcement actions as a result of information that they provided the Federal Government?

Sergeant VAZQUEZ. I have—obviously I am now a U.S. citizen, but before—before this was the case I did submit a lot of information and I would have been subject to deportation before then. I know friends that have been—they have submitted all their information, there are beneficiaries on their DACA that are currently in that situation that could be—possibly be affected by a cessation of DACA.

Senator BLUMENTHAL. Yesterday, I questioned Senator Sessions about the status of those individuals who have submitted information and they find that information, in effect, used against them, which I think would be drastically unfair.

And I asked him, as the Nation's legal conscience—not just the President's counsel, but he is the Nation's lawyer—to exercise some moral and legal oversight to assure that there is no unfairness against those individuals. They have, in fact, trusted the Government. They have entrusted the Government with that information.

It is not a criminal double jeopardy issue, but my feeling is that many of them may be in a sense victims of their own honesty, coming forward to provide that information.

Have you found among your friends a feeling of uncertainty, apprehension, fear that that information could be used against them?

Sergeant VAZQUEZ. The biggest sense that I get from my friends, it is the sense of fear, mostly due to the fact that we are not sure if DACA is going to continue. The fact that their names are out there, they raised their hands saying they are undocumented in the United States, and the fact that the top law enforcement of the country has voted against them every single time he has gotten a chance—their biggest issue is that he mentioned that he is not going to be able to deport 800,000 people, and the fact that that means that we are going to remain in the country. Then how is that going to give us confidence to report crimes against us and feel that that is going to be processed in a judge manner?

Senator BLUMENTHAL. Thank you. Thanks. Thanks to you. Thank you, Mr. Thompson, both of you, for your very helpful answers. Thank you.

Chairman GRASSLEY. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

I listened to your testimony this morning and it is clear to me you all are very, very smart people. If I struggle with your name, it is because I cannot see your name over here in my little corner, but I am going to try to be brief.

How many of you—you can just give me a show of hands—how many of you support Senator Sessions?

[A showing of hands]

Senator KENNEDY. And how many of you oppose?

[A showing of hands]

Senator KENNEDY. Does anybody know how many lawyers there are in the United States? Do you know, Professor? Any idea?

Mr. COLE. Some would say too many.

[Laughter.]

Senator KENNEDY. Yes. I knew you were going to say that.

Mr. COLE. I do not know the precise number.

Senator KENNEDY. Okay. A couple hundred thousand, at least. I am a lawyer.

Mr. COLE. That is in DC alone.

Senator KENNEDY. Yes, really. I do not know how many Democrats and how many Republicans there are, but is there anybody on this panel who doubts that if the President-elect had nominated an attorney to be Attorney General who happens to be a Republican, that the Democrat party could not produce witnesses to say that he would be a bad Attorney General? Does anybody doubt that in this environment?

[No response].

Senator KENNEDY. Is there anybody here who doubts that if the President-elect had nominated a Democrat, an attorney who happens to be a Democrat, to be Attorney General of the United States, that the Republican Party could not or would not produce witnesses to say that he would be a bad Attorney General? Does anybody doubt that?

[No response].

Senator KENNEDY. Thank you very much.

Chairman GRASSLEY. Senator Hirono. Maybe I should say what our plans are. I believe that we have all the questioning done on our side, so when these two are done, it would be my idea to adjourn, and then at 1 o'clock, bring back the panel that is scheduled for the next one after this panel. So we have informed people that regardless of when we quit here, we will be back at 1 o'clock.

Go ahead, Senator from Hawaii.

Senator HIRONO. Thank you, Mr. Chairman. I thank all of the panelists this morning. Dr. Brooks, I have some questions for you. Post-*Shelby*, the burden of going forward to show that a voter requirement law is discriminatory now rests with organizations, individuals such as the NAACP, correct?

Mr. BROOKS. Yes, Senator.

Senator HIRONO. And prior to *Shelby*, the preclearance really put the burden on States to show that whatever laws they were contemplating in this area, they have to show that this was not a discriminatory act on their part.

Mr. BROOKS. States with a history of—

Senator HIRONO. Yes, I realize.

Mr. BROOKS. Yes.

Senator HIRONO. So in this area of voting rights, there is no question in my mind that who bears the burden to go forward to prove something has a very high burden. At this point, that burden is really up to organizations like yours unless the Attorney General comes in, as they did in the North Carolina and Texas voting cases, to come in and weigh in and be a party.

So I asked Senator Sessions yesterday whether he would be just as vigorous in paying attention to these kinds of laws that have been enacted, by the way, by States, some 13 or 14 States now post-*Shelby*. So my question to you is, recognizing that the Attorney General has very broad prosecutorial discretion, the Attorney General cannot prosecute every violation of law. That is—even he admitted yesterday that that would be pretty hard, given the resources, so the Attorney General has to make some priority decisions.

So in your view, how high a priority was the enforcement of voting rights, such as the remaining Section 2 of the VRA, and civil rights laws under Jeff Sessions as Attorney General? How high a priority would those kinds of enforcement actions be?

Mr. BROOKS. Senator, based upon the record, we have no reason to believe it would be a high priority. Where—in the two States that you noted, North Carolina and Texas, our State conferences of the NAACP, with our lawyers, went to court. We are, in fact, in many ways partners with the Department of Justice.

That partnership presupposes that the Department of Justice, the leadership, the prosecutors are willing to see voter suppression. When I began my career at the Department of Justice in the Civil Rights Division, one of the things that I was advised by my supervisors, by my management, was the first thing you do when you conduct an investigation is reach out to the local branch of the NAACP. So we bear a heavy burden, but it is a burden that we would like to shoulder with a Department of Justice that is willing to see what we see.

Senator HIRONO. Ms. Swadhin, would you have some concerns about how high a priority prosecution of hate crimes, crimes against the LGBT community would be under Jeff Sessions as Attorney General?

Ms. SWADHIN. Absolutely, Senator Hirono. I think it is worth saying that the Violence Against Women Act is one of the pieces of legislation in this country that has always enjoyed strong bipartisan support. In fact, Senator Leahy was the sponsor of the 2013 version. But Senator Crapo on the Republican side co-authored the bill, and there were only 22 Senators who voted against it.

Senator Sessions was one of those, so he broke with the majority of the Republican Party to vote against that 2013 version. He argued yesterday that the reason he voted against that 2013 Violence Against Women Act was because he had concerns about fiscal mismanagement and wanted harsher penalties, but the fact is that the bill that passed did include provisions to include fiscal and reporting accounting to address the rape kit backlog, to strengthen the prosecution of sex crimes. The big difference between the bill that passed and the so-called alternative bill that he was trying to argue was, you know, the thing that he voted for, was the non-discrimination clause for LGBT survivors.

That—those discrimination—non-discrimination provisions were put into the bill that Senators Leahy and Crapo co-authored because national networks of victims' service advocates were hearing from people on the ground, domestic violence shelters, rape crisis centers, counselors, that LGBT survivors were being discriminated against.

So for Senator Sessions to go out on a limb, break with the majority of the Republican Party and vote against that legislation, to me, shows he has a strong bias against the LGBT community, which is also shown in his voting record against the Federal Hate Crimes Act that did also pass with a lot of bipartisan support, the Shepard-Byrd bill, and he of course also voted for a constitutional ban on same-sex marriage.

Senator HIRONO. Thank you.

Mr. Vazquez, thank you for coming and testifying. As an immigrant myself, I certainly share your concerns about what would happen to the 800,000 DREAMers who have come out of the shadows if DACA is rescinded.

Now, the Department of Defense has a program whereby they will accept DREAMers, if they have come out to participate in DACA, to enlist. And, clearly, if DACA is rescinded, then the Department of Defense program will also end. So as someone who is serving in the military, what do you say to people who question DREAMers who want to put on a uniform, serve our country, defend our country?

Sergeant VAZQUEZ. Thank you, Senator Hirono. I would say that having deployed and having seen combat, I care more than the person that was right next to me was willing to commit the same sacrifices that I was. And to question the reason why a lot of—why I would join the military, being that this country raised me since I was a young child, I would—I would say that they definitely need to get to know one of us because that is not necessarily a fair statement, as to the reasons why we join the military. And I think that

the mere fact that students are—young people that are benefited by DACA are willing to put their lives on the line to make that statement is something powerful to—to show.

Senator HIRONO. Thank you. I am running out of time, but I had a very short question for, again, Dr. Brooks regarding consent decrees with police departments. How important are these consent decrees, that they remain in place?

Mr. BROOKS. Critically important, when you cross the—criss-cross the country from Baltimore, to Ferguson, to Cleveland. The consent decrees provide a kind of bridge of accountability between police departments and the community that are enforceable. And bear in mind, this is not something that is imposed, but the parties agree to. And so they have legitimacy; they are an effective tool for the Department of Justice, and in a moment in which we have 2,100 Americans who lose their lives at the hands of the police over the course of the last 2 years, when a young Black man is 21 times more likely to lose his life at the hands of the police, and where you have predatory policing and these viralized videos of police-involved killings, consent decrees offer a measure of reassurance that someone is paying attention, a department is being held accountable, and that the community has a role to play that will be recognized by the courts. So, they are critically important.

Senator HIRONO. And I want to note that the vast majority of police departments, 18,000 or so, they are doing the right thing. There are about 20 consent decrees that we are talking about.

Thank you very much, Mr. Chairman.

Chairman GRASSLEY. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

I thought I would start with a kind of a different topic with you, Mr. Cole. It is about the Freedom of the Press. My dad is—was a long-time reporter with a Minneapolis paper, and it has been something that has been important to me my entire life. I actually asked Senator Sessions about this because he did not support the Free Flow of Information Act that we considered in this Committee.

And then I specifically asked about how, in 2015, the Attorney General had revised the Justice Department rules for when Federal prosecutors can subpoena journalists or their records, and also Attorney General Holder had committed to releasing an annual report on any subpoena issued or charges made against journalists and committed to not to put reporters in jail for doing their jobs.

I was not really able to get a straight answer. Senator Sessions said he would look back at the rules, and I will ask him on the record about it, so I do not have a concrete answer. But I just wondered if you could comment on the importance of the Freedom of the Press and some of these issues I raised in trying to keep these rules in place.

Mr. COLE. Well, thank you, Senator Klobuchar. The Freedom of the Press is one of the critical aspects of our constitutional order. It is—it serves a critically important checking function on government overreach and it performs that function, especially critically, in times when one party controls all the branches of the Federal Government.

So the Freedom of the Press is absolutely critical. You look back and you look at the role that the press played in Watergate, and you look forward and you imagine what kinds of investigations might need to be undertaken in light of some of the allegations we have heard recently about Russia and the Trump campaign. I think it becomes very clear that our country's democracy depends upon protection of the Freedom of the Press.

Senator KLOBUCHAR. Thank you very much.

Mr. Canterbury, thank you for being here. You have a number of members in our State and I enjoy working with them. I know we have worked together on a number of things.

I was not able to ask Senator Sessions yesterday, with our time limits, about the COPS program. As you know, in the House it has tended to be more bipartisan. I lead the bill in the Senate and I did get Senator Murkowski, the Republican of Alaska, who is doing it with me. But could you comment on the importance of that program, and maybe you will work with me in working with the Attorney General to get his support for this program.

Mr. CANTERBURY. It is a very important program. I think that with the sharp decrease in the staffing levels around the United States, that that bill is very important, especially in the major cities that have a rising crime rate. We will be glad to work with the Attorney General, and obviously with this Committee, to do anything to help move that program forward. We have a real problem with recruitment and retention of police officers.

Senator KLOBUCHAR. Very good. I know that is an issue and we want to recruit police officers, get more diversity into our police, more women, and just in general, recruit more police officers. So, I appreciate that, as well as work on training issues. That is something I hope we will focus on in this Committee. So, thank you.

Mr. Brooks, I asked yesterday—my lead questions were about the Voting Rights Act. I know a lot of my colleagues have focused on those issues as well today, but I just wanted to go back—I came in—I had another hearing in the Commerce Committee for Elaine Chao. I heard Senator Graham, my friend who I just traveled with for a week in Ukraine and other places, talking about the voter fraud issues.

I used to prosecute these cases because I was the prosecutor for our biggest county in Minnesota, over a million people, and I know we would studiously, with an investigator, go through every report. In almost everything that was reported as a potential fraud, it was a father and son with the same name and it was not fraud at all. I think we had one guy that said to our investigator on the phone, over 5 years, that yes, he had voted twice because he felt he could not get his views expressed, and then of course we charged him with a crime.

Then we had another person—and this is over 8 years in the office—a husband and wife, where a school district line had split down the middle of their house and they decided that should allow them to vote twice. But these were the cases of fraud that we encountered. In fact, this is backed up by the numbers.

One study found just 31 cases of voter fraud out of 1 billion votes cast. I just think it is really important for people to understand how rare this is. And I know you know this, and why it is so impor-

tant to look at the other side of the ledger, which is doing everything to make it easy for people to vote.

My State had the highest voter turnout in the Nation in the last election. Iowa was close. It does not necessarily mean you have a Democrat or Republican in office, as we know from our two States. Wisconsin is another State with high voter turnout. I just think it should be such a priority to get more people out to vote, and if you could talk about that.

Mr. BROOKS. Certainly. The NAACP as an organization, we believe that the right to vote is a civic sacrament. We honor it. We literally have members of our organization who have laid down their lives for the franchise. We dedicate tremendous resources to ensure that people vote.

In 2012, we led the Nation in terms of voter mobilization. These are grassroots volunteers. But when we talk about voter fraud, it suggests somehow that there are so many people who want to vote, they are willing to commit a crime to vote. That is not the case. We need more people to vote. The NAACP has focused on removing the barriers from voting, the obstacles to vote. We do so in a bipartisan—or I should say, excuse me, in a nonpartisan way—all across the country.

Senator KLOBUCHAR. Thank you so much, Mr. Brooks. I appreciate that.

I had one last question of you, Mr. Mukasey. We worked well together when you were the Attorney General, and I know that another Senator had asked you about the importance of an independent Attorney General, but I wanted to just ask you a question about the U.S. Attorneys. I know when you came in, you made some changes across the country with some of the U.S. Attorneys and you came in, in part, because there were issues of political influence with regard to some of the U.S. Attorneys' Offices across the country. We certainly do not want to go back to that again. So could you talk about the importance of independent U.S. Attorneys and that they are insulated from politics?

Mr. MUKASEY. The fact is that U.S. Attorneys, as you know, are political appointees. They are appointed by the President.

Senator KLOBUCHAR. Right. Yes.

Mr. MUKASEY. That said, once they are appointed, their charge is then to do essentially what the Attorney General's charge is to do, which is to enforce the law. And they have to recognize, and do recognize, that as soon as they take the oath, that is their charge. And they have to be supported in that by the Department, which is to say, the Department has to back them up when they are conducting investigations that have merit and not yield to political pressure, if there is any. It is a rarity, too, that you find somebody trying to lean on an investigation, but there has to be resistance to that and it has to be backed up by the Department. I think if there is that kind of relationship between the Department and the U.S. Attorneys, then there will be justified public faith in law enforcement. If there is not, there will not, and that is very damaging.

Senator KLOBUCHAR. Thank you very much. I appreciate it. Thank you all.

Chairman GRASSLEY. I thank all of you for your testimony. It has been very beneficial for both those opposed to and those in favor of Senator Sessions for Attorney General.

The hearing will stand in recess until 1 o'clock.

[Whereupon, at 12:36 p.m. the Committee was recessed.]

[Whereupon, at 1:12 p.m., the Committee reconvened.]

Chairman GRASSLEY. Welcome to this panel. I have just got three or four sentences I want to read and then I will introduce the panel.

We have come back this afternoon for our third and final panel. We have done this—we have not done this when we have held hearings for the past several Attorneys General, but Ranking Member Feinstein called me last week and made a special request for this panel and I am doing my best to conduct this proceeding fairly.

We will hear from each witness for 5 minutes. We have agreed that we will not ask any questions of the witness, and we will adjourn when we have heard the last witness.

Now I would like to introduce the witnesses.

Mr. LEAHY. I have about a 30-second—

Chairman GRASSLEY. Go ahead right now then.

Mr. LEAHY. Okay. Mr. Chairman, we know that the Attorney General is responsible for protecting the civil and human rights of Americans, and that is why many are worried, as you see in these hearings.

Senator Booker, Congressman Lewis, and Congressman Richmond bring to the discussion an important perspective about the basic rights enshrined in the Constitution that we try to form a more perfect union. That continues with every generation. Congressman Lewis has been a friend of mine for decades, we served together, and he nearly gave his life for that effort.

I invited Congressman Lewis to this Committee before for important conversations about marriage equality and voting rights, and the stakes are just as high. I am sorry we have broken with Committee tradition and made these Members in Congress wait till the very end of the hearing to speak. That is not the way I, as Chairman, would do, and other Chairmen have. But it is what we have.

But I commend Senator Booker and Representative Lewis and Representative Richmond for their courage. I am proud to serve with them. I thank them for being here.

Chairman GRASSLEY. Thank you, Senator Leahy.

My colleague, Senator Booker, is from New Jersey. I know him well. We all know him and we appreciate your coming over to testify.

We will hear from Mr. Willie Huntley. Mr. Huntley is a former Assistant U.S. Attorney in the Southern District of Alabama who worked under Senator Sessions when he served as U.S. Attorney there, and he has known Senator Sessions for nearly 30 years.

Then we will hear from a well-known civil rights leader, Representative John Lewis, who represents Georgia's 5th District. Welcome back to the Committee, Congressman Lewis. It is always good to have you here.

After Representative Lewis, we will hear from the Honorable Jesse Seroyer, who served as U.S. Marshal for the Middle District of Alabama 2002 to 2011. He first got to know Senator Sessions in

1995 when he worked for him in the Alabama Attorney General's Office.

Next, we will hear from Representative Cedric Richmond, who serves the people of Louisiana's 2nd Congressional District, and is Chair of the Congressional Black Caucus. Welcome to the Committee, Congressman Richmond.

Finally, we will hear from Mr. William Smith. Mr. Smith worked for Senator Sessions as the first African-American General Counsel on the Senate Judiciary Committee. He has known Senator Sessions for 20 years, and we know him because of that service as a staff person here as well.

Welcome to all of you. We will start with Senator Booker.

**STATEMENT OF HON. CORY A. BOOKER,
A U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator BOOKER. Thank you, Chairman Grassley. I want to thank Senator Leahy as well, as well as the distinguished Members of this Committee. I know it is exceptional for a Senator to testify against another Senator nominated for a Cabinet position, and I appreciate the opportunity you have given me today.

I work closely with many of you on this panel on both sides of the dais on matters related to criminal justice reform, and you know just how deeply motivated I am by the many issues our next Attorney General will heavily influence, especially the crisis of mass incarceration.

I know that some of my many colleagues are unhappy that I am breaking with Senate tradition to testify on the nomination of one of my colleagues, but I believe, like perhaps all of my colleagues in the Senate, that in the choice between standing with Senate norms or standing up for what my conscience tells me is best for our country, I will always choose conscience and country.

While Senator Sessions and I have consistently disagreed on the issues, he and I have always exercised a collegiality and a mutual respect between us. Perhaps the best example of this is the legislation we co-sponsored to award the Congressional Gold Medal to those foot soldiers who marched at Selma. One of the foot soldiers is sitting next to me now.

This was a blessing and an honor to me because in 2015, a retired judge, who was White, told me that it was those brave marchers on the Edmund Pettus Bridge who inspired him as a young lawyer in the 1960s to seek justice for all in New Jersey and begin representing Black families looking to integrate in White neighborhoods, Black families who were turned away and denied housing.

One of those families was mine. I am literally sitting here because of people, marchers in Alabama and volunteer lawyers in New Jersey, who saw it as their affirmative duty to pursue justice, to fight discrimination, to stand up for those who are marginalized. But the march for justice in our country still continues, it is still urgent.

I know also, though, of the urgency for law and order. I imagine that no sitting Senator has lived in the last 20 years in higher crime neighborhoods than I have. I have seen unimaginable violence on American streets. I know the tremendous courage of law

enforcement officers who put their lives on the line every single day to fight crime in America.

I want an Attorney General who is committed to supporting law enforcement and securing law and order, but that is not enough. America was founded, heralding not law and order, but justice for all. Critical to that is equal justice under the law. Law and order without justice is unobtainable. They are inextricably tied together. If there is no justice, there is no peace. The Alabama State troopers on the Edmund Pettus Bridge were seeking law and order. The marchers were seeking justice, and ultimately a greater peace.

One of the victories of the modern civil rights movement was the 1957 Civil Rights Act, which in effect made the Attorney General not only the chief law enforcement officer of the United States, but also vested in that office the responsibility to pursue civil rights and equal protection for all of America.

Senator Sessions has not demonstrated a commitment to a central requisite of the job: to aggressively pursue the congressional mandate of civil rights, equal rights, and justice for all of our citizens. In fact, at numerous times in his career he has demonstrated a hostility toward these convictions and has worked to frustrate attempts to advance these ideals.

If confirmed, Senator Sessions will be required to pursue justice for women, but his record indicates that he will not. He will be expected to defend the equal rights of gay and lesbian and transgender Americans, but his record indicates that he will not. He will be expected to defend voting rights, but his record indicates that he will not. He will be expected to defend the rights of immigrants and affirm their human dignity, but the record indicates that he will not.

His record indicates that as Attorney General he would object to the growing national bipartisan movement toward criminal justice reform. His record indicates that we cannot count on him to support State and national efforts toward bringing justice to the justice system, and people on both sides of the aisle who readily admit that the justice system as it stands now is biased against the poor, against drug addicted, against mentally ill, and against people of color.

His record indicates that at a time that even the FBI director is speaking out against implicit racial bias and policing and the urgent need to address it, at a time when the last two Attorney Generals have taken steps to fix our broken criminal justice system, at a time when the Justice Department he would lead has uncovered systemic abuses in police departments all over the United States, including Ferguson, including Newark, Senator Sessions would not continue to lead this urgently needed change.

The next Attorney General must bring hope and healing to the country, and this demands a more courageous empathy than Senator Sessions' record demonstrates. It demands an understanding that patriotism is love of country, and love of country demands that we love all of our citizens, even the most marginalized, the most disadvantaged, the most degraded, and the most unfortunate.

Challenges of race in America cannot be addressed if we refuse to confront them. Persistent biases cannot be defended unless we

combat them. The arc of the moral universe does not just naturally curve toward justice, we must bend it.

If one is to be Attorney General, they must be willing to continue the hallowed tradition in our country of fighting for justice for all, for equal justice, for civil rights. America needs an Attorney General who is resolute and determined to bend the arc. Senator Sessions' record does not speak to that desire, intention, or will. With all that is at stake in our Nation now, with the urgent need for healing and for love, I pray that my colleagues will join me in opposing his nomination.

Mr. Chairman, my time is over. I would like to submit the rest of my testimony to the record. I would like to again thank you for your opportunity to testify. Finally, I would like to acknowledge, which was not done, that sitting behind me are proud Members of the U.S. Congress and the Congressional Black Caucus.

Thank you, sir.

[The prepared statement of Senator Booker appears as a submission for the record.]

Chairman GRASSLEY. And you should not have had to recognize them, I should have done that. I am sorry.

Senator BOOKER. Thank you, sir.

Chairman GRASSLEY. Because I knew they were here.

Mr. Huntley.

STATEMENT OF WILLIE J. HUNTLEY, JR., FORMER ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF ALABAMA, MOBILE, ALABAMA

Mr. HUNTLEY. Good afternoon. My name is Willie Huntley, and I am an attorney located in Mobile, Alabama. I am a solo practitioner and I have been practicing law for over 30 years.

I am a graduate of Auburn University, where I attended college on a football scholarship. I graduated from Auburn in 1980 and I attended Cumberland Law School after that. I finished Cumberland Law School in 1984. After I finished law school, I started a Federal clerkship with a Federal judge in Montgomery, Alabama.

After I completed that process, I began a tour with the—as an Assistant District Attorney in Macon County, Alabama. I was there from 1985 to 1987. Then my life changed. I got a phone call one day, and my secretary comes in the office and she says Jeff Sessions is on the phone. And I am sitting there wondering, why is Jeff Sessions calling me? I was well aware of the allegations that had happened in his bid to become a Federal judge, which made me wonder why he was calling me. I answered the phone and then I find out that Jeff Sessions wants me to become an Assistant U.S. Attorney in the Southern District of Alabama.

This presented an ideal situation, so I decided to take advantage of that. The first time I actually met him was at a dinner in Montgomery. That dinner was supposed to last probably an hour, hour and a half. We ended up meeting for about 3 hours. During that time period, we discussed a number of topics: football, religion, politics, family. We talked about all those things.

During the course of that meeting with him, I got the feeling more and more and more that the allegations that had been spread through the press were not true. I also was contemplating whether

I should make this move because I thought, if I go to Mobile, I do not know anybody there, I have no family there, and what if this man turns out to be exactly how he has been portrayed?

Fortunately, it did not turn out like that. I was at the U.S. Attorney's Office from 1987 to 1991. He assigned me the general criminal trial cases. He also assigned me to civil rights cases, and I would supervise all the civil rights cases that came through the office. During this time period, I can recall where we successfully prosecuted a police officer that was charged with excessive use of force.

Unfortunately, I made a decision to leave the U.S. Attorney's Office in 1991. That decision was not based on anything that had happened to me during my time period in the U.S. Attorney's Office. During that time period, Jeff gave me advice, counsel. He provided a great deal of support in everything that I did. One thing in particular that he did, was my second child was born and there was a knock on the door that morning, and through the door walks Jeff Sessions.

After I left the U.S. Attorney's Office, Jeff became the Attorney General of Alabama. He asked me to join his staff at that time, but I declined to join his staff. However, he made me a Special Assistant Attorney General and he put me in charge of handling defense cases for the State of Alabama.

Also during this time period, Jeff became charged with violating the State of Alabama Ethics Act. It involved a company by the name of TIECO. Jeff Sessions could have hired any lawyer he wanted to to represent him in that matter. Jeff decided to hire me in that particular case. We had that case and during the course of it, it was probably the longest hearing that had ever been held before the State Ethics Commission. At that point, Jeff was fully exonerated of all the charges involving the State Ethics Act.

One of the things that I can say about Jeff, is that he has always been the same person that I have known. He has always been available for me and always been there when I needed him. At no point in the time that I have known Jeff has he demonstrated any racial insensitivity. I see my time is rapidly winding down.

I would just like to say that in my opinion, Jeff Sessions will enforce and follow the laws of the United States evenhandedly, equally, and with justice for all. Jeff Sessions will adhere to the Justice Department motto, "qui pro domina justitia sequitur." It means, "for the Lady Justice." Jeff will protect and defend the rights of all people.

Thank you so much for this opportunity.

[The prepared statement of Mr. Huntley appears as a submission for the record.]

Chairman GRASSLEY. Thank you.

Now we will hear from Congressman John Lewis.

**STATEMENT OF HON. JOHN LEWIS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF GEORGIA**

Representative LEWIS. Chairman Grassley, Senator Leahy, and Members of the Committee, thank you for inviting me to testify today.

Millions of Americans are encouraged by our country's efforts to create a more inclusive democracy, during the last 50 years of what some of us call the beloved community, a community at peace with itself. They are not a minority. A clear majority of Americans say they want this to be a fair, just, and open Nation.

They are afraid that this country is headed in the wrong direction. They are concerned that some leaders reject decades of progress and want to return to the dark past when the power of law was used to deny the freedoms protected by the Constitution. The Bill of Rights and its Amendments—these are the voices I represent today.

We can pretend that the law is blind. We can pretend that it is evenhanded. But if we are honest with ourselves, we know that we are called upon daily by the people we represent to help them deal with unfairness in how the law is written and enforced.

Those who are committed to equal justice in our society wonder whether Senator Sessions calls for law and order, if it means today what it meant in Alabama when I was coming up back then. The rule of law was used to violate the human and civil rights of the poor, the dispossessed, people of color. I was born in rural Alabama, not very far from where Senator Sessions was raised.

There was no way to escape or deny the chokehold of discrimination and racial hate that surrounded us. I saw the signs that said "White Waiting," "Colored Waiting." I saw the signs that said "White Men," "Colored Men," "White Women," "Colored Women." I tasted the bitter fruits—the bitter fruits of segregation and racial discrimination.

Segregation was the law of the land, the order of society in the deep South. Any Black person who did not cross the street when a White person was walking down the same sidewalk, who did not move to the back of the bus, who drank from a "White" water fountain, who looked a White person directly in their eyes, could be arrested and taken to jail.

The forces of law and order in Alabama were so strong, that to take a stand against this injustice we had to be willing to sacrifice our lives for our cause. Often, the only way we could demonstrate that a law on the books violated a higher law was by challenging that law, by putting our bodies on the line and showing the world the unholy price we had to pay for dignity and respect.

It took massive, well-organized, non-violent dissent for the Voting Rights Act to become law. It required criticism of this great Nation and its laws to move toward a greater sense of equality in America. We had to sit in, we had to stand in, we had to march.

That is why, more than 50 years ago, a group of unarmed citizens, Black and White, gathered on March 7, 1965, in an orderly, peaceful, non-violent fashion to walk from Selma to Montgomery, Alabama, to dramatize to the Nation and to the world that we wanted to register to vote, wanted to become participants in a democratic process.

We were beaten, tear-gassed, left bloody, some of us unconscious, some of us had concussions, some of us almost died on that bridge. But the Congress responded. President Lyndon Johnson responded and the Congress passed the Voting Rights Act and it was signed into law on August 6, 1965. We have come a distance, we have

made progress, but we are not there yet. There are forces that want to take us back to another place. We do not want to go back, we want to go forward.

As the late A. Philip Randolph, the dean of the March on Washington in 1963, often said, “Maybe our forefathers and our foremothers all came to this great land in different ships, but we’re all in the same boat now.” It does not matter how Senator Sessions may smile, how friendly he may be, how he may speak to you.

But we need someone who can stand up, speak up, and speak out for the people that need help, for people who have been discriminated against. It does not matter whether they are Black or White, Latino, Asian American, or Native American, whether they are straight or gay, Muslim, Christian, Jews; we all live in the same house, the American house. We need someone as Attorney General who is going to look out for all of us and not just for some of us.

I ran out of time. Thank you for giving me a chance to testify.

[The prepared statement of Representative Lewis appears as a submission for the record.]

Chairman GRASSLEY. Thank you, Congressman Lewis.

Now I go to Mr. Seroyer.

STATEMENT OF HON. JESSE SEROYER, JR., FORMER U.S. MARSHAL, MIDDLE DISTRICT OF ALABAMA, MONTGOMERY, ALABAMA

Mr. SEROYER. Mr. Chairman and Members of the Committee, it is an honor for me to be here and I thank you for your time.

My name is Jesse Seroyer, Jr. I have been in law enforcement since 1976 to 2016. I have served in local police departments for 11 years, served in the United States Marshal Service for 8½ years, served in the Attorney General’s Office for 20½ years. I first met Jeff Sessions when he was U.S. Attorney in the Middle District of Alabama—in the Southern District, I am sorry.

Jeff was prosecuting at that time a Klansman by the name of Henry Hayes. Jeff prosecuted that person for the abduction and murder of a Black teenager. Following Jeff’s election as Attorney General, I had the privilege to serve with him in his administration as his chief investigator.

The beginning of Jeff’s tenure as Attorney General presented Senator Sessions with challenges that included a budget crisis and a one-third reduction of staff. The things that Jeff did when we came to the budget crisis and the reduction of staff—there were several people in the office that had to seek other jobs elsewhere. There was a Black investigator in the office that came and had less than a year left before he was eligible to retire. Jeff Sessions allowed that to take place. He did not have to do that. He did not have to do that at all because of the situation that we were in.

Jeff Sessions retained me. He did not have to do that, but he did. Following the election, you know, we were charged with the responsibilities of a lot of crimes, and the expectations of the Attorney General was charged with the responsibilities of working various cases, which included white-collar crimes, public corruption, voter fraud, and criminal investigations.

As I reflect on our work, there was never a time when any of these cases was investigated with any political agenda or motive.

The utmost respect and integrity was exercised for all individuals involved. Jeff Sessions' service and decisions as Attorney General earned him a reputation and respect among his colleagues in appreciation for his willingness to do what was right.

When Jeff Sessions got to the U.S. Senate, as Attorney General he had argued to uphold a conviction and sentence of Klansman Henry Hayes for the murder of Michael Donald. When Jeff Sessions became a U.S. Senator, he helped me be appointed for the U.S. State Marshal for the Middle District of Alabama. He did not have to do that, but he did.

I have known Jeff Sessions for 20 years. He is a good and decent man. He believes in law and order for all the people—all the people in Alabama, because of his colleagues and all that surrounded him, the things that he has done for the law enforcement community and the citizens of Alabama, it is great. It is without any question as to whether or not he would be fit to serve this country as the U.S. Attorney General.

Now, I did not learn these things from a political press conference, any website where I read about him. I know Jeff Sessions as the man. The man that I know is a decent and honest and respectful man that will put all of his life into public service. He has done that.

When we talk about the criminal justice system, we enforce the laws and we do it because we have a love for the laws. Jeff Sessions loved the people that do the enforcement side of it. He respects the citizens, who deserve a good and honest person that is going to give all he has to make sure that everyone is treated equally and fairly under the law.

But his decency as a man and his honesty as a man speak for itself. He is the type of individual that I support for the United States Attorney General's Office because of my reputation and his history with me as a person and the things that I have seen over the years in Jeff Sessions. It is hard being a public servant.

I was in law—been in law enforcement for 40 years. It is a tough job. We do not violate the laws, we do not get out there and do things that would cause ourselves to be brought into the system. And I am not saying everybody is the same, but I believe that he will take hold of the justice system, the Justice Department, and he will be fair, he will be honest, and he will do the same thing for every person, with honesty and respect for all of us.

My time is up. Thank you for listening.

[The prepared statement of Mr. Seroyer appears as a submission for the record.]

Chairman GRASSLEY. Thank you, Mr. Seroyer.

Now, Congressman Richmond.

[Disruption in the audience.]

Chairman GRASSLEY. Wait just a minute, Congressman.

STATEMENT OF HON. CEDRIC L. RICHMOND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA, AND CHAIR, CONGRESSIONAL BLACK CAUCUS

Representative RICHMOND. Let me thank the Chairman and Ranking Member for allowing me to testify.

[Disruption in the audience.]

Chairman GRASSLEY. I would ask you to hold. You will not lose any time.

Proceed, Congressman.

Representative RICHMOND. Let me thank the Chairman and Ranking Member for allowing me to testify. The Senate's duty to provide advice and consent to Presidential nominees is a fundamental component of American democracy. I know that you do not take this responsibility lightly.

Before I jump into my substantive testimony, I want to address two timely issues. First, I want to express my concerns about being made to testify at the very end of the witness panels. To have a Senator, a House Member, and a living civil rights legend testify at the end of all of this is the equivalent of being made to go to the back of the bus. It is a petty strategy and the record should reflect my consternation at the unprecedented process that brought us here.

My record on equality speaks for itself, and I do not mind being last. But to have a living legend like John Lewis handled in such a fashion is beyond the pale, and the message sent by this process is duly noted by me and the 49 Members of the Congressional Black Caucus and the 78 million Americans we represent, and the over 17 million African Americans that we represent.

Further, on the issue of Senator Sessions' record of prosecuting the Marion Three, stemming from a complaint filed by African Americans, I say the following: History is replete with efforts by those in power to legitimize their acts of suppression and intimidation of Black voters by recruiting other Blacks to assist in bringing trumped up charges against law-abiding citizens who are engaged in perfectly legitimate voter education and empowerment activities.

Those tactics were effectively used against former Congressman Robert Smalls and hundreds, if not thousands, of Black office holders and land holders in our post-Reconstruction era. They were used several years ago against Mr. and Mrs. Alfred Turner, who were discussed by this Committee yesterday.

The Declaration of Independence set forth the idea of universal equality that rests at the heart of our democracy, but it is the 14th Amendment to our Constitution and its Equal Protection Clause that has helped bring us closer to fulfilling that foundational principle and bringing us closer to a more perfect union.

All Cabinet officials have a responsibility to protect the interests of all of the American people, but there is no office for which the duty to apply the law equally is greater than that of the Attorney General. In my capacity as Chairman of the Congressional Black Caucus, I urge you to reject Senator Sessions' nomination.

Throughout our Nation's history, Attorney Generals have used the resources of the Federal Government to vindicate the right of the most vulnerable in society. After the Civil War, the first Attorney General to lead the DOJ, Amos Akerman, prosecuted the KKK for its widespread use of violence aimed at suppressing the Black vote. This facilitated massive Black voting turnout in 1872. For the first time in our Nation's history, former slaves were afforded the opportunity to participate in the democratic process.

Simply put, Senator Sessions has advanced an agenda that will do great harm to African-American citizens and communities. For

this reason, the CBC believes Senator Sessions should be disqualified. He has demonstrated a total disregard for the equal application of justice and protection of the law as it applies to African Americans, and falls short on so many issues.

Jeff Sessions supports a system of mass incarceration that has disproportionately targeted African-American citizens and devastated African-American communities. He opposed common-sense, bipartisan criminal justice reform, and Jeff Sessions cannot be relied upon to enforce the Voting Rights Act. In his decades-long career and public life, Senator Sessions has proven himself unfit to serve in the role as Attorney General.

I would not have the opportunity to testify today were it not for men like John Lewis, who was beaten within an inch of his life in his pursuit for the right to vote for African Americans. It is a shame that he must sit here and re-litigate this 50 years later.

We sit here as the progeny of men and women who were bought, sold, enslaved, raped, tortured, beaten, and lynched. Black people were bought as chattel and considered three-fifths of a human being. However, we have been able to endure and largely overcome that history, thanks in part to brave men and women, both Democrat and Republican, who sat where you sit and cast often difficult votes for freedom and equality. These Senators fought public opinion and even their own party to do what was right. I come before you today asking you to do the same.

Now, you all must face a choice: Be courageous or be complicit. If you vote to confirm Senator Sessions, you take ownership of everything he may do or not do in office. He has no track record of fighting for justice for minorities, despite the characterizations that you have heard from others today.

He and his supporters have told you that he is a champion for civil rights and equality. Characterization and revisionist histories are not the same things as facts. He is on the record on numerous issues; I have provided just a few examples today.

Let us think about this logically. If he were in fact the champion for civil rights, would not the civil rights community support his nomination instead of speaking with one voice in near-unanimous opposition?

In closing, each and every Senator who casts a vote to confirm Senator Sessions will be permanently marked as a co-conspirator in an effort to move this country backward, toward a darker period in our shared history.

So I ask you all, where do you stand? It is clear from Senator Sessions' record where he stands. Will you stand with him and allow history to judge you for doing so? I implore you all to weigh these questions properly as you prepare to cast what will be one of the most consequential votes in your time as a United States Senator. "*Res ipsa loquitur*" is a legal term which means, "the thing speaks for itself." Senator Sessions' record speaks for itself, and I would urge you not to confirm Senator Sessions as Attorney General of the United States.

Thank you, Mr. Chairman, for allowing me to go over.

[The prepared statement of Representative Richmond appears as a submission for the record.]

Chairman GRASSLEY. Thank you, Congressman Richmond.

Now I call on Mr. Smith.

**STATEMENT OF WILLIAM SMITH, FORMER CHIEF COUNSEL,
ADMINISTRATIVE OVERSIGHT AND THE COURTS SUB-
COMMITTEE, SENATE COMMITTEE ON THE JUDICIARY,
WASHINGTON, DC**

Mr. SMITH. Chairman Grassley, Members of the Committee, I ask that my written statement be made a part of the record.

Chairman GRASSLEY. It will be. And that is true of Senator Booker and anybody else that did not get their entire statement put in the record. It will be in the record, yes.

[The prepared statement of Mr. Smith appears as a submission for the record.]

Mr. SMITH. It is an honor for me to be here today to support Senator Sessions to be the next Attorney General of the United States of America. He will do an outstanding job. The American people had an opportunity to witness yesterday, through his testimony, a brilliant legal mind, a man of the highest character and great integrity.

Let me briefly address this legal mind. As a staffer, your job is to always be more prepared than the Member. Senator Sessions made this difficult. I remember one hearing where I was passing Senator Sessions note after note to make sure he was prepared. When he did not speak on the topic I handed him, I would hand him another note on another topic. Finally, he decided to speak. He did—as he did in his testimony yesterday, he crushed it.

Senator Sessions was not ignoring my notes, he was systematically thinking about how to put all the notes together in one speech. A number of my colleagues were amazed by his speech. They asked me afterwards, what did you say to him in those notes? I told them, I handed Senator Sessions a blank sheet of paper and told him to make me look good, and that is what he did.

Senator Sessions spent yesterday proving to the American people that he understands the law, will disperse it equally, and he made a bunch of staffers look good.

A lot has been said about Senator Sessions' character. We have seen people who have never met Senator Sessions claim to know him, know his heart. We have seen Members of this body and Members of the House of Representatives just now who have worked with Senator Sessions and praised him for his work, and now turn to attack him. This should not be.

The reason we did not see a lot of this yesterday during the hearing is because the Members of this Committee know Senator Sessions. You know he is a strong conservative, but you also know he is fair and honest. If you disagree with Senator Sessions because of his political views, let us have a conversation about that but let us do it on the facts, not on 30 years of old innuendos and allegations that have been disproven.

There is something very consistent about praising Senator Sessions for aiding African-American communities and working on crack and powder cocaine legislation, and then criticizing him because he takes a different political view on another matter like immigration.

Enforcing immigration laws is not out of the mainstream.

On the panel that testified before this one, there were personal attack, after personal attack, after personal attack. I doubt any one of those individuals attacking Senator Sessions, outside of yesterday, has spent 30 minutes in the same room with him. That is 30 minutes in the same room, not 30 minutes talking to him. I doubt any of them have spent 30 minutes, or 10 minutes, talking to Senator Sessions.

This process should not be about—this process should be about facts, not about political aspirations. Every allegation and witness from 30 years ago has been discredited. Members and the media should move on. Senator Sessions testified yesterday that he would enforce the laws whether he agreed with them or not.

That is the role of the Attorney General, not to embrace every point of view in the shifting political winds. If you come before Jeff Sessions you will get equal justice and you will respect the outcome, even if you lose.

How do I know this? I know it because I know Jeff Sessions. I am not testifying as someone who just met him yesterday. I know his family, I have dined at his house. We have eaten Johnny Rockets burgers together. I have traveled across the State of Alabama with Jeff Sessions. I have watched him order a Heath Blizzard at Dairy Queen, quote, “heavy on the Heath.”

I have watched him prepare for hearings. I have debated him on legislative matters. I have written speeches for him. I have made speeches on his behalf. I have been in every political situation with him. Senator Sessions is unquestionably qualified for the job for which he has been nominated. He is a good Christian man and a good family man.

He is a man who has dedicated his life to public service, and in the course of that he has actually fought for the disenfranchised. He fought for citizen reform, and not only did he fight for it, he accomplished it. He fought for civil rights. He prosecuted members of the Ku Klux Klan and, most importantly, he has fought for the liberty of all Americans, regardless of the color of their skin or their personal beliefs. This is the way it should be. After 20 years of knowing Senator Sessions, I have not seen the slightest evidence of racism because it does not exist. I know a racist when I see one, and I have seen more than one, but Jeff Sessions is not one.

Senator Sessions has served with distinction throughout his career as a U.S. Attorney, as Attorney General for Alabama, and as a Member of this body. The legal profession is better for his service, this body is better for his service, and this country, at the end of his term, will be better for his service.

In every season, Jeff Sessions has been measured, courteous, and kind. He has treated me and everyone respectfully and fairly, not showing favoritism at any point. This is the kind of Attorney General that our Nation needs. I applaud his selection. I look forward to his swift confirmation. Thank you and War Eagle.

Chairman GRASSLEY. The record will stay open until Tuesday. I thank all of you for your testimony.

The hearing is adjourned.

[Whereupon, at 1:55 p.m., the Committee was adjourned.]

[Additional material submitted for the record for Day 1 and for Day 2 follows.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Witness List

Hearing before the
Senate Committee on the Judiciary

On

“Attorney General Nomination”

Tuesday, January 10 and Wednesday January 11, 2017
Russell Senate Office Building, Room 325
9:30 a.m.

Introducers

The Honorable Richard Shelby
United States Senator
State of Alabama

The Honorable Susan Collins
United States Senator
State of Maine

Panel I

Senator Jeff Sessions, to be Attorney General of the United States

Panel II

The Honorable Michael Mukasey
Former Attorney General
U.S. Department of Justice
Washington, DC

Mr. Oscar Vazquez
Former DREAMer
U.S. Veteran
Fort Worth, TX

Mr. Peter Kirsanow
Commissioner
United States Commission on Civil Rights
Cleveland, OH

Ms. Amita Swadhin
Founder
Mirror Memoirs
Los Angeles, CA

Ms. Jayann Sepich
Co-Founder
DNA Saves
Carlsbad, NM

Mr. Cornell Brooks
President and CEO
NAACP
Baltimore, MD

Mr. Chuck Canterbury
National President
Fraternal Order of Police
Washington, DC

Mr. David Cole
Legal Director
ACLU
Washington, DC

The Honorable Larry Thompson
Former Deputy Attorney General
U.S. Department of Justice
Washington, DC

Panel III

The Honorable Cory Booker
United States Senator
State of New Jersey

Mr. Willie Huntley
Former Assistant United States Attorney
Southern District of Alabama
Mobile, AL

The Honorable John Lewis
United States Representative
5th District of Georgia

The Honorable Jesse Seroyer
Former United States Marshal
Middle District of Alabama
Montgomery, AL

The Honorable Cedric Richmond
United States Representative
2nd District of Louisiana
Chair
Congressional Black Caucus

Mr. William Smith
Former Chief Counsel
Administrative Oversight and the Courts Subcommittee
Senate Judiciary Committee
Washington, DC

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

JEFFERSON BEAUREGARD SESSIONS, III
2. **Position:** State the position for which you have been nominated.

Attorney General of the United States
3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

United States Senate
326 Russell Senate Office Building
Washington, D.C. 20510-0104

Currently a permanent resident of Mobile, Alabama, with a residence also in Washington, D.C.
4. **Birthplace:** State date and place of birth.

December 24, 1946
Selma, Alabama
5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

University of Alabama Law School, obtained JD, 6/1973
Huntingdon College, obtained BA in history, 6/1969

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1969-1970

Goode Street Elementary School,
Montgomery, AL
School no longer exists
Teacher
Paid

1973-1975

Guin, Bouldin & Porch
Attorneys at Law
Russellville, AL
Firm no longer exists
Attorney
Paid

1975-1977

Assistant United States Attorney for Southern District of AL
Federal Courthouse
Mobile, AL 36601
Assistant United States Attorney
Paid

1977-1981

Stockman & Bedsole
PO Box 8367
Mobile, AL 36608
Associate; Partner
Paid

1981-1993

US Attorney for Southern District of Alabama
Federal Courthouse
Mobile, AL 36601
United States Attorney
Paid

1993-1995
Stockman & Bedsole
PO Box 8367
Mobile, AL 36608
Partner
Paid

1995-1997
Attorney General of Alabama
PO Box 300152
Montgomery, AL 36130
Attorney General
Paid

1997-Present
United States Senator
326 Russell Senate Building
Washington, DC 20510
Senator
Paid

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I joined Army ROTC at the University of Alabama in 1970 during law school. I then completed Basic Training at Ft. Knox, KY in 1971. This was in lieu of first two years of ROTC. (Huntingdon College did not offer ROTC.) I completed Advanced ROTC in the summer of 1972 at Ft. Bragg, NC. I completed Quartermaster School at Ft. Lee, VA in 1974 and moved to Control Group until joining US Army Reserve in Mobile in 1975. I was commissioned a second lieutenant in 1973 upon graduation at the University of Alabama. After moving to Mobile, I served in the 1184th Transportation Terminal Unit, US Army Reserve in Mobile, Alabama, 1975-1985, as a transportation officer and held a JAG slot for several years. While in that unit in Mobile, I was promoted to first lieutenant, then Captain in 1981, which was my rank on discharge. I received an honorable discharge.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Alabama Academy of Honor – 2014
 Reserve Officers Association Minuteman of the Year – 2000
 Distinguished Eagle Scout Award – 2008
 National Narcotics Officers Coalition – Outstanding Member of the United State Senate for 2014-2015
 Eagle Forum's Inaugural Phyllis Schlafly Award for Excellence in Leadership – 2015
 Navy's Distinguished Public Service Award presented by Secretary Ray Mabus – 2013
 Mobile Area Jewish Federation, Yedid L'Yisrael Award – 2015
 Association of the United States Army Outstanding Legislator Award – 2009
 Woodrow Wilson Institute Award – 2009
 Volunteers of America National Award – 2007
 National Minority Quality Forum, Health Promotion & Disease Prevention Award for work to modernize Ryan White Law – 2007
 Business Council of Alabama's Chairman's Award – 2013
 Mobile Bay Area Veteran's Day Patriot of the Year – 2006
 University of South Alabama Commencement, Honorary Doctorate – 2011
 University of Alabama Huntsville Commencement, Honorary Doctorate – 2016
 University of Mobile Commencement, Honorary Degree – 2013
 Thomas Goode Jones School of Law at Faulkner University, Honorary Doctor of Laws Degree – 2015

Other awards:

Campaign to Fix the Debt Award, 2016 Fiscal Hero – 2016
 Citizens Against Government Waste, 2014 Taxpayer Super Hero Award – 2015
 Coalition for a Prosperous America, From America's Manufacturers, Farmers, Ranchers and Workers in support of America's Economic Growth, Balanced Trade and Sovereignty – 2015
 Paul Weyrich Legislator of the Year – 2015
 National Association of Manufacturers Award, 113th Congress, NAM Manufacturing Legislative Excellence Award – 2015
 Center for Security Policy, "Keeper of the Flame" Award – 2015
 National Religious Broadcasters Faith and Freedom Award – 2010
 National Federation of Independent Business Guardian Award for 113th Congress – 2014
 American Conservative Union Award for Conservative Excellence – 2014-2015
 CEI "Champion of the Worker Award" – 2014
 Tea Party.Net Paul Revere Patriot Award – 2014
 HVAC Industry's Public Policy Award presented by Rheem and CEO of AHRI – 2014
 Annie Taylor Award, Restoration Weekend – 2014
 Reserve Officers Association Department of Alabama Minuteman Award – 2011
 Soldiers Angels, Award for Supporting our Military Personnel – 2011
 NAM 2010 Manufacturing Legislative Excellence Award – 2011
 American Ambulance Association Legislative Recognition Award – 2010

Republican National Lawyers Association Award – 2010
 National Taxpayers Union, Taxpayers' Friend Award – 2010, 2006, 2000
 Humane Society, Legislative Leader Award – 2010
 Alabama Law Foundation Fellow – 2010
 US Chamber of Commerce 2009 Federal Legislative Achievement – 2009
 Mobile Boy Scouts Golden Eagle Award – 2009
 SECNAV Award presented by Admiral Miller – 2009
 Numbers USA Award – 2008
 National 911 40th anniversary of the first call from Haleyville – 2008
 American Legion, Department of AL, Award for Immigration Stance – 2008
 National Minority Health Month Foundation, 2007 Health Promotions Award – 2007
 NAM Legislative Excellence Award – 2007
 Associated Builders and Contractors "Champion of the Merit Shop Award" (110th-113th Congress) – 2007
 Americans for Tax Reform, Hero of the Taxpayer Award – 2006, 2000
 NFIB Guardian of Small Business Award – 2006, 2004, 2002, 2000
 Club for Growth Defender of Economic Freedom Award – 2006
 US Chamber of Commerce Spirit of Enterprise Award – 2005, 2003, 2002, 2000
 Forest Landowners Association Award – 2005
 Thomas Jefferson Award, Food Marketing Institute/International Foodservice Distributors Association – 2004
 Bill of Rights Institute Award – 2004
 American Conservative Union, Best and Brightest Award – 2004
 Birmingham Chamber of Commerce Award – 2005
 National Roofing Contractors Association – 2003
 Southern Economic Development Council Honor Roll Award – 2003
 Electric Cities of Alabama Distinguished Service Award – 2002
 Alabama Rural Electric Imminent Service Award – 2002
 National Association of Mutual Insurance Companies' Benjamin Franklin Public Policy Award – 2002
 U.S. Senate Deputy Whip – 2001-2002
 American Foundry Society, Support for Metalcasting Award – 2001
 NAM Legislative Excellence Award, Presented by Elmer Harris – 2001
 Coalition of Alabama Waterways, Outstanding Support and Guardianship of our Waterways – 2001
 Local 1945 AFGE, Eagle award for dedication to their Depot – 2000
 Watchdog of the Treasury Award – 2000
 Blinded American Vets "Buck Gillespie Congressional Award" – 2000
 Regional Information Sharing Systems Appreciation Award – 2000
 60-Plus Association Award – 2000
 Peanut Producers Association and March of Dimes Award – 2000
 Alabama Farmers Federation Service to Agriculture Award – 1999
 106th Congress Golden Gavel Award, Presiding over the Senate for 100 hours
 105th Congress Golden Gavel Award, Presiding over the Senate for 100 hours
 105th Congress Citizens for a Sound Economy, The Jefferson Award
 105th Congress Watchdog of the Treasury

United States Space Academy, Space Wings – 1998

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Mobile County Bar Association (former member of Publicity, Criminal Law, and Federal Courts Committees, Pro Bono Program)

Alabama Bar Association (former member of Special Committee on Meeting Criticism of Bench and Courts)

American Bar Association (Criminal Justice Section)

Alabama Law Foundation Honorary Fellow (inducted 2010)

Governor's Criminal Justice Advisory Commission, Chairman, 1995-96

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Alabama Bar: 1973-present (placed on inactive for late payment of dues
1/8/99-1/11/99 and 1/5/05-1/19/05)
Supreme Court of the United States (1980)
Supreme Court of Alabama (1973)
U.S. Court of Appeals for the 11th Circuit (1981)
U.S. Court of Appeals for the 5th Circuit (1977)
U.S. District Court, Northern District of Alabama (1974)
U.S. District Court, Southern District of Alabama (1977)
Circuit Court, Franklin County, Alabama (1975)
Circuit Court, Mobile County, Alabama (1977)

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

All Alabama Courts per Alabama Bar: 1973-present (placed on inactive
for late payment of dues 1/8/99-1/11/99 and 1/5/05-1/19/05)
Supreme Court of the United States (1980)
U.S. Court of Appeals for the 11th Circuit (1981)
U.S. Court of Appeals for the 5th Circuit (1977)

U.S. District Court, Northern District of Alabama (1974)
 U.S. District Court, Southern District of Alabama (1977)

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Mobile Lions Club, joined in late 1970s and active until the early 1990s, currently inactive

Mobile United Methodist Inner City Mission, active in 1980s and early 1990s,
 And served as Vice Chairman of Board in 1994

Mobile Metro Ministry, Member 1980s

Coalition for a Drug Free Mobile County, Board Member, 1980s and early 1990s

Huntingdon College Alumni Association, active in 1980s, served as Chairman of Alumni Association

Alabama Law Foundation Honorary Fellow (inducted 2010)

Alabama Academy of Honor (inducted 2014)

Reagan Alumni Association, 1998 to present

Ashland Place United Methodist Church, 1975 to present

Chairman Administrative Board

Church Lay Leader

Delegate to United Methodist Annual Conference

Delegate to the Southeastern Jurisdictional Conference of the United Methodist Church

Delegate to the General Conference of the United Methodist Church

Huntingdon College Board of Trustees, 1998-2012

Samford University Board of Overseers, 2006 to present

College Republicans, Alabama State President, 1971-73

Alabama Young Republican Federation, Alabama State Chairman, 1973-75

Mobile County Republican Executive Committee, 1978-81

Federalist Society, 1985 to present (with some gaps)

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

While the Mobile Lions Club had no policy to exclude members based on race, it did not have any African-American members when I joined. I sponsored the

first African-American member who joined in the 1980s.

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

I have done my best to identify all published material I have contributed to, including through a review of my personal files and searches of publicly available electronic databases. Despite my efforts, there may be other materials that I have been unable to identify, locate, or remember. I have attached a list of the responsive items, including news releases, a foreword, academic articles, and opinion pieces, as Appendix 12(a), and have also included copies of each item.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have done my best to identify and locate all materials responsive to this question, including through a review of my personal files and searches of publicly available electronic databases. Despite my efforts, there may be other materials that I have been unable to identify, locate, or remember. I have attached all responsive materials that I was able to identify.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have done my best to identify and locate all materials responsive to this question, including through a review of my personal files and searches of publicly available electronic databases. Despite my efforts, there may be other materials that I have been unable to identify, locate, or remember. I have attached copies of all responsive documents that I was able to identify, including testimony before committees of Congress, legal opinions issued by my office when I was the Attorney General of the State of Alabama, and memoranda and letters I have written to colleagues in Congress and to other public officials and bodies.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have done my best to identify and locate all materials responsive to this question, including through a review of my personal files, searches of publicly available electronic databases, and consultation with the Senate Library, the Congressional Research Service, and relevant committee libraries and historical offices. Despite my efforts, there may be other materials that I have been unable to identify, locate, or remember. I have located responsive materials in the following categories:

- Remarks on the Senate Floor
- Remarks and questions during Senate committee hearings
- Remarks and questions during Senate committee business meetings or markups
- Speeches and remarks outside of the Senate
- Various political speeches

In addition to supplying copies or recordings of my remarks where they are available, I have also provided in Appendix 12(d) a list of speeches and remarks I have delivered but where, to my knowledge, no transcripts or copies exist. For these, I have included summaries of the subject matter for speeches where I was able to locate such information during my search, and have attached outlines or notes where they exist, as well as contemporaneous press reports that I was able to locate.

Finally, during my service as a United States Senator, I have regularly attended markups and executive business meetings for Senate committees of which I am a member, and I frequently make remarks during those meetings. I have attached responsive transcripts from such meetings where they are available. However, for three committees of which I am or have been a member (the Judiciary Committee, the Armed Services Committee, and the Energy and Natural Resources Committee), committee policies or government classification requirements govern access to and the release of these transcripts, and I am therefore unable to provide copies. Of course, the Judiciary Committee has access to its own transcripts via the Committee Library. However, in an effort to be as responsive as possible, I have consulted my own files and the files of the relevant committee libraries, and have provided in Appendix 12(d) a list of the dates of pertinent markups and/or executive business meetings for each of those three committees.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all interviews I have given, including through a review of my personal files and searches of publicly available electronic databases. However, throughout my career in public service I have frequently made remarks to reporters in informal settings, including many hundreds, if not thousands, of comments to reporters in the halls of Congress. No records exist for the vast majority of these informal interviews. Therefore, despite my efforts, there may be other materials that I have been unable to identify, locate, or remember. I have attached a list of the responsive items as Appendix 12(e), and have also included copies of transcripts or videos of interviews where they were available.

13. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Assistant United States Attorney, Southern District of Alabama, 1975-1977.

United States Attorney, Southern District of Alabama, 1981-1993. Appointed by President Ronald Reagan.

Attorney General of Alabama, Elected 1994. Served until January 1997.

United States Senator. Elected in 1996, took office in January 1997. Re-elected in 2002, 2008 and 2014.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have been active in the Republican Party since college. I have generally endorsed Alabama Republicans running for the House of Representatives and Senate in the general elections. I have endorsed many Republicans running for

election and re-election to the United States Senate, House and other offices. I was Alabama Chairman for Richard Nixon in 1972; I was college chairman for Perry Hooper, Sr. for US Senate (AL) in 1968.

I served as Alabama Presidential Elector for Richard Nixon in 1972 and Donald Trump in 2016. I had my own campaigns – Jeff Sessions for Attorney General and Friends of Sessions Senate Committee – for my Attorney General and US Senate Campaigns.

14. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. Whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a clerk to any judge.

- ii. Whether you practiced alone, and if so, the addresses and dates;

I never practiced law alone.

- iii. The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1973-1975
Guin, Bouldin & Porch
Attorneys at Law
Russellville, AL
Attorney
Firm no longer exists.

1975-1977
Office of the United States Attorney
Southern District of Alabama
Federal Courthouse
63 South Royal Street
Mobile, AL 36602
Assistant United States Attorney

1977-1981 and 1993-1995
Stockman & Bedsole
PO Box 8367

Mobile, AL 36608
Associate; Partner
1981-1993
Office of the United States Attorney
Southern District of Alabama
Federal Courthouse
63 South Royal Street
Mobile, AL 36602
United States Attorney

1995-1997
State of Alabama
PO Box 300152
Montgomery, AL 36130
Attorney General

1996-Present
United States Senate
Washington, DC 20510
United States Senator

- iv. Whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as mediator or arbitrator.

b. Describe:

- i. The general character of your law practice and indicate by date when its character has changed over the years.

At Guin, Bouldin & Porch (1973-1975) my practice involved a variety of areas including probate, domestic relations, insurance defense, criminal defense, real estate matters, wills and civil litigation.

As an Assistant United States Attorney (1975-1977), I handled a variety of matters at the trial level, including cases involving wrongful death, fraud, federal habeas corpus, gun violations, forgeries, embezzlement, bank robberies, drugs, and the collection of criminal penalties for pollution. I also handled appeals.

As an Associate and then Partner at Stockman & Bedsole (1977-1981 and 1993-1995), I handled primarily civil litigation and some criminal defense

work and real estate matters.

As United States Attorney (1981-1993), I represented federal agencies in legal controversies, prosecuted criminal cases, collected debts owed to the government, and defended civil rights. Our office was also engaged in a series of high profile public corruption cases. I provided leadership for various law enforcement and community activities.

As Attorney General of Alabama (1995-1997), I represented the state in civil and criminal cases.

- ii. Your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

At Guin, Bouldin & Porch, I had a wide variety of clients including individuals and corporations such as banks and insurance companies.

As both Assistant United States Attorney and United States Attorney, my sole client was the United States.

At Stockman & Bedsole, I had a wide variety of clients including government officials and individuals, including representing clients in wrongful death matters, asbestosis cases, criminal cases, real estate matters, and clients who were flood victims.

As Attorney General of Alabama, my sole client was the State of Alabama.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

- i. Indicate the percentage of your practice in:

| | |
|-----------------------------|-----|
| 1. federal courts: | 80% |
| 2. state courts of record: | 15% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 5% |

- ii. Indicate the percentage of your practice in:

| | |
|--------------------------|-----|
| 1. civil proceedings: | 35% |
| 2. criminal proceedings: | 65% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather

than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 80% |
| 2. non-jury: | 20% |

1975-1977 (AUSA) 12 – all sole counsel
 1977-1981 (Private Practice) – 3 sole counsel
 1981-1993 (USA) – 17 cases, most sole counsel and almost all
 as lead counsel

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

As a United States Senator, I have joined colleagues in filing seven amicus briefs before the United States Supreme Court on various issues. Those briefs are attached. Further, during my service as the Attorney General of the State of Alabama, one of my responsibilities was to oversee Alabama's legal representation and litigation, including matters before the Supreme Court. In December 1996, my office filed an amicus brief before the Court on behalf of the State of Alabama. That brief is also attached. Finally, I have been able to locate 14 other instances during my tenure as Attorney General of the State of Alabama wherein Alabama joined other states in filing amicus briefs with the Court. While my practice as Attorney General was primarily managerial and supervisory in nature, my name also appears on those briefs as counsel of record for Alabama. Those briefs are also attached. I have done my best to identify all materials responsive to this question, including through a review of my own files and searches of publicly available electronic databases. Despite my searches, there may be other relevant materials from my career that I have been unable to identify, locate, or recall.

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and

- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. William Broadus, Circuit Judge Etwood L. Hogan, District Judge James D. Sullivan, Willis H. Holloway, James Dodson Fail, Durwood L. Elliott, and Thomas Withers, et al*, CR 83-79 (S.D. Ala.)

The indictment charged that the defendants participated in a corrupt organization to “fix” criminal court cases in the District Court and the Circuit Court of Mobile County. Because Broadus was severed for medical reasons, the case involved two full jury trials. The first case lasted seven weeks, with the *Broadus* case lasting approximately two weeks.

The case, I believe, is the most significant corruption case involving the criminal justice system in the Southern District of Alabama and perhaps in the State of Alabama. The government proved the payment of some 15 bribes to influence criminal cases. Each fact situation was vigorously contested by capable defense attorneys.

The case was brought under the federal Racketeer Influenced and Corrupt Organizations Act (RICO). Every defendant was charged with a RICO violation and conspiracy to commit RICO. Some defendants were charged with wire fraud, mail fraud, extortion and interstate travel in aid of racketeering. The jury returned a guilty verdict against each defendant on each count in which they were named. The *Broadus* jury likewise returned guilty verdicts on all counts. James Dodson Fail entered a plea of guilty before trial and testified for the government, all others were convicted by a jury.

My participation in the case was as lead trial counsel. I fully handled the Grand Jury presentation and the trial preparation; however, as trial neared, I called upon Assistant U.S. Attorney Thomas Figures to assist me. He ably assisted in the presentation of certain important parts of the case. I made the opening statement and closing arguments. The case presented a host of legal and evidentiary questions. Experienced defense counsel were very aggressive on behalf of their clients.

| | |
|------------------|---|
| Judges: | Hon. Emmett R. Cox United States District Judge Southern District of Alabama |
| | Hon. W.B. Hand (deceased) United States District Judge Southern District of Alabama |
| Co-Counsel: | Thomas Figures (deceased) Assistant United States Attorney Southern District of Alabama |
| Defense Counsel: | E.E. Ball (deceased) (Hogan) |

Barry Hess (deceased) (Sullivan)
 Ralph Kannamer (deceased) (Broadus)

2. *United States v. Conecuh County*, CV 83-1201-H (S.D. Ala. June 12, 1984)

It is my understanding that *United States v. Conecuh County* was the first voter suppression lawsuit ever instituted by the United States Department of Justice. I am honored to have been a part of it. In 1983, the United States brought this suit based on allegations that only white poll workers were hired, racial epithets were heard at polling places, comments were heard that turned away African-American voters, allegations that white voters cast ballots when their names were not on the voter roll, allegations of limitations on the number of African-American voters who had access to a polling place, allegations of limitations on the amount of time African-American voters were permitted to spend in the voting booth, and illegal assistance to voters. In June 1984, a consent decree was entered between the United States and the County. The consent decree ensured that election officials would not engage in racially discriminatory conduct designed to harass or intimidate voters, or discrimination in the selection of election officials at polling places. Political parties recruiting poll workers were required to encourage nomination of African-American poll workers. African-American citizens who would have volunteered in the past to serve as poll workers must be considered on a good-faith basis for future service. The election board was required to train election officials to perform their duties in a racially nondiscriminatory manner, and to monitor elections for compliance. The board was also required to file reports with the Department of Justice describing its compliance. The consent decree was agreed to be enforced through 1990, subject to an extension for good cause.

Judge: Hon. W. B. Hand (deceased)
 United States District Judge
 Southern District of Alabama

Co-Counsel: Voting Section, Civil Rights Division, United States Department of
 Justice:

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 Civil Rights Division
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 202-514-4713

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 Birmingham, AL 35238-0832
 205-403-9905

Defense Counsel: Robert G. Kendall (deceased)(Conecuh County, Alabama, Conecuh County and Conecuh County Democratic Executive Committee)

J.B. Nix, Jr.
Nix & Nix
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Evergreen, AL 36401
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Edward S. Allen (Conecuh County Republican Executive
Balch & Bingham LLP Committee)
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Birmingham, AL 35201
205-226-3413

3. *United States v. Weldon Rushing Payne, Lloyd Earl Taylor, and Robert I. Gulledge*, CR 82-87 (S.D. Ala.)

I prepared and tried this case as sole counsel, and the case was ably defended by defense counsel. Essentially, the charges alleged fraud in the operation of the Federal Land Bank Association of Robertsdale by Weldon Payne, its President, Lloyd E. Taylor, its attorney, and Robert I. Gulledge, a borrower and Alabama State Senator. To prove the case required proving some 15 large real estate transactions and loan closings. The loan documents and financial records were voluminous. The scheme involved Payne identifying certain farmers or farm connected individuals who he knew to be desirous of obtaining farm land. Generally, they were poor credit risks. Taylor would obtain an option to purchase land from a land seller in the area and Payne would promise the farmer an FLBA loan and refinancing if there was a problem with making payments. Gulledge, it was alleged, was involved as a partner with Payne in two transactions. Both of these transactions involved an unrecorded document that indicated that Payne in one case and Taylor in another were secret partners with Gulledge in the land transactions which were financed with FLBA loans. Gulledge, by this procedure, obtained 100% financing and was charged with making a false financial statement and conspiracy with the two others to defraud the FLBA. The loans totaled over two million dollars and several of the borrowers were bankrupt or insolvent. There was a hung jury as to Gulledge and the charges against him were dismissed.

In an effort to shorten the trial (which lasted five weeks) I made a decision not to utilize land appraisals to support the counts charging that Payne and Taylor misapplied FLBA funds. I believed that sufficient evidence had already been introduced to support a finding of misapplication. The jury and trial court agreed, but the Eleventh Circuit did not, reversing the misapplication counts, but affirming the convictions on all other counts.

The FLBA was the largest lender for farm real estate purchases in the South Alabama area. This prosecution ended fraud in its operation. Legally, it firmly established that an attorney for an FLBA is a "person associated in any capacity with" the Association such that he is subject to criminal charges under 18 U.S.C. § 657. The prosecution attracted national FLBA attention.

Because the prosecution was hampered at key points by poor record keeping by the FLBA, new rules have been instituted. I later addressed the Federal Land Bank of New Orleans regional meeting in Jackson, Mississippi, as part of their stepped up program to prevent fraud and abuse.

Judge: Hon. Emmett R. Cox
United States District Judge
Southern District of Alabama

Defense Counsel: Fred G. Helmsing (deceased) (Payne)
Barry Hess (deceased) (Taylor)
Thomas M. Haas (deceased) (Gulledge)

4. *Davis v. Board of School Commissioners of Mobile County*, CV 3003-63-H (S.D. Ala.)

After nearly a decade of litigation, a group of students, their parents, and the Board of School Commissioners of Mobile County entered into a consent decree that integrated many schools in the county but also left untouched several single-race schools. More than a decade after the district court approved the consent decree, on behalf of the United States and with the support of the NAACP Legal Defense Fund, papers were filed with the court contesting the legally binding effect of the consent decree and alleging that the school district had yet to fully integrate. While the district court rejected the government's contention regarding the consent decree, it agreed that the school district was not yet fully integrated, and it ordered the school district to take certain corrective steps in order to achieve full integration. See *Davis v. Board of Sch. Comm'rs of Mobile Cnty.*, 1986 U.S. Dist. LEXIS 27519, at *2-3 (S.D. Ala., Mar. 27, 1986).

Judge: Hon. W. B. Hand (deceased)
United States District Judge
Southern District of Alabama

Co-Counsel: Educational Opportunities Litigation Section, Civil Rights Division,
United States Department of Justice:

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C. Christopher Clanton (deceased)

Defense Counsel: Robert C. Campbell, III
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Mobile, AL 36606-3117

5. *United States v. Dan G. Alexander, Hiram Bosarge, and Norman Grider*, CR 86–76 (S.D. Ala.)

An eleven-count indictment was returned against Mobile County School Board members Alexander and Grider charging them with extortion, racketeering, and mail fraud, and charging School Board member Bosarge with one count of conspiracy to commit extortion. The indictment charged that Alexander had, on three separate occasions, used his position on the Mobile County School Board to advocate for and award contracts to businesses that agreed to pay him kickbacks, and that Grider, on two separate occasions, had similarly agreed to use his official connections to advocate that the school board award contracts to businesses that agreed to pay him a percentage of the contract. Both were convicted by a jury on all counts. Bosarge was acquitted. I personally tried this case in a multi-week jury trial.

Judge: Hon. Emmett R. Cox
United States District Judge
Southern District of Alabama

Defense Counsel: Robert B. French, Jr. (Alexander)
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James Atchison (Grider)
The Atchison Firm, P.C.
3030 Knollwood Dr.
Mobile, AL 36693-7002
251-665-7200

William B. Jackson, II
Stokes & Clinton, P.C.
P.O. Box 991801
Mobile, AL 36691-8801
251-460-2400

6. *United States v. Gary A. Greenough*, CR. No. 84-97 (S.D. Ala.)

A grand jury returned an indictment against Gary Greenough, one of three Board of Commissioners that governed the City of Mobile, charging that he conspired to commit offenses to defraud the United States, that he engaged in mail fraud, that he engaged in wire fraud, and that he interfered with commerce by threats or violence, all in connection with efforts to divert money from the operation of the city auditorium to himself and his associates. After a multi-week trial, Greenough was convicted of 14 counts.

Judge: Hon. W. B. Hand (deceased)
United States District Judge
Southern District of Alabama

Co-Counsel: William R. Favre, Jr. (deceased)
Assistant United States Attorney
Southern District of Alabama

Defense Counsel: E.E. Ball (deceased)

7. *United States v. Albert Turner, Spencer Hogue, Jr., and Evelyn Turner*, CR 85-14 (S.D. Ala.)

About the time of the 1982 elections in Perry County, my office received information from the Perry County District Attorney that voter fraud was occurring in Perry County to a large degree. District Attorney Roy Johnson communicated with me, the FBI, and my staff on the matter. I believe he also communicated with the Civil Rights Division of the United States Department of Justice. He requested that the federal government conduct an investigation and he requested, I have come to understand, that the Civil Rights Division send in federal observers and federal Marshals, because the situation was far beyond his control. The Civil Rights Division declined to send in observers.

After the election, District Attorney Johnson conducted an investigation of the voting practices and actually sought an indictment against Albert Turner, but the grand jury declined to return an indictment against Turner for voter fraud. After that investigation, the grand jury, in a report

dated April 1983, requested that my office commence a federal investigation. We had been informed that a handwriting expert determined that Turner, who was a write-in candidate in that election, had written his name on absentee ballots in violation of state law and that African-American voters who had come to the polls to vote became angered to find that someone had already voted in their names by absentee ballot.

The Perry County grand jury, the majority of which was African-American and was led by an African-American foreperson, called for a federal investigation. The grand jury had, in a written report of their investigation of the 1982 election, stated that they had "extensively and exhaustively investigated the voting situation in Perry County." The report further stated that they were convinced that a fair election "is being denied the citizens of Perry County, both black and white." The grand jury report also stated: "We encourage vigorous prosecution of all violations of voting laws and especially would request the presence and assistance of an outside agency, preferably federal, to monitor our elections and ensure fairness and impartiality for all."

Despite this request of the grand jury and the District Attorney, my office, after discussion with the FBI, concluded that we would not conduct another investigation. We expected that the local investigation would have caused all campaigners to re-evaluate their activities and conform to the law. Accordingly, sometime after having preliminarily reviewed the situation, we informed District Attorney Johnson that we would not investigate the 1982 elections. I believe we told District Attorney Johnson that if he had further evidence of voter fraud in subsequent elections, we would reevaluate the situation to determine whether a federal investigation was justified.

In the 1984 Democratic primary election, there were a number of hotly contested local races for County Commission, Tax Assessor and other offices. (All of the serious contenders for local races for each office, except one, were African-American). On approximately Wednesday or Thursday prior to the Tuesday election, District Attorney Johnson called my office and said that he and an African-American candidate (the incumbent County Commissioner in Perry County) were convinced that fraud was occurring in the election. He stated that extremely large numbers of absentee ballots were being collected, in excess of ten percent of the total vote, and that these ballots were being maintained by Turner and others. He further said that they were being taken to a central headquarters where the ballots were altered to ensure that they were marked for candidates endorsed by Turner. District Attorney Johnson said that the African-American candidates were extremely concerned about the election and believed it was being stolen from them. He requested that my office consider obtaining a search warrant to search the central headquarters and seize these ballots. I told him that I doubted that there was enough evidence to conduct a search warrant and, further, that this would be an interference in the election process, which was against Department policy.

District Attorney Johnson went on to state that the African-American candidates had information that Turner and his colleagues in previous years had been mailing the ballots they had collected at the Marion Post Office the night before the election. I told him that I found it difficult to believe since it appeared to me to be risky to trust the mails under those circumstances. He assured me that they were confident that this information was reliable. Accordingly, I contacted a Special Agent of the FBI in Selma and requested that he observe the Marion Post Office that night. I further requested that the Postal Service conduct a mail cover and make a list of the

absentee ballots as they were deposited; that is, to list the names and return addresses on the outside of the mailing envelopes. The Postal Service was specifically instructed not to open any ballots but to deliver them to the federal courthouse the next day as they normally would for counting. The FBI observed defendants Albert and Evelyn Turner deposit over 300 ballots in the Post Office the night before the election and observed defendant Spencer Hogue, Jr., deposit (to my recollection) 170 ballots the same night. Those two mailings totaled 504 ballots out of 729 absentee ballots.

Sometime before the election was complete, it was suggested to me that some five candidates planned to file a contest of the election and seek to have the absentee ballots and affidavit envelopes numbered. I was told that this had been done in previous elections. I informed District Attorney Johnson that if it could be done under state law, it would be helpful to any investigation that might take place.

After the ballots were opened and counted, District Attorney Johnson issued a subpoena for them and my office issued a subpoena for the records, which were subsequently turned over to the FBI. The FBI determined that 75 of the 729 ballots contained alterations and erasures. Each voter, with suspected changes on their ballot, was shown their ballot and asked if they had made or authorized the changes. Approximately 25 individuals said they had not authorized changes and that they had given their ballots to the Turners or Hogue for mailing.

Turner, his wife, and Hogue were charged by the grand jury with 29 criminal counts, including conspiracy to execute a scheme to defraud, fraud by mail, and violation of election laws. At trial, Turner admitted he collected these ballots, but said it was a legal practice. He said he talked with voters and they would often agree to change ballots for him. He further testified that six members of the Shelton family had met in one house and all agreed to make ballot changes. However, all six members of the Shelton family flatly denied this allegation. Allegations that witnesses were intimidated and suffered ill effects of travel rendering them unable to testify were refuted by key witnesses, including African-American county officials who were present. Ultimately, the jury acquitted the three defendants.

Judge: Hon. Emmett R. Cox
United States District Judge
Southern District of Alabama

Co-Counsel: Assistant United States Attorneys, Southern District of Alabama:

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Margaret Carey (unable to locate current address)

Morton Stavis (deceased)

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8. *United States v. Dallas County Commission*, CV 78-578-H (S.D. Ala.)

Historically, members of the Dallas County Commission and the Dallas County Board of Education were elected on an at-large basis. Under this regime, no African-American candidates had been elected to county offices since 1966. In 1978, the Voting Rights Section of the Civil Rights Division of the United States Department of Justice initiated an action against Dallas County under Section 2 of the Voting Rights Act, alleging minority vote dilution. Along with the ACLU, my office continued to support the extensive litigation and appeals, culminating in a set of decisions from the Eleventh Circuit, 850 F.2d 1430 (11th Cir. 1988) and 850 F.2d 1433 (11th Cir. 1988), which ruled for the United States and created five single-member districts for both the Commission and the Board. Three of these single-member districts contained a majority African-American voter population, increasing opportunities for African-American voters to elect office-holders of their choice.

District Judge: Hon. W. B. Hand (deceased)
United States District Judge
Southern District of Alabama

Circuit Judges: Hon. James C. Hill, Hon. Joseph W. Hatchett, and Hon. Floyd R. Gibson
(Senior Circuit Judge from the Eighth Circuit, sitting by designation)
(deceased), Eleventh Circuit

Co-Counsel: Civil Rights Division, United States Department of Justice:

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John E. Pilcher (Dallas County Board of Education, et al.)
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Selma, AL 36702-1250
334-872-6211

9. *United States v. Marengo County Commission*, CV 78-474-H (S.D. Ala.)

After the district court found that the at-large system for electing members of the Marengo County Commission and Marengo County Board of Education diluted the voting rights of African-Americans in violation of Section 2 of the Voting Rights Act, my office worked with the Civil Rights Division and private plaintiffs to craft a districting plan to ensure that African-Americans had equal opportunity to elect candidates of their choice. Although, at the time of the lawsuit, no African-American had ever been elected to either the board of education or the county commission, *see United States v. Marengo Cnty. Comm'n*, 731 F.2d 1546, 1572 (11th Cir. 1984), this action secured a districting plan where three of the five members for each body were elected from districts comprised of a majority of African-American voters, *see United States v. Marengo Cnty. Comm'n*, 643 F. Supp. 232, 233-34 (S.D. Ala. 1986). On appeal, the Eleventh Circuit upheld the districting plan. *Clark v. Marengo Cnty.*, 811 F.2d 610 (11th Cir. 1987) (table). The district court subsequently awarded attorney's fees to the plaintiffs, finding that the United States' involvement "was indispensable to the plaintiffs' success." *United States v. Marengo Cnty. Comm'n*, 667 F.Supp. 786, 799 (S.D. Ala. 1987).

District Judge: Hon. W. B. Hand (deceased)
United States District Judge
Southern District of Alabama

Circuit Judges (1984): Hon. Gerald B. Tjoflat, Hon. Peter T. Fay, and Hon. John M. Wisdom
(Senior Circuit Judge from the Fifth Circuit, sitting by designation)
(deceased), Eleventh Circuit

Co-Counsel (1984): Civil Rights Division, United States Department of Justice:

Joan A. Magagna (unable to locate current address)

Thomas H. Figures (deceased)
Assistant United States Attorney
Southern District of Alabama

Defense Counsel: Hugh A. Lloyd (deceased) (Marengo County Board of Education)

Cartledge W. Blackwell, Jr. (Marengo County, et al.)
P.O. Box 592
Selma, AL 36702-0592
334-872-6272

Co-Counsel (1986): Voting Section, Civil Rights Division, United States Department of Justice:

J. Gerald Hebert

J. Gerald Hebert, P.C.
1411 K Street NW, 14th Floor
Washington D.C. 20005
202-736-2200

W.A. Kimbrough, Jr. (unable to locate current address)
United States Attorney (former)
Southern District of Alabama

James U. Blacksher (James Clark, Jr. et al.)
P.O. Box 636
Birmingham, AL 35201-0636
205-591-7238

Larry T. Menefee
3620 Thomas Ave.
Montgomery, AL 36111-2014
334-265-6002

Defense Counsel: Cartledge W. Blackwell, Jr. (Marengo County Commission, et al.)
P.O. Box 592
Selma, AL 36702-0592
334-872-6272

Hugh A. Lloyd (deceased) (Marengo County Board of Education)

W.W. Dinning (Joseph C. Camp)
Lloyd & Dinning, LLC
P.O. Box 740
Demopolis, AL 36732-0740
334-289-0556

Co-Counsel (1987): Voting Section, Civil Rights Division, United States Department of Justice:

J. Gerald Hebert
J. Gerald Hebert, P.C.
1411 K Street NW, 14th Floor
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202-736-2200

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Larry T. Menefee
3620 Thomas Ave.
Montgomery, AL 36111-2014
334-265-6002

J.L. Chestnut, Jr. (deceased)

Defense Counsel: Cartledge W. Blackwell, Jr. (Marengo County Commission, et al.)
P.O. Box 592
Selma, AL 36702-0592
334-872-6272

Hugh A. Lloyd (deceased) (Marengo County Board of Education)

10. *Henry F. Hays v. State of Alabama, et al.*, 85 F.3d 1492 (11th Cir. 1996), cert. denied, 117 S.Ct. 1262 (1997)

In early 1981, Ku Klux Klan member Henry Hays (the son of the local Klan chieftain) and two other Klansmen discussed a pending trial in Mobile involving an African-American man charged with having killed a Caucasian police officer. The three considered how the public would react to the retaliatory hanging of an African-American man. Hays' father coldly contemplated such an act would hurt the value of his real estate holdings and asked the two younger men to delay their plans until he could sell some of them. Once sold, Hays and his friend took a length of rope, tied it into a hangman's noose, and set about finding an African-American to execute.

As Michael Donald, a 19-year-old African-American teenager, was walking back from a 7-Eleven convenience store near his home, Hays and his accomplice pulled alongside Donald and asked him for directions. While talking, the two men forced Donald into the car at gunpoint and drove him to an empty field. After Donald fought back, the two subdued him, put his neck into the noose, and dragged him while beating him with a tree limb. The two men then slashed Donald's throat and hung him from a tree until his body was found the following day.

When I became U.S. Attorney for the Southern District of Alabama, I, along with Assistant U.S. Attorney Thomas Figures and the Civil Rights Division of the Department of Justice, worked to solve the murder. Because the federal government did not have an enforceable death penalty at the time, I insisted that Hays be prosecuted by the local district attorney, Chris Galanos. Hays was convicted of murder in Alabama state court, and the jury recommended life without parole. The trial judge overrode the jury's recommendation and sentenced Hays to death by electrocution. Hays appealed that decision through the Alabama state court system and into the federal courts.

Later, while I was Attorney General of the State of Alabama, my office defended the verdict and sentence against Hays's *habeas corpus* proceeding in the Eleventh Circuit. The Eleventh Circuit rejected Hays's petition. In part, the Eleventh Circuit held that the trial judge gave due consideration to the jury's recommendation, but that the sentence imposed was permissible because the judge acknowledged consideration of the jury's recommendation and gave explicit

reasons for pronouncing the death sentence over that recommendation. These reasons included the moral depravity of the crime, the shocking nature of the crime, and the jury's inability to explain the life without parole recommendation. As such, the Eleventh Circuit found no due process violation and upheld the sentence. Hays was subsequently executed.

In the midst of Hays' post-conviction proceedings, Michael Donald's family filed a civil lawsuit against the Klan, winning a \$7 million judgment. In 1997, the *New York Times* published an article stating that this lawsuit "bankrupted the KKK" and noting that Hays' execution was "Alabama's first execution for a white-on-black crime since 1913."¹

Judges: Hon. Phyllis A. Kravitch, Hon. J.L. Edmondson, and Hon. Stanley F. Birch, Jr., Eleventh Circuit

Co-Counsel: Joseph G.L. Marston, III
Assistant Attorney General
State of Alabama
P. O. Box 5254
Montgomery, AL 36103-5254
334-832-4570

Defense Counsel: Richard M. Kerger
Kerger & Hartman, LLC
33 S. Michigan, Suite 100
Toledo, OH 43604
419-255-5990

Dominick J. Graziano
Bush Graziano Rice & Platter, P.A.
P.O. Box 3423
Tampa, FL 33601-3423
813-204-2847

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I have never acted as a lobbyist.

¹ *Klan Member Put to Death In Race Death*, <http://www.nytimes.com/1997/06/06/us/klan-member-put-to-death-in-race-death.html> (June 6, 1997).

As United States Attorney, I led a very successful Weed and Seed initiative that was a major factor in restoring the health of the historic Martin Luther King neighborhood. As United States Attorney, I was an active leader and supporter of anti-illegal drug organizations including: Coalition for a Drug Free Mobile; Drug Policy Counsel. I helped start the Mobile County Drug Court in the 1980s, one of the first in the County.

I led a year-long program of prominent citizens, doctors, public officials and law enforcement officials – state, local and federal – to deal with specific drug and criminal issues. As United States Attorney, I initiated the first Law Enforcement Coordinating Committee and led the Department of Justice initiative for the entire time I was United States Attorney.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I taught Elementary School at Goode Street Elementary School for one year (1969-1970) between college and law school.

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service? If so, explain.

No.

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

Senate Financial Disclosure report for 2015 attached.
Statement of income for 2016 attached.
The current 278-E will be delivered directly to the Committee by the Office of Government Ethics (OGE).

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).
Financial Statement attached.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest and will follow their guidance if confronted with a conflict of interest.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I will seek and follow the advice of the Department of Justice's designated agency ethics official if confronted with a conflict of interest in the performance of my duties.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

As a private attorney, I would talk to persons who came to my office seeking legal help and advice, often spending considerable time with those in need when it was clear that the legal work would produce little or no compensation.

I believe attorneys should be willing to do their part to ensure all in need have access to legal representation. After I left as U.S. Attorney, I joined the Mobile Bar Association

Pro Bono Program and took the cases they referred to me.

For well over a decade I actively participated in the Mobile Metro Ministry and its partner, the Mobile United Methodist Inner City Mission. This program provided meals for those in need, valuable assistance to those with health, financial, housing and family concerns. The Mission also operated a swimming pool and summer recreation programs for youth. I was serving as vice chairman when I was elected as Attorney General in 1994.

I gave hundreds of hours of time to drug prevention programs in the South Alabama area. I was an active and continuous member of the board of the Coalition for a Drug-Free Mobile County during the time I was U.S. Attorney. This Coalition, along with partners it coordinated with, laboriously and successfully reduced drug use in the Mobile area. Thousands of untold numbers of persons avoided addiction, marriage dysfunction, jail and personal as well as economic destruction as a result of the dedicated work of wonderful volunteers and the support of local and federal officials.

For one full year, I led a weekly well attended meeting of community leaders and persons with expertise in law enforcement, drug addiction and prevention, mental health, homelessness, public housing, prescription drug abuse, domestic violence and other factors that damaged the lives of so many, especially the poor. This was a truly insightful time and led to many improvements in policy in the area.

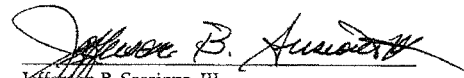
I brought the first expert on "Drug Courts" to Mobile in the early 1980's. That presentation led to the establishment of the local Mobile County Drug Court that continues to operate today.

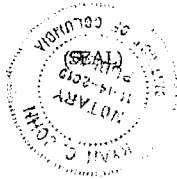
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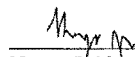
I, Jefferson B. Sessions, III, do swear that the information provided in this statement is,
to the best of my knowledge, true and accurate.

12-9-2016

Date)


Jefferson B. Sessions, III




Notary Public

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

SUPPLEMENTAL QUESTIONNAIRE RESPONSES FOR JEFF SESSIONS
ATTORNEY GENERAL NOMINEE

PUBLIC

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

This supplements the honors and awards identified in my initial response to Question 8:

Attorney General's Flag Award given by Attorney General Barr (1991-1992) for significant achievements in the war on drugs

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

The following response supplements my initial response to Question 12a:

Alabama Attorney General, *Out of the Darkness: A Manual for the Prevention of Childhood Abuse and Neglect* (1996-1997) (attached)

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following response supplements my initial response to Question 12d:

While I had no record of these remarks in my files, after it was brought to my attention, an internet search resulted in the discovery of the attached document, entitled "Restoration Weekend: The Progress We've Made," which appears to be a transcript of the remarks. I cannot speak to the accuracy of the transcript because I do not have notes of my own related to these remarks. I am nonetheless

including it in this supplement in an effort to be as responsive as possible.

13. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

The following response supplements my initial response to Question 13a:

Nomination, U.S. District Court, Southern District of Alabama, 1986, withdrawn. *See also* Nomination of Jefferson B. Sessions III, to be U.S. District Judge for the Southern District of Alabama, 99th Cong., 2nd Sess. (March 18-20 and May 6, 1986), attached to original questionnaire submitted on December 9, 2016 in response to Question 12c.

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

The following response supplements my initial response to Question 15:

For the cases described in 2, 4, 8 and 9, my role, like most U.S. Attorneys in the nation with non-criminal civil rights cases, was to provide support for the Department of Justice, Civil Rights Division, attorneys. I reviewed, supported and co-signed complaints, motions, and other pleadings and briefs that were filed during my tenure as U.S. Attorney. I provided assistance and guidance to the Civil Rights Division attorneys, had an open-door policy with them, and cooperated with them on these cases. For the case described in 6, I supervised the litigation and signed the pleadings.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

SUPPLEMENTAL QUESTIONNAIRE RESPONSES FOR JEFF SESSIONS
ATTORNEY GENERAL NOMINEE

PUBLIC

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

The following response supplements my previous response to Question 8:

Federation for American Immigration Reform, Franklin Society Award – 2007

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

The following response supplements my previous response to Question 12a:

Since filing my original response to the questionnaire, I have located, recalled, or been made aware of additional, previously-unlisted items, as well as additional information regarding previously-listed items, that are responsive to this question. I have listed those additional responses in Supplemental Appendix 12a, and have attached the relevant materials.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following response supplements my previous response to Question 12d:

Since filing my original response to the questionnaire, I have located, recalled, or been made aware of additional, previously-unlisted items, as well as additional information regarding previously-listed items, that are responsive to this question.

I have listed those additional responses in Supplemental Appendix 12d, and have attached the relevant materials.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

The following response supplements my previous response to Question 12e:

Since filing my original response to the questionnaire, I have located, recalled, or been made aware of additional, previously-unlisted items, as well as additional information regarding previously-listed items, that are responsive to this question. I have listed those additional responses in Supplemental Appendix 12e, and have attached the relevant materials.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

SUPPLEMENTAL QUESTIONNAIRE RESPONSES FOR JEFF SESSIONS
ATTORNEY GENERAL NOMINEE

PUBLIC

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

The following response supplements my previous responses to Question 12a:

Since filing my original and supplemental responses to the questionnaire, I have located, recalled, or been made aware of additional, previously-unlisted items, as well as additional information regarding previously-listed items, that are responsive to this question. I have listed those additional responses in Supplemental Appendix 12a, and have attached the relevant materials.

Additionally, I have identified the following two items and attached related information, although I do not have sufficient information to know whether they are responsive to this or another question.

Potentially responsive items to Questions 12(a), 12(d) or 12(e) (unknown which, if any)

*Press conference, speech, written statement, interview, or informal comment
(unknown)*

Withdrawal of Judicial Nomination

July 10, 1986

Mobile, AL

*Press conference, speech, written statement, interview, or informal comment
(unknown)*

Alabama Voting Fraud Case

September 12, 1985

Location unknown

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

The following response supplements my previous responses to Question 12c:

At some point during my tenure as United States Attorney for the Southern District of Alabama, I created a newsletter and sent it to members of the Law Enforcement Coordination Committee for the Southern District of Alabama, which included Federal, state, and local law enforcement leaders. While I do not have copies of this newsletter or the dates that they were created or sent, I do believe that the newsletter made the suggestion to law enforcement leaders that in cases involving suspects who had violated Federal gun laws, my office would be willing to take and prosecute those cases if the case justified Federal prosecution. The goal was to reduce gun violence by using Federal capabilities.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following response supplements my previous responses to Question 12d:

Since filing my original and supplemental responses to the questionnaire, I have located, recalled, or been made aware of additional, previously-unlisted items, as well as additional information regarding previously-listed items, that are responsive to this question. I have listed those additional responses in Supplemental Appendix 12d, and have attached the relevant materials.

Additionally, I have identified the following two items and attached related information, although I do not have sufficient information to know whether they are responsive to this or another question.

Potentially responsive items to Questions 12(a), 12(d) or 12(e) (unknown which, if any)

Press conference, speech, written statement, interview, or informal comment (unknown)

Withdrawal of Judicial Nomination

July 10, 1986

Mobile, AL

Press conference, speech, written statement, interview, or informal comment (unknown)

Alabama Voting Fraud Case

September 12, 1985

Location unknown

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

The following response supplements my previous responses to Question 12e:

Since filing my original and supplemental responses to the questionnaire, I have located, recalled, or been made aware of additional, previously-unlisted items, as well as additional information regarding previously-listed items, that are responsive to this question. I have listed those additional responses in Supplemental Appendix 12e, and have attached the relevant materials.

Additionally, I have identified the following two items and attached related information, although I do not have sufficient information to know whether they are responsive to this or another question.

Potentially responsive items to Questions 12(a), 12(d) or 12(e) (unknown which, if any)

Press conference, speech, written statement, interview, or informal comment (unknown)

Withdrawal of Judicial Nomination

July 10, 1986

Mobile, AL

Press conference, speech, written statement, interview, or informal comment (unknown)

Alabama Voting Fraud Case

September 12, 1985

Location unknown

**Opening Statement of Attorney General-Designate Jeff Sessions
U.S. Senate Confirmation Hearing
Tuesday, January 10, 2017
Washington, D.C.**

Chairman Grassley, Ranking Member Feinstein, distinguished members of the Committee, I am honored to appear before you today. I thank you for the opportunity to respond to your questions as you discharge your duty in the appointment process prescribed by our Constitution.

I also want to thank my dear friends, Senator Richard Shelby and Senator Susan Collins for their kind introductions. It is hard to believe, really, that the three of us have served together in this body for nearly 20 years.

I want to thank President-elect Trump for the confidence and trust that he has shown by nominating me to serve as the Attorney General of the United States. I feel the weight of an honor greater than I have aspired to. If I am confirmed, I commit to you and to the American people to be worthy of that office and the special trust that comes with it.

I come before you today as a colleague who has worked with you for years, and with some of you for 20 years. You know who I am. You know what I believe in. You know that I am a man of my word and can be trusted to do what I say I will do. You know that I revere our Constitution and am committed to the rule of law. And you know that I believe in fairness, impartiality, and equal justice under the law.

Over the years, you have heard me say many times that I love the Department of Justice. The Office of the Attorney General of the United States is not a political position, and anyone who holds it must have total fidelity to the laws and the Constitution of the United States. He or she must be committed to following the law. He or she must be willing to tell the President "no" if he overreaches. He or she cannot be a mere rubberstamp. He or she also must set the example

for the employees in the Department to do the right thing and ensure that, when they do the right thing, they know the Attorney General will back them up, no matter what politician might call, or what powerful special interest, influential contributor, or friend might try to intervene. The message must be clear: Everyone is expected to do their duty.

That is the way I was expected to perform as an Assistant United States Attorney. That is the way I trained my assistants when I became United States Attorney. And if confirmed, that is the way I will run the Department of Justice.

In my over 14 years in the Department of Justice, I tried cases of nearly every kind—drug trafficking and very large international drug smuggling cases, firearms cases, other violent crimes, a series of major public corruption cases, financial wrongdoing, and environmental violations. Our office supported historic civil rights cases and major civil cases. Protecting the people of this country from crime, and especially from violent crime, is a high calling of the men and women of the Department of Justice. Today, I am afraid, that has become more important than ever.

Since the early 1980s, good policing and prosecutions have been a strong force in reducing crime. Drug use and murders are half what they were in 1980. I am very concerned, however, that the recent jump in the violent crime and murder rates are not anomalies, but the beginning of a dangerous trend that could reverse the hard won gains that have made America a safer and more prosperous place. The latest official FBI statistics show that all crime increased nearly 4 percent from 2014 to 2015—the largest increase since 1991—with murders increasing nearly 11 percent—the largest single year increase since 1971.

In 2016, there were 4,368 shooting victims in Chicago. In Baltimore, homicides reached the second highest per-capita rate ever.

The country is also in the throes of a heroin epidemic, with overdose deaths more than tripling between 2010 and 2014. Meanwhile, illegal drugs flood across our southern border and into every city and town in the country, bringing violence, addiction, and misery.

We must not lose perspective when discussing these statistics. We must always remember that these crimes are being committed against real people, real victims. It is important that they are kept in the forefront of our minds in these conversations, and to ensure that their rights are always protected.

These trends cannot continue. It is a fundamental civil right to be safe in your home and your community. If I am confirmed, we will systematically prosecute criminals who use guns in committing crimes. As United States Attorney, my office was a national leader in gun prosecutions every year. We will partner with state and local law enforcement to take down drug trafficking cartels and dismantle gangs. We will prosecute those who repeatedly violate our borders. It will be my priority to confront these crises vigorously, effectively, and immediately.

Approximately 90 percent of all law enforcement officers are not federal, but local and state. They are the ones on the front lines. They are better educated, trained and equipped than ever before. They are the ones who we rely on to keep our neighborhoods, and playgrounds, and schools safe. But in the last several years, law enforcement as a whole has been unfairly maligned and blamed for the unacceptable actions of a few bad actors. They believe the political leadership of this country abandoned them. They felt they had become targets. Morale has suffered. And last year, while under intense public criticism, the number of police officers killed in the line of duty increased ten percent over 2015; and firearms deaths are up 68 percent. This is a wake up call. This must not continue.

If we are to be more effective in dealing with rising crime, we will have to rely heavily on local law enforcement to lead the way. To do that, they must know that they are supported. If I am so fortunate as to be confirmed as Attorney General, they can be assured that they will have my support.

As I discussed with many of you in our meetings prior to this hearing, the federal government has an important role to play in this area. We must use the research and expertise of the Department of Justice to help them in developing the most effective and lawful enforcement methods to reduce crime. We must re-establish and strengthen the partnership between federal and local officers to enhance a common and unified effort to reverse the current rising crime trends. I did this as United States Attorney. I worked directly and continuously with state and local law enforcement officials. If confirmed, it will be one of my primary objectives.

There are also many things the Department can do to assist state and local law enforcement to strengthen relationships with their own communities where policies like community-based policing have been proven to work. I am committed to this effort and to ensuring that the Department of Justice is a unifying force for improving relations between the police in this country and the communities they serve. This is particularly important in our minority communities. Make no mistake, positive relations and great communication between the people and police are essential for any good police department. And when police fail in their duties, they must be held accountable.

In recent years, our law enforcement officers also have been called upon to protect our country from the rising threat of terrorism that has reached our shores. If I am confirmed, protecting the American people from the scourge of radical Islamic terrorism will continue to be a top priority of the Department of Justice. We will work diligently to respond to threats, using

all lawful means to keep the American people safe from our nation's enemies. Partnerships will also be vital to achieving much more effective enforcement against cyber threats, and the Department of Justice clearly has a lead role to play in that essential effort. We must honestly assess our vulnerabilities and have a clear plan for defense, as well as offense, when it comes to America's cybersecurity.

The Department of Justice must never falter in its obligation to protect the civil rights of every American, particularly those who are most vulnerable. A special priority for me in this regard will be aggressive enforcement of our laws to ensure access to the ballot for every eligible American voter, without hindrance or discrimination, and to ensure the integrity of the electoral process.

Further, this government must improve its ability to protect the United States Treasury from waste, fraud, and abuse. This is a federal responsibility. We cannot afford to lose a single dollar to corruption and you can be sure that if I am confirmed, I will make it a high priority of the Department to root out and prosecute fraud in federal programs and to recover any monies lost due to fraud or false claims.

The Justice Department must remain ever faithful to the Constitution's promise that our government is one of laws, not of men. It will be my unyielding commitment, if I am confirmed, to see that the laws are enforced faithfully, effectively, and impartially. The Attorney General must hold everyone, no matter how powerful, accountable. No one is above the law, and no American will be beneath its protection. No powerful special interest will cower this Department.

I want to address personally the fabulous men and women in the Department of Justice. That includes personnel in Main Justice but also the much larger number that faithfully fulfill

their responsibility every day throughout this nation. As United States Attorney, I worked with them constantly. The federal investigative agencies represent the finest collection of law officers in the world. I know their integrity and professionalism. I pledge to them a unity of effort that is unmatched. Together we can and will reach for the highest standards and the highest results. It would be the greatest honor to lead these fine public servants.

To my colleagues, I appreciate the time that each of you have taken to meet with me one-on-one. As Senators, we don't always have the opportunity to sit down and discuss matters face to face and so, for me, this was very helpful. I understand and respect the conviction that you bring to your duties. Even though we are not always in agreement, you have always been understanding and respectful of my positions.

In that regard, if I am so fortunate as to be confirmed, I commit to all of you that the Department of Justice will be responsive to the Congress and will work with you on your priorities, and provide you with guidance and views where appropriate. The Department will respect your constitutional oversight role, and particularly the critically important separation of powers between the branches.

There is nothing I am more proud of than my 14 years of service in the Department of Justice. I love and venerate that great institution. I hold dear its highest ideals. As God gives me the ability, I will work every day to be worthy of this august office.

You can be absolutely sure that I understand the immense responsibility I would have. I am not naïve. I know the threat that our rising crime and addiction rates pose to the health and safety of our country. I know the threat of terrorism. I deeply understand the history of civil rights and the horrendous impact that relentless and systemic discrimination and the denial of voting rights has had on our African-American brothers and sisters. I have witnessed it. I

understand the demands for justice and fairness made by the LGBT community. I will ensure that the statutes protecting their rights and their safety are fully enforced. I understand the lifelong scars born by women who are victims of assault and abuse.

And, if I am so fortunate as to be confirmed as your Attorney General, you can know that I understand the absolute necessity that all of my actions must fall within the bounds of the Constitution and the laws that Congress passes.

While all humans must recognize the limits of their abilities—and I do—I am ready for this job. We will do it right. Your input will be valued. Local law enforcement will be our partners. My many friends in federal law enforcement will be respected.

I have always loved the law. It is the very foundation of our great country. I have an abiding commitment to pursuing and achieving justice and a record of doing just that. If confirmed, I will give all my efforts to this goal.

I ask only that you do your duty, as you are charged by the Constitution to do it, and by the light that God has given you to do it.

Thank you.

WITNESS STATEMENT OF MICHAEL B. MUKASEY – 1/10/17

Chairman Grassley, Ranking Member Feinstein, members of the Senate Judiciary Committee – It is both a pleasure and an honor to appear before this committee to speak in favor of the nomination of Senator Jeff Sessions to serve as Attorney General.

I first came to know Senator Sessions when I served as Attorney General from 2007 to 2009 and he was a member of this Committee. In particular, I recall working with him on reauthorization of the Foreign Intelligence Surveillance Act in 2008, and hearing his views on the importance of this legislation and strategies for convincing legislators in both the Senate and the House to pass it. He showed a concern for this nation's security and an understanding of how FISA helped protect it that I thought was uncommon even among engaged legislators.

I had occasion also to be on the opposing side of his views when it came to proposals to change the sentencing guidelines with respect to crack cocaine as distinct from powdered cocaine. As you may recall, there was then roughly a 100 to 1 ratio between the crack and powdered cocaine guidelines, with crack treated 100 times more harshly than powdered cocaine. I thought at the time that that disparity was warranted because of the powerful addictive effects of crack as compared to powdered cocaine, and the violence that accompanied its distribution. Senator Sessions thought that some disparity was warranted, but was concerned about the impact these sentencing guidelines had on minority defendants, who were more likely than others to be involved in crack

distribution and use. He said he thought the severe effects on African-American and Hispanic defendants and their families justified a change to more lenient guidelines for crack to see whether something could be done to alleviate the damaging effect of long drug sentences without losing the benefit of getting drug dealers off the streets and deterring would-be dealers.

As I indicated, we differed at the time on the wisdom of doing that, but I found him to be engaged and informed even when we differed. More recently, I have favored certain sentencing proposals that tended to lower sentences – proposals that he opposed. Once again, even as we differed, it is clear that his concern is with the welfare of the community at large and the impact that such legislation could have on public safety.

Based on my interaction with Senator Sessions over the years, I have come to believe that he will serve with distinction as Attorney General. Broadly, I believe he understands that the principal role of the Justice Department is to help protect the safety of the American people from any international or domestic threat that would interfere with their ability to enjoy the freedoms our Constitution guarantees. To that end, I believe he will focus the Department's energies on priorities that will include strengthening our ability to combat Islamist terrorism, both at home and overseas. I believe he will also focus on partnering with state and local law enforcement agencies to combat drug gangs, both domestic and international, that are a source of much of the violence that afflicts our cities.

I think he will seek to curtail the questionable practice of having the federal government impose rigid supervision over state and local law enforcement agencies that has had the effect of simultaneously lowering police morale and raising crime rates in such places as Seattle and Baltimore. More broadly, I think he will try to improve relationships between federal law enforcement agencies on the one hand, and state and local law enforcement agencies on the other, that will improve also the effectiveness of all such agencies.

I believe he will also enforce the standards in a 2007 memorandum I put in place that restricts White House contact with the Justice Department to the Attorney General and the Deputy Attorney General, with the exception of discussions relating to pending matters of budget, policy or legislative concern that may go on at a lower level.

I have spoken thus far of my impression of Senator Sessions' views on significant law enforcement issues, and have not reviewed his substantial background and the kinds of qualifications and achievements that appear on his resume. He certainly has a rich supply of such qualifications and achievements. He served with distinction for 12 years as the United States Attorney for the Southern District of Alabama, and for two years as that state's Attorney General. In addition, he has served for 20 years as a member of this very committee – the Senate Judiciary Committee – overseeing the operations of the Department of Justice. His concern for all people affected by the criminal justice system has extended not only to correcting what he regarded as unwarranted disparities in sentencing guidelines, but also to protecting those in prison from sexual assault.

However, my observation from both the inside and the outside of the Justice Department has been that although such qualifications are necessary and useful, and such achievements help predict performance in office, they are not entirely sufficient to guarantee success. Also necessary are qualities of mind and character that Senator Sessions has in rich supply. He is careful, thoughtful, and dedicated to the neutral and dispassionate enforcement of our laws so as to assure that the guarantees written into our Constitution are a reality for our citizens. He combines a dedication to vigorous law enforcement with a scrupulous regard for the limits of federal jurisdiction inherent in the federal system the Constitution creates. Those are the qualities, together with the skills and experience reflected in his record, that I believe will make him an outstanding Attorney General.

I had hoped to confine these remarks to discussing the positive traits that qualify Senator Sessions to be our next Attorney General. However, I have been saddened to see the scurrilous attacks on Senator Sessions' character that have been unleashed since his nomination was proposed and cannot let them pass without comment. For example, he has been falsely accused of saying that the NAACP is an un-American organization; what he actually said was that when the NAACP supported a murderous communist regime in Nicaragua, the Sandinistas, it was taking an un-American position and compromising its moral authority. Of all the insidious practices that have crept into our politics in recent times, I know of none more insidious than casual and unjustified accusations of racism, smears that once leveled are difficult to wipe clean. What I

offered was only one example, but it will do as the occasion for expressing my hope that all the Members of this important Committee, both Republicans and Democrats who know and have worked with Senator Sessions, regardless of how you intend to vote on his nomination, will unite to reject this squalid practice.

As is apparent from what I have said, I strongly support his candidacy and urge that the Committee act favorably on his nomination.

**Statement of former DREAMER and U.S. Army Veteran
Oscar Vazquez**

**Hearing before the
Senate Committee on the Judiciary**

On

“Attorney General Nomination”

Tuesday, January 10 and Wednesday, January 11, 2017

Russell Senate Office Building, Room 325

9:30 a.m.

Chairman Grassley, Ranking Member Feinstein thank you for the opportunity to testify before the Committee. My name is Oscar Vazquez and I am proud to be an American.

I was born in a small town in the State of Chihuahua in Mexico. I was 12 years old when my mother and I boarded a bus from our town to the U.S.-Mexico border. Although I was not old enough to make the choice to come to the United States, it was a decision my parents made to pursue a better future and this country quickly became my home.

As soon as we were settled in the United States my parents made sure that I was enrolled in school because they wanted me to understand the value of education. Those first days of school were a shock as I did not know enough English to understand what my teachers were telling me. It was at this point that I started to develop a passion for math and science since the formulas and equations transcended the language barrier. I was able to excel in those courses.

Before I knew it, it was time for me to attend high school and soon I found myself in wonder at the many opportunities that I was able to choose from. At Carl Hayden High School I joined the JROTC program where my two instructors were Vietnam Veterans. They always made it a point of teaching us the value of selfless service, whether you were able to provide that in the military or not. They truly wanted us to be better Americans.

I loved the order and discipline and was eventually awarded the JROTC Officer of the Year. During my sophomore year, soon after 9/11, I saw the "Band of Brothers" miniseries, and I knew then I wanted to join the Army. But when I met with a recruiter, I was told that I couldn't enlist because I was undocumented. I left that meeting not knowing what to do or what was next. I was devastated.

I knew I had to figure out what else I could do with my life. At the beginning of my senior year I joined the robotics club, which opened new doors for me. Working with three of my fellow classmates and under the supervision of two dedicated teachers, we entered the Marine Advanced Technology Education Center's Remotely Operated Vehicle Competition. Even though we were high school students, we decided to enter the college level competition because if we lost, at least it would be against universities and not against other high schools.

I spent my senior year working with my team to design and build our underwater robot, which we named Stinky. That summer, we traveled to Santa Barbara, California for the competition. It was incredible to see other underwater robots and teams from some of the best universities in the world, including MIT. Beyond our wildest dreams, four undocumented kids from Arizona won the awards for Design Elegance, Technical Report, and the grand prize for Overall Winner of the competition.

Winning the underwater robotics competition was proof that we as Dreamers had something to offer the country we always considered to be our home. Although I could not contribute to my country by joining the military, I decided I could contribute by becoming an

engineer. I fell in love with Arizona State University during a middle school field trip, but attending ASU came with its own challenges. In 2006—when I was already enrolled at ASU—the Arizona Legislature passed a law prohibiting undocumented students from receiving in-state financial aid. Even though Arizona had been my home for many years, I also wasn't allowed to pay in-state tuition. When this new law came into effect my tuition tripled. Through private scholarships and working construction, I scraped the money together to pay for college and support my family. Despite how difficult it was, I never gave up on the idea of getting a degree, and at graduation it paid off.

In 2009, I was one of three students introduced as an outstanding graduate during graduation, sitting only a few feet away from President Obama. But afterwards, I didn't know what the future held. This was three years before President Obama established the Deferred Action for Childhood Arrivals (DACA) program. So even though I had a degree in mechanical engineering, no one would hire me in this field without legal status. I didn't want to be stuck in a low-end job and not be able to apply my degree to its full potential to contribute to my country and support my family.

By then, I had met and married my wife, Karla. In the end, she and I decided that I should go back to Mexico—a country I left as a child—and apply to re-enter the United States legally. Even though Karla and our daughter, Samantha, are U.S. citizens, the law said that once I left I would be barred from coming back to the United States for ten years unless I qualified for a waiver under the law. My wife and I knew it wouldn't be easy to be apart, but we wanted to do this while my daughter was still young.

It was frustrating to be away from my family and not be able to see my daughter grow up. Every few weeks, when my wife had a few days off, Karla would bring Samantha and make the three-hour drive to visit me. When they first started visiting, my daughter didn't recognize me after not seeing me for so long. It is heartbreaking as a parent for your child not know who you are or recognize your face.

I applied for a waiver of the ten-year bar so I could come back home, but the government initially denied the request. They said that we hadn't documented enough extreme hardship for my wife due to my absence. The thought of being separated from my family for 10 years was too much to bear. I asked the Department of Homeland Security to reconsider my application and this time my waiver was granted. Three-hundred and sixty one days after I left the United States, I was able to return as legal resident.

Having legal resident status changed my life. I was now able to get a driver's license, travel freely within the United States, and pursue my career in Engineering. The biggest change I noticed was the fear—I was no longer afraid of being deported and being forcibly separated from my family.

Soon after I came back to the United States it dawned on me that I could now pursue my dream of joining the military and become a paratrooper like the soldiers I saw on “Band of Brothers”. I decided to enlist in the United States Army. I started basic training in February 2011. I wanted to fight for the country that raised me. Saying I love this country wasn’t enough, I would let my actions speak for themselves. In May, shortly before I finished basic training, I became a U.S. citizen. A couple of weeks later, I found myself staring out the door of a C-130 flying over Fort Benning, GA, and I got to jump out of military airplanes like I had dreamed since high school. A few months later I was deployed to Afghanistan.

I looked forward to going to Afghanistan because I wanted to go into combat and protect the United States. Serving in the Army allowed me to contribute more fully to this country and make it safer. I was following in the footsteps of countless other immigrants who have proudly served in the U.S. Armed Forces since the American Revolution. In Afghanistan, I fought side by side with my Army brothers. We wore the same uniform with the U.S. flag on the same shoulder. It mattered more that we were willing to die for each other and for our country than where we came from.

To this day I remember the feelings I felt after our first firefight in Afghanistan. I had put my life on the line for my brothers, for my country and I felt really proud to be an American. I personally felt then for the first time that no one could again question whether I am American. I sometimes wonder why I, as an immigrant, felt like I had to go to that extreme in order to get that feeling. It has been a great honor to serve my country.

Today, our son, Oskar Maximus, is four years old and is in pre-school. Samantha is now 8 years old and in third grade. We live outside of Fort Worth, Texas, where I volunteer at two different high schools in their respective robotics programs. I can say now that we are living the American dream. I still want to continue serving my country and I want to join the Army reserve soon.

My three other team members from the robotics competition many years ago have also continued to pursue their dreams and thanks to DACA, two of them have started their own catering business and one is currently pursuing a computer science degree in Michigan. I think now about all of the doors that were unlocked for me when I gained lawful permanent residence – the ability to get the job of my dreams, provide for my family, and live without fear. I can’t imagine what it would be like to have that taken away from me today and I can’t imagine what it is like today for my three former teammates – and for hundreds of thousands of other DACA recipients – who are afraid that could happen to them in a matter of days. Like me, DACA recipients grew up pledging allegiance to the American flag every day, and they have so much to contribute to the country they love. Of course, DACA is only a temporary solution, and now even that is at risk. Many DACA recipients do not have a path to legal status or a way to become U.S. citizens. DACA is all that’s available to them at this time.

Over the years I have met many great Americans, my parents, my teachers, my JROTC instructors, my wife, my Army brothers all of whom have seen potential in me. Whenever I talk to the students I mentor I always tell them that I have made it this far not because I am exceptional or because I am special. Rather I am where I am today because of the many great people that have believed in me and have given me a chance. That includes the people who reviewed my waiver application, and allowed me to return to the country and rejoin my family. Since becoming a permanent resident, I have worked hard to make the most of that opportunity every day.

I wanted to come here today because we need our country's top law enforcement officer to understand that immigrants make our country stronger and that it's not right to deport someone who was brought here as a child to a country where they may not know the language and may not even remember. It's not right to separate hard-working families. We need an Attorney General who will protect the American people from those who would do us harm, but who also will show mercy to those who deserve it.

Thank you again for the opportunity to testify. I look forward to answering your questions.

DRAFT**TESTIMONY OF PETER KIRSANOW BEFORE SENATE JUDICIARY
COMMITTEE ON THE NOMINATION OF
JEFF SESSIONS TO ATTORNEY GENERAL**

Chairman Grassley, ranking member Leahy, Members of the Committee, I am Peter Kirsanow, a Member of the U.S. Commission on Civil Rights and a partner in the Labor and Employment Practice Group of the law firm Benesch, Friedlander, Coplan & Aronoff. I am appearing in my personal capacity.

The U.S. Commission on Civil Rights was established by the Civil Rights Act of 1957 to, among other things, serve as the national clearinghouse for information related to discrimination and denials of equal protection. In furtherance of the clearinghouse function, my assistant and I have reviewed the bills sponsored and co-sponsored by Senator Sessions during his tenure in the Senate, as well as his public actions on matters arguably pertaining to civil rights and the rule of law.

Our examination reveals Senator Sessions' approach to civil rights issues is consistent with mainstream textual interpretation of the relevant constitutional and statutory provisions, as well as governing precedent. His legislative record is legally sound, intellectually honest, and exhibits an understanding and appreciation of the historical bases for civil rights laws.

Our examination also underscores that some aspects of Senator Sessions' record on civil rights have been mischaracterized, portraying him incongruously as somehow hostile to civil rights.

The facts emphatically show otherwise. Among other things Senator Sessions has sponsored numerous bills honoring significant civil rights events, icons, and leaders, including, but not limited to, bills to honor Martin Luther King, Jr.; Coretta Scott King; and

Rev. Shuttlesworth's fight against segregation; three separate bills honoring Rosa Parks; a Senate apology to the descendants of lynching victims; a bill to honor participants in the Selma Voting Rights March; and a bill honoring the victims of the 16th Street Baptist Church bombing.¹

Senator Sessions' commitment to civil rights, however, transcends resolutions in support of civil rights. He has sponsored or co-sponsored numerous substantive bills ensuring and protecting voting rights, such as the Federal Election Reform Act of 2001, the Voter Fraud Protection Act of 2009, as well as a number of bills protecting the voting rights of military personnel.²

He has been a strong proponent of religious liberty, co-sponsoring several bills to prevent discrimination against the religiously observant and to prevent government from substantially burdening a person's free exercise of religion.³

But in our estimation his most important impact has been on protecting the interests of American workers, particularly black workers. Black employment levels and wage rates have been abysmal for at least a decade. The labor force participation rate for black males is an appalling 61.8%. Evidence adduced by the Civil Rights Commission shows that 40% of the 18 point decline in black employment rates over the last several years is due to government refusal or inability to enforce immigration laws—causing black workers, particularly black males, to lose jobs or have their wages reduced. That's hundreds of thousands of blacks without jobs. This also has broader sociological implications related to family formation and incarceration rates.

No one has been more committed or engaged than Senator Sessions in protecting and promoting the interests of black workers in America. But for Senator Sessions' indefatigable

¹ See S. 527 (114th Cong. 2015); S. Res. 460 (108th Cong. 2004). See also S. Res. 289 (112th Cong. 2012); S. 1368 (108th Cong. 2004).

² See S. 3073 (110th Cong. 2009); S. 28 (107th Cong. 2002); S. 1103 (111th Cong. 2010).

³ See S. 415 (110th Cong. 2008); S. 1204 (113th Cong. 2004); S. 2148 (105th Cong. 1998).

efforts, the plight of black workers now and in the future would be worse. His leadership on this matter as well as his leadership as Chair of the Subcommittee on Immigration and the National Interest has been key to forestalling an even deeper downward trajectory for black workers.

Senator Sessions' record on matters pertaining to civil rights demonstrates an unwavering commitment to equal protection under the law and a fidelity to the rule of law in general that would make him an outstanding Attorney General.

Thank you Mr. Chairman.

Good morning, my name is Amita Swadhin, I am a resident of Los Angeles, California, born in Ohio to two immigrants from India, and raised in New Jersey. And I am grateful to Chairman Grassley, Ranking Member Feinstein, and Members of the Committee for the opportunity to be here today.

In October, millions of sexual assault survivors were triggered when hot mic tapes were released of President-elect Trump describing forcibly kissing women and grabbing women by the genitals.

I was one of those survivors. I am a victim of violent crime, in the form of eight years of rape and over a decade of psychological, verbal and physical abuse by my father, beginning when I was four years old. In addition to direct violence from my father, I grew up watching him abuse my mother in a textbook case of domestic violence and marital rape, until she finally found the courage and support to leave him when I was 15 years old.

I am here on behalf of survivors of rape and sexual assault to urge you not to confirm Senator Sessions as Attorney General. In the wake of President-elect Trump's comments about grabbing women by the genitals becoming public, Senator Sessions was quoted stating he doesn't characterize that behavior as sexual assault. Let me be clear - Senator Sessions stated he does not characterize non-consensual genital grabbing as sexual assault. Furthermore, in reference to President-elect Trump's comments, Senator Sessions told Fox News "This thing is overblown. Everybody knows that Trump likes women." While he criticized President-elect Trump's inappropriate language, at no point did Senator Sessions condemn the behavior President-elect Trump had admitted to engaging in.

As a publicly out survivor of child sexual abuse, many people, mainly in my father's family and community of friends and colleagues, have dismissed my story as a private family matter or have diminished the impact of this violence on my present-day life. I live with Complex Post Traumatic Stress Disorder, and struggle every day to be well. It directly and negatively impacts me when people disbelieve or attempt to discredit me or other survivors. So, to watch our President-elect admit to forcibly kissing women and grabbing them by the genitals, and to hear Senator Sessions say this behavior does not constitute sexual assault, and then to consider him leading the Department of Justice has been incredibly triggering.

I am unfortunately far from alone in my experience. We live in a country in which the crimes of rape, sexual assault, child abuse, domestic violence are happening at epidemic rates, behind closed doors. These are public health issues occurring in the private sphere. According to the US Department of Justice National Crime Victimization Survey, more than 320,000 Americans over age 12 are raped or sexually assaulted each year. According to the Centers for Disease Control, 1 in 4 girls and 1 in 6 boys will be sexually abused before age 18. In 80% of adult sexual assaults and 90% of cases of child sexual abuse, victims know and trust their perpetrators. When survivors attempt to come forward, we are often shamed and disbelieved in the media. For this reason, most victims of violent crime never seek healing or accountability from the state. Most violent crimes remain unreported.

We need a justice department that can be a partner to families and communities. Our Attorney General must be able to demonstrate leadership to victims of violent crime that helps us feel we can trust the state, the courts, and victim service agencies more than we fear our perpetrators. For most survivors of violent crime, this means trusting the state more than you fear the family member, friend or community member who you trusted and who raped or abused you.

My own story demonstrates how difficult this is to achieve. I disclosed my father's abuse to my mother when I was 13 years old. As in many tight-knit immigrant communities, my mother felt pressured to not get divorced, and lacked support from her peers to leave my father, despite him having hit her at community events more than once over the years. So, when I disclosed, she called a therapist for support, which led to state intervention due to mandated reporting. The female police officer who questioned me sat me across from a double mirror, watched me break down in tears during questioning, and stoically told me I clearly needed therapy but that wasn't her job - she was just there to get the facts about what had happened. The two male prosecutors threatened to prosecute my mother for being complicit in my abuse, without knowing any details from me. They also told me I would be harshly cross examined by the defense attorney. They did not connect me to any victim advocates or support services. Because of these reasons, I did not feel comfortable disclosing the extent of the violence I had survived, and my father was given five years probation and no jail time. He was allowed to continue living in my home for a year and a half after state intervention. Even after my mother finally found the strength to leave him when I was 15, my father was allowed to have unsupervised visits with me and my sister - he convinced social workers that my mother could serve as the visitation supervisor, subjecting all three of us to another year of verbal and physical violence. These events occurred from 1991 to 1994, just before the Violence Against Women Act was created.

Thankfully, we have improved the response of the criminal justice system to victims of intimate violent crime in the past 23 years. VAWA requires the criminal justice system to work with the victim services system. The STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grants under VAWA provide training and resources to judges, prosecutors, police officers and other court personnel to support survivors. In 1991, the police did not contact victim advocates for me. Today, thanks to VAWA, the law enforcement system is encouraged to provide victims an advocate to support them in breaking their silence and sharing their truth.

Yet despite this progress, most victims of violent crime still do not come forward, particularly survivors living at the intersections of multiple oppressions - survivors of color, disabled survivors, immigrant survivors, and LGBT survivors. We need an Attorney General who will continue the progress we have made since the initial passage of VAWA, someone committed to improving and enforcing our laws to ensure the most vulnerable victims of crime can come forward to seek accountability and to access healing.

Time and again, Senator Sessions' voting record has shown he is not the man for the job. While he voted in favor of the Violence Against Women Act in the bill's early years, when VAWA was expanded in 2013 to ensure LGBT survivors of domestic violence and sexual assault were being served, Senator Sessions voted against the bill. This is not the first time he demonstrated his bias against the LGBT community. In 2006, Senator Sessions voted in favor of a constitutional ban

on same-sex marriage. In 2009, he voted against the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, which extends federal hate crime protections to people victimized because of their sexual orientation, gender identity, or disability.

By voting against VAWA specifically when services and protections were strengthened for LGBT survivors, Senator Sessions has shown his personal bias against LGBT Americans is so strong, he is willing to throw all survivors of domestic violence and sexual assault under the bus, stripping away the services and trainings we have created to better support survivors over the past two decades.

As a bisexual woman with a transgender romantic partner, and as an advocate working to support sexual assault survivors in the LGBT community, the prospect of Senator Sessions as Attorney General is personally and professionally alarming. National data shows LGBT people, and particularly transgender women of color, are disproportionately victimized by rape and sexual assault, intimate partner violence and homicide. One in two transgender people will be raped or sexually assaulted in their lifetime. Furthermore, the majority of hate violence homicide victims are transgender women. In fact, only 11 days into the new year, two transgender women of color have already been murdered - Mesha Caldwell, an African American transgender woman from Mississippi, and Jamie Lee Wounded Arrow, a two-spirit Oglala Lakota woman from South Dakota.

We must trust the Attorney General to enforce and apply our laws fairly, per our Constitution's provisions on equal protection. We must trust the Attorney General to respect the humanity of all Americans, and especially to be committed to seeking justice for our most vulnerable victims of crime. Given his voting record on VAWA and on LGBT issues, we have no reason to put our faith in Senator Sessions as Attorney General. We cannot trust that he would enforce the Hate Crimes Prevention Act, or the nondiscrimination clause of the Violence Against Women Act to protect LGBT victims and other vulnerable survivors against discrimination from victim service agencies nationwide.

In conclusion, I want to emphasize that a broad range of national organizations working to end violence against women, including the National Task Force to End Sexual and Domestic Violence, the National Coalition Against Domestic Violence, the National Council of Jewish Women, Ujima, Inc., the National Center on Violence Against Women in the Black Community, the National Alliance to End Sexual Violence and Break the Cycle, oppose Senator Sessions' nomination because of these issues I am raising today. Thank you.

**PREPARED STATEMENT OF
JAYANN SEPICH**

before the
**COMMITTEE ON JUDICIARY
UNITED STATES SENATE**

**CONFIRMATION HEARING ON THE NOMINATION
OF SENATOR JEFF SESSIONS
AS ATTORNEY GENERAL OF THE UNITED STATES
January 11, 2016**

Good Morning Chairman Grassley and Members of the Committee. My name is Jayann Sepich. Thank you for the opportunity to testify today in support of the nomination of Senator Sessions as Attorney General of the United States.

In August 2003, my oldest daughter Katie, a vivacious 22 year old graduate student, was brutally raped, strangled to death, and her body set on fire. It is never easy to lose a child for any reason, but the pain and horror at losing our daughter in this violent manner is beyond description.

No strong suspects emerged in Katie's case, but Katie had fought for her life. The skin and blood of her attacker were found under her fingernails, and a DNA profile identifying her killer was extracted and uploaded into the national forensic DNA database called CODIS.

I made the comment to investigators that the man who had killed Katie was such a monster that he would surely be arrested for another crime, his cheek would be swabbed, and we would soon have his identity. He wouldn't be able to harm another young woman. That is when I learned that, at the time, it was not legal in New Mexico, or in most States, to take DNA at the time of a felony arrest. It could only be taken after conviction.

I was stunned. We do not use DNA to accurately identify persons arrested for serious crimes? We release them from law enforcement custody without a check of the DNA database for a possible match to other unsolved crimes? We collect fingerprints, mug shots, Social Security numbers, and run multiple criminal system checks to establish identity – including information as to what other crimes the person may have been involved in -- but we do not collect DNA?

After considerable research, I became a national advocate for the collection of DNA upon arrest. My husband and I started the non-profit association DNA Saves. We know we cannot ever bring Katie back. But we absolutely believe that we may be able to prevent new crimes – prevent this horrible pain from being visited upon other parents – by advocating for stronger DNA database laws that allow for the collection of DNA from persons arrested for serious crimes.

To date, thirty State Legislatures and the US Congress have enacted laws requiring that a DNA sample be taken for qualifying felony arrests. In June 2012, the United States Supreme Court upheld these laws, ruling that taking

DNA at the time of booking for a felony arrest is “a legitimate police booking procedure that is reasonable under the Fourth Amendment.” (*Maryland v. King*, 569 U.S. ____ (2013)).

Senator Sessions helped craft the legislative language that became the *DNA Fingerprint Act* to provide federal authorities with the authorization to collect DNA from arrestees. (P.L. 109-162; 42 USC 14135a) In 2008, Senator Bingaman, along with Senator Schumer as an original cosponsor, introduced the *Katie Sepich Enhanced DNA Collection Act*, which was passed in 2012. (P.L. 112-253, 42 USC 14137a) This federal law provides additional funding, through the *Debbie Smith DNA Backlog Elimination Act* (42 USC 14135), to those states that have enacted laws to expand their databases. Once again, as the Judiciary Committee’s Ranking Member during the time in which this legislation was pending, Senator Sessions played a significant role in helping us to craft a bill that would gain bipartisan support, and eventually passed Congress unanimously.

As a result of stronger state and federal DNA database laws, and the corresponding funding for implementation, we have seen many heinous criminals identified through arrestee DNA testing. New Mexico has seen over 1200 cases matched. California is seeing ten matches every day on their DNA database. To date, the Alabama Department of Forensic Sciences remains one of the most successful Forensic DNA programs in this country, and one that many other States look to for guidance as DNA technology continues to improve. The Alabama Department of Forensic Sciences credits Senator Sessions for much of this success, largely due to the support Senator Sessions

provided from the outset to the state's forensic DNA program during his term as the Alabama Attorney General. Since its inception, Alabama has utilized the DNA Database to solve over 6,500 previously unsolved cases through CODIS. Alabama now averages almost two new 'hits' each and every day with their impact felt across this country – helping to solve cases ranging from simple burglary to murder in 43 states.

In Katie's case, after three long years, DNA finally identified Gabriel Avila, an illegal Mexican national, as Katie's killer. But he would have been identified in under three months if law enforcement had been permitted to collect DNA at his arrest.

Over the past eleven years, our family has worked to change DNA laws across the country. We have been supported by lawmakers of both parties. We have also seen opposition from both Republicans and Democrats. Forensic DNA is a very complex issue and it is vitally important that policymakers take the time to fully understand these complexities in a truly non-partisan manner. Senator Sessions has done that. And with that understanding, he has stood in strong support of the use of forensic DNA to both identify the guilty and exonerate the innocent.

I believe that Senator Sessions is committed to the philosophy that one of the core responsibilities of our government is public safety. He cares about victims. He has been a leader on forensics policy for years. He has consistently supported vital funding for DNA programs, including the *Debbie Smith DNA Backlog Elimination Act* and the *Katie Sepich Enhanced DNA*

Collection Act. Moreover, Senator Sessions was the author of the *Paul Coverdell National Forensic Science Improvement Act* which provides further funding to crime laboratories for work in other important forensic disciplines. (42 USC 3797m) This federal funding support for publicly funded crime laboratories has had an enormous impact on public safety. According to the National Institute of Justice¹, since 2005, the funding provided to local and state crime laboratories through the *Debbie Smith Act* (called the DNA Backlog and Capacity Enhancement grants) has resulted in²:

More than 641,000 DNA cases processed

Over 290,000 DNA profiles uploaded to CODIS

This accounts for 39% of all forensic profiles in CODIS

2.79 million database offender samples uploaded to CODIS

This accounts for 22% of all offender samples in CODIS

In total, the federal Debbie Smith DNA grants have been responsible for 149,000 CODIS hits, 42% of all matches made in CODIS.

Our lives were shattered when our daughter was brutally murdered. We know intimately the pain that violent crime brings to families. We also have reasonable access to the best identification technologies available. Senator Sessions has shown he understands the pain of victims and has put that

¹ *Fiscal Year Funding for DNA Analysis, Capacity Enhancement and other Forensic Activities* (NCJ 249146, December 2015)

² Percentages are based on grant figures from July 2015 as a percentage of samples CODIS as of November 2016, per the FBI statistics at <https://www.fbi.gov/services/laboratory/biometric-analysis/codis/ndis-statistics>

understanding into action to help make changes that will make a difference. Senator Sessions will provide strong leadership to the United States Department of Justice, and I hope you will support his nomination as Attorney General.

Thank you.



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CORNELL WILLIAM BROOKS
President & Chief Executive Officer

ROSLYN M. BROCK
Chairman, Board of Directors

**TESTIMONY OF CORNELL WILLIAM BROOKS,
PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED PEOPLE (NAACP)**

on the

**NOMINATION OF
JEFFERSON "JEFF" BEAUREGARD SESSIONS III**

to be

ATTORNEY GENERAL OF THE UNITED STATES

before the

SENATE JUDICIARY COMMITTEE

January 11, 2017

Good morning Chairman Grassley, Ranking Member Feinstein, and esteemed Senators of this committee. On behalf of the Board of Directors of the National Association for the Advancement of Colored People (NAACP), and its units and members across the country and abroad, I am honored to present this testimony regarding the announced nomination of Senator Sessions to serve as the 84th Attorney General of the United States.

Founded almost 108 years ago, in February of 1909, the NAACP is our nation's oldest, largest, and most widely-recognized grassroots-based civil rights organization. We currently have more than 2,200 membership units across the nation, with members in every one of the 50 states as well as units on overseas military bases. Along with our community-based adult units, we also have youth and college units in hundreds of communities and schools across the country as well as units in prisons.

Through programs and projects in its substantive “game-changer” areas, criminal justice, economic opportunity, education, health, civic engagement, political advocacy, international affairs and youth empowerment, the NAACP works across the substantive spectrum of civil rights to advance the cause of social justice and equality for all Americans.

The Attorney General of the United States is a position of critical importance to the NAACP, as well as to the nation as a whole. Not only does the Attorney General oversee laws, policies and programs that are crucially important to underserved communities, but he or she represents the American ideal of equal justice and equal protection under the law. From the dark days of racist lynchings in the South, through the years of Jim Crow laws, to the present, with racially-motivated crimes on the rise, voter suppression alive and well, and racialized policing increasingly rearing its ugly head, the Attorney General of the United States is the highest ranking government official entrusted to pursue justice over and above partisan political influences and objectives. As such, the Attorney General must, through words and deeds, inspire confidence that he or she will protect the rights and interests of all persons, regardless of race, ethnicity, gender, disability, religion, age, point of national origin, or socio-economic station in life, especially those who are unable to protect themselves.

We take no pleasure in stating that, in the view of the NAACP, Senator Sessions’ record conclusively demonstrates that he lacks the judgment and temperament to serve effectively as Attorney General of the United States. Senator Sessions’ record throughout his career, whether in the office of the U.S. Attorney for the Southern District of Alabama, as Attorney General for the state of Alabama, or most recently as the junior U.S. Senator from Alabama, evinces a clear disregard, disrespect, and even disdain for the civil and human rights of racial and ethnic minorities, women, the disabled, and others who suffer from discrimination in this country.

Based on his record and his statements, the NAACP strongly believes that confirmation of Senator Sessions as Attorney General would be bad for America and could exacerbate already deepening racial divisions in this country. Rather than being perceived as the protector of civil rights, civil liberties, religious freedoms and

voting rights, the Department of Justice under the leadership of Senator Sessions could easily be seen as indifferent (at best) to the racial, ethnic, gender, disability, sexual orientation and religious discrimination that continues to plague our great nation. Indeed, the Senator's record shows a striking disregard for the very laws, policies, and programs he would be responsible for enforcing, overseeing and protecting as Attorney General, and his statements reflect complete disdain for groups, including the NAACP, that have long worked to protect the civil rights and liberties of all Americans. Moreover, his record demonstrates that he is out of step with even the most conservative members of Congress. Based on his record, Senator Sessions should not hold the position of Attorney General of the United States.

SENATOR SESSIONS'S VOTING RECORD IN THE U.S. SENATE AND RECORD AS A FEDERAL PROSECUTOR DEMONSTRATES HIS HOSTILITY OR INDIFFERENCE TO CIVIL RIGHTS PROTECTIONS

Perhaps the best evidence of Senator Sessions's troubling views and approach towards civil rights is his voting record during his 19 years in the United States Senate. Below we detail our concerns regarding Senator Sessions's record in the areas of (1) voting rights; (2) hate crimes; (3) violence against women and women's health care; (4) opposition to sensible gun control laws; (5) opposition to community policing and policing reform; (6) Americans' right to privacy; and (7) his voting record on Judicial nominees . In each of these areas, Senator Sessions has failed to support the creation or expansion of laws and programs that would increase civil rights protections and/or has affirmatively taken actions to retard the protection of civil rights.

1. Voting Rights

Protecting the right to free and fair access to the ballot is a foundational principle to our representative form of government. Through enforcement of the Voting Rights Act of 1965, the Attorney General of the United States is ultimately responsible for ensuring that no citizen's right to cast a ballot will be abridged on the basis of race. Through "America's Journey for Justice," the NAACP recently marched 1002 miles, from Selma, Alabama to Washington, D.C. to bring attention to the pressing need for

restoration of Section 4(b) of the Voting Rights Act. Indeed, the NAACP is among the premier advocates for voting rights in this country, having secured or assisted in securing victories in several critically important federal voting rights cases during the past year alone.¹

Rather than protect the right of eligible citizens to vote, Senator Sessions has in the past used the power of the Department of Justice to intimidate and criminally prosecute those who lawfully assisted elderly citizens in casting their ballots. In 1985, as United States Attorney for the Southern District of Alabama (a component of the Justice Department), Senator Sessions brought criminal fraud prosecutions against three civil rights activists in Alabama who were helping elderly African-American voters complete absentee ballots.² A jury unanimously acquitted all three defendants of all of the charges against them, in deliberations that lasted only a few hours. While the prosecution was unsuccessful, the chilling effect on voting rights activists was substantial, as the defendants faced 29 counts with sentences totaling up to 250 years.³ Given the responsibility of the Attorney General of the United States to vigorously enforce the Voting Rights Act and otherwise to protect the right of access to the ballot, we respectfully submit that Senator Sessions's misguided, unwarranted and failed prosecution of civil rights activists who were merely assisting others in the casting of absentee ballots should disqualify him, *per se*, from serving as Attorney General of the United States. We simply have no confidence, given his record, that Senator Sessions could fairly enforce the Voting Rights Act to protect the rights of African-American voters.

We acknowledge that in 2006, Senator Sessions joined all of his Senate colleagues in supporting the reauthorization of portions of the 1965 Voting Rights Act which

¹ See *North Carolina NAACP v. McCrory*, Case No. 16-1468 (4th Cir. Jul. 29, 2016) (holding the State imposed voting restrictions with a racially discriminatory purpose); *Texas NAACP v. Perry* (combined with *Veasey v. Abbott*), Case No. 14-41127 (5th Cir. Jul. 20, 2016) (holding the Texas' photo voter identification requirement had a discriminatory effect on minority voters); *League of Women Voters, et. al. v. Newby*, No. 16-5196 (D.C. Cir. Sept. 26, 2016) (holding that an imposition of documentary proof of citizenship requirement violated the Administrative Procedure Act); and *Missouri State Conference NAACP v. Ferguson-Florissant Sch. Dist.*, Case No. 4:14 CV 2077 (E.D. Mo. Aug. 22, 2016) (Dist Ct. holding that the at-large voting systems for school board members violates Sect. 2 of the Voting Rights Act of 1965).

² *U.S. v. Albert Turner, et al.*, Criminal No. 85-00014 (S.D. Ala. 1985).

³ Drew Griffin, *Woman Prosecuted Sen. Sessions Can't Forgive* (Jan. 6, 2017 11:19 A.M.), <http://www.cnn.com/2017/01/06/politics/marion-three-jeff-sessions/>.

extended certain provisions for twenty-five years (the vote was unanimous; 98 to 0). It bears mentioning, however, that prior to passage of this important legislation, Senator Sessions had alerted his colleagues that he intended to offer an amendment to the reauthorization bill which would have substantially have weakened Section 5.⁴ While he did not ultimately offer his amendment, the incident suggests that Senator Sessions is an “outlier” on the issue of voting rights, a view that is supported by his previous reference to the 1965 Act (as reported in *The Nation* magazine) as “a piece of intrusive legislation.”⁵ Likewise, in 2013, he said that the 2006 extension of portions of the Voting Rights Act was “probably too long an extension because there’s just huge areas of the South where there’s no problem.”⁶ Not surprisingly, he lauded the U.S. Supreme Court’s 2013 decision effectively eviscerating portions of the Voting Rights Act and called it “good news, I think, for the South.”⁷ Furthermore, despite the Supreme Court’s direction to Congress to update the Act to restore the protections that were struck down, Senator Sessions has opposed all such efforts in the U.S. Senate.

Equally disturbing is Senator Sessions’s strong support for photo identification voting requirements, despite the fact that up to 21 million Americans, or 11% of the entire voting-eligible population, do not have government-issued photo IDs.⁸ A disproportionate number of those who do not have government-issued photo identification are racial and ethnic minorities, the elderly, students, or low-income Americans.⁹ A full 25% of African Americans who would otherwise be eligible to

⁴ R. Neal, *Voting Rights Act Extension Stalls*, Facing South (May 16, 2006), available at, <https://www.facingsouth.org/2006/05/voting-rights-act-extension-stalls.html> (quoting Sen. Sessions discussion on changing Section 5 of the VRA to either remove Alabama or extend it to northern states, such as Boston).

⁵ Ari Berman, *Jeff Sessions, Trump’s Pick for Att’y Gen., is a Fierce Opponent of Civil Rights*, *The Nation* (Nov. 18, 2016), available at, <https://www.thenation.com/article/jeff-sessions-trumps-pick-for-attorney-general-is-a-fierce-opponent-of-civil-rights/>; See Also Nomination of Jefferson B. Sessions, III to be U. S. Dist. Ct. J. for the S.D. Ala.: Hearings Before the Committee on the Senate Comm. on the Judiciary, 99th Cong. 1047, at. 159 (1986) (statement of Jefferson B. Sessions).

⁶ 152 Cong. Rec. S7,986 (Daily Record July 20, 2006) (statement by Senator Jeff Sessions), available at, <https://www.congress.gov/congressional-record/2006/7/20/senate-section/article/s7949-6?r=37>.

⁷ Meredith Shiner, *Can Cong. Fix the Voting Rights Act?*, Roll Call, June 25, 2013, available at, http://www.rollcall.com/news/can_congress_fix_the_voting_rights_act-225935-1.html (last accessed January 5, 2017)

⁸ Brennan Ctr. for Justice at New York Univ., *Election 2016: Restrictive Voting Laws By the Numbers*, Sept. 28, 2016, <http://www.brennancenter.org/analysis/election-2016-restrictive-voting-laws-numbers> (last accessed January 5, 2017).

⁹ *Id.*

vote, do not have qualified, government issued photo identification.¹⁰ Yet, despite the concerns about the racially disparate impact of requiring photo identification for voting, in 2006, 2007 and again in 2013 (every time a vote on the subject was taken), Senator Sessions voted in favor of requiring federal “photo identification” from all voters.¹¹ It bears noting here that the U.S. Court of Appeals for the Fourth Circuit and the U.S. Court of Appeals for the Fifth Circuit, among others, have ruled that such state-imposed photo identification requirements violate Section 2 of the Voting Rights Act.¹² While Senator Sessions and others have pointed to alleged “voter fraud” as a justification for requiring photo identification for voters, documented instances of voter impersonation are extremely rare (only 37 alleged instances out of 1 billion votes cast between 2000 and 2014.)¹³

2. Opposition to Hate Crimes Prevention Legislation

Senator Sessions’s votes regarding the strengthening and expansion of Hate Crimes Prevention Act likewise demonstrate a profound disregard or lack of appreciation for the worsening problem of hate crimes based on race, ethnicity, religion, sexual orientation and other immutable characteristics. As this committee is well aware, hate crimes remain a very serious problem in the United States; and the problem appears to have been exacerbated by the vitriolic rhetoric of the recent national

¹⁰ The Advancement Project: *What's Wrong with This Picture? New Photo ID Proposals Part of a National Push to Turn Back the Clock on Voting Rights* (Apr. 13, 2011), at ii, available at, <http://www.advancementproject.org/resources/entry/whats-wrong-with-this-picture-new-photo-id-proposals-part-of-national-push>.

¹¹ See Roll Call Vote On the Motion to Table McConnell Amdt No. 4085 (May 23, 2006) (Sen. Sessions voting no table amendment), available at http://www.senate.gov/legislative/LIS/roll_calls/roll_call_vote_cfm.cfm?congress=109&session=2&vote=00143; Vote on Senate Amdt 1170 (Jun. 5, 2007) (Sen. Session voting yes to require photo identification for persons voting in person in federal elections), available at, http://www.senate.gov/legislative/LIS/roll_calls/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00184; Voting on Senate Amdt. 526 (Mar.23, 2013) (Sen. Sessions voting yes to establish a fund to require photo ID for voting in federal elections, available at, http://www.senate.gov/legislative/LIS/roll_calls/roll_call_vote_cfm.cfm?congress=113&session=1&vote=00083.

¹² See *NC NAACP v. McCrory*, *supra*; *Veasey v. Abbott*, *supra*

¹³ Justin Levitt, *A Comprehensive Investigation of Voter Impersonation finds 31 Credible Incidents Out of One Billion Ballots Cast*, *The Washington Post* (Aug. 6, 2014), available at, https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/?utm_term=.7b68ac4f0386.

election and is thus on the rise.¹⁴ This form of domestic terrorism is designed to intimidate whole communities on the basis of personal and immutable characteristics – and can spark conflicts that are damaging not only to the victims most directly affected but also to the very fabric of our society. Indeed, according to FBI statistics, a total of 5,818 hate crimes were committed in 2015, a 6% increase from 2014.¹⁵ The increase was largely due to an increase of hate crimes against Muslims; however, the largest percentage of race-based crimes were committed against African Americans.¹⁶ Nearly 60% of all hate crimes were based on race, ethnicity, or national origin.¹⁷ Despite these alarming statistics, in 2000, and again in 2002, 2004, 2007, and 2009 (every time a roll call vote on the subject was taken in the full Senate) Senator Sessions voted against expanding and strengthening the “Hate Crimes Prevention Act.”¹⁸ The *Matthew Shepard, James Byrd Jr. Hate Crimes Prevention Act*, which was finally enacted, despite and over Senator Sessions’s objections, allows the federal government, through the U.S. Department of Justice, to work with state and local authorities to prevent, investigate, solve, and if necessary, punish hate crimes to the fullest extent possible. The expanded law specifically covers hate crimes against women, LGBT people, and people with disabilities.

Given his overall civil rights record and his specific opposition to the strengthening protections against hate crimes, the NAACP seriously questions whether Senator Sessions would vigorously prosecute federal hate crimes.

¹⁴ Southern Poverty Law Center, *Ten Days After: Harassment and Intimidation in the Aftermath of the Election*, (Nov. 29, 2016) <https://www.splcenter.org/2016/11/29/ten-days-after-harassment-and-intimidation-aftermath-election>.

¹⁵ Eric Lichtblau, *U.S. Hate Crimes Surge 6%, Fueled by Attacks on Muslims*, *The New York Times* (Nov. 14, 2016), available at, http://www.nytimes.com/2016/11/15/us/politics/fbi-hate-crimes-muslims.html?_r=0.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See Roll Call vote, Jun. 20, 2000, *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=106&session=2&vote=00136; Sen. Roll Call vote (Jun. 11, 2002), *available at* http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00147; Jun. 15, 2004, *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=108&session=2&vote=00114; Sept. 27, 2007, *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00350; and Jul. 16, 2009, *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00233

3. Violence Against Women and Disregard for Women's Healthcare

Senator Sessions's record in the U.S. Senate demonstrates a lack of concern and/or lack of understanding of the unique threats and challenges facing women in this country. According to the National Coalition on Domestic Violence, 20 people per minute are abused by a partner, which equates to 10 million people per year.¹⁹ Statistics show that one in three women and one in four men have been abused in their lifetime.²⁰ This rate of violence affects not only the adults, but also the children who are exposed to intimate partner violence each year.²¹ Furthermore, the presence of a handgun in the home increases the chance of a homicide by 500%.²² The statistics regarding rape and sexual abuse are no less alarming, showing that one in five women has been raped in their lifetime, nearly half of them by an acquaintance.²³ Despite this alarming regularity in physical threats to women, in 2012 and again in 2013 (each time a vote on the subject was taken), Senator Sessions voted against reauthorization of the "*Violence Against Women Act*," which protects women from domestic violence, dating violence, and sexual assault.²⁴ Combined with this consistent opposition to sensible gun control laws (discussed below), his opposition to increased protections for victims of domestic abuse, rape and sexual assault shows a lack of concern for the safety and welfare of women.

Furthermore, Senator Sessions opposed legislation to protect women's health care by voting against Title X funding, which supports contraception, breast cancer screening and other health services for low income women and by repeatedly voting to defund Planned Parenthood (in 2011 and 2015, every time there was a recorded vote), despite estimates that Planned Parenthood serves over five million clients a year, and that 75% of their clients have incomes at or below 150 percent of the federal poverty level. Services provided at locations include screening for breast,

¹⁹ National Coalition Against Domestic Violence, National Statistics, <http://ncadv.org/learn-more/statistics/national> (last accessed Jan. 9, 2017).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Ctrs. for Disease Control and Prevention, *Division of Violence Prevention Infographic*, available at, <https://www.cdc.gov/violenceprevention/nisvs/infographic.html> (Last accessed Jan. 9, 2017).

²⁴ See generally NAACP Legislative Rept. Card for the 112th Cong. (Issued in 2013), available at, <http://action.naacp.org/page/-/washington%20bureau/113Congress/ALABAMA2.pdf>

cervical and testicular cancers; contraceptives; pregnancy testing and pregnancy options counseling; testing and treatment for sexually transmitted diseases; comprehensive sexuality education, menopause treatments; and vasectomies and tubal ligations. For many of Planned Parenthood's patients, the annual exams received at their facilities are the only access to health care they have. Furthermore, since a prohibition on federal funding for abortions is already in place, there is no justification for this reckless initiative.

Lastly, Senator Sessions voted against the *Lilly Ledbetter Fair Pay Act*, which reinstitutes the original intent of Congress in the 1964 Civil Rights Act, by mandating that an individual may file a discrimination suit against an employer (or former employer) within 180 days of the end of his or her employment, thereby restoring the ability of victims of pay discrimination to obtain effective remedies. In short, the Lily Ledbetter Fair Pay Act seeks to ensure equal pay for equal work, and Senator Sessions's opposition to the Act is a troubling indication of his lack of commitment to combating employment discrimination against women.

4. Opposition to Sensible Gun Control

Every day in this country, 7 children die as a result of gun violence.²⁵ Gun violence is decimating many communities in our country, and is particularly damaging to African-American communities where 7,039 people were the victims of homicides in 2015, according to the FBI.²⁶ Despite the destruction created by easy access to guns, Senator Sessions has consistently (in 1999, 2004, 2005, 2009, 2010, 2013 and in 2015) (every time a vote on the subject was taken) opposed safe, sane and sensible measures to stem the unacceptable amount of gun violence in our communities and our nation. He has opposed expanding background checks to cover more gun purchasers, renewing the military style assault weapons ban, and increasing the

²⁵Brady Campaign to End Gun Violence, Key Gun Violence Stats., <http://www.bradycampaign.org/key-gun-violence-statistics> (last accessed Jan. 9, 2017).

²⁶ Fed. Bureau of Invest., Expanded Homicide Table, 2015, *available at*, https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/expanded_homicide_data_table_1_murder_victims_by_race_ethnicity_and_sex_2015.xls. While this denotes all African American victims of homicide, the FBI also reports that 71.4% of all homicides were committed by a firearm.

penalty for straw purchasers and gun traffickers. Demonstrating his extreme views on the subject, in 2010 Senator Sessions supported an amendment on the floor of the U.S. Senate which, had it become law, would have allowed persons determined to be mentally incompetent by the U.S. Department of Veterans Affairs to nevertheless own firearms.²⁷ The fact that he would be responsible for interpreting and enforcing our nation's gun laws as Attorney General is simply frightening, as he cannot be trusted to recommend and support changes to our gun control laws when necessary to protect our children and our communities.

5. Criminal Justice and Policing Reform

One area that has required urgent attention by the Department of Justice over the past several years is policing reform. As the nation's attention has been gripped by repeated instances of questionable police shootings of unarmed citizens (often African Americans), the Department of Justice has been called upon to investigate individual shootings as well as to investigate department-wide policies and practices that might violate the civil rights of the communities that police departments are entrusted to protect. Indeed, before and since the 2014 shooting of Michael Brown in Ferguson, Missouri, many Americans have looked to the Department to bring much needed reforms to policing practices in small towns and big cities across the country. One highly effective tool repeatedly used by the Department of Justice to effect meaningful reform of policing practices is the consent decree. Through 25 investigations of police departments, resulting in 14 consent decrees over the past 7 years, the Department of Justice has, without resorting to time-consuming and expensive litigation, reached agreement with police departments on methods intended to minimize if not eliminate abusive policing practices, including unlawful police shootings.²⁸

²⁷ See NAACP Legislative Report Card of the 111th Congress, issued (Jan. 11, 2011), available at, http://action.naACP.org/page/-/action%20alerts/111th_report_card.pdf.

²⁸ See U.S. Dep't of Just. Press Release, *Justice Dep't Releases Report on Civil Rights Div.'s Pattern and Practice Police Reform Work* (Jan. 4, 2017), available at, <https://www.justice.gov/opa/pr/justice-department-releases-report-civil-rights-division-s-pattern-and-practice-police-reform>.

But under a Department of Justice led by Senator Sessions, it is unclear whether such progress toward more fair policing practices would continue. In a published research paper, Senator Sessions has called consent decrees “one of the most dangerous exercises of raw power” and stated that the use of consent decrees circumvents the democratic process.²⁹ Coupled with his opposition to the federal collection of data on police-involved shootings,³⁰ Senator Sessions’s opposition to the use of consent decrees gives the NAACP no confidence that progress toward more fair policing practices would continue were he to be confirmed as Attorney General of the United States.

In the area of criminal justice reform, the NAACP and several other groups were able to work cooperatively with Senator Sessions in an effort that culminated in the passage of the *Fair Sentencing Act of 2010*, which addressed racial disparities in federal cocaine sentencing provisions. We genuinely appreciate his efforts on that legislation; however, Senator Sessions’ agreement with our position on the crack – powder cocaine differential only went so far: Senator Sessions opposed retroactivity, in our opinion, a key element of the *Fair Sentencing Act*. Much of the thinking which went into the Omnibus Crime Bill of 1994 has proven not only to be erroneous, but also contributed to a massive racial disparity in our prison population; a racial disparity which can only be corrected by applying the Fair Sentencing Act retroactively to those who were sentenced under the original guidelines.

Sadly, the limited cooperation we did receive on the *Fair Sentencing Act of 2010* stands in stark contrast to other positions he has taken regarding criminal justice reform. In 1999, for example, he voted against requiring states to address the disproportionate confinement of minority juveniles.³¹ In 2012, he voted against the creation of a national commission charged with a thorough review of the fairness of

²⁹ Michael Debow, et. al., *Consent Decrees in Inst. Reform Litigation: Strategies for State Legis.*, Alabama Pol’y Insti. (2008), available at <http://www.alabamapolicy.org/wp-content/uploads/API-Research-Consent-Decrees.pdf>. (Forward by Sen. Jeff Sessions) (Last Accessed January 6, 2017).

³⁰ Tess Owen, *The Future of Policing*, Vice News (Dec. 5, 2016), available at <https://news.vice.com/story/what-trump-and-sessions-mean-for-police-reform>. (last accessed Jan. 6, 2017).

³¹ NAACP Leg. Rept. Card, 106th Cong. (Oct. 21, 2000), available at, <http://action.naacp.org/page/-/washington%20bureau/106thCongress.pdf>

our federal criminal justice system.³² As the prison population in our country continues to balloon, so does the cost to state and federal governments and taxpayers. Over the last 30 years, there has been a 500% increase in incarceration. Furthermore, although almost 60% of the people in prison or jail right now are racial or ethnic minorities, while we comprise just over 27% of the national population. For a variety of reasons, the cry for reform has been loud and is growing – from both the right and the left. Yet, Senator Sessions has used his position on the Senate Judiciary Committee to block attempts to enact any reform, apparently satisfied with the status quo. Senator Sessions has also opposed efforts at the Department of Justice to prioritize the enforcement of violent offenders over low-level drug offenses like marijuana possession,³³ while decrying President Obama’s use of his clemency powers to reduce the harsh sentences of non-violent drug offenders in federal prisons.³⁴

Senator Sessions has also consistently (in 2005 and in 2007) (every time a vote on the subject was taken) opposed increases in funding for the Department of Justice Community Oriented Policing Services, or “COPS” program. The COPS Office is responsible for advancing community policing nationwide and supporting the community policing activities of state, local, and tribal law enforcement agencies, and is one of the more successful initiatives in increasing the effectiveness of local police and improving relations between law enforcement and the communities they serve. To date, the COPS Office has invested more than \$14 billion in the advancement of community policing. The COPS Office currently manages over 2,000 active grants totaling \$1.4 billion.

Another area in which Senator Sessions appears out of touch is that of Civil Asset Forfeiture reform. Again, many of his colleagues from both chambers, both sides of the aisle, and all points on the political spectrum appear to agree that current laws

³² Amie Grawert, Brennan Center Analysis: Sen. Jeff Sessions’ Record on Crim. Just.

³³ James Higdon, Jeff Sessions’ Coming War on Legal Marijuana, POLITICO, Dec. 5, 2016, <http://www.politico.com/magazine/story/2016/12/jeff-sessions-coming-war-on-legal-marijuana-214501>.

³⁴ Jamie Lovegrove, *On Obama’s Aggressive Clemency Push, Sen. John Cornyn Splits with Criminal Justice Reform Advocates*, Dallas News (Dec. 20, 2016), available at, <http://www.dallasnews.com/news/politics/2016/12/20/amid-obamas-aggressive-clemency-push-sen-john-cornyn-splits-criminal-justice-reform-advocates> (quoting Sen. Sessions).

create a financial incentive in too many cases to for law enforcement to pursue profit over the fair administration of justice, facilitate the circumvention of state laws intended to protect citizens from abuse, encourage the violation of due process and property rights of Americans, and disproportionately impact people of color and those with modest means. Even the most benign of bills reforming the civil asset forfeiture laws gets held up much to the frustration of many.

6. Americans' Right to Privacy

Senator Sessions has shown a blatant disrespect for Americans' right to privacy. In 2016, the Email Privacy Act passed the House of Representatives by a unanimous vote. This legislation would have required a law enforcement agency to obtain a warrant prior to compelling tech firms such as Microsoft or Google to hand over the stored cell phone communications. During Senate Judiciary Committee consideration of the bill, Senator Sessions introduced an amendment which would have created a huge loophole and allowed law enforcement to demand the information even without a warrant.

7. Votes on Presidential Nominees

As Attorney General, one of Senator Sessions' responsibilities would be to advise the President on judicial nominations. This is particularly disturbing to the NAACP, as Senator Sessions has voted against the confirmations of Sonia Sotomayor, the first Latina nominated to serve on the U. S. Supreme Court,³⁵ as well as the first female Solicitor General, Elena Kagan, who was also subsequently nominated and confirmed to the U.S. Supreme Court.³⁶ He also voted against Judge Robert Wilkins, an African-

³⁵ Senate Roll Call Vote, Nomination of Sonia Sotomayor, 111th Cong. (2009), *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00262.

³⁶ Senate Roll Call Vote, Nomination of Elena Kagan to become U.S. Solicitor Gen., 111th Cong. (2009), *available at* http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00107; Senate Roll Call Vote, Nomination of Elena Kagan to become Assoc. J. on the U. S. Sup. Ct., 111th Cong. (2010), *available at* http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00229

American nominee to the D.C. Circuit Court of Appeals,³⁷ and twice voted against Ronnie White, an African-American nominee for the U.S. District Court for the Eastern District of Missouri.³⁸ All of these nominees were ultimately confirmed and now serve with distinction on the U.S. Supreme Court, federal courts of appeal, or federal district court. In contrast to these “no” votes, Senator Sessions voted to support the failed bid of Judge Charles Pickering, an alleged segregationist who was shown to have bullied the Department of Justice to support a more lenient sentence for a convicted cross burner, to the United States Court of Appeals for the Fifth Circuit.³⁹ His support for Judge Pickering demonstrates both a lack of judgment and a lack of respect for the career Department of Justice attorneys who were the object of Judge Pickering’s bullying.

Adding to this unfortunate record, Senator Sessions also opposed the nomination of Loretta Lynch to serve as the first female African American Attorney General in 2015, notwithstanding her longstanding service as a federal prosecutor in the United States Attorney’s Office for the Eastern District of New York. This record raises troubling questions regarding Senator Sessions’s views towards eminently well-qualified nominees who are women and/or racial minorities.

SENATOR SESSIONS’S WORDS SUPPORT HIS RECORD OF HOSTILITY TOWARDS CIVIL RIGHTS

While Senator Sessions’ voting record as a U.S. Senator is deeply concerning, his statements on issues of race, ethnicity, gender, religion and disability are equally troubling and signal deep-seeded attitudes on these subjects that are fundamentally inconsistent with service as Attorney General of the United States. Many of these statements came to light during the hearing on his failed nomination to serve as a judge on the U.S. District Court for the Southern District of Alabama in 1986. Some are more recent. Few, if any, are disputed by Senator Sessions.

³⁷ Senate Roll Call Vote, Nomination of Robert Wilkins to become J. of the D. C. Cir., 113th Cong. (2014), *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=2&vote=00007

³⁸ Senate Roll Call Vote, Nomination of Ronnie White to become J. on the E.D.Mo., 113th Cong. (2014), *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=2&vote=00227

³⁹ Senate Roll Call Vote, To invoke Cloture on the Nomination of Charles W. Pickering for J on the 5th Cir., *available at*, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=108&session=1&vote=00419

One such statement was made by Senator Sessions in 2015 regarding the public display of the Confederate Battle Flag. Earlier that year, Dylan Roof, a white supremacist who was driven, in part, by a misplaced allegiance to the Confederate Battle Flag and what it represents to many in the South, murdered nine African-American churchgoers in Charleston, South Carolina, in hopes of starting a race war.

This senseless mass killing led many Americans of all political persuasions to engage in soul searching about the impact of public displays of the Confederate Battle Flag. When asked if he agreed with this change by many in their way of thinking, Senator Sessions said that calls to remove the Confederate Battle Flag from public buildings and other places of honor were among efforts by “the left” to “delegitimize the fabulous accomplishments of our country.”⁴⁰ As a U.S. Senator representing a state with an African-American population of 27 percent, Senator Sessions’s statement reflects an astonishing and appalling ignorance and/or callousness regarding what the Confederate Battle Flag represents to most African Americans. It cannot be explained away by politics.

Senator Sessions’ recent statements regarding Muslims are also deeply troubling and appear to reflect a lack of tolerance toward those of different faiths and a basic disregard for religious liberties. He has recently allied himself with anti-Muslim organizations, including the Center for Security Policy and the David Horowitz Freedom Center;⁴¹ while also defending and supporting the President-Elect’s call for a ban on Muslim immigration into the United States.⁴² Answering a question about a religion-based ban on *Meet The Press* last year, he brushed aside concerns that such a ban would plainly violate the First Amendment, stating “There is no constitutional

⁴⁰ Hunter, Sessions: Confederate Flag Critics Seem to Delegitimize Fabulous Accomplishments of Our Country, Daily Kos (Nov. 21, 2016 1:15 P.M.), <http://www.dailykos.com/story/2016/11/21/1602586/-Sessions-Confederate-flag-critics-seek-to-delegitimize-fabulous-accomplishments-of-our-country>

⁴¹ Southern Poverty Law Ctr., Jeff Sessions: Champion of Anti-Muslim and Anti-Immigrant Extremists (Nov. 18, 2016), available at, <https://www.splcenter.org/hatewatch/2016/11/18/jeff-sessions-champion-anti-muslim-and-anti-immigrant-extremists>

⁴² Statements of Sen. Jeff Sessions on Meet the Press Daily (July 15, 2016), available at, <http://mediamatters.org/video/2016/06/15/watch-chuck-todd-grill-sen-jeff-sessions-ten-minutes-about-his-support-trump-and-his-anti-islamic/210979>

right to come to America if you possess an ideology that is dangerous.”⁴³ Further underscoring his position, Senator Sessions was one of the few Senators who voted against a proposed amendment to existing legislation that would prevent a religious litmus test for people entering the country.⁴⁴ In a lengthy speech on the Senate Floor, Sen. Sessions attempted to put forth the unfounded argument, stating that “... so-called ‘immigrants’ rights’ must be supreme to the rights of sovereign nations to determine who can and cannot enter their borders.”⁴⁵ The Senator’s intentional conflation of Muslim theology and violent terrorism might work on the campaign trail, but is frightening to Muslims and unfitting for one who seeks to serve as the Attorney General of the United States.⁴⁶

More broadly, Senator Sessions has consistently opposed immigration reform and a path to citizenship for undocumented persons, even going so far as to question the long settled principle that persons born in this country are U.S. citizens.⁴⁷ He strongly opposed allowing undocumented immigrants to apply for temporary work authorization, and voted against the *Development, Relief, and Education for Alien Minors* (or DREAM Act), which would have provided a way for immigrants who came to the United States as children to earn their citizenship. In 2013, he also voted against the Senate’s bipartisan immigration reform bill that would have toughened border security while giving more protections to undocumented individuals already in the country. In fact, Senator Sessions voted against bi-partisan immigration reform in 2007, 2010, and 2013 and he called the 2007 bill “terrorist assistance.”

It was during the 1986 hearing on his failed nomination to serve as a judge of the U.S. District Court for the Southern District of Alabama that many of his troubling

⁴³ *Id.*

⁴⁴ Russell Berman, Senate to Vote on Donald Trump’s Religious Test, *The Atlantic* (Dec. 10, 2015), available at <http://www.theatlantic.com/politics/archive/2015/12/a-senate-test-vote-on-donald-trumps-religious-test/419997>

⁴⁵ Sen. Jeff Sessions Press Release, Sessions Delivers Remarks in Opposition to Global “Right to Migrate Amendment”, (Dec. 10, 2015), available at, <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=186AEDE2-B813-4741-A1B1-C3759DFDD2C5>

⁴⁶ *Id.*

⁴⁷ The Associated Press, Jeff Sessions among Republicans Criticizing 14th Amend.’s Birthright Provisions (Aug. 3, 2010 4:58PM), http://blog.al.com/wire/2010/08/jeff_sessions_among_republican.html. (quoting Jeff Sessions “I’m not sure exactly what the drafters of the (14th) amendment had in mind, but I doubt it was that somebody could fly in from Brazil and have a child and fly back home with that child, and that child is forever an American citizen”)

views and attitudes came to light. Thomas Figures, an African American Assistant U.S. Attorney, testified that Mr. Sessions said he thought the Ku Klux Klan was "OK until I found out they smoked pot." Senator Sessions later said that the comment was not serious, but did apologize for it.

Mr. Figures also testified that on one occasion, when the U.S. Department of Justice Civil Rights Division sent the office instructions to investigate a case that Mr. Sessions had tried to close, Figures and Sessions "had a very spirited discussion regarding how the Hodge case should then be handled; in the course of that argument, Mr. Sessions threw the file on a table, and remarked, 'I wish I could decline on all of them,'" by which Figures said Sessions meant civil rights cases generally. Figures also said that Sessions had called him "boy."⁴⁸ He also testified that "Mr. Sessions admonished me to 'be careful what you say to white folks.'" Senator Sessions responded to the testimony by denying the allegations, saying his remarks were taken out of context or meant in jest but not denying that they were made.

Lastly, the NAACP is especially concerned with Senator Sessions's vote against Senator John McCain's bipartisan amendment reaffirming the prohibition of torture.⁴⁹ Given that Senator Sessions could well be called upon to opine on whether certain practices constitute torture, his position regarding the McCain amendment indicates, at best, a troubling lack of conscience regarding how the United States treats prisoners of war.

SENATOR SESSIONS DISRESPECTS AND HOLDS DISDAIN FOR PROPONENTS OF CIVIL RIGHTS

Senator Sessions's disdain for proponents of civil rights is apparent from the public record. During his 1986 judicial nomination hearing, four Department of Justice lawyers who had worked with Senator Sessions – and who were doubtless familiar with the penalties for perjury – testified that he had made several racist

⁴⁸ See *Nomination of Jefferson B. Sessions, III to be U. S. Dist Ct Judge for the S. Dist of Ala: Hearings Before the Senate Comm. on the Judiciary*, at 497, 99th Cong. 1047 (1986) (statement of Thomas Figures, counsel, U.S. Dep't of Just).

⁴⁹ Conor Friedersdorf, *These 21 Republicans Voted Against a Torture Ban*, *The Atlantic* (Jun. 17, 2015), available at <http://www.theatlantic.com/politics/archive/2015/06/these-21-republicans-voted-against-a-torture-ban/396095/> (last accessed Jan. 9, 2016).

statements.⁵⁰ One of those lawyers, J. Gerald Hebert, testified that Sessions had also referred to the NAACP and the American Civil Liberties Union (ACLU) as "un-American" and "Communist-inspired" because they "forced civil rights down the throats of people."⁵¹ It was during the same confirmation hearing that Thomas Figures, an African-American Assistant U.S. Attorney, testified that Senator Sessions said that he believed the NAACP was an un-American organization teaching anti-American values.⁵² Finally, in response to a question during the hearing from then-Senator Biden on whether he had called the NAACP and other civil rights organizations "un-American," Sessions replied "I'm often loose with my tongue. I may have said something about the NAACP being un-American or Communist, but I meant no harm by it."⁵³ These very troubling statements by Senator Sessions, which he has never disavowed, evince a tendency on his part to demonize groups and persons with which he disagrees. We respectfully submit that these are not traits that the Attorney General of the United States should possess.

* * * * *

The Attorney General of the United States is charged with ensuring the fair, impartial and equal administration of Justice for all Americans. Senator Sessions's record is replete with examples of his disrespect for laws and programs and laws intended to protect all Americans, his disregard for the basic civil, human, and Constitutionally-guaranteed rights of all people, and his disdain for groups with which he may disagree. In light of his record, we submit that he is simply incapable of fulfilling the responsibilities inherent in the office of Attorney General of the United States.

It is for this reason that NAACP opposes the confirmation of Senator Sessions to serve as Attorney General of the United States. The NAACP calls on President-Elect Trump and all future Presidents to nominate individuals to serve as Attorney General who have a demonstrated commitment to the constitutional promises of civil rights, voting rights and civil liberties protection and enforcement for all, and an articulated

⁵⁰ See generally Sessions Nomination Hearing, at 518 (statement of Senator Joseph Biden).

⁵¹ *Id.* at 48 (statement of Senator Theodore Kennedy, quoting testimony from Mr. J. Gerald Hebert, attorney, U.S. Dept. of Just.).

⁵² *Id.* (statement of Jeff Sessions, nominee).

⁵³ *Id.* at 30 (statement of Jeff Sessions, nominee).

respect and promise to promote the civil and human rights of all people, regardless of their race, ethnicity, gender, age, religion, place of national origin, sexual preference or station in life.

Thank you again for the opportunity to testify before you on this important matter. I stand prepared to answer any questions.



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TESTIMONY

of

Chuck Canterbury

National President

Grand Lodge, Fraternal Order of Police

on the

**Nomination of Jefferson B. Sessions III to be the next
Attorney General of the United States**

before the Senate Committee on the Judiciary

11 January 2017

— BUILDING ON A PROUD TRADITION —



Good morning, Mr. Chairman, Ranking Member Feinstein, and distinguished Members of the Committee on the Judiciary. My name is Chuck Canterbury, National President of the Fraternal Order of Police. I am the elected representative of more than 330,000 rank-and-file police officers—the largest law enforcement organization in the United States.

I am very pleased to have this opportunity today. I have testified before Congress and this committee many times—including cabinet nominations, agency head nominations and even a nominee for the Supreme Court of the United States. I can say without reservation that I have never testified with more optimism and enthusiasm than I do today as I give Jefferson B. Sessions III the whole-hearted and full-throated support of the Fraternal Order of Police to be the next Attorney General of the United States.

Following the news that President-elect Trump intended to tap Senator Sessions for this critical Cabinet post, the FOP immediately issued a statement to the press indicating our strong support for his nomination. He has been a true partner to law enforcement from his days as U.S. Attorney, as Attorney General for the great State of Alabama and throughout his tenure here in the United States Senate.

Senator Sessions has demonstrated commitment, not just on the so-called “law and order” issues, but also on officer safety issues that impact rank-and-file officers like our members. He was a leading cosponsor of the FOP’s efforts to enact the Law Enforcement Officers’ Safety Act, which was authored by our friend and former Chairman of this Committee, Pat Leahy. In 2010, Senator Sessions was the Republican lead cosponsor of S. 1132, the Law Enforcement Officers’ Safety Act Improvements Act, which made important and needed changes to the original law passed in 2004. Senator Sessions provided real leadership to make the legislation a successful, bipartisan effort.

More recently, Senator Sessions was deeply involved in the passage of S. 2840, the Protecting Our Lives by Initiating COPS Expansion (POLICE) Act. He helped build bipartisan support for the legislation, which passed the Senate and then the House before being signed into law by the President. The law gives the Office of Community Oriented Policing Services (COPS) the authority to award grants to State, local and tribal law enforcement agencies to get Active Shooter Response Training for their officers. The need for this training has been identified by numerous law enforcement leaders and the FOP looks forward to working with Attorney General Sessions to launch and fund this program.

Senator Sessions also played a leadership role in our efforts to pass S. 2755, the Fallen Heroes Flag Act. The bill, which provides a flag flown over the U.S. Capitol to surviving family members of a public safety officer killed in the line of duty, was repeatedly passed by the House in prior Congresses only to die in the Senate. Senator Sessions was an important part of our effort to introduce a Senate version of the bill which ultimately was signed into law.

Now this may not sound like much but at a time when law enforcement officers are being hunted and targeted for violence, many of them are asking, “Who has my back? Who will protect me while I protect my community?” Bills like this which acknowledge and respect the sacrifices made by the rank-and-file officer truly resonate with my members and the public safety community.

Members of this Committee may remember the years that were spent trying to address the issue of the disparity between the sentences for the use, possession and sale of crack cocaine versus powdered cocaine. There was a considerable gulf between the position of the FOP and those advocating a complete rewrite of Federal law to vastly lower the penalties for crack.

In 2001, Senator Sessions introduced a bill to address this issue and he worked tirelessly to bring everyone together. He made sure the voice of law enforcement was heard and also asserted his belief that the disparity as existed in law at that time was unjust. In 2010, as Ranking Member of this Committee, he brokered the compromise that led to the passage—with the FOP's support—of the Fair Sentencing Act. We accepted the compromise because it was fair, it was just and it reflected the perspective of the law enforcement community. The importance of his direct role on this issue cannot be overstated. Without Jeff Sessions, I believe this issue might well remain unresolved today.

That said, I understand that a certain amount of partisanship is expected in nomination hearings like this, but I ask that all Members of this Committee recollect that Senator Sessions has worked in a bipartisan manner on many law enforcement and officer safety issues with you and with the FOP—more than I have time to list here. He has a 20 year record of bipartisanship and widespread support among our nation's law enforcement officers. When the cameras go off, I hope the Members of this Committee will keep this in mind as they consider this nomination.

On more than one occasion, Senator Sessions was among the few in standing up for law enforcement, especially when it came to the issue of asset forfeiture. Without his leadership and support, the equitable sharing program might well have been dismantled, leaving thousands of law enforcement agencies without the resources to cooperate with Federal task forces and other multijurisdictional efforts to combat trafficking in drugs, humans and weapons.

For us, this demonstrates that Jeff Sessions is a man who can reach across the aisle to get things done for the rank-and-file officer as well as a man who will support those same officers, even when it is unpopular to do so. The men and women serving in law enforcement will be proud to have Senator Sessions as our top cop.

Senator Sessions has served this country tirelessly and faithfully for the majority of his adult life. He is, above all else, a man who reveres the law and reveres justice. I believe that he will be an exemplary U.S. Attorney General with whom we will have a productive partnership and I urge this committee to favorably report his nomination. The FOP is very much looking forward to working with him at the Justice Department.

Thank you again of the opportunity to testify and I am happy to answer any of your questions.

TESTIMONY OF DAVID COLE,

NATIONAL LEGAL DIRECTOR, AMERICAN CIVIL LIBERTIES UNION

ON THE NOMINATION OF SENATOR JEFFERSON SESSIONS TO BE ATTORNEY
GENERAL

HEARING BEFORE THE SENATE JUDICIARY COMMITTEE

JANUARY 11, 2017

I. INTRODUCTION

Mr. Chairman and members of the Senate Judiciary Committee, thank you for inviting me to testify on behalf of the American Civil Liberties Union on the nomination of Senator Jefferson Sessions to be Attorney General of the United States. The ACLU is strictly non-partisan and, as a matter of long-standing policy, does not oppose or endorse the nomination of judges or executive branch officials. In this instance, we have such serious questions about the civil liberties and civil rights record of Sen. Sessions that we are taking the extraordinary step of testifying. We owe it to the American people and to the Senate because there are serious questions about Sen. Sessions's commitment to the civil rights and civil liberties that define us as a nation and that our organization was founded, nearly one hundred years ago, to defend. Sen. Sessions's record raises grave questions about his qualifications to serve as the nation's chief law enforcement officer. Some of those questions led this committee on a bipartisan vote to reject his nomination to become a federal district court judge in 1986.¹ The questions remain, and now he is being considered for a far more powerful post. At a minimum, those questions deserve thorough investigation before the Senate votes on his confirmation.

At bottom, our concern is whether Sen. Sessions will be able in good faith to fulfill the obligations of the nation's top law enforcement official — namely to defend the rights of *all*

¹ Philip Hager, *Panel's Action Only 2nd Such Turndown in 49 Years Reagan Judicial Nominee Rejected*, L.A. TIMES (June 6, 1986), http://articles.latimes.com/1986-06-06/news/mn-8903_1_judicial-nominee.

Americans and, in particular, those of the most vulnerable among us. Sen. Sessions's past statements and actions have demonstrated not just insensitivity but active hostility to the rights of many of our fellow citizens. He has reportedly made racially offensive remarks to African-American colleagues, including about the Ku Klux Klan.² He vigorously defended President-elect Trump's patently unconstitutional call for a Muslim ban on immigration.³ He claimed that President-elect Trump's outrageous and deeply offensive remarks about using his celebrity to grab women by their genitals did not describe sexual assault.⁴ He has criticized the Voting Rights Act,⁵ and as a US Attorney in Alabama, he prosecuted civil rights activists for merely assisting African-Americans to vote.⁶ Despite this, he now seeks to pad his application by taking credit for litigating voting rights cases on which he actually did no work.⁷ He has consistently voted against legal protections for women and LGBT persons, and has denied that they face discrimination.⁸ He twice opposed a legislative ban on torture⁹ and praised Michael Mukasey for declining to rule out waterboarding, a form of torture.¹⁰ And he has called Islam, a religion practiced by millions of Americans, a "toxic ideology."¹¹

If you learned that a candidate for an entry-level position on your staff had said some of the offensive things Sen. Sessions has said and had misled you about his prior accomplishments, you would probably look elsewhere. You would almost certainly not hire him unless you did an extraordinarily thorough review of the young man's background. Here, such a review of Sen.

² Scott Zamost, Curt Devine & Katherine Noel, *Sessions Dogged by Old Allegations of Racism*, CNN (Nov. 18, 2016), <http://www.cnn.com/2016/11/17/politics/jeff-sessions-racism-allegations/>.

³ Tom LoBianco, *Sessions: Trump Travel Ban Could Include Egypt*, CNN, (June 20, 2016), <http://www.cnn.com/2016/06/19/politics/jeff-sessions-donald-trump-muslim-ban/>.

⁴ John McCormack, *Jeff Sessions: Behavior Described by Trump in 'Grab Them by the P---y Tape Isn't Sexual Assault*, THE WEEKLY STANDARD (Oct. 10, 2016), http://www.weeklystandard.com/jeff-sessions-behavior-described-by-trump-in-grab-them-by-the-p-y-tape-isnt-sexual-assault/article/2004799?custom_click=rss.

⁵ Ari Berman, *Voting Rights in the Age of Trump*, N.Y. TIMES (Nov. 19, 2016), <http://www.nytimes.com/2016/11/22/opinion/voting-rights-in-the-age-of-trump.html>.

⁶ Robert Pear, *Judge Nomination Stirs Opposition*, N.Y. TIMES (Dec. 1, 1985), <http://www.nytimes.com/1985/12/01/us/judge-nomination-stirs-opposition.html>.

⁷ J. Gerald Herbert, Joseph D. Rich & William Yeomans, *Jeff Sessions Says He Handled These Civil Rights Cases. He Barely Touched Them*, WASH. POST (Jan. 3, 2017), https://www.washingtonpost.com/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4dffffa6-d0fa-11e6-a783-cd3fa950f2fd_story.html?utm_term=.257eacfe618f.

⁸ 159, Cong. Rec. S7,793 (daily ed. Nov. 4, 2013) (roll call vote no. 229), available at <https://www.congress.gov/crec/2013/11/04/CREC-2013-11-04-pt1-PgS7793-2.pdf>.

⁹ Conor Friedersdorf, *These 21 Republicans Voted Against a Torture Ban*, THE ATLANTIC (June 17, 2015), <http://www.theatlantic.com/politics/archive/2015/06/these-21-republicans-voted-against-a-torture-ban/396095/>.

¹⁰ Tamara Keith, *On Waterboarding, A President Trump Could Face Resistance From Some Republicans*, N.P.R. (Nov. 21, 2016), <http://www.npr.org/2016/11/21/502871948/on-waterboarding-a-president-trump-could-face-resistance-from-some-republicans>.

¹¹ Joby Warrick & Abigail Hauslohner, *Trump's Security Picks Deepen Muslim Worries About an Anti-Islamic White House*, WASH. POST (Nov. 18, 2016), https://www.washingtonpost.com/world/national-security/trumps-security-picks-deepen-muslim-worries-about-an-anti-islamic-white-house/2016/11/18/d7796cc6-add6-11e6-8b45-f8e493f06fed_story.html?utm_term=.1925d8817479.

Sessions was done, in 1986, by this very Committee, and it led to a bipartisan vote against Sen. Sessions's nomination to become a federal judge.

The ACLU cannot and does not take a position on whether you should confirm Sen. Sessions's nomination. But we do maintain unequivocally that Sen. Sessions's record of hostility to civil rights warrants the most serious examination, particularly given the role he would play as chief enforcer of our nation's civil rights guarantees. We recognize, of course, that senatorial courtesy may make some members reluctant to probe their own colleague's record in detail. But given the importance of this position and the gravity of the allegations, we believe it is your responsibility to do so.

We believe that it is especially important, at this time, to ensure that the nation's chief law enforcement officer is a uniter, not a divider. Controversy about the fairness of our justice system, especially along racial lines, has roiled our nation in recent years. Many of our citizens are deeply skeptical of a criminal justice system that disproportionately stops, frisks, arrests, and imprisons young men of color. Videos of police shootings of unarmed Black men have added to the frustration, alienation, and fear that too many feel about our justice system. When trust in the system erodes, problems soon follow. Those who don't trust the system are less likely to play by the rules, less likely to cooperate with police, and less likely to serve as witnesses in criminal trials. Our broken criminal justice system requires a leader who can comport his office with the fairness and resolve to unite us and who has shown compassion and sympathy for the most vulnerable. We think the statements and conduct of Sen. Sessions raise serious questions as to whether he is such a leader.

II. AREAS OF CONCERN

In our view, Sen. Sessions's record raises grave concern in at least seven specific areas.¹² Taken together, they raise questions about whether he is qualified to become an Attorney General for all the people, and in particular whether he will faithfully carry out his obligation to protect the most vulnerable among us.

1) Racial equality and voting rights

At an absolute minimum, the Attorney General of the United States must not be someone who harbors racial prejudice or fails to take seriously racism and racially motivated violence. It is this concern that probably most contributed to the Committee's rejection of Sen. Sessions when he was nominated to be a district court judge. It remains every bit a concern today.

¹² We detail even more extensive concerns in our report on Sen. Sessions. *See* ACLU, *REPORT: THE CONFIRMATION SESSIONS* (Jan. 2017), available at <https://www.aclu.org/report/report-confirmation-sessions>.

In the 1986 hearings, one of Sen. Sessions's former colleagues, Thomas Figures, an African-American attorney, testified that Sen. Sessions had called him "boy" and had told him he thought the Ku Klux Klan was okay until he learned that some of them smoked marijuana.¹³ Some have suggested that the comment about the Klan might have been a joke, although Mr. Figures testified that he took it seriously.¹⁴ Even if said in jest, however, the remark demonstrates a disturbing level of insensitivity. It is not unlike joking about the Nazis to a Jew. The Klan was responsible for the lynching of thousands of African-Americans, and it is defined by an ideology of racial supremacy and hatred. There are some subjects you don't joke about.

Along similar lines, in a speech in 2006 on immigration, Sen. Sessions broadly condemned all Dominican immigrants, saying, "Fundamentally, almost no one coming from the Dominican Republic to the United States is coming here because they have a provable skill that would benefit us and that would indicate their likely success in our society."¹⁵ Is a man who proclaims such baseless and offensive stereotypes about an entire ethnic community qualified to be the Attorney General of the United States?

One of the Attorney General's most important responsibilities is to ensure that the machinery of democracy works fairly for all. The Justice Department enforces all federal voting rights laws. It prosecutes election misconduct, provides guidance on compliance with federal voting laws, and monitors elections. It is currently engaged in ongoing litigation to protect voting rights in at least six states. Yet Sen. Sessions's record on voting rights is deeply troubling.

In the 1980s, when he was U.S. Attorney for the Southern District of Alabama, Sen. Sessions investigated and prosecuted three long-time civil rights activists for alleged voter fraud. According to former Governor Deval Patrick, who as a young lawyer with the NAACP Legal Defense and Educational Fund represented one of the defendants, Sessions's theory for many of the charges in the indictment was that it was a federal crime to help someone to vote or to advise them on how they should vote, even when they sought the help.¹⁶ It is, of course, not a crime to advise people how to vote; that's the whole point of an electoral campaign. Candidates themselves, their supporters, newspapers, our friends, and our spouses all advise us on how to vote. The judge hearing the case rejected Sessions's overbroad and anti-democratic theory before trial and dismissed 50 counts in the indictment. Sessions proceeded to trial anyway on the

¹³ Michelle Ye Hee Lee, *Jeff Sessions's Comments on Race: For the Record*, WASH. POST (Dec. 2, 2016), https://www.washingtonpost.com/news/fact-checker/wp/2016/12/02/jeff-sessions-comments-on-race-for-the-record/?utm_term=.a18d4cd03609.

¹⁴ *Id.*

¹⁵ Same Stein & Amanda Terkel, *Donald Trump's Attorney General Nominee Wrote Off Nearly All Immigrants From An Entire Country*, HUFFINGTON POST (Nov. 20, 2016), http://www.huffingtonpost.com/entry/jeff-sessions-dominican-immigrants_us_582f9d14e4b030997bbf8ded.

¹⁶ Letter from Deval L. Patrick to Senator Charles Grassley and Senator Dianne Feinstein (Jan 3, 2017), *available at* <http://www.naacpldf.org/files/about-us/Deval-L-Patrick-Letter-re-Sessions-AG-Nom-1-3-17.pdf>.

remaining counts, and after a three-week trial, he was unanimously rebuffed by the jury, which found all three defendants not guilty on all charges.

The prosecution took place in the wake of a significant increase in voting by African-Americans in Alabama and throughout the South. In 1965, almost no African-Americans voted in Alabama. By 1982, about 70,000 African-Americans were voting and had helped elect 138 Black officials across the region.¹⁷ The case concerned the use of absentee ballots, which are, of course, used by white and Black voters alike. Sessions, however, investigated only the use of absentee ballots by Black voters and only in counties where white incumbents were losing ground because of advances in voting rights. According to the Brennan Center for Justice, Sessions's investigation focused on "five Black Belt counties where black leaders had begun to assume local office — Perry, Sumter, Greene, Wilcox, and Lowndes."¹⁷ The investigation was entirely one-sided. Again, according to the Brennan Center:

Sen. Sessions and his counterpart in the Northern District of Alabama began investigating alleged absentee ballot fraud by black civil-rights activists.... 'Hundreds of witnesses, most of them black, [were] interviewed about vote fraud.' Meanwhile, at the same time, the Department of Justice refused to investigate complaints that white politicians solicited longtime nonresidents to submit absentee ballots in local elections. In Perry County, where the Marion Three had collected absentee ballots, the FBI went to the doors of hundreds of black citizens, flashing their badges, asking how they had voted, whether they had received help from black civil-rights activists, whether they could read and write, and why they had voted absentee. The chairman of the National Council of Black State Legislators called the tactics an effort 'to disenfranchise blacks who are finally gaining political power in the South.'¹⁸

As a federal legislator, Sen. Sessions has opposed restoring felons' voting rights even after they have done their time¹⁹ and even though felon disenfranchisement disproportionately affects African-Americans. He has defended restrictive voter ID laws,²⁰ which also disproportionately exclude minority and poor voters, notwithstanding the widely noted lack of virtually any evidence of voter impersonation fraud. Sen. Sessions joined his colleagues in a 98-0 vote to extend the Voting Rights Act in 2006. But more recently, he called the Supreme Court's decision

¹⁷ ADAM GITLIN & WENDY R. WEISER, BRENNAN CENTER FOR JUSTICE, THE JUSTICE DEPARTMENT'S VOTER FRAUD SCANDAL: LESSONS (2017), available at <https://www.brennancenter.org/publication/justice-departments-voter-fraud-scandal-lessons>.

¹⁸ *Id.*

¹⁹ Ari Berman, *Jeff Sessions Has Spent His Whole Career Opposing Voting Rights*, THE NATION (Jan 10, 2017), <https://www.thenation.com/article/jeff-sessions-has-spent-his-whole-career-opposing-voting-rights/>.

²⁰ Tierney Sneed, *Why Jeff Sessions As Attorney General Horrifies Voting Rights Advocates*, TALKING POINTS MEMO (Nov. 18, 2016), <http://talkingpointsmemo.com/dc/why-trump-s-choice-of-jeff-sessions-as-ag-is-alarming-voting-rights-advocates>.

in *Shelby County v. Holder*,²¹ which gutted the Act's most important enforcement provision, "good news . . . for the South."²² The decision, which lifted an obligation on many states with a history of voting discrimination to clear voting changes with the Justice Department, spurred renewed efforts in several of those states to suppress voting by minorities. In North Carolina, for example, a federal appeals court found that the state legislature intentionally discriminated against Black voters through a series of voting changes undertaken the day after *Shelby County* was decided.²³ Sen. Sessions has expressed no concern whatsoever about those efforts.

2) Religious freedom

Sen. Sessions has also shown insensitivity at best and hostility at worst toward Muslims and the Muslim faith. When Donald Trump advocated a ban on all Muslims entering the United States, a blatantly unconstitutional proposal, Sen. Leahy introduced an amendment providing that "it is the sense of the Senate that the United States must not bar individuals from entering into the United States based on their religion."²⁴ The amendment did no more than restate what the Constitution already requires. The Establishment Clause forbids the government from taking action that either favors or disfavors any specific religion, and therefore the government can no more favor specific religions in immigration decisions than it can in public displays or funding decisions. Yet Sen. Sessions was one of only four senators to oppose the amendment.²⁵

As noted above, Sen. Sessions has also called Islam, one of the largest religions in the world and a faith held by millions of Americans, a "toxic ideology." If he had called Christianity a "toxic ideology," is there any doubt that he'd be disqualified for this post?

It is just as forbidden to use one's office to favor a specific religion as to disfavor it. Yet Sen. Sessions has adopted a very different stance toward Christianity than towards Islam. In 1998, he defended the actions of Alabama Judge Roy Moore in displaying the Ten Commandments in his courtroom. Indeed, he introduced a formal resolution in the Senate to support the display.²⁶ Such a display, as the courts have ruled, plainly violates the Establishment Clause. It links the administration of public justice with the tenets of a specific faith and thereby sends a message to the millions of Americans who do not share that faith that they are outsiders.²⁷ (An Alabama

²¹ 133 S. Ct. 2612 (2013).

²² Sharon LaFraniere & Matt Apuzzo, *Jeff Sessions, a Lifelong Outsider, Finds the Inside Track*, N.Y. TIMES (Jan. 8, 2017), <http://www.nytimes.com/2017/01/08/us/politics/jeff-sessions-attorney-general.html>.

²³ North Carolina State Conference of NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016).

²⁴ S. 1318 (2015) (nonbinding amendment from Sen. Leahy), *available at* <http://www.judiciary.senate.gov/imo/media/doc/Leahy2%20-%20ALB15F55.pdf>.

²⁵ Press Release, Sen. Jeff Sessions, Sessions Delivers Remarks in Opposition to Global 'Right to Migrate' Amendment (Dec. 10, 2015), <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=186AEDE2-B813-4741-A1B1-C3759DFDD2C5>.

²⁶ Press Release, Sen. Jeff Sessions, Senator Sessions Offers Resolution Defending Display of Ten Commandments (Apr. 2, 1998), <http://www.sessions.senate.gov/public/index.cfm/1998/4/senator-sessions-offers-resolution-defending-display-of-the-ten-commandments>.

²⁷ *McCreary County v. American Civil Liberties Union*, 125 S. Ct. 2722 (2005).

judicial ethics committee subsequently removed Judge Moore from office for defying a court order to remove a monument of the Ten Commandments from the state courthouse). Here, too, one might ask, would Sen. Sessions support the display of an analogous list of “commandments” from Islam or any other religion? The Constitution demands religious neutrality from government officials. Sen. Sessions has failed that test. He should be asked whether he respects the separation of church and state and how his statement that Islam is a “toxic ideology” squares with his constitutional obligation to remain neutral toward particular religions.

3) Prosecutorial ethics

The Attorney General sits atop the most powerful prosecutors’ office in the nation. It is essential that anyone assuming that position have impeccable ethics. Yet Sen. Sessions’s involvement in a case of egregious prosecutorial misconduct when he was Attorney General of Alabama raises urgent questions about his fitness for the job. Working hand-in-glove with US Steel and its outside counsel, both of whom had made contemporaneous contributions to Sessions’s senatorial campaign, then-Attorney General Sessions’s office brought more than 200 criminal charges against TIECO, Inc., an equipment vendor, arising out of a business dispute with US Steel. Sen. Sessions’s office described the case at as “of the most magnitude that the Attorney General’s office has undertaken in the last twenty-five years.”²⁸ Yet all 222 charges were eventually dismissed before trial, many for being baseless, others for prosecutorial misconduct. In a remarkable opinion, the Alabama state trial judge hearing the case concluded that “the misconduct of the Attorney General in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by the Court.”²⁹

The court found that the “the prosecutorial misconduct is so pronounced and persistent that it permeates the entire atmosphere of this prosecution and warrants a dismissal of these cases.”³⁰ It also found the misconduct so pervasive that “this court can only conclude it is dealing with either intentional and deliberate misconduct or conduct so reckless and improper as to constitute conscious disregard for the lawful duties of the Attorney General and the integrity and dignity of this court and this Judge.”³¹

The misconduct perpetrated by the Attorney General’s office is breathtaking. According to the court, it included:

- 1) the Attorney General’s repeated refusals and failures to produce exculpatory evidence;

²⁸ Order and Opinion, *Alabama v. TIECO, Inc.*, Case Nos. CC-96-2961 (Circuit Ct. of Jefferson County, AL July 16, 1997), at 3-4.

²⁹ *Id.* at 2.

³⁰ *Id.*

³¹ *Id.*

- 2) the Attorney General's repeated denials of the very existence of exculpatory evidence subsequently discovered by the Defendants;
- 3) the flagrant disregard of the constitutional rights of those accused; and
- 4) the completely incredible and deceptive testimony of so many witnesses this Court treated as officers of the court (some of whom were either assistants or agents for the Attorney General).³²

Then-Attorney General Sessions's office conducted the investigation and brought the case in unusually close collaboration with US Steel. . The Attorney General's office inappropriately shared with US Steel and its outside counsel multiple documents that it obtained through the criminal process. The judge suggested that the Attorney General's office brought the case to aid US Steel in its private civil lawsuit against TIECO and rushed the case to indictment only after an ethics complaint was filed against Sessions. The state ethics commission found no ethics violation in July 1996, but one year later, all 222 charges in the case had been dismissed, many of them for egregious prosecutorial misconduct. The trial court's finding of prosecutorial misconduct thus post-dates the ethics commission's ruling. Notably, the Attorney General's office neither sought reconsideration of the prosecutorial misconduct decision nor filed an appeal, despite its damning indictment of the office.

Stephen Gillers, a professor of legal ethics at NYU Law School, has informed the committee in a letter dated January 6, 2017, that the decision dismissing the case "is the most scathing criticism of a prosecutorial office I have read in the nearly 40 years I have been teaching legal ethics."³³ More than 30 ethics professors share Professor Gillers's assessment, and have also filed letters with the committee.³⁴

The TIECO case, like the prosecution of voting rights activist Albert Turner, raises serious questions about Sessions's abuse of prosecutorial power. Both cases involved the

³² *Id.*

³³ Letter from Stephen Gillers, Prof. of Law, NYU School of Law, to Sen. Chuck Grassley and Sen. Dianne Feinstein (Jan 6, 2017).

³⁴ See Letter from Stephen Saltzburg et al. to Sen. Chuck Grassley and Sen. Dianne Feinstein (Jan 7, 2017); Letter from Cheryl Bader et al., to Sen. Chuck Grassley and Sen. Dianne Feinstein (Jan 9, 2017). Some have suggested that a subsequent decision of the U.S. Court of Appeals for the Eleventh Circuit in the related civil case between US Steel and TIECO undermines the findings of misconduct. See *United States Steel, LLC, v. TIECO, Inc.*, 261 F.3d 1275 (11th Cir. 2001). But as Prof. Gillers correctly explains in his letter, the Eleventh Circuit decision has no such effect. The court held merely that it was a legal error to admit the trial court's opinion and addendum as evidence in the civil case, because as hearsay it was legally presumed unreliable, and therefore its introduction was prejudicial, denying US Steel the opportunity to cross-examine the declarants. The Eleventh Circuit did not question Judge Garrett's findings or their factual basis, as that issue was not before them. It merely determined that its introduction was erroneous because it was very prejudicial to US Steel and denied it an opportunity to cross-examine its accusers. The only court that could have reviewed the Alabama state trial judge's findings would have been an Alabama state appellate court, but the Alabama District Attorney elected not to appeal.

filing of multiple charges that were so baseless that they were dismissed before trial. In both cases, prosecutorial authority may have been used for illegitimate purposes — for partisan gain in the Turner case and to aid campaign contributors in the TIECO case. And both cases ended in an utter and complete rebuff to the Attorney General's office. The facts of these cases are complicated, and it is possible that Sen. Sessions can explain his actions. But at a minimum, in light of the power the Attorney General of the United States wields, the committee and the Senate should demand full disclosure from Sen. Sessions of all documents relating to both cases (including the related ethics investigation). Only an examination of the full record by the Committee and the full Senate can dispel the concerns that these cases raise on the record as it stands today.

4) Criminal justice, due process, and privacy rights

As Attorney General, Sen. Sessions would directly oversee the federal criminal justice system, and he would also play a leading role in ensuring that the states' administration of criminal law respects the civil rights of all. In particular, the Justice Department's Civil Rights Division investigates alleged patterns and practices of civil rights violations by state and local police. Where appropriate, it enters enforceable consent decrees to bring about reform. Such measures have been pivotal in protecting constitutional and civil rights in cities like Los Angeles, Cincinnati, New Orleans, and Ferguson, Missouri.

Yet Sen. Sessions has criticized such consent decrees as “dangerous” and an “end run around the democratic process.”³⁵ These decrees are neither dangerous nor anti-democratic. By definition, they are entered into only with the *consent* of elected officials, so they are as democratic as anything else that an elected official does. The real danger lies not in being obligated to obey our nation's civil rights laws, but in allowing patterns and practices of civil rights violations to go unremedied.

Although Sen. Sessions supported legislation to eliminate prison rape and the disparity between crack and powder cocaine, more recently he was the leading opponent of the Sentencing Reform and Corrections Act, a bipartisan consensus bill to reduce overly harsh mandatory minimum sentences for nonviolent drug offenses. In Congress, the bill was supported by, among others, Republican Senators Charles Grassley, Mike Lee, and John Cornyn as well as House Speaker Paul Ryan. A coalition of conservative and liberal criminal justice organizations also supported the bill, as did the Major Cities Chief and National District Attorneys Associations. The bill was based on a consensus that our nation has relied too excessively on the criminal justice system to respond to a variety of social ills, overpopulating the nation's prisons through the imposition of costly and overly harsh prison sentences that do not fit the crime. In opposing

³⁵ MICHAEL E. DEBOW, GARY J. PALMER & JOHN J. PARK, JR., ALABAMA POLICY INSTITUTE, CONSENT DECREES IN INSTITUTIONAL REFORM LITIGATION: STRATEGIES FOR STATE LEGISLATURES (2008), *available at* <http://www.alabamapolicy.org/wp-content/uploads/API-Research-Consent-Decrees.pdf>.

the bill, Sen. Sessions claimed, contrary to all the evidence, that crime was “rising at an alarming rate.”³⁶ In fact, crime in 2015 was at the lowest it had been in several decades and was not rising.³⁷

Sen. Sessions has been an ardent proponent of civil asset forfeiture laws, which empower the government to take people’s property without affording them basic due process and without establishing that they have committed any crime. Many innocent people have lost their homes and property because of this expansive and overbroad authority. As the Heritage Foundation has explained, “This means that police can seize your car, home, money, or valuables without ever having to charge you with a crime. There are many, many stories of innocent people being stripped of their money and property by law enforcement.”³⁸ *Washington Post* columnist George Will harshly criticized Sen. Sessions in a recent column for his support of unfair civil asset forfeiture laws and suggested that the Judiciary Committee should question Sen. Sessions about his zealous support of this unfair and often abused practice.³⁹

Sen. Sessions has also supported dragnet surveillance of Americans. When it was revealed that the National Security Agency was misusing a provision of the USA PATRIOT Act to collect in bulk the phone records of virtually every American, Congress overwhelmingly voted, on a bipartisan basis, to eliminate bulk collection with the full support of the intelligence community. Yet Sen. Sessions voted against that law, and claimed, without any evidentiary support, that the bulk collection program had identified terrorist plots and helped prevent attacks.⁴⁰ In fact, the Privacy and Civil Liberties Oversight Board had found, after examining the NSA program in detail, that the bulk collection program identified no actual terrorists and disrupted no terrorist plots.⁴¹

³⁶ Press Release, Sen. Jeff Sessions, Sessions: Don’t Weaken Criminal Law in Middle of Crime Wave (Oct. 13, 2015), <http://www.sessions.senate.gov/public/index.cfm/2015/10/sessions-don-t-weaken-criminal-law-in-middle-of-crime-wave>.

³⁷ See Ames C. Grawert, *Analysis: Sen. Jeff Sessions’s Record on Criminal Justice*, BRENNAN CEN. FOR JUSTICE, 2-3, (2017), <https://www.brennancenter.org/analysis/analysis-sen-jeff-sessions-record-criminal-justice>.

³⁸ *Civil Asset Forfeiture: 7 Things You Should Know*, HERITAGE FOUND. (Mar. 26, 2014),

<http://www.heritage.org/research/reports/2014/03/civil-asset-forfeiture-7-things-you-should-know>.

³⁹ George Will, *The Very Bad Reason Sessions is “Very Unhappy,”* WASH. POST (Dec. 23, 2016), https://www.washingtonpost.com/opinions/the-very-bad-reason-jeff-sessions-is-veryunhappy/2016/12/23/213a3cb8-c86d-11e6-bf4b-2c064d32a4bf_story.html?utm_term=.dfb5b7637058;

see also Jennifer Rubin, *Fighting the Wrong Battle on Sessions*, WASH. POST, (Dec. 22, 2016), https://www.washingtonpost.com/blogs/rightturn/wp/2016/12/22/fighting-the-wrong-battle-on-sessions/?utm_term=.f8d499005278.

⁴⁰ Jeff Sessions, *Why Should Terrorists Be Harder to Investigate than Routine Criminals?*, NATIONAL REVIEW (May 20, 2015), <http://www.nationalreview.com/article/418675/dont-hamper-nas-ability-stop-terrorist-attacks>.

⁴¹ PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD, REPORT ON THE TELEPHONE RECORDS PROGRAM CONDUCTED UNDER SECTION 215 OF THE USA PATRIOT ACT AND ON THE OPERATIONS OF THE FOREIGN INTELLIGENCE SURVEILLANCE (2014), available at https://www.pclob.gov/library/215-Report_on_the_Telephone_Records_Program.pdf.

In short, Sen. Sessions has opposed bipartisan consensus reforms of the criminal justice system's most troubling features, including unduly harsh mandatory minimums for nonviolent offenses, the forfeiture of property without due process from entirely innocent individuals, and the dragnet suspicionless surveillance of law-abiding Americans. The Senate should ask whether someone so far outside the mainstream on criminal justice should be put in charge of the nation's most powerful law enforcement agency.

5) Equality for women and LGBT people

The Justice Department plays a central part in the safeguarding the rights of women and LGBT people. It is responsible for investigating and prosecuting hate crimes and civil rights violations and for enforcing the Violence Against Women Act (VAWA) and the Freedom of Access to Clinic Entrances Act (FACE). Yet Sen. Sessions's record reveals a fundamental failure to take seriously — or in some instances, even to recognize — discrimination against women and gays and lesbians. He denied that “grab[bing] women by the pussy,” as Donald Trump bragged he could do, constituted sexual assault. Sen. Sessions said “I don’t characterize that as a sexual assault. I think that’s a stretch.” If grabbing a woman by her genitals is not sexual assault in Sen. Sessions’s mind, one wonders what would be.

Sen. Sessions also voted against reauthorization of the Violence Against Women Act⁴² and has condemned the Supreme Court’s protection of women’s constitutionally protected choice to terminate a pregnancy.⁴³ While the ACLU has long supported the right of anti-abortion activists to express their views, they cross the line when they use violence or brute force to block women from entering clinics that are established to provide them necessary and constitutionally protected medical care. Would Sen. Sessions, who has condemned *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*,⁴⁴ be a vigorous enforcer of laws that protect women’s right to access abortion clinics?

Sen. Sessions has been equally hostile to the rights of LGBT people. He voted in favor of a constitutional ban on marriage equality. He voted against the repeal of “Don’t Ask, Don’t Tell,”⁴⁵ a change of course favored by the military because sexual orientation has no relevance to military service. He stated in 2009 that filling a Supreme Court vacancy with an openly gay nominee “would be a big concern that the American people might feel — might feel uneasy

⁴² 159 Cong. Rec. S616 (daily ed. Feb 12, 2013) (roll call vote no. 19), available at <https://www.congress.gov/crec/2013/02/12/CREC-2013-02-12-pt1-PgS613-2.pdf>.

⁴³ Press Release, Sen. Jeff Sessions, Partial-Birth Abortion ban Act of 1997 (May 15, 1997), <http://www.sessions.senate.gov/public/index.cfm/1997/5/partial-birth-abortion-ban-act-of-1997->.

⁴⁴ For Sen. Sessions’s condemnation of both decisions, see Sen. Jeff Sessions, Speech on Reflections on Judicial Independence (Oct. 17, 1997).

⁴⁵ 156 Cong. Rec. S10,684 (daily ed. Dec. 18, 2010) (roll call vote no. 281) available at <https://www.congress.gov/crec/2010/12/18/CREC-2010-12-18.pdf>.

about.”⁴⁶ He has opposed extending anti-discrimination employment law to gays and lesbians.⁴⁷ And in voting against legislation that extended the hate crimes law to crimes motivated by gender, sexual orientation, or disability, Sessions argued that the law was unnecessary because women and LGBT people do not face serious discrimination. Sen. Sessions said, “today I am not sure women or people with different sexual orientations face that kind of discrimination. I just don’t see it.”⁴⁸ If the Attorney General does not see discrimination against women and LGBT people, how can he carry out his statutory responsibilities to enforce bans on such discrimination?

The Senator’s opposition to LGBT rights has a long history. When he was Attorney General of Alabama, Sen. Sessions tried to bar a state university from funding the activities of the Gay Lesbian Bisexual Alliance, a student group at the University of South Alabama, including sponsoring a conference. Sessions contended that supporting the group would violate a state law prohibiting public universities from funding groups promoting a “lifestyle or actions prohibited by the sodomy and sexual misconduct laws.”⁴⁹ When the students sued, a federal judge declared the state law unconstitutional because it penalized students for constitutionally protected speech.⁵⁰ The court found that the law was plainly unconstitutional under the authority of a recent Supreme Court decision treating the refusal to fund a Christian student group’s activities as unconstitutional viewpoint discrimination. Sen. Sessions was undeterred. “I intend to do everything I can to stop that conference,” he said, vowing to appeal.⁵¹ The district court’s decision was unanimously affirmed on appeal. Sessions’s deputy at the time, now federal judge William Pryor, saw the appeal as so baseless that he declined to participate. But Sessions proceeded nonetheless.

6) Torture and human rights.

Few legal prohibitions are more fundamental than the ban on torture and cruel, inhuman, and degrading treatment. It is a violation of the Constitution, a crime under federal law, a war crime under humanitarian law, and a violation of the Convention Against Torture and Other Cruel,

⁴⁶ Satyam Khanna, *Sessions Flip-Flops: Gay Supreme Court Nominee Would be a ‘Big Concern,’* THINKPROGRESS (May 8, 2009), <https://thinkprogress.org/sessions-flip-flops-gay-supreme-court-nominee-would-be-a-big-concern-266a1a6b4b3d#.odrv9w99t>.

⁴⁷ United States Senate, Vote 229, 13.

⁴⁸ *Hearing on the Matthew Shepard Hate Crimes Prevention Act of 2009 Before the S. Comm. On the Judiciary*, 111th Cong. (2009), available at <https://www.gpo.gov/fdsys/pkg/CHRG-111shrg56684/pdf/CHRG-111shrg56684.pdf>.

⁴⁹ The law provided that “No public funds or public facilities shall be used by any college or university to, directly or indirectly, sanction, recognize, or support the activities or existence of any organization or group that fosters or promotes a lifestyle or actions prohibited by the sodomy and sexual misconduct laws.” *Gay Lesbian Bisexual Alliance v. Sessions*, 917 F. Supp. 1548, 1549 (M.D. Ala. 1996)(quoting statute), *aff’d*, 110 F.3d 1543 (11th Cir. 1997).

⁵⁰ *Gay Lesbian Bisexual Alliance v. Sessions*, 917 F. Supp. at 1553-54.

⁵¹ *Id.*

Inhuman and Degrading Treatment and Punishment, which the United States helped draft and has signed and ratified. As Sen. John McCain said, the prohibition on torture is so fundamental to our legal system that “it is about who we are.”⁵²

In the wake of the terrorist attacks of September 11, 2001, the Justice Department, in a series of legal opinions now withdrawn and widely rejected, allowed the CIA to use “waterboarding,” a torture tactic, as well as other forms of torture and abuse against certain suspected Al Qaeda detainees. That “experiment” in torture was an unmitigated disaster, as the Senate Select Committee on Intelligence showed in excruciating detail. It was also blatantly illegal.

Yet Sen. Sessions has opposed legal reforms designed to forestall a repetition of such abuse and has praised a former Attorney General for refusing to commit to abjuring waterboarding. In 2005, Sen. Sessions supported Vice President Dick Cheney’s efforts to have the CIA exempted from an anti-torture amendment sponsored by Sen. John McCain to the Detainee Treatment Act.⁵³ That amendment was designed to underscore America’s commitment not to torture, by forbidding all federal officials from using cruel, inhuman, and degrading tactics in interrogations, no matter where they were acting and regardless of the nationality of the detainee. In the end, Sen. Sessions was one of only nine senators to vote against Sen. McCain’s anti-torture amendment.

In 2008, Sen. Sessions praised Attorney General Michael Mukasey for refusing to rule out waterboarding.¹⁰ And in 2015, he was one of only 21 senators who opposed a bipartisan amendment, sponsored by Sens. McCain and Feinstein, that required all federal agencies to interrogate detainees solely through tactics authorized in the Army Field Manual.⁵⁴

Given the centrality of the prohibition on torture and abuse to the rule of law, the Committee should ensure that Sen. Sessions is committed to abiding by and enforcing the bans on both torture and all forms of cruel, inhuman, and degrading treatment, and will abjure not only waterboarding, but all cruel, inhuman and degrading interrogation.

7) Respect for speech, association, and the defense of constitutional rights.

Finally, Sen. Sessions has shown a disturbing tendency to castigate those who defend constitutional rights with which he disagrees. The ACLU and NAACP, two of his targets, are two of the nation’s oldest and most established civil liberties and civil rights organizations. Sen.

⁵² Press Release, Sen. John McCain, Floor Statement by Senator John McCain on Senate Intelligence Committee Report on CIA Interrogation Methods (Dec. 19, 2014), <http://www.mccain.senate.gov/public/index.cfm/press-releases?ID=1a15e343-66b0-473f-b0c1-a58f984db996>.

⁵³ David Espo & Liz Sidoti, *Cheney Seeks CIA Exemption to Torture Ban*, WASH. POST (Nov. 5, 2005), <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/05/AR2005110500410.html>.

⁵⁴ 161 Cong. Rec. S4182 (daily ed. June 16, 2015) (roll call vote no. 209), available at <https://www.congress.gov/crc/2015/06/16/CREC-2015-06-16-pt1-PgS4173.pdf>.

Sessions called both groups “un-American” and “communist-inspired.”⁵⁵ He also accused the groups of trying to “force civil rights down the throats of people who were trying to put problems behind them.”⁵⁶ He has criticized nominees to the bench for having the “ACLU gene,”⁵⁷ “ACLU DNA,”⁵⁸ and “ACLU Chromosome.”⁵⁹

To similar effect, at the outset of President Barack Obama’s term, Sen. Sessions criticized several appointees to the Justice Department, including the Solicitor General, for having engaged in constitutional litigation to vindicate the rights of alleged “enemy combatants” at Guantanamo. The Supreme Court held that the Guantanamo detainees were entitled to the constitutional protection of habeas corpus. Yet even though the lawyers singled out by Sen. Sessions were merely pursuing legal claims that the Constitution itself guaranteed, Sen. Sessions argued that this representation should be held against them. More recently, he condemned a judicial nominee because she had represented the family of Freddie Gray, a Black man who died while being transported in a police van without proper care.⁶⁰

The ACLU finds these statements concerning not because he has attacked us in particular, but because we need an Attorney General who respects the rights of citizens to band together to defend their constitutional rights and of lawyers to represent unpopular clients. Our system of justice depends on respecting the rights of all to have legal representation. We need an Attorney General for all Americans.

III. CONCLUSION

In our view, the nomination of Sen. Sessions to be Attorney General raises multiple serious questions about whether he is fit for the job. The Attorney General must uphold the laws equally for all, must exercise prosecutorial discretion responsibly and ethically, and has a special responsibility to enforce the civil rights laws, designed to protect those who have historically been victims of discrimination and continue to face discrimination today. Yet Sen. Sessions, in his statements and deeds, has shown insensitivity if not hostility to the rights of the most vulnerable. He has said that he does not believe that women and gays and lesbians suffer discrimination, that Islam is a “toxic ideology,” that we should use religion as a barrier to

⁵⁵ Michelle Ye Hee Lee, *Jeff Sessions’s Comments on Race: For the Record*, WASH. POST (Dec. 2, 2016), https://www.washingtonpost.com/news/fact-checker/wp/2016/12/02/jeff-sessions-comments-on-race-for-the-record/?utm_term=.a18d4cd03609.

⁵⁶ *Id.*

⁵⁷ Press Release, Sen. Leahy, Leahy: Debate on Chen Nomination Long Overdue (May 10, 2011), <https://www.leahy.senate.gov/press/leahy-debate-on-chen-nomination-long-overdue>.

⁵⁸ 156 Cong. Rec. S10,870 (daily ed. Dec. 21, 2010) (statement of Sen. Sessions), *available at* <https://www.congress.gov/crec/2010/12/21/CREC-2010-12-21-pt1-PgS10852-2.pdf>.

⁵⁹ Bob Egelko, *Senate Panel OKs Liu, Chen Nominations- Again*, S.F. GATE (Sept. 24, 2010), <http://www.sfgate.com/nation/article/Senate-panel-OKs-Liu-Chen-nominations-again-3251995.php>.

⁶⁰ Mary Clare Jalonick, *Senate Confirms Obama Judicial Nominee for Maryland*, A.P. (May 16, 2016), <http://bigstory.ap.org/article/6d2bb02ae384491f9c1ad4317aa2d35b/senate-confirms-obama-judicial-nominee-maryland>.

immigration, and that grabbing a woman by her genitals does not amount to sexual assault. He has abused his powers as a prosecutor to bring baseless charges against voting rights activists for getting out the vote, and he has collaborated with contributors to his senatorial campaign to use the criminal process, again baselessly, to aid those contributors in a private dispute with a competitor. His office was charged with engaging in the worst prosecutorial misconduct that an Alabama trial judge had ever witnessed, and Sen. Sessions's successor did not even deem that decision susceptible to appeal. In our view, these statements and actions compel the Senate to undertake the most thorough and deliberate investigation of Sen. Sessions's record before voting on his confirmation.

**Prepared Statement of the Honorable Larry Thompson
Before the United States Senate Committee on the Judiciary
On the Nomination of Senator Jeff Sessions to serve as Attorney General
January 10, 2017**

One of my favorite descriptions of public service is former President Theodore Roosevelt's. He praised the person who actually enters the "Arena" and, while suffering the slings and arrows of criticism, continues to strive "valiantly" to serve the public's interests. It is my experience that there can be no public service without public criticism. Senator Jeff Sessions has seen his fair share of such criticism. But there can be no doubt that his life of public service and his clear record of achievement in strong law enforcement and bipartisan legislation eminently qualify him to serve as Attorney General.

I first came to know Senator Sessions more than thirty years ago, when we were both young prosecutors. He was the United States Attorney in Mobile and I was the United States Attorney in Atlanta. We sometimes shared a hotel room on Department of Justice travel to stretch our limited per diems. We were young prosecutors trying to save money. During the lifetime since then, we've shared personal and professional counsel. And I have been honored to witness my good friend's accomplishments as a prosecutor and a legislator.

Among his many accomplishments as a federal prosecutor and United States Senator, two clearly define the Senator as a leader with a commitment to both strong law enforcement and equal justice for all.

First, as United States Attorney, Senator Sessions successfully prosecuted Alabama Ku Klux Klan "Grand Titan" Bennie Jack Hays, who ordered his son, Henry Hays, to kill an African-American man. Henry Hays and James "Tiger" Knowles did the cowardly deed by abducting, torturing, and murdering a 19 year-old.

As is common in cases like this with serious civil rights overtones, the investigation was a joint federal-state effort. The state District Attorney noted that the investigative power of the FBI and a federal grand jury were needed. He also noted that when he reached out to Senator Sessions, the Senator responded: "Tell me what you need and you'll have it." Tiger Knowles pled guilty in federal court to a civil rights violation and received a life sentence to be served in federal prison. Senator Sessions, however, pressed to ensure that Hays was tried in state court, where prosecutors could seek the death penalty. Hays was found guilty and received the death sentence. As Alabama Attorney General, Senator Sessions successfully argued to uphold Hays' sentence.

Here's a second mark of Senator Sessions' commitment both to strong law enforcement and justice for all: his record of bipartisan leadership in the Senate, especially on criminal justice issues. Senator Sessions' leadership was instrumental in the passage of the Fair Sentencing Act in 2010. This landmark legislation reduced the penalties for crack possession which unfairly targeted African-Americans and brought the penalties more in line with the penalties for powder cocaine.

This was a tremendous accomplishment. Senator Sessions first introduced the legislation in 2001 to reduce the unjust disparity in sentencing. He said: "I think we're at a point where this 100-to-1 disparity which does fall heavier on the African-American community simply because that's where crack is most often used, has got to be fixed." Senator Sessions worked to reduce this disparity for nine long years before he was joined by Senator Dick Durbin of Illinois in a successful bipartisan effort to enact the legislation. Wade Henderson, President of the Leadership Conference on Civil and Human Rights, praised Senator Sessions in 2010 for his "steadfast commitment" to ending this "racial discriminatory disparity."

That Senator Sessions can view law enforcement and the Department of Justice issues through a bipartisan lens was further demonstrated when he was one of only 17 Republican senators to vote to confirm President Obama's Attorney General Eric Holder.

These remarkable accomplishments demonstrate that Senator Sessions' deep experience as a federal prosecutor and United States Senator will bring much needed strong leadership to the Department of Justice. I am confident that, as Attorney General, Senator Sessions will impartially and vigorously enforce our laws. He knows that his role as Attorney General is to enforce the law and no longer to write it as a legislator. He will administer equal justice for all without regard to person. I have no doubt that he will enforce the law in favor of all Americans' civil rights—regardless of their positions or perspectives. In short, he will lead the Department with the integrity and commitment that have marked his service as prosecutor and legislator.

Indeed, Senator Sessions' entire life in the "Arena" of public service reflects these key characteristics of fair play and humility. While being battered at times, he has worked hard, always with an eye to advancing the public good—and he has succeeded. Senator Jeff Sessions, a good man, deserves confirmation as our nation's next Attorney General.

**Testimony Of Senator Cory A. Booker
Hearing Before the Senate Judiciary Committee
On "Attorney General Nomination"
January 11, 2017**

Chairman Grassley, Ranking Member Feinstein, and distinguished members of the committee. I know it is exceptional for a Senator to testify against another Senator nominated for a cabinet position, and I appreciate the opportunity you have afforded me today.

I have worked closely with many of you, on both sides of the dais, on matters related to criminal justice reform and you know just how deeply motivated I am by the many issues our next Attorney General will heavily influence.

I know that some of my colleagues are unhappy that I'm breaking with Senate tradition to testify against the nomination of one of my colleagues. But I believe, like perhaps all of my colleagues, that in the choice between standing with Senate norms or standing up for what my conscience tells me is best for our country, I will always choose conscience and country.

While Senator Sessions and I have consistently disagreed on issues, he and I have always exercised a collegiality and mutual respect between us.

Perhaps the best example of this is the legislation we cosponsored to award the Congressional Gold Medal to those "foot soldiers" who marched at Selma, Alabama.

This was a blessing and honor to me because, in 2015, a retired judge, who was white, told me it was those brave marchers on the Edmund Pettis Bridge who inspired him as a young lawyer in the 1960s to seek "justice for all" in New Jersey, and begin representing black families looking to integrate white neighborhoods.

One of those families was mine.

I am literally sitting here because of people – marchers in Alabama and volunteer lawyers in New Jersey – who saw it as their affirmative duty to pursue justice.

The march for justice in America still continues.

I know of the urgency for law and order. I imagine that no sitting Senator has lived in higher crime neighborhoods than I have. I have seen unimaginable violence on American streets. I know the tremendous courage of law enforcement who put their lives on the line every day to fight crime.

I want an Attorney General who is committed to supporting law enforcement and securing law and order. But that is not enough.

America was founded heralding not law and order, but justice for all. And critical to that is equal justice under the law.

Law and order without justice is unobtainable, they are inextricably tied together. If there is no justice, there is no peace.

The Alabama State Troopers on the Edmond Pettis Bridge were seeking law and order.

The marchers were seeking justice – and ultimately the greater peace.

One of the victories of the Modern Civil Rights movement was the 1957 Civil Rights Act, which in effect made the Attorney General not only the chief law enforcement officer of the United States, but also vested in the office the responsibility to pursue civil rights and equal protections for all in America.

Senator Sessions has not demonstrated a commitment to a central requirement of the job – to aggressively pursue the congressional mandate of civil rights, equal rights, and justice for all. In fact, at numerous times in his career, he has demonstrated a hostility toward these convictions, and has worked to frustrate attempts to advance these ideals.

If confirmed, Senator Sessions will be required to pursue justice for women, but his record indicates that he won't.

He will be expected to defend the equal rights of gay and lesbian Americans, but his record indicates that he won't.

He will be expected to defend voting rights, but his record indicates that he won't.

He will be expected to defend the rights of immigrants and affirm their human dignity, but his record indicates he won't.

His record indicates that as Attorney General he would obstruct the growing national bipartisan movement toward criminal justice reform.

His record indicates that we cannot count on him to support state and national efforts toward bringing justice to a justice system that people on both sides of the aisle readily admit is biased against the poor, drug addicted, mentally ill, and people of color.

His record indicates that at a time when even the FBI director is speaking out about implicit racial bias in policing and the need to address it; at a time when the last two Attorneys General have taken steps to fix our broken criminal justice system; and at a time when the Justice Department he would lead has uncovered systemic abuses

in police departments all over the United States including Ferguson, including Newark; Senator Sessions would not continue to lead urgently needed change.

The next Attorney General must bring hope and healing to our country, and this demands a more courageous empathy than Senator Sessions' record demonstrates.

Challenges of race in America cannot be addressed if we refuse to confront them.

Persistent biases cannot be defeated unless we combat them.

The arc of the universe does not just naturally curve toward justice – we must bend it.

If one is to be Attorney General they must be willing to continue the hallowed tradition in our country of fighting for justice for all, for equal justice, and for civil rights. America needs an Attorney General who is resolute and determined to bend the arc. Senator Sessions' record does not speak to that desire, intention, or will.

With all that is at stake in our nation now, I pray that my colleagues will join me in opposing his nomination.

Thank you Mr. Chairman.

Good afternoon members of this distinguished panel. It is a pleasure and a privilege to appear before you today.

My name is Willie J Huntley Jr. I am an attorney located in Mobile, Al. I have been practicing law for over 30 years. I am a solo practioner, with The Huntley Firm, PC. My law firm is engaged in providing litigation based legal services. My practice consists of criminal and civil litigation. This involves civil rights, personal injury actions and representation of state, municipal and county governmental agencies.

I attended Auburn University in Auburn, Alabama on a football scholarship where I played running back for the Tigers (War Eagle). I graduated from Auburn University in 1980 with a degree in political science. I graduated from Cumberland School of Law located in Birmingham, Al in 1984. I was admitted to the Alabama Bar in 1984.

In 1984 I served as a law clerk for United States District Court Judge Robert Varner in Montgomery, Al.. Following my clerkship, I started a position as an Assistant District Attorney in Macon County Alabama from 1984-1986. I was responsible for supervising all operations and prosecuting all criminal cases in District and Circuit Court.

From 1987-1991, I served as an Assistant United States Attorney, in the Southern District of Alabama, located in Mobile, Alabama.

I met Jeff Sessions in 1986. My first contact was thru a phone call to my office while I was an assistant district attorney. At the time of the phone call I was aware of the allegations made against Jeff during his bid to obtain a federal judgeship. I recall my secretary came into my office to tell me that Jeff Sessions was on the phone. My first thought was is this a prank call. My second thought was why is Sessions calling

me, I knew I had not committed a crime in Mobile. I answered the call and it was in fact Jeff Sessions. During the conversation, I was asked if I was interested in joining his office in Mobile as an AUSA. I was very interested. During law school I clerked for the US Attorney Office in Birmingham, Al. We made arrangements to have dinner in Montgomery Al.

We met along with our spouses for dinner. The dinner was supposed to last 1 ½ hours, shorter if there was a problem. My wife and I were very aware that Jeff had been labeled as a RACIST. The dinner lasted nearly 3 hours. The 4 of us discussed a variety of topics that included politics, religion, sports, (Auburn in particular) Boy Scouts (I was a former Boy Scott),law, family, cases I handled as an assistant district attorney and the type cases I would handle as an AUSA.

We specifically discussed the allegation that Jeff called an AUSA “boy”. Jeff very openly explained the allegation and denied that the event ever occurred. During the meeting I became firmly convinced that the man sitting before me was not a RACIST! My then wife and I discussed the matter and we both concluded Jeff was not a racist.

I still had concerns because I was moving my family to Mobile. A place where neither one of us had family or friends. My instincts could be wrong about Jeff and he is a racist and my family could be stuck in a very difficult situation. We made the move.

I was assigned to prosecute general criminal crimes and specifically civil rights violation. Being the person with the least seniority, I was assigned the less popular assignments. The first day Jeff assigned me the task of writing a brief in a criminal appeal. The brief was due within 10 days. Jeff wanted the draft of the brief several days ahead of the due date for

his review and to insure the brief was timely filed. I met the deadline. Jeff returned the draft after his review. When I looked at the draft there was a capital A written in red ink at the top of the first page followed by the initials JBS. I didn't know I was going to receive a grade.

My first jury trial was a felon in possession of a firearm. Jeff assigned a veteran AUSA to help me prepare for trial. Jeff also offered advice on jury selection and trial tactics.

While overseeing civil rights cases, several cases were brought by the Justice Department Civil Rights Division involving indictments of excessive use of force by police officers. Jeff fully supported these prosecutions. One such case involved the prosecution of a Selma Al police officer that was the son of then Mayor of Selma.

During my tenure as an AUSA Jeff was always available for advice and counsel on professional and personal matters. Jeff maintained an open door policy and had time for everyone in the office, even while he served on the Attorney General Advisory Committee. There were occasions when Jeff did not know I was listening or I was present and I never heard or felt that he was racially insensitive.

My second child, Ashley, was born in the early morning hours following 12 hours of labor. While I was sitting in the room around 7 am half asleep, there was a knock on the door. I was expecting a nurse to open the door. The early morning visitor was Jeff Sessions. I was very surprised to see Jeff. We discussed the birth, he checked on my wife and daughter and made sure everyone was okay, he wasn't worried very much about me. The visit lasted about 30 minutes. Jeff has visited in my home many times, attended my family functions. My family has

visited in his and Mary's home. He knows all my family members including my 82 year old mother.

In 1991, I made the difficult decision to leave the best job I ever held. I received an offer to enter private practice with a law firm that specialized in asbestos personal injury defense litigation. Jeff tried everything in his power to convince me to stay. This departure would not end our relationship.

After Jeff was elected Attorney General, I joined his transition team. Jeff later assigned me to represent the State of Alabama in ongoing civil litigation as a Special Assistant Attorney General. This assignment involved the defense of a statewide race discrimination case against the State of Alabama. The case involved several hundred state employees. I also handled condemnation cases.

During Jeff's tenure as Alabama Attorney General, he was charged with violating the State Ethics Act involving arising from a criminal investigation connected with a company called Tieco. Jeff could have retained any lawyer to defend the Ethics charges. However, Jeff selected my Firm to defend the charges. Following a 9 hour hearing, the charges were determined to be unfounded and dismissed. Jeff was then able to successfully win a US Senate seat.

In closing I would like to thank you for the opportunity to appear before you today. Jeff Sessions is the perfect choice for Attorney General. The man you witnessed testify yesterday is the man I have known for over 30 years. The man you saw testify yesterday is the man that has never displayed to me over 30 years any racial insensitivity. The man you saw testify yesterday I entrusted with my oldest son, Buddy, currently practicing law in Atlanta, Ga.. I would have never allowed my son to

work in Washington DC as an intern for a man I thought was a racist. I sent my oldest child to Jeff because he would take care of him and treat him the same way Jeff treated me. I wouldn't hesitate to send my youngest child, Alexis to work for Jeff. I believe Jeff Sessions as Attorney General of the United States and head of the Department of Justice, understands and respects the power and responsibility that goes hand in hand with the position. Jeff Sessions will enforce and follow the laws of the United States evenhandedly, equally and with justice for all. Jeff sessions will adhere to the Justice department motto "Qui Pro Domina Justitia Sequitur" translated from Latin means for "Who prosecutes on behalf of justice (or the Lady Justice" Jeff Sessions will protect and defend the rights of all people.

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STATEMENT OF CONGRESSMAN JOHN LEWIS (GA)
ON THE NOMINATION OF SENATOR JEFFERSON BEAUREGARD SESSIONS, III
TO SERVE AS ATTORNEY GENERAL OF THE UNITED STATES
January 11, 2017

Mr. Chairman and Madam Ranking Member, thank you for inviting me to testify today.

Millions of Americans are encouraged by attempts to create a more inclusive democracy in the last 50 years. There is a clear majority of Americans, who want ours to be a fair and just nation. The people who are afraid today about the direction this nation is headed are the voices I represent today. They are deeply disturbed by leaders who reject decades of progress and seek to return to a dark past when the power of law was used to deny the freedoms guaranteed to all Americans by the Constitution, the Bill of Rights, and the Amendments.

I am here today to raise questions about the President-elect's nominee for attorney general, because many are concerned that his call for "law and order" means what it meant in Alabama and other parts of the South -- where the law was used to violate the rights of the most vulnerable among us.

I was born and raised in the heart of rural Alabama -- not very far from where Senator Sessions grew up. In fact, I am only a few years older than Senator Sessions. He was born in 1946, and I was born in 1940. In those days there was no way to miss the chokehold of discrimination and hate that was rampant throughout our State. Segregation was the law; it ordered the society of the Deep South. An African American who did not cross the street when a white person walked down the same sidewalk, who did not move to the back of the bus, who drank from a white water fountain, or who looked a white person directly in his eyes could be arrested and taken to jail.

All around us there was murder and lynching. Black men were castrated. Women and children were beaten and harassed. Churches were bombed. Four little girls were killed on a Sunday morning. Civil rights workers were disappearing. Three young men I knew -- James Chaney, Andrew "Andy" Goodman, and Michael "Mickey" Schwerner -- were beaten, shot, and killed for helping African Americans register to vote.

Senator Sessions and I come from a region with a history of beating and jailing people because of the color of their skin. Heart-breaking stories like those of Virgil Ware, a 13-year-old

boy who was shot near Birmingham by an Eagle Scout inspired by a segregationist rally, were far too frequent. We come from a region where many White southerners – lawyers, ministers, rabbis – who exercised their legal right to criticize these actions were forced to flee their homes. This was the law and the order of our society in Alabama. This was the world where Senator Sessions and I were both raised.

I was one of many young people who could no longer stand on the sidelines and watch discrimination happen, even though it was the law of the land. The forces of law and order in Alabama were so strong that those of us who wanted to stand up against this injustice had to confirm that we knew we were willing to put our bodies – our lives – on the line. We knew that the price of dissent could be death. The only way we could demonstrate that the law which ordered Alabama society was an offense to human dignity was to challenge that law and expose the moral injustice people of color had to endure.

Mr. Chairman, I submit to you that it is not law that is sacred above all, but the spark of the divine that is enshrined in every human being. As leaders of this society, we cannot simply wrap ourselves in the rule of law and use it as an excuse to cover the enforcement of inherent bias in the statutes. It is our daily work as legislators to seek to create laws that are fair but also respect the human dignity of all Americans, not just some.

That is why I see myself in the young people of today who are protesting against the order of our society that treats some crimes with lenience but offers the harshest penalties to their mothers and fathers, sisters and brothers. It is important to question how the nominee will confront the challenges of warranted criticism, or free, but unsavory, speech, and the exercise of the right to demonstrate how the law itself creates injustice.

On March 7, 1965, Hosea Williams -- who worked with Dr. Martin Luther King, Jr. -- and I attempted to lead a march for voting rights from Selma to Montgomery. Many men, women, and children were beaten, trampled, and gassed by the local sheriff. The terrible events of that day led to the passage of the Voting Rights Act in 1965 and are part of the historical record used to validate the reauthorization of that law in 1970, 1975, 1982, 1992, and most recently in 2006. When people around the country and the world saw what passed for the enforcement of law and order in Alabama, their outcry was deafening. They demanded change.

When Senator Sessions served as the U.S. Attorney for the Southern District of Alabama, he chose to prosecute a few of those civil rights icons who were on the bridge with us that day. If you look closely at the pictures, you can see one of those gentlemen, Mr. Albert Turner, in the second row, right behind Hosea. The Marion Three, as they were known, were tried for voter fraud as they attempted to register people to vote in rural Perry County, people who before had had no voice. In a matter of hours, an Alabama jury predisposed to convicting African Americans found them all innocent of any guilt. Mrs. Albert Turner, who was wronged by these actions, still bears the traumatic memory of his prosecution to this day.

It took massive, orchestrated dissent for Congress to pass and the President to sign the Voting Rights Act (VRA) of 1965 into law. It required criticism of this great nation and the laws that were on the books to move this nation toward equal justice. We have made a lot of progress,

but we are not there yet. As demonstrated by the thousands of pages of evidence submitted to Congress during the 2006 VRA reauthorization, voting discrimination and the scars and remnants of racism are still deeply embedded in our society.

In 1986 letters submitted to this very Committee, Mrs. Coretta Scott King opposed Mr. Sessions's nomination to be a Federal judge, and Alabama State legislators highlighted his comment that "the Voting Rights Act is an intrusive piece of legislation and black and white people could work out any problems without having civil rights forced down their throats." These foot soldiers for voting rights knew that any progress was due solely to the effectiveness and continued need of the Voting Rights Act.

Elected in 1996, Senator Sessions had many opportunities to take a true leadership role. Unfortunately, as a Senator and a Member of this very Committee, Senator Sessions continued to turn a blind eye to unrelenting efforts to suppress minority voting rights during the 2006 VRA reauthorization.

His carefully crafted speeches mirrored those of others who declared the Voting Rights Act a relic of the past. Senator Sessions begrudgingly voted to reauthorize the Voting Rights Act in 2006. He argued for a new formula and for the burden to be on the Department of Justice, not the States. He cited an increase in voter turnout and in African Americans serving in public office as signs of change, and he echoed an irritation which mirrored those forces in Alabama whose continued attempts to suppress minority voting rights were thwarted hundreds of times by the U.S. Department of Justice.

Not once have I heard Senator Sessions praise the VRA for the changes and protections against present-day, ongoing, discriminatory practices in jurisdictions previously covered by the preclearance formula. Not once did he condemn his hometown's continued efforts to prevent African American representation on the City Council. Not once did he praise the Department of Justice's success in thwarting repeated attempts to undermine minority voting rights in Alabama. Not once have I heard Senator Sessions acknowledge the cold, hard facts necessitating Alabama's continued preclearance coverage under the VRA.

The record must be clear. Voting Rights Act had a two-way door. There were jurisdictions which were no longer subjected to preclearance after building a strong record, and there were jurisdictions added for failing to adhere to the spirit and letter of the law. For decades, Alabama participated in a pervasive, concerted attempt to suppress minority voting rights. Time and time again, Alabama and many other covered States and jurisdictions made the case for the VRA's continued need and fought at every possible opportunity against the law's implementation. After years of determined defiance, Alabama finally succeeded in breaking the heart and soul of the Voting Rights Act in the *Shelby County v. Holder* case.

In the aftermath of the *Shelby County v. Holder* decision, when the Supreme Court gutted the heart and soul of the Voting Rights Act, minorities and civil rights advocates were in mourning, while Senator Sessions was jubilant. He called the decision "good news for the South." Before the ink was dry on the *Shelby County v. Holder* decision, states like Alabama,

Texas, and North Carolina adopted flagrantly restrictive voter identification legislation – which defied the spirit and intent of the Voting Rights Act. After the *Shelby County v. Holder* decision, Alabama even began closing the very offices where African Americans and other voters now needed to secure the newly required voter identification. It was the modern version of counting bubbles on a bar of soap or jelly beans in a jar.

Too many people believe that the 48 years of a fully-operational Voting Rights Act stomped out hundreds of years of hate. Truth be told, Alabama and many other covered jurisdictions made the case for the Voting Rights Act time and time again. Alabama's persistent, consistent efforts to discriminate against minority voters resulted in Federal court cases and consent decrees. These extraordinary measures are the only reason why Alabama does not have the recent records of Georgia, Mississippi, or Texas. Let me be even clearer, without the Voting Rights Act, Alabama's recent record would be much, much worse.

Representing Alabama on this Committee, Senator Sessions had an opportunity to lead, but in Senator Sessions' mind, there is an "excessive focus on race in American politics." His friends may argue that he was only doing his job, but the Senator knows full well that the law of Alabama and in many states in the Deep South is used like a ramrod not to cultivate justice, but to implement the political will of one group over another to this very day.

This is why so many Americans fear potentially unprecedented opposition and hostility towards realizing the mission and mandate of the Civil Rights Division and the Voting Section of the Department of Justice. This is what is so concerning about the idea of someone who voted against the Hate Crimes Prevention Act and the Violence Against Women Act being the chief law enforcement official in our nation.

We have made progress. We have come a long way, but we are not there yet. Old women and young children may not be beaten and trampled by horses, but there are other means and devices of suppressing the guarantee of all Americans to stand up and speak out for their rights.

We are a multi-racial, multi-ethnic country. We are and must be aware of our differences. We cannot escape this reality. The issue of discrimination cannot be swept into a corner or under a rug. It is still here. Senator Sessions grew up in Alabama the same way that I did. Maybe he did not taste the bitter fruits of racism, but there is no way to ignore the lingering reality of hate in our country.

Look around. In recent years, we witnessed forces coming out of the shadows. There is a deliberate, systematic attempt to take us back to a different time, a different place. No one, but no one should be discriminated against because of their race, religion, disability, sexual orientation, gender identity, or national origin. Will he feel the hurt and pain of the people today, or will he disregard it as a memory pain of the past?

Discrimination existed in the past, and it exists to this day. Those familiar with history know all too well that the law can be used to deny or to protect human dignity. This is why the head of the Department of Justice is one of the most important positions in our nation, and its leader must be a headlight, not a taillight for all Americans, not just a select few. It will require

more than “maintaining” the freedom and equality of the system. It will take more than a commemorative photo on a bridge in Selma or a medal ceremony in the Capitol. It will take hard work and commitment from the soul.

At times and when pressed, Senator Sessions may have done what was required, but the question is whether he go the extra mile. Today, I ask the members of this Committee to consider the same question that Senator Sessions posed to many witnesses who went through this very same confirmation process. Will his background, sympathies, and prejudices impact his service to our nation?

Mr. Chairman, I have heard members of this Committee imply that we must ignore the past, that we should not give weight to the actions of another period. I disagree. I believe it is the only true answer to the questions asked today.

Many want to gamble with the question, “Where does Senator Sessions stand?” As a fellow Southerner, I have no doubt that Senator Sessions is polite to all he meets. My concern is not about how nice he is; it is about what is in his heart and soul. Will he open up the political process? Will he fight to realize the dream of one person, one vote? Will he support the spirit and the will of the law? Will he join the civil rights community in enforcing the remaining provisions of the Voting Rights Act? Will he work with Congress to restore the preclearance formula?

Or will the Senator encourage a continued and full assault on the remnants the Voting Rights Act as he did in the aftermath of the *Shelby County v. Holder* decision? Will he oppose common-sense, bipartisan, legislative responses to fix what the Supreme Court broke? Will he empower career staff to fight for the human rights and civil rights of all – especially those who have no one to speak up and speak out for them?

Let me be crystal clear. If we are to govern this nation justly, we must protect progress at every turn, not elevate those who question the necessity of progress itself. The Attorney General is expected to be a champion of justice for all people. They fight to ensure that every person – White, African American, Latino, Asian, or Native American – will be allowed to participate in the democratic process and that every person will be afforded equal protection under the law.

When faced with a challenge, Senator Sessions has frequently chosen to stand on the wrong side of history. As the entire world watches, I ask the Members of this Committee to look deep within and ask whether we can take that chance with the highest law enforcement official in our country. Leadership is not easy. You have a lot of information and are digging for the truth. You are expected to make tough decisions – to do what is right, what is just, and what is fair for those who hope that you will stand up on their behalf.

Again, I thank you for the invitation and opportunity to testify today.

**STATEMENT OF JESSE SEROYER,
FORMER UNITED STATES MARSHAL, IN SUPPORT OF
JEFF SESSIONS FOR
ATTORNEY GENERAL OF THE UNITED STATES**

Good morning Chairman Grassley and Senator Feinstein.

My name is Jesse Seroyer, Jr. I am from the State of Alabama. My professional career spans from 1976 to 2016 which includes eleven years with the Opelika Police Department, Opelika, Alabama, eight and one-half years as United States Marshal for the Middle District of Alabama, and twenty and one-half years with the Alabama Attorney General Office. I am not a politician or political activist, but I have known Jeff Sessions personally for over twenty years.

I first met Jeff Sessions when he served as the United States Attorney for the Southern District of Alabama. As U.S. Attorney, Jeff prosecuted a Klansman for the abduction and murder of a black teenager.

Following Jeff's election as Alabama Attorney General, I had the privilege to serve on his transition team and later served as his Deputy Chief Investigator. The beginning of his tenure as Attorney General presented Senator Sessions with challenges that included a budget crisis, a one-third reduction of staff, and a reorganization as a result of staff reduction. Professionalism, accountability, and compassion for the employees that lost their jobs were evident in all of the decisions made by Jeff Sessions. One example of this is the decision to work diligently to retain an African American investigator for additional months totaling less than a year in order for the investigator to be able to retire. Another decision was to keep me. Jeff did not have to do that, but he did.

In regards to his expectations of the Attorney General, we were charged with the responsibilities of working various types of cases which included: White Collar Crimes; Public Corruption; Voter Fraud; and

Criminal Investigations. As I reflect on our work, there was never a time when any of these cases was investigated with any political agenda or motive. The utmost respect and integrity was exercised for all individuals involved. Jeff Sessions' service and decisions as attorney general earned him a reputation of respect among his colleagues and an appreciation for his willingness to do what was right for all of the people of Alabama.

As Attorney General, Jeff Sessions argued to uphold the conviction and sentence of Klansman Henry Hays for the murder of Michael Donald.

When Jeff became a U.S. Senator, he helped me be appointed as the United States Marshal for the Middle District of Alabama. He did not have to do that, but he did. While Jeff was serving in the U.S. Senate, Klansman Henry Hays was executed in the electric chair.

In the over two decades that I have known Jeff, the man, he has never said or done anything that indicated to me that he is a racist or racially insensitive. His words and his actions have shown me that he is a straight arrow, law and order prosecutor who gets the job done.

It did not matter to Jeff if the victim of a crime was black or the criminal suspect was white. What mattered was doing the right thing. Regardless of politics, Jeff followed the law and the facts. Jeff Sessions loves the law and he loves the law enforcement people who protect families from criminals every day.

I did not learn these things from a politician's press release or a special interest group's website. I learned them from over 20 years of knowing Jeff Sessions. He is a good and decent man. He will be a great Attorney General of the United States.

Testimony of the Honorable Cedric L. Richmond, Member of Congress
United States Senate Committee on the Judiciary,
"Attorney General Nomination"
Tuesday, January 10, 2017
9:30 A.M.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights..." –Declaration of Independence

"No State shall ... deny to any person within its jurisdiction the equal protection of the laws" – Equal Protection Clause of the Fourteenth Amendment

"...one Nation under God, indivisible, with liberty and justice for all." –Pledge of Allegiance

Jeff Sessions record on issues of civil rights, law, and justice disqualifies him from assuming the position of Attorney General of the United States.

I would like to thank Chairman Grassley, Ranking Member Feinstein, and the Members of this esteemed Committee for allowing me to testify before you today. The Constitutional duty of the United States Senate to advise and consent to presidential appointees is an essential check on executive power and a fundamental component of American democracy. I know that you do not take lightly the process you all are now undertaking, and I do not underestimate the gravity of the moment before us.

The Founding Fathers, in the Declaration of Independence, set forth the ideal of universal equality that rests at the heart of the most vibrant democracy in the history of the world. When Congress proposed, and the States ratified, the Fourteenth Amendment with its Equal Protection Clause, our nation took a giant step toward fulfilling that foundational principle. The Pledge of Allegiance, recited everyday in grade school classrooms and in the halls of this very Congress, serves as a constant reminder that every one of us bears a solemn duty to continue striving towards the achievement of justice for all Americans. While all of the officials appointed by the President of the United States and confirmed by this body have a tremendous responsibility to recognize, protect, and advance the interests of the American people, there is no office for which the duty to apply the law equally is greater than that of the Attorney General of the United States.

On January 3rd of this year, I was sworn in as the 25th Chair of the Congressional Black Caucus. For more than 45 years, the Black Caucus, known as the "Conscience of the Congress,"

has worked to improve conditions for African-Americans across the country. The Black Caucus enters the 115th Congress with a record 49 Members representing tens of millions of African-Americans from all walks of life. Our constituents live in urban city centers, nearby suburbs, and rural counties. They are doctors and lawyers; schoolteachers and firefighters; football coaches and small business owners. We represent kids leaving home for college prepared to take on the world and parents returning home from prison searching for a second chance at life. The experiences and realities of our constituents are as broad and diverse as America itself. One thing that we all share, however, is that all of our lives have been impacted tremendously by the work and mission of the Department of Justice, and by the many men and women who have been responsible for leading the department's efforts to create a more just and equitable America.

On June 22, 1870, President Ulysses S. Grant signed into law legislation creating the United States Department of Justice, drastically increasing the Attorney General's responsibilities. Amos Akerman, the first Attorney General to lead the Department of Justice, used these expanded powers and resources to vigorously prosecute the Ku Klux Klan's widespread use of violent tactics against African-American voters in the South. Akerman's prosecutions and President Grant's willingness to enforce the law to stop the Klan, created conditions that facilitated massive African-American voting turnout in 1872. For the first time in our nation's history, former slaves were afforded the opportunity to participate in the democratic process, cementing the transition from slave to citizen.

In the late 1950's, President Eisenhower's Attorney General Herbert Brownell, Jr. drafted legislation that eventually became the Civil Rights Act of 1957, which created the Civil Rights Division at DOJ. This represented the first significant effort by the federal government to protect the constitutional rights of African-Americans since the Reconstruction period. In the early

1960's, Attorney General Robert F. Kennedy worked to protect African-Americans from violence, especially those involved in the Civil Rights Movement, and started the process that would eventually produce the Civil Rights Act of 1964 in the next administration.

Nickolas Katzenbach served as Attorney General under President Lyndon B. Johnson, and used his authority as the leader of the Department of Justice to enforce the provisions of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Katzenbach personally enforced the desegregation of the University of Alabama after Governor George Wallace stood in the doorway, refusing the admission of African-American students. Katzenbach also represented the United States in challenges to the Voting Rights Act, and fought for the Supreme Court to uphold the law's provisions which mandated that states with a history of discriminatory voting practices receive federal preclearance before enacting new voting laws.

Eric Holder was nominated by President Barack Obama in 2009 to serve as the nation's first African-American Attorney General. Holder led the Department of Justice's Smart On Crime Initiative which reversed practices that created disparities within the criminal justice system disproportionately impacting African-Americans and other minority communities. Holder also worked to create accountability measures for law enforcement entities that historically targeted minorities and were known for policing misconduct.

The bottom line is that personnel matters. A great leader in the position of Attorney General can mean the difference between a robust effort to protect the rights of the aggrieved or a decision to neglect them. The office of Attorney General must be willing to uphold the banner of justice for all Americans, including those who have been underserved and underrepresented in our nation's pursuit for justice and equal rights. It is through this context that we must

thoroughly examine the nomination of Sen. Jefferson Beauregard Sessions III to serve as the 84th Attorney General of the United States of America.

In 1986, President Reagan nominated Jeff Sessions, a young U.S. attorney from Mobile, Ala., for the U.S. District Judge for the Southern District of Alabama. Due to his insensitivity on the questions of race, Sessions ultimately became only the second nominee in 50 years to be rejected by this very committee. Despite the fact that a Republican-controlled Judiciary Committee deemed Sessions too regressive on issues of race and civil rights to serve as a district court judge, now-Senator Sessions has been nominated to serve as Attorney General.

Let me be clear. Sen. Sessions should not be disqualified from assuming this position simply because of a failed confirmation 30 years ago. The opposition of groups who have advocated on behalf of underserved communities for generations such as the National Association for the Advancement of Colored People; the NAACP Legal Defense Fund; the Leadership Conference on Civil and Human Rights; and the National Urban League among others, also should not, in and of itself, block this nomination from moving forward.

As with any nominee, Sen. Sessions should be confirmed or denied based on his record and the policies he can be expected to pursue upon taking office. When it comes to issues of justice, equality, and civil rights, Sen. Sessions' record is simply abhorrent. In a career spanning more than three decades in public service, he has sought to advance an agenda that will do great harm to African-American citizens and communities. It is for this reason that the CBC and its members believe Sen. Sessions should be disqualified for the post he now seeks to assume.

Jeff Sessions has demonstrated a total disregard for the equal application of justice and protection of the law as it applies to African-Americans.

Police Accountability

In November 2015, Sen. Sessions said “it is a real problem when we have Black Lives Matter making statements that are really radical, that are absolutely false, and then being invited to the White House.” The Senator’s callous dismissal of the legitimate complaints expressed by young activists in the Black Lives Matter movement is no surprise given his record on the issue of police accountability. In 1995, Sen. Sessions, in his capacity as Alabama’s Attorney General, filed an amicus brief urging reversal of a federal court’s decision that police officers were not shielded from a civil lawsuit alleging that they brutally wounded a suspect simply because they were working in their capacity as public officials. The Supreme Court ultimately affirmed the decision, but if Sen. Sessions had had his way, private citizens would be severely limited in their ability to seek retribution for police brutality.

The possibility that an individual who holds these views would run the agency with direct responsibility for oversight of law enforcement departments throughout the country has dire consequences for African-Americans, who are 3 1/2 times more likely than whites to experience the use of force. African-Americans account for 24 percent of police killings despite being just 13 percent of the U.S. population. Unarmed African-Americans are five times more likely than unarmed white Americans to be shot and killed by a police officer. While some have attributed these disparities to higher levels of violence in African-American neighborhoods, police reform advocates and researchers have consistently concluded that there is no correlation between violent crime and who is killed by police officers. Given these stark realities, it should come as no surprise that African-Americans are only about half as likely as whites to have a positive view of the job their local police are doing when it comes to holding officers accountable when misconduct occurs.

It is unclear if Sen. Sessions believes that police officers should ever be held accountable for any level of misconduct. In a 2008 paper published by the Alabama Police Institute, Sen. Sessions called consent decrees a “dangerous exercise of raw power” and an “end run around the democratic process.” Under President Obama, DOJ began 23 investigations into law enforcement agencies accused of violating civil rights and entered 11 consent decrees to bring much-needed reforms to policing in Chicago, Baltimore, Cleveland, and other cities. Without this level of federal intervention, it is unlikely that the citizens of Ferguson, MO would ever see relief from a police department that DOJ found to be engaged in a “pattern or practice of unlawful conduct that violates the First, Fourth, and Fourteenth Amendments to the United States Constitution, and federal statutory law.” The Department’s report found that the Ferguson Police Department was targeting African-American residents and treating them as revenue streams for the city by striving to continually increase the money brought in through fees and fines. If this is Sen. Sessions’ idea of the democratic process at work, he should be disqualified from consideration as the country’s top law enforcement official.

Alabama Judicial Elections

In 1994, Sessions filed a federal court objection to a plan that would add black judges to state appeals courts. The plan was agreed to by his predecessor in the Alabama AG’s office in order to settle a federal Voting Rights Act lawsuit filed by the Alabama Democratic Conference. The lawsuit claimed that the state appeals courts violated the Voting Rights Act because the statewide elections for judges make it difficult for blacks to be elected. The settlement would have allowed the state’s governor to appoint black appeals court judges, but the judges would later have to run in statewide elections to retain the new appellate court slots. Sessions, a former U.S. attorney in Mobile, said the settlement created a ‘racial quota’ for the courts, took away

voters' rights to elect judges and protected incumbent judges. Once he was elected as Attorney General, Sessions told the 11th U.S. Circuit Court of Appeals that he couldn't defend the plan because it improperly focused on race and sent the message that race matters in the administration of justice. The Appeals Court ultimately voided the settlement. To this day, there has not been a single African-American judge on Alabama's appellate courts despite the fact that African-Americans make up more than one-fourth of the state's population. Only two African-Americans have ever served on the Alabama Supreme Court. Both of them were appointed by a governor.

Central Park Five/Death Penalty

As recently as August, Sen. Sessions praised President-Elect Trump's 1989 campaign to bring back the death penalty for the "Central Park Five," a group of Black and Latino children accused of raping a white woman who were later exonerated by DNA evidence. According to Sen. Sessions, this showed President-Elect Trump's strength and his belief in law and order. The Government Accountability Office (GAO) has found "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty." A defendant is several times more likely to be sentenced to death if the murder victim was white. While whites make up 46 percent of murder victims, 76 percent of victims in death penalty verdicts since 1976 are white. African-Americans make up 50 percent of murder victims, but only 15 percent of victims in death penalty verdicts are black. Given that death penalty proceedings have a proven racial bias, it should come as no surprise that African-Americans represent 63 percent of those exonerated by DNA testing. The fact that Sen. Sessions has voiced his support for a campaign calling for the execution of five American citizens in the face of exonerating evidence should give this Committee pause. In addition, Sen. Sessions' willingness to ignore this dark legacy of

the death penalty, a lasting vestige of Jim Crow-era lynching, calls into question his ability to apply the law in a manner that serves the interests of all Americans.

Felon Disenfranchisement

Today, nearly 6 million Americans are unable to vote because of a past felony conviction. African-Americans are four times more likely to be impacted by felony disenfranchisement laws than the rest of the adult population, with one out of every 13 African-Americans currently unable to access to the ballot due to a prior conviction. Despite making up only 13 percent of the population, African-Americans make up more than 30 percent of those impacted these laws. In 2002, Sen. Sessions opposed legislation that would have restored felons' right to vote after they had completed their sentences.

Sen. Sessions justified his opposition by stating the he "[doesn't] think American policy is going to be better informed if we have a bunch of felons in the process." In making this incredibly insensitive and uninformed statement, Sen. Sessions was not merely ignoring the tremendous negative impact these policies have on political participation in African-American communities. He was also willingly ignoring the 1985 decision in *Hunter v. Underwood*, in which the Supreme Court struck down his home state of Alabama's felon disenfranchisement law after finding evidence that it was passed to intentionally exclude African-Americans from the ballot.

Education

In 1956, as a way to sidestep the Supreme Court's ruling in *Brown v. Board of Education*, Alabama voters amended the state Constitution to deprive students of a right to public education. As Alabama's Attorney General, Sen. Sessions led the battle against an Alabama circuit court ruling that determined the State's inequitable funding was unconstitutional and ordered the state

to come up with a system to remedy the inequity. 20 years later, the condition of Alabama's public schools stand as perhaps the darkest stain on Sen. Sessions' putrid civil rights legacy. In 1972, due to strong federal enforcement, only about 25 percent of African-American students in the South attended intensely segregated schools in which at least nine out of 10 students were racial minorities. In districts released from desegregation orders between 1990 and 2011, 53 percent of black students now attend such schools. In Alabama, thanks in part to the efforts of Sen. Sessions, nearly a quarter of African-American students now attend apartheid schools—meaning schools whose white population is 1 percent or less. This trend has devastating lasting effects as the achievement gap for African-American students grows the longer they spend in segregated schools. When they start 8th grade, African-American students are already three years behind their white counterparts in math and reading.

Jeff Sessions supports a system of mass incarceration that has disproportionately targeted African-Americans citizens and devastated African-American communities.

In 1971, President Nixon declared a War on Drugs, which he labeled as "public enemy number one in the United States." At the time of this declaration, America's prisons and jails held fewer than 200,000 people. Today that number sits at over 2,000,000. The burdens of this failed war have fallen overwhelmingly on African-American communities. African-Americans make up 13.2 percent of the U.S. population but make up 35 percent of jail inmates, and 37 percent of prison inmates. African-American males are incarcerated at more than six times the rate of white males, and African-American females are incarcerated at more than double the rate of white females.

These disparities can largely be attributed to the fact that police have targeted poor African-American neighborhoods, funneling more of those residents into the criminal justice system. African-American adults use drugs at similar or even lower rates than white adults, yet

African-Americans are more than two-and-a-half times more likely to be arrested for drug possession, and nearly four times more likely to be arrested for simple marijuana possession. In 2014, African-American adults accounted for just 14 percent of those who used drugs but close to a third of those arrested for drug possession. Once in court, judges are tougher on African-American drug offenders every step of the way. For example, nearly half of the counties in Florida sentence African-Americans convicted of felony drug possession to more than double the time of whites, even when their backgrounds are the same. In 2014, African-Americans were nearly six times more likely than white people to be in prison for drug possession.

In recent years, leaders on both sides of the aisle, including many of the Members of this Committee, have found common ground on the need to reform our broken criminal justice system. The Justice Department, on August 2013, instructed federal prosecutors to charge and lock up fewer low-level drug offenders. This was central to then-Attorney General Eric Holder's Smart on Crime Initiative. Both the House and Senate made strides towards the passage of bipartisan criminal justice reform legislation in the most recent Congress. Everyone from the ACLU to the Koch Institute supported this effort. Unfortunately, the legislation ultimately stalled due in large part to the opposition of the most conservative members of the Senate led by Sen. Sessions. Sen. Sessions questioned whether the legislation would "send a message to judges and prosecutors that we're not interested in people serving sentences anymore" as "the crime rate is beginning to go up." This is a strange reason to oppose relatively modest, bipartisan legislation given that the U.S. crime rate is at a historic low.

Sen. Sessions' opposition should come as no surprise given his career record on issues of crime and justice. In his time as Alabama's Attorney General and his time in the Senate, Sessions has supported the harsh truth-in-sentencing laws and mandatory minimums that have been

identified as the primary drivers of mass incarceration. In a 2002 floor statement, Sen. Sessions expressed his belief that our country has benefited from the War on Drugs. In a 2015 interview with PBS, Sen. Sessions reaffirmed his belief that the war on drugs is a “success.” Sen. Sessions has called marijuana reform a ‘tragic mistake’ and criticized FBI Director James Comey and Attorneys General Eric Holder and Loretta Lynch for not vigorously enforcing the federal prohibition. He has characterized the unwillingness to oppose successful marijuana legalization ballot measures in the states as one of President Obama’s “great failures.” The fact that Sen. Sessions has remained steadfast in his wrongheaded views in spite of the fact that John Ehrlichman, counsel and Assistant to the President for Domestic Affairs under President Nixon, has admitted that the War on Drugs was an effort to vilify African-American leaders and disrupt African-American communities is troubling. His willingness to declare drug enforcement policies that have devastated African-American communities across the country a “success” should be disqualifying.

Jeff Sessions cannot be relied upon to enforce the Voting Rights Act and protect the voting rights of all Americans.

As a U.S. Attorney, Sen. Sessions was the first federal prosecutor in the country to bring charges against civil rights activists for voter fraud since the passage of the Voting Rights Act of 1965 (VRA). In January 1985, Sen. Sessions, then the US Attorney for the Southern District of Alabama, charged three African-American activists with 29 counts of voter fraud. The group, known as the “Marion Three”, faced over 100 years in prison. At trial, the jury deliberated for less than three hours before returning a not guilty verdict on all counts.

The Marion Three case marked the beginning of Sen. Sessions’ role in the conservative-led effort to undermine the VRA, which he admitted to calling a “piece of intrusive legislation.” Although he joined every other Senator in voting for a 2006 extension of the VRA, he did so

while criticizing the bill's critical Section 5 pre-clearance provisions. When the Supreme Court gutted these same provisions in *Shelby County v. Holder*, Sen. Sessions hailed the decision as "good news ... for the South." He stated, "if you go to Alabama, Georgia, North Carolina, people aren't being denied the vote because of the color of their skin." In the wake of that ruling, every single one of the states Sessions mentioned passed voting restrictions that disproportionately affected racial minorities.

In 2016, 14 states had new voting restrictions in place for the first time in a presidential election. The new laws range from strict photo ID requirements to early voting cutbacks to registration restrictions. This is part of a broader movement to curtail voting rights, which began after the 2010 election, when state lawmakers nationwide started introducing hundreds of harsh measures making it harder to vote. Six of the 16 states that have passed voter ID laws since 2010 have a documented history of discriminating against minority voters. All but one of those states' laws were put in place after the Supreme Court's decision in *Shelby County*. In July 2016, a U.S. circuit court struck down North Carolina's law, calling it "the most restrictive voting law North Carolina has seen since the era of Jim Crow." The judges charged that Republican lawmakers had targeted "African-Americans with almost surgical precision."

Voter ID laws have all been sponsored by Republicans and passed overwhelmingly by Republican legislatures. These laws have all been justified based on a need to guard against alleged voter fraud. As Alabama's Attorney General, Sessions supported legislation that would force voters to show identification at the polls. In a June, 2012 Senate Judiciary hearing, Sen. Sessions criticized AG Holder for challenging state election laws, claiming that the laws were necessary to guard against voter fraud. In March 2013, Sen. Sessions voted to support requiring Americans to show a photo ID to vote in federal elections. While claims of widespread fraud are

rampant amongst those on the Right, the evidence to support such claims is scant. Researchers have found about 31 incidents of voter fraud in the more than 1 billion ballots that were cast in elections at all levels of government from 2000 through 2014. Of the more than 137.7 million ballots cast in the 2016 election, election and law enforcement officials in all 50 states have yet to report any indications of widespread fraud.

Richard Posner, a conservative U.S. circuit court judge appointed by President Reagan, has called the concerns about fraud a “a mere fig leaf” intended to justify laws that “appear to be aimed at limiting voting by minorities, particularly Blacks.” An analysis of voting laws nationwide found that only six of the 31 states that require ID at the polls apply those standards to absentee voters, who are generally whiter and older than in-person voters and thus are more likely to vote Republican. If, as Judge Posner suggests, these laws are intended to suppress voting among African-Americans, preliminary evidence suggests that they are working. A 2014 GAO study found that turnout dropped among both young people and African-Americans in Kansas and Tennessee after new voter ID requirements took effect in 2012. Given Sen. Sessions’ support for these laws, it is no wonder that Gerald Hebert, a former DOJ attorney who testified against Sessions in his 1986 confirmation hearing, recently deemed his nomination as Attorney General as “a threat to voting rights for all minorities.”

In his decades-long career in public life, Sen. Jeff Sessions has proven himself unfit to serve in the role of Attorney General of the United States of America.

I would not have the opportunity to testify before this Committee if not for men like John Lewis who was beaten within an inch of his life in pursuit of the right to vote for African-Americans in the South. It’s a shame that he must sit here more than 50 years later to defend the rights he fought so hard to gain. We sit here as the progeny of men and women who were bought, sold, enslaved, raped, tortured, beaten, and lynched. In the early

days of our nation, Black people were bought as chattel and considered three-fifths of a human beings. However, we have been able to endure and largely overcome that history thanks in part to brave men and women, both Democrat and Republican, who sat where you sit and cast often difficult votes for freedom and equality. These courageous legislators were often required to stand up to their friends, families, neighbors, and even members of their own party to do what they knew was right. I come before you today asking you to do the same.

On April 8, 1864, the Senate passed the Thirteenth Amendment to the Constitution abolishing slavery in the United States. On June 4, 1919, the Senate approved the Woman Suffrage Amendment, clearing the way for state ratification of the Nineteenth Amendment and universal suffrage for women throughout the country. On June 10, 1964, for the first time in the history of this illustrious body, the Senate was able to muster enough votes to cut off a filibuster on a civil rights bill. Nine days later the Senate approved the Civil Rights Act of 1964, one of the 20th century's towering legislative achievements. On August 4, 1965, the Senate passed the Voting Rights Act ensuring that America, for the first time in its history, would be a true democracy for all its citizens. As recently as November 7, 2013, Republican Members of this Committee joined your Democratic colleagues to pass the Employment Non-Discrimination Act, landmark legislation that would have barred most employers from discriminating against lesbian, gay, bisexual, and transgender people. While each of these bills was approved by a different collection of Senators facing a different national climate and different sets of political realities, they all share one thing in common. History will always look back fondly on each and every aye vote, knowing that it was cast by a courageous individual who found him or herself on the right side of history.

Now you all must face a choice: be courageous or be complicit. If you vote to confirm Jeff Sessions, you take ownership of any and everything he may do in office. Long after the headlines have passed, history books will remember the choice you make. I understand the political incentive to support your Senate colleague and the nominee of a President-Elect who has returned control of the White House to your party. However, a vote to confirm Sen. Sessions as Attorney General is not simply run-of-the mill DC politics. Jeff Sessions has no track record of fighting for justice for minorities. Far more often than not he has found himself on the wrong side of history on issues of equality and equal protection. Jeff Sessions is to equal justice what George Wallace was equal access to education, what Bull Connor was to equal protection of the law. Each and every Senator who casts a vote to confirm Sen. Sessions will be permanently marked as a co-conspirator in an effort to move this country backwards towards a darker period in our shared history. So I ask you all, where do you stand? It is clear from Sen. Sessions' record where he stands. Will you stand with him and allow history to judge you for doing so? If the tables were turned, do you believe he would stake his legacy on your record as he's asking you to stake your legacy on his? I implore you all to take these questions seriously and weigh them properly as you prepare to cast what will be one of the most consequential votes in your time as a United States Senator.

**Testimony by Mr. William Smith at a Senate Judiciary Committee Hearing on the
Nomination of Senator Jeff Sessions to be U.S. Attorney General
January 11, 2017**

Chairman Grassley, Senator Feinstein and members of the Committee:

I'm here today to express my absolute support and full confidence in Senator Jeff Sessions, who has been nominated by President-Elect Trump, to serve as Attorney General of the United States.

I make this statement, not as someone who has known Senator Sessions in passing, but as someone who has had Jeff Sessions as a friend, boss and confidant for over 20 years. When I submitted my application to be admitted to the Supreme Court of the United States, I wanted one name as my movant, the name that throughout my Senate career exemplified "equal justice under law." The certificate on my wall bears the name of Jeff Sessions.

I think it is important for the Committee and for members of the Senate to know my history with Senator Sessions, so it can be absolutely clear that I have first hand experience of his character, honesty, integrity and concern for people.

I first met Senator Sessions at an Auburn football game in 1995. It would be inappropriate for me not to say WAR EAGLE, right here. At the time, he was Attorney General in Alabama, but campaigning for the Senate. I was working on another campaign. Senator Sessions and I talked for a few minutes before the game. At that time, Senator Sessions had a number of people he could have been talking to, but instead, missing opportunities to connect with voters, he stood there talking to me, someone he should have known was already going to vote for him, given who I was campaigning for. Most politicians you meet forget you and your name the moment you walk away from them. Senator Sessions remembered me and greeted me at the next Auburn game. He might not remember any of this, but I will never forget it.

Fast forward to March 2001, six years removed from that first meeting and some casual interactions between then. I was a research librarian at the University of Southern California School of Law and received a phone call out of the blue. Senator Sessions had a position open on his Senate Judiciary Committee staff, and during that phone conversation I was informed that they only had one candidate Senator Sessions wanted for the job; it was me, and I had not applied. The library profession is not known for promoting conservative policies, and Senator Sessions knew I was an African American, so he was recruiting an African American librarian out of California to potentially lead his Judiciary Committee staff. That's not a risk most conservatives would be willing to make. I began working for him in April 2001, and when the Chief Counsel departed later that year, I was promoted to lead the Subcommittee Senator Sessions chaired despite there being other qualified attorneys on staff. It also became clear to me that I had been hired for that very purpose, to lead the legal team of Senator Sessions.

In May of 2001, I had been working for Senator Sessions for a little over a month, when then Senator Jim Jeffords left the Republican Party and caucused with the Democrats. Because of reduced budgets, I witnessed a number of Republican staffers lose their job. I was thinking, last man in, and first one out. I had sacrificed a successful academic career to move to Washington. Senator Sessions sensed that I was concerned and pulled me aside to tell me he knew the sacrifice I had made and assured me that he would find away to make sure I was able to keep my job, even though there was not enough money in the Judiciary Committee allotment to pay my salary. It was at that point I began to know of Senator Sessions' loyalty.

Over the years, I have had a number of experiences to give me a sense of Senator Sessions' character. In one instance, after I first started, I neglected to turn in notice to the personal office about Judiciary hearings. We were having a hearing with the FBI director. Needless to say, when I went over to get the Senator the morning of the hearing, it blew up the schedule. I had more than a few people yelling at me and telling me that the Senator was going to have to miss the hearing. When I was in the middle of explaining that Senator Sessions knew about the hearing, as I had briefed him the night before, he happened to walk into the office. Different staffers told their version of how I had ruined the day and how important meetings on the schedule would be missed. Senator Sessions had a right to be angry with me. I had made a mistake, but what he was angry about was how he witnessed me being treated. He told the staff to calm down, that he was going to the FBI hearing and looked at me and smiled. As I recall, he and I were the only ones smiling in the office at that point.

Throughout my time with Senator Sessions before I got married and moved away to practice law, we spent numerous hours together. The hours and the subject matter were challenging and our conversations were often challenging, because Senator Sessions had not hired me to be a yes man, but to give him my best advice. Even during those challenging times, Senator Sessions respected my point of view and me. He never said anything derogatory and never provided any sense that he had any racial animus. It was during these long hours where I recognized that Senator Sessions had become more of a friend and confidant than a boss. We would spend hours talking about my career path and my life and when I would tell the Senator how I had come over to talk about work, he would often say, "It's late, let's talk about that tomorrow." More times than not, he was more concerned for my well being than the memo we needed to discuss.

Even when I moved to Alabama, I was not out of touch with Senator Sessions. I was Treasurer of his leadership PAC, so I've experienced multiple sides of his life. When Senator Arlen Specter switched parties and Senator Sessions became the ranking member on the Judiciary Committee, Senator Sessions offered me the job of Chief Counsel on the full committee staff. While I was off the Hill, I did a lot of writing; one of my writings was seen by some as controversial. There was a media firestorm after my hire and members of my own staff advocated for Senator Sessions to distance himself from me and essentially invite me to find other work. Senator Sessions told those who did not want to stand with me, that they, not I would be looking for work. He did not cut and run on me. This is just another situation where some would have cheered Senator Sessions

for terminating me, but instead he protected me. That's not the action a racist would take for an African American.

Senator Sessions has the intellectual capacity to be an outstanding Attorney General. I have worked in a number of environments and interacted with a lot of smart people. Senator Sessions is among the smartest. In one instance, we were discussing a trap and trace matter with some of the best lawyers from the Justice Department. Senator Sessions, using the memory recall that only few lawyers have about legal matters, left these DOJ lawyers baffled about a historic case that was on point. These lawyers later apologized to me for not being prepared for the meeting and unable to answer all of the questions from Senator Sessions. I told them not to worry. This was not the first time Senator Sessions had left a group of intellectuals baffled and it would not be the last time.

Senator Sessions has been my friend and my confidant. He was there to advise me when I made the decision to return home to Alabama and practice law – this after convincing me one last time, to give him one more year as his Chief. He was there to advise me when I made the decision to come back to Washington. When my dad became sick and passed away and I needed to spend an extended period in Alabama, Senator Sessions never questioned the time I needed to take off. Instead, he was praying for me and my family and checking to make sure we were doing fine. He was very supportive during a time when I needed support.

Much has been said about the record of Senator Sessions on a number of matters, but the truth is, his political views are very mainstream. I could systematically go through every issue that has been raised, but I'll limit my comments to three:

I was working for Senator Sessions when practically the first issue I think Senator Sessions had to face on immigration, moved to the forefront. Senator Durbin had introduced the Dream Act and I received a memo from one of the lawyers on staff recommending that we support the legislation. I instructed the lawyer to rewrite the memo, opposing the legislation. At that point, I practically took over establishing the immigration recommendations in the office, basing the recommendations off of legal immigration not illegal activities. Senator Sessions might have not followed the original recommendation, but I state this to demonstrate that it does not make you racist because you oppose people benefiting from illegal activities. Senator Sessions, just like me, supports legal immigration. Indeed, my wife immigrated legally from the Philippines.

There has been much talk about the Voting Rights Act. Even though Senator Sessions voted for the Voting Rights Act, members, political pundits, and the media continue to misrepresent his position on the legislation. I staffed Senator Sessions during a portion of the Voting Rights Act debate. The Supreme Court in the *Shelby County* case struck down a portion of the Voting Rights Act, Section 5 that we had sought to modify. The truth is, discrimination and voter fraud remains a problem, but it is not limited to the South. During the debate, there was direct evidence of voter suppression in places such as Massachusetts, so Republicans offered an amendment to expand Section 5 to all fifty

states. Democrats signaled and demonstrated that all amendments would be blocked. If that amendment had passed, Section 5 would still be law today. So Senator Sessions is not to blame for the negligence of members who blocked an amendment to save a critical portion of the Voting Rights Act.

One of the latest allegations against Senator Sessions is that he has been fighting criminal justice reform. This, again, simply mischaracterizes the facts. What Senator Sessions opposes is releasing convicted, violent drug offenders, which the current proposal does. Let's not forget, again, while I was working with Senator Sessions, how he championed reducing the disparities between crack and powder cocaine after receiving request from the NAACP to help African American communities. The original version of the bill had a pilot program to release non-violent elderly offenders. Senator Sessions had sympathy toward these people, having witnessed grandmothers and girlfriends sentenced to long sentences for refusing to turn on a son, daughter or boyfriend. So instead of fighting against true reform, Senator Sessions has been a leader.

I could note countless other mischaracterizations, but I think it is clear from these examples that Senator Sessions has taken reasonable approaches to policy.

I did not know Senator Sessions in 1986, but I have studied his record. I have reviewed the evidence and even by the lowest standards, anyone looking at the evidence fairly could not say that he is a racist. All of the witnesses who testified against him in 1986 were discredited, with at least two of them writing the Committee to admit they had provided false testimony. In the one case that has received prominent attention, all of the defendants agreed to plead guilty to at least one count, providing a pretty clear indication that even they thought they were guilty of something. I know that he prosecuted members of the Ku Klux Klan, stood up against George Wallace in Alabama and filed lawsuits to desegregate the schools, but those are things I've only been able to read about and investigate over the years. The real experience is my personal experience.

Again, I have 20 years of history with Senator Sessions. What I've learned over that period of time is that he is an honorable man, who believes in the rule of law, pursues justice under all circumstances and loves his family and friends. I've learned that Senator Sessions is willing to debate anyone on the merits, but he's not willing to attack their character. In my 10 years of working for him and writing speeches for him, he would agree to debate on the merits, but he would not pursue personal insults or character assassinations. That is what makes this process so painful to witness. From my point of view, Senator Sessions has respected his Senate colleagues, never sought revenge for the way he was mistreated; he has worked fairly with them, debated them vigorously, but never pursued a derogatory approach. I simply wish everyone would take the same approach as Senator Sessions. What I've learned through my 20 year history with him is that integrity, honor, and humility is more important than a political victory where personal attacks are the means to achieve that victory.

I'm here to support the nomination of Senator Sessions because everyone in this city who knows him, everyone in Alabama and around the country who knows him, might not

agree with some of his policy views, but not one person can honestly look into his heart and not see the love he has for his country, the rule of law, and the Department of Justice. I support Jeff Session because he's the exactly what we need at the Department of Justice, someone who will enforce and defend the laws of the United States regardless of whether he agrees with them personally, because that's his job. I wholeheartedly stake my reputation on Senator Sessions. He will serve our nation well.

**Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on Nomination of Senator Jeff Sessions
to be United States Attorney General
January 10, 2017**

Good morning. I want to welcome everyone to this very important hearing to consider the nomination of our colleague Senator Sessions to serve as the 84th Attorney General of the United States.

Before we get started, I want to set out a couple ground rules. I'm going to handle this hearing the same way I handled the hearing for Attorney General Lynch's nomination. And it's also the same way Chairman Leahy handled previous hearings. I want everyone to be able to watch the hearing without obstruction. If people stand up and block the view of those behind them, or speak out of turn, it's not fair or considerate to others, so officers will immediately remove those individuals.

Now, before I turn to my opening statement, let me explain how we're going to proceed.

Senator Feinstein and I will give our opening remarks. Then I'll call on Senators Shelby and Collins to introduce the nominee. Following Senator Sessions' opening remarks, we'll begin the first round of questions. Each Senator will have an initial 10 minute round for questions. After the first round, we're going to do eight minute rounds of questions. I want everyone to know that I'm prepared to stay here as long as Members have questions they'd like to ask in person. Again, that's the way I handled Attorney General Lynch's nomination. I think that's the most fair way to proceed for both Members and the nominee.

I'd like to welcome our new Members to this Committee. I look forward to working with you. I'd also like to recognize and welcome a number of important audience members: former Attorneys General Meese and Mukasey. Welcome back, as well, to Senator Kyl, a former Member of this Committee.

Finally, before I turn to my opening remarks, I wanted to extend my congratulations to Senator Feinstein on her new role as Ranking Member of this Committee. I have a great deal of respect for her, and we've always worked well together. I look forward to working with her on all of the important issues this Committee handles.

With that, I'll turn to my opening remarks.

Our hearing today hardly *introduces* Senator Sessions to the Committee. No, we're here today to review the character and qualifications of a colleague who has served alongside us in the Senate for twenty years. That includes time as the Ranking Member of this Committee. We know him well. We know the policy positions he has taken as a legislator. I've been on both sides of debates with Senator Sessions. Having served with him for so long we pretty well know whether he supports your policy positions or opposes them. He tells us so with thoughtfulness, humility, and respect. As a former Chairman of this Committee has put it, Senator Sessions is "wonderful

to work with.” We know him to be, as another senior Democrat on this Committee described him, “a man of his word.” As a third senior Democrat colleague put it, “he is always a gentleman”; “he is straightforward and fair.”

Most of all, the Members of this Committee know him to be a leader who has served the people of Alabama—and all Americans—with integrity, dedication, and courage.

As former Chairman Leahy observed the last time a new President took office, it’s “important that the Justice Department have its senior leadership in place without delay. . . . We need the Justice Department to be at its best.” Perhaps my good friend Senator Schumer said it best when he observed that we should “move to a vote, hopefully sooner rather than later.” And when we do, as he said, we “won’t be voting for or against the President’s policies.” Instead, we’ll be voting for a colleague with a first-rate legal mind whose record proves his commitment to just law enforcement and eminently qualifies him to lead the Department of Justice.

I’ve been encouraged by the initial support many of our colleagues on both sides of the aisle have expressed for Senator Sessions’ nomination. So I look forward to hearing from Senator Sessions and moving to his confirmation without delay.

Senator Sessions’ record is a life of public service. And so we know his story. He was raised in the small town of Hybart, Alabama, where his father owned and ran a small country store. He then studied at Huntingdon College and the University of Alabama before practicing law in Russellville and Mobile. Senator Sessions has always been an active member of his community. He taught school before attending law school and taught Sunday School at Ashland Place Methodist Church. He served our Nation in the Army Reserve, attaining the rank of Captain.

After his time in private practice, Senator Sessions served as an Assistant United States Attorney in the Southern District of Alabama. He then headed that office after the Senate confirmed him as United States Attorney, a post he held for a dozen years. All told, that’s 15 years as a federal prosecutor in the Department.

It was during that time that he oversaw the investigation of Klansman Francis Hays for the brutal abduction and murder of a black teenager, Michael Donald. He made sure that case was brought in state court where the defendant was eligible for and received the punishment he justly deserved, the death penalty. His office then successfully prosecuted that murderer’s accomplice in federal court.

Based on his prosecutorial record, the people of Alabama elected him their Attorney General and then their Senator. He has served with us since 1997. And, as our former Chairman observed, this Committee has relied on him for his prosecutorial experience during the course of his Senate service.

Throughout his public service, both within the Department and outside of it, he has raised his hand and served when called upon. He has done his duty, enforced the law fairly, and let the chips fall where they may.

Reflecting on this record of service, it's no surprise that Senator Sessions is also an Eagle Scout. Other members of this Committee may know, as I do, that the Scouts' motto—"Be Prepared"—sits on his desk in his Senate office.

Senator Sessions' entire life of dedicated public service has prepared him for this day. If he's confirmed—and I expect he will be—Senator Sessions will shed his role as a legislator who writes our laws and he'll take on the task of enforcing the laws Congress has written. He has made this transition before, when the people of the State of Alabama elected him their Senator based on his record of service as United States Attorney and Attorney General there.

As one Member of this Committee observed about a lawyer's transition into the role of a judge: "There are turning points in a person's life when they put away things of the past and move into new responsibilities." Serving as our Nation's Attorney General will mark another such turning point in Senator Sessions' distinguished career.

And every Member of this Committee knows from experience that, in his new role, Senator Sessions will be a leader for law and order administered without regard to person.

Leadership to that end is exactly what the Department now needs. It should go without saying that the Department is tasked with the responsibility of enforcing our laws—ALL of our laws—in a dispassionate and even-handed way.

We write the laws. The Executive enforces them, *faithfully*. This is a simple but foundational principle.

Unfortunately, for the last several years the Department has simply declined to enforce some laws the Executive branch found distasteful. The Department's failure to enforce the law has run the gamut of issues from criminal law legislation to our nation's duly enacted immigration laws.

It's true that each branch of government has an independent duty to assess the constitutionality of the laws it writes, administers, or adjudicates. But it's equally true that the Executive has a constitutional responsibility to "take care that the laws be faithfully executed." I know our colleague Senator Sessions respects the legislative process and the prerogative of Congress to write the law. As he explained during the confirmation hearing we held for John Ashcroft's nomination to serve as Attorney General, "The Attorney General is a law enforcer. There is a big difference between a politician and a Senator where we vote on policy and executing policy."

I look forward to hearing from Senator Sessions on how he will transition from voting on policy matters to enforcing the laws he has labored so long to improve and sustain.

Just as he respects Congress's duly enacted laws, Senator Sessions knows and respects the importance of an independent Attorney General at the Department's helm. When he has questioned other candidates for the office of Attorney General, he has made plain the priority of an Attorney General's independence. He sought assurances on this account during the confirmation hearing for Attorney General Eric Holder—a nominee Senator Sessions and I both

supported despite our policy disagreements. Senator Sessions asked: “You are not threatening and not guaranteeing you are going to prosecute people until you fairly evaluate all the facts and the evidence and the law they thought they were dealing with at the time?”

During this Committee’s hearing on the confirmation of another Attorney General, he reflected on the obligations of the office as he knew them from his service in Alabama: “You speak for the legal interests of the State.” As a result, he said, “there are times when the Attorney General represents the State, he has an obligation and a duty regardless of what the parties to a litigation may say”—including when one of those parties is the government—“to ensure that it is fair for all the people of the State.”

This firm grasp on the separation of powers equips Senator Sessions to provide the Department with independent leadership of the highest integrity. He knows the Department’s obligations well—not only because he knows the Department but because he has seen those obligations observed in the breach from his seat beside us in the Senate.

To this legislator, the Department’s failure in the just enforcement of our laws isn’t just a policy disappointment on a particular issue. It’s an affront to the very separation of powers that defines our role and the voice of the people that warrants our votes. I imagine Senator Sessions may have thoughts on that question too, and I’d like to hear them.

On this Committee, we don’t always agree on the right way to handle the complex policy issues we consider. And when you have served in the Senate as long as Senator Sessions and I have, you are bound to find at least a few points of disagreement with even the most like-minded colleague.

But Senator Sessions’ two decades of service beside me testify without question to this: he is a man of honor and integrity, dedicated to the faithful and fair enforcement of the law, who knows well and deeply respects the Department of Justice and its role. I look forward to hearing from him about his vision and plans for the Department.

With that, I’ll turn to Ranking Member Feinstein. And, again, congratulations to you on your new role as Ranking Member. I look forward to working with you.

**Statement of Senator Patrick Leahy (D-Vt.),
On Senator Dianne Feinstein Becoming Ranking Member
of the Senate Judiciary Committee
January 10, 2017**

Today, the Senate Judiciary Committee convenes for the first time in the 115th Congress and we mark an historic moment in the Committee's 200 year history. Last week, Senator Dianne Feinstein was named the Committee's ranking member, the first time in American history that a woman has served in this capacity. It is striking that 352 members have served on the Committee, and only six of those -- all Democrats-- have been women. Three of those six women are proudly serving on this important Committee today: Senator Feinstein, Senator Klobuchar, and Senator Hirono, whom we welcome back to the Committee.

Senator Feinstein has long been a leading voice on this Committee. I have enjoyed working with her on countless issues ranging from national security to immigration reform to Supreme Court nominations. Senator Feinstein has broken down barriers throughout her career, and her new role as ranking member of the Judiciary Committee is only the latest example. As the Committee grapples with some of the most pressing issues facing our country, we will all be counting on Ranking Member Feinstein's leadership. We should all congratulate her on this historic moment.

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Questions for the Record for Senator Jeff Sessions
Senator Richard Blumenthal
January 17, 2017

1. The Domestic Emoluments Clause of Article II of the United States Constitution specifically prohibits the President from receiving “any other emolument,” meaning anything other than his salary from the federal government or state governments.
 - a. **Will President-Elect Trump be bound by this clause?**
 - b. **Will the tax breaks and subsidies that President-Elect Trump’s businesses receive from state and local governments place him in violation of this clause?**
 - c. **Should you need to investigate whether President-Elect Trump has violated this clause, will you commit to recusing yourself from any such investigation and appointing a special counsel?**
2. The Stop Insider Trading on Congressional Knowledge (STOCK) Act bars the President and other executive branch employees from using “nonpublic information derived from [or acquired through] their position as an executive branch employee as a means for making a private profit.”
 - a. **Would you agree that if a member of President-Elect Trump’s family who is acting as an official or unofficial West Wing adviser uses private information they learn through government service for a business decision, they have violated the STOCK Act or other insider trading laws?**
 - b. **Would you agree that if President-Elect Trump passes information he has learned from government service to a member of his family and that family member uses it for a business decision, this violates the STOCK Act or other insider trading laws?**
3. It may be difficult to know whether a member of the President-Elect’s family is using private information to make business decisions – particularly if the family members who are running his businesses participate in private meetings with other government officials or foreign leaders. These meetings would provide these family members with exactly the kind of advantage the STOCK Act was designed to protect against.
 - a. **If a member of the Trump family sits in on a private meeting that could discuss information related to the family member’s business interests, will you commit to investigating whether there has been a violation of the STOCK Act?**
 - b. **Will you commit to recusing yourself from any such investigation and appointing a special counsel?**
4. The Department of Justice (DOJ) recently announced that it has reached a settlement of claims with Deutsche Bank concerning sales of securities, and reports state that inquiries continue regarding allegations that Deutsche Bank helped launder money for Russian clients. It has been well publicized that Deutsche Bank is President-Elect Trump’s biggest creditor. During your hearing, you stated that you didn’t know if President-Elect

Trump's interests would be implicated in this case due to his borrowing from Deutsche Bank.

- a. **Now that you have had a chance to study the matter, would you agree that this case presents the potential for a conflict of interest? Why or why not?**
 - b. **If the Deutsche Bank matter has the potential to impact President-Elect Trump's interests, will you commit to recusing yourself from this matter and appointing a special counsel?**
 - c. **What specific steps will you take to ensure that the President-Elect's interests do not affect the final settlement and the outcome of those inquiries?**
 - d. **Will you commit to setting up firewalls between the White House and DOJ to avoid conflicts of interest or the appearance of conflicts of interest?**
5. If President-Elect Trump continues to have a financial stake in the Trump organization after he becomes President, as he has indicated he will, he will face other situations in which companies or governments have economic leverage over him or the potential to affect his financial interests through their actions. The American public is unable to understand the full extent of this leverage because President-Elect Trump has not released his tax returns or other comprehensive accounting of his financial and business arrangements.
- a. **Have you seen President-Elect Trump's tax returns or any other comprehensive accounting of his financial and business arrangements?**
 - b. **If you have, do you believe this information should be shared with the American people?**
 - c. **If you have not, how will you know whether President-Elect Trump may have a personal financial interest in a matter being pursued or investigated by DOJ? If you do not have that knowledge and President-Elect Trump weighs in on DOJ actions or policies, how will you ensure that this does not present the potential for a conflict of interest?**
6. America's intelligence agencies agree that Russia attempted to disrupt the 2016 presidential election in a manner that violates U.S. laws against hacking. During both of the last Democratic administrations, you demanded that the Attorney General recuse herself rather than participate in an investigation with potential political ramifications. During your nomination hearing, however, you would not commit to recusing yourself from an investigation of alleged Russian hacking.
- a. **Will you commit to recusing yourself from any case regarding the Trump campaign – and, specifically, the investigation of Russian interference with the election? If not, why not?**
7. DOJ is currently investigating Hapoalim Bank for helping wealthy Americans avoid paying taxes, and the bank could face hundreds of millions of dollars in penalties. Jared Kushner, President-Elect Trump's son-in-law, has received multiple loans from Hapoalim.
- a. **What specific steps will you take to ensure that Mr. Kushner's interests do not affect DOJ's investigation into Hapoalim?**

- b. **Will you commit to setting up firewalls between the White House and DOJ to avoid conflicts of interest or the appearance of conflicts of interest?**
 - c. **Will you recuse yourself and appoint a special counsel to handle the investigation and any future prosecution of Hapoalim?**
- 8. Operation Rescue and associated anti-choice groups ran a publicity campaign in the 1990s that involved “wanted posters” for abortion providers. Some of these posters identified specific providers and provided personal information, such as license plate numbers and descriptions of cars. An *en banc* federal appeals court has held that these posters constituted “true threats” and therefore fall outside of the First Amendment’s protections. *Planned Parenthood of Columbia/Willamette, Inc. v. American Coalition of Life Activists*, 290 F.3d 1058 (9th Cir. 2002) (en banc).
 - a. **Do you agree that these posters are “true threats”?**
- 9. In his statement of support for your nomination, Operation Rescue President Troy Newman said, “I have worked on projects with Sen. Sessions in the past.”
 - a. **What projects have you worked on with Troy Newman?**
- 10. Access to women’s health clinics is protected under the federal Freedom of Access to Clinic Entrances (FACE) Act, which makes it a crime to use force or threat of force to interfere with a person obtaining or providing reproductive health services, or to damage a reproductive health facility.
 - a. **Will you commit to strong enforcement of the FACE Act?**
 - b. **Will you direct your staff to continue work that has been done under the Obama Administration and deliver trainings for local law enforcement in order to educate officers about what constitutes a violation of the FACE Act?**
 - c. **As your predecessors have, will you direct U.S. Marshals to protect abortion providers when extremists have made threats to their lives?**
- 11. During the campaign, President-Elect Trump said that women who have abortions should be punished? After a significant backlash, he tried to reverse his position.
 - a. **Do you think that women who have abortions should be punished?**
 - b. **If you are opposed to punishing women for having an abortion, what steps will you take as Attorney General to discourage the use of the criminal legal system to deny pregnant women access to reproductive health services?**
 - c. **What will you do to ensure that women who have abortions or whose pregnancy losses are perceived as abortions, as well as those who provide reproductive health services, will not be subjected to prosecution or criminal punishment?**
- 12. The Affordable Care Act requires insurance plans to cover a full range of FDA-approved methods of birth control without charging patients co-pays. This benefit has made a tremendous difference for women’s health and economic security. DOJ has defended this benefit from legal challenges by companies that do not want to comply with the requirement.

- a. **If confirmed as Attorney General, will you direct DOJ to continue to defend this requirement in court?**
 - b. **If a business owner believes it is his religious duty to discriminate based on race, religion, or sexual orientation, do you believe the business owner has a right to do so?**
- 13. During your hearing, you agreed with Senator Leahy that acts that President-Elect Donald Trump has described performing – grabbing women by the genitals without their consent – would constitute sexual assault.
 - a. **Would you agree that a law enforcement official who hears that a woman has been grabbed by the genitals without her consent should investigate to determine whether prosecution for sexual assault is appropriate?**
 - b. **Will you commit to encouraging and supporting vigorous investigation and prosecution of sexual assault by state and local as well as federal authorities?**
- 14. On the subject of sexual assault in the military, President-Elect Trump has said, “What did these geniuses expect when they put men & women together?”
 - a. **Do you agree with President-Elect Trump that sexual assault is the natural result of having male and female service members working together? Why or why not?**
 - b. **What specific steps will you take to combat the problem of military sexual assault?**
- 15. On your questionnaire for this committee, you list *Davis v. Board of School Commissioners of Mobile County* as one of the most significant litigated matters that you handled. You listed Joseph D. Rich, who then worked in the Educational Opportunities Litigation Section of DOJ’s Civil Rights Division, as your co-counsel on that case. Mr. Rich has said that you had “no substantive involvement” in the case, and at your hearing you said, “I don’t know Mr. Rich. Perhaps he handled a case that I never worked with.”
 - a. **Do you know Joseph D. Rich?**
 - b. **Did you work with him on *Davis v. Board of School Commissioners of Mobile County*?**
 - c. **What specific work did you do on *Davis v. Board of School Commissioners of Mobile County*?**
- 16. Section 1557 of the Affordable Care Act prohibits health care programs or activities that receive HHS funding or are involved with the insurance marketplaces from discriminating on the basis of race, color, national origin, sex, age, or disability. . In August 2016, five states and several private organizations filed a lawsuit challenging the final regulations implementing Section 1557.
 - a. **If you are confirmed as Attorney General, will you direct DOJ to continue to defend these regulations in court?**
- 17. Last November, Carl Higbie – spokesman for a Donald Trump Super PAC and a campaign surrogate – cited the World War II-era Japanese internment camps as a

precedent for a Muslim registry. The Supreme Court allowed the use of these camps in *Korematsu v. United States*, a case that has been called a “stain on American jurisprudence.”

- a. **If you are confirmed as Attorney General, will you agree not to positively cite *Korematsu* in briefs or other legal documents that you or your representatives file on behalf of the United States?**
18. You have objected to President Obama’s efforts to admit refugees from areas where, in your words, “terrorists roam freely.” These refugees are screened for 18 to 24 months by law enforcement, the military, and the intelligence communities. America has a history of admitting refugees in times of conflict – including, notably, refugees from Germany in the 1930s and 1940s and from Vietnam in the 1970s.
 - a. **Was America’s system for screening refugees better in the 1930s and 1940s than it is today?**
 - b. **Was America’s system for screening refugees better in the 1970s than it is today?**
 - c. **If today’s screening is inadequate but still better than what existed previously, should America have refused entry to European refugees in the 1930s and 1940s and to Vietnamese refugees in the 1970s?**
 19. In your testimony, you said, “I understand the demands for justice and fairness made by our LGBT community. I will ensure that the statutes protecting their civil rights and their safety are fully enforced.”
 - a. **What specifically do you understand about “the demands for justice and fairness made by our LGBT community”?**
 - b. **What statutes protecting LGBT safety and civil rights will you enforce?**
 20. Imagine that an employer fires an employee solely because the employee is gay.
 - a. **Would such an action conflict with “the demands for justice and fairness made by our LGBT community”?**
 - b. **Would you support a law that would prohibit this kind of firing?**
 - c. **If the employer maintains that his religion compels him to fire gay workers, is the employer’s action protected by the Constitution?**
 21. In 2011, the Alabama legislature adopted H.B. 56. Major provisions of the law included requiring police to arrest anyone of whom they had a “reasonable suspicion” of being in the country illegally and denying public services, including public education, to undocumented immigrant children. DOJ’s Civil Rights division closely monitored the implementation of the law to ensure that it did not result in illegal discrimination on the basis of race or ethnicity by public institutions or law enforcement agencies.
 - a. **If confirmed as Attorney General, what steps would you take to ensure that H.B. 56 and similar legislation does not result in discrimination on the basis of race or ethnicity?**
 - b. **What actions would you take if investigation revealed that the implementation of such laws did, in fact, result in discrimination?**

22. Last year, during the presidential campaign, Donald Trump argued that it would not require a constitutional amendment to end birthright citizenship for children born to parents who are in the U.S. illegally. He argued that it would only require an act of Congress. You have said that this is not an extreme position. You have also repeatedly expressed skepticism that the drafters of the Fourteenth Amendment intended to grant citizenship to children born in the United States to parents who are not United States citizens.
- In your opinion, does the Fourteenth Amendment guarantee citizenship to all children born on American soil?**
 - If so, would a constitutional amendment be required to overturn this guarantee?**
 - If not, how would you determine clearly which children are American citizens and which are not?**
23. No Senator since at least 1900 has voted in favor of his or her own confirmation to a Cabinet position. At your hearing, you stated that you did not have plans to vote on your own nomination.
- I interpreted your answer at your hearing as a commitment that you would not vote on your own nomination. Is that correct?**
 - If your answer was not intended as a commitment, will you commit now to not voting on your nomination? If not, why not?**
 - Will you commit to not voting on any other Trump Administration nominations while your nomination is pending? If not, how does that not present a conflict of interest?**
24. After you submitted your initial questionnaire response to this committee, it quickly became clear that you had left out large amounts of significant material. In 2010, you asserted that Goodwin Liu, a nominee for the Ninth Circuit Court of Appeals, had omitted 117 items from his questionnaire. You said of Liu,
- “At best, this nominee’s extraordinary disregard for the Committee’s constitutional role demonstrates incompetence; at worst, it creates the impression that he knowingly attempted to hide his most controversial work from the Committee. Professor Liu’s unwillingness to take seriously his obligation to complete these basic forms is potentially disqualifying and has placed his nomination in jeopardy.”
- You also suggested at Liu’s hearing that he might be guilty of a felony for failing to provide every document called for by the questionnaire. Although you supplemented your initial questionnaire responses, it was revealed at your hearing that you failed to include numerous items responsive to the requests.
- If Goodwin Liu’s omissions were inexcusable, why is that that yours are acceptable?**

25. In your initial questionnaire response, you repeatedly indicated that you relied on “searches of publicly available electronic databases” in order to gather all relevant information.
- Did you search for information on your record on Google? For example, when looking for examples of speeches, did you search for “Jeff Sessions” and “speech”?**
 - If so, why did you not include the first result from a Google search – your speech to the 2016 Republican National Convention?**
 - In trying to find transcripts of your appearances on news shows, many of which you listed as unavailable, did you search the websites of the shows on which you appeared?**
 - If so, why did you not include transcripts that are readily available from searching the websites of those shows – for example, a transcript of your responses during an October 13, 2016 appearance on Breitbart Radio, which can be found simply by searching for your name on the Breitbart website?**
 - When you saw that your initial questionnaire included only 134 speeches given over 35 years in public life, did that not suggest to you that the response was not comprehensive?**
 - When you saw that your initial questionnaire did not include any print or radio interviews prior to September 2002, did that not suggest to you that the questionnaire was incomplete?**
26. You have received awards from at least two organization designated by the Southern Poverty Law Center as extremist groups¹ – the Federation for American Immigration Reform and the Center for Security Policy – but you only disclosed one of these on your questionnaire.
- Have you received any other awards from SPLC-designated extremist groups that you have not yet reported to this Committee?**
 - Have you given any speeches to SPLC-designated extremist groups that you have not yet reported to this Committee?**
27. In a keynote address at the David Horowitz Freedom Center’s 2013 West Coast Retreat, you said, “[David Horowitz has] written some papers. I’ve passed them around, the draft, to a bunch of senators, and shared these thoughts.” At your hearing, you called David Horowitz a “brilliant writer.”
- Which papers did you circulate to your fellow Senators?**
 - Do you agree with Horowitz when he says – in the chapter title of one of his books – that “guns don’t kill blacks, other black people do”?**
 - Do you agree with Horowitz when he says it is “obvious” that “too many blacks are in prison because too many blacks commit crimes”?**
 - Do you agree with Horowitz when he says that the term “people of color” is “a racist phrase designed...to enforce the fascist hierarchy”?**
 - Do you agree with David Horowitz that Black Lives Matter is “a racist group” and “a roving lynch mob”?**

¹ <https://www.splcenter.org/fighting-hate/extremist-files/groups>

- f. **Do you agree with Horowitz that “there is no credible evidence [that] racism against blacks is still a prevalent and systemic problem”?**
28. In your questionnaire, you did not disclose that you received the Franklin Society Award from the Federation for American Immigration Reform, which was founded by John Tanton.
- a. **Do you agree with Tanton when he says, “Migrants are usually selfish in their motivation”?**
 - b. **Do you agree with Tanton that he says, “Too much diversity leads to divisiveness and conflict”?**
29. As a former prosecutor, I am disturbed that President-Elect Trump’s continued insistence that the five black and Latino men known as the Central Park 5 are guilty – despite their exoneration by DNA evidence. During the campaign, you said that President-Elect Trump’s 1989 campaign to reinstate the death penalty for the Central Park 5 showed his dedication to “law and order.”
- a. **Do you believe that the Central Park 5 are innocent? If not, why not?**
 - b. **If you do believe that the Central Park 5 are innocent, will you say unequivocally that President-Elect Trump was wrong to call for them to be killed and wrong to double down on his position after they were exonerated?**
 - c. **Does Donald Trump’s approach to the Central Park 5 case reflect the approach that you will take to similar cases if confirmed as Attorney General?**
 - d. **Do you agree that failing to pursue all possible methods of exonerating an innocent defendant, including DNA evidence, leaves open the possibility that the real criminal will go free and commit additional crimes?**
30. At your hearing, you said, “Congress has taken an action now that makes it absolutely improper and illegal to use waterboarding or any other form of torture in the United States by our military and by all our other departments and agencies.”
- a. **Are stress positions designed to inflict pain torture?**
 - b. **Is forced nudity torture?**
 - c. **Is slamming individuals into walls torture?**
 - d. **Is slapping or hitting detainees torture?**
 - e. **Is depriving detainees of sleep for prolonged periods torture?**
 - f. **What actions would you take if the Trump Administration attempted to change the rules governing use of these techniques without seeking Congressional approval?**
- 31.
- a. **If an individual detained at Guantanamo Bay Cuba can show that they were detained based on faulty intelligence or mistaken identity, should they be released?**
 - b. **Should Guantanamo detainees be given the chance to prove that they were detained based on faulty intelligence or mistaken identity?**

c. How long can an individual be detained – at Guantanamo or anywhere else – before they are given a chance to show that their detention was wrongful?

32. When passing the USA FREEDOM Act, Congress made bulk collection under section 215 of the USA PATRIOT Act illegal. In a *National Review* op-ed, you argued that law enforcement can still use a subpoena to collect all of the information that used to be collected under section 215. During your hearing, you were asked if you agreed that the executive branch cannot reinstate the bulk collection of America's phone records without amending federal statutes. You responded, "That appears to be so and I can't swear that that's absolutely, totally, always true, but it appears to be so."
 - a. **Please detail the situations where the principle would not hold true.**
33. Using a device called a stingray, law enforcement can scan a crowd and identify every cell phone within the specified area. Without clear rules governing the use of stingrays, these devices give law enforcement the ability to create massive databases of individuals who have protested against the government, individuals who belong to a minority or unpopular religion, or simply Americans who have assembled to express views that the government does not like.
 - a. **Will you commit to not tracking Americans' location in order to target and catalog individuals' exercise of First Amendment activities, such as religious activities, protests, and political rallies?**
 - b. **Will you commit not to use stingrays to identify every American who has chosen to attend a particular political rally or worship service, unless you have probable cause to believe that a specific criminal or dangerous individual is in attendance?**
 - c. **If you do collect information on all of the attendees at a rally or worship service – for example, because you believed a criminal would attend – will you commit to purge the information of any innocent American whose information was captured inadvertently?**
34. The American people want to know that you will take white collar crime as seriously as you will take other crimes.
 - a. **Will you commit to zealously investigating white collar crimes?**
 - b. **Will you commit to leaving in place, and considering expanding upon, the Yates Memo, which established Justice Department procedures that encourage prosecutors to actively investigate and prosecute individual criminal liability for corporate crimes?**
35. DOJ has initiated or considered initiating a number of investigations in recent years that are particularly important to me. Will you commit to continue actively pursuing the following investigations and prosecutions:
 - a. **Takata and Takata executives**
 - b. **Price collusion by United States airlines**
 - c. **The merger of Anthem with Cigna and of Aetna with Humana**

36. In 2014, I was proud to lead an effort to successfully amend the Animal Welfare Act to prohibit attendance at a cockfight universally and without qualification in Puerto Rico and all other U.S. jurisdictions. Before these 2014 amendments became law, the longstanding prohibition on sponsoring or exhibiting an animal in a cockfight only applied in Puerto Rico to the extent a defendant knew that a bird was bought, sold, delivered, transported or received in interstate commerce for the purpose of participating in the fight. There is still much work to be done in ensuring that the law's protections are fully implemented.
- a. **Will you develop a plan to ensure that federal animal fighting laws are enforced in Puerto Rico, and to begin the process of shutting down the dozens of arenas in Puerto Rico in which animal fights are conducted in contravention of federal law?**
37. In recent years, there have been hundreds of cases in which individuals were exonerated based on faulty forensic evidence. This has long been an issue of bipartisan concern.
- a. **Will you continue to work with Members of this Committee and the Commerce Committee to ensure that law enforcement and criminal justice stakeholders have the strongest and most reliable forensic tools possible to ensure that crimes are solved, public safety is protected, and wrongful convictions are avoided?**
 - b. **As you know, the FBI has been working to review thousands of cases involving erroneous hair analysis testimony, resulting in the exoneration of innocent people and, in many cases, the identification of the true perpetrators of crimes. Will you work with the FBI and others to ensure that this review is completed, and that this type of error is not repeated going forward in this or other forensic disciplines?**

Follow Up Questions for the Record for Senator Jeff Sessions
Senator Richard Blumenthal
January 23, 2017

In my original questions for the record, I asked whether you would commit to recusing yourself from any investigation into whether or not your boss, President Trump, has violated the Domestic Emoluments Clause or the insider trading laws. I also asked whether you would recuse yourself from cases in which President Trump or his family have a financial or political interest. You responded that you are “not aware of a basis to recuse yourself” but would not say one way or the other whether you would recuse yourself.

- a. Are there circumstances under which you would consider it appropriate to handle an investigation of civil or criminal wrongdoing by your own boss? Please answer yes or no.
- b. If you believe that such an investigation would not pose a conflict of interest, please explain why.
- c. You have committed to “consult with [Justice] Department ethics officials” if your “impartiality might reasonably be questioned.” Will you commit to accepting the advice of career staff if they recommend that you recuse yourself from a particular investigation or case?
- d. Can you give any examples of a situation where an Attorney General has investigated civil or criminal wrongdoing by the President who appointed him or her and where you consider the Attorney General’s conduct to have been appropriate?
- a. Have you discussed the Domestic Emoluments Clause, the Foreign Emoluments Clause, or the insider trading laws with President Trump, with any employee of President Trump, or with any agent for President Trump? If so, please discuss the content and depth of those conversations.
- b. Have you discussed whether or not President Trump, his family, or individuals who did paid or unpaid work for his campaign may face civil or criminal liability, under any statute or Constitutional provision, with President Trump or any of his agents or employees? If so, please discuss the content and depth of those conversations.
- c. Have you discussed with President Trump or any of his agents or employees the possibility that an ongoing or future investigation could embarrass the President or his Administration? If so, please discuss the content and depth of those conversations.
- d. Have you discussed Russian hacking with President Trump or any of his agents or employees? If so, please discuss the content and depth of those conversations.

In response to a question for the record from Senator Durbin, you indicated that you have not read the unclassified or classified version of the January 6 Intelligence Community Assessment “Assessing Russian Activities and Intentions in Recent US Elections.”

- a. Have you read that assessment or any part of that assessment – for example, the 1.5 page “Key Judgments” section – since Senator Durbin asked about it?

- b. **If so, how will this information inform your decisions regarding investigatory priorities should you become Attorney General? If not, why not?**
- c. **Have you discussed your decision to read or not read this intelligence assessment with President Trump or any of his agents or employees?**

In my original questions for the record, I asked whether a member of President Trump's family who relies on nonpublic information to make business decisions has violated the STOCK Act or other insider trading laws." While you did not answer this question, you indicated that the answer hinges on whether the Trump family member is an "executive branch employee."

- a. **If a Trump family member does not qualify as an "executive branch employee," as that term is used in the STOCK Act, do you believe that such family member can use private information they learn through government service to make business decisions? Please provide a yes or no answer.**

In response to my original questions for the record, you said that you "have not reviewed the details of whether a constitutional amendment would be required" to overturn the Fourteenth Amendment's guarantee of citizenship to all children born on American soil. You expressed skepticism of birthright citizenship as far back as 2010, and more recently you indicated that you have been reading legal briefs on the subject. Now that you have had additional time to review the details of this issue, I would appreciate your answer on this important question.

- a. **Would a constitutional amendment be required to overturn the Fourteenth Amendment's guarantee of citizenship to all children born on American soil?**
- b. **How would you determine which children are guaranteed American citizenship and which are not?**

In my original questions for the record, I asked you to detail the circumstances under which the executive branch could reinstate the bulk collection of Americans' phone records without amending federal statutes. While you provided some additional information about your past statements, which I appreciate, you did not answer my question. To be clear, I am not asking about what you have said in the past. I want to know what you believe today.

- a. **Under what circumstances could the executive branch reinstate the bulk collection of Americans' phone records without working with Congress to amend federal statutes?**

In my original questions for the record, I asked whether you would "commit to not tracking Americans' location in order to target and catalog individuals' exercise of First Amendment activities, such as religious activities, protests, and political rallies." You responded merely that you will "enforce the laws and will do so with unreserved fidelity to the Constitution." While I appreciate your general willingness to follow the law as you interpret it, my question asked you to make a specific commitment. The American people should not have to wait until you are in office to find out whether you plan to track their First Amendment-protected activities.

- a. **Will you commit not to track Americans' location in order to target and catalog individuals' First Amendment-protected activities, such as religious activities, protests, and political rallies?**

In my original questions for the record, I asked you for two commitments regarding the appropriate use of stingray technology. In your response, you declined to comment on “what federal law or the Constitution allows in these circumstances.” With respect, I did not ask what federal law or the Constitution allows. I asked whether you would commit not to engage in the practices described. Please respond with a yes or no answer.

- a. **Will you commit not to use stingrays to identify every American who has chosen to attend a particular political rally or worship service, unless you have probable cause to believe that a specific criminal or dangerous individual is in attendance?**
- b. **If you do collect information on all of the attendees at a rally or worship service – for example, because you believed a criminal would attend – will you commit to purge the information of any innocent American whose information was captured inadvertently?**

Nomination of Senator Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017 QUESTIONS

FROM SENATOR COONS

1. Evidence shows that solitary confinement has significant mental health consequences when used for extended periods of time.
 - a. Do you believe solitary confinement should only be used as a last resort?
 - b. Do you believe solitary confinement should ever be used for juveniles?
2. Individuals are being jailed throughout the country when they are unable to pay a variety of court fines and fees. There is often little or no attempt to learn whether these individuals can afford to pay the imposed fines and fees or to work out alternatives to incarceration.
 - a. Under your leadership, will the Department of Justice work to end this practice?
 - b. What is your position on the practice of imposing unaffordable money bail, which results in the pretrial incarceration of the poor who cannot afford to pay?
3. The Department of Justice established the Office for Access to Justice (ATJ) in March 2010 to address the access-to-justice crisis in the criminal and civil justice system. ATJ's mission is to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. How will you improve access to justice for indigent criminal and civil defendants?
4. In August of 2013, the Department of Justice released the Cole memorandum, providing that states could pursue their own marijuana policy as long as the policy does not violate certain federal priorities, such as selling to minors or transporting marijuana across state lines.
 - a. Will you continue to follow the Cole memorandum?
 - b. Will you instruct Department of Justice prosecutors to bring actions against those who use state-sanctioned medical marijuana, provided they are using it in accordance with the guidance of the Cole memorandum?
5. How will you implement and enforce the Death In Custody Reporting Act and the FBI National Use of Force database?
6. When you were the Alabama Attorney General, Alabama was the only state that handcuffed prisoners to "hitching posts" as punishment, cuffing them by both wrists to a pole at chest level with feet shackled for up to 10 hours at a time, unprotected from the sun, heat, or rain, and without access to water or even access to a bathroom. On March 27, 1995, the Department of Justice sent letters to you, as Alabama's Attorney General, along with the Governor and other state officials declaring Alabama's use of the hitching post unconstitutional and unjustified. However, the use of the hitching post continued. On June 27, 1995, the Justice Department sent a letter to the Alabama Department of Corrections stating, "We remain deeply concerned about your unwillingness to take any

corrective action regarding the ‘rail’ or ‘hitching post.’ . . . [W]e have concluded that the use of the ‘rail’ is without penological justification.” The Alabama Department of Corrections was sued over the use of the hitching post in 1995 but continued to defend its use. At the hearing and in our private meeting, I asked you about the use of the hitching post in Alabama prisons when you were the Alabama Attorney General. However, you indicated in our meeting that you did not remember the issue, and your response at the hearing only addressed the use of chain gangs. Do you believe that the use of hitching posts is acceptable?

7. In *Hope v. Pelzer*, 536 U.S. 730, 744 (2002), the Supreme Court ruled that prison officials “violated clearly established law” when they continued to use the hitching post. Why didn’t you intervene to stop this unconstitutional practice when you were Alabama Attorney General?
8. In 2014, the Department of Justice concluded its investigation of allegations of sexual abuse and sexual harassment at the Julia Tutwiler Prison for Women, finding that:

For nearly two decades, Tutwiler staff have harmed women in their care with impunity by sexually abusing and sexually harassing them. Staff have raped, sodomized, fondled, and exposed themselves to prisoners. They have coerced prisoners to engage in oral sex. Staff engage in voyeurism, forcing women to disrobe and watching them while they use the shower and use the toilet. Staff sexually harass women, subjecting them to a daily barrage of sexually explicit verbal abuse.

Also, there are federal lawsuits pending against Alabama state prisons challenging unconstitutional conditions, including high rates of violence and inadequate medical and mental health treatment. On October 6, 2016, the Justice Department announced that it had opened a statewide investigation into Alabama’s prisons for men, which “will focus on whether prisoners are adequately protected from use of excessive force and staff sexual abuse by correctional officers, and whether the prisons provide sanitary, secure and safe living conditions.”

- a. Will you ensure that the Department of Justice continues all of these investigations into conditions in Alabama prisons?
 - b. As a public official in Alabama, what have you done to ensure that Alabama prison facilities comply with the Constitution?
9. The President-elect has claimed that millions of people voted illegally in the presidential election.
 - a. Do you agree, and if so, on what evidence do you rest your claim?
 - b. If not, do you contend that there were instances of voter fraud in the 2016 presidential election, and on what evidence do you base your claim?
 - c. How do you plan on using the resources of the Department of Justice to investigate alleged instances of voter fraud in the 2016 presidential election?

10. A 2014 study by Justin Levitt published in the *Washington Post* found that since 2000, there were only 31 credible allegations of voter impersonation, during a period in which there were 1 billion ballots cast. In light of this report, do you think it is justifiable for the Department of Justice to spend resources on combatting in-person voter fraud?
11. Do you agree that certain photo ID laws can disenfranchise otherwise eligible voters and disproportionately and unreasonably burden African-American and Latino voters?
12. The FBI reported that hate crimes targeting Muslims increased by 67% in 2015. How do you believe the Department of Justice should use its resources to address rapid, documented increases in crimes such as this one?
13. Would you ever rely on *Korematsu v. United States*, 323 U.S. 214 (1944), as precedent?
14. Do you believe internment of American citizens or residents is lawful?
15. Last year, without debate or congressional action, Rule 41 of the Federal Rules of Criminal Procedure was amended to expand the government's ability to obtain a warrant and remotely access electronic devices. The rules now allow federal prosecutors to seek a warrant in any district "where activities related to a crime may have occurred." Will you instruct the Department of Justice to issue guidance on how this should be interpreted?
16. Do you believe that religious institutions, including mosques, should be targeted for warrantless surveillance?
17. What will you do to ensure vigorous enforcement of the Ethics in Government Act, bribery and honest services laws, and anti-nepotism laws?
18. What is your interpretation of the effect of the Emoluments Clause on the ability of President-elect Trump or his family members to continue doing business with foreign governments after inauguration?
 - a. Do you understand the arrangements announced at the President-elect's press conference on January 11, 2017 to be sufficient to comply with the Emoluments Clause?
 - b. If your answer is "yes," what is the basis for your understanding that the President-elect is not receiving monetary or other benefits from foreign entities through his continued ownership interests in the Trump Organization, even if he does not have day-to-day control?
19. President-elect Trump, through the Trump Organization, has a contract with the U.S. Government that allows the Trump International Hotel Washington, D.C. to lease the Old Post Office property. This contract, however, contains a clause stating that "No . . . elected official of the Government of the United States . . . shall be admitted to any share or part of this lease, or to any benefit that may arise therefrom." If President-elect Trump does not divest his interests in this hotel prior to inauguration, the question of whether

this contract has been breached will need to be decided. As Attorney General, your responsibilities would include enforcement of government contracts like this one.

- a. If President-elect Trump does not divest his interests in the Trump International Hotel Washington, D.C., will you enforce the contract?
 - b. What steps do you commit to taking to prove to the public that the Justice Department's actions and your own will not be influenced in any way by the President-elect's monetary interests?
20. The Office of Legal Counsel (OLC) supports the Attorney General in fulfilling his responsibility to provide legal advice to the President, heads of executive departments, and heads of military departments.
 - a. Do you agree that, as discussed in the Best Practices for OLC Legal Advice and Written Opinions (May 16, 2005 and July 16, 2010), the Attorney General and OLC should provide "candid, independent, and principled advice—even when that advice may be inconsistent with the desires of policymakers" including the President?
 - b. What standard do you believe must be met before an Attorney General or OLC opinion is overturned?
21. The total volume of worldwide piracy in counterfeit products is estimated to be 2.5% of world trade (USD \$461 billion). Counterfeit products such as fake pharmaceutical drugs or faulty electronics can cause direct physical harm to Americans, and the profits from these illicit sales often go directly to the coffers of organized crime. How will you use Department of Justice resources to address this growing threat?
22. The Department of Justice has made substantial efforts to combat trade secret theft by foreign nationals. In 2009, only 45 percent of federal trade secret cases were against foreign companies; this number increased to over 83 percent by 2015.
 - a. Will you prioritize enforcement actions to combat trade secret theft by foreign nationals?
 - b. How do you plan to continue the Department of Justice's efforts to successfully target criminal trade secret theft?
23. The United States' scientific and technological leadership is a prime reason for our economic advancement over many decades. Our innovation ecosystem is driven by the rewards of scientific innovation made possible by a vibrant capitalist economy. It relies on generous funding of scientific research and an educational system that is broad-based at the bottom and unparalleled in availability and quality at the top. It further relies on immigration, a commitment to sustained investment, and certainty provided by the rule of law. How will the Department of Justice, under your leadership, work to support components of the Executive Branch with missions focused on promoting scientific and technological progress, such as the National Institutes of Health, the National Institutes of Standards and Technology, the National Oceanic and Atmospheric Administration, and the United States Patent and Trademark Office?

24. Do you support the revocation or modification of the 14th Amendment's constitutional guarantee of birthright citizenship?
25. You previously have expressed support for Arizona's SB 1070 and Alabama's HB 56, but both laws contained unconstitutional provisions.
 - a. Would you have the Justice Department intervene if a state passes a law like Arizona's SB 1070 or Alabama's HB 56?
 - b. Which portions of these laws do you understand to be constitutional, if any?
26. The Victims of Child Abuse Act (VOCAA) authorizes funds to directly support establishment and operation of local and regional Children's Advocacy Centers (CACs), as well as training and technical assistance related to improving the investigation and prosecution of child abuse and neglect. These centers are intended to coordinate a multidisciplinary response to child abuse (e.g., law enforcement, child protection/social services, medical services, mental health) in a manner that ensures child abuse victims receive the support services they need and do not experience the investigation of child abuse as an added trauma. Close to 312,000 children were served at CACs in 2015. Will you include full funding for the Victims of Child Abuse Act in the Department of Justice's proposed budget?
27. When the Justice Department decided not to defend the Defense of Marriage Act (DOMA), the Department "notif[ied] the courts of [the Department's] interest in providing Congress a full and fair opportunity to participate in the litigation in [the DOMA] cases." If the Department of Justice decides it cannot defend a law, will you take whatever steps are necessary to ensure that Congress or others can continue to defend the law?
28. The Department of Justice established the Violence Reduction Network in 2014. VRN provides a comprehensive approach to reducing violent crime in communities around the country by deploying federal resources in a targeted, strategic, data-driven way to assist state and local law enforcement. Through its participation in the VRN, the Wilmington Police Department created a new homicide unit, and the homicide clearance rate rose from less than 10 percent to more than 50 percent on current-year cases.
 - a. How will you support the sustainability of the Violence Reduction Network improvements in cities that have participated in the program?
 - b. Will you expand the VRN to work with additional cities?
29. Studies show that 5 percent of gun dealers sell 90 percent of guns that are subsequently used in criminal activity. How will you direct the Department of Justice to instruct the Bureau of Alcohol, Tobacco, Firearms and Explosives to crack down on dealers that funnel thousands of crime guns to city streets?
30. The Justice Department has supported the Youth Mentoring Program, which provides much needed funding to organizations like Boys & Girls Clubs of America. In my state of Delaware, those mentoring funds support programming to 44,100 young people

between the ages of 5-18 years old. As Attorney General, will you ensure that the Youth Mentoring Program will be fully funded?

31. In May 2015, the President's Task Force on 21st Century Policing made a series of recommendations aimed at making communities safer, including developing lasting positive connections between law enforcement and the communities they serve and improving youth attitudes toward law enforcement. How will the Department of Justice promote and support partnerships between law enforcement and young people to promote stronger, safer communities?

**Nomination of Senator Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 25, 2017**

FOLLOW-UP QUESTIONS FROM SENATOR COONS

1. In response to Question for the Record 1(b) regarding the use of solitary confinement, you stated that “[t]he need to maintain safety is especially true for juveniles, who often present unique correctional challenges.”
 - a. Why do you believe that there is a greater need for maintaining safety for juveniles compared to other incarcerated people?
 - b. Why do you believe that there are “unique correctional challenges” presented by incarceration of juveniles that impact the need for the use of solitary confinement?
 - c. What are these “unique correctional challenges”?

2. Question for the Record 2 noted that individuals are being jailed throughout the country when they are unable to pay a variety of court fines and fees, often with little or no attempt to learn whether these individuals could afford to pay or to work out alternatives to incarceration. In your response, you stated that you would “make every effort to protect the constitutional rights of individuals in the federal criminal justice system.” However, this is not a problem confined to the federal criminal justice system. For example, a Department of Justice report (available at https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) found that traffic offenses such as expired license plates and failure to register a vehicle “comprised the majority of offenses that led to a[n arrest] warrant” in Ferguson, Missouri, besides Failure to Appear ordinance violations. If you are confirmed, how will the Department of Justice work to end the incarceration of individuals for failure to pay fines and court fees when they cannot afford to pay them?

3. Question for the Record 3 asked “how” you would improve access to justice for indigent criminal and civil defendants. Your response stated that you would “work to ensure that the constitutional rights of defendants are protected.”
 - a. What affirmative steps will you take to improve access to justice?
 - b. How will you support the work of the Department of Justice Office for Access to Justice?

4. With respect to Question for the Record 4, you previously stated you are “generally familiar with the Cole memorandum” but declined to explain whether you would follow the Department of Justice’s established practice of focusing Controlled Substance Act enforcement to address the most significant threats. The Cole memorandum is available at <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.
 - a. Do you agree that the Department of Justice’s resources are best focused on “significant threats” and that individuals who use medical marijuana in accordance with state law do not present such a threat?

- b. Do you believe that prosecution of the seriously ill is a good use of the Department of Justice's limited resources?
5. With respect to Questions for the Record 6 and 7 regarding Alabama's use of the hitching post, you stated that the Complaint in *Hope v. Pelzer*, 536 U.S. 730 (2002) "was not filed until after [you] w[ere] elected to the Senate." Other lawsuits were also pending while you were Alabama Attorney General. See *Austin v. Hopper*, 15 F. Supp. 2d 1210 (1998) (relevant claims filed in September 1995); see also *Fountain v. Talley*, 104 F. Supp. 2d 1345 (M.D. Ala. 2000) (filed in 1994). Question for the Record 6 specifically refers to two letters from the Department of Justice that were sent to you on March 27, 1995, about two months into your two years of service as Alabama Attorney General, informing you of the Justice Department's findings that the use of the hitching post was "indefensible" and "violates constitutional standards" and that "[p]ractices of this sort cannot be justified no matter how many superficial safeguards exist." These letters are available at https://www.judiciary.senate.gov/download/hitching-post-report_-tutwiler and https://www.judiciary.senate.gov/download/hitching-post-report_-easterling. What, if any, actions did you take to stop the use of the hitching post when you were serving as Alabama Attorney General?
6. Question for the Record 8 cites several recent or pending federal investigations and lawsuits related to the treatment of prisoners in Alabama prison facilities and inquires as to your efforts to ensure Alabama's prison facilities comply with the Constitution. Your response cites your 2003 introduction of the Prison Rape Elimination Act.
 - a. As U.S. Attorney for the Southern District of Alabama and as Alabama Attorney General, what actions did you take to ensure that Alabama prison facilities complied with the Constitution?
 - b. During your time in the Senate since 2003, what have you done to address the continued mistreatment of prisoners?
7. With respect to Question for the Record 9(b), you stated that you "believe that fraudulent activities regularly occur during election cycles," and that "[t]here is no reason to believe that this election is any exception." You cited the 2005 report from the Carter-Baker Commission on Federal Election Reform. The report has been criticized as deeply flawed for its lack of transparent process, failure to consult with recognized experts, and minimal attempt to gather empirical data to support its conclusions.
 - a. Have you reviewed and considered criticisms of the Carter-Baker Commission report, such as those reported in the Brennan Center's report (available at <https://www.brennancenter.org/press-release/voting-rights-groups-respond-carter-baker-commission-report-election-reform>)?
 - b. What empirical evidence do you have to support your belief that voter fraud "regularly occur[s]"?
 - c. Do you believe that millions of individuals voted illegally in the 2016 U.S. presidential election?
8. Question for the Record 10 references a 2014 report in the *Washington Post* (available at <https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive->

[investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/?utm_term=.dc645a28fb6b](#)) finding that since 2000, there were only 31 credible allegations of voter impersonation, during a period in which there were 1 billion ballots cast. You previously responded, “Please see responses to 9(b) and (c),” but these responses do not address whether the expenditure of Department of Justice resources to combat in-person voter fraud is justified in light of this study. In light of the 2014 report by Justin Levitt, do you think it is justifiable for the Department of Justice to spend resources on combatting in-person voter fraud?

9. In your response to Question for the Record 11, you stated that the “government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote.” Recently, the Fifth Circuit, in an en banc decision, affirmed that a Texas Statute “violates Section 2 of the Voting Rights Act through its discriminatory effects” on minorities. *Veasey v. Abbott*, 830 F.3d 216, 272 (5th Cir. 2016). The Department of Justice was recently granted a 30-day continuance to allow additional time to brief the new leadership of the Department of Justice on this case and the issues to be addressed. Do you believe that the Department of Justice should continue to vigorously litigate this case, where there has been a direct violation of the Voting Rights Act?
10. In Response to Question for the Record 14, you stated that “[n]o person or groups of persons should be interned without a clear legal basis.”
 - a. Do you believe it would be possible to demonstrate a clear legal basis to intern U.S. citizens and/or residents?
 - b. If your answer is “yes,” please cite specific justifications and sources you would rely upon.
11. In response to Question for the Record 16, you stated that you “do not believe that a building or organization should be targeted for surveillance because it is a religious institution.”
 - a. Do you believe that a religious institution should be targeted because it is of a particular faith, *i.e.*, should a religious institution be targeted because it is a Muslim institution?
 - b. Will you commit to instructing the FBI that the agency should not surveil a house of worship unless there is probable cause of criminal activity?
12. In your response to Question for the Record 18, you stated that “President Trump has stated that he will comply with his obligations under the Foreign Emoluments Clause, and in fact, that he will take additional steps beyond what may be required under the Constitution.” However, the plan President Trump outlined on January 11, 2017 (to address his potential conflicts and violation of the Emoluments Clause) did not require President Trump to relinquish ownership of his business or to establish a blind trust. The plan also did not indicate that President Trump would seek the consent of Congress to keep the benefits he receives from foreign entities through his businesses. The Director of the Office of Government Ethics has stated that this plan breaks with the practice of past presidents.

- a. Based on these facts, has President Trump, in your view, complied with the requirements of the Emoluments Clause?
 - b. On January 23, 2017, Citizens for Responsibility and Ethics in Washington, supported by a bipartisan group of past presidential ethics lawyers and constitutional law scholars, filed a complaint against President Trump for violating the Emoluments Clause (available at <http://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2017/01/23222937/Complaint-17-458.pdf>). Will you recuse yourself from this matter, given your personal involvement in President Trump's campaign in which he repeatedly stated his views about what he did and did not have to do to avoid conflicts of interest?
13. In response to Question for the Record 20 regarding the Office of Legal Counsel (OLC):
- a. You agreed with prior Best Practices for OLC Legal Advice and Written Opinions (May 16, 2005 and July 16, 2010) that OLC should provide "candid, independent, and principled advice," but you did not comment on the second portion of the quoted statement in Question 20(a), that OLC should provide such candid, independent, and principled advice "even when that advice may be inconsistent with the desires of policymakers" including the President. It is your view that OLC should provide "candid, independent and principled advice—even when that advice may be inconsistent with the desires of policymakers" including the President?
 - b. You noted that an OLC opinion should be overturned "only after the most careful study and reflection," but Question 20(b) asked what standard should be met before an Attorney General or OLC opinion is overturned. What do you contend is the appropriate legal standard?
14. In response to Question for the Record 24 regarding the 14th Amendment's constitutional guarantee of birthright citizenship, you indicated that you "have not studied this issue in-depth" and would "enforce the law and the Constitution, and recognize that Congress may determine whether to enact changes to the law."
- a. Based on your review of the 14th Amendment, *United States v. Wong Kim Ark*, 169 U.S. 649 (1898) and its progeny, and U.S. law, do you believe a constitutional amendment would be required for the U.S. to stop recognizing children born in the U.S. to undocumented immigrants as U.S. citizens?
 - b. In an interview with Laura Ingraham in August 2015, you reportedly stated that it is "not an extreme position" to interpret the 14th Amendment such that a person born in the U.S. to parents who are undocumented is not entitled to U.S. citizenship at birth (available at <http://dailycaller.com/2015/08/19/jeff-sessions-backs-trump-on-birthright-citizenship-absolutely-not-an-extreme-position-video/>). Is that your position?
15. In response to Question for the Record 25 regarding Arizona's SB 1070 and Alabama's HB 56, you indicated that "[t]he constitutionality of state laws is evaluated on a case-by-

case basis” and that you “would defer to the Supreme Court’s reasoning as to which portions of these laws were found to be constitutional.”

- a. What is your understanding of the judicial rulings in *Arizona v. United States*, 132 S. Ct. 2492 (2012), *Hispanic Interest Coalition of Alabama v. Governor of Alabama*, 691 F.3d 1236 (11th Cir. 2012), and *United States v. Alabama*, 691 F.3d 1269 (11th Cir. 2012)?
 - b. Will you follow the law as set forth in these rulings?
16. In response to Question for the Record 29 regarding Justice Department instructions to the Bureau of Alcohol, Tobacco, Firearms and Explosives, you noted that if confirmed, you “will support the continued enforcement of federal gun laws, as appropriate, and focus on criminal offenders.” What factors will you consider when determining whether it is appropriate to enforce federal gun laws?
17. In response to Question for the Record 30 regarding the Justice Department’s support for the Youth Mentoring Program, you indicated that you were “not familiar with the specifics of the funding associated with this particular program,” and, if confirmed, you would “make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in the administration of justice.” What metrics will you use to evaluate Department of Justice programs, and what tools will you use to judge the effectiveness of these programs in aiding the administration of justice?
18. In response to Question for the Record 31, you indicated that, if confirmed, “working with and supporting State and local law enforcement” to build trust and partnerships with the communities they serve will be a top priority, but you did not indicate how you will do so. This question referenced the recommendations of the President’s Task Force on 21st Century Policing, which are available at https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf. Please identify any recommendations you will support to build trust and partnerships between law enforcement and the communities they serve.

Senator Dick Durbin
Written Questions for Attorney General Nominee Senator Jeff Sessions
January 17, 2017

For any questions with subparts, please respond to each subpart separately.

1. When we met in my office prior to your confirmation hearing, I talked with you about the epidemic of gun violence facing the City of Chicago.

In September, Mayor Emanuel put forward a public safety plan; I handed you a copy of it at our meeting. The plan calls for hiring nearly a thousand more Chicago police officers and detectives. It calls for more training and equipment, like body-worn cameras and gunshot detection technology. It calls for more mentoring programs for youth. And it calls for policing reforms to rebuild trust and cooperation between the police and the community.

All of these are areas where the Justice Department can help. The COPS grant program helps put local police departments put more cops on the beat. The Byrne-JAG program helps them buy equipment. The Office of Juvenile Justice and Delinquency Prevention provides mentoring and violence prevention funds. And the Justice Department was invited in by the mayor, the state Attorney General and me to review the Chicago Police Department's policies and practices.

I believe the Justice Department must sustain and increase its support for Chicago in light of the crisis there. On January 2, President-elect Trump tweeted that Mayor Emanuel should ask for federal help in light of the violence. I was surprised in our meeting when I asked if you would support programs like COPS and Byrne-JAG as Attorney General and you replied "well, I'm going to take what Congress gets me." I then asked if you would include those grant programs in Justice Department budget requests and you said, "well, I'll think about it. I've thought in the past the money is not best spent on COPS." Your comments troubled me, because cutting these programs is the last thing Chicago needs now.

Now that you have had further time to think about it, please answer the following questions:

- a. **Will you commit that, if you are confirmed as Attorney General, you will not seek to cut Justice Department grant funding for the City of Chicago and instead seek increases in that funding to help address the gun violence crisis there?**
- b. **Will you commit to provide federal resources and support to improve Chicago's public safety, including helping the City to (1) hire additional officers and detectives through the COPS program; (2) purchase body-worn cameras and other equipment through the Byrne-JAG program and other Office of Justice Programs initiatives; (3) boost mentoring and violence prevention programs through the Office of Juvenile Justice and Delinquency Prevention and other Office of Justice Programs initiatives; and (4) reform its policing practices pursuant to the investigation findings and recommendation made by the Department on January 13? Please respond to each subpart of this questions separately.**

- c. **Will you commit not to request cuts to the COPS Hiring Program below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**
 - d. **Will you commit not to request cuts to the Byrne-JAG program below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**
 - e. **Will you commit not to request cuts to the Office of Juvenile Justice and Delinquency Prevention below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**
2. On January 13, the Department of Justice announced the findings of an investigation into the Chicago Police Department (CPD) that had been initiated on December 7, 2015 by the Civil Rights Division and the U.S. Attorney's Office for the Northern District of Illinois. The investigation had been requested by a number of Illinois federal, state and local officials, including myself, Illinois Attorney General Lisa Madigan, and Chicago Mayor Rahm Emanuel, after the release of the videotape of the fatal police shooting of Laquan McDonald. The investigation lasted for 13 months and was conducted with thoroughness and professionalism by career Department employees.

The Department's findings reveal that the Department found reasonable cause to believe that the CPD has engaged in a pattern or practice of using force, including deadly force, in violation of the Constitution. The Department largely attributes this pattern or practice of unconstitutional force to deficiencies in CPD's training, supervision, accountability, and data collection systems. The findings also reveal that CPD's pattern or practice of unreasonable force falls disproportionately on predominantly minority neighborhoods, and that some CPD officers have engaged in racially discriminatory conduct. The findings are sobering, and they make clear that CPD must undergo significant reforms to restore the trust and confidence of the communities it polices and also to boost the morale of CPD officers who are committed to engaging in effective, ethical and active policing but who feel they are insufficiently trained and supported in that effort.

On January 13, the City of Chicago and the Justice Department signed an Agreement in Principle in which they commit to negotiate reforms over the coming months to ensure sustainable, constitutional and effective policing in Chicago. The Agreement states:

Going forward, the Parties commit to negotiate in good faith to reach a comprehensive settlement in the form of a consent decree to be entered as an order of the U.S. District Court for the Northern District of Illinois. The Settlement Agreement will include reforms of CPD's use of force practices and accountability mechanisms, as well as its training, community policing, supervision, data collection, transparency, officer wellness systems and promotion practices.

When I met with you prior to your confirmation hearing, I told you about this Justice Department investigation into the CPD and asked you about moving forward with a consent decree upon the issuance of the investigation's findings. You replied that you "don't know anything about" the investigation and that you "would have to study it." At your

confirmation hearing, you responded to a question by Senator Hirono by saying “[t]he consent decree itself is not necessarily a bad thing, could be a legitimate decision...I just think that caution is always required in these cases.”

It was the assessment of the career Justice Department professionals who conducted the CPD investigation that the CPD must undergo significant reforms to rebuild trust with the communities most challenged by violent crime and that “it is not likely to be successful in doing so without a consent decree with independent monitoring.”

- a. **Will you commit that, if you are confirmed, you will honor the Agreement in Principle that the Justice Department signed on January 13?**
 - b. **Will you commit that, if you are confirmed, you will work with the City to implement the reform recommendations made by the Department, including through the use of a consent decree?**
3. I sent a letter on December 13 to Attorney General Lynch inquiring whether there is an ongoing criminal investigation by career Justice Department employees into Russian interference in the 2016 U.S. presidential election. That night Attorney General Lynch stated in a television interview that an investigation is ongoing.

When you and I met prior to your confirmation hearing, I asked if you would continue this investigation if you were confirmed as Attorney General. You responded “If there’s a basis to continue it, yes. There may be. But Congress also has investigations ongoing.”

I was troubled by your answer. Congress does have a key role to play in investigating Russia’s actions and amplifying the Obama Administration’s sanctions on Russia. But only the Justice Department has the authority to prosecute the perpetrators. We need an Attorney General who will protect our democratic processes from foreign interference. And that Attorney General may also have to stand up to President-elect Trump, who inexplicably continues to embrace Russian President Vladimir Putin.

- a. **Have you read the unclassified or classified versions of the January 6 Intelligence Community Assessment “Assessing Russian Activities and Intentions in Recent US Elections”?**
- b. **Do you believe that this assessment provides the “basis” you said you needed for the Department of Justice to continue a criminal investigation into Russian interference in the 2016 U.S. presidential election?**
- c. **Will you commit that, if you are confirmed as Attorney General, you will not impede or shut down any FBI or Justice Department investigation into Russian efforts to influence the 2016 U.S. presidential election?**
- d. **Will you commit that, if you are confirmed as Attorney General, you will recuse yourself from any ongoing FBI or Justice Department investigation into Russian efforts to influence the 2016 U.S. presidential election?**
- e. **Will you commit that, if you are confirmed as Attorney General, you will recuse yourself from any investigation into whether President-elect Trump or any of his family, campaign staff, business associates or advisors had any communication with**

Russian officials or operatives during the 2016 U.S. presidential campaign, or had any connection to, knowledge of, or involvement in Russian efforts to influence the 2016 U.S. presidential election?

4. In 2008, Donald Trump Jr. said the following about the Trump Organization: “we see a lot of money pouring in from Russia.”
 - a. **Do you know how much of the Trump Organization’s assets or debts are held or owned by Russian individuals, businesses, and/or government officials?**
 - b. **Do you know how much money Russian individuals, businesses and/or government officials have paid to, invested in, or otherwise “pour[ed] in” the Trump Organization?**
 - c. **If you are confirmed as the chief law enforcement officer of the United States, how will you ensure that the actions of President-elect Trump and his administration are not influenced or impacted by the Trump Organization’s financial connections with Russian individuals, businesses, or government officials?**
 - d. **Do you believe the American people would benefit from full transparency of the Trump Organization’s assets, debts, and foreign entanglements?**
 - e. **Should such transparency include the public release of President-elect Trump’s tax returns for each year in which he has campaigned for or served in the office of President of the United States?**

5. On July 9, 1997, you expressed strong support for robust bipartisan Congressional investigations into whether China attempted to influence the 1996 presidential election. You said on the Senate floor:

We need a bipartisan effort, similar to those conducted in the past. We need the spirit of Howard Baker in the Watergate hearings who, as a Republican, made sure that he cooperated in that investigation and sought the truth. We need the spirit of Warren Rudman, Republican, who participate in the Irangate matters that were investigated here. He always sought to get to the truth regardless of politics.

- a. **Do you believe that we need to “get to the truth” about Russian interference in the 2016 U.S. presidential election, “regardless of politics”?**
- b. **If your answer to question 5(a) is yes, how do you believe we should get to this truth?**
- c. **If your answer to question 5(a) is no, how do you differentiate allegations of Chinese interference in the 1996 election from allegations of Russian interference in the 2016 election?**
- d. **If you are confirmed as Attorney General, will you support and assist Congressional investigations into Russian interference in the 2016 U.S. presidential election, including by providing information that Members of Congress – Democrats, Republicans and Independents alike - request as part of such investigations?**

6. During his confirmation hearing, Congressman Michael Pompeo, the nominee for the Director of the Central Intelligence Agency, was asked by Senate Select Committee on Intelligence (SSCI) Vice Chairman Mark Warner “[d]o you pledge to continue to pursue your own investigation into ongoing Russian active measures and any attempts they or others may have to undermine the United States, our political system, or our position in the world?” Congressman Pompeo answered “Senator, I do.”

Do you pledge to continue to pursue any ongoing investigation by the Justice Department into Russian interference in the 2016 election or any other attempts Russia may have made to undermine the United States, our political system, or our position in the world?

7. On September 28, 2016, Director James Comey of the Federal Bureau of Investigation testified before the House Judiciary Committee and was asked about the Department’s standard for commenting on whether an investigation is underway. Director Comey stated that “[o]ur standard is we do not confirm or deny the existence of investigations,” but he cited examples of “exceptional circumstances” that he said justified commenting on the existence of investigations, including “when there is a need for the public to be reassured” and “where the public needed transparency.”
- a. **Do you agree with Director Comey that Department of Justice officials are justified in commenting on the existence of investigations in exceptional circumstances, including “when there is a need for the public to be reassured” and “where the public need[s] transparency”?**
 - b. **Do you believe that the American people deserve to know whether the Department of Justice is fully investigating the extent of Russian interference in the 2016 U.S. presidential election?**
 - c. **Will you commit to promptly inform the American people about the outcome of the Department of Justice’s investigation of Russian interference in the 2016 U.S. presidential election?**
 - d. **Will you commit to promptly inform the American people if the Department of Justice closes, terminates, or declines to further pursue an investigation into Russian interference in the 2016 U.S. presidential election?**
8. During his confirmation hearing, General John Kelly, the nominee for Secretary of Homeland Security, was asked if he accepted the conclusions of the intelligence community regarding Russian interference in our election. He answered “yes, with high confidence.”

Do you agree with General Kelly’s answer?

9. The Foreign Emoluments Clause in Art. I, Section 9, Clause 8 of the Constitution states that “No Title of Nobility shall be granted by the United States; and no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”

The Foreign Emoluments Clause reflects a fundamental priority of the Founding Fathers as they designed our form of government. They were worried about foreign powers attempting to influence and corrupt the leadership of our nation, so the Constitution included safeguards against pressure from such powers, particularly the Foreign Emoluments Clause, which was adopted unanimously at the Constitutional Convention. As Delegate Edmund Randolph of the Continental Congress said during the ratification debates in Virginia, “[i]t was thought proper, in order to exclude corruption and foreign influence, to prohibit any one in office from receiving or holding any emoluments from foreign states.”

- a. **Do you believe that all current provisions of the Constitution must be followed and enforced, including the Foreign Emoluments Clause?**
 - b. **If you are confirmed as Attorney General, what steps will you take to ensure that the Foreign Emoluments Clause is followed and enforced?**
 - c. **President-elect Trump says that he is taking steps to avoid unconstitutional emoluments. But without seeing his federal tax returns and having full transparency of his and his family’s business holdings and debts, how can the American people be confident that all potential emoluments have been eliminated and will continue to be avoided throughout his Presidency?**
 - d. **President-elect Trump has said he will donate to the U.S. Treasury profits from foreign government payments made to his hotels. Do you believe that the subsequent donation of payments can cure a violation of the Foreign Emoluments Clause, which provides that no officeholder may “accept” such payment? If so, why?**
 - e. **If the Office of Legal Counsel is asked to assess the legality of any receipt of emoluments by President Trump, would you recuse yourself from reviewing or influencing the Office’s decision? If not, why not?**
 - f. **On what basis will you decide when to personally recuse yourself from involvement in a case, investigation or other matter involving the financial interests of President-elect Trump or his family?**
 - g. **If you recuse yourself from involvement in a case, investigation, or other matter involving the financial interests of President-elect Trump or his family, will you commit to having the matter handled by career Justice Department officials instead of political appointees? If not, why not?**
10. If we are serious about reducing the number of shootings in Chicago, we cannot ignore the pipeline of illicitly-trafficked guns from Indiana into Chicago. As Lake County Indiana Sheriff John Buncich said last year, hundreds of guns from Lake County show up in Chicago crimes every year, and “individuals are skirting federal law, especially at these gun shows...there’s a lot of illegal gun sales.”
- a. **Will you commit that, if you are confirmed, you will work with officials in Indiana on reforms that will reduce the illicit trafficking of guns from Indiana gun shows to the streets of Chicago?**
 - b. **Will you commit that, if you are confirmed, you will make it a priority of the Department of Justice to investigate and prosecute those who are selling guns that supply Chicago’s criminal gun market?**

c. If you are confirmed, what steps will you take to ensure that cases involving straw purchasing, gun trafficking, and dealing in firearms without a license are prosecuted? Will the Department of Justice's budget requests support additional resources, specifically for ATF, to enforce these laws?

11. Two critically important law enforcement tools for fighting violent crime are crime gun tracing and ballistics matching. Local police departments and sheriff's offices can use ATF's online eTrace tool to trace guns recovered in crime in order to generate leads in criminal investigations and to identify those who illegally traffic in guns. And ATF's National Integrated Ballistic Information Network (NIBIN) lets local law enforcement take digital computer images of ammunition casing evidence recovered at crime scenes and match them to particular guns. This helps law enforcement identify trigger-pullers and helps discover links between gun crimes.

I have made it a priority to encourage every local law enforcement agency in Illinois to trace all of their crime guns through eTrace and to use NIBIN for all recovered ammunition casings. I have reached out to hundreds of police chiefs and sheriffs in my state about these tools, and 476 Illinois law enforcement agencies now use eTrace and 260 use NIBIN. These tools help solve crimes.

If confirmed as Attorney General, would you take steps to urge all state and local law enforcement agencies to use eTrace and NIBIN for all guns and ammunition casings recovered in crimes?

12. You have repeatedly emphasized the importance of enforcing the gun laws on the books. FBI NICS background checks on prospective gun purchasers are one of the most important mechanisms we have to enforce the laws that prohibit felons, the mentally unstable, and other prohibited purchasers from obtaining guns.
- a. **Will you commit that, if you are confirmed, you will work to ensure that the records in the NICS background check system are as complete and up-to-date as possible?**
 - b. **Will you commit that, if you are confirmed, the Department of Justice will not submit budget requests that seek to reduce the amount of FBI resources and the number of FBI personnel dedicated to operating the NICS system below FY17 levels?**
 - c. **Will you commit that, if you are confirmed, the FBI will respect and enforce current federal and state laws regarding NICS background checks, including by assisting each state to conduct checks on gun sales in that state?**
 - d. **Will you commit that, if you are confirmed, the FBI will continue to run NICS background checks on private sales in any state when the private seller voluntarily goes to a federally-licensed dealer to conduct a background check on the buyer?**
13. On May 6, 1998, you spoke at length on the Senate floor about federal conflict of interest laws. You described the "fundamental principle that a man or woman can only serve one master, not two, and should not be holding public office with a clear conflict of interest."

You continued:

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to anything other than the government which he represents. That is what we are looking for. Somewhere in the Book of Ecclesiastes the preacher said “A bribe corrupts the mind.” A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master.

You also said in a press release that day that “Laws should apply equally to all people.”

- a. **Do you believe that President-elect Trump has rid himself of his conflicts of interest such that his “total fidelity” is now only to the government which he represents?**
- b. **How can the American people verify that President-elect Trump’s “total fidelity” is only to the government which he represents if he does not release his annual tax returns?**

14. In an interview on November 23, President-elect Trump said “the president can’t have a conflict of interest.

In your view, is this an accurate statement?

15. In your May 6, 1998 Senate floor speech on conflicts of interest you said “U.S. attorneys are prosecuting people who do these kinds of things with these kinds of conflicts. To pass a law to say everybody else has to adhere to them except for one individual because he or she is special is a big mistake.”

Do you think it is a “big mistake” to have federal criminal conflict of interest laws that do not apply to the President?

16. On January 5, *The Wall Street Journal* published a story entitled “Trump’s Debts are Widely Held on Wall Street, Creating New Potential Conflicts.” The story noted that President-elect Trump said in his financial disclosure form that his businesses owe at least \$315 million to ten companies. But *The Wall Street Journal* analyzed these debts and found that they had been securitized and are now held by more than 150 companies. Also, Mr. Trump did not list in his disclosure form his debts for partnerships that he does not fully control. *The Journal* was able to identify at least \$1.5 billion in such debts, including loans that Mr. Trump personally guaranteed.

The potential for conflicts of interest here is staggering. For example, as *The Journal* noted, “Deutsche Bank, which is under investigation by the U.S. Justice Department over its equity trades for wealthy clients in Russia, is the single biggest lender to properties controlled by Mr. Trump.”

In addition, *The Journal* found that “If the Trump businesses were to default on their debts, the giant financial institutions that serve as so-called special servicers of these loan pools would have the power to foreclose on some of Mr. Trump’s marquee properties or seek the tens of millions that Mr. Trump personally guaranteed on the loans.” One of the main servicers of Mr. Trump’s debt is Wells Fargo, which was recently penalized by the Consumer Financial Protection Bureau for creating sham consumer accounts.

As *The Journal* concluded, a broad array of financial institutions “now are in a potentially powerful position over the incoming president.”

- a. **Do you agree with this conclusion?**
- b. **What would be your plan, if you are confirmed, to ensure that President Trump and his family are not susceptible to pressure from the financial institutions that hold their and their businesses’ debt?**

17. There is an important program in the Justice Department’s Office of Justice Programs called the John R. Justice Program. Named after the late former president of the National District Attorneys Association, the John R. Justice Program provides student loan repayment assistance to state and local prosecutors and public defenders across the nation

Congress created this program in 2008 and modeled it after a student loan program that DOJ runs for its own attorneys. The John R. Justice program helps state and local prosecutors and defenders pay down their student loans in exchange for a three-year commitment to their job. This is a very effective recruitment and retention tool for prosecutor and defender offices. And since DOJ is giving hundreds of millions of dollars in grants each year to state and local law enforcement, which generates more arrests and more criminal cases, it is critical that we help prosecutor and defender offices keep experienced attorneys on staff to handle these cases.

The John R. Justice Program has helped thousands of prosecutors and defenders across the country. But for the program to remain successful, the Department of Justice must remain committed to funding this program and to carefully administering it.

Will you commit to keep this program operating during your tenure if you are confirmed?

18. You have said that marijuana should not be legalized and that “good people don’t smoke marijuana.”

Would you oppose the nomination of a person to a position in the Justice Department or a federal judgeship if you found out that the person had used marijuana in his or her life?

19. Although the population of Alabama is more than one quarter African American, there has never been an African-American judge from Alabama on the federal appeals court. Last February, President Obama sought to fill an 11th Circuit vacancy by nominating Abdul

Kallon, a highly-regarded African-American judge from Alabama whose district court nomination you supported in 2009. However, you did not submit your blue slip for Judge Kallon's nomination to the 11th Circuit, meaning this Committee could not move forward with a hearing.

- a. **Why did you not submit your blue slip?**
- b. **In your view, is Judge Kallon qualified to serve on the 11th Circuit?**

20. On January 23, 2009, you issued a press release announcing your opposition to President Obama's nomination of Timothy Geithner for Treasury Secretary. You said:

I have decided to vote against Mr. Geithner's nomination because his failure to properly pay his taxes on multiple occasions was, in my view, likely a deliberate attempt to avoid his tax obligations. Failure to pay taxes would disqualify any IRS agent from further employment, so it should also disqualify Mr. Geithner from being confirmed Secretary of the Treasury, a cabinet position that oversees the IRS and prosecutions for tax evasion.

You went on to say:

The American people have made clear that they want accountability and responsibility restored to Washington. Ignoring Mr. Geithner's failure to pay his taxes and elevating him to Secretary—where he will supervise agents and other officials who would be subject to termination for a similar breach of trust—is not a good way to meet the public's expectations.

Are you confident that President-elect Trump has properly paid all his taxes? Please explain the basis for your response.

- 21. **Will you commit that, if you are confirmed as Attorney General, you will work to enjoin state laws that restrict voting and registration in ways that disproportionately affect African-American or other minority voters?**
- 22. At your nomination hearing, you suggested that section 2 of the Voting Rights Act provides adequate remedies to problematic voting restrictions. However, consider the example of the North Carolina voting law, which the U.S. Court of Appeals for the Fourth Circuit held was based on discriminatory intent. While section 2 of the Voting Rights Act permitted the state's misconduct to be remedied through litigation, this only occurred after much of the law had been implemented in the 2014 election. Prior to *Shelby County*, this law would have been reviewed by DOJ through the preclearance mechanism and these unconstitutional voting restrictions would have been stopped before any harm was done.

In light of the time lag involved in section 2 enforcement, how can you suggest a Voting Rights Act without preclearance is adequate?

23. At your nomination hearing, you stated that the “Supreme Court decided that we should not have...preclearance.” However, in *Shelby County v. Holder*, the Supreme Court did not find that preclearance was unconstitutional, but that the formula for determining which jurisdictions are subject to preclearance is unconstitutional.

In 2015, I joined Senator Leahy and Senator Coons in introducing the Voting Rights Advancement Act (VRAA), in order to update the preclearance formula and restore the Voting Rights Act. The VRAA responds to many of the Court’s concerns about the original preclearance formula, which you also criticized during the 2006 reauthorization of the Act. For example, the VRAA includes a rolling preclearance coverage formula that applies to all states and hinges on a finding of repeated voting rights violations in the preceding 25 years.

- a. **Do you agree that the Supreme Court has not held that preclearance is unconstitutional?**
- b. **Without asking you to take a position on the specifics of the VRAA, would an updated coverage formula address your concerns about preclearance?**

24. In Wisconsin, a newly-implemented voter photo identification law led to challenges and confusion in the April primary. Consider the case of Eddie Lee Holloway, Jr. He moved from my home state of Illinois to Wisconsin in 2008 and was able to vote without any problems before the voter ID law went into effect. After the law was passed, Mr. Holloway went to a DMV in Milwaukee with an expired Illinois photo ID, his birth certificate, and his Social Security card to obtain a Wisconsin photo ID for voting. However, his application was rejected due to a clerical error on his birth certificate, which read “Eddie Junior Holloway.”

Mr. Holloway spent hundreds of dollars traveling to Illinois to try to fix this problem. In addition to the Milwaukee DMV, he visited the Vital Records System in Milwaukee, the Illinois Vital Records Division in Springfield, an Illinois DMV, and his high school in Decatur, Illinois—all in an attempt to obtain sufficient records for a Wisconsin voter ID. Despite all of these efforts, Mr. Holloway was unable to vote in the April primary.

Unfortunately, Mr. Holloway is not alone. Last year, a study based on data from the annual Cooperative Congressional Election Study found: “The patterns are stark. Where strict identification laws are instituted, racial and ethnic minority turnout significantly declines.” For example, among Latino voters, “turnout is 7.1 percentage points lower in general elections and 5.3 percentage points lower in primaries in strict ID states than it is in other states.”

What is your response to people like Mr. Holloway who have been prevented from exercising their fundamental right to vote due to burdensome voter ID laws?

25. In 2014, GAO released a study on the impact of voter ID laws, at the request of Senators Sanders, Leahy, Schumer, Nelson, and myself. The study found that in two states with strict voter ID laws—Kansas and Tennessee—the laws hurt turnout. The impact of the law was greatest among African-Americans, young people, and newly-registered voters.

Do the results of this study concern you?

26. At our meeting before your nomination hearing, you acknowledged that in your state, there was a “brutal, ruthless denial of the right to vote.” You went on to say that the Voting Rights Act “fixed it.” However, just two years ago, your state made national headlines for closing or reducing service at more than 30 DMV locations, shortly after Alabama enacted a law requiring voters to present a photo ID to vote.

The NAACP Legal Defense Fund wrote to state officials to “raise [their] grave concerns regarding the State’s intended closures” which occurred “predominantly in rural counties with large Black populations, high poverty rates, and little to no public transportation.” Congresswoman Terri Sewell called for a DOJ investigation into the closures, stating that the “closures will potentially disenfranchise Alabama’s poor, elderly, disabled, and black communities.” The federal Department of Transportation opened a civil rights investigation to examine the incident.

Did you disagree with Congresswoman Sewell’s conclusions on how the closures might impact Alabama voters?

27. You have been outspoken in your defense of religious freedom for Christians. For example, you denounced a 1997 court order that limited prayer in Alabama public schools, calling it “one more example of the effort by the courts to eliminate the natural expression of religious belief from public life.” A year later, you introduced a Senate resolution “affirming the right to display the Ten Commandments in public places, including government offices and courthouses.” You said “[w]e’ve got to end the hostility toward the display of the Ten Commandments in public places.”

You have been much more ambivalent about religious freedom for Muslims. You have referred to it as “a toxic ideology” and said of American Muslims “our nation has an unprecedented assimilation problem.” In response to President-elect Trump’s proposed ban on Muslim immigrants, you said, “I think it’s appropriate to begin to discuss this, and he has forced that discussion.”

President-elect Trump has gone further, saying “Islam hates us.” He has also said that there is “absolutely no choice” but to close some mosques and that he would consider creating a database of American Muslims. And, last July, he launched an offensive attack against Khizr and Ghazala Khan—the grieving parents of a fallen Muslim-American soldier.

At the same time, American Muslims are facing a surge in anti-Muslim hate crimes, according to the FBI and other experts.

- a. **Will you commit to vigorously enforcing civil rights laws to combat discrimination against American Muslims, including federal hate crimes laws?**
- b. **Do you believe it would be legally permissible to shut down mosques?**
- c. **Do you believe it would be legally permissible to create a database of American Muslims?**

- d. Do you think that President-elect Trump's comments on the Khan family were appropriate?
- e. Last year, President-elect Trump said American Muslims "know who the bad apples are, where the bad seeds are and they don't report them." But FBI Directors Mueller and Comey have both praised the Muslim community for cooperating with law enforcement and reporting suspected terrorists. Do you agree with the President-elect or Directors Mueller and Comey?

28. Last October marked the seven-year anniversary of the passage of one of the most important civil rights laws of our time, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009.

You vigorously opposed the law at the time of its passage, saying it was "unwarranted, possibly unconstitutional... and it violates the basic principle of equal justice under the law." You went on to say that the bill "has been said to cheapen the civil rights movement."

At your nomination hearing, Senator Leahy asked you about this law. You stated: "[T]he law has been passed. The Congress has spoken. You can be sure I will enforce it."

If you are confirmed to be Attorney General, what steps will you take to vigorously enforce the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009?

29. When the Senate considered the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, you expressed particular concern about a provision in the law that expanded federal hate crime protections to cover victims who are targeted based on their gender, gender identity, sexual orientation, or disability. You even suggested this provision was unnecessary because women and LGBT individuals do not face serious discrimination, saying: "today I am not sure women or people with different sexual orientations face that kind of discrimination. I just don't see it."

However, as the *New York Times* reported last year:

Even before the shooting rampage at a gay nightclub in Orlando, [Florida], lesbian, gay, bisexual and transgender people were already the most likely targets of hate crimes in America, according to an analysis of data collected by the Federal Bureau of Investigation.

According to the data, LGBT Americans are "twice as likely to be targeted as African-Americans, and the rate of hate crimes against them has surpassed that of crimes against Jews."

- a. At your nomination hearing, you stated that you "understand the demands for justice and fairness made by our LGBT community" and that you "will ensure that the statutes protecting their civil rights and their safety are fully enforced." Can you

elaborate on how you will ensure that the civil rights of gay, lesbian, bisexual, and transgender Americans are protected?

- b. My staff was unable to find any other instance of you using the term “LGBT” in public prior to your nomination hearing. Is this a term that you have ever used in public prior to your hearing?**

30. In a 2014 speech to the Anti-Defamation League, FBI Director Comey said:

Hate crimes are different from other crimes. They strike at the heart of one’s identity—they strike at our sense of self, our sense of belonging. The end result is loss—loss of trust, loss of dignity, and in the worst case, loss of life. Hate crimes impact not just individuals, but entire communities. When a family is attacked because of the color of their skin, it’s not just the family that feels violated, but every resident of that neighborhood. When a teenager is murdered because he is gay, the entire community feels a sense of helplessness and despair. And when innocent people are shot at random because of their religious beliefs—real or perceived—our nation is left at a loss.

Do you agree with Director Comey’s statement?

31. In 2012, I chaired a hearing of the Subcommittee on the Constitution, Civil Rights, and Human Rights that examined hate crimes and the threat of domestic extremism. After the hearing, at my request, the FBI began tracking hate crimes against Arab Americans, Hindu Americans, and Sikh Americans, among others. This is a positive step, but if state and local law enforcement agencies fail to report hate crimes, we cannot understand the full extent of the problem and what steps must be taken to address it.

In his speech to the Anti-Defamation League, Director Comey also highlighted this issue, noting:

We need to do a better job of tracking and reporting hate crime to fully understand what is happening in our communities and how to stop it. There are jurisdictions that fail to report hate crime statistics. Other jurisdictions claim there were no hate crimes in their community—a fact that would be welcome if true. We must continue to impress upon our state and local counterparts in every jurisdiction the need to track and report hate crime. It is not something we can ignore or sweep under the rug.

- a. Do you share Director Comey’s concerns about hate crimes being underreported?**
b. Will you commit that, if you are confirmed, you will take steps to ensure that the FBI and the Department of Justice work together to improve hate crime reporting by state and local law enforcement?
32. When I was Chairman of the Subcommittee on the Constitution, Civil Rights, and Human Rights, I held two hearings on the human rights, fiscal, and public safety consequences of solitary confinement. Anyone who heard the chilling testimony of Anthony Graves and

Damon Thibodeaux—exonerated inmates who each spent more than a decade in solitary confinement—knows that this is a critical human rights issue that we must address.

In light of the mounting evidence of the harmful—even dangerous—impacts of solitary confinement, states around the country have led the way in reassessing the practice. Progress has been made at the federal level as well. However, there are still nearly 10,000 federal inmates in segregation.

- a. **Do you believe that long-term solitary confinement can have a harmful impact on inmates?**
- b. **If you are confirmed, can you assure me that you will examine the evidence and work with BOP to make ensure that solitary confinement is not overused?**

33. In federal prosecutions, the majority of drug offenders are non-violent, have low criminal histories, and are not leaders or organizers. In 2015, 48.1 percent of drug offenders were in criminal history category I, and 12.9 percent were in criminal history category II. Indeed, 82.8 percent of all drug offenses did not involve the use of a weapon. Only 7.7 percent of all drug offenders had an aggravating role adjustment (were leaders, organizers, managers or supervisors). A 2016 Report by the United States Sentencing Commission found that the number of federal offenders whose most serious offense was simple drug possession increased nearly 400 percent during the six-year period between fiscal years 2008 and 2013.

I introduced Alton Mills to you as an example of one of these low level offenders. Alton Mills spent 22 years in federal prison, on a life sentence, until December 2015 when President Obama commuted his sentence.

If you are confirmed as Attorney General, will you prioritize the prosecution of high-level drug offenders over low-level offenders?

34. During your confirmation hearing, you said “We will prosecute those who repeatedly violate our borders. It will be my priority to confront these crimes vigorously, effectively and immediately.”

The bipartisan United States Sentencing Commission noted in its April 2015 report that illegal reentry cases are a significant portion of all federal cases in which offenders are sentenced under the United States Sentencing Guidelines, constituting 26 percent of all such cases in fiscal year 2013.

In April 2016, the chair of the Sentencing Commission noted that, “there are many low level offenders who return to the United States for reasons related to family or work as well as reasons relating to conditions in their home country.”

- a. **How you would seek to balance limited prosecutorial resources when considering illegal reentry cases versus national security cases and other non-immigration criminal cases?**

b. How would you use your discretion in choosing to prosecute particular illegal reentry cases? Would work or family ties in the U.S., or conditions in the foreign national's home country, impact your decision?

35. Under the Immigration and Nationality Act, the Attorney General's determination and ruling on all questions of law is controlling. During your confirmation hearing, I asked you how you would use your vast authority as Attorney General, including in your role overseeing the immigration courts. You will also oversee the Board of Immigration Appeals (BIA), the highest administrative body for interpreting and applying immigration laws, including our asylum laws which provide protection to vulnerable individuals seeking refuge from persecution. You will have the authority to unilaterally revoke decisions of the BIA or to reduce the BIA's membership from its current number of 17. You will have the authority to hire and fire immigration judges.
- a. Will you commit to not removing any currently serving immigration judges or BIA members, except for cause?
 - b. What is your plan to deal with the backlog of more than 500,000 pending cases in the immigration courts?
 - c. Will you commit to maintaining or increasing the current number of immigration judges and courts nationwide?
 - d. How do you plan to hire immigration judges in the future and what criteria would you use to disqualify applicants? Would you view as a negative factor prospective judges' membership in groups like the American Immigration Lawyers Association or the American Civil Liberties Union?
 - e. Do you believe a child can represent herself fairly in immigration court without access to counsel?
36. The goal of so-called "sanctuary cities" policies is to promote effective community policing by encouraging immigrant communities to trust local police.

Do you believe that existing law authorizes the Executive Branch to bar or limit federal funding to the estimated 364 counties and 39 cities nationwide that have policies limiting their police department's role in enforcing immigration laws or would this require Congress to change the law?

37. Regarding refugees, a joint statement by Michael Hayden, former director of the CIA and NSA, and James Stavridis, former NATO Supreme Allied Commander, said:

It's ironic, to say the least, that today some politicians are seeking to shut out refugees in the name of national security. The global refugee crisis is straining the resources and infrastructures of Lebanon, Jordan, and Turkey, which are hosting the vast majority of Syrian refugees.

By doing more to host and help refugees, the United States would safeguard the stability of these nations and thereby advance its own national security interests.

Moreover, hostility to refugees helps ISIS. Conversely, welcoming refugees regardless of their religion, nationality, or race exposes the falseness of terrorist propaganda and counters the warped vision of extremists.

Do you agree that limiting refugee resettlement could assist ISIS propaganda efforts?

38. A document titled, Immigration Handbook For The New Republican Majority: A Memo For Republican Members From Sen. Jeff Sessions, dated January 2015, is available via your Senate website.

Did any outside groups assist you or your staff in creating, editing, or reviewing this document, and if so, which groups?

39. In the Immigration Handbook For The New Republican Majority: A Memo For Republican Members From Sen. Jeff Sessions, you state:

The Congressional Research Service estimates that the foreign-born population could reach as high as 58 million within a decade based on recent trends. Only an adjustment in policy will change this trajectory—just as policy was changed early in the 20th century to allow labor markets to tighten.

There had been a great wave of immigration in the four decades leading up to the Coolidge Administration. This substantial increase in the labor pool had created a loose labor market that tilted the balance of power to large employers over everyday workers. Coolidge believed it was rational and sensible to swing the pendulum back towards the average wage-earning American.

The Immigration Act of 1924, to which you refer, limited the number of immigrants to the U.S. via a national origins quota based on the 1890 census. It excluded immigrants from Asia, and severely restricted new immigration from much of the world outside of Northwest Europe and Scandinavia.

Please explain why you cited the immigration restrictions enacted by the Coolidge Administration without mentioning their exclusionary nature?

40. According to the Department of Justice website, clemency applications are handled in the following manner: “After all relevant information has been received, OPA prepares a proposed recommendation for disposition of the case that is submitted to the Deputy Attorney General, who makes the final determination of the Justice Department’s recommendation to the President. The Deputy Attorney General’s signed recommendation is then transmitted to the White House, and the President acts on each case when he believes it is appropriate to do so.”

- a. Will you commit to keep the practice in place of the Deputy Attorney General making the final determination on a clemency application?
- b. Will you commit that you will not review or overturn the Deputy Attorney General's recommendation in any clemency case?

Questions for the Record
Senator Dianne Feinstein
Senator Jeff Sessions, Nominee to be U.S. Attorney General
Submitted January 17, 2017

1. News reports have indicated that President-Elect Trump's chosen National Security Advisor, Retired Army Gen. Michael Flynn, engaged in multiple communications with the Russian Ambassador Sergey Kislyak, on the same day that President Obama announced sanctions against Russia.
 - a. Have you communicated with President-Elect Trump about these communications to the Russian Ambassador? Have you spoken with anyone else on the transition team (including General Flynn) or President-Elect Trump's staff? If so, please specify who you communicated with, and when.*
 - b. If confirmed, you will be interacting frequently with General Flynn in his capacity as National Security Advisor. Will you recuse yourself from any FBI or Justice Department investigation into whether Flynn's communications were permissible under the law, including the Logan Act? If not, why not?*
2. At your hearing, Senator Coons asked whether you would support legislation to strengthen and uphold sanctions against Russia for the cyber-attack it organized that was designed to influence the American elections. You responded that "That is something that is appropriate for Congress and the Chief Executive to consider. In other words, how do you respond to what is believed to be a cyber attack from a major nation? It is difficult just to say, well, we are going to prosecute the head of the KGB or some group that has participated in it—no longer a KGB, of course. So in many ways, the political response, the international foreign policy response, may be the only recourse."

In fact, the federal criminal code contains numerous criminal statutes levying serious penalties that might be available in a case involving allegations of international hacking. In addition, the Department of Justice has used these to prosecute individuals in the past. In addition, the Department may be required to decide whether to bring criminal charges against any person who committed these hacks, aided and abetted these hacks, or conspired to commit these hacks.

- a. The Department has charged similar cases against state-sponsored individuals associated with the Iranian government, as well as members of the Chinese military. Will you commit that the Department will take any and all steps necessary to enforce federal statutes that were violated, and not just rely on political diplomacy?*
- b. Have you reviewed either the classified or unclassified assessments by the Intelligence Community regarding Russian activities and intentions in recent U.S. elections?*
- c. Do you agree with the Intelligence Community's assessments? If not, please specify those assessments with which you disagree.*

- d. *Given the extent of your involvement in President-Elect Trump's political campaign, will you recuse yourself from any decision regarding whether to bring federal criminal prosecutions in connection with Russian hacking of the election? If not, why not?*
 - e. *Please identify all persons with whom you have spoken who share your view that the U.S. response to Russian hacking should be limited to "the political response, the international foreign policy response."*
3. The Department of Justice Inspector General recently wrote to Congress indicating that the OIG would be reviewing a number of issues with respect to the Hillary Clinton email server investigation.

When asked during your oral testimony how you would handle any investigation involving Secretary Clinton or the Clinton Foundation, you stated, "I believe the proper thing for me to do would be to recuse myself from any questions involving those kind of investigations that involve Secretary Clinton and that were raised during the campaign or could be otherwise connected to it."

- a. *Does your commitment to recuse yourself extend to the recently-announced review by the Department of Justice's Office of the Inspector General into a number of issues with respect to the Hillary Clinton email server investigation? If not, why not?*
 - b. *If confirmed, who will handle any recommendations made by DOJ regarding any investigation involving Secretary Clinton or the Clinton Foundation? Who will handle recommendations by the Inspector General?*
 - c. *Senator Grassley posed the following question to Attorney General Lynch after her hearing, and I would pose the same question: "Given the clear language of the Inspector General Act, will you give me your commitment that, if confirmed, you will not stonewall the Inspector General or delay his work?"*
 - d. *Will you also give me your commitment that you will not allow any subordinate official at the Department to stonewall or delay the Inspector General's work?*
4. You testified at your hearing that the Supreme Court's decision in *Roe v. Wade* is "the law of the land. It has been so established and settled for quite a long time and it deserves respect. And I would respect it and follow it."
- a. *How will you "respect it and follow it"?*
 - b. *What is your understanding of the meaning of a case being "settled law"?*
 - c. *Do you commit that the Department of Justice will not file amicus briefs or in other ways try to alter case law on reproductive rights?*
5. You also testified at your hearing that the *Roe* decision "violated the Constitution and really attempted to set policy and not follow law."

- a. *If you believe a case is “the law of the land” and “settled for a long time” but you also believe the case “violated the Constitution,” how would that impact the conduct of the Justice Department under your leadership? Are there other Supreme Court cases you believe to be settled law, yet which you also believe violate the Constitution? If so – please list each and explain the constitutional provision that is violated.*
6. Senator Hirono asked you at your hearing whether you would “direct or advise your Solicitor General to weigh in before that Supreme Court which has an opportunity to overturn *Roe v. Wade*?” You responded that the decision is “firmly ensconced as the law of the land, and I do not know we would see a change in that.”

In that same answer, you told Senator Hirono that “cases seldom come up on such a clear issue. They come up at the margins” of the constitutional right to have an abortion as set forth in *Roe*.

 - a. *If confirmed, will the Justice Department under your leadership argue that Roe v. Wade and its progeny (e.g., Planned Parenthood v. Casey, Whole Woman’s Health v. Hellerstedt) should be overturned? Please answer yes or no.*
7. Violence at women’s health clinics remains a very serious issue. In the fall of 2015, for example, a Colorado man killed three people at a clinic. At your hearing, you testified that you will “enforce the laws that make clear that a person who wants to receive a lawful abortion cannot be blocked by protesters and disruption of a doctor’s practice...I am pro-life, as you know, but we have settled on some laws that are clearly effective, and as Attorney General, you can be sure we would follow them.” You also testified that medical professionals who provide abortions “deserve the same protection that any entity, business or otherwise or health care entity is entitled to...[Maybe] [e]ven more so, because we have a specific law about abortion clinics.” That law, of course, is the Freedom of Access to Clinic Entrances Act (FACE) of 1994.
8. Part of the Justice Department’s efforts to enforce FACE and protect women and providers from violence at women’s health clinics is the National Task Force on Violence Against Health Care Providers, which was established in 1998 by then-Attorney General Janet Reno and which is staffed through the Department’s Civil Rights Division. The Task Force includes DOJ attorneys as well as investigators from the FBI, ATF, and the U.S. Marshals Service.
 - a. *Will you ensure that the National Task Force on Violence Against Health Care Providers has adequate resources?*
 - b. *Will you ensure that the Department will continue to be active and engaged on issues related to patient and provider safety at women’s health clinics, including by bringing relevant cases under FACE and interacting with groups that represent providers and clinics?*
9. At the nomination hearing, I asked you about a provision of the Justice for Victims of Trafficking Act, which sets aside at least \$5 million and up to \$30 million of funding for

grants or programs for “the provision of health care or medical items or services to victims of trafficking.” (18 U.S.C. § 3014(h)(1)-(2))

I read the following from Senator Cornyn’s floor remarks explaining that these funds are subject to the Hyde Amendment and its important exceptions:

“[E]veryone knows the Hyde amendment language contains an exception for rape and the health of the mother. So under this act, these limitations on spending wouldn’t have anything to do with the services available to help those victims of human trafficking.”

You testified that you were “not aware of how the language for this grant program has been established,” but that you “would follow the law.”

Please review the provision and Senator Cornyn’s explanation above to answer the following question:

a. Will you commit that these grant funds will not be denied to service providers who assist victims of sex trafficking in obtaining the comprehensive health services they need, including an abortion?

10. In response to Senator Hatch’s question about the importance of religious freedom, you testified that “It would be a very high priority of mine.”

a. If confirmed, how would you ensure that enforcement of religious freedoms will not harm women’s access to healthcare, including contraception, or the rights of LGBT individuals?

b. Do you believe that a business open to the public has a right under the First Amendment to refuse to serve an individual because that individual is gay, or lesbian, or bisexual, or transgender?

11. The Office of Government Ethics (OGE) wrote a letter to Congress warning that President-Elect Trump’s nominees’ hearings are taking place even before OGE has completed its review of all of the nominees to ensure there are no ethical, financial or criminal concerns. The Director of OGE stated: “I am not aware of any occasion in the four decades since OGE was established when the Senate held a confirmation hearing before the nominee had completed the ethics review process.”

On May 6, 1998, you expressed similar concerns when discussed your experience as a former prosecutor and stressed the importance of adhering to ethics laws. You also stressed the role of OGE in preventing government corruption and analyzing whether waivers should be provided.

In this particular speech, you were speaking in opposition to legislation that would have allowed someone paid by the IRS employees’ union to participate on an IRS oversight board. You stated that such an arrangement flouted OGE advice, and was arguably criminal. You stated, in part:

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to anything other than the government which he represents.

Somewhere in the Book of Ecclesiastes the preacher said "A bribe corrupts the mind." A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master.

You can't serve two masters.

After making these comments, you then enumerated the conflicts of interest statutes in the criminal code. Those statutes are aimed at preventing officials with financial interests from making government decisions clouded by financial interests.

- a. *If you are confirmed—and President-Elect Trump's other nominees are confirmed—you will work together closely together in the President's Cabinet. If any of President-Elect Trump's nominees are confirmed prior to ethics clearance and a criminal conflict of interest is discovered, will you recuse yourself from the investigation?*
 - b. *If you do not recuse yourself, what steps will you take to ensure that the Department faithfully investigates and prosecutes, if appropriate, such violations?*
12. Last week, President-Elect Trump announced that he would retain ownership of his company while shifting assets into a trust managed by his sons; make "no new foreign deals"; subject any new domestic business deals to review by an ethics adviser whom he would appoint; give up his position as an officer at the Trump Organization; and limit communications with company executives to profits and loss statements.

The Director of OGE said that "stepping back from running his business is meaningless from a conflict of interest perspective." He also stated that "the plan does not comport with the tradition of our Presidents over the past 40 years. This isn't the way the Presidency has worked since Congress passed the Ethics in Government Act in 1978 in the immediate aftermath of the Watergate scandal."

- a. *President-Elect Trump has decided to maintain his financial interests in entities that are likely to be impacted by his Presidential decisions – such as decisions about laws to sign, executive actions to take, treaty negotiations, military decisions, and domestic policy decisions. Do you believe that if his financial interests are impacted by his decisions, this violates the anti-corruption principles that you identified in 1998? If yes, what are the proper steps for the Attorney General to take in such a situation? If not, why not? Please explain your answer in detail.*
- b. *You testified that you would be willing to say "no" to the President. Have you communicated with President-Elect Trump about his business interests and how to resolve any conflicts arising from those interests? If your answer is yes, please describe those communications. If your answer is no, do you plan to? Please explain your rationale.*

President-Elect Trump has claimed on many occasions that he cannot release his tax returns because of an ongoing audit by the Internal Revenue Service (“IRS”).

- a. *Do you believe the President-elect should release his tax returns when the IRS audit is complete? If not, why not?*
 - b. *If confirmed, as a general matter, what specific steps do you envision taking to ensure that any legal issues arising from President-Elect Trump’s business interests are handled in the same manner by the Department as any other American citizen?*
 - c. *You were extensively involved in President-Elect Trump’s political campaign. If the IRS determines that the President-Elect has potentially violated a criminal or civil tax law, and the case is referred to the Department of Justice, will you recuse yourself from any decisions that are made regarding possible criminal or civil actions? If not, why not?*
 - d. *If you do not recuse yourself, what steps will you take to ensure the Department of Justice thoroughly investigates any allegations and appropriately pursues any civil or criminal enforcement action that is within the Department’s jurisdiction?*
13. There is a clause of the Constitution that prohibits foreign government payments to federal officials. This clause is called the Emoluments Clause. It states:

“No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”

This Clause has become more and more important as President-Elect Trump’s dealings abroad and conversations with foreign leaders have become known.

According to longstanding Office of Legal Counsel (OLC) opinions, this clause was intended by the Framers to preserve the independence of officers of the United States from corruption and foreign influence. One of the relevant OLC opinions states: “Those who hold offices under the United States must give the government their unclouded judgment and their uncompromised loyalty.”

- a. *OLC opinions clearly establish that the President is covered by the Emoluments Clause. Will you assure the Committee that you will uphold this OLC precedent?*
- b. *Do you agree that cabinet officers are covered by the Clause?*
- c. *OLC opinions clearly establish that foreign state-owned or state-controlled businesses are “presumptively foreign states under the Emoluments Clause” – so that U.S. officials cannot receive emoluments from foreign state-owned businesses. Will you assure the Committee that OLC will not change its view during President-Elect Trump’s administration?*

d. What is the proper enforcement mechanism for an emoluments violation?

14. As Attorney General you will be charged with enforcing the Voting Rights Act. This obligation is all the more important after the Supreme Court's 2013 decision in *Shelby County, Alabama v. Holder*, which struck down a key component of the Voting Rights Act.

That same year, however, you spoke about voting rights issues and declared that "there's just huge areas of the South where there's no problem."

In 2013, the Department of Justice sued the State of Texas, alleging that its voter ID law violated the Voting Rights Act. And just last year, the *en banc* Fifth Circuit Court of Appeals agreed, holding that Texas' voter ID law violated the Voting Rights Act and "diminished African Americans' and Hispanics' ability to participate in the political process."

Also in 2013, the Department of Justice sued the State of North Carolina, alleging that a state law had been adopted with the purpose, and would have the result, of denying or abridging the right to vote on account of race, color, or membership in a language minority group, in violation of the Voting Rights Act. And just last year, the Fourth Circuit Court of Appeals found that a North Carolina law, including voter ID provisions, was enacted with discriminatory intent and "restricted voting and registration in five different ways, all of which disproportionately affected African Americans".

- a. If you are confirmed, will the Justice Department continue to investigate claims that voter ID laws have a disproportionate impact on minority voters, and bring charges if the evidence supports bringing such a case? Please answer yes or no. If yes, will the Department work to investigate those matters quickly?***
 - b. Texas has sought Supreme Court review of the Fifth Circuit's decision in Veasey v. Abbott, the Texas voter ID case. In October, the Justice Department filed a brief in opposition to Texas's petition for certiorari. If confirmed, do you plan to continue defending the position that the Justice Department has taken since 2013—that Texas's law violates the Voting Rights Act? If not, please explain.***
 - c. If confirmed, will the Justice Department change its position in any current voting rights case? If so, please identify all such cases.***
15. During the hearing, I asked you, "Do you believe that the government can, pursuant to a general authorization to use military force, indefinitely detain Americans in the United States without charge or trial?"

You answered: "Classically, the answer is yes. Classically, if you captured a German soldier, they could be held until the war ended. That was done, I'm sure, at the Civil War and most wars since."

I responded: "I'm talking about Americans."

You then stated:

“I hear you. So then the question is, we’re in a war like we have now that’s gone on multiple years and I would think the principle of law certainly would appear to be valid. But as reality dawns on us, and wars might be even longer, you know, it’s honest to discuss those issues.

“So I respect your willingness to think about that and what we should do, but in general I do believe – and Senator Graham has argued forcefully for many years – that we are in a war and when members who – unlike the Japanese who were never proven to be associated with a military regime like the Japanese government, these individuals would have to be proven to be connected to an enemy, a designated enemy of the United States.”

“So I am – I probably explained more than I should, but that’s basically the arguments and the issues we’re facing. I respect your concerns and I’m sure they will continue to be debated in the future.”

a. Do you believe that an American citizen or lawful permanent resident apprehended in the United States can, pursuant to an authorization to use military force, be indefinitely detained by the U.S. Government without charge or trial? I am not asking about detention pursuant to criminal or immigration proceedings, but specifically detention pursuant to an authorization to use military force. Yes or no, and please explain your answer.

The following discussion took place between you and Senator Graham:

Senator Graham. So as to how long an enemy combatant can be held, traditionally under the law of war, people are taken off the battlefield until the war is over or they are no longer a danger. Does that make sense to you?

Senator Sessions. It does make sense, and that is my understanding of the traditional law of war.

Senator Graham. ... When do you think this war will be over? Do you think we’ll know when it’s over?

Senator Sessions. I’ve asked a number of witnesses in armed services about that, and it’s pretty clear we’re talking about decades before we have a complete alteration of this spasm in the Middle East that just seems to have legs, and will continue for some time.

b. Is it your understanding that the law allows the U.S. Government to militarily detain American citizens or lawful permanent residents captured in the United States for decades pursuant to an authorization to use military force? Yes or no, and please explain your answer.

16. The Department of Justice currently is confronted with a clear conflict in federal and state law, and a determination of how to use federal enforcement resources in marijuana cases.

Currently, twenty-eight states and the District of Columbia have legalized medical or recreational marijuana, or both. This includes Colorado, Washington, and most recently, California. An additional 14 states have laws in place related to cannabidiol, a non-psychoactive component of marijuana, in place.

Federal law, as you know, prohibits numerous actions with respect to marijuana, including possession of marijuana with the intent to distribute it.

In December 2014, Congress passed an appropriations bill that contained the following provision:

None of the funds made available in this Act to the Department of Justice may be used, with respect to any of the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming, or with respect to the District of Columbia, Guam, or Puerto Rico, to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

Subsequently, the Ninth Circuit – in an opinion written by Judge Diarmuid O’Scannlain, and joined by Judges Carlos T. Bea and Barry G. Silverman – concluded that this language, “at a minimum, . . . prohibits DOJ from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws.” (*United States v. McIntosh*, Aug. 16, 2016)

- a. How do you intend to balance federal marijuana enforcement with other enforcement priorities, given the number of states that have legalized recreational or medical marijuana under their own laws?*
- b. If confirmed, do you plan to continue the policies contained in the “Cole Memo”, which set forth eight enforcement priorities for federal marijuana enforcement? If you do intend to change the Cole Memo, how do you intend to change it?*

17. The National Academy of Sciences just released a report entitled “The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research” (2017). According to the press release issued with the report, this report was “an in-depth and broad review of the most recent research to establish firmly what the science says and to highlight areas that still need further examination.”

The National Academy of Sciences also stated: “One of the therapeutic uses of cannabis and cannabinoids is to treat chronic pain in adults. The committee found evidence to support that patients who were treated with cannabis or cannabinoids were more likely to experience a significant reduction in pain symptoms. For adults with multiple sclerosis-related muscle spasms, there was substantial evidence that short-term use of certain “oral cannabinoids” – man-made, cannabinoid-based medications that are orally ingested – improved their reported

symptoms. Furthermore, in adults with chemotherapy-induced nausea and vomiting, there was conclusive evidence that certain oral cannabinoids were effective in preventing and treating those ailments.”

The National Academy of Sciences also stated: “Regarding the link between marijuana and cancer, the committee found evidence that suggests smoking cannabis does not increase the risk for cancers often associated with tobacco use – such as lung and head and neck cancers.”

However, the National Academy also stated: “Evidence suggests that cannabis use prior to driving increases the risk of being involved in a motor vehicle accident. Furthermore, evidence suggests that in states where cannabis use is legal, there is increased risk of unintentional cannabis overdose injuries among children.”

The National Academy also noted that there are numerous challenges and barriers to conducting research on the beneficial and harmful effects of cannabis and cannabinoid use.

During the last session of Congress, Senators Grassley, Leahy, Tillis and I introduced legislation to reduce barriers associated with researching marijuana. This legislation would expedite the Drug Enforcement Administration registration process to research marijuana, and allow doctors to use their existing registrations to conduct research and clinical trials on cannabidiol, rather than the Schedule I registration that is currently needed. It would also increase the scientific research base for marijuana by authorizing medical and osteopathic schools, as well as research universities and pharmaceutical companies, to conduct research using their own strains of marijuana and cannabidiol. The goal, if the science shows that marijuana or its components are indeed helpful in treating certain medical conditions, is to develop medicines that can be brought to the market with FDA-approval, just like any other medicine. I believe this is important legislation and plan to reintroduce it again this session.

- a. Given the number of states that have legalized recreational and medical marijuana under their own laws, wouldn't you agree it is important that we know as much as possible about the health-related and other impacts of marijuana usage?*
- b. What do you intend to do as Attorney General to advance our knowledge in that area? Are there specific regulations that you would ease related to marijuana research? If so, which ones?*

18. Senator Leahy asked you about the most recent FBI hate crimes statistics. The FBI's most recent annual hate crimes report found that in 2015, there were 5,818 single-bias incidents involving 7,121 victims. Of those victims, 17.7 percent were targeted because of their sexual orientation; and 1.7 percent because of their gender identity. We also know that these numbers are likely underreported.

- a. Senator Graham asked you “If a state is not prosecuting crimes against people based on their sex, their race, whatever reason, then it's proper for the federal government to come in and provide justice, don't you think?” You responded “I do.”*

Do you similarly agree that if a state is not prosecuting crimes against people based on their sexual orientation or gender identity, it is likewise proper for the federal government to “come in and provide justice,” in accordance with the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009?

- b. Do you believe it is inappropriate for the Justice Department to prosecute cases under the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009 if the state is prosecuting the same defendant based on the same factual scenario?*
 - c. Five states do not have any hate crimes laws—including South Carolina, where Dylann Roof was recently convicted and sentenced by a jury on federal hate crimes and firearms charges. Additionally, 14 states have hate crimes laws that do not include sexual orientation, and 28 states have hate crimes laws that do not include gender identity—but sexual orientation and gender identity are covered under the Shepard-Byrd Act. Under your leadership, if confirmed, what steps will the Department take to ensure hate crimes that occur in these states continue to be prosecuted?*
 - d. Can you assure the Committee hate crimes enforcement will remain vigilant? Yes or no. If your answer is yes, please detail the steps you will take to ensure that enforcement of such crimes across the country remains a priority. For example, in 2015, the Civil Rights Division – in conjunction with U.S. Attorneys Offices and the FBI – organized a series of regional hate crimes trainings in Mississippi, California, Oregon, Kansas and Florida. These meetings helped to train local and federal law enforcement in how to recognize, investigate, and prove hate crimes. They helped to educate communities and engage them in the process of ensuring public safety. And they helped to encourage better hate crime reporting and data collection. If the answer is no, please explain your rationale.*
 - e. Many other crimes—crimes involving the possession and distribution of illegal drugs, for example—are criminalized at both the state and federal level. Please provide to the Committee all other examples where you, as a Senator, sought evidence that states were doing an inadequate job prosecuting certain crimes before you voted to criminalize certain conduct at the federal level, or voted increase penalties for certain conduct at the federal level. If there are no other examples you can identify, please say so.*
19. The career civil service in our country is a fundamental part of the guarantee to all Americans that nobody will be targeted for investigation or prosecution based on political beliefs or favoritism. That means that protection for career Department of Justice attorneys is extremely important. During the Bush Administration, even the hiring of career Department attorneys, particularly in the Civil Rights Division, became politicized.

You did an interview on *American Family Radio* on November 7, 2016, the day before the election, and the radio host stated that, in her view, the Department of Justice was “being filled, packed, with left-wing attorneys.” She called Department attorneys “the left of the left,” and “a nightmare.”

She then asked you, “If Donald Trump is elected, what would happen to the Justice Department, do you think?”

You responded: “First, you are exactly right.” You then noted you had spoken with former Attorney General John Ashcroft about how, in your view, “If Hillary Clinton is elected, there will be four more years of filling every spot in the Department of Justice with these secular, progressive, liberals that are going to make the Department even less traditional and lawful in its policies, more of a political machine, and that is the wrong direction. But every other cabinet person, place will be the same—whether it’s EPA, whether it’s the Department of Commerce, the Department of Education, the Department of Health and Human Services—all of those Departments will be packed with also, now, for 12 consecutive years, with the secular left. It just—is. And this is another reason this election’s stakes are so high.”

- a. Please explain your comments on this radio program. What did you mean by your statements?*
- b. Will you assure this Committee that the Department of Justice will not make any hiring, promotion, transfer, termination, or evaluation determinations based on an individual’s political or religious beliefs?*

20. U.S. Attorneys are, as you know, selected with the advice of their home-state senators—and they are subject to an approval process for those senators known as a blue slip, which you yourself have used many times.

- a. How do you and the Administration intend to consult with home-state senators from both parties and ensure that politics is kept out of the U.S. Attorney appointments?*

21. In your Committee Questionnaire, you listed four civil rights cases on your list of top ten “most significant litigated matters which you personally handled.” I would like to better understand your role in these cases, and the extent to which you “personally handled” them.

For each of these four cases—*Davis v. Board of School Commissioners of Mobile County*, *United States v. Concanah County*, *United States v. Dallas County Commission*, and *United States v. Marengo County Commission*—please list the following:

- a. Every pleading or document filed with the court that you not only read, but also edited or otherwise substantially contributed to the arguments or positions developed therein.*
- b. Every hearing, oral argument or other court proceeding in which you directly participated.*
- c. Any other role you may have had in litigating or supervising other government attorneys who worked on these cases.*

22. At your hearing, you were asked about your vote against reauthorization of the Violence Against Women Act in 2013. The law included important expanded protections for vulnerable groups, including LGBT, Native American, and immigrant victims, in an effort to ensure that all victims of violence are protected.

You testified that you voted against the bill because of “some specific add-on revision in the bill that caused my concern.” You also testified that “[o]ne of the more concerning provisions was a provision that gave tribal courts jurisdiction to try persons who were not tribal members.”

- a. *Which provisions of the law do you mean to indicate were “add-ons”?*
 - b. *If the provision on tribal jurisdiction had not been part of the bill, would you have supported the bill’s protection from discrimination for LGBT victims? If not, why not?*
 - c. *If the provision on tribal jurisdiction had not been part of the bill, would you have supported the bill’s expanded protections for immigrant victims? If not, why not?*
 - d. *Now that the 2013 reauthorization of the Violence Against Women Act has been implemented for three years, including the provision on tribal jurisdiction, do you still oppose it? If so, why? And would you seek to challenge that provision of the law? Would you seek to challenge any other provisions of the law?*
 - e. *If confirmed, will you recommend that the Administration support reauthorization of the law as-is?*
23. A 2016 report from the American Association of University Women states: “At the rate of change between 1960 and 2015, women are expected to reach pay equity with men in 2059. But even that slow progress has stalled in recent years. If change continues at the slower rate seen since 2001, women will not reach pay equity with men until 2152.” (“The Simple Truth about the Gender Pay Gap,” Fall 2016)

In addition, the Bureau of Labor Statistics’ data from 2014 showed that women earned dramatically less than men in occupations from legal, to sales, to education, to technology, to healthcare.

- a. *Do you believe that there is a pay gap for women in which women are discriminated against and paid less for doing substantially similar or the same work even when factors such as education or experience are accounted for?*
24. Lilly Ledbetter had worked for Goodyear in Gadsden, Alabama for 19 years, mostly as a manager. During the years she worked at Goodyear, her pay “slipped in comparison to the pay of male area managers with equal or less seniority.” (Ginsburg dissent.) The problem Lilly Ledbetter had a problem, however, because she had no idea she was being discriminated against. By the time she found out, it had been going on for years.

In a 5-4 decision, the Supreme Court concluded her claims were barred. The Court ruled the deadline to bring a case started to run at the time the discrimination first occurred – not when she found out it happened. This decision meant employers could discriminate with impunity so long as they kept it hidden from their employees for 180 days.

Congress voted to overturn this decision in the Lilly Ledbetter Fair Pay Act of 2009. Four Republican women Senators voted for the law. At the hearing, you were asked about your

vote against the legislation. You testified, “We had a hearing on it in the Judiciary Committee. A number of witnesses testified, and the testimony, as I understood it, was that [Lilly Ledbetter] did in fact have notice, and the Court found that she had notice, and that is why they had that statute of limitations was enforced. You need a statute of limitations of some kind, and if they do not know, then you can allow it to continue indefinitely. But as I understood, that was the ruling. So it was less problematic for future cases than was discussed, but my recollection is not perfectly clear on that issue. That was one of the factors I remember being involved in my decision.”

- a. Now that you have had an opportunity to review the issue and the Supreme Court’s decision, please discuss the reasons you were opposed to the Lilly Ledbetter Fair Pay Act of 2009. Are you still opposed to the law?*
 - b. Please provide with specificity the basis of your statement at the hearing: “We had a hearing on it in the Judiciary Committee. A number of witnesses testified, and the testimony, as I understood it, was that [Lilly Ledbetter] did in fact have notice, and the Court found that she had notice, and that is why they had that statute of limitations was enforced.”*
25. Pursuant to 8 C.F.R. § 1003.1, the Attorney General has authority to certify cases of the Board of Immigration Appeals (BIA) to himself. Through this authority, the Attorney General can establish or reverse precedent in immigration law. According to the Congressional Research Service, in the past this authority has been used very rarely: it was used in just five cases by Attorney General Mukasey, and in just three cases by Attorney General Holder.
- a. Do you believe that, in line with established practice, this authority for the Attorney General to decide immigration appeals himself or herself must be used sparingly—leaving the adjudicative process to function as it usually does with decisions made by immigration judges and members of the board of immigration appeals?*
 - b. If confirmed as Attorney General, what criteria do you intend to consider in deciding which BIA cases you will seek to certify to yourself?*
26. The Department of Homeland Security (DHS) has acknowledged that its resources enable it to remove only a fraction of the undocumented population each year. You have also recognized that financial considerations do not make it possible to identify and remove everybody who is in the country illegally.
- a. Do you believe that young people who have qualified and received deferred action through the 2012 Deferred Action for Childhood Arrivals (DACA) program constitute high enforcement priorities?*
 - b. What about the parents of children who are U.S. citizens or legal permanent residents?*
 - c. Which types of individuals do you believe constitute high enforcement priorities?*

27. 8 U.S.C. § 1373 establishes certain guidelines regarding communication between state and local governments and federal immigration agencies with respect to an individual's citizenship or immigration status. In interpreting this statute, the Department of Justice's Bureau of Justice Assistance (BJA) has concluded that it "does not impose on states and localities the affirmative obligation to collect information from private individuals regarding their citizenship or immigration status, nor does it require that states and localities take specific actions upon obtaining such information."

a. Will you adhere to BJA's current interpretation of 8 U.S.C. § 1373?

b. If not, what is your interpretation of 8 U.S.C. § 1373? And what is your interpretation based on?

28. The principle of birthright citizenship, regardless of the citizenship or immigration status of an individual's parents, is enshrined in the Citizenship Clause of the 14th Amendment. That clause provides that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

The Supreme Court affirmed this principle almost 120 years ago in *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898), noting: "But citizenship by birth is established by the mere fact of birth under the circumstances defined in the Constitution. Every person born in the United States, and subject to the jurisdiction thereof, becomes at once a citizen of the United States, and needs no naturalization." And: "In the forefront both of the Fourteenth Amendment of the Constitution and of the Civil Rights Act of 1866, the fundamental principle of citizenship by birth within the dominion was reaffirmed in the most explicit and comprehensive terms."

a. Do you believe that a child born in the United States to undocumented parents is a citizen of the United States?

b. With respect to a child born in the United States, under what circumstances do you believe that Congress can modify the scope of birthright citizenship by statute?

c. If you are confirmed, will the Justice Department file briefs in support of efforts to alter the constitutional provision regarding birthright citizenship?

29. A number of states across the country, including California, have passed laws allowing undocumented students to qualify for in-state tuition. California's in-state tuition law has made it possible for undocumented students in the state to pursue higher education and develop the skills and knowledge to contribute more fully to their communities and our economy.

a. Do you believe that federal law prohibits states from providing access to in-state tuition for undocumented students?

b. Do you intend to take any action against states that provide in-state tuition for undocumented students? If so, what type of legal action do you intend to pursue against these states?

30. In *Plyler v. Doe*, 457 U.S. 202 (1982), the Supreme Court held that states cannot deny undocumented children free K-12 public education. In its opinion, the Court noted: “By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.”

a. Will you commit to upholding and enforcing Plyler v. Doe?

31. On a variety of occasions you have expressed strong concerns about Congress passing immigration reforms because you were worried about jobs being taken from American citizens. In 2013 you said, “Why would any member of Congress want to vote for a bill at a time of high unemployment, falling wages, to bring in a huge surge of new labor that can only hurt the poorest among us.” And on the Senate Floor on June 23, 2016, you went so far as to say that all jobs created in the country during the period between 2000 and 2014 “went to the foreign born.”

The *Washington Post*, as recently as Christmas 2016, reported that a Virginia vineyard owned by President-Elect Trump or his company had applied for six H-2A visas to work seasonal jobs. Additionally, as you know, President-Elect Trump’s companies have applied for a number of H-2B visas, mostly in his hotel businesses, including 20 waiters and waitresses for his Trump International Beach Resort in Florida, in December 2016 alone.

Further, the *Washington Post* reported that since 2013, President-Elect Trump’s businesses have requested 513 employment-based visas, with 269 of these visas for foreign workers set to begin employment after President-Elect Trump declared his candidacy for President.

a. If any of these companies, or individuals working with these companies, is believed to violate federal criminal law, how will the Department of Justice proceed to investigate or prosecute individuals from the President’s own companies?

b. You were extensively involved in President-Elect Trump’s political campaign. Will you recuse yourself from any decisions regarding the investigation or prosecution of President-Elect Trump’s own companies?

32. Throughout the campaign, President-Elect Trump accused U.S. District Court Judge Gonzalo Curiel of being biased based on Judge Curiel’s heritage. President-Elect Trump was quoted by the press as saying:

- “He’s a Mexican. We’re building a wall between here and Mexico.” (Politifact, June 8, 2016, quoting Jake Tapper interview with CNN)
- “I’m building a wall. It’s an inherent conflict of interest.” (Wall Street Journal, June 3, 2016)
- “It’s an absolute conflict” (Wall Street Journal, June 3, 2016)

- “He’s a member of a club, or society, very strongly pro-Mexican” (John Dickerson, Face the Nation, Interview, June 5, 2016)
- “I think the judge has been extremely hostile to me. I think it has to do with perhaps the fact that I’m very, very strong on the border. Very, very strong on the border. ... Now, he is Hispanic, I believe. He is a very hostile judge to me. I said it loud and clear.” (Fox News Sunday, February 27, 2016)

In addition, in an interview with John Dickerson on CBS News Mr. Trump was asked whether he believed a judge who is a Muslim would also be unfair to him. He said, “that would be possible, absolutely.”

- a. *Would it ever be appropriate for the Department of Justice to seek a judge’s recusal from a case involving the Trump administration based on the judge’s race, gender, ethnicity, family heritage or national origin, religion, sexual orientation, or gender identity? If so, please explain.*
 - b. *Through the Office of Legal Policy and otherwise, the Department historically has had a significant role in the judicial nominations process. Can you assure the Committee that the Department of Justice will not support any efforts by the President-Elect to reject candidates for judicial positions based on their race, gender, ethnicity, family heritage or national origin, religion, sexual orientation, or gender identity?*
33. After your initial submission of your Senate Judiciary Questionnaire (“Committee Questionnaire”) on December 9, 2016, you made three subsequent supplemental submissions to address missing materials. These additional submissions included over 50 hours of audio and visual material and hundreds of pages of documents. Your initial submission was, therefore, incomplete.

Additionally, the Committee never received the following requested material from your years as U.S. Attorney for the Southern District of Alabama or as Attorney General of Alabama:

Interviews: Radio, television, and print interviews while you were U.S. Attorney for the Southern District of Alabama and Attorney General of Alabama.

Nominees regularly produce materials documenting statements to the press regardless of whether a full transcript is available, or whether the statements were part of a formal interview. I identified examples of such materials to you in a list on January 5, 2017. In a letter to me on January 6, 2017, you responded that you were not sure if the materials were responsive because you could not confirm the exact circumstances under which you made the comments. However, nominees are generally expected to produce press statements whether they were part of a formal interview or not. The burden to establish exactly how the comments were made is not on the Committee.

For example, a 1996 Birmingham News article available in a public database but missing from your materials indicates you made comments during an interview about strengthening criminal laws. (Stan Bailey, *Sessions Says Crime Laws Need Change*, BIRMINGHAM NEWS, Dec. 18, 1996 (“I was most surprised at how much more difficult it is, it seems to be, to

prosecute fraud and corruption,' Sessions said in an interview Tuesday.'')) Another 1996 article missing from your materials but available in a public database indicates you made comments to the press regarding the National Rifle Association (NRA) at an event while you were campaigning for U.S. Senate. (Sean Reilly, *Sessions: NRA comments were a mistake*, MOBILE REGISTER, November 2, 1996 ("I don't agree with that comment,' Sessions said Friday of the NRA letter. 'It's not something that should have been said.'"))

Speeches: For the fourteen years you served as U.S. Attorney for the Southern District of Alabama and Attorney General of Alabama, you listed just three speeches, and you had notes or transcripts for just one of these. During this time, you campaigned for Alabama Attorney General and the U.S. Senate.

You served as the U.S. Attorney for the Southern District of Alabama for 12 years. An online search shows that the current U.S. Attorney for the Southern District of Alabama has made at least ten speeches in the last five years. You also served for two years as Alabama Attorney General. An online search shows that the current Attorney General of Alabama has made at least seven speeches in the last year alone.

- a. *What steps did you or your staff take to ensure that the materials you provided to the Committee in response to the Questionnaire were complete? Please specifically detail the efforts you or your staff made to identify and locate materials from your time as U.S. Attorney and Alabama Attorney General.*
 - b. *After your initial incomplete production, did you or your staff take any different or additional steps to gather a more complete set of materials? For example, did you or your staff attempt to identify and search newspaper archives of Alabama news publications that may be available in the state but not searchable nationwide? Did you or your staff ask the Alabama Attorney General to produce material in the state archive, or work with the state archives directly? Please detail your and your staff's efforts.*
34. During your hearing, you testified that "I've received hundreds – multiple hundreds of awards over my career." You have only listed 79 awards as part of your Committee Questionnaire.
- a. *What process did you use to determine which of the "multiple hundreds of awards" you have received would be listed on your Committee Questionnaire? Put another way: how did you decide which awards not to include on your Committee Questionnaire? Please outline what steps were taken to ensure a full inventory of your awards were provided.*
 - b. *Please provide the Committee with a list of any missing awards.*
35. Since 2009, funding for the Byrne Justice Assistance Grant (Byrne JAG) program and the COPS Hiring program have dropped by 32 percent and 37 percent, respectively. Byrne JAG is the cornerstone federal justice assistance program, providing hundreds of millions of dollars to state and local law enforcement each year. The COPS Hiring program provides

more than a hundred million in funding to hire new, or rehire, law enforcement or to increase community policing.

Police officers need this support. And cutting support for this funding – or allowing cuts to be made – would undermine the brave law enforcement officers that put their lives on the line for communities every day. The cuts since 2009 have had real impact.

a. Will you support increased funding for these essential programs?

b. In FY16, California received \$30.3 million from Byrne-JAG and \$11.725 million from the COPS program. Will you ensure funding for California law enforcement in these programs is not reduced, except as may be proportional to any overall reduction in the program by Congress?

36. I believe that the men and women who serve as state and local law enforcement officers are some of the finest and bravest public servants we have. The vast majority of police officers do exemplary work and build strong relationships with the community to keep the public safe. However, we also know that in many communities, trust between community members and state and local law enforcement is deeply frayed.

I recently convened a pair of meetings with more than 50 African American community, religious and political leaders, and law enforcement officers in San Francisco and Los Angeles. A key point that emerged was that change must take root from the bottom up, but the federal government – especially the Justice Department – has a role to play in recommending best practices and providing or supporting civilian oversight. In some cases, where the Department has found a pattern or practice of unconstitutional policing, the Department has entered consent decrees in order to ensure that needed reforms happen at an institutional level.

During your hearing, you told Senator Hirono that “there’s a concern that good police officers and good departments can be sued by the Department of Justice when you just have individuals within the department who have done wrong, and those individuals need to be prosecuted.”

a. Please list all investigations or proceedings under Section 14141 that the Civil Rights Division has undertaken since 1994 that you believe were undertaken erroneously and/or should not have been brought.

37. In addition to Section 14141 investigations, the Justice Department’s Office of Community Oriented Policing Services (COPS) provides, upon request, assistance to police departments to help develop long-term, holistic strategies to improve policing.

In my home city of San Francisco, the COPS unit has helped identify specific areas for the San Francisco Police Department to improve its own policies, particularly in the wake of several use-of-force incidents that sparked protests across the state. The program under which the COPS office assisted the SFPD is called the Collaborative Reform Initiative, and it is a program that has collaborated with police departments nationwide, including in Baltimore, Memphis, Philadelphia, and Salinas.

- a. Will you commit to continuing this type of technical assistance for police departments that request it?*

38. In May 2016, the Department of Justice filed an indictment against South Carolina Police Officer Michael Slager after he fatally shot Walter Scott, an African American man. Officer Slager was indicted both on federal criminal civil rights and obstruction charges.

On December 6, MSNBC's Mika Brzezinski asked Vice President-Elect Pence "Will the next administration support the feds continuing the case against Slager?" Vice President-Elect Pence replied, "Well, I think that'll be a decision that the Attorney General will review and make after January the 20th, and I'll let our designee and of course President-Elect [Trump] review that."

- a. Have you discussed this case with President-Elect Trump, Vice President-Elect Pence, or other members of the transition team? Please specify.*
- b. Do Vice President-Elect Pence or President-Elect Trump have any reason to believe that you plan to withdraw a previously-filed indictment in this case—or any other criminal or civil rights cases the Justice Department is currently prosecuting?*
- c. Do you believe it would be appropriate for President-Elect Trump to "review" any prosecutorial decisions you, or any other employees of the Department of Justice, make?*

39. When I was chairman of the Senate Intelligence Committee, the Committee approved a full report on detention and interrogation – more than 6,700 pages and 38,000 footnotes. This report was produced based on a fulsome staff review of mostly CIA documents describing the Central Intelligence Agency's detention and interrogation program. It includes extensive information about the Justice Department's role in authorizing this program, but also how the CIA repeatedly provided inaccurate information to the Justice Department about the operation of the program.

This report was approved by a bipartisan vote in the Intelligence Committee of 9-6.

After months of negotiations, the Executive Summary of this report was declassified with redactions. This summary runs 500 pages. The Committee sent copies of the full report to a number of relevant agencies, including the Department of Justice and FBI.

- a. Have you read the Executive Summary?*
- b. Will you commit to reading the full report if confirmed – and instructing appropriate officials to read the full report, to ensure that we do not repeat the mistakes of the past?*
- c. Will you commit that you will not return the Justice Department's copy of the report to the Senate?*

40. At your hearing, Senator Graham asked you whether you support the continuation of use of Guantanamo Bay as a confinement facility for foreign terrorists.

The U.S. has been detaining individuals without charge or trial at the Guantanamo Bay detention facility for the past 15 years. A total of 780 people have been held at the facility since it opened. Of this number, approximately 540 were released during the George W. Bush administration, and 183 during the Obama administration. Another nine died in custody, six by suspected suicide. A total of 55 remain.

During this time, only a very small number of cases were prosecuted in the military commissions, fifteen in total. Eight of these resulted in convictions, three of which have been fully overturned on appeal; several others were partially overturned. A number of other appeals are pending. Other cases are bogged down in pre-trial hearings. The case against the five men accused in the September 11, 2001 attacks is in its fourth year of pre-trial hearings and a trial date is still years away.

Meanwhile, the government has prosecuted more than 500 terrorism suspects in federal court, including Dzhokhar Tsarnaev, the Boston Marathon bomber; Faisal Shahzad, who tried to set off a car bomb in Times Square; and Umar Farouk Abdulmutallab, the so-called “underwear bomber,” all of whom were convicted.

You have made comments indicating that individuals captured by the U.S. abroad should not be prosecuted in federal court, but rather in military commissions in Guantanamo.

- a. Do you agree the Department of Justice has a record of success bringing terrorism-related criminal charges against hundreds of defendants since September 11, 2001?*
- b. As Attorney General, do you intend to stop prosecuting terrorist suspects in federal court? Do you intend to stop enforcing, for example, 18 U.S.C. § 2339B, which criminalizes the provision of material support or resources to a designated foreign terrorist organization?*

41. In the past, you have asserted that existing gun laws must be enforced aggressively. You have said when you were the U.S. Attorney in the Southern District of Alabama, you committed yourself to prosecute violations of “hundreds of gun laws.”

You went so far as to claim you sent a newsletter to local law enforcement to bring you cases involving gun violations. You stated, “I created a newsletter and sent it to every sheriff. I said: If you have the kind of criminal that needs prosecuting under Federal gun laws, you bring those cases to me and we will prosecute them.”

You also have the highest political rating from the National Rifle Association and consistently have voted against attempts to strengthen background checks and otherwise make federal gun laws stronger.

- a. Will you commit to fully enforcing existing gun laws, including by taking enforcement measures strongly opposed by gun rights groups?*
- b. There have been legal challenges to federal, state and local gun laws since the *Heller* and *McDonald* decisions in 2008 and 2010.*

If confirmed, under what circumstances would the Department of Justice decline to defend a federal firearms law against a legal challenge?

42. As you are aware, any person engaged in the business of dealing in firearms must conduct background checks on gun buyers. Courts have identified several factors to determine whether an individual is “engaged in the business” of buying and selling firearms; there is no specific threshold number of firearms purchased or sold that triggers the requirement. As ATF stated in its January 2, 2016 guidance document, “even a few firearms transactions, when combined with other evidence, can be sufficient to establish that a person is ‘engaged in the business’ of dealing in firearms.”

For example, in *United States v. Shan*, the Second Circuit found that the defendant was properly convicted of dealing in firearms without a license when he sold just two firearms in a month and acknowledged that he had a source for more guns. The Sixth Circuit has similarly noted, “[T]he statute does not establish a minimum threshold for the number of guns sold.”

As a result of decisions like these, the Justice Department has brought cases against individuals who illegally sold guns without a license, only later to have those guns found at deadly crime scenes. In St. Paul, for example, a man transferred a gun at least 9 times after buying guns online and then trying to sell those guns on the secondary market. Court records indicated that several of the guns that were sold were part of drug trafficking crimes, and other “shots-fired” incidents.

This case is but one example of individuals buying guns and then illegally selling them to individuals without background checks, and the guns then being found at crime scenes.

- a. Will you commit to investigating and prosecuting illegal gun dealers who are selling weapons without conducting a background check? If your answer is yes, please describe in detail your plan for doing so.***

43. In 2014, in *Abramski v. United States*, the Supreme Court held in a 5-4 decision that “a person who buys a gun on someone else’s behalf while falsely claiming that it is for himself” violates the law prohibiting material false statements on federal gun forms.

This decision is vital to the prosecution of so-called “straw purchasers” who buy guns on behalf of those, such as felons, who cannot pass a background check. The Department of Justice’s position in this case was that the buyer’s “knowingly false statement that he was the actual purchaser of the handgun” violated the law.

The National Rifle Association’s position was that this was “not a permissible construction” of the law.

- a. If you are confirmed, will the Justice Department prosecute those who lie on federal firearm sale forms by falsely claiming they are the actual purchasers?***
- b. Will you defend this law, including the Supreme Court’s Abramski decision, against a constitutional challenge?***

44. The ATF – the agency that investigates gun crimes – lacks sufficient resources to carry out its statutory responsibilities. You and other Republican colleagues have said that we should focus on fully enforcing existing gun laws before passing new ones.

However, since Fiscal Year 2011 (the first year Republicans were in charge of the House during the Obama Administration), Congress appropriated \$182.3 million over five years less than the agency said it needed, because of Republican opposition to greater funding.

Since Fiscal Year 2011, ATF has grown by a total of only 10 people or 0.2 percent (from 5,016 employees to 5,026 employees). Over the same period, the number of guns bought and sold in America skyrocketed. The FBI conducted 27 percent more background checks in 2014 than in 2011 (from 16.5 million to 21 million). In addition, I understand that 544 Special Agents (one-fifth of the total ATF Special Agent population) were eligible to retire last year.

The only way to truly enforce existing gun laws is to ensure agencies like ATF have the funding they need to do the job.

- a. *Would you agree that in order for gun laws to be fully enforced, we need ATF to be fully staffed and ATF investigators to be well-trained and well-equipped? Yes or no.*
- b. *Will you commit, if you are confirmed as the Attorney General, to make sure that the DOJ budget request reflects the resources necessary to ensure that ATF can fully execute the mission given to it by Congress?*

Supplemental Questions for the Record
Senator Dianne Feinstein
Senator Jeff Sessions, Nominee to be U.S. Attorney General
Submitted January 26, 2017

Recusals

1. Senator Leahy asked you whether you would recuse yourself from DOJ actions against or investigations of Donald Trump or his finances. You responded: "If merely being a supporter of the President's during the campaign warranted recusal from involvement in any matter involving him, then most typical presidential appointees would be unable to conduct their duties. I am not aware of a basis to recuse myself from such matters." I asked you a similar question, whether you would recuse from deciding whether to bring prosecutions in connection with Russian hacking of the election, and you responded, "I am not aware of a basis to recuse myself from such matters."

You were not merely "a supporter of the President's during the campaign." You were the first senator to expressly support him, almost one year ago. You appeared with him at multiple rallies. You spoke at the Republican National Convention. You were an active surrogate for Mr. Trump's campaign. The Washington Post has written that "After Sessions became one of the first members of Congress to endorse Trump this February, he became an adviser on almost every major decision and policy proposal Trump made during the campaign," including chairing his National Security Advisory Committee. It has also written that you assisted with the selection of Vice President Pence. The Trump campaign website states: "Senator Sessions has been one of Mr. Trump's most trusted policy advisers, assisting him in making selections." All of this goes far beyond what we are used to seeing from political appointees.

a. Please state for the record:

- (1) all Trump campaign events that you attended or participated in;**
- (2) all capacities in which you advised the President-elect during the campaign; and**
- (3) every specific decision made during the campaign on which you advised the President-elect.**

b. In light of your efforts as a campaign surrogate on the Trump campaign, will you reconsider your stated intention not to recuse yourself from matters before the Department involving Mr. Trump, his campaign, or connections to Russia?

c. Is there any scenario under which you would find it inappropriate to handle a matter before the Department involving Mr. Trump?

2. In your hearing before the Committee, you pledged to recuse yourself from involvement in “those kind of investigations that involve Secretary Clinton and that were raised during the campaign or could otherwise be connected to it.”

You were announced in March 2016 as the Chair of the Trump Campaign’s National Security Advisory Committee. In a later announcement from a month before the election, the Trump campaign stated the campaign’s “National Security Advisory Council” had already included you, General Mike Flynn, and others.

So far you have refused to commit to recusing yourself from involvement in any investigations related to the Russian influence on the 2016 U.S. elections to benefit President Trump. You testified that you *still* have not reviewed the Intelligence Community’s classified and unclassified assessments on these Russian activities and intentions. The media has reported that intelligence agencies are examining links between President Trump and his senior advisors and the Russian government. For example, reports state that the intelligence agencies are examining contacts between President Trump’s National Security Adviser Michael Flynn, who served with you on the campaign’s national security team, and Russian government officials.

I want to give you an opportunity to reconsider your answer on recusal, especially in light of the Washington Post’s editorial on January 24, 2017: “Mr. Sessions played a key role in the president’s campaign. At the least, Mr. Sessions would raise the appearance of a conflict if he made law enforcement decisions related to that campaign. He should commit to recusing himself now.”

- a. **Given the extent to which you were publicly identified with President Trump’s political campaign and national security advisory council, will you commit to recuse yourself from involvement in any investigations into ties between President Trump, his businesses, or his campaign aids and the Russians?**
- b. **Will you commit to recuse yourself from involvement in any investigations into Mr. Flynn’s ties to the Russians?**
- c. **Would you commit to recuse yourself from involvement in any investigations related to the Trump’s campaign’s contacts with the Russians?**
- d. **If not, please explain the difference between investigations involving candidate Hillary Clinton (for which you said you would recuse yourself), and investigations into the Trump campaign and candidate Donald Trump (for which you have said you are unaware of a basis to recuse)?**
- e. **If the Department ethics officials recommended that you recuse yourself from a matter involving President Trump, his businesses, or his associates, would you commit to follow their recommendation?**

- f. **Do you doubt that the Department of Justice's National Security Division and the Deputy Attorney General are adequately equipped to handle such an investigation without the involvement of the Attorney General?**
- g. **Your written testimony regarding what you would recuse from is substantially narrower than how you testified at your hearing.**

At the hearing, you said that you will recuse from "those kind of investigations that *involve* Secretary Clinton and that *were raised during the campaign or could otherwise be connected to it.*"

Your written response stated you would recuse "from any investigation of Secretary Clinton or the Clinton Foundation."

Do you stand by your original statement, or are you changing the answer you gave in your committee hearing?

- 3. 28 C.F.R. § 45.2 prohibits a DOJ employee from participating in a criminal investigation or prosecution if he has a personal or political relationship with any person or organization that is the subject of the investigation. Political relationship is defined in the regulation as meaning "a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof."
 - a. **You have a close political relationship with President Trump, as one of his major campaign surrogates. Do you believe 28 C.F.R. § 45.2 requires you to recuse yourself? If not, why not?**
 - b. **If not, in what scenario would a political relationship make it improper for an Attorney General to participate in an investigation?**
- 4. The DOJ has a general standard that an employee shall endeavor to avoid any actions creating the appearance that the employee is violating the Department's ethical standards, 5 C.F.R. § 2635.101(b)(14).
 - a. **Do you maintain that participating in an investigation into a person for whom and with whom you campaigned closely and on whose campaign you performed a leadership role does not create the appearance of violating DOJ ethical standards, or create the appearance of impropriety?**

5. In my questions for the record, I asked you if you had reviewed either the classified or unclassified assessments by the Intelligence Community regarding Russian activities and intentions during the recent U.S. elections. Your response, which I found surprising, was “I have not reviewed their assessments.”

- a. Did you receive specific directions or advice not to review these assessments?
- b. If you did receive such direction or advice, please tell us the sum and substance of that advice.
- c. If you did receive such direction or advice, please identify each person who gave you such advice or direction.
- d. If there is another reason you have not reviewed these assessments—which were widely reported on and, in my belief, represent a truly dangerous threat to our democracy—please discuss.

The unclassified assessment begins: “Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.”

The unclassified assessment continues: “We also assess Putin and the Russian Government aspired to help President-Elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

- e. Please review the rest of the unclassified assessment, and state whether you have done so.
- f. Please review the classified assessment, and state whether you have done so.
- g. Please state for each individual finding of the unclassified assessment whether you agree or disagree:

“Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.”

“We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia’s goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. We have high confidence in these judgments.”

“We also assess Putin and the Russian Government aspired to help President-elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

“We assess with high confidence that Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election, the consistent goals of which were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. When it appeared to Moscow that Secretary Clinton was likely to win the election, the Russian influence campaign then focused on undermining her expected presidency.”

h. Is there any assessment in the unclassified assessment with which you disagree? If so, please identify it.

6. I also asked you whether, as Attorney General, you would continue defending the position that the Department of Justice has taken since 2013 in a lawsuit the Department filed against the State of Texas—that the State’s voter ID law violates the Voting Rights Act. You responded that my question “implicated an ongoing legal matter” and therefore that it would be “inappropriate” for you to comment. Just after President Trump’s Inauguration on Friday, however, the Justice Department requested to postpone a hearing initially scheduled in the case for Tuesday “[b]ecause of the change in administration.”

a. Do you believe that the Justice Department’s requested delay in the Texas voter ID case leaves open the door for abandoning the position the Department has taken since 2013—that the Texas law violates the Voting Rights Act? If so, will you commit to continue defending the Department’s longstanding position if confirmed?

7. In my questions for the record, I asked you about the Justice Department’s duty to investigate voter ID laws and the disproportionate impact such laws have on minority voters. In response, you noted that “The Supreme Court held in *Crawford v. Marion County Election Board* that voter identification laws are neither per se unconstitutional, nor do they necessarily violate the Voting Rights Act.”

a. Where in the *Crawford* opinion do you identify a holding that Voter ID laws do not necessarily violate the Voting Rights Act?

b. Do you agree that no question under any section of the Voting Rights Act was presented to the Supreme Court or decided in *Crawford*?

c. Do you agree that no question of the legality of Voter ID laws under Section 2 of the Voting Rights Act was even litigated at any level in *Crawford*?

- d. **The Department of Justice that you have been nominated to lead has successfully challenged voter ID provisions such as the very restrictive voter ID law that Texas passed in 2013. Please detail the kinds of factors you would look at to determine whether a voter ID law runs afoul of the Voting Rights Act, and in determining whether an enforcement action is appropriate.**

Abortion and Punishment

8. Senator Blumenthal submitted to you a Question for the Record related to President Trump's comment during the campaign that women who have abortions should be punished. The President later tried to walk back his comment.

Senator Blumenthal asked you, "Do you think that women who have abortions should be punished?" You did not answer his question. You responded by pointing to how the Supreme Court has interpreted the Constitution.

In addition, Senator Blumenthal asked what you would do to ensure that women who have abortions are not prosecuted or criminally punished. You answered: "I will take no enforcement actions that are unauthorized by federal law. Individuals who seek abortions and abortion providers who comply with federal laws should not be subject to prosecution or criminal punishment."

- a. **Would you support a change in criminal law to punish women who have abortions? Please answer yes or no.**
- b. **Should women who receive abortions be punished by means outside of the criminal justice system? For example, under civil law? Please answer yes or no.**
9. A news article last week reported that President Trump's Transition Team was meeting with career staff at the White House about their intent to cut spending in the federal government, including by eliminating certain programs. (THE HILL, January 19, 2017) The Transition Team is reportedly relying on a document entitled *Blueprint for Balance: A Federal Budget for 2017*, published by the Heritage Foundation, to outline cuts to programs.

In the *Blueprint for Balance*, one of the recommendations is to eliminate grants provided under the Violence Against Women Act (VAWA) because "these services should be funded and implemented locally. Using federal agencies to fund the routine operations of domestic violence programs that state and local governments could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government."

VAWA was first passed in 1994 to address the need for a national response to develop and strengthen services for victims of domestic violence, dating violence, sexual assault and stalking. VAWA now provides grant resources to service providers working directly with

victims, many of them to help victims pursue justice under the law against their perpetrators. Elimination of these programs would return victims to a time when inadequate and irregular local services prevented many of them from living safely and rebuilding their lives.

At your hearing, you testified that while you did not vote for reauthorization in 2013, you have twice voted to support the Violence Against Women Act. You testified, “It is kind of frustrating to be accused of opposing VAWA, the Violence Against Women Act, when I have voted for it in the past.”

- a. **Do you agree with the Heritage *Blueprint for Balance*’s recommendation to eliminate VAWA grants? If not, why?**
 - b. **Do you agree with the Heritage *Blueprint for Balance*’s rationale for eliminating VAWA grants that using federal funding for domestic violence programs is a “misuse of federal resources and a distraction from concerns that are truly the province of the federal government”?**
 - c. **Given your support for VAWA prior to its 2013 reauthorization, if confirmed, what steps would you take to ensure that the President understands the importance of VAWA programs? What steps would you take to ensure that DOJ’s budget request reflected these programs?**
10. At your hearing, I asked you about your ownership interest in subsurface mineral rights in Alabama. These ownership interests were not listed on either your financial disclosure to the Judiciary Committee or on the forms the Committee received for your nomination from the Office of Government Ethics.
- I asked you whether you owned these interests. You testified, “I believe that is so.” Later in your testimony, you assured me that “It’s something I’m going to take affirmative action in...I want to adhere to high standards. We’re going to find out what we did or didn’t do and correct it.”
- a. **Have you indeed reviewed your financial filings with the Office of Government Ethics, Judiciary Committee, and Ethics Committee? If so, did you determine that disclosure of ownership of the subsurface mineral was missing?**
 - b. **What steps have you taken to update and correct these filings? Please also note if the Committee should expect to receive updated filings.**
 - c. **Please describe in detail your knowledge of these mineral rights and the land under which they are located.**

Supplemental Questions for the Record
Senator Dianne Feinstein
Senator Jeff Sessions, Nominee to be U.S. Attorney General
Submitted January 29, 2017

1. Significant concerns have been raised by both Democratic and Republican members of the Senate Judiciary Committee regarding President Trump's Executive Orders, and especially the Executive Order titled "Protecting the Nation from Foreign Terrorist Entry into the United States." One Republican Senator noted, for example, that this executive order "may do more to help terrorist recruitment than improve our security."

Did you read, review, provide legal analysis, or provide any other comments regarding the following Executive Orders before they were issued? If so, please describe in detail what role you played with regard to each Executive Order. Also, please provide copies of any documents reflecting your input regarding the content of the orders.

- a. Executive Order: "Enhancing Public Safety in the Interior of the United States," January 25, 2017, text available at <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>
 - b. Executive Order: "Border Security and Immigration Enforcement Improvements," January 25, 2017, text available at <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>
 - c. Executive Order: "Protecting the Nation From Foreign Terrorist Entry Into the United States," January 27, 2017, text available at <https://www.nvtimes.com/2017/01/27/us/politics/refugee-muslim-executive-order-trump.html>
2. According to press reports, the Executive Orders referenced in Question 1 were drafted primarily by your longtime aide Stephen Miller and by White House advisor Steve Bannon. Please describe in detail (including dates) any communications, correspondence, or discussions you had with Mr. Miller, Mr. Bannon, or any other White House official relating to each of the orders listed above.
 3. During the 2016 presidential campaign, did you participate in creating documents that resembled or served as the basis for the Executive Orders listed in Question 1? If so, please provide copies of those documents.
 4. The Office of Legal Counsel's (OLC's) website states that: "All executive orders and proclamations proposed to be issued by the President are reviewed by the Office of Legal Counsel for form and legality, as are various other matters that require the President's formal approval." However, the Justice Department has declined to comment officially as

to whether OLC reviewed the Executive Orders listed in Question 1.

- a. Did OLC review the orders before they were issued?
- b. If OLC reviewed the orders before they were issued, who specifically reviewed them?
- c. If not, what officials or attorneys within the executive branch reviewed the executive order to evaluate their form or legality?

5. Executive Order 11030 states in part:

Sec. 2. *Routing and approval of drafts*

- (a) *A proposed Executive Order or proclamation shall first be submitted...to the Director of the Office of Management and Budget...*
- (b) *If the Director of the Office of Management and Budget approves the proposed Executive Order or proclamation, he shall transmit it to the Attorney General for his consideration as to its form and legality.*
- (c) ***If the Attorney General approves the proposed Executive Order or proclamation,** he shall transmit it to the Director of the Office of the Federal Register, National Archives and Records Administration: Provided, that in cases of sufficient urgency the Attorney General may transmit it directly to the President; and provided further, that the authority vested in the Attorney General by this section may be delegated to him, in whole or in part, to the Deputy Attorney General, Solicitor General, or to such Assistant Attorney General as he may designate.*

And 28 C.F.R. § 0.25 states “The following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General, Office of Legal Counsel:

- (a) *Preparing the formal opinions of the Attorney General; rendering informal opinions and legal advice to the various agencies of the Government; and assisting the Attorney General in the performance of his functions as legal adviser to the President and as a member of, and legal adviser to, the Cabinet.*
- (b) ***Preparing and making necessary revisions of proposed Executive orders and proclamations, and advising as to their form and legality prior to their transmission to the President;** and performing like functions with respect to regulations and other similar matters which require the approval of the President or the Attorney General.”*

Based on these documents:

- a. What is your understanding of OLC’s role in reviewing and approving Executive Orders?

- b. Do you agree that OLC has, by law, been delegated the authority to review virtually all Executive Orders?
 - c. If President Trump issued an Executive Order without allowing OLC to review its form and legality, would the Department of Justice, under your leadership, continue to defend the legality of that Executive Order?
 - d. If President Trump attempted to circumvent OLC's role when issuing Executive Orders, how would you respond? Would you resign?
6. Before the Executive Orders listed above were issued, were they distributed to, or vetted by, the agencies that will be asked to interpret and enforce them?
 7. A news report¹ has stated that not only was the January 27 Executive Order not reviewed by the Office of Legal Counsel, but in fact, lawyers in other Departments who were concerned about the breadth of the Executive Order were overruled by non-lawyers at the White House:

"Friday night, DHS arrived at the legal interpretation that the executive order restrictions applying to seven countries -- Iran, Iraq, Libya, Somalia, Syria, Sudan and Yemen -- did not apply to people with lawful permanent residence, generally referred to as green card holders.

The White House overruled that guidance overnight, according to officials familiar with the rollout. That order came from the President's inner circle, led by Stephen Miller and Steve Bannon. Their decision held that, on a case by case basis, DHS could allow green card holders to enter the US."

- a. To the best of your knowledge, is this description of the process that led to the issuance of the January 27 Executive Order correct?
 - b. If you do not have personal knowledge of that process: Do you believe that such a process, if correctly described, is appropriate?
 - c. What is the legal basis for applying the Executive Order's restrictions to Lawful Permanent Residents ("green card holders") from the seven affected countries?
8. With respect to the January 27 Executive Order: Is there any legal justification for denying entry to Iraqis who risked their lives serving as translators for U.S. servicemembers?
 9. With respect to the January 27 Executive Order: Is there any legal justification for preventing lawful permanent residents of the United States from travelling home because they are nationals of Syria, Iraq, Iran, Sudan, Somalia, Libya or Yemen?
 10. With respect to the January 27 Executive Order: There have been reports that the Executive Order is being applied to dual citizens of the seven listed countries, many of whom are also citizens of the United States' closest allies. What is the legal basis for

¹ See: <http://www.cnn.com/2017/01/28/politics/donald-trump-travel-ban/>.

applying the Executive Order's restrictions to dual citizens?

11. Senators McCain and Graham stated on January 29, 2017 that they believed that President Trump's January 27 Executive Order "was not properly vetted." Do you agree or disagree with that statement?
12. You have been nominated to be the nation's chief law enforcement official. Senators McCain and Graham have expressed their concern that the Executive Order "may do more to help terrorist recruitment than improve our security." Do you agree or disagree with that statement?

Written Questions of Senator Jeff Flake

"Attorney General Nomination"

U.S. Senate Judiciary Committee

January 10-11, 2017

1. Historically, the federal False Claims Act has been used to pursue entities that commit serious fraud against the government. However, under President Obama, the Department of Justice for the first time used the Act to bring claims against lenders for technical violations of Federal Housing Administration (FHA) guidelines. In many cases, these actions were based on finding minor documentation or processing errors that did not cause loan defaults or otherwise impact loan quality or performance. Many lenders have been forced to settle these allegations for billions of dollars to mitigate reputational harm and legal costs. As a result of these risks, many lenders have scaled back or left the FHA program altogether, limiting access to credit for working families that rely on FHA for financing their first home.
 - a. Under your leadership, will the Justice Department only pursue False Claims Act cases in which the individual *knowingly* uses a false record or *knowingly* makes a false statement that is material to a false claim?
 - b. During your confirmation hearing, Senator Grassley asked that you regularly report to Congress on the status of False Claims Act cases.
 - i. Will you commit to reporting on outstanding False Claims Act cases?
 - ii. If so, will you identify in these reports to Congress which False Claims Act cases rely on a false-certification theory?

**Hearing before the Senate Committee on the Judiciary
 “Attorney General Nomination”
Questions for the Record Submitted by Senator Al Franken**

Questions for Senator Sessions:

Question 1. During my time in the Senate, one of the issues I’ve focused on is advancing equality for the lesbian, gay, bisexual, and transgender (LGBT) community. For me, that means making sure that our federal civil rights laws protect LGBT kids from discrimination and harassment in school. It means making clear that in this country, no one should be fired because they’re gay or transgender. And generally, it means making sure that LGBT people are treated with the same dignity and respect afforded to everyone else under the law. So I was heartened to see you acknowledge LGBT people in your hearing testimony, where you stated that you “understand the demands for justice and fairness made by the LGBT community.”

However, I have trouble reconciling that claim with your record on LGBT issues. You voted against prohibiting job discrimination against LGBT people. You voted against ending “Don’t Ask, Don’t Tell.” You argued that expanding our hate crimes law to protect LGBT people would “cheapen the civil rights movement.” And you described the Supreme Court decision granting same-sex couples the right to marry as “part of a continuing effort to secularize, by force and intimidation, a society that would not exist but for the faith which inspired people to sail across unknown waters.”

- Give your past record with regard to LGBT issues, how can you assure the LGBT community that you truly understand their demands for justice and, if confirmed, that you will work in their best interests?
- In your testimony, you stated that you “will ensure that the statutes protecting their rights and their safety are fully enforced.” Under Attorneys General Holder and Lynch, the Department’s work to protect and advance the rights of LGBT people was an integral part of DOJ’s civil rights enforcement. If confirmed, can Americans expect the same from you?

Question 2. For the majority of Americans, requiring that LGBT people are treated equally does not come at the expense of protecting other people's rights. Nor do most people believe that treating LGBT people equally is incompatible with respecting the religion of people who don't necessarily share our beliefs. However, you are a supporter of the deceptively named First Amendment Defense Act (FADA), a bill that would allow people and some institutions, even those that receive taxpayer dollars, to ignore laws that require them to recognize marriage equality if doing so is contrary to their religious beliefs. If enacted, this bill would prevent the federal government from enforcing laws and regulations that require federal benefits for same-sex spouses, and that prevent commercial landlords and even homeless shelters from turning away married same-sex couples, among other laws.

Some have argued that FADA is necessary to protect pastors, ministers, and churches who fear that they'll be forced to marry gay and lesbian couples. But the First Amendment already prevents clergy or churches from being forced to marry a couple if doing so is contrary to their beliefs. It always has. The Supreme Court's decision in *Obergefell v. Hodges*, which recognized that same-sex couples have the right to marry in all 50 states, did not change that.

- Why do you believe that a bill like FADA is necessary? And how do you reconcile your support for FADA, which would sanction discrimination against lawfully married gay and lesbian couples, with your claim to "understand the demands for justice and fairness made by the LGBT community?"

Question 3. You strongly opposed the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, which extended federal hate crimes protections to victims who were targeted on the basis of their sexual orientation or gender identity. Such crimes have an especially pernicious impact on members of the LGBT community. As FBI Director Comey explained, “[h]ate crimes are different from other crimes. They strike at the heart of one’s identity. They strike at our sense of self, our sense of belonging. The end result is loss: loss of trust, loss of dignity and, in the worst case, loss of life.”

In November, the FBI released its annual report on hate crime statistics, which relies upon data gathered and reported by state and local law enforcement agencies. According to the report, 7,121 people were victims of hate crimes in 2015. Of those 7,121 victims, 17.7 percent were targeted because of their sexual orientation and 1.7 percent were targeted because of their gender identity. However, during a 2009 hearing on the bill that extended protections to the LGBT community, you stated that “I’m not sure women or people with different sexual orientations face that kind of discrimination. I just don’t see it.”

- In light of the data gathered by the FBI, do you still hold the view that LGBT people do not experience that kind of discrimination? If so, why?

Although the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act enables the Department to prosecute crimes motivated by the victim’s actual or perceived sexual orientation or gender identity, and to provide assistance to state and local authorities in the investigation and prosecution of hate crimes, federal law does not require state or local law enforcement to report such incidents. As a result, Director Comey acknowledged, “[t]here are jurisdictions that fail to report hate crime statistics. Other jurisdictions claim there were no hate crimes in their community, a fact that would be welcome if true.”

- In recognition of this fact, the FBI has worked with advocacy and law enforcement organizations to improve the investigation of hate crimes and to develop a standard for collecting, analyzing, and reporting hate crime incidents. Do you agree that underreporting of hate crime incidents by state and local law enforcement remains an obstacle to combatting hate crimes? If not, why?
- What steps will you take to encourage greater participation in hate crimes reporting by state and local law enforcement agencies?

Question 4. A number of organizations and individuals have voiced support for your nomination or submitted letters praising your suitability for the post. On the day your nomination was announced, the antiabortion group Operation Rescue issued a press release in which its president, Troy Newman wrote quote, “[w]e could not be happier about the selection of Sen. Jeff Sessions as the next Attorney General. I have worked on projects with Sen. Sessions in the past and know him to be an experienced prosecutor and principled pro-life advocate with a reputation for honesty.”

- What projects did you work on with Mr. Newman? Please list each project separately and describe your level of involvement in each.

The title of the above Operation Rescue press release is “We Stand Ready to Assist Attorney General-Designate Sessions in Prosecuting Planned Parenthood.” In the release, Mr. Newman said “a new sheriff is coming to town” and that Planned Parenthood would no longer be protected.

- Have you made a commitment to Mr. Newman or to Operation Rescue to prosecute Planned Parenthood? If so, please describe any discussions you have had with Mr. Newman or his associates regarding the prosecution of Planned Parenthood or other reproductive health providers.

In 1994, Congress passed the Freedom of Access to Clinic Entrances (FACE) Act. FACE prohibits threatening or intimidating women seeking reproductive health services and the doctors who provide them. It prohibits physically interfering with or injuring patients and clinicians. It prohibits damaging clinic property. And the Department of Justice enforces the FACE Act.

- It is critically important, especially in light of your support from radical elements within the antiabortion movement, that patients and women’s health providers not doubt the Department’s willingness to enforce the law and guard against threats. How can you reassure abortion providers and women seeking health care services that you will strictly enforce the FACE Act, if confirmed?

Question 5. In September 2015, the Department of Justice released policy guidance on the use of cell-site simulators—portable surveillance devices that collect cell phone identification and location information by mimicking cellphone towers. The guidance was released after I wrote to the Department raising concerns about the use of these systems.

Cell-site simulators, known as International Mobile Subscriber Identity Catcher devices (IMSI-catchers), “DRTBoxes,” “dirtboxes,” or “Stingrays,” have the ability to compel affected mobile phones to reveal their location and users’ registration information. Recent complaints filed with the FCC have also alleged that cell-site simulators can disrupt cellular service and may interfere with calls for emergency assistance. As such, I believe that the devices must be used with great care and only in limited circumstances. In my view, the need for law enforcement to monitor and apprehend criminal suspects should not come at the expense of innocent Americans’ privacy. In order to ensure that the Department uses cell-site simulators in a manner that is consistent with the Constitution, the Department’s 2015 guidance provides that law enforcement agencies must first obtain a search warrant supported by probable cause before deploying cell-site simulators. However, this guidance could be repealed at any time.

- The 2015 policy provides a critical protection for Americans’ privacy. If you are confirmed, will you continue to require a warrant before authorizing the use of cell-site simulators? If not, why?
- The 2015 guidance also sets forth practices concerning the collection and retention of data. If confirmed, will you commit to keeping the guidance’s data retention and transparency provisions in place? If not, why?
- If confirmed, will you commit to preventing the Department from using cell-site simulators to surveil individuals participating in First Amendment-protected activities, such as attending political protests or religious ceremonies? If not, why?

Question 6. As the ranking member of the Subcommittee on Privacy, Technology and the Law, I have watched the proliferation of body-worn cameras with cautious optimism. Body cameras have the potential to help build trust between law enforcement and the community, and reduce uncertainty in the courtroom. At the same time, body cameras collect incredibly sensitive information, and it is essential that law enforcement agencies develop privacy and data protection policies to address how data captured by body cameras is collected and used. In September 2015, the Department of Justice awarded more than \$23 million in grants to local and tribal law enforcement agencies to expand the use of body-worn cameras. The grants support the purchase of cameras, training and technical assistance, and efforts to catalog and examine the impact of their use. The Department also created a body-worn camera toolkit, which includes model policies that grantee agencies may reference in setting up their own programs. Under the current program, grantees are required to develop and articulate policies on privacy and data retention, but the Department does not require that grantee policies meet any one standard.

In my view, it's essential that the public and law enforcement have a clear understanding of how the sensitive information captured by body cameras is handled. So long as the Department of Justice is supporting the purchase of body-worn cameras by state and local law enforcement agencies, I think it's important that DOJ make sure departments who purchase body cameras with federal funds have a meaningful policy in place guiding their use, including a privacy policy.

- If confirmed, will you commit to working with me to ensure that grantees develop strong policies to protect the integrity of the data and the privacy of both police and the public? If not, why?

Question 7. Senator Hatch asked you about the Religious Land Use and Institutionalized Persons Act (RLUIPA), which is enforced by the Department of Justice's Civil Rights Division. You told Senator Hatch that "religious freedom is a great heritage of America. We respect people's religion.... It's mandated in the Constitution."

- In a 2016 report on the Department's RLUIPA work, the Department noted that the number of RLUIPA investigations involving mosques or Islamic schools had risen dramatically from 2000 to 2006. In December 2016, for example, the Department filed a lawsuit against Culpeper County, Virginia, alleging that the county violated RLUIPA when it denied a sewage permit application to the Islamic Center of Culpeper (ICC), effectively preventing the ICC from building a mosque. The complaint alleges that since 1992, the county had considered 26 applications and never denied the permit for a commercial or religious use prior to ICC's application. Do you agree that enforcement of RLUIPA—on behalf of all religious faiths—is critically important?
- Will you commit to defending the rights of Muslim Americans—as strenuously as those of any other faith—to be free from unduly burdensome, unreasonable or discriminatory zoning, landmarking, and other land use regulations?
- The 2016 report by the Department also contained this finding: "Another troubling statistic that emerges from the last five-and-a-half years reinforces the conclusion that there is particularly severe discrimination faced by Muslims in land use: While 84% of non-Muslim investigations opened by the Department resulted in a positive resolution without the United States or private parties filing suit, in mosque and Islamic school cases, only 20% have resulted in a positive resolution without the filing of a RLUIPA suit." Will you commit that the Department will maintain the same resources for its RLUIPA work, including work on behalf of Muslim Americans?
- You are reported as having said, that the true threat confronting the United States is "the toxic ideology of Islam." How can you assure an asylum applicant claiming persecution based on their Islamic faith will receive a fair hearing in the immigration courts, if you are confirmed?

Question 8. I am concerned about further consolidation in the media and telecommunications markets because it often leads to higher prices, fewer choices, and even worse service for consumers. Furthermore, when you have a small group controlling what Americans can watch, the risk of private censorship over political content grows.

In a speech in October, President-elect Trump announced his opposition to AT&T's proposed acquisition of Time Warner, saying that his administration would not approve the deal. He also stated that his administration would revisit Comcast's acquisition of NBCUniversal, suggesting that it never should have been approved in the first place.

- At a time when a typical American household spends on average about \$2,700 annually on telephone, video, and broadband services, do you agree with the president-elect that consolidation in the media and telecommunications industries is a problem?
- Should you be confirmed as attorney general, how will an Antitrust Division under your supervision evaluate AT&T's proposed acquisition of Time Warner? Will it revisit Comcast's acquisition of NBCUniversal?

Question 9: In December, President-elect Trump met with Masayoshi Son, chief executive of Softbank, which owns Sprint. Mr. Son has allegedly long sought for his company to acquire T-Mobile, which would collapse the U.S. wireless market from four major nationwide carriers to three. Following the meeting, Mr. Son reportedly committed to investing \$50 billion in the United States and creating 50,000 new jobs. What Mr. Son will receive in return for these investments is unclear.

- Have you discussed the meeting between Mr. Son and the president-elect with Mr. Trump? If so, what promises were made to Mr. Son in exchange for his commitments to invest in the United States?
- What role will an Antitrust Division under your supervision play in the new administration? Should companies seeking regulatory approval of their mergers and acquisitions plan to communicate with the president-elect directly prior to – or during – the Department of Justice review process? How will you ensure an impartial review?

Question 10: I am increasingly concerned about internet companies that can use their positions as dominant media platforms to stifle competition and inhibit the free flow of information. In recent years, we've heard allegations of online intermediaries leveraging their market dominance to the detriment of content creators and innovative startups. For example, Google has given preference to its own products and services in search results while downgrading competitors' products and services. I've also heard from photographers in my home state that Google is taking original content from photographers' distributors' websites without appropriate compensation or attribution. Apple is preventing its competitors in the music streaming market from promoting lower prices to consumers on Apple iOS. And Amazon is using its dominance in the book market to impose unfair contractual terms on publishers and authors.

- What will an Antitrust Division under your supervision do to address allegations that these dominant platforms' unilateral behavior is anticompetitive and may ultimately harm the free flow of ideas and content?

In recent years, antitrust investigations against Google and Apple for alleged anti-competitive conduct have taken place at the Federal Trade Commission, which shares antitrust enforcement authority with the Department of Justice. However, this does not preclude the Justice Department from asserting jurisdiction over these issues in the new administration.

- As Attorney General, would you be open to examining allegations of anti-competitive conduct by some of these dominant platforms at the Department of Justice?

Question 11: As we saw following Comcast's acquisition of NBCUniversal, conditions that are placed on deals that are approved can be difficult to enforce and are not always reliable. Another major problem is that those conditions expire.

- How do you believe the Department of Justice can ensure that merger conditions actually have enough teeth to protect consumers in the long term?
- There is increasing evidence that other types of merger remedies, including divestitures, aren't sufficient in protecting consumers from harm. Do you agree that in cases such as those, the DOJ should be more willing to challenge these deals in court, as it was slated to do in the case of Comcast-Time Warner Cable?

Question 12: Four years ago, as the Supreme Court was considering *American Express v. Italian Colors*, I asked Assistant Attorney General William Baer about the importance of private antitrust enforcement. He has since told me that the Supreme Court's decision in that case made it much harder for small businesses to file private antitrust enforcement actions and instead they are forced to arbitrate their claims.

- Do you agree that antitrust enforcement has changed since that decision? Do you currently have concerns about small business' ability to bring antitrust claims to a public court of law? If not, why?

Question 13: Since entering the Senate, I have made it a priority to combat the widespread and harmful impact of forced arbitration. These clauses restrict Americans' access to justice by stripping consumers and workers of their legal rights and insulating corporations from any accountability.

I have a letter that you sent on June 10, 1999 to one of your constituents. You write, "thank you for taking the time to contact me with your concerns about the Federal Arbitration Act and consumer transactions. I appreciate the reality that in many cases, arbitration clauses in contracts for sales of consumer goods limit a person's right to sue in state or federal court."

- Do you still believe that arbitration clauses often limit Americans' right to sue in a public court of law?

I do not oppose the use of arbitration when it is voluntarily agreed to by both parties after a dispute has arisen. But consumers and workers have a right to a meaningful choice about where to enforce important state and federal laws. Forced arbitration clauses, by their very nature, effectively deny Americans of this choice.

In 2012, in response to President Obama's weekly address, you stated that "before entering politics, I was a federal prosecutor. I tried many cases and spoke to many juries. The brilliance of our legal system is that it places judgment in the hands of everyday citizens. Twelve complete strangers, from all walks of life, sit in a jury box, carefully weigh the evidence, and then reach an impartial verdict." Despite the praise you have offered for our nation's public courts and justice system, you have consistently defended forced arbitration clauses in consumer and employment contracts.

- Why should any American be forcibly denied the fundamental rights and protections inherent in the "brilliance of our legal system" as you so aptly recognized in 2012?

One very public example of mandatory arbitration is former Fox News anchor Gretchen Carlson's lawsuit alleging that she'd been sexually harassed by her boss Roger Ailes, the founder, and former CEO and chairman of the network. Ailes' lawyers tried to force her case into private arbitration, arguing that Ms. Carlson had breached the terms of her employment contract, which included a forced arbitration clause. The arbitration clause in Ms. Carlson's contract also prohibited her from speaking out about the claims – as is the case in most forced arbitration agreements. Had Roger Ailes and Fox News been successful in forcing Ms. Carlson into arbitration and abiding by those terms, her colleagues at Fox News, many of whom were also victims of sexual harassment, would have been left in the dark about her case and may never have come forward with their own claims.

According to the Equal Employment Opportunity Commission, at least 25% of American women say they have experienced sexual harassment in the workplace.

- Do you agree that women with claims of sexual harassment and employment discrimination deserve access to the courts and an impartial jury verdict? If not, why?

- Do you believe it is fair for corporations and employers to force consumers and workers to surrender their fundamental legal rights before a dispute has even arisen? If so, why?
- In light of the fact that arbitration proceedings are shrouded in secrecy and have the ability to cover up discriminatory patterns and practices, why should they not be subject to the same transparency afforded participants in the civil justice system you praised in 2012?

Forced arbitration also impacts servicemembers who are trying to enforce the legal rights they fight to protect. Take the case of Kevin Ziober, a Navy Reservist who, after informing his company he was being deployed to fight for his country in Afghanistan, was thrown a farewell party with an American-flag shaped cake, and then summarily dismissed by his employer in violation of a federal law called the Uniformed Services Employment and Reemployment Rights Act. After returning from active duty, Kevin filed suit against his former employer, and has been fighting for years for the right to enforce congressionally mandated protections for servicemembers in a public court of law.

- Do you agree that we should afford the same protections inherent in our civil justice system to everyone, especially our men and women in uniform?

Question 14: In recent years, the growing use of so-called stalking apps, which allow users to track someone's location – or even listen to their phone calls and read their text messages – without their knowledge or consent, has raised serious concerns. Federal law does not currently prohibit developers from creating apps that surreptitiously track geo-location data. This loophole in the law grants stalkers and domestic abusers access to a powerful tool enabling increased violence against women.

- Do you agree that location data can be highly personal information and is deserving of privacy protections?

Last year, I reintroduced legislation – the Location Privacy Protection Act – that would, among other things, amend the federal wiretap statute to explicitly include the interception of location data and allow for the forfeiture of proceeds from the sale of smartphone tracking apps.

- Should you be confirmed as Attorney General, will you work with me on this legislation to ensure that the federal government has all the tools necessary to protect women from stalking apps and their attendant violence and abuse?

DOJ has the authority under existing wiretap laws to prosecute creators of apps that allow stalkers to listen to victims' phone calls, intercept text messages, or otherwise intercept content from victims' phones. In response to my request, which was joined by Senators Grassley, Cornyn, and Graham, the DOJ exercised this authority and began taking criminal action against the creators of these stalking apps within the last few years. Although this is a positive development in the enforcement of our nation's laws, there is more that DOJ can do to protect the victims of stalking apps.

- What will you do to ensure DOJ continues taking such action against the creators of stalking apps?

Question 15: In our courtesy visit, we discussed violence against Native women, and I told you how important the issue is to me. When I provided you with a statistic demonstrating just how prevalent violence against Native women is – and at the hands of non-Indians – you expressed shock and said that you didn’t realize the extent of the problem.

Over 84% of Native women experience domestic or sexual violence. And over 97% of them are victimized by non-Indians. That’s a recent stat. But in 2012, all you had to do was talk to one tribe, and you would have learned that women in Indian Country are regularly abused by non-Indians who go unprosecuted and unpunished.

During the hearing you told me you would spend a little time with the Poarch Band of Creek Indians in Alabama to better understand how the issue of domestic and sexual violence is affecting Indian Country. I also think it is necessary to visit at least one tribe where the special domestic violence jurisdiction is being exercised. Tribes are using that authority to secure long overdue justice for victims and are doing so with care and deliberation and in a manner that protects defendants’ rights.

- During the hearing you also told Senator Hirono that you can’t commit to not challenging VAWA on these grounds. But you also admitted to not understanding the gravity of the problem of violence against native women when you voted on it in 2013. Now that you are better informed on the issue, will you commit to enforcing and defending this very important provision?

Question 16: In 2011, the Office for Victims of Crime established the National Coordination Committee on the American Indian/Alaska Native (AI/AN) Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative. The Committee has since issued a report with specific recommendations for the Department of Justice on improving the federal government's response to adult and child victims of sexual violence in tribal nations, and the Obama Administration has implemented many of these recommendations.

- As attorney general, will you commit to continuing these policies to further address sexual violence in Indian Country? If not, why?

Question 17: The Department of Justice has the primary responsibility for investigating and prosecuting crime in much of Indian country. The rates of violent victimization on many Indian reservations are the highest in the nation, but crimes in Indian country still largely go unprosecuted and unpunished.

- What will be your approach to addressing crime in Indian country? What steps will you take to reduce crime in Indian country?

Question 18: In recent years the media has increasingly highlighted the tragic prevalence of sexual assault in our country – whether it be on our military bases, on our college campuses, or at the hands of once-beloved public figures. In response, most of us in Congress have publicly committed to doing whatever is necessary to combat such violence and ensure that victims have access to justice. But critical to that effort is also our willingness – as the nation’s leaders – to speak openly and honestly about the systemic barriers to addressing the problem.

- As attorney general – and the nation’s top victim advocate – what would you say to the hundreds of thousands of survivors of sexual violence who may be unwilling to report their abuse for fear of retaliation or concern that they will not be believed?
- What steps do you think our law enforcement can take to address a culture that often fails to hold perpetrators accountable and instead blames the victims?

Question 19: As we've explored previously in the Judiciary Committee – and as research continues to demonstrate – runaway and homeless youth are particularly vulnerable to trafficking and exploitation. Covenant House New York's 2013 survey found that youth involved in commercial sexual activity frequently reported exchanging sexual acts for basic necessities like food or a place to sleep. And a more recent study by Covenant House New Orleans found that a quarter of the homeless youth they interviewed had been victims of trafficking or sexual labor. Finally, according to the Human Rights Campaign, of the nearly 2 million young people who are affected by homelessness each year, research shows that up to 40 percent of homeless youth identify as LGBT.

- You were one of three senators who opposed the effort to reauthorize the Runaway and Homeless Youth Act in the Judiciary Committee in the 113th Congress. Why exactly did you oppose?
- Should you be confirmed as attorney general, how can I trust that you will work to ensure that all kids, including LGBT youth and those that need it the most, have access to shelter and other necessary services to prevent them from becoming a victim of trafficking?

Question 20: As the Department of Housing and Urban Development has frequently recognized, survivors of domestic violence face unique challenges in securing and maintaining adequate housing. Indeed, according to the Department of Justice, one-in-four homeless women in the United States is a survivor of domestic violence. And not surprisingly, once a woman becomes homeless, she becomes more vulnerable to violence and exploitation. In fact, nine-in-ten homeless women have experienced severe physical or sexual abuse.

- The Department of Justice is charged with protecting Americans' right to access housing free from discrimination. Should you be confirmed as Attorney General, what will you do to address the link between homelessness and domestic violence? How will you work with the Department of Housing and Urban Development to accomplish these goals?

Hearing before the Senate Committee on the Judiciary
“Attorney General Nomination”
Follow-Up Questions for the Record Submitted by Senator Al Franken

Follow-Up Questions for Senator Sessions:

Question 1. In my original questions for the record, I asked what assurances you could provide the lesbian, gay, bisexual, and transgender (LGBT) community that you would work to protect their rights. I also noted that under both Attorneys General Holder and Lynch, the Department of Justice made protecting and advancing the rights of LGBT people an integral part of the Department’s civil rights enforcement. You responded that “[t]he Civil Rights Division has a historic and proud record of defending the civil rights of all Americans, particularly the most vulnerable. That will certainly continue under my leadership, if I am fortunate to be confirmed as Attorney General.”

As a part of the Civil Rights Division’s efforts to combat discrimination against LGBT people, attorneys, staff, and members of the Division’s leadership participate in the LGBTI Working Group. The Working Group advises the Division’s leadership and sections on legal and policy issues relating to discrimination based on sexual orientation, gender identity, intersex status, and HIV/AIDS status. In addition to exploring how existing federal civil rights laws can address discrimination against LGBT people, the Group also identifies appropriate matters and cases for the Division.

- In acknowledgement of your commitment to continue the Civil Rights Division’s “historic and proud record of defending the civil rights of all Americans, particularly the most vulnerable,” will you commit to allowing the LGBTI Working Group to continue its work within the Division?

Question 2. In my original questions for the record, I raised the issue of your opposition to the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, which extended federal hate crimes protections to victims targeted on the basis of their sexual orientation or gender identity. During a 2009 hearing on that bill, you stated that “I’m not sure that women or people with different sexual orientations face that kind of discrimination. I just don’t see it.”

In my question, I provided you with data from the FBI’s annual report on hate crime statistics, which documented that of the 7,121 victims of hate crimes in 2015, 17.7 percent were targeted due to their sexual orientation and 1.7 percent because of their gender identity (*see* U.S. DEP’T OF JUSTICE, FED. BUREAU OF INVESTIGATION, THE UNIF. CRIME REPORTING PROGRAM, HATE CRIME STATISTICS, 2015 (2017), *available at* <https://ucr.fbi.gov/hate-crime/2015>). I asked you whether you still hold the view that LGBT people do not “face that kind of discrimination.” In response, you wrote that your 2009 statement “reflected an opinion that I reached based on information available to me at the time” and you committed to “work diligently to ensure that all Americans receive equal protection under our laws.” You did not, however, answer the question.

- In light of the data gathered by the FBI, do you still hold the view that LGBT people do not experience that kind of discrimination? If so, why?
- The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act requires that the attorney general or a designee authorize all criminal prosecutions brought under the Act. Given your opposition to the Act, will you commit to signing off on charges brought pursuant to the Act, including for crimes targeting members of the LGBT community?

Question 3. In my original questions for the record, I explained that federal law does not require state or local law enforcement to report hate crime incidents to the federal government, and I drew your attention to FBI Director Comey's statements acknowledging that underreporting of hate crimes remains a challenge (*see* James B. Comey, Director, Fed. Bureau of Investigation, Address at the Anti-Defamation League National Leadership Summit (April 28, 2014), *available at* <https://www.fbi.gov/news/speeches/the-fbi-and-the-adl-working-toward-a-world-without-hate>). I asked whether you agreed that underreporting of hate crime incidents by state and local law enforcement remains an obstacle to combatting hate crimes. You responded that you had "not been presented with the information necessary" to form an opinion or to evaluate Director Comey's assertion.

In 2013, the U.S. Department of Justice's Bureau of Justice Statistics (BJS) issued a report that analyzed data from BJS's National Crime Victimization Survey (NCVS) which documented that while 46 percent of hate crime incidents were reported to police for years 2003-2006, that number dropped to 35 percent for years 2007-2011 (*see* U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS, NCJ 241291, SPECIAL REPORT: HATE CRIME VICTIMIZATION, 2003-2011 (2013), *available at* <https://www.bjs.gov/content/pub/pdf/hcv0311.pdf>).

Of the 14,997 law enforcement agencies that participated in the FBI's Uniform Crime Reporting Program in 2015, 88.4 percent of agencies reported that no hate crimes occurred in their jurisdictions (*see* U.S. DEP'T OF JUSTICE, FED. BUREAU OF INVESTIGATION, UNIFORM CRIME REPORT, HATE CRIME STATISTICS, 2015, HATE CRIME BY JURISDICTION (2016), *available at* https://ucr.fbi.gov/hate-crime/2015/topic-pages/jurisdiction_final). Moreover, according to an Anti-Defamation League analysis of the FBI's 2015 hate crime statistics, 87 American cities with populations over 100,000 either failed to report any information at all or reported zero bias-motivated crimes.

- Having now been presented with Justice Department and FBI data, as well as FBI Director Comey's views on underreporting, are you able to evaluate his assertion or offer an opinion as to whether underreporting of hate crime incidents by state and local law enforcement remains a problem?

Question 4. During your hearing, I expressed an interest in better understanding why you listed four civil rights cases among the top ten “most significant litigated matters which you personally handled” on your questionnaire. In light of your answers, I would like to further explore the role you played in these cases.

Davis v. Board of School Commissioners of Mobile County

The *Davis* school desegregation case listed on your questionnaire was filed in 1963, long before you became U.S. Attorney.

- Is it correct that your name and signature are not on the complaint? Yes or no.
- Did you prepare any legal brief or other filing in this case? Yes or no. If yes, please provide all such filings.
- Did you appear in any court hearing in this case? Yes or no.
- In your questionnaire entry for this case, you listed as co-counsel Joseph D. Rich and Angela Schmidt. Did you supervise either of them on this case? Yes or no.
- Did any Assistant United States Attorney in your office personally litigate this case along with Joseph D. Rich or Angela Schmidt? Yes or no. If yes, please provide that Assistant U.S. Attorney’s name for the record.

Various court filings from the mid-1980s in this case are signed solely by attorneys for the Civil Rights Division. Many do not list your name. Some list your name without a signature. Examples are below. For each one, please describe, if you recall, your substantive involvement in any of these filings and state whether you believe they were prepared primarily by attorneys from the Department of Justice’s Civil Rights Division based in Washington, DC.

- One filing dated August 26, 1986, is signed by Angela Schmidt. Then-Assistant Attorney General William Bradford Reynolds and Joseph D. Rich are also listed. Your name is not listed.
- Another filing, from July 21, 1986 is signed by Joseph D. Rich. Then-Assistant Attorney General for Civil Rights William Bradford Reynolds and Angela Schmidt are also listed. Your name is not listed.
- Another filing, dated August 21, 1985, is signed by Joseph D. Rich. Then-Assistant Attorney General William Bradford Reynolds, H. Joseph Beard, Jr., and Angela Schmidt are also listed. Your name is not listed.
- Another filing, dated October 16, 1981, is signed by Myron S. Lehtman of the Civil Rights Division. Then-Assistant Attorney General William Bradford Reynolds, Walter Gorman, and Kenneth Barnes of the Civil Rights Division are also listed. Your name is listed as United States Attorney.

United States v. Conecuh County

The *Conecuh County* case was filed while you were United States Attorney.

The docket sheet in this case lists Mr. Jones, Mr. Rosenbaum, Mr. Tanner, and you as attorneys. It states that, on November 2, 1983, a hearing on a motion for a temporary restraining order and preliminary injunction was held in Selma, Alabama and denied by the court.

- Did you appear at that hearing?
- Did any Assistant United States Attorney under your supervision appear at that hearing?
- Was this hearing primarily handled by attorneys from the Department of Justice's Civil Rights Division based in Washington?

The consent decree in the *Conecuh County* case is signed by: Judge W.B. Hand; John K. Tanner of the Voting Section of the Civil Rights Division; and attorneys for the defendants (Robert G. Kendall; J.B. Nix; Edward S. Allen; and Carroll H. Sullivan). Steven H. Rosenbaum is also listed, from the Voting Section of the Civil Rights Division. Your name is not listed.

- Please describe in detail the nature of your participation in the preparation or negotiation of this consent decree.
- Was this consent decree primarily negotiated by attorneys from the Department of Justice's Civil Rights Division based in Washington? Yes or no.
- Did any Assistant United States Attorney under your supervision substantively participate in the negotiation or preparation of this consent decree? Yes or no. If yes, please identify that Assistant United States Attorney.

United States v. Dallas County Commission

As you state, *United States v. Dallas County Commission* was filed in 1978, and the first trial in this case took place in 1979 and 1980—all before you became U.S. Attorney. The post-trial decision issued by the district court in 1982.

Following the first trial, the district court concluded that the government had not proven vote dilution. The Eleventh Circuit reversed and remanded in 1984. See *United States v. Dallas County Commission*, 739 F.2d 1529 (11th Cir. 1984).

The 1984 appellate decision in this case, as available on an online search database (LexisNexis), lists the following as counsel from the Civil Rights Division in Washington, DC: William Bradford Reynolds; Jessica Silver; and Irving Gornstein. It also lists Thomas H. Figures, an Assistant U.S. Attorney in Mobile, Alabama, who was under your supervision.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this case? If so, what was the nature of your participation?
- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

According to the Eleventh Circuit, following a remand from the 1984 appellate decision, “The district court conducted a hearing with regard to elections for County Commission, and on March 6, 1986 it issued a preliminary injunction against at-large voting in Commission races in the June 1986 Democratic Primary.” *United States v. Dallas County Commission*, 791 F.2d 831, 832 (11th Cir. 1986).

- Did you draft any brief or motion seeking this preliminary injunction?
- Did you otherwise participate in the briefing on this motion for a preliminary injunction? If so, what was the nature of your participation?
- Did you participate in the preliminary injunction hearing discussed in this quotation? If so, what was the nature of your participation?

According to the Eleventh Circuit, the district court after the 1984 remand denied a motion for preliminary injunction against the Dallas County School Board—and the United States appealed. *Dallas County*, 791 F.2d at 831-33. The Eleventh Circuit reversed and ordered the district court to grant the preliminary injunction. *Id.* at 833.

The 1986 appellate decision in this case, as available on an online search database (LexisNexis), lists the following as counsel from the Civil Rights Division in Washington, DC: Gerald W. Jones, Paul F. Hancock; J. Gerald Hebert. It also lists you as U.S. Attorney.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this case? If so, what was the nature of your participation?
- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

Following the remand of the school board case, the district court entered orders approving remedial plans for the County Commission and School Board over the objections of the United States. See *United States v. Dallas County Commission*, 850 F.2d 1433, 1436 (11th Cir. 1988) (school board); *United States v. Dallas County Commission*, 850 F.2d 1430 (11th Cir. 1988) (county commission). In both cases, the Eleventh Circuit reversed, finding that the remedial plans approved by the district court did not cure the violations of the Voting Rights Act.

The 1988 appellate decision in the Dallas County Commission case (850 F.2d 1430) as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: “Marie Klimesz McElderry, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, Jessica Dunsay Silver”; and “Wm. Bradford Reynolds, U.S.

Department of Justice, Civil Rights Division, Washington, District of Columbia, For U.S.A.” It does not list your name.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in the *Dallas County Commission* appeal that resulted in the 1988 decision? If so, what was the nature of your participation?
- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

The 1988 appellate decision in the *Dallas County School Board* case (850 F.2d 1433) as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: “Marie Klimesz McElderry, U.S. Dept. of Justice, Jessica Dunsay Silver, Civil Rights Division, Washington, District of Columbia, J. Gerald Hebert, U.S. Dept. of Justice, William Bradford Reynolds, Voting Section, Gerald W. Jones, Civil Rights Division, Paul F. Hancock, Washington, District of Columbia, J.B. Sessions U.S. Attorney, Mobile, Alabama.”

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in the *Dallas County School Board* appeal that resulted in the 1988 decision? If so, what was the nature of your participation?
- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

Following the 1988 Eleventh Circuit decisions, the district court entered an order finding that commissioners elected in 1988 were only to serve two-year terms, instead of four-year terms. This was appealed to the Eleventh Circuit, which reversed. *United States v. Dallas County Commission*, 904 F.2d 26 (11th Cir. 1990).

The 1990 appellate decision in this case as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: “John R. Dunne, Asst. Attorney General, Department of Justice, Jessica Dunsay Silver, Irving Gornstein, Washington, District of Columbia for plaintiff.”

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this appeal? If so, what was the nature of your participation?
- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

United States v. Marengo County Commission

The Department of Justice’s complaint in *United States v. Marengo County Commission* was filed in 1978, and the first trial in this case was conducted in Selma, Alabama on October 23, 1978 and January 4, 1979. See *Clark v. Marengo County*, 469 F. Supp. 1150, 1154 (S.D. Ala.

1979). The post-trial decision issued on April 23, 1979 (469 F. Supp. 1150). All of these actions took place before you became U.S. Attorney.

The Eleventh Circuit in 1984 noted that the 1979 decision found that the “at-large system for electing the Marengo County, Alabama county commission and school board” did not violate the Constitution, Civil Rights Act of 1870, or Section 2 of the Voting Rights Act. *United States v. Marengo County Commission*, 731 F.2d 1546, 1550 (11th Cir. 1984).

In that appellate decision, the court noted that, since the 1979 decision, the court had “remanded this case once” already. The decision later notes that, following the Supreme Court’s decision in *City of Mobile v. Bolden*, 446 U.S. 55 (1980), the appeals court remanded the case to the district court for presentation of additional evidence. *Marengo County*, 731 F.2d at 1552.

The appeals court decision then notes: “On July 30, 1981, the district court in the present case again ordered judgment for defendants on the ground that the plaintiffs had not established unresponsiveness. The court rejected the United States’ offer to present additional evidence.” *Id.*

- Any proceedings leading up to this July 30, 1981 order occurred prior to your becoming the U.S. Attorney, correct?

The United States appealed the July 30, 1981 order. The Eleventh Circuit then granted the United States’ motion to hold the appeal in abeyance pending the outcome of the Supreme Court’s review of *Rogers v. Lodge*, 458 U.S. 613 (1982). See *Marengo County*, 731 F.2d at 1552.

Following the Rogers decision and the 1982 amendments to Section 2 of the Voting Rights Act, the Eleventh Circuit in 1984 “remand[ed] this case to the district court to allow the parties a limited opportunity to update the record and, in the event that the court finds a continuing violation of the Voting Rights Act, to allow the court to devise an appropriate remedy.”

The 1984 appellate decision in this case as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: “William F. Smith, Attorney General, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, William B. Reynolds, Asst. AG, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, Joan A. Magagna, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, Brian K. Landsberg, U.S. Department of Justice, Civil Rights Division, Washington, D.C., William R. Favre, Jr., U.S. Attorney, Mobile, Alabama, Thomas H. Figures Mobile, Alabama, for Appellant.” Your name does not appear.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this appeal? If so, what was the nature of your participation?
- As U.S. Attorney, did you participate in the preparation of any motions in this appeal? If so, what was the nature of your participation?

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

The Eleventh Circuit's 1984 decision notes, "The purpose of the remand is to allow the parties to update the record and to supplement the record with evidence that might tend to affect our finding of discriminatory results. In view of the evidence already in the record, the defendants bear the burden of establishing that circumstances have changed sufficiently to make our finding of discriminatory results in 1978 inapplicable in 1984." *Marengo County*, 731 F.2d at 1574-75.

The district court held a post-remand hearing in March 1985 in the Northern Division (Selma). See *Clark v. Marengo County*, 623 F. Supp. 33 (S.D. Ala. 1985). The district court found "no significant changes have occurred since 1978 that affect the Eleventh Circuit Court of Appeals' finding of a Section 2 violation." *Id.* at 34. The Court says that the Eleventh Circuit's mandate essentially made the district court's role "merely ministerial." *Id.*

The 1985 district court decision as available on an online search database (Westlaw) lists the following as attorneys for the United States: "J. Gerald Hebert, Christopher G. Lehmann, Dept. of Justice, Civil Rights Div., Washington, D.C., for United States."

- As U.S. Attorney, did you participate in the preparation of any filings leading up to the March 1985 post-remand hearing in this case? If so, how?
- Did you participate in the March 1985 post-remand hearing? If so, how?

On August 8, 1986, the District Court issued another order, which is cited in your questionnaire. *Clark v. Marengo County*, 643 F. Supp. 232 (S.D. Ala. 1986). The decision notes that there had been a hearing "on July 29, 1986 for the purpose of addressing the parties' objections to the Court's June 23, 1986 districting plan and determining whether said plan complies with Section 2 of the Voting Rights Act." *Id.* at 233.

The 1986 district court decision in this case as available on an online search database (Westlaw) lists the following as attorneys for the United States: "Jefferson B. Sessions, III, W.A. Kimbrough, Jr., U.S. Attys., Mobile, Ala., J. Gerald Hebert, Voting Section, Civil Rights Div., Dept. of Justice, Washington, D.C., for U.S."

- As U.S. Attorney, did you participate in the preparation of any filings (including proposed districting plans) leading up to the July 29, 1986 hearing? If so, what was the nature of your participation?
- As U.S. Attorney, did you participate in the preparation of any filings (including proposed districting plans) filed with the court in 1985 or 1986 prior to the Court's issuance of the June 23, 1986 districting plan?
- Did you participate in the July 29, 1986 hearing? If so, what was the nature of your participation?

As you note, on appeal, the Eleventh Circuit upheld the districting plan. *Clark v. Marengo County*, 811 F.2d 610 (11th Cir. 1987) (table).

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this appeal? If so, what was the nature of your participation?
- Did you participate in any oral argument in the Eleventh Circuit in this appeal? If so, what was the nature of your participation?

Question 5. After you admitted to not understanding the gravity of the problem of violence against native women when you voted against the reauthorization of the Violence Against Women Act (VAWA) in 2013, I asked you on the record about your willingness to defend the special domestic violence criminal jurisdiction (SDVCJ) provision. Your response stated, “I understand that a pilot program has been initiated that seeks to conform tribes’ exercise of criminal jurisdiction over non-Indians to the requirements of the Sixth Amendment. I will carefully study this program before reaching any legal conclusions about the VAWA tribal jurisdiction provision.”

VAWA 2013, which was enacted on March 7, 2013, recognizes tribes’ inherent power to exercise SDVCJ over non-Indians who commit acts of domestic violence and amends the Indian Civil Rights Act to require due process protections before a tribe can exercise SDVCJ. Congress recognized that it may take time for many tribes to get these protections in place and set the effective date for the provision two years after passage of the law. Congress also created the Pilot Project, which you reference in your response, to allow for accelerated implementation for those tribes who demonstrated to the attorney general’s satisfaction that the tribe’s criminal justice system had adequate safeguards in place to protect defendants’ rights. The Pilot Project ended nearly two years ago, in March 2015. It has been widely hailed as a success for holding domestic violence offenders accountable while also protecting their fundamental right to due process. It has been the subject of DOJ reports, Congressional briefings, law review articles, and dozens of newspaper articles and conference sessions. Two bills have since been introduced to build on the success of the Pilot Project and further strengthen tribal authority.

- When did you learn about the SDVCJ pilot program, which was a key provision of the law you opposed in 2013? Was it before or after your nomination hearing, during which you stated that your opposition to VAWA rested on your concerns surrounding the SDVCJ provision?
- In the two weeks since your hearing, during which your familiarity with SDVCJ was raised several times, what efforts have you undertaken to learn more about how tribes are exercising this jurisdiction? Have you spoken with any tribal governments exercising SDVCJ?

Question 6: In response to my question about how you would address the high rates of violent crime in Indian country you stated, “I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request additional resources where existing resources are inadequate.” Thank you for your commitment. I look forward to working with you to ensure the federal government fulfills its responsibilities to investigate and prosecute crime on reservations.

In response to my question about violence against Native women, however, you stated that “State and local law enforcement resources greatly exceed those of Federal and tribal governments combined. On the exclusively Federal reservations where federal law enforcement has proved to be inadequate to reduce high levels of violent crime, Congress may consider allowing state and local authorities to exercise criminal jurisdiction. State and local law enforcement has proven effective on many existing Indian reservations, and the extension of such criminal jurisdiction to both Indians and non-Indians in Indian country does not offend constitutional guarantees.”

Your suggestion to empower state law enforcement on reservations is not new. It was first enacted by Congress in 1953 as Public Law 83-280 (PL 280). Initially enacted in six states, PL 280 authorized state jurisdiction on Indian reservations and eliminated federal jurisdiction over major crimes committed in Indian country, but it also allowed other states to acquire jurisdiction at their option. At first, PL 280 was forced on tribes without their consent. President Nixon disavowed it, calling it a “policy of forced termination”, in favor of a policy that acknowledged that tribal governments are best positioned to exercise authority to govern their lands and people. Since amendments to PL 280 in 1968, tribal consent is required before a state can acquire jurisdiction and states are permitted to cede jurisdiction back to the federal government. Importantly, since 1968, no tribe has consented to state jurisdiction, and many states have ceded jurisdiction back to the federal government, often citing their view that PL 280 is largely an unfunded mandate to police lands that they cannot tax.

Finally, the bipartisan Indian Law & Order Commission concluded in its recent report – [Δ Roadmap for Making Native America Safer](#) – that “While problems associated with institutional illegitimacy and jurisdictional complexities occur across the board in Indian country, the Commission found them to be especially prevalent among Tribes subject to P.L. 83-280 or similar types of State jurisdiction. Distrust between Tribal communities and criminal justice authorities leads to communication failures, conflict, and diminished respect.”

- What is the basis for your recommendation that Congress should consider allowing state and local authorities to exercise greater jurisdiction on tribal lands?
- Have you reviewed the effectiveness of PL 280, the Indian Law & Order Commission’s report on the issue, or gathered the views of tribal governments about an expansion of state jurisdiction on their lands?

Question 7: During your hearing, I asked you about a claim made by the then-president-elect. In late November, he tweeted that “In addition to winning the electoral college in a landslide, I won the popular vote if you deduct the millions of people who voted illegally.” As you know, President Trump lost the popular vote by 2.86 million votes. And as you know, state officials have found virtually no credible reports of fraud, and no sign of widespread fraud.

So I asked you whether you agreed with the president-elect that millions of fraudulent votes had been cast, and you responded, “I don’t know what the President-elect meant or was thinking when he made that comment, or what facts he may have had to justify his statement.” I also asked you whether you had talked to the president-elect about the issue. You replied, “I have not talked to him about that in any depth.”

Yesterday, January 24, 2017, President Trump welcomed House and Senate leaders to the White House for their first official meeting, where the president reportedly again claimed that he lost the popular vote because millions of undocumented immigrants cast illegal votes. Only this time he provided a slightly more specific number, saying it was somewhere between 3 million and 5 million fraudulent votes. These were the headlines in two of our nation’s leading papers in response to his claim: “[Trump Repeats Lie About Popular Vote in Meeting With Lawmakers](#),” the *New York Times* said. “[Without evidence, Trump tells lawmakers 3 million to 5 million illegal ballots cost him the popular vote](#),” reported the *Washington Post*.

- Yes or no, do you agree with the president that millions of fraudulent votes were cast in the presidential election? If not, why? Do you anticipate that he will request that the Department investigate once you are confirmed?
- If somewhere between 3 million and 5 million illegal votes were cast in the presidential election, where do you believe such votes were cast? Please identify the states and precincts where the criminal activity is alleged to have taken place.
- In what way are the 3 million to 5 million votes believed to be illegal?
- Since your hearing, have you spoken with the president about his claims that millions of illegal ballots were cast? Have you asked the president why he continues to believe that there was widespread voter fraud in the presidential election? If so, when? And please describe your conversation.

Question 8: I asked you what steps law enforcement can take to address a culture that often fails to hold perpetrators of sexual violence accountable and instead blames the victims. You replied, “Law enforcement authorities can best ‘address’ such a culture by aggressively investigating sexual assault offenses and vigorously prosecuting them to the fullest extent of the law.”

In December 2015, the Department of Justice issued guidance – “Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence” – that examined how gender bias can undermine the response of law enforcement agencies to sexual and domestic violence and provided a basic set of recommendations for law enforcement to help address that gender bias. The guidance, which was designed in collaboration with law enforcement leaders and advocates, found that gender biases can affect law enforcement officers’ perceptions of crimes committed against members of certain populations and prevent them from effectively handling allegations of such crimes, which could ultimately amount to unlawful discrimination. For example, if a police officer believes a sexual assault to be less severe because the victim was assaulted by an acquaintance or was intoxicated when the assault occurred, that constitutes gender bias and could impact whether the officer fully investigates the claim or prioritizes a swift response. The guidance also found that eliminating gender bias in policing practices is integral to combatting sexual and domestic violence and preventing future victimization because an appropriate law enforcement response fosters victim confidence and makes victims more likely to report future incidents. On the other hand, if law enforcement does not respond effectively to an incident of sexual assault or domestic violence, the guidance found that victims are less likely to participate in the investigation and prosecution of their case or seek police assistance in the future.

- Are you familiar with this guidance? If not, will you commit to reviewing it to better understand some of the system barriers to addressing sexual violence?
- Do you agree that this guidance demonstrates that addressing sexual violence in our country requires more than simply “aggressively investigating and vigorously prosecuting” sexual assault offenses? Will you work with me to address these systemic barriers?

Question from Senator Graham

1. Along with Senator Donnelly, I introduced at the end of last Congress the INVEST to Prevent Crime Act. The Act authorizes for five years a grant program focused on neighborhoods struggling to address persistent crime. Grantees will develop cross-sector partnerships between residents, local law enforcement, a research entity, and community and business partners. The partnerships will plan and implement strategies to address specific drivers of crime in their target neighborhoods. The program builds on DOJ's Byrne Criminal Justice Innovation Program, which has been appropriated between \$10.5M and \$18M since FY2013, and has shown very promising results in reducing crime rates.

Do you agree that building structured partnerships between community members and local police agencies could help reduce crime?

Do you plan to continue DOJ's support for grant programs like the Byrne Criminal Justice Innovation Program, which are designed to reduce crime in our country's most challenging neighborhoods while improving community-police relations?

Senator Grassley, Chairman
Questions for the Record
Jeff Sessions
Nominee, to be United States Attorney General

Sue-and-Settle and Settlement Slush Funds

Under the Obama administration, the Justice Department arranged for settling defendants to donate money to non-victim third-parties, including politically favored groups. This was simply another tool by which the Obama Justice Department would pick winners and losers based on a politically-driven agenda. Payments ordered by settlements with the Department of Justice should only be used to punish the defendant and to make actual victims whole again, not to benefit favored groups.

The Obama Justice Department also abused its settlement authority by signing off on settlements and consent decrees with interest groups that committed agencies to fast-track new regulations. This practice, known as sue-and-settle, undermines transparency and accountability in the rulemaking process and offends the intent of Congress.

As Attorney General, will you commit to working with Congress and this Committee to ensure that settlements entered into by the Department, and any payments derived from them, are used appropriately for punishment of defendants and redress of actual victims? Will you likewise commit to working with Congress and this Committee to end abusive sue-and-settle tactics?

FOIA

The Obama administration promised a new era of open government. President Obama even called his administration the most transparent in history. But the facts demonstrate otherwise. Under President Obama, FOIA lawsuits and FOIA request denials reached record highs. And it's no secret that some of his top officials used methods that totally circumvented transparency and accountability protections.

With a new administration comes an opportunity to set a new standard for transparency. And the Justice Department plays a central role in ensuring government-wide compliance with FOIA, our nation's premier transparency law. Accordingly, as Attorney General, will you commit to working with Congress and this Committee to ensure that both the letter and the spirit of FOIA are carried out?

Prescription Drug Prices

As you know, the high cost of prescription drugs is an increasing concern for American consumers. President-Elect Trump agrees and has pledged to "bring down drug prices." Do you believe that the Antitrust Division at the Justice Department has a role to play with respect to these concerns? Can you assure me that drug competition issues will be a priority for the Justice Department, if you are confirmed to be U.S. Attorney General?

Bankruptcy

I believe the bankruptcy system has been made much better and fairer thanks to the enactment of comprehensive bankruptcy reform legislation in 2005. Nevertheless, critics desire to weaken the statute.

1. Will you commit to actively supporting, defending, and making enforcement of the bankruptcy laws a priority for the U.S. Trustee Program?
2. Will you support and encourage greater enforcement actions by the U.S. Trustee Program to prevent abusive or fraudulent bankruptcy filings, including vigorous review of attorney fee applications in large Chapter 11 bankruptcy cases?
3. Will you assist in efforts to fight attempts to undermine the bankruptcy reform law?

Juvenile Justice System

1. A significant number of girls in the juvenile justice system are actually victims of human trafficking. What efforts will the Attorney General make to promote the identification of these victims and help ensure their needs are better met?
2. The programs authorized under the 1974 Juvenile Justice & Delinquency Prevention Act are long overdue for reauthorization. There was broad bipartisan support for these programs' reauthorization in the 114th Congress (as evidenced by the Senate Judiciary Committee's unanimous approval of a reauthorization bill in 2015 and the House of Representatives' 2016 passage of a companion bill by a vote of 382-29). JJDP A reauthorization remains a top priority for this Committee in the 115th Congress.

Alabama in recent years has embraced the importance of juvenile justice reforms. (Research indicates that such reforms not only conserve taxpayer resources but also promote better outcomes for the nation's at-risk youth.) Given Alabama's recent success in juvenile justice reform and the federal taxpayers' 40-year investment in JJDP A implementation, will you encourage the rest of the nation to adopt similar reforms and engage in a robust implementation of the JJDP A?

Scope of Executive Privilege

For the past five years, the U.S. House of Representatives Committee on Oversight and Government Reform (HOCR) has sought subpoenaed documents from the Department of Justice related to Operation Fast and Furious.^[1] Originally, the Department failed to produce any documents responsive to the October 2011 subpoena despite failing to formally assert a legally recognized privilege. In fact, only a feeble attempt to rely on "confidentiality interests" and

^[1] Stephen Dinan, *Election eve surprise: DOJ belatedly releases Fast & Furious documents*, WASH. TIMES, Nov. 4, 2014, available at <http://www.washingtontimes.com/news/2014/nov/4/justice-dept-submits-64k-pages-fast-furious-docs/?page=all>.

“separation of powers” was proffered.^[2] Eventually the Department asserted executive privilege over the majority of relevant documents, and shortly thereafter, the Committee voted to hold Attorney General Eric Holder in contempt of Congress.

In August 2012, HOCR filed a civil lawsuit in the U.S. District Court for the District of Columbia seeking to enforce its subpoena of documents, including those created after a February 4, 2011 letter to me which falsely claimed the Department had not been walking guns, to understand how the Department came to know the letter was false.^[3] In August 2014, after years of litigation, the court ordered the Department to produce a privilege log. However, the court also held that the deliberative process privilege “could be invoked in response to a congressional subpoena.”^[4]

In response to the order, the Department produced an incomplete “list” of a subset of documents, along with about two thirds of those documents which it had previously unlawfully withheld, given that it had a legal obligation to comply with the subpoena and given that even the Department did not take the position that those documents were privileged. The remaining documents on the Department’s “list” were categorically withheld on deliberative process grounds as well as five other claims of “privilege” never previously asserted.

HOCR then filed a motion to compel production of *all* documents, without redactions, created following the Department’s false and misleading February 2011 letter to Congress.^[5] On January 19, 2016, the district court granted the Committee’s motion in part and denied it in part. The court ordered the Department to produce all documents from its 2014 “set” that it had withheld on deliberative process grounds, but denied the Committee’s motion to compel remaining responsive documents.^[6]

HOCR appealed on October 2016 to seek production of all other documents responsive to the subpoena.^[7] Among other things, the appeal also generally challenges the district’s court’s holding that the common law “deliberative process” privilege can form a valid basis for denying access to information regarding Executive Branch misconduct sought by a congressional subpoena. The appeal is currently pending.

The most problematic aspect of the long negotiation and litigation over the Fast and Furious documents is the Department’s continued insistence, and the district court’s assent to the Department’s position, that the constitutionally based Executive Privilege extends far below the President to shield the “deliberative process” of lower-level, unelected bureaucrats. The deliberative process privilege is a common law doctrine and a basis for a Freedom of Information Act exemption. It is not a Constitutional privilege of equal standing with the inherent power of Congress to conduct oversight inquiries. Deliberative process also traditionally applies only to

^[2] Brief of Petitioner-Appellant at 21, *Committee on Oversight and Government Reform of the United States House of Representatives v. Loretta Lynch*, No. 16-5078 (D.C. Cir. Oct. 6, 2016) [“HOCR Brief”].

^[3] Complaint available at <http://legaltimes.typepad.com/files/complaint-13.pdf>.

^[4] HOCR brief at 9.

^[5] Available at <http://oversight.house.gov/wp-content/uploads/2014/11/Cover-Letter.pdf>.

^[6] HOCR brief at 25.

^[7] *Id.*

content that is deliberative and pre-decisional.^[8] It does not shield material created after a decision is made, or that is purely factual.

Worse, the Department has even used this exceedingly broad view of Executive Privilege to shield production of documents the former Attorney General himself admitted *were not actually privileged at all*.^[9] The Department's Office of Legal Counsel opinion on the President's assertion of Executive Privilege further suggests inexplicably that the privilege applies to a document, "regardless of whether a given document contains deliberative material."^[10]

Moreover, in a very troubling trend, the Department and other Executive Branch agencies also have relied on the district court's opinion in their refusal to produce a vast array of information to Congress in response to subpoenas, claiming broadly not only a dubious "deliberative process" privilege but also general, unarticulated "confidentiality" interests and other vague concepts.

Many of those examples are featured in an amicus brief that I and several other congressional committee chairmen in the House and the Senate filed in the HOCR appeal.^[11] The brief challenges the attempts by the Obama administration to stretch the Executive Privilege beyond its constitutional boundaries to shield from congressional review documents it claims are "deliberative" or even merely "confidential." The brief asserts that the administration's overbroad privilege claims, including in response to congressional subpoenas, serve only to thwart legitimate congressional oversight.^[12]

1. What is the scope of executive privilege, particularly over agency documents unrelated to the President?
2. Does the President have an executive privilege to withhold documents subpoenaed by Congress that have nothing to do with advice or communications involving the White House? If so, what is the legal basis for that claim?
3. Will you commit that, if confirmed, you will personally review and examine the expansive claims of Executive Privilege asserted by the Department in this long running litigation with Congress under its previous leadership and decide whether it is proper and consistent with the law to continue litigating them?

On December 16, 2016, President Obama signed into law the Grassley-Leahy FBI Whistleblower Protection Enhancement Act. The Act clarifies, once and for all, that FBI employees are protected for making disclosures of waste, fraud, and abuse within their chains of command—just like every other federal government employee. The Department of Justice should work swiftly to update its

^[8] *In re Sealed Case*, 121 F.3d 729, 745 (D.C. Cir. 1997).

^[9] Def.'s Mot. For Certification of Sept. 30, 2013 Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) at 8-9, *Committee on Oversight and Government Reform, U.S. House of Representatives v. Holder*, 1:12-cv-1332 (D.D.C. Nov. 15, 2013).

^[10] 36 Op. O.L.C. 1, 3 (June 19, 2012).

^[11] Brief of Amici Curiae Chairmen of Certain House and Senate Oversight Committees in Support of Appellant, *Committee on Oversight and Government Reform of the United States House of Representatives v. Loretta Lynch*, No. 16-5078 (D.C. Cir. Oct. 13, 2016).

^[12] "[T]he power of inquiry—with the process to enforce it—is an essential and appropriate auxiliary to the legislative function." *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927).

current regulations in accordance with the new statute^[13] and ensure FBI employees are fully apprised of their protections.

Unfortunately, the version of the FBI WPEA—which unanimously passed the Judiciary Committee early in 2016—did not become law. This version sought to improve the investigative and adjudicative procedures for FBI reprisal claims to address significant deficiencies noted by the Government Accountability Office and the Department of Justice in their respective reports on the FBI whistleblower program.

For example, that version of the bill would have addressed lengthy delays in the investigations and adjudications procedures for FBI whistleblower claims. Among other things, the bill provided for the ability of the Department to utilize more experienced administrative law judges to evaluate cases and allowed for interim relief for whistleblowers where the Office of the Inspector General finds a reasonable basis to believe reprisal occurred. The bill also would have required the Department to meet its obligations under FOIA and follow the example of the Merit Systems Protection Board in publicizing its opinions. The Department has promised to consider doing so, but in nearly two years has failed to publicize a single FBI whistleblower case. The result is that the FBI has access to case precedent, but potential whistleblowers do not.

Notably, the Judiciary Committee unanimously approved these key reforms in early 2016.

However, the Department of Justice and the FBI objected to these improvements—behind the scenes—without ever providing any official written comment on the bill.

1. If confirmed, how will you ensure that FBI employees are fully apprised of their new protections from reprisal committed by their supervisors?
2. If confirmed, how will you ensure that the Department and the FBI work with this Committee to continue to improve protections for whistleblowers at the FBI?
3. If confirmed, will you commit to reviewing any changes the Department makes to its policies and procedures in handling FBI whistleblower complaints?
4. If confirmed, will you provide this committee with regular updates on the Department's progress in improving the effectiveness and timeliness of its policies and procedures for addressing these claims?

Improper Handling Restrictions on Committee Documents

During the course of the Clinton investigation, the FBI provided a document production that was largely unclassified but contained some classified material. The production included “handling restrictions” on all the unclassified material which prevented necessary staff without a clearance from reviewing the unclassified material. These restrictions were never negotiated for, rather the FBI unilaterally used them.

^[13] 28 C.F.R. Part 27. The current regulations limit the individuals to whom FBI employees may make protected disclosures to nine specifically designated entities or individuals. In establishing such a limited group, the Department ignored the central purpose of whistleblower protection laws, which is to encourage disclosures and protect employees from the individuals or entities most likely to reprise against them.

The FBI's action is entirely contrary to the executive order and regulations governing the handling of classified information. Under the law, the unclassified material should have been produced directly to the Committee, with only a classified addendum submitted to the Office of Senate Security. Executive Order 13526 states:

The classification authority shall, whenever practicable, use a classified addendum **whenever classified information constitutes a small portion of an otherwise unclassified document** or prepare a product to allow for dissemination **at the lowest level of classification possible or in unclassified form.**

Moreover, Section 1.7(a) of Executive order 13526 specifically states:

In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to:

- (1) conceal violations of law, inefficiency, or administrative error;
- (2) prevent embarrassment to a person, organization, or agency;
- ...
- (3) prevent or delay the release of information that does not require protection in the interest of national security.**

Importantly, by definition, unclassified information does not require protection in the interest of the national security. And Executive Order 13526 mandates that "in no case" shall it "be maintained as classified," which accordingly prohibits FBI's attempt to require the unclassified materials to be treated as classified and stored in a SCIF.

The FBI's actions raise serious Constitutional separation of powers issues when the imposition of such document controls interferes with the independent oversight function of the Judiciary Committee.

1. Do you agree that the Legislative Branch has independent and constitutionally based oversight powers that provide it the authority to oversee the Executive Branch?
2. Do you agree that unilateral document controls by the Executive Branch undermine the independent and constitutionally based oversight powers of the Legislative Branch? If not, why not? Please explain.
3. If confirmed, will you instruct Justice Department employees and its components to negotiate in good faith any handling restrictions with the Committee before production? If not, why not?

Senator Mazie Hirono

Questions for the Record following hearing on January 10, 2017 entitled:

"Attorney General Nominations"

The Honorable Jefferson B. Sessions, U.S. Senator

1. During the hearing I asked Senator Sessions whether he would implement the Freedom of Access to Clinic Entrances act. He said, "I don't know exactly how threats are worded but if it is improperly done, they can be subject to criminal prosecutions and they would be evaluated properly in my administration."
 - a. The Ninth Circuit Court of Appeals ruled in 2002 that WANTED posters targeting abortion providers, as well as websites listing the addresses and telephone numbers of abortion providers and declaring them guilty of crimes against humanity, constitute actionable threats under the FACE Act. Do you agree with this ruling by the Ninth Circuit?
2. During the hearing I asked Senator Sessions whether he supported "enhanced vetting" of people with "extreme views."
 - a. How would you characterize what constitutes an extreme view?
 - b. Do you believe certain religions are more prone to extreme views than others? And if so, which ones?
3. At the hearing I asked if Senator Sessions would commit to maintaining and enforcing the consent decrees that the Justice Department has negotiated during the Obama administration. You said "those consent decrees remain in force until and if they are changed." You also stated "...I just wouldn't commit that there would never be any changes in them. And if departments have complied or reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that."
 - a. In light of ample empirical evidence showing that consent decrees have been an effective tool in addressing police misconduct, do you plan to instruct the Civil Rights Division of the U.S. Department of Justice to continue issuing them?
 - b. Absent a showing that a police department has actually achieved full compliance with specific provisions of a consent decree or the entirety of a previously-negotiated consent decree, will the Department of Justice under your leadership maintain, enforce, and defend against proposed changes to that consent decree?

- c. If your answer to the prior question was anything other than yes, please identify all criteria you will use to determine whether to maintain, enforce, and defend against changes to an existing consent decree entered into between a police department and the Justice Department.
 - d. What did you mean by “And if departments have... reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that”? What “other developments could justify the withdrawal or modification” of a consent decree?
4. During the hearing I cited the current Wells Fargo investigation and asked whether Senator Sessions would instruct the Department of Justice to pursue and hold accountable individual and corporate wrongdoers who defraud the American consumer.
- a. Do you believe that any financial institutions have a large enough financial impact that the Department of Justice would be hindered in any way from holding those institutions and/or their executives fully accountable in any case of lawbreaking?
 - b. If confirmed, if you determine that the size or interconnectedness of any financial institution hinders the Department of Justice’s ability to hold a bank or its executives accountable, will you work with banking regulators to take any necessary remedial action, including requiring the institution to divest assets, to ensure that the institution and its executives can be held accountable to the full extent of the law?
 - c. As you know, many of Wells Fargo’s consumer contracts contain provisions that require consumers to adjudicate disputes through arbitration, rather than in the court system. Wells Fargo has argued for dismissal of numerous consumer lawsuits over the fake account scandal based on these provisions. You have strongly defended the use of “forced arbitration” clauses during your time in the Senate.¹ If confirmed, will you defend rules enacted by banking regulators that limit the use of forced arbitration in consumer banking contracts to the full extent of the law?

¹ See e.g., <https://www.congress.gov/congressional-record/2000/3/28/senate-section/article/s1810-2?q=%7B%22search%22%3A%5B%22financial%22%5D%7D&r=5>, [https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Track_Regulatory_Issues/Pending_Regulatory_Changes/2016/Congressional%20Letter%20to%20Cordray%20re%20arbitration5b25d%20\(1\).pdf](https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Track_Regulatory_Issues/Pending_Regulatory_Changes/2016/Congressional%20Letter%20to%20Cordray%20re%20arbitration5b25d%20(1).pdf)

Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 24, 2017
QUESTIONS FROM SENATOR HIRONO

1. In your response to my written question 1a., you indicated that you would “follow and enforce the law as defined by the courts, including the FACE Act”. The question was whether you agree with the 2002 decision of the Ninth Circuit Court of Appeals (*Planned Parenthood of the Columbia/Willamette, Inc. v. Am. Coalition of Life Activists*, 290 F.3d 1058, 1062-66 (9th Cir.2002) (en banc)) that “WANTED posters targeting abortion providers” constitute actionable threats under the FACE Act. Your position on this would be important in jurisdictions where the courts have not made a determination about this type of actionable threat against abortion providers, and the Department of Justice would have to decide whether to bring an action under the FACE Act.
 - a. Do you agree with the decision in the Ninth Circuit?
 - b. Would you direct prosecutors to pursue cases under the FACE Act against this type of threat jurisdictions where the Ninth Circuit decision is not controlling?
2. In your response to my written question 2a., you stated that “An example of an extreme view would include those that call for the harming or killing those who do not share your religious beliefs.” This seems to indicate that there are other views that might also be considered “extreme” for the purpose of “enhanced vetting.”
 - a. Are there other religious views that you would consider extreme?
3. In your response to my written question 2b., you suggested that there is a historical context as to whether one religion is more likely to “exhibit more extreme and dangerous views than others.”
 - a. Which U.S. Government official(s) would properly determine whether a view is “extreme” or “dangerous” for the purpose of extreme vetting?
 - b. How would you ensure that enhanced vetting would not result in impermissible profiling or discrimination based on religious views?
4. In response to my written question 3b., you wrote, “[a]s I testified before the Committee, I would not pre-judge a specific case, nor would I commit that there would never be any changes to consent decrees that have been entered into, particularly if departments have either complied or have made other improvements that might justify the withdrawal or modification of the consent decree.”

- a. In the absence of compliance or improvements made on the part of the parties bound by the consent decree, will the Department of Justice under your leadership maintain, enforce, and defend against proposed changes to that consent decree?
 - b. In 2008, you wrote that consent decrees “constitute an end run around the democratic process.”¹ Given your hostility to consent decrees and your refusal to provide assurances that you will maintain, enforce, and defend against changes to an existing consent decree entered into between a police department and the Justice Department, how can this Committee be confident that those decrees are safe from premature changes?
 - c. During the hearing, you said that consent decrees are “not necessarily a bad thing.” Can you please provide a situation in which you would consider a consent decree a “bad thing”?
 - d. Under what circumstances would you oppose a consent decree regarding allegations of police misconduct?
5. In response to my written question 4c., you responded, “I have not devoted significant study to this issue. However, if I am confirmed, if such matters come before the Department of Justice, I will carefully and objectively evaluate the facts and circumstances of each case and endeavor to uphold and defend the Constitution in the pursuit of justice.”
- a. As I noted in written question 4c., you strongly defended the use of “forced arbitration” clauses during your time in the Senate, including in a statement on the floor of the Senate.² Please provide any sources you relied upon in preparing your remarks on the Senate floor.
6. The Consumer Financial Protection Bureau has studied the issue of forced arbitration in an extensive report to congress. The report is available here:
http://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf
- a. Given the information in this report, does that change your response to question 4c: “If confirmed, will you defend rules enacted by banking regulators that limit the use of forced arbitration in consumer banking contracts to the full extent of the law?”

¹ <http://www.alabamapolicy.org/wp-content/uploads/API-Research-Consent-Decrees.pdf>

² <https://www.congress.gov/congressional-record/2000/3/28/senate-section/article/s1810-2?q=%7B%22search%22%3A%5B%22financial%22%5D%7D&r=5>

Senate Judiciary Committee
Confirmation Hearing of Sen. Jeff Sessions for United States Attorney General
Questions for the Record
January 17, 2017

Senator Amy Klobuchar

Synthetic Drugs

Synthetic drugs continue to be a major nationwide problem. Part of the problem is that sellers of these dangerous drugs have managed to find loopholes in the law, often avoiding detection by disguising their products and labeling them as “not for human consumption.”

- Can you comment on this issue, and will you commit to addressing the sale and distribution of synthetic drugs as Attorney General?

High Intensity Drug Trafficking Area (HIDTA) Designation for Five Minnesota Counties

The deadly opioid abuse and heroin epidemic has devastated communities in Minnesota and across the country. Until recently, Minnesota was one of the only states without a designated High Intensity Drug Trafficking Area (HIDTA). This program, which was established in 1988, is intended to reduce drug trafficking by facilitating cooperation and information sharing among federal, state, and local law enforcement agencies. Although the HIDTA program is administered by the Office of National Drug Control Policy (ONDCP), the Drug Enforcement Administration (DEA) plays an active role in supporting the program.

- As Attorney General, would you continue to support the important work being done by the HIDTA program?
- After I wrote a letter to the Office of National Drug Control Policy (ONDCP) in August 2016, five Minnesota counties (Hennepin, Ramsey, Anoka, Dakota, and Washington) were included in the Wisconsin HIDTA designation. It is important to me that the five Minnesota counties receive meaningful funding through this designation. If you are confirmed as Attorney General, will you commit to looking into this issue?

Drug Courts

Drug courts are a proven and effective tool to help non-violent offenders receive the treatment they need, while also saving taxpayers money and reducing crime. I have led efforts to advocate for funding for these important programs in the Senate. I understand that you brought the first expert on drug courts to Alabama in the early 1980s in an effort that led to the establishment of the Mobile County Drug Court.

- Will you commit to continuing your support of drug courts if you are confirmed as Attorney General?

Antitrust: Platform Competition

As Ranking Member of the Antitrust Subcommittee, I have heard complaints that the internet is now dominated by a small number of companies that serve as platforms for the digital economy – similar to the way railroads did a century ago. Others argue that these companies remain integral to creating opportunities for start-up businesses to grow and succeed.

- What should the Antitrust Division be doing to ensure that digital markets remain open and competitive?

Antitrust: Anheuser-Busch InBev's Acquisition of SABMiller

Recently, the Department of Justice filed its consent decree regarding Anheuser-Busch's acquisition of SABMiller. Conditions that protect beer wholesaler independence and that require Anheuser-Busch to report its acquisitions of craft brewers are critical to protecting the vital competition and innovation that craft brewers have provided the market.

- Will you commit to vigorously enforcing the terms of the consent decree to protect competition and to carefully review any additional consolidation in the beer industry, including the acquisition of craft brewers by large national or international competitors?

Antitrust: Agricultural Consolidation

Currently, both E. I. du Pont de Nemours and Company merger with the Dow Chemical Company and Bayer AG's acquisition of Monsanto Company, Inc., are under review by the Department of Justice. Minnesota is the nation's fifth-largest agricultural producing state, and our farmers contribute nearly \$21 billion to Minnesota's economy each year. I have heard concerns that each merger could undermine incentives to develop new traits and to license technology, that the Dow-DuPont merger could increase prices for corn seeds and soybean seeds, and that Bayer's acquisition of Monsanto could excessively increase concentration for certain types of herbicides.

- Will you commit to closely examining these transactions to make sure they do not harm farmers, limit innovation, or increase seed prices?

National Voter Registration Act (NVRA)

Another responsibility of DOJ's Voting Section is to enforce the National Voter Registration Act (NVRA), or the "motor voter law." Many states do not comply with the voter access provisions of the bipartisan NVRA, and, to date, DOJ has not been particularly active in enforcing these provisions.

- If you are confirmed as Attorney General, will you commit to active enforcement of Sections 5 and 7 of the NVRA, which, respectively, require states to provide voter registration opportunities at DMVs and at state public assistance and disability offices?
- Another important section of the NVRA is Section 8, which sets requirements for how states maintain voter registration lists for federal elections. What role, if any, do you believe DOJ has in enforcing Section 8 of the NVRA, to purge duplicate registrations or registrations of deceased voters from the rolls? What protections do you believe are required to ensure that legitimate voters are not inappropriately purged from the rolls?

Freedom of the Press

In your hearing, I asked you if you would commit to following the standards now in place at the Justice Department to not put reporters in jail for doing their jobs. You responded that you did not know and "had not studied those regulations."

- Upon further consideration, will you commit to not putting reporters in jail for doing their jobs?

Immigration

Research has shown that not only do immigrants already help grow the size of the economy for all Americans, but, according to one study, immigration reform would increase the wages of all

Americans by \$625 billion over a decade and create on average 145,000 new jobs each year. According to another recent study, immigrants contributed \$22.4 billion to Minnesota's GDP, totaling 7.5 percent of the state's GDP in 2012. Immigrants also own 8.5 percent of businesses in the Minneapolis-St. Paul region alone.

- When I raised the issue of the economic benefits of immigration in your hearing, you said, "I think as a nation, we should evaluate immigration on whether or not it serves and advances the national interest, not the corporate interest." Can you elaborate on this statement? Do you believe that immigration benefits the U.S. economy?

National Security / Extremist Activities

Protecting national security should always be a top priority of the Justice Department. In the Twin Cities, extremist recruitment has been a particular challenge. I was pleased that, in 2014, the Twin Cities were among three metropolitan areas selected for a pilot program to counter violent extremism run by the Departments of Justice and Homeland Security. Our local community groups, faith leaders, U.S. Attorney, and law enforcement have partnered together to create a program called Building Community Resilience. I have repeatedly asked for the strongest possible level of funding for these efforts.

- While much of the funding made available to this program has been through the Department of Homeland Security (DHS), the Department of Justice (DOJ) has also provided funding in the past. Will you commit to supporting efforts like this to counter extremist recruitment as Attorney General?

In Minnesota, we know that law enforcement must partner with community leaders to build trust and put in place the programs that can guard against extremist recruiting efforts. Our U.S. Attorney Andy Luger has prosecuted dozens of terrorism cases and brought together community leaders working to address extremism. In addition, community groups are engaging populations that ISIS seeks to exploit and providing much-needed social services to communities that are underserved.

- If you are confirmed, how would you work to support programs like the one in Minnesota that seek to strengthen trust between law enforcement and communities?

**Questions for the Record of Senator Patrick Leahy
Senate Judiciary Committee,
Hearing on the Nomination of Senator Jeff Sessions to Serve
as Attorney General of the United States
January 17, 2017**

1. At your hearing, I asked you several questions about your opposition to these two bills. With respect to VAWA, you stated “a number of people opposed some of the provisions in that bill.” You mentioned specifically the tribal victims provision.

a. Did you also oppose the new protections for LGBT Americans?

I asked if you would defend the law’s constitutionality, and you did not provide a full answer. You said only that you would “if it is reasonably defensible.”

b. Do you believe the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims provisions, is “reasonably defensible”?

At your hearing, I asked about your statement that my hate crimes amendment “has been said to cheapen the civil rights movement.”

c. What did you mean by that? Do you believe that the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act “cheapen[ed] the civil rights movement”?

2. As Attorney General you would be charged with overseeing the Office of Violence Against Women. This Office is a component of the Justice Department, and was developed to reduce violence against women by prosecuting acts of domestic violence, dating violence, sexual assault, and stalking. This office provides 24 separate grant programs that support law enforcement, state and tribal coalitions, non-profit organizations, and institutions of higher education to serve survivors and hold offenders accountable.

Will you commit to preserving these critical grant programs and to ensure they receive the funding they need so that the Office can effectively carry out its mission?

3. The Attorney General has delegated authority to the Executive Office for Immigration Review, which oversees our country’s immigration courts and the Board of Immigration Appeals. In recent years, developments in immigration law have led to a recognition that domestic violence can serve as the basis for an asylum claim. These cases often involve immigrant women who have endured severe abuse at the hands of their partner and would be placed in danger if returned to their home country. But asylum continues to be denied to many of them.

If confirmed as Attorney General, will you commit to protecting victims of domestic violence who fear being returned to their home countries?

4. We have heard a lot in the last two months about the President-elect's business and financial holdings, and how he and his family might personally benefit from his decisions as President. This raises extremely troubling issues with respect to conflicts of interest, the STOCK Act, and the Emoluments Clause of the Constitution.

I understand that you plan to divest some of your holdings if you are confirmed to be Attorney General. You also stated in your questionnaire that you have consulted with the Office of Government Ethics and "will follow their guidance" on conflicts of interest.

- a. **Should the President-elect follow your example and heed the Office of Government Ethics' guidance and divest from assets that might create a conflict of interest?**
- b. **If President-elect Trump does not follow the guidance of the Office of Government Ethics, what steps will you take to ensure that the new administration eliminates its conflicts of interest? Will you recuse yourself from conflicts of interest charges against the President-elect or members of his family?**

In a hearing early last year, Senator Tillis raised a question about the Emoluments Clause, which states that "no person holding any office of profit or trust under [the United States] shall, without the consent of the Congress, accept of any present, emolument, office, or title ... from any king, prince, or foreign state." He and Chairman Grassley both followed up with Attorney General Lynch on the issue. The question was whether the receipt of any payment "from a foreign government or an instrumentality of a foreign government" by a spouse of an executive branch officer violated the Constitution. Such questions are even more pressing when it is the constitutional officer himself who is receiving such payments.

- c. **If the President-elect does not fully divest, does the rent paid by the Industrial and Commercial Bank of China to the President-elect for space at Trump Tower in New York raise concerns vis a vis the Emoluments Clause? The Bank, which is owned by the Chinese government, is according to news reports the largest tenant in Trump Tower.**
- d. **If the President-elect does not fully divest, does money paid by the embassies of various foreign governments for the use of event space or lodging at the President-elect's hotel here in Washington raise concerns vis a vis the Emoluments Clause?**

A 2009 Office of Legal Counsel opinion found that the Emoluments Clause "surely" applies to the president. As Justice Alito explained when he served in that office in 1986, the Clause is intended to minimize "the potential for 'corruption and foreign influence.'" It was good to hear you state at your hearing, in response to Senator Blumenthal, that the Clause does apply to the President.¹

- e. **What is the Justice Department's role in enforcing the Emoluments Clause?**

¹ Transcript 179.

- f. Who would have standing to bring a case regarding the Emoluments Clause? Do states have standing to enforce it?**

The President-elect has tried to minimize the potential conflicts of interest presented by his business interests by stating that his children will run the Trump Organization. Yet he has refused to give up his stake in the company, which does business with countless organizations and individuals tied to foreign governments. Ethics experts have declared that these conflicts of interest will not be resolved as long as the President-elect maintains a financial stake in his companies.

- g. When the President has a personal financial stake in the policies and trade deals his administration pursues, doesn't that pose a conflict of interest?**

- h. If President-elect Trump fails to fully divest, how will the American public know if the President is making a decision to benefit America, or to make himself or his family more money?**

- i. Doesn't the public interest demand full financial disclosure and divestment?**

Even if Mr. Trump fully divests himself from the Trump Organization and his children take full control of it, the problems do not go away. His children have taken an active role in the transition, and anything that benefits them will of course benefit their father.

- k. Should President-elect Trump's children participate in government policy discussions or meetings with foreign governments while they are also running or maintaining a stake in the Trump Organization? Does participation by President-elect Trump's children or other family members in his administration raise concerns about possible violations of anti-nepotism laws?**

Last month former House Speaker Newt Gingrich argued that "traditional rules don't work" and that Congress should change existing ethics laws in order to accommodate the incoming President. These laws exist to ensure that public officials are focused on serving the public, and not on enriching themselves.

- l. Do you agree with Speaker Gingrich that we should weaken our ethics laws to accommodate the President-elect?**

5. While serving as Attorney General of Alabama, you attempted to vacate a consent decree that successfully reformed Alabama's child welfare system, turning it from "dysfunctional" to a national model, according to the New York Times. When you filed your motion to vacate the decree, you alleged that your predecessor and the client agency had colluded and engaged in "fraud upon the court." I am troubled that you made this allegation when the court "found no evidence" that "any party actively misled or deceived the Court." If confirmed as Attorney General, you will be tasked with representing the Federal government in court, and you will have to defend not only laws you voted against, but administrative actions taken by prior administrations that you disagree with.

- a. **Is it common for an attorney to accuse their client of collusion and fraud? Do you believe that such accusations are consistent with an attorney's obligation to provide zealous advocacy on behalf of his or her client?**
- b. **Is it appropriate for an attorney, let alone an Attorney General, to make accusations of fraud in court without evidence to support the claim?**

Even the judge in this case said, "If the Court were to speculate, it would guess that political gamesmanship played perhaps the biggest role in determining the timing of this challenge. What was convenient and beneficial for one administration has saddled its successor with serious obligations with which it would rather not comply."

- c. **Given this criticism, what steps will you take, if confirmed, to ensure that you make decisions as Attorney General only on the basis of law rather than your own ideology?**

6. In the past year, four people, including a newborn baby, have died in the jail run by Milwaukee Sheriff David Clarke, and according to news reports the Department of Justice is considering opening an investigation into that jail.² The Sheriff's office issued a statement that essentially says he is counting on you as Attorney General to quash any investigation into the conditions at the jail.

Did you campaign for Mr. Trump with Sheriff Clarke, or have any other interaction with him in the last year? If so, please describe them. If so, will you recuse yourself from any Justice Department investigation of that jail or of Sheriff Clarke?

7. Traditionally, the Attorney General and the Department's Office of Legal Policy have had a significant role in the selection of judicial nominees. Unprecedented obstruction in the Senate has resulted in 108 current vacancies, including the vacancy on the Supreme Court to which Merrick Garland was nominated and should have been confirmed last year.

- a. **What will be your role in the Trump administration with respect to judicial nominations?**

I am concerned that your record on nominations does not indicate any efforts at diversity. You failed to return the blue slip for Kenneth Simon, and failed to return the blue slip for Judge Kallon, who would have been the first African American judge to fill an Alabama seat on the Eleventh Circuit. Moreover, each of the ten Bush-nominated judges confirmed to seats in Alabama was white. Just three African Americans have ever served on the Federal bench in Alabama. Over the past eight years, President Obama has made judicial diversity a priority, and has made significant progress in ensuring the Federal bench reflects the Nation it serves.

² <http://www.jsonline.com/story/news/local/milwaukee/2016/11/16/inmate-baby-died-after-staff-ignored-her-labor/93988574>.

- b. **If confirmed, will you and the incoming administration commit to continuing this work, and putting forward nominees who represent a breadth of racial, religious, and professional backgrounds?**

As a Senator and a member of this Committee for 20 years, you are very familiar with the blue slip and the role that home state Senators play in judicial selection. You used the blue slip to block the nominations of Kenneth Simon and Abdul Kallon. But the blue slip also guarantees the constitutional role of advise and consent as a check against presidential power, and ensure that the Senate is not a mere rubber stamp. Chairman Grassley recently reiterated his support for the blue slip and his intent to keep the current policy – that nominees will not move forward without two positive blue slips – in place.

- c. **If confirmed, will you continue to support this policy, even if it means nominations made by the President-elect do not receive a hearing?**

During the previous Republican administration, many Senators were concerned that the administration circumvented their traditional role of making recommendations for judgeships and instead effectively outsourced the process to right-wing legal groups.

- d. **Will you and the incoming administration commit to preserving the rights of home state Senators, and work with all 100 of us to find consensus nominees to serve on our independent judiciary?**

8. When evaluating President Clinton and President Obama's judicial and executive branch nominees, you often asked questions based on nominees' associations with particular groups and organizations, particularly if nominees had been members of organizations such as the ACLU. For example, when opposing Judge Susan Mollway, you said:

"I know all of us are active in various activities. And I think it is appropriate that we be asked about those activities when we are nominated for a position like this... I am certain that as a board member she did not sign those pleadings, and maybe did not personally conduct in-depth research. In fact, I think she suggested she has not researched each one of these issues. But I think it is appropriate for us to ask about those positions"

You concluded that this organization held views that were "outside the mainstream." You noted that "when asked at our confirmation hearing if there were any policy positions of the Hawaii ACLU that she disagreed with" this nominee did not name any, and you argued this was "a sufficient basis...to have a serious concern" about the nomination.

I have grave concerns regarding organizations with which you have been involved.

In 2014, you accepted the "Daring the Odds" award from the David Horowitz Freedom Center. The Southern Poverty Law Center has repeatedly called David Horowitz an "anti-Muslim extremist" and has an extensive and detailed profile of Mr. Horowitz's racist and repugnant remarks against Muslims, Arabs, and African-Americans.

In your hearing, you stated to Senator Blumenthal with regard to Mr. Horowitz that “I am not aware of everything he has ever said or not.” You also defended your association with him by saying “I am not aware of those comments, and I do not believe David Horowitz is a racist or a person that would treat anyone improperly, at least to my knowledge.” Now you have had the opportunity to learn more about the extremist remarks Mr. Horowitz has made.

For example, Mr. Horowitz has repeatedly claimed that the United States government has been infiltrated by Muslims. He has referred to Muslims as “Islamic Nazis” who “want to kill Jews, that’s their agenda.”³

a. Do you disavow and condemn that remark?

Mr. Horowitz has said “Obama is an anti-American radical and I’m actually sure he’s a Muslim, he certainly isn’t a Christian. . . . He’s a pretend Christian in the same way he’s a pretend American.”⁴

b. Do you disavow and condemn that remark?

Mr. Horowitz has even claimed that Muslims have “infiltrated” the Republican Party, and that “Grover Norquist is a Muslim, he is a practicing Muslim.”⁵

c. Do you disavow and condemn that remark?

Given statements like those, it’s not shocking that Mr. Horowitz was cited in the manifesto written by Norway terrorist Andres Breivik. Mr. Breivik killed 77 people in a 2011 attack that was inspired by his belief that Muslims were taking over Europe.

d. Other than that award, have you had any involvement with that organization? Has all such involvement been disclosed in your Questionnaire?

In 2015, you received the “Keeper of the Flame” award from the Center for Security Policy. The Center for Security Policy has been strongly criticized by the Anti-Defamation League, and is considered a hate group by the Southern Poverty Law Center.

In 2011, its founder, Frank Gaffney, was banned from the Conservative Political Action Conference (CPAC) because, in the words of one board member, “they didn’t want to be associated with a crazy bigot.” Among his disgraceful statements, Mr. Gaffney has said that the two Muslims in Congress, Representative Keith Ellison and Andre Carson, have “longstanding Muslim Brotherhood ties.”⁶

e. CPAC did not want to be associated with a “crazy bigot,” but you accepted an award from him in 2015. Do you condemn Mr. Gaffney’s remarks and his

³ <http://mondoweiss.net/2011/03/peter-king-hearings-come-to-flatbush-david-horowitz-stokes-anti-muslim-sentiment-at-brooklyn-college>.

⁴ <http://www.rightwingwatch.org/post/david-horowitz-knows-obama-is-a-muslim-because-he-hates-america-so-much>.

⁵ <http://www.rightwingwatch.org/post/david-horowitz-says-huma-abedin-is-worse-than-alger-hiss-and-grover-norquist-is-a-practicing-muslim-subverting-the-gop>.

⁶ <http://thehill.com/blogs/pundits-blog/homeland-security/276636-muslim-brotherhood-day-on-capitol-hill>.

insinuation that the two Muslim Congressmen are affiliated with the Muslim Brotherhood?

- f. **Do you believe it is acceptable for the Attorney General to associate with Mr. Gaffney and his extremist organization?**
- g. **Mr. Gaffney has complained about Somali refugees holding jobs in the meat processing industry, saying “it kind of creeps me out that they are getting jobs in the food supply of the United States.”⁷ Do you condemn that statement?**
- h. **Mr. Gaffney argued that a Muslim member of Congress should not be allowed to serve on the House Intelligence Committee because of his “extensive personal and political associations with...jihadist infrastructure in America.”⁸ Do you condemn that remark?**
- i. **Mr. Gaffney has said of President Obama that it is an “increasingly indisputable fact that this president is providing aid and comfort to enemies of the United States. And that is the definition, as you know, of treason.”⁹ Do you condemn the offensive allegation that President Obama is a traitor?**
- j. **Other than that award, have you had any involvement with that organization or with Mr. Gaffney? Has all such involvement been disclosed in your Questionnaire?**

President-elect Trump has appointed Michael Flynn to be his National Security Advisor. The National Security Advisor has typically been the President’s principal advisor on national security matters, a position that does not require Senate confirmation.

Mr. Flynn serves on the board of advisors for an organization called ACT for America. The Southern Poverty Law Center has called this organization “far and away the largest grassroots anti-Muslim group in America.” In August 2016 – less than six months ago – Mr. Flynn spoke at an event for this group. He is on video saying that Islam “is a political ideology. It definitely hides behind this notion of it being a religion.” He also added that Islam is “like a malignant cancer.”¹⁰

- k. **Do you disavow and condemn Mr. Flynn’s remarks?**
- l. **Do you believe that the President’s national security advisor should refer to Islam as a “malignant cancer”?**
- m. **Do you believe the National Security Advisor should be associated with organizations that promote anti-Islamic bigotry and conspiracy theories?**

In the unclassified Intelligence Community Assessment on “Assessing Russian Activities and Intentions in Recent US Elections” released on January 6, 2017, there are seven pages describing

⁷ <http://thehill.com/blogs/congress-blog/civil-rights/271366-freedom-and-hate>.

⁸ <http://www.rightwingwatch.org/post/frank-gaffney-muslim-congressman-part-of-islamic-fifth-column>.

⁹ <http://www.rightwingwatch.org/post/frank-gaffney-obama-playing-for-the-other-team-committing-treason>.

¹⁰ <https://qz.com/841197/islam-is-a-malignant-cancer-the-hateful-rhetoric-of-michael-flynn-trumps-new-national-security-adviser>.

the activities of RT America TV. The report notes that the network's "Leadership [is] closely tied to, controlled by Kremlin." Mr. Flynn has given a paid speech to RT, and attended a dinner celebrating the network's anniversary, where he sat at the same table as Vladimir Putin.¹¹

n. What legal issues does the relationship between the incoming National Security Advisor and the Russian government raise?

In 2015, you received an award from the Eagle Forum for "Excellence in Leadership." The late founder of that organization has a long history of controversial remarks. That includes advocating for "railroad cars full of illegals going south"¹² and increasing the pay gap between men and women,¹³ and arguing that married women by definition cannot be raped by their husbands.¹⁴

- o. Do you agree that there should be "railroad cars full of illegals going south"? Do you condemn that remark?**
- p. Do you agree that married women by definition cannot be raped by their husbands? Do you condemn that remark?**
- q. Do you agree that the pay gap between men and women should be increased, rather than diminished?**
- r. Ms. Schlafly also claimed "it would be useful to reinstate the House Committee on Un-American Activities" to target Muslims.¹⁵ Do you agree with that statement?**
- s. Other than that award, have you had any involvement with that organization? Has all such involvement been disclosed in your Questionnaire?**

9. Over the course of the 2016 campaign, you offered extensive criticisms of the power that elites and special interests have in our politics. Even after *Citizens United* unleashed a massive flow of money into our elections, there are still laws that regulate political spending and coordination between campaigns and PACs. Under the leadership of Eric Holder, the Department of Justice in 2015 successfully prosecuted illegal coordination between a campaign and a PAC. This was the first prosecution of its kind. The lead prosecutor on the case stated: "The Department of Justice is fully committed to addressing the threat posed to the integrity of federal primary and general elections by coordinated campaign contributions, and will aggressively pursue coordination offenses at every appropriate opportunity."

If confirmed, you will be joining an administration that has pledged to "drain the swamp" in Washington. In order to ensure that our government is open responsive to its citizens, it is critical that Americans know who is lobbying their representatives. The Lobbying Disclosure Act created a registration requirement for lobbyists which is enforced by the Department of Justice through the U.S. Attorney's Office in Washington, DC.

¹¹ <http://www.cnn.com/2016/11/20/politics/kfile-michael-flynn-rt-syria>.

¹² <http://www.rightwingwatch.org/post/phyllis-schlafly-wants-railroad-cars-full-of-illegals-going-south>.

¹³ <http://www.rightwingwatch.org/post/schlafly-increase-the-pay-gap-so-women-will-have-better-opportunities-to-find-a-husband>.

¹⁴ <http://www.rightwingwatch.org/post/schlafly-reiterates-view-that-married-women-cannot-be-raped-by-husbands>.

¹⁵ <http://www.rightwingwatch.org/post/schlafly-reinstate-the-house-committee-on-un-american-activities>.

Will you ensure that the Lobbying Disclosure Act and its reporting requirements are fully enforced, and that the President-elect's choice for U.S. Attorney in Washington, DC, makes it a priority?

10. The President-Elect has proposed that to fight terrorists, the United States should "take out their families." Intentionally killing the family members of a terrorist would violate any number of laws, including the Geneva Conventions as well as U.S. statutes.

If you are confirmed, would you advise the President that targeting and killing family members of terrorists is not a legal option?

11. Too often, deportation cases are brought against immigrant children who do not have lawyers. Last year, I was appalled when I heard that an immigration judge stated it is possible to teach immigration law to three- and four-year olds. That is outrageous. These vulnerable children have often fled horrific violence in their home countries. Then they are expected to navigate our complex immigration laws on their own, without counsel. That hardly constitutes justice. The least we can do is give these children a fair day in court.

When Senator Coons asked you about this issue, you deflected, saying only that "I do not believe we can afford nor should we undertake to provide free lawyers for everybody that enters the country unlawfully." You added simply that "Congress would need to decide what to do about it." If confirmed as Attorney General, you will have broad discretion over the immigration courts system, including the appointment of immigration judges, and so I am asking about your personal views.

- a. **Do you believe that unaccompanied minors in immigration court should receive access to counsel? Do you agree that toddlers can learn immigration law sufficiently to understand the consequences they are facing and meet the requirements of due process?**
- b. **If confirmed as Attorney General, how will you ensure that these vulnerable children receive due process?**

12. The First Amendment and a free and vibrant press are at the heart of our democracy. As the President-elect takes office, conscientious whistleblowers may seek to provide the press with vital information about abuses. Too often, when the government or private litigants are unhappy with leaks, they seek to punish the journalists for doing their job. Given that the incoming White House Press Secretary has demanded a journalist apologize for attempting to ask the President-elect a question, and threatened to have him removed from future press conferences, I am deeply concerned about the incoming administration's commitment to bedrock First Amendment principles.

This Committee twice approved bipartisan federal media shield legislation that would establish a qualified privilege for journalists to protect their sources and the public's right to know. On both occasions, you voted against the shield bill.

- a. **Will you maintain existing Department regulations restricting subpoenas issued to the news media (28 CFR 50.10)?**
- b. **What limits do you believe the First Amendment places on attempts to stifle the free press? What role should the Justice Department play to protect journalists?**

13. We are grappling with a new wave of drug abuse, this time to powerful prescription opioids and heroin. Rural states, like my home state of Vermont, have been particularly hard-hit. You have said that “The best way for us to improve our pressure from the law enforcement end on drug trafficking in America is to increase prosecutions and investigations.” Enforcement will always play a role, and the Justice Department’s Drug Enforcement Administration plays a critical role in preventing the diversion and over-prescription of opioid painkillers. But at the root of every drug crisis is addiction. And we cannot arrest our way out of this problem. One important lesson from the failed war on drugs is that supply will relentlessly chase demand fueled by addiction – regardless of the penalties. We must confront addiction like we do any other public health crisis: through evidence-based prevention, treatment, and recovery efforts.

- a. **If you are confirmed, what will your strategy be to confront addiction to prescription painkillers?**
- b. **The Justice Department currently supports numerous diversion programs to keep certain offenders with addiction issues out of the criminal justice system, and naloxone programs to save addicts’ lives. Would you continue both the diversion programs and the naloxone programs?**

14. John Yoo’s 2002 OLC memo justifying torture stated that: “Any effort by Congress to regulate the interrogation of battlefield combatants would violate the Constitution’s sole vesting of the Commander-in-Chief in the President.”

- a. **You voted against both of Senator McCain’s amendments to ban torture and other cruel treatment by U.S. officials, first in 2005 and again last year. Do you agree with John Yoo that congressional regulation of torture is unconstitutional?**
- b. **Will you commit that you will not reinstate that OLC opinion, or any of the other OLC opinions justifying torture that were later rescinded?**
- c. **Is John Yoo participating in any capacity on the new administration’s transition team? What role is he playing? Have you been in contact with him in the last year?**

During the Bush Administration, John Yoo and Jay Bybee wrote OLC opinions stating that the President has the power, as Commander-in-Chief, to violate acts of Congress – both the criminal prohibition on torture, and the Foreign Intelligence Surveillance Act. That dangerous theory has been largely repudiated. Many of the memos they drafted or signed have been rescinded.

- d. **Do you believe that the President has the authority under any circumstances to exercise a “commander-in-chief override” to violate acts of Congress?**

15. The Department of Justice is responsible for enforcing the National Voter Registration Act (NVRA), which sets forth certain voter registration requirements in connection with federal elections, including at Department of Motor Vehicle offices (the “motor-voter” registration process). The Tenth Circuit Court of Appeals recently held that a Kansas law requiring that voter registration applicants provide documentary proof of citizenship would cause a “mass denial of a fundamental constitutional right,” and enjoined the Kansas law from being enforced because it conflicts with the NVRA’s federal voter registration form. As a result, the Court held that the Kansas law was preempted by the NVRA and could not be enforced with respect to motor-voter applicants. Alabama has a similar law, but the secretary of state has not enforced it. If confirmed as Attorney General, you would be responsible for making decisions regarding enforcement of the NVRA and to following court decisions on the NVRA.

If confirmed, will your Justice Department take positions that are contrary to the Tenth Circuit’s ruling on the NVRA by asserting that a state may require Americans to submit proof of citizenship papers to register to vote at a DMV office?

16. American consumers and employees are increasingly waiving their legal rights by agreeing to forced arbitration clauses. These are often slipped into a contract and written in legal jargon. Through hearings in this Committee and other efforts, we have learned that the arbitration process has none of the safeguards of our court system. There is no rule of law or precedent. No transparency. No way to appeal an adverse judgment.

The secrecy of the arbitration process allows wrongdoing to go undiscovered and unpunished for years. Recent examples include Wells Fargo’s forced arbitration over millions of sham accounts, and Gretchen Carlson’s fight against sexual harassment at Fox News.

- a. **If confirmed, what steps will you take to ensure that the Justice Department pursues and prosecutes companies who try to exploit consumers and employees by hiding behind one-sided arbitration agreements?**

On January 13, the Supreme Court granted certiorari in three related employment arbitration cases and consolidated them for argument. In one of those cases, *NLRB v. Murphy Oil*, the Justice Department argued in its petition for certiorari that arbitration agreements that bar work-related class actions by employees violate the National Labor Relations Act and are therefore unenforceable.

- b. **If confirmed, do you commit that you will not change the government’s position in this case in any way?**

17. When opposing many of President Obama’s nominees, you argued that some were simply too political to be trusted in leadership positions at the Department of Justice. You complained that one nominee “has a record of and a reputation for very strong political activity”

and that “I am concerned whether he is capable of putting aside partisan beliefs.” You also stated that “The Attorney General is the top law enforcement officer in the country. This is not traditionally a political position. It is a law position.” I agree with you on that.

I don’t think that there is any doubt you are a conservative Republican politician. You have also been a loyal advocate for Donald Trump over the past year.

If we adopt your standard in opposing Justice Department nominees with “very strong political activity,” how can we support your nomination, or those of other potential Trump nominees?

18. Last August, the Department of Justice announced that the Bureau of Prisons would begin to phase out its use of private prisons. In her memo ordering the phase-out, Deputy Attorney General Yates wrote that private prisons “simply do not provide the same level of correctional services, programs, and resources; they do not save substantially on costs; and as noted in a recent report by the Department’s Office of Inspector General, they do not maintain the same level of safety and security.” I strongly oppose the use of for-profit prison companies for detention purposes and believe this was a positive step toward ending the government’s reliance on such facilities.

a. **Do you believe that detention should be a for-profit business?**

b. **In the interests of better serving the goals of the Justice Department and reducing costs to the American taxpayer, will you continue this phase-out of for-profit prisons?**

19. You have been a strong and consistent proponent of the theory that the United States should treat terrorism suspects as so-called “enemy combatants.” You have argued that we should subject them to mandatory military custody and interrogation, without access to lawyers, and that we should try them by military commission if at all. You have argued that this should apply even to individuals picked up inside the United States, as this country is included in the “battlefield” in the war with al Qaeda.

a. **Do you believe this war framework should apply to American citizens picked up in the United States?**

b. **Should Timothy McVeigh, who killed 168 people in the Oklahoma City bombing, have been placed in military custody and treated as a wartime enemy?**

c. **If we are at war with al Qaeda, and if you believe the battlefield includes the United States, can we also use lethal force against al Qaeda suspects in the United States?**

20. In 2000, you described the Individuals with Disabilities Education Act (IDEA) as the “single greatest obstacle our educators face.” You then stated it creates “lawsuit after lawsuit, special treatment for certain children.” You said it is “a big factor in accelerating the decline in civility and discipline in classrooms all over America.”

a. Do you still hold believe that mainstreaming causes a “decline in civility and discipline in classrooms all over America?”

Last year, the Justice Department filed a lawsuit against Georgia alleging that its segregation of students with disabilities violates the Americans with Disabilities Act (ADA).¹⁶ You have previously argued in favor of such segregation and expressed skepticism of mainstreaming.¹⁷ In this lawsuit, the Justice Department noted that some of the facilities used by students with disabilities “are located in poor-quality buildings that formerly served as schools for black students during de jure segregation.”

b. If confirmed, will you continue to pursue this case, and bring others where students with disabilities are being segregated from their peers in violation of the ADA?

Last week the Supreme Court heard oral argument in *Endrew F. v. Douglas County School District*. The Justice Department filed an amicus brief in support of the petitioner, arguing that the IDEA requires states to provide more than *de minimis* educational benefits and in fact “give eligible children with disabilities an opportunity to make significant educational progress.”¹⁸

c. If you are confirmed, will the Department of Justice maintain its position in this case?

The ADA contains, at 42 U.S.C. § 12202, a waiver of state sovereign immunity. Twice during the Bush administration, in *Tennessee v. Lane* (2004) and *U.S. v. Georgia* (2006), the Justice Department argued, and the Supreme Court agreed, that the waiver was a valid exercise of Congressional power under Section V of the Fourteenth Amendment.

d. If confirmed, will you commit to defending the constitutionality of this exercise of Congress’s Section V power?

The voting rights of Americans with disabilities are protected by the ADA, the Voting Rights Act, and several other statutes.¹⁹ But several studies have found individuals with disabilities face barriers to the franchise that are exacerbated by voter ID requirements.²⁰

e. If confirmed, what steps will you take to ensure that the voting rights of Americans with disabilities are protected?

21. You claim to be a champion of the Voting Rights Act because you voted for VRA’s reauthorization in 2006. But aside from this single vote, you have consistently criticized the VRA. You have called it an “intrusive piece of legislation” and have questioned its constitutionality based on your belief that there is “relatively little present-day evidence” of voter

¹⁶ https://www.ada.gov/olmstead/documents/gnets_complaint.html.

¹⁷ <https://www.gpo.gov/fdsys/pkg/CREC-2001-11-07/pdf/CREC-2001-11-07-pt1-PgS11511.pdf#page=8>.

¹⁸ <http://www.seotusblog.com/wp-content/uploads/2016/11/15-827-amicus-petitioner-U.S.pdf>.

¹⁹ https://www.ada.gov/ada_voting/ada_voting_ta.htm.

²⁰ See, e.g., <http://www.vox.com/2016/4/1/11346714/voter-id-laws-disabilities>.

discrimination. When the 2013 *Shelby County* decision struck down a central provision of the VRA, you argued that the decision was “good news...for the South” and observed that “Shelby County never had a history of denying the vote.”

- a. **Since the *Shelby County* decision, some individuals have argued that there is no need to restore the protections of Section 5 because the Justice Department can still use Section 2 to bring lawsuits against states and localities that are discriminating against voters. But at the same time, some of these same individuals have argued that Section 2 might also be unconstitutional. Do you believe that Section 2 of the Voting Rights Act is unconstitutional?**

The current Justice Department is involved in several suits against states that have enacted severe voting restrictions that disproportionately harm minority voters. In two of these cases, courts of appeals found that voter ID laws in North Carolina and Texas were discriminatory and violated the VRA.

- b. **If you are confirmed, will the Justice Department maintain its current position in these cases – especially since federal appeals courts have found these voter ID laws to be discriminatory?**

22. The intelligence community has concluded that Russia intervened in the 2016 election in an effort to help elect Donald Trump. The report is available at https://www.dni.gov/files/documents/ICA_2017_01.pdf. Russian interference in our elections is larger than any candidate or political party. This is about protecting our democracy.

- a. **Do you accept the conclusion of the intelligence community that Russia was responsible for the hack of the DNC and Hillary Clinton’s campaign chair?**
- b. **Do you accept the conclusion of the intelligence community that Russia provided to Wikileaks the information that it stole?**
- c. **Do you accept the conclusion of the intelligence community that Russia engaged in these activities in order to interfere with the election in Donald Trump’s favor?**
- d. **Do you consider this to be illegal behavior, and a threat to our democratic process?**
- e. **Several of the President-Elect’s nominees or senior advisers have Russian ties. Have you been in contact with anyone connected to any part of the Russian government about the 2016 election, either before or after election day?**
- f. **Attorney General Lynch has confirmed that career officials are investigating Russian interference in the 2016 elections. If confirmed, will you commit to allowing this investigation to move forward? What will you do if the White House directs you to end the investigation?**

23. I am greatly concerned about racial disparities within our criminal justice system. In 2010, you agreed to reduce the dramatic disparity between sentences for crack and powder cocaine offenses, but you refused to eliminate the disparity altogether or to allow the changes in the Fair Sentencing Act to be retroactive.

But our justice system is full of disparities. Racial minorities still receive nearly 80 percent of all mandatory minimum sentences for drug offenses. For years I have worked with a bipartisan group of senators on this Committee to reduce mandatory minimum sentences for drug offenses. This bipartisan effort has had the strong support of the Justice Department and many others in law enforcement.

You were the most vocal opponent of those efforts on this Committee. That concerns me.

a. If you are confirmed to be the next Attorney General, what do you plan to do to reduce racial disparities in our criminal justice system?

In 2013, the Justice Department established a policy to reserve the most severe mandatory minimum sentences for high-level or violent drug traffickers. This was after the Sentencing Commission found that nearly half of mandatory minimum sentences in drug cases were imposed on lower-level offenders, not managers and importers. That is not what Congress intended. The often used 10- and 5-year minimums, for example, were intended to capture only serious traffickers – not low-level offenders like couriers.

b. If confirmed as Attorney General, would you leave the 2013 policy in place to focus these mandatory minimum penalties on high-level and violent offenders, consistent with the Justice Department's current policy?

24. When you were Attorney General of Alabama, your office was reprimanded for prosecutorial misconduct in a case against a Birmingham-based company called TIECO. The judge in that case found "extensive evidence of serious and wholesale prosecutorial misconduct by the Office of the Attorney General." While you were investigating TIECO, your office seized TIECO's business records, and then made those confidential records available to another company, which then sued TIECO.

Ultimately, the criminal case against TIECO was thrown out because of the prosecutorial misconduct findings against your office. These findings are deeply troubling.

I understand that your deputy Attorney General, Bill Pryor, took over for you, and was heading up the office when the criminal case against TIECO was dismissed. But the misconduct occurred when the office was under your watch. And Attorney General Pryor did not appeal the dismissal.

a. Why do you think that the office you had led decided against appealing the misconduct order in that case? It was not just a reflection on you, but the entire office. Do you agree that your office mishandled the case?

- b. **The judge said “[T]he misconduct of the Attorney General in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this court.” How would you conduct the case differently, if you were able to do it over again?**

These findings also suggest a lack of understanding that sensitive documents collected by law enforcement officials must not be handed over to political allies. In the past year, DOJ and FBI have been involved in some very sensitive investigations, with very high stakes and a profound impact on our nation.

- c. **If confirmed, what steps would you take to guard against prosecutorial misconduct in the Justice Department?**

25. After the U.S. Supreme Court upheld marriage equality, Alabama Supreme Court Justice Roy Moore effectively ordered the probate judges in Alabama to refuse marriage licenses to gay couples. He was later suspended by the Alabama Court of the Judiciary for “disregard for binding federal law.”

- a. **Do you agree with the Alabama court’s decision to suspend Justice Moore for his actions?**
- b. **If confirmed, what actions would you take if any official refuses to issue a marriage license to a same-sex couple?**
- c. **When is it appropriate for a judge or other public official to disregard a Supreme Court decision?**

26. Last year, we enacted the most sweeping reforms to the Freedom of Information Act in decades. Our bill codified the “presumption of openness,” requiring all administrations to operate with transparency as their default setting. The DOJ Office of Information Policy is responsible for enforcing compliance with FOIA across the federal government. President-elect Trump has a demonstrably poor record on transparency. He has still refused to release his tax returns. He has even denied press credentials to reporters who criticize him.

If confirmed, you will be FOIA’s chief enforcer in the federal government. How will you enforce the “presumption of openness” in the face of the President-elect’s resistance to transparency?

27. I am very concerned about the abuse of administrative civil asset forfeiture laws, which are not overseen by a judge. As a former prosecutor, I believe that if there is a crime, you prove it. You do not let the suspect go and simply keep their cash because the seizure is protected by a low standard of proof and a labyrinth of administrative hurdles for the property owner. In a column criticizing your support for civil asset forfeiture, conservative columnist George Will compared this to “Alice in Wonderland” where the queen says “Sentence first—verdict afterwards.” Chairman Grassley and I have worked on a bill to ensure that this law enforcement tool does not devolve into a mere fundraising tool.

The Justice Department recently took some very modest steps to guard against questionable seizures of cash during road-side stops, and seizures of bank accounts where there is little evidence of a crime. If you are confirmed, will you commit to maintaining these limited protections for innocent property owners?

28. In your testimony you said “I deeply understand the history of civil rights in our country” and that “We must continue to move forward and never back.” One of the witnesses who testified in support of your nomination described you as “A son of the South who has had up-close experiences with our great civil rights movement”

a. Please describe your “up-close experiences” with the Civil Rights Movement.

That witness also stated, “Senator Sessions is not oblivious to the fact that we have more to do in the area of racial equality.”

b. In what areas do racial inequalities persist? What, specifically, are the appropriate remedies for these inequalities?

This past weekend, the President-elect tweeted criticisms of Congressman John Lewis. He said: “Congressman John Lewis should spend more time on fixing and helping his district, which is in horrible shape and falling apart (not to..... mention crime infested) rather than falsely complaining about the election results. All talk, talk, talk - no action or results. Sad!”

c. Do you agree with President-elect Trump that John Lewis is “All talk, talk, talk?”

29. While your hearing was happening, Congressman Brooks stated “in a radio interview on Tuesday that criticism of Alabama Sen. Jeff Sessions...is part of an ongoing ‘war on whites’ by Democrats.”²¹

Do you agree that Democrats are waging “war on whites?”

30. According to several news reports, Florida Attorney General Pam Bondi will hold a position in the Trump administration. In 2013, while Bondi’s office was considering joining a lawsuit against Trump University for fraud (which was settled two months ago for \$25 million), Mr. Trump donated \$25,000 to a group supporting Bondi. The donation was made illegally from Mr. Trump’s foundation, and he was forced to reimburse the foundation and to pay a penalty to the IRS. One month after the donation was received, Bondi’s office decided not to join the lawsuit against Mr. Trump.

Do you believe that the decision not to join the lawsuit against Trump University, following Mr. Trump’s illegal donation, raises concerns questions about a quid pro quo?

²¹ <http://www.cnn.com/2017/01/11/politics/kfile-mo-brooks-war-on-whites>.

31. In 2015, after Chairman Grassley and I wrote several letters expressing concerns about the use of cell-site simulators (sometimes called “Stingrays”), which can sweep up cell signals indiscriminately from cell phones in their vicinity, the Justice Department issued new policy guidance governing their use.²²

Will you commit to keeping that policy in place?

32. In 2010, the Antitrust Division and the U.S. Department of Agriculture held five joint public workshops to explore competition issues affecting the agricultural sector and the appropriate role for antitrust and regulatory enforcement. Many in agriculture were very frustrated that those workshops, although they highlighted many concerns and antitrust problems in agriculture, did not appear to lead to any new enforcement or stricter actions by the Department of Justice in the agriculture sector.

- a. **In your opinion, are there areas within the agriculture sector where the Department should take a stronger look at competition affecting agriculture?**
- b. **Do you believe that there are actions that the Department should take regarding consolidation and the conduct of dominant players in the dairy industry? If confirmed, what will you do to address the long-standing concerns to make sure that dairy farmers, small processors, and consumers are treated fairly in the marketplace?**

In the last quarter-century, as highlighted in the Judiciary Committee hearing on September 20, 2016, the agricultural industry has consolidated dramatically into what many refer to as the “Big Six” companies that now control the market for seeds and agrochemicals. Due to several mergers proposed last year, the market may soon shift to the “Big Four.” Many concerns have been raised in the agriculture industry that this will raise barriers to entry for new innovators and increase the prices that farmers pay.

- c. **How will the proposed agriculture mergers involving Dow, DuPont, Monsanto, Bayer, and Syngenta affect small businesses and the prices our farmers pay?**
- d. **How should the Justice Department evaluate these proposed agriculture mergers? Do you believe that the effects of these mergers on American farmers and consumers should be reviewed collectively?**

Last year the French-Multinational food-products corporation Danone proposed to acquire White Wave Foods, Inc. (“White Wave”), which many in the organic dairy sector fear could lessen producers’ leverage in any contract negotiations on pay price and contractual obligations, effectively creating a monopsony.

- e. **If confirmed, what will you do to scrutinize this proposed acquisition and ensure that the Department applies conditions to this merger to alleviate the very real monopsony concerns that have been raised?**

²² <https://www.justice.gov/opa/file/767321/download>.

According to reports you have accepted contributions from Monsanto and Bayer, two companies with mergers currently being reviewed by the Department of Justice. I have seen reports that President-elect Trump also holds stock in Monsanto.

- f. If confirmed, how will you ensure that you and the Department of Justice will remain objective in any review and scrutiny of these mergers? Will you recuse yourself from reviews of mergers involving companies from which you have received campaign contributions?**
- g. If confirmed, will you ensure that the President-elect provides solid evidence to substantiate the claims made by his Transition Team that he sold off all of his investments in the stock market last year, to ensure that he does not have a financial interest in the mergers and acquisitions that the Department of Justice reviews?**

I am deeply concerned by reports that “Top executives of Bayer AG and Monsanto Co. met with President-elect Donald Trump...to pitch the benefits of their planned deal.”²³

- h. If confirmed, what steps will you take to ensure that reviews of proposed mergers are free of political considerations?**

33. If confirmed, you will be the first Attorney General in 12 years to have previously been an elected official, which raises concerns about decisions the Justice Department may make regarding your campaign contributors. The Project on Government Oversight has found that approximately one-third of your top donors have “current, known matters involving the Department of Justice.”²⁴ As others have noted, you were also a strong supporter and surrogate of the President-elect, which raises concerns about how you would handle Department actions against Mr. Trump or businesses to which he is connected. In a November 5, 2016, op-ed,²⁵ you and several other prominent Trump supporters harshly criticized Attorney General Lynch for not recusing herself from matters involving Hillary Clinton because Lynch had had a “39-minute conversation” with President Bill Clinton.

- a. By the recusal standard that you put forth in that op-ed, is it fair to expect you to recuse yourself from any matters regarding Mr. Trump or his finances?**
- b. In cases or investigations involving Mr. Trump or your own campaign contributors, what will your recusal standard be, if not the standard articulated in the op-ed?**

34. At a Senate Judiciary Committee executive business meeting on March 26, 2015, you voted against reporting my Bulletproof Vest Partnership Grant Program Reauthorization Act, which reauthorized a grant program that has helped state and local law enforcement agencies to

²³ <http://www.wsj.com/articles/bayer-monsanto-ceos-pitch-deal-to-trump-1484166068>.

²⁴ <http://www.pogo.org/our-work/reports/2017/at-least-one-third-of-attorney-general-nominees-top-donors-have-matters-involving-doj.html#fn3>.

²⁵ <http://www.foxnews.com/opinion/2016/11/05/giuliani-sessions-keating-et-al-time-for-loretta-lynch-to-appoint-special-counsel.html>.

purchase more than 1.2 million protective vests. This program's reauthorization will ensure that more than 200,000 more officers receive such vests. You also voted against reporting the Rafael Ramos and Wenjian Liu National Blue Alert Act, which created a national alert system for law enforcement officers who are missing, killed, or seriously injured in the line of duty. The bills were reported by voice vote, but you requested to be recorded as a "nay" to both. Despite your opposition in Committee, both bills ultimately passed and are now law. These bills will save officers' lives, and both received enthusiastic support from the law enforcement community.

Why did you vote against my Bulletproof Vest Partnership reauthorization? Why did you vote against Blue Alert?

35. At your confirmation hearing, in response to a question of mine on whether you would use our limited Federal resources to prosecute sick people who followed their state laws with regards to medical marijuana, you said "I won't commit to never enforcing federal law, Senator Leahy, but absolutely it's a problem of resources for the federal government."

a. Does this mean you would consider arresting and prosecuting patients who follow their state medical marijuana laws?

Congress, through an appropriations amendment, has decided the federal government should not dismantle state medical marijuana programs. Since 2014, the Justice Department cannot "prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana." Last August, in *United States v. McIntosh*,²⁶ the U.S. Court of Appeals for the 9th Circuit held that "at a minimum, [this amendment] prohibits DOJ from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws."

b. Would this congressional prohibition prevent the DEA from raiding medical marijuana dispensaries that are compliant with state law, or from shutting down banks or other businesses that work with dispensaries?

36. Article 36 of the Vienna Convention on Consular Relations (VCCR) requires parties to the treaty, including the United States, to promptly inform, upon arrest, nationals of signatory nations, that they have the right to meet with consular officials. Thousands of Americans are arrested in foreign countries every year, sometimes on questionable charges. The right to visit with U.S. consular officials provides U.S. nationals the ability to communicate with their families, retain competent legal counsel, and receive assistance from the U.S. Government. To help ensure domestic compliance with Article 36, the U.S. Supreme Court adopted an amendment to Rule 5 of the Federal Rules of Criminal Procedure mandating that a judge presiding at the defendant's initial appearance inform "a defendant who is not a United States citizen [that he or she] may request that an attorney for the government or a federal law enforcement official notify a consular officer from the defendant's country of nationality that the defendant has been arrested."

²⁶ No. 15-10117 (9th Cir. 2016).

- a. **Do you agree that this amendment to the Federal Rules of Criminal Procedure is a helpful change that will ensure Article 36 compliance at the Federal level? What other steps would you take to ensure compliance with Article 36?**

There are a number of well documented cases in which the U.S. is not in compliance with our Article 36 obligations, and that noncompliance has strained our relationships with a number of important allies including Great Britain and Mexico. President Bush attempted to remedy one set of cases in 2008 through Executive Memorandum. However, the Supreme Court in *Medellin v. Texas*²⁷ recognized the obligation but instructed that Congress must pass legislation to provide a remedy in these cases.

- b. **In order to meet our legal obligations and protect the interests of U.S. national traveling abroad, would you work with the Congress to enact legislation that provides a mechanism to redress failures to provide the legally required VCCR notifications?**

37. At a hearing before the Senate Select Committee on Intelligence in 2016, the Director of the National Security Agency and Commander of U.S. Cyber Command Admiral Mike Rogers testified that “[e]ncryption is foundational to the future. And anyone who thinks we are just going to walk away from that, I think, is totally unrealistic.” Secretary of Defense Ash Carter has similarly stated that “encryption is a necessary part of data security and strong encryption is a good thing. . . . [W]e need our data security and encryption to be as strong as possible.”

In addition to Admiral Rogers and Secretary Carter, countless other national security experts have emphasized that strong encryption is vital to our national security and that any attempt to weaken encryption only makes Americans less secure – particularly when the United States and the American people face increased threats of cyberattack from hostile nation-states and cybercriminals.

Do you agree with NSA Director Rogers, Secretary of Defense Carter, and other national security experts that strong encryption helps protect this country from cyberattack and is beneficial to the American peoples’ digital security?

²⁷ 552 U.S. 491 (2008).

**Additional Questions for the Record of Senator Patrick Leahy
Senate Judiciary Committee,
Hearing on the Nomination of Senator Jeff Sessions to Serve
as Attorney General of the United States
January 25, 2017**

Many answers to my written questions were non-responsive. While some answers quoted statutes and cases to support your position (e.g. Questions 4b, 11a, 15, 19a), in other responses you professed a complete lack of knowledge, even on topics that have dominated the news in recent months. You acknowledged in one response that you believe a statute is constitutional, but in others you refused even to say whether you considered a law to be “reasonably defensible.” When responding to these follow up questions, please review any necessary materials to provide substantive answers to my questions.

I also was troubled by your responses to questions 8 and 22, in which you consistently did not answer the question directly and stated that you had “no knowledge of whether [an individual] actually said [remarks relevant to the question] or in what context.” Yet you omitted in your response footnotes that I included, which provided the relevant source material. I am re-asking those questions here and, for your convenience, I am appending these source materials to this document.

Questions 8 and 22

8. In 2014, you accepted the “Daring the Odds” award from the David Horowitz Freedom Center. The Southern Poverty Law Center has repeatedly called David Horowitz an “anti-Muslim extremist” and has an extensive and detailed profile of Mr. Horowitz’s racist and repugnant remarks against Muslims, Arabs, and African-Americans.

In your hearing, you stated to Senator Blumenthal with regard to Mr. Horowitz, “I am not aware of everything he has ever said or not.” You also defended your association with him by saying “I am not aware of those comments, and I do not believe David Horowitz is a racist or a person that would treat anyone improperly, at least to my knowledge.” Now you have had the opportunity to learn more about the extremist remarks Mr. Horowitz has made.

For example, Mr. Horowitz has repeatedly claimed that the United States government has been infiltrated by Muslims. He has referred to Muslims as “Islamic Nazis” who “want to kill Jews, that’s their agenda.”¹

a. **Do you disavow and condemn that remark?**

¹ <http://mondoweiss.net/2011/03/peter-king-hearings-come-to-flatbush-david-horowitz-stokes-anti-muslim-sentiment-at-brooklyn-college>.

Mr. Horowitz has said “Obama is an anti-American radical and I’m actually sure he’s a Muslim, he certainly isn’t a Christian. . . . He’s a pretend Christian in the same way he’s a pretend American.”²

b. Do you disavow and condemn that remark?

Mr. Horowitz has even claimed that Muslims have “infiltrated” the Republican Party, and that “Grover Norquist is a Muslim, he is a practicing Muslim.”³

c. Do you disavow and condemn that remark?

In 2015, you received the “Keeper of the Flame” award from the Center for Security Policy. The Center for Security Policy has been strongly criticized by the Anti-Defamation League, and is considered a hate group by the Southern Poverty Law Center.

In 2011, its founder, Frank Gaffney, was banned from the Conservative Political Action Conference (CPAC) because, in the words of one board member, “they didn’t want to be associated with a crazy bigot.”⁴ Among his disgraceful statements, Mr. Gaffney has said that the two Muslims in Congress, Representative Keith Ellison and Andre Carson, have “longstanding Muslim Brotherhood ties.”⁵

- e. CPAC did not want to be associated with a “crazy bigot,” but you accepted an award from him in 2015. Do you condemn Mr. Gaffney’s remarks and his insinuation that the two Muslim Congressmen are affiliated with the Muslim Brotherhood?**
- f. Do you believe it is acceptable for the Attorney General to associate with Mr. Gaffney and his extremist organization?**
- g. Mr. Gaffney has complained about Somali refugees holding jobs in the meat processing industry, saying “it kind of creeps me out that they are getting jobs in the food supply of the United States.”⁶ Do you condemn that statement?**
- h. Mr. Gaffney argued that a Muslim member of Congress should not be allowed to serve on the House Intelligence Committee because of his “extensive personal and political associations with...jihadist infrastructure in America.”⁷ Do you condemn that remark?**
- i. Mr. Gaffney has said of President Obama that it is an “increasingly indisputable fact that this president is providing aid and comfort to enemies of the United States.**

² <http://www.rightwingwatch.org/post/david-horowitz-knows-obama-is-a-muslim-because-he-hates-america-so-much>.

³ <http://www.rightwingwatch.org/post/david-horowitz-says-huma-abedin-is-worse-than-alger-hiss-and-grover-norquist-is-a-practicing-muslim-subverting-the-gop>.

⁴ <http://religiondispatches.org/cpac-conservatives-shun-crazy-bigot-gaffney>.

⁵ <http://thehill.com/blogs/pundits-blog/homeland-security/276636-muslim-brotherhood-day-on-capitol-hill>.

⁶ <http://thehill.com/blogs/congress-blog/civil-rights/271366-freedom-and-hate>.

⁷ <http://www.rightwingwatch.org/post/frank-gaffney-muslim-congressman-part-of-islamic-fifth-column>.

And that is the definition, as you know, of treason.”⁸ Do you condemn the offensive allegation that President Obama is a traitor?

President-elect Trump has appointed Michael Flynn to be his National Security Advisor. The National Security Advisor has typically been the President’s principal advisor on national security matters, a position that does not require Senate confirmation.

Mr. Flynn serves on the board of advisors for an organization called ACT for America. The Southern Poverty Law Center has called this organization “far and away the largest grassroots anti-Muslim group in America.” In August 2016 – less than six months ago – Mr. Flynn spoke at an event for this group. He is on video saying that Islam “is a political ideology. It definitely hides behind this notion of it being a religion.” He also added that Islam is “like a malignant cancer.”⁹

- k. Do you disavow and condemn Mr. Flynn’s remarks?**
- l. Do you believe that the President’s national security advisor should refer to Islam as a “malignant cancer”?**
- m. Do you believe the National Security Advisor should be associated with organizations that promote anti-Islamic bigotry and conspiracy theories?**

In the unclassified Intelligence Community Assessment on “Assessing Russian Activities and Intentions in Recent US Elections” released on January 6, 2017, there are seven pages describing the activities of RT America TV. The report notes that the network’s “Leadership [is] closely tied to, controlled by Kremlin.” Mr. Flynn has given a paid speech to RT, and attended a dinner celebrating the network’s anniversary, where he sat at the same table as Vladimir Putin.¹⁰

- n. Given the facts presented here, what legal issues does the relationship between the National Security Advisor and the Russian government raise?**

In 2015, you received an award from the Eagle Forum for “Excellence in Leadership.” The late founder of that organization has a long history of controversial remarks. That includes advocating for “railroad cars full of illegals going south”¹¹ and increasing the pay gap between men and women,¹² and arguing that married women by definition cannot be raped by their husbands.¹³

- o. Do you agree that there should be “railroad cars full of illegals going south”? Do you condemn that remark?**

⁸ <http://www.rightwingwatch.org/post/frank-gaffney-obama-playing-for-the-other-team-committing-treason>.

⁹ <https://qz.com/841197/islam-is-a-malignant-cancer-the-hateful-rhetoric-of-michael-flynn-trumps-new-national-security-adviser>.

¹⁰ <http://www.cnn.com/2016/11/20/politics/kfile-michael-flynn-rt-syria>.

¹¹ <http://www.rightwingwatch.org/post/phyllis-schlafly-wants-railroad-cars-full-of-illegals-going-south>.

¹² <http://www.rightwingwatch.org/post/schlafly-increase-the-pay-gap-so-women-will-have-better-opportunities-to-find-a-husband>.

¹³ <http://www.rightwingwatch.org/post/schlafly-reiterates-view-that-married-women-cannot-be-raped-by-husbands>.

- p. Do you agree that married women by definition cannot be raped by their husbands? Do you condemn that remark?
 - q. Do you agree that the pay gap between men and women should be increased, rather than diminished?
 - r. Ms. Schlafly also claimed “it would be useful to reinstate the House Committee on Un-American Activities” to target Muslims.¹⁴ Do you agree with that statement?
22. The intelligence community has concluded that Russia intervened in the 2016 election in an effort to help elect Donald Trump. The report is available at https://www.dni.gov/files/documents/ICA_2017_01.pdf. Russian interference in our elections is larger than any candidate or political party. This is about protecting our democracy. Please review this report and respond to the following questions.
- a. Do you accept the conclusion of the intelligence community that Russia was responsible for the hack of the DNC and Hillary Clinton’s campaign chair?
 - b. Do you accept the conclusion of the intelligence community that Russia provided to Wikileaks the information that it stole?
 - c. Do you accept the conclusion of the intelligence community that Russia engaged in these activities in order to interfere with the election in Donald Trump’s favor?

Additional follow-up questions

1. You previously responded to questions 22a-c that you “have no reason not to accept the intelligence community’s conclusion(s) as contained in the report.” Given that response, I was surprised that when I then asked you if Russia’s behavior, which was detailed in the report, was illegal and a threat to our democracy, your response was only, “I have not reviewed the matter in any detail; therefore, I am not in a position to opine on it.”

This issue has received significant news coverage, has been the subject of the DNI report provided with these questions, and will be the subject of an investigation by the Intelligence Committee (<https://www.burr.senate.gov/press/releases/joint-statement-on-committee-inquiry-into-russian-intelligence-activities>). Senators McCain, Schumer, Graham, and Reed previously called for an investigation by a select bipartisan committee (https://www.washingtonpost.com/news/the-fix/wp/2016/12/18/mccain-calls-for-committee-to-investigate-russia-hacking-theres-no-doubt-of-interference/?utm_term=.36d83eddfc08).

Please read the appended report before responding.

- a. Given the information presented in the DNI report, do the Russian attempts to interfere in the 2016 election, including its hacks of the Democratic National

¹⁴ <http://www.rightwingwatch.org/post/schlafly-reinstate-the-house-committee-on-un-american-activities>.

Committee and of “some Republican-affiliated targets” (Report 3), constitute illegal behavior? If your answer is anything other than an unambiguous “yes,” please explain how this hacking might possibly be legal.

b. The report states on page one:

“We assess with high confidence that Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election, the consistent goals of which were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency.”

Given these conclusions and the entirety of the report, do you believe the Russian attempts to interfere in the 2016 election constitute a threat to our democratic process? If your answer is anything other than an unambiguous “yes,” please explain why such foreign interference in the American electoral process – seeking to “undermine public faith in the US democratic process” – is acceptable.

2. I previously asked you about the propriety of President Trump giving a White House position to Florida Attorney General Pam Bondi. I noted, “In 2013, while Bondi’s office was considering joining a lawsuit against Trump University for fraud (which was settled two months ago for \$25 million), Mr. Trump donated \$25,000 to a group supporting Bondi. The donation was made illegally from Mr. Trump’s foundation, and he was forced to reimburse and to pay a penalty to the IRS once the illegal payment became public. One month after the donation was received, Bondi’s office decided not to join the lawsuit against Mr. Trump.” I asked whether these facts, and the reported White House job for Attorney General Bondi, raised concerns about a quid pro quo.

You responded, “I am not aware of facts that would support the assertions made in the above question and am unable to opine on this matter.” I have appended to these questions a *New York Times* article from last year, titled “New Records Shed Light on Donald Trump’s \$25,000 Gift to Florida Official.” Please review the article, which provides the factual predicate for the question.

Do the facts of Mr. Trump’s illegal donation, Ms. Bondi’s ensuing decision not to join the lawsuit, and now the White House job for Ms. Bondi raise any concerns about a quid pro quo?

3. When I asked what your recusal standard will be, if confirmed, your responses were not satisfactory. You argued in an op-ed that Attorney General Lynch should have recused herself from matters involving Secretary Hillary Clinton because Lynch had had a single conversation with President Bill Clinton while the investigation was ongoing (<http://www.foxnews.com/opinion/2016/11/05/giuliani-sessions-keating-et-al-time-for-loretta-lynch-to-appoint-special-counsel.html>). I asked whether you would apply the same standard to yourself regarding President Trump.

You argued that it would be unfair to expect you to recuse yourself for “merely being a supporter of the President’s during the campaign.” I fear you are selling yourself short. ABC News referred to you as “Top Trump foreign policy adviser Sen. Jeff Sessions” (<http://abcnews.go.com/Politics/top-trump-adviser-jeff-sessions-trump-campaign/story?id=41358247>). The *Washington Post* said, “In Donald Trump’s world, most roads, it seems, lead back to Sen. Jeff Sessions (R-Ala.), President-elect Trump’s pick for attorney general. After Sessions became one of the first members of Congress to endorse Trump this February, he became an adviser on almost every major decision and policy proposal Trump made during the campaign” (<https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/10-things-to-know-about-sen-jeff-sessions-donald-trumps-pick-for-attorney-general/>). Your relationship with President Trump went beyond mere support.

Your response to my recusal questions was that you would consult with Justice Department ethics officials in cases where you “believed [your] impartiality might reasonably be questioned.” Justice Department recusal standards are codified at 28 C.F.R. § 45.2 (see appended). In relevant part, the regulations state:

...no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with:

- (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or
- (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

“Political relationship” is defined as “a close identification with an elected official...arising from service as a principal adviser thereto or a principal official thereof.”

Under the definition in 28 C.F.R. § 45.2(c), did you have a “political relationship” with President Trump before you were nominated to be Attorney General? Please answer yes or no.

4. In my first round of written questions I asked you whether, when opposing the 2013 Leahy-Crapo VAWA reauthorization, you opposed its new protections for LGBT Americans. Your response was nearly 300 words, but it did not directly answer the question, so I will ask again.

Did you oppose the new protections for LGBT Americans in the 2013 VAWA reauthorization? Please answer yes or no.

5. I asked at your hearing whether you would defend VAWA’s constitutionality, and you said only “if it is reasonably defensible.” I then asked in my written questions whether you believed “the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims’ provisions, is ‘reasonably defensible.’” You answered only that you “will carefully study this

program before reaching any final legal conclusions about the VAWA tribal jurisdiction provision.”

Based on your strong opposition to the law, as well as your thorough preparation for this nomination process, I find it difficult to believe you have not “carefully stud[ied]” it. Moreover, you did assert that particular laws were constitutional in other responses. In your response to 14a-b, you wrote, “I believe that this statute is constitutional.” Here, I am not asking for such an endorsement of a law’s constitutionality, I am just asking whether you believe it is “reasonably defensible.”

Do you believe the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims’ provisions, is “reasonably defensible”? Please answer yes or no.

6. In response to question 37, on encryption, you wrote “It is also critical, however, that national security and criminal investigators be able to overcome encryption.”

a. Please explain what you mean by this.

b. Do you believe that all encryption should provide a “back door” for law enforcement officials? Please answer yes or no.

7. In response to Question 19(c), you said the United States should take “great care” before using lethal force in the United States in the armed conflict against al Qaeda and associated forces.

a. Aside from circumstances such as self-defense when law enforcement officials are permitted to lawfully use lethal force, what circumstances could justify the use of lethal force on U.S. soil?

In 2013, Senator Rand Paul wrote to former Attorney General Eric Holder asking, “Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?” Former Attorney General Holder responded categorially, “The answer to that question is no.”

b. Do you agree with former Attorney General Holder? Please answer yes or no.

8. I asked in my first round of written questions about your comment that the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act “has been said to cheapen the civil rights movement.” You emphasized, “Those were not *my* words.” I recognize that.

The *Washington Post* reported Tuesday that the U.S. Attorney in Idaho has used the Act to bring federal hate crimes charges against a man who murdered a gay man by “push[ing] [the victim] to the ground and kick[ing] him at least 30 times with steel-toed boots while [the victim] begged for his life.” The *Post* noted, “The fatal beating of the openly gay man has been compared by some in the community to the murder of Matthew Shepard, the gay college student from Wyoming whose torture and subsequent death set off a nationwide debate about hate crimes and

homophobia and led to the federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.” The article is appended and can be found at <https://www.washingtonpost.com/news/morning-mix/wp/2017/01/24/idahoan-admits-to-brutal-murder-of-gay-man-as-he-pleaded-for-his-life-now-faces-hate-charge>.

While you emphasized that you were not speaking in your own words when you said that my hate crimes amendment “has been said to cheapen the civil rights movement,” I would still like to know whether you agree with that statement.

When you said in 2009 that “the hate crimes amendment . . . has been said to cheapen the civil rights movement,” did you agree with that viewpoint? Do you agree with it now? Please answer yes or no.

9. At your hearing, Senator Franken asked you about President Trump’s claims that there were millions of illegal votes cast in the 2016 election. You responded, “I don’t know what the President-elect meant or was thinking when he made that comment, or what facts he may have had to justify his statement. I would just say that every election needs to be managed closely and we need to ensure that there is integrity in it, and I do believe we regularly have fraudulent activities occur during election cycles.”

Earlier this week, President Trump reportedly “surprised the top Republicans and Democrats in Congress on Monday when, during a dinner at the White House, he repeated his claim that millions of undocumented immigrants voted for Hillary Clinton.” (<http://www.cnn.com/2017/01/24/politics/wh-trump-believes-millions-voted-illegally>.) In a press briefing Tuesday afternoon, Press Secretary Sean Spicer responded to a question about that erroneous claim by saying, “The President does believe that, I think he’s stated that before, and stated his concern of voter fraud and people voting illegally during the campaign and continues to maintain that belief based on studies and evidence people have brought to him.” Again, as Senator Franken noted at your hearing, there is zero evidence to support this outlandish claim. The *Washington Post*’s “Fact Checker Recidivism Watch” stated:

Despite Trump’s repeated claims, his attorneys stated there was no evidence of voter fraud in the 2016 election. In a court filing opposing Green Party candidate Jill Stein’s recount petition, lawyers for Trump and his campaign wrote: ‘All available evidence suggests that the 2016 general election was not tainted by fraud or mistake.’

When we debunked this claim on Nov. 29, 2016, we implored Trump’s staff members to please drop this talking point — as we are tired of telling them it is false. We can’t emphasize this point enough. (https://www.washingtonpost.com/news/fact-checker/wp/2017/01/24/recidivism-watch-spicer-uses-repeatedly-debunked-citations-for-trumps-voter-fraud-claims/?utm_term=.89751bee5353.)

Speaker Paul Ryan evidently agreed with President Trump’s attorneys and is quoted by Fox News saying, “I’ve seen no evidence to that effect. I’ve made that very, very clear.” (<http://www.foxnews.com/politics/2017/01/24/spicer-digs-in-on-trumps-illegal-voting-claim-as-ryan-distances.html>.)

Senator Lindsey Graham also evidently agreed with President Trump's attorneys, and argued, "To continue to suggest that the 2016 election was conducted in a fashion that millions of people voted illegally undermines faith in our democracy." (<http://www.nbcnews.com/politics/2016-election/gop-senator-president-trump-stop-claiming-illegals-cost-you-popular-n711386>.)

Press Secretary Spicer stated that President Trump believes these claims, even though the president's lawyers do not. I am not asking you to explain the President's beliefs; I would like to know whether you share that belief.

Do you share President Trump's belief that "millions of undocumented immigrants voted for Hillary Clinton" in the 2016 election? Please answer yes or no. If your answer is anything other than an unambiguous "no," please provide evidence to support the claim that millions of votes were cast illegally.

10. On Wednesday President Trump announced several executive orders involving immigration, including an order involving constructing a border wall and others targeting immigrants. Additional executive orders, targeting refugees, are expected on Thursday.

What role did you or your staff have in formulating and drafting these executive orders?

11. The New York Times reported this morning that President Trump is preparing an executive order that would expand the use of the ineffective military commission system, allow individuals to be transferred to the detention facility at Guantanamo Bay, and allow the CIA to reopen secret "black sites," among other things.

- a. **Do you believe international law prohibits U.S. officials from engaging in torture or cruel, inhuman or degrading treatment? If so, what is the source of that prohibition?**
- b. **Do you believe, as a matter of law, that we are in an armed conflict with those who "harbor" Al Qaeda, the Taliban, or associated forces? What constitutes "harboring"?**
- c. **Do you believe, as a matter of law, that we are in an armed conflict with those who provide "substantial support" to Al Qaeda, the Taliban, or associated forces? What constitutes "substantial support"?**
- d. **What limits does the U.S. Constitution set on placing U.S. citizens in military custody on U.S. soil?**
- e. **Do you believe the United States is in an armed conflict with all "violent Islamic extremists"? How would you define a "violent Islamic extremist"?**

Appendix

- Source material for old question 8 (articles documenting quotes by Michael Horowitz, Frank Gaffney, Phyllis Schlafly, and Michael Flynn)
- Source material for old question 22 and question 1 (Intelligence Community Assessment, “Assessing Russian Activities and Intentions in Recent US Elections”)
- Source material for question 2 (*NY Times* article, “New Records Shed Light on Donald Trump’s \$25,000 Gift to Florida Official”)
- Source material for question 3 (Sessions op-ed; 28 C.F.R. § 45.2)
- Source material for question 8 (*Washington Post* article)
- Source material for question 9 (articles documenting quotes by Sean Spicer, Speaker Ryan, Senator Graham, and legal filings by Donald Trump’s lawyers)
- Source material for question 11 (*NY Times* article on CIA black sites)

King hearings come to Flatbush: David Horowitz stokes anti-Muslim sentiment at Brooklyn College

 mondoweiss.net/2011/03/peter-king-hearings-come-to-flatbush-david-horowitz-stokes-anti-muslim-sentiment-at-brooklyn-college/

Brooklyn College had its own Peter King hearing last night when right-wing commentator David Horowitz spoke to a feisty crowd of students and faculty.

At first I debated whether or not to even give voice to what David Horowitz said. After all, it is pretty well known that Horowitz is the Glenn Beck of Zionists—a ramblor of hate who continually contradicts himself and history.

But given the current political climate and the audience filled with faculty and students who eagerly echoed Horowitz's calls of anti-Muslim sentiment, I feel it is important to document.

Outside the library where the lecture was held, security guards insisted that ten or so peaceful protesters huddled in the rain stand behind steel gates they had brought out for the occasion. Inside, security guards searched bags before running a handheld metal detector over everyone entering the lecture hall—security measures I have never before experienced in my four years of attending guest speaker events at the college. In his opening comments, Horowitz remarked, "How does it feel to go through a check point? I'll tell you one thing, I feel safer and that's what check points are about—making people feel safe when they're under attack by terrorists and Middle East Jew haters. " Later, Horowitz added, "check points are there to protect the innocent from the guilty."

Perhaps it was no coincidence that Horowitz was brought on campus with the help of two faculty members only a month following the controversy over the school administration's decision to reinstate Political Science adjunct Professor Kristofer Petersen-Overton, who was fired following outside political motivation due in part to his scholarly work on Palestinian national identity. Horowitz was sure to make reference to the apparent "hostile environment" that "liberal professors" create and to which students are subjected. Apparently, "Jewish organizations across the country have been intimidated from presenting their case."

But it became all the more clear last night that this so-called "hostile environment" is something being created by the very people pointing to its existence.

Just last week the Brooklyn College administration placed restrictions on the ability of the Palestine Club to participate in a series of direct action events organized in conjunction with other student organization across New York City as part of Israeli Apartheid Week. The club proposed to have a 6 ft x 8 ft mock wall out of paper to symbolize the separation wall in the West Bank, but according to the co-founder of the Palestine Club, Eeman Abuasi, the administration claimed—amongst many other things—that the wall would fuel more tension on

campus and could be insulting to some students. Instead, the administration said the Palestine Club could only have the event if they agreed to construct a smaller model that could be placed on a table for display, like a diagram at an elementary school science fair.

Given this context, it was all the more disturbing last night when I looked across the crowd and saw tears run down the face of a member of the Palestine Club as Horowitz said to the group of mostly nodding heads, "All through history people have been oppressed but no people has done what the Palestinians have done—no people has shown itself so morally sick as the Palestinians have."

Horowitz, who admitted he had actually never even been to Israel, proceeded to give everyone a lesson in Middle East politics: according to him, Muslims in the Middle East are "Islamic Nazi's" who "want to kill Jews, that's their agenda." He added later, "all Muslim associations are fronts for the Muslim Brotherhood."

Horowitz appeared to be too delusional to even be quoted, or taken seriously if it weren't for the audience members who so fervently agreed with what he was saying.


The most revealing moment came when a young Arab-American woman directed a question to Horowitz and the audience: "You talk about Muslims as if you know them—We have a Muslim American Society, we have a Palestine Club [on campus]. I want to raise the question to any of the Jews in this room, and students, have you guys ever been threatened by a Muslim on campus or an Arab?" To this, the crowd almost unanimously spun around in their seats to face the young woman and replied "yes." Someone shouted, "and we're scared when we see Muslims on buses and airplanes too."

Horowitz encouraged anti-Muslim hate by telling the crowd, "no other people have sunk so low as the Palestinians have and yet everybody is afraid to say this," claiming that Muslims are a "protected species in this country" and that he's "wait[ing] for the day when the good Muslims step forward."

The scary thing is that people listen to such hateful rhetoric and nod along. What would they say if someone said the same about Jewish people? Alas—hate speech is indeed the downside of First Amendment rights. Nevertheless, if the Brooklyn College administration justifies its decision to hinder the ability of the Palestine Club to partake in a cross-city peaceful demonstration because it's offensive, it is a wonder why they would agree to give voice to a person who encourages hysterical fear of Muslims.

*Zoe Zenowich is a Senior in the Scholars Program at Brooklyn College, where she is the managing editor of the *Excelsior*, a student newspaper. Follow her on [Twitter @zoezenowich](#).*

David Horowitz Knows Obama Is A Muslim Because He Hates America So Much

 www.rightwingwatch.org/post/david-horowitz-knows-obama-is-a-muslim-because-he-hates-america-so-much/



By [Brian Tashman](#) | August 21, 2014 2:00 pm

David Horowitz dropped by the American Family Association's "Today's Issues" today, where he spoke with AFA head Tim Wildmon about how President Obama refuses to condemn the mass killings of Christians or take military action against ISIS. Of course, Obama has repeatedly condemned the killing of Christians and has ordered 90 airstrikes against ISIS to date.

But in Horowitz's world, Obama is cheering on ISIS because he's a Muslim who hates America.

"Obama is an anti-American radical and I'm actually sure he's a Muslim, he certainly isn't a Christian," Horowitz said. "He's a pretend Christian in the same way he's a pretend American. It really is disgraceful. He's inviting the terrorists to behead more Americans when he should be attacking them with our military. His whole agenda in office has been to defeat America, he lost the war in Iraq deliberately, he created a vacuum which ISIS has filled."

"Saying he's the worst president we've ever had is not saying enough."

Wildmon said he didn't used to believe the conspiracy theory that Obama is a secret Muslim, but now he does due to what he sees as the president's anti-American actions.


"I think he is, I don't think there's really any question," Horowitz said, arguing that Obama is a "liar" who "lies all the time."

Horowitz also said that Obama is letting immigrants illegally cross the border in order to kill Americans through anthrax and beheadings.

"When he was re-elected, the first thought that came into my mind is, a lot of people are going to be dead because of this election, and how right I was," he said, warning that the president "destroyed our borders" in order to let "our enemies" enter the U.S.

"They're going to come across our border with their dirty bombs and their anthrax and whatever else, you know, their swords to behead us....The ones who are going to do the killing are coming across our open border and this president is not defending us."

David Horowitz Says Huma Abedin is 'Worse than Alger Hiss' and Grover Norquist is a 'Practicing Muslim' Subverting the GOP

 www.rightwingwatch.org/post/david-horowitz-says-huma-abedin-is-worse-than-alger-hiss-and-grover-norquist-is-a-practicing-muslim-subverting-the-gop/



By **Brian Tashman** | October 1, 2012 1:50 pm

David Horowitz has been promoting his new book *Radicals: Portraits of a Destructive Passion* on conservative talk radio by attacking Hillary Clinton's aide Huma Abedin as a Muslim Brotherhood agent and arguing that President Obama was only elected because he is black because "part of the racism of our society is [that] if you're black you can get away with murder." Horowitz's interview with Janet Mefferd was no different, as he charged that Abedin "is a Muslim Brotherhood operative and she has been all her life" and that she has been pushing foreign policy favorable to the Muslim Brotherhood. Horowitz even said that Abedin "is worse than Alger Hiss," the accused Soviet spy.

But it is not just the Obama administration which has been penetrated by the Muslim Brotherhood, as Horowitz warned that "the Republican Party has also been infiltrated" thanks to conservative luminary Grover Norquist, whom he said is a "practicing Muslim." Norquist is a reviled figure among anti-Muslim activists like Horowitz, who in 2011 lashed out at Norquist from the podium at CPAC, mainly due to the fact his wife is a Muslim-American and he works with Muslim Republicans like Suhail Kahn.

Horowitz: We have a medieval enemy with twenty-first century technology aimed at us, they've infiltrated our government. If you wondered how it's possible that Obama and Hillary would not know or would pretend what was happening wasn't happening in the Middle East or how they could turnover Egypt as they have to the Muslim Brotherhood, which is the fountainhead of Al Qaeda and all of these terrible Islamic Nazi organizations, the answer is not really hard to find: the chief adviser to the American government on Muslim affairs, Hillary Clinton's deputy chief of staff, Huma Abedin, is a Muslim Brotherhood operative and she has been all her life, and her whole family is. This is worse than Alger Hiss, for those in your audience who are old enough to remember, Alger Hiss is a Soviet agent who was right next to Roosevelt at Yalta.

Mefferd: It's very true and yet you had these five congressmen, Michele Bachmann and the others, who tried to say the inspectors-general need to look into this, and even Republicans stood up on the floor and said no!

Horowitz: You had Boehner and McCain, and McCain is just bonkers. But the Republican Party has also been infiltrated. Grover Norquist is a Muslim, he is a practicing Muslim.

Later, Horowitz explained that liberals and radical Islamists are working out of their shared "hatred for America" and promoted the ridiculous and debunked conspiracy that Bill Ayers wrote Obama's book *Dreams from My Father*.

Mefferd: Why is it that you see so many who are radicals and progressives supporting radical Islam?

Horowitz: Because they share a common enemy: the great Satan, which is us, and the little Satan, which is Israel. It's very simple, the left for many, many years now, maybe half a century, has had no practical program, they have no idea what they were going to do with the world when they get the power. So what organizes them is their hatred for America. Why would you want to bankrupt America? Why would you want to take its military down? Why would you apologize to our enemies, as our President has done, unless you were a radical and you believe that we're the great oppressor nation. I know he talks out of two sides of his mouth, he actually makes Bill Clinton look like a Boy Scout in the realm of rectitude in what he's saying, this guy lies so easily. Of course because he's black he gets a pass on everything. We have reached a very low point in our national evolution. I'm hoping that this book, you know it's not going to change the world, but those people who are buying and reading "Radicals" will at least understand the mentality behind these people and how influential they are. Bill Ayers is an America-hating terrorist and was Barack Obama's closest political ally for twenty years and wrote his autobiography.

CPAC Conservatives Shun "Crazy Bigot" Gaffney

 religiondispatches.org/cpac-conservatives-shun-crazy-bigot-gaffney/

January 5, 2011

Frank Gaffney, the Islamophobic activist bent on getting Congress to investigate "creeping shari'ah," talked to the conspiracy web site *World Net Daily*, claiming "that CPAC has come under the influence of the Muslim Brotherhood, which is working to bring America under Saudi-style Shariah law."

Gaffney's exhibit A is Suhail Khan, a member of the American Conservative Union board, which annually sponsors the Conservative Political Action Conference. WND's piece is based on Gaffney's charges "that Islamism has infiltrated the American Conservative Union, the host of CPAC, in the person of Washington attorney and political activist Suhail Khan and a group called Muslims for America."

I caught up with Khan this afternoon, who last spoke with RD about the American Center for Law and Justice's calls for the Justice Department to investigate the Congressional Muslim Staffers Association, based on similar paranoid about the infiltration of "radical Islam" in the highest levels of government.

Khan said he's known Gaffney for 15 years, and worked with him on defense issues when he was a staffer on the Hill. But, Khan added, while Gaffney "does get called and asked to be part of coalitions because he can represent that defense component . . . I can tell you from my 15 years of being around him, his cachet has greatly diminished . . . The level of rhetoric and completely outlandish levels of accusation has really driven a lot of responsible people, members of Congress to say that we don't want to be affiliated with you."

Gaffney first launched his crusade against Khan when the latter ran for the ACU board in 2007, a position to which he was elected and re-elected by the ACU membership, and which was ratified by the board. Khan, who served in the Bush administration, has long endured accusations from conservatives* that, among other things, he was a secret al Qaeda mole, and now, from Gaffney and WND, a secret agent of the Muslim Brotherhood.

Gaffney, said Khan, "definitely believes there is good political capital to be made in scaring and fear mongering, there may be some who may be swayed by alarmist and racist assertions, and worse, he makes a good living doing this stuff. Who knew there was money to be made in being a professional bigot?"


Because Gaffney's group was not invited to participate in CPAC, "that is why this is surfacing now," said Khan. "Frank has been frozen out of CPAC by his own hand, because of his antics. We need people who are credible on national security . . . but because of Frank's just completely irresponsible assertions over the years, the organizers have decided to keep him

out." That, Khan added, is similar reaction to current and former members of Congress, including Bobby Jindal, Sen. Jon Kyl (R-AZ), and the late Henry Hyde, who distanced themselves from Gaffney.

The conservative shunning of Gaffney, said Khan, is not "because of any pressure from Muslim activists but because they didn't want to be associated with a crazy bigot."

*Khan points out that it wasn't conservatives, but Gaffney making these unfounded accusations. Those accusations got play, however, in magazines like *Front Page*, which published Gaffney's "[Khan Job](#)" when Khan was first running for the ACU board, and which drew on an earlier report Gaffney said had a "a validating introduction by David Horowitz," *Front Page's* editor.

Muslim Brotherhood Day on Capitol Hill

 thehill.com/blogs/pundits-blog/homeland-security/276636-muslim-brotherhood-day-on-capitol-hill

On Monday, April 18, legislators' offices will be visited by individuals associated with a group unknown to most lawmakers: The United States Council of Muslim Organizations (USCMO). In the interest of helping members of the U.S. Congress understand precisely who their interlocutors are, permit a brief introduction: The USCMO is the latest in a long series of front organizations associated with, and working to advance, the agenda of the Muslim Brotherhood in the United States.

Members of Congress should be clear about the true nature of that agenda. It is laid out most authoritatively in a [document](#) introduced into evidence by federal prosecutors in the course of the largest terrorism financing trial in the nation's history, *U.S. v. Holy Land Foundation et al.* Written in 1991 by a top Muslim Brotherhood operative, Mohamed Akram, and entitled "The Explanatory Memorandum on the General Strategic Goal of the Group in North America," this internal correspondence was meant for the eyes only of the organization's leadership in Egypt. So, the document is direct and to the point: It explicitly states that the mission of the Muslim Brotherhood in North America is "destroying Western civilization from within ... by [the infidels'] hands and the hands of the believers so that Allah's religion is made victorious over all other religions."

There are two other important facts legislators should know about Akram's memo.

First, the document helpfully attaches a list of 29 groups under the heading "Our organizations and organizations of our friends: Imagine if they all march according to one plan!" A number of the identified Muslim Brotherhood fronts — and many others that have come into being since 1991 — are members of the U.S. Council of Muslim Organizations. Representatives and associates of such fronts will be among the Islamists in congressional offices on Monday.

Second, the memo describes in detail the Muslim Brotherhood's favored technique for accomplishing its stated goal of "destroying Western civilization" — at least until such time as they are strong enough to use violence decisively: "civilization jihad." This sort of jihad involves employing stealthy, subversive means like influence operations to penetrate and subvert our government and civil society institutions. (The successful application of these means have been chronicled extensively in the Center for Security Policy's "[Civilization Jihad Reader Series](#).")

With the launch of the U.S. Council of Muslim Organizations in March 2014, the Muslim Brotherhood has secured a new instrument for its subversion: a self-described U.S. "political party" meant to dominate and mobilize Muslim voters across the country and get them marching according to one plan. The object is to elicit support for the Muslim Brotherhood's

demands from candidates and to help achieve what the Islamic supremacists would regard as favorable outcomes in the 2016 elections. (For more on the USCMO, its purpose and activities to date, see "[Star Spangled Sharia: The Rise of America's First Muslim Brotherhood Party](#)")

Unfortunately, some members of Congress have already embraced the Council of Muslim Organizations. For example, two with longstanding ties to assorted Muslim Brotherhood fronts, Reps. André Carson (D-Ind.) and Keith Ellison (D-Minn.), spoke at the USCMO's inaugural banquet in June 2014. Neither has disavowed the USCMO's subsequent participation in anti-Semitic, pro-Hamas and pro-Muslim Brotherhood demonstrations and its fundraising on behalf of Islamic Relief USA, a large, U.S.-based Islamic supremacist charity.

Another reason lawmakers and their staffs should be leery of this new Muslim Brotherhood front group is its avowed intention to make common cause with radical non-Muslim entities like the Black Lives Matter movement. At a conference in December 2015 convened by two of the Muslim Brotherhood's most virulent fronts, the Muslim American Society and Islamic Circle of North America, leading USCMO figures [publicly discussed](#) how they could impart lessons to African-Americans by holding up the Brotherhood as the community that staged revolutions across the world.

Congress is on notice: As long as organizations associated with Islamic supremacism like the USCMO and its member organizations dominate "Muslim Advocacy Day" on Capitol Hill, it will actually be Muslim Brotherhood Advocacy Day. And legislators should have nothing to do with either its participants or its programs.

Gaffney acted as an assistant secretary of Defense under President Reagan. He is the president of the Center for Security Policy in Washington. He serves as a foreign policy adviser to presidential candidate Sen. [Ted Cruz](#)[Rafael \(Ted\) Edward Cruz](#)[Overnight Health Care: Trump eases rules on insurance outside ObamaCare | HHS office on religious rights gets 300 complaints in a month | GOP chair eyes opioid bill vote by Memorial Day HHS official put on leave amid probe into social media posts Trump, Pence to address CPAC this week](#)[MORE](#) (R-Texas).

Freedom and hate

 thehill.com/blogs/congress-blog/civil-rights/271366-freedom-and-hate

At the beginning of each year, the Southern Poverty Law Center publishes a list of hate groups. These are groups we determine to have beliefs or practices that attack or malign an entire class of people, typically for their immutable characteristics.

The Center for Security Policy (CSP), an anti-Muslim think tank is one of the groups listed for the first time in 2015. In the run-up to and after the release of our list, CSP officials have defended the organization by claiming that their mission is motivated by a "love of freedom, not hate." Their record suggests otherwise.

The group has long equated Islam with terrorism. CSP vice president Claire Lopez, for example, said in 2013: "When Muslims follow their doctrine, they become jihadists." CSP dedicated much of 2015 to targeting Syrian refugees. Ann Corcoran, the head of the Refugee Resettlement Watch website wrote an anti-refugee booklet published by CSP in April titled, "Refugee Resettlement and the Hijra to America." It calls for a ban on all Muslim immigration to the U.S. and encourages Americans to oppose the opening of mosques in their neighborhoods (not a very freedom-loving call to action). CSP is also actively working to draft model legislation attempting to bar the relocation of Syrian refugees to locales across the U.S.

In December, CSP received mainstream press attention when Republican front-runner [Donald Trump](#) [Donald John Trump Accuser says Trump should be afraid of the truth](#) [Woman behind pro-Trump Facebook page denies being influenced by Russians](#) [Shulkin says he has White House approval to root out 'subversion' at VA](#) [MORE](#) cited a widely debunked CSP poll in his call for a complete shutdown of Muslim immigration into the United States. The demonizing survey results claimed that American Muslims harbored "ominous levels" of support for "Islamic Supremacists" and that these citizens even supported the use of violence to install Sharia law in the U.S. When the poll was first released, a Georgetown University's Bridge Initiative characterized its "shoddy findings" and "unreliable methodology" concluding that it "should not be taken seriously."

In September, CSP's founder, Frank Gaffney, surprised even us when he provided a platform for Jared Taylor, one of the most recognizable white nationalists in America today, by inviting him on his radio show to discuss the Syrian refugee "threat" to Europe. On the show, Gaffney called Taylor's openly racist American Renaissance website "wonderful" and said that he "appreciated tremendously" the work Taylor is doing, before scrubbing the interview from his website after we called him out.

In its [Feb. 24 piece](#) published in *The Hill*, CSP's Jim Hanson claims the SPLC is "trying to suppress free speech" by calling it "Islamophobia." Hanson defines phobia as "an irrational fear." Earlier in 2015, Gaffney was asked at a speaking engagement about Somalis working meatpacking plants. His response: "I don't know about you, but it kind of creeps me out that


they are getting jobs in the food supply of the United States" – making Hanson's point for him.

Hanson also wrote in his op-ed, "We believe homosexuals have the right to live without fear." This is ironic when you consider the fact that some of CSP's most vocal backers in recent weeks have been two anti-LGBT hate groups, the American Family Association (AFA) and the Family Research Council (FRC). In 2010, FRC president Tony Perkins wrote that pedophilia, "is a homosexual problem." Gaffney has appeared multiple times on Perkins' radio show.

2015 saw anti-Muslim sentiment and activity reach a fever pitch, with armed protests outside of mosques, elected officials bashing Muslims and the Islamic faith as well as heinous hate crimes committed against Muslims or those perceived to be. Throughout the year, the Center for Security Policy as well the David Horowitz Freedom Center and ACT! for America, two other groups listed by SPLC as hate groups for the first time, helped to drive this climate of fear and will certainly continue to do so in 2016.

Beirich heads the Intelligence Project at the Southern Poverty Law Center.

Frank Gaffney: Muslim Congressman Part Of 'Islamic Fifth Column'

 www.rightwingwatch.org/post/frank-gaffney-muslim-congressman-part-of-islamic-fifth-column/



By [Brian Tashman](#) | February 26, 2015 11:35 am

Frank Gaffney thinks that Rep. André Carson, one of two Muslim members of Congress, should lose his seat on the House Intelligence Committee because he might hand classified information to Muslim Brotherhood operatives.

Gaffney, an anti-Muslim conspiracy theorist who leads the Center for Security Policy, told WorldNetDaily that Carson, an Indiana Democrat, may use his position to advance "the imposition of Shariah worldwide and the establishment of a caliphate."

Gaffney bases his claims on Carson's work with the Islamic Society of North America and the Council on American-Islamic Relations, alleging that the groups were "unindicted co-conspirator[s] in a terror-financing trial." Actually, the designations were removed due to lack of evidence.

"At a minimum, Rep. Andre Carson's presence on the House Intelligence Committee will necessitate restrictions on his access to classified information about the presence and operations in this country of what amounts to a subversive Islamist Fifth Column and his participation in the panel's deliberations concerning how it can best be countered," Gaffney told WND.

“Since there are, at the moment, few topics more in need of assiduous oversight by the Congress – even if there were no actual risk of compromise of national security secrets or Muslim Brotherhood influence operations associated with Rep. Carson’s presence on the House Intelligence Committee – the potential impediment he may constitute to such work demands his removal from this panel.”


...

“Given the Muslim Brotherhood’s unalterable commitment to Islamic supremacism,” Gaffney said, “the imposition of Shariah worldwide and the establishment of a caliphate to rule globally in accordance with that totalitarian program – in place of our constitutional republic and all other forms of government, what the Obama administration is doing is bad enough. Its serial efforts to engage, legitimate, fund, arm and otherwise empower the Brotherhood overseas and to rely upon the Brothers’ domestic front organizations as representatives of and outreach vehicles to the Muslim community in this country are *intensifying* the dangers we face from the Global Jihad Movement.”

Gaffney said it is “wholly unacceptable to have as a member of a key congressional committee charged with overseeing U.S. intelligence and counterintelligence an individual with extensive personal and political associations with the Muslim Brotherhood’s civilization jihadist infrastructure in America.”

“At a minimum, Rep. Andre Carson’s presence on the House Intelligence Committee will necessitate restrictions on his access to classified information about the presence and operations in this country of what amounts to a subversive Islamist Fifth Column and his participation in the panel’s deliberations concerning how it can best be countered.”

Frank Gaffney: Obama 'Playing For The Other Team,' Committing 'Treason'

 www.rightwingwatch.org/post/frank-gaffney-obama-playing-for-the-other-team-committing-treason/



By [Miranda Blue](#) | December 16, 2015 2:55 pm

There's a new star in the world of Frank Gaffney, an activist who was largely banished from mainstream GOP circles for alleging that both the Obama administration and the Republican Party have been infiltrated by the Muslim Brotherhood, but has since been enjoying the attention of Donald Trump and Ted Cruz.

In recent days, Gaffney has been promoting the story of Phillip Haney, a former Department of Homeland Security employee who claims that the Obama administration pulled the plug on an investigation that he was conducting that he claims could possibly have caught the San Bernardino terrorists. It's hard to tell what of Haney's story is true since DHS has stayed mum on it other than to tell Fox News that his tale has "many holes." Haney mentioned in an interview with Sandy Rios this morning that he also locked horns with the Bush administration, but did not provide details.

But in any case, Gaffney has latched onto Haney's story to promote his narrative that, as he told Indianapolis talk radio host Greg Garrison last week, President Obama is "playing for the other team" and that it is "indisputable" that the president is committing "treason."

"What I believe this proves, beyond a shadow of a doubt — and I think this is also just the tip of the iceberg, by the way — is that the Obama administration is ... well, they're playing for the other team," Gaffney told Garrison. "And this is an extraordinarily dangerous thing for this country to be experiencing at a moment like this, I think it's contributing, frankly, to the mortal peril we're facing from these jihadists."

It is, he said, an "increasingly indisputable fact that this president is providing aid and comfort to enemies of the United States. And that is the definition, as you know, of treason."

Islam is a “malignant cancer”: The hateful rhetoric of Trump’s new national security adviser

Q qz.com/841197/islam-is-a-malignant-cancer-the-hateful-rhetoric-of-michael-flynn-trumps-new-national-security-adviser/

US president-elect Donald Trump famously said in a [CNN interview](#) last March that “Islam hates us.” In this light, his pick for [national security adviser](#) is pitch perfect.

Retired lieutenant general Michael Flynn served as Trump’s national security adviser during the campaign and agreed Friday (Nov. 18) to continue on. Flynn, a registered Democrat, served as head of the US Defense Intelligence Agency before he was [ousted in 2014](#). Since then, he’s been a [brash critic](#) of President Barack Obama and the national security establishment’s approach to defeating terrorism—and he’s made no secret of his disdain for Islam.

“Islam is a political ideology...it definitely hides behind this notion of it being a religion,” Flynn said in [a speech](#) at the annual conference of ACT for America, the largest anti-Muslim grassroots organization in the US. “It’s like cancer...a malignant cancer in this case.” Flynn also serves as an adviser for the group, which was founded by [Brigitte Gabriel](#), a leader of the anti-Islam lobby in the US. Flynn [has described](#) Gabriel as “incredibly courageous.”

[#Trump](#) Choice for National Security Adviser Michael Flynn: Islam is a political ideology that hides itself behind what they call a religion. [pic.twitter.com/5hqaSem7Dq](#)

— Zaid Benjamin (@zaidbenjamin) [November 18, 2016](#)

At other times, Flynn has been more careful to specify that “radical Islam” is the source of his ire. He led the charge in excoriating Democrats for [not using the words](#) “radical Islamic terrorism,” and published a book this summer called *The Field of Fight: How We Can Win the Global War Against Radical Islam And Its Allies*.

In it, [Flynn writes](#) that “without a proper sense of urgency, we will eventually be defeated, dominated, and very likely destroyed” by Muslim militants. “They are dead set on taking us over and drinking our blood.”

His rhetoric rarely distinguishes between extremism and ordinary Muslims; instead, Flynn [insists that](#) Muslims have “banned the search for truth” because they believe the Quran, Islam’s holy book, is infallible.

Flynn rivals Trump in his penchant for posting frequent and controversial messages on Twitter, a primary vehicle for his anti-Muslim rhetoric. In one of his most notorious tweets, Flynn wrote that the “fear of Muslims is rational.”

Fear of Muslims is RATIONAL; please forward this to others: the truth fears no questions...

<https://t.co/NLIiKFD9IU>

— General Flynn (@GenFlynn) February 27, 2016

In next 24 hours, I dare Arab & Persian world "leaders" to step up to the plate and declare their Islamic ideology sick and must B healed.

— General Flynn (@GenFlynn) July 15, 2016

The national security adviser appointment does not require Senate confirmation, even though the role offers the potential to significantly shape US foreign and military policy. Critics say that Flynn's anti-Islam rhetoric spells trouble for the US.

Flynn is "convinced that all Muslims who practice traditional Islam are a security risk. That is not only untrue but extremely dangerous," says Will McCants, director for the Brookings Project on US relations with the Islamic world and the author of *The ISIS Apocalypse: The History, Strategy, and Doomsday Vision of the Islamic State*. The effect will be to alienate many of the world's Muslims, he says, and send them "into the arms of jihadist recruiters" who contend that "America seeks to destroy their religion."

Michael Flynn, on trip to Russia, said 'who knows' whether Syria gas attack was a 'false flag'

 www.cnn.com/2016/11/20/politics/kfile-michael-flynn-rt-syria/index.html

(CNN)During a 2015 trip to Russia, Donald Trump's pick to be national security adviser, Lt. Gen. Michael Flynn, said he didn't know whether the 2013 sarin gas attack in Syria was conducted by the Syrian Army or by other forces in an attempt to draw the United States into the conflict.

Flynn not ruling out the possibility of a "false flag" attack raises questions about how the Trump administration will approach the Syrian conflict. The [Obama administration](#), the Arab League, NATO, and many western governments have pointed to Syrian President Bashar al-Assad's regime as being responsible for the attack. A [United Nations](#) investigation didn't assign blame, but [evidence](#) from the report pointed to the Assad regime being responsible.

Assad's regime and Russian President Vladimir Putin claim opposition forces were behind the attack.

Flynn, who was the director of the Defense Intelligence Agency for the Obama administration at the time of the 2013 attack, made the remarks during a December 2015 question and answer session hosted by the Russian government-funded television network, Russia Today. At the event, Flynn was asked by an audience member his take on reports the attack was carried out by Turkish intelligence and made to look like it was the Syrian government, otherwise known as a "false flag" operation.

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"I'm going to address your question because it's a good question," Flynn said. "It's an interesting one. What keeps me up at night is the use of chemicals and biological weapons by terrorist groups that have the intent, they have the intellect, they don't necessarily have the specific types of capabilities just yet, but I believe that they will have the ability to get their hands on them. I think that all of us globally need to really pay very close attention to that." "Your specific question, I really don't know," Flynn said. "I'm not going to sit here and tell you that I know. To have that level of knowledge or insight or detail of what an intelligence service is doing to do a false flag -- who knows. I don't have a good answer for you. I'm not able to answer your specific question."

In a 2013 [op-ed](#) in the New York Times, Putin wrote, "No one doubts that poison gas was used in Syria. But there is every reason to believe it was used not by the Syrian Army, but by opposition forces, to provoke intervention by their powerful foreign patrons, who would be siding with the fundamentalists."

The questioner's claim might be grounded in a 2013 article by journalist Seymour Hersh in the London Review of Books, which claimed the jihadist rebel group al-Nusra was behind the attack. The New Yorker and Washington Post both [declined](#) to publish the report, saying it didn't meet their standards. A follow up report from Hersh claimed the Turkish government supplied the chemical weapons for the attack.

Emails to Flynn and spokespeople for the Trump transition team were not returned.

Flynn told the Washington Post this year he was paid through his speaking agency for the appearance at the RT event. At the 2015 dinner for RT's anniversary, Flynn was seated at the same table as Putin.

Before the panel, Flynn tweeted, "Regarding RT panel participation: know my values and beliefs are mine & won't change because I'm on a different piece of geography."


At the event, Flynn cautioned the situation on the ground in Syria was complex and deception was being used.

"What I know is that the complexity of the situation on the ground right now is beyond anybody's wildest imagination," he said. "[The panel moderator] highlighted it in one of her questions. I think her question was a very good one. It's all of the things that are happening, not just in Syria. This is happening in the region in a big way. The things that you're talking about, there's this tit-for-tat or there's this give and take. People are doing things. There is deception being used."

"There is false information being used," he added. "This slide that I have up here is a component of that false information or how false information is applied. We have to understand -- this is why I think [the panel moderator is] driving me crazy up here, trying to get me to be more specific because right now we do have to be more specific. We have to be much more specific in our relationships, far more specific in our relationships, so there's not a misunderstanding and there's not a miscalculation because of some ill-advised tactic that's used in Damascus or Baghdad that causes something that we don't want."

After publication of this story, RT cut the clip and posted it on YouTube. Watch it here:

Phyllis Schlafly Wants 'Railroad Cars Full Of Illegals Going South'

 www.rightwingwatch.org/post/phyllis-schlafly-wants-railroad-cars-full-of-illegals-going-south/

By Brian Tashman | November 23, 2015 11:20 am

Excited about Donald Trump's call for the mass deportation of the 11 million undocumented immigrants living in the U.S., Eagle Forum founder Phyllis Schlafly told WorldNetDaily this weekend that she wants American railways to join the deportation effort, hoping to one day "see those railroad cars full of illegals going south."

Blasting President Obama's call for the U.S. to take in Syrian refugees as "ridiculous," she warned that "Obama wants to change the character of our country" by bringing in people who "have no comprehension of our constitutional system, of limited government, of the people being in control."

"Every time they say, 'You can't deport these people, in my mind's eye, I see the picture of those railroad cars carrying the illegals out of our country when Eisenhower deported them. They say it was a failure. It wasn't at all,'" Schlafly told WND in an exclusive interview. "In my mind's eye, I see those railroad cars full of illegals going south. That's what they ought to do."

"Obama wants to change the character of our country," Schlafly charged, reacting to an expose highlighted at the top of The Drudge Report on Friday.

"These people come in and have no comprehension of our constitutional system, of limited government, of the people being in control, and I think it's very tragic," she continued.

"We had a wonderful country of freedom and prosperity, and that's why everyone in the world wants to come here. But we can't let everyone in the world in. And we need to be very picknickety about who we let in. We only want people who love America and want to be American."

Schlafly said Obama's plan to flood the U.S. with unscreened foreigners "certainly isn't American," and she never thought she'd see the day when a U.S. president failed to do his duty to protect the nation.

"I never did. Even the ones I didn't vote for, I think, would have stood up for America," Schlafly said. "Obama has told us that he doesn't believe America should be thought of as better or exceptional. ... Obama has a mystique about him, and he continues to go down what I think is the wrong path. We need a leader who's going to stand up for America."


Many politicians – Democrat and Republican – argue that the U.S. has a duty to accept "refugees."

But Schlafly isn't having any of that "ridiculous" nonsense.

"These ideas that they're putting out, that we have some obligation to admit all these people, are just ridiculous," she said. "We don't have an obligation to admit anybody. A country that doesn't have borders isn't a country. We need to have borders."

She added, "I think the grassroots are going to win out because there are more of them every day who are believing what Trump says and disbelieving what the elite are trying to tell us."

Schlafly: Increase The Pay Gap So Women Will Have Better Opportunities To Find A Husband

 www.rightwingwatch.org/post/schlafly-increase-the-pay-gap-so-women-will-have-better-opportunities-to-find-a-husband/



By [Kyle Mantyla](#) | April 15, 2014 10:24 am

Phyllis Schlafly has never been a big fan of feminism or of efforts to promote equality between men and women in general. Schlafly is, after all, notorious for her stated belief that it is impossible for a husband to ever rape his wife because "when you get married you have consented to sex."

Given this sort of outlook, it is not surprising that Schlafly opposes things like the Paycheck Fairness Act and efforts to close the gender pay gap, arguing in an op-ed published in *The Christian Post* that closing the pay gap will actually *harm* women.

As Schlafly sees it, women *want* to marry a man who makes more money than they do. As such, if women and men make the same amount, then women will be less likely to get married because they will be "unable to find what they regard as a suitable mate."

The solution, obviously, is to *increase the pay gap* so that men will earn more than women so that women, in turn, will have a better opportunity to find husbands:

Another fact is the influence of hypergamy, which means that women typically choose a mate (husband or boyfriend) who earns more than she does. Men don't have the same preference for a higher-earning mate.


While women prefer to HAVE a higher-earning partner, men generally prefer to BE the higher-earning partner in a relationship. This simple but profound difference between the sexes has powerful consequences for the so-called pay gap.

Suppose the pay gap between men and women were magically eliminated. If that happened, simple arithmetic suggests that half of women would be unable to find what they regard as a suitable mate.

Obviously, I'm not saying women won't date or marry a lower-earning men, only that they probably prefer not to. If a higher-earning man is not available, many women are more likely not to marry at all.

The best way to improve economic prospects for women is to improve job prospects for the men in their lives, even if that means increasing the so-called pay gap.

Schlafly Reiterates View That Married Women Cannot Be Raped By Husbands

 www.rightwingwatch.org/post/schlafly-reiterates-view-that-married-women-cannot-be-raped-by-husbands/



By [Kyle Mantyla](#) | May 7, 2008 3:51 pm

Last year, Phyllis Schlafly spoke on the campus of Bates College where, among other things, she “belittled the feminist movement as ‘teaching women to be victims,’ decried intellectual men as ‘liberal slob’ and argued that feminism ‘is incompatible with marriage and motherhood.’” She then went on to top herself by claiming that a married woman cannot be sexually assaulted by her husband, saying:

“By getting married, the woman has consented to sex, and I don’t think you can call it rape.”

Needless to say, those views caused a bit of controversy ... controversy that has now reemerged at Washington University in St. Louis when school officials decided to honor Schlafly with an honorary doctorate:

Washington University’s decision to bestow an honorary degree on conservative political activist and author Phyllis Schlafly has stirred outrage among some students and faculty.

Opponents of Schlafly’s honorary doctorate formed a group on the social-networking website Facebook and had 1,023 members as of Monday evening.

Apparently the students don’t think that Washington University should be honoring an immigrant-hating, UN-detesting, evolution-fighting, court-stripping, conspiracy-theorist anti-feminist hypocrite who blames the Virginia Tech massacre on the English Department – go figure.

But the university isn’t backing down ... and neither is Schlafly, who granted an interview to a Washington University student newspaper where she complained that the protesting students have “too much extra time” on their hands and reiterated her view that wives cannot be raped by their husbands:

Could you clarify some of the statements that you made in Maine last year about marital rape?

I think that when you get married you have consented to sex. That's what marriage is all about, I don't know if maybe these girls missed sex ed. That doesn't mean the husband can beat you up, we have plenty of laws against assault and battery. If there is any violence or mistreatment that can be dealt with by criminal prosecution, by divorce or in various ways. When it gets down to calling it rape though, it isn't rape, it's a he said-she said where it's just too easy to lie about it.


Was the way in which your statement was portrayed correct?

Yes. Feminists, if they get tired of a husband or if they want to fight over child custody, they can make an accusation of marital rape and they want that to be there, available to them.

So you see this as more of a tool used by people to get out of marriages than as legitimate-

Yes, I certainly do.

Schlafly: 'Reinstate the House Committee on Un-American Activities'

 www.rightwingwatch.org/post/schlafly-reinstate-the-house-committee-on-un-american-activities/

By [Brian Tashman](#) | April 23, 2013 10:55 am

Eagle Forum founder and [Joseph McCarthy admirer](#) Phyllis Schlafly is using the Boston marathon bombings as an excuse to push for the reinstatement of the notorious House Committee on Un-American Activities.

"It would be useful to reinstate the House Committee on Un-American Activities," Schlafly wrote in a column yesterday, "so we can have a look at those in our midst who may be jihadists, dupes of violent Muslim indoctrination, or (in old Communist lingo) fellow travelers or useful idiots."

In her [column](#), which she titled, "Are You American 1st or Muslim 1st?," Schlafly further argues that while it is okay to be a Christian first and American second, Muslims who put faith first should not be allowed in the country.

The Boston bombing crime shows that comprehensive immigration reform should not be only a southern border problem or even just a problem of illegal aliens. It's also a problem of foreigners who are admitted legally but should never have been admitted, and of others admitted legally on a visa but are not tracked to make sure they depart when their visitor's time expires, as U.S. law requires.

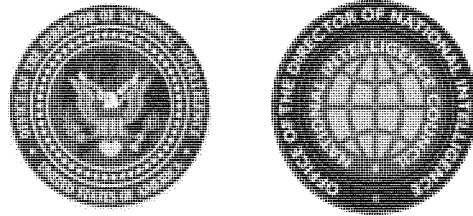
For starters, why would our government have admitted the Tsarnaev family whose son was named Tamerlan? That should have been a red alert because that is the name of one of the world's notorious mass murderers, a 14th-century Central Asian warlord named Tamerlan, who killed about 17 million people.

It's long overdue for Congress to have a series of hearings on the loopholes, broken promises and disobeyed laws involving both legal and illegal entry into the United States. It would be useful to reinstate the House Committee on Un-American Activities so we can have a look at those in our midst who may be jihadists, dupes of violent Muslim indoctrination, or (in old Communist lingo) fellow travelers or useful idiots.

There is plenty of evidence that legal and illegal immigrants of various nationalities, in contravention of our citizenship pledge, retain their loyalty to the land they came from. Brian Fishman, who studies terrorism at the New America Foundation in Washington, says, "I think there's often a sense of divided loyalties in these cases where Americans turn to violent jihad – are you American first or are you Muslim first?"

Our government should investigate thoroughly and reject those who do not want to become Americans, obey our Constitution and laws, speak our language, and salute our flag. And they have to accept the rule that disputes in our courts must be decided according to U.S. law, not any foreign law.

Schlafly's argument is reminiscent of an incoherent answer that Pat Robertson gave last year to a 700 Club viewer who asked him why he criticized Muslims who put their faith ahead of their nationality when he does the same. Robertson claimed that Muslims are different from Christians because they are "under control of a foreign power."



**Background to "Assessing Russian Activities and Intentions
in Recent US Elections": The Analytic Process and Cyber
Incident Attribution**

6 January 2017

Background to “Assessing Russian Activities and Intentions in Recent US Elections”: The Analytic Process and Cyber Incident Attribution

“Assessing Russian Activities and Intentions in Recent US Elections” is a declassified version of a highly classified assessment that has been provided to the President and to recipients approved by the President.

- The Intelligence Community rarely can publicly reveal the full extent of its knowledge or the precise bases for its assessments, as the release of such information would reveal sensitive sources or methods and imperil the ability to collect critical foreign intelligence in the future.
- Thus, while the conclusions in the report are all reflected in the classified assessment, the declassified report does not and cannot include the full supporting information, including specific intelligence and sources and methods.

The Analytic Process

The mission of the Intelligence Community is to seek to reduce the uncertainty surrounding foreign activities, capabilities, or leaders’ intentions. This objective is difficult to achieve when seeking to understand complex issues on which foreign actors go to extraordinary lengths to hide or obfuscate their activities.

- On these issues of great importance to US national security, the goal of intelligence analysis is to provide assessments to decisionmakers that are intellectually rigorous, objective, timely, and useful, and that adhere to tradecraft standards.
- The tradecraft standards for analytic products have been refined over the past ten years. These standards include describing sources (including their reliability and access to the information they provide), clearly expressing uncertainty, distinguishing between underlying information and analysts’ judgments and assumptions, exploring alternatives, demonstrating relevance to the customer, using strong and transparent logic, and explaining change or consistency in judgments over time.
- Applying these standards helps ensure that the Intelligence Community provides US policymakers, warfighters, and operators with the best and most accurate insight, warning, and context, as well as potential opportunities to advance US national security.

Intelligence Community analysts integrate information from a wide range of sources, including human sources, technical collection, and open source information, and apply specialized skills and structured analytic tools to draw inferences informed by the data available, relevant past activity, and logic and reasoning to provide insight into what is happening and the prospects for the future.

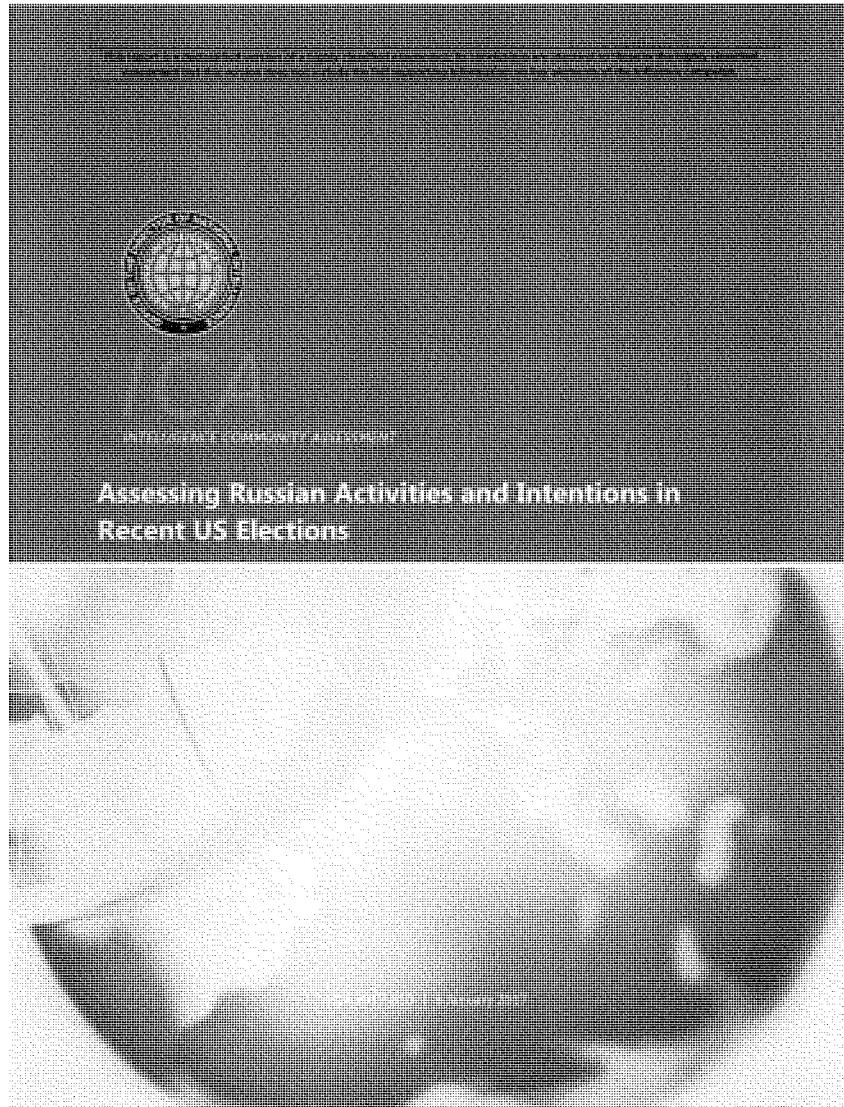
- A critical part of the analyst’s task is to explain uncertainties associated with major judgments based on the quantity and quality of the source material, information gaps, and the complexity of the issue.
- When Intelligence Community analysts use words such as “we assess” or “we judge,” they are conveying an analytic assessment or judgment.
- Some analytic judgments are based directly on collected information; others rest on previous judgments, which serve as building blocks in rigorous analysis. In either type of judgment, the tradecraft standards outlined above ensure that analysts have an appropriate basis for the judgment.

- Intelligence Community judgments often include two important elements: judgments of how likely it is that something has happened or will happen (using terms such as “likely” or “unlikely”) and confidence levels in those judgments (low, moderate, and high) that refer to the evidentiary basis, logic and reasoning, and precedents that underpin the judgments.

Determining Attribution in Cyber Incidents

The nature of cyberspace makes attribution of cyber operations difficult but not impossible. Every kind of cyber operation—malicious or not—leaves a trail. US Intelligence Community analysts use this information, their constantly growing knowledge base of previous events and known malicious actors, and their knowledge of how these malicious actors work and the tools that they use, to attempt to trace these operations back to their source. In every case, they apply the same tradecraft standards described in the Analytic Process above.

- Analysts consider a series of questions to assess how the information compares with existing knowledge and adjust their confidence in their judgments as appropriate to account for any alternative hypotheses and ambiguities.
- An assessment of attribution usually is not a simple statement of who conducted an operation, but rather a series of judgments that describe whether it was an isolated incident, who was the likely perpetrator, that perpetrator’s possible motivations, and whether a foreign government had a role in ordering or leading the operation.



This report is a declassified version of a highly classified assessment; its conclusions are identical to those in the highly classified assessment but this version does not include the full supporting information on key elements of the influence campaign.

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Scope and Sourcing

Information available as of 29 December 2016 was used in the preparation of this product.

Scope

This report includes an analytic assessment drafted and coordinated among The Central Intelligence Agency (CIA), The Federal Bureau of Investigation (FBI), and The National Security Agency (NSA), which draws on intelligence information collected and disseminated by those three agencies. It covers the motivation and scope of Moscow's intentions regarding US elections and Moscow's use of cyber tools and media campaigns to influence US public opinion. The assessment focuses on activities aimed at the 2016 US presidential election and draws on our understanding of previous Russian influence operations. When we use the term "we" it refers to an assessment by all three agencies.

- This report is a declassified version of a highly classified assessment. This document's conclusions are identical to the highly classified assessment, but this document does not include the full supporting information, including specific intelligence on key elements of the influence campaign. Given the redactions, we made minor edits purely for readability and flow.

We did not make an assessment of the impact that Russian activities had on the outcome of the 2016 election. The US Intelligence Community is charged with monitoring and assessing the intentions, capabilities, and actions of foreign actors; it does not analyze US political processes or US public opinion.

- New information continues to emerge, providing increased insight into Russian activities.

Sourcing

Many of the key judgments in this assessment rely on a body of reporting from multiple sources that are consistent with our understanding of Russian behavior. Insights into Russian efforts—including specific cyber operations—and Russian views of key US players derive from multiple corroborating sources.

Some of our judgments about Kremlin preferences and intent are drawn from the behavior of Kremlin-loyal political figures, state media, and pro-Kremlin social media actors, all of whom the Kremlin either directly uses to convey messages or who are answerable to the Kremlin. The Russian leadership invests significant resources in both foreign and domestic propaganda and places a premium on transmitting what it views as consistent, self-reinforcing narratives regarding its desires and redlines, whether on Ukraine, Syria, or relations with the United States.

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Assessing Russian Activities and Intentions in Recent US Elections

ICA 2017-01D
6 January 2017

Key Judgments

Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow's longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.

We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia's goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. We have high confidence in these judgments.

- **We also assess Putin and the Russian Government aspired to help President-elect Trump's election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.** All three agencies agree with this judgment. CIA and FBI have high confidence in this judgment; NSA has moderate confidence.
- Moscow's approach evolved over the course of the campaign based on Russia's understanding of the electoral prospects of the two main candidates. When it appeared to Moscow that Secretary Clinton was likely to win the election, the Russian influence campaign began to focus more on undermining her future presidency.
- Further information has come to light since Election Day that, when combined with Russian behavior since early November 2016, increases our confidence in our assessments of Russian motivations and goals.

Moscow's influence campaign followed a Russian messaging strategy that blends covert intelligence operations—such as cyber activity—with overt efforts by Russian Government agencies, state-funded media, third-party intermediaries, and paid social media users or “trolls.” Russia, like its Soviet predecessor, has a history of conducting covert influence campaigns focused on US presidential elections that have used intelligence officers and agents and press placements to disparage candidates perceived as hostile to the Kremlin.

- Russia's intelligence services conducted cyber operations against targets associated with the 2016 US presidential election, including targets associated with both major US political parties.
- We assess with high confidence that Russian military intelligence (General Staff Main Intelligence Directorate or GRU) used the Guccifer 2.0 persona and DCLeaks.com to release US victim data

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obtained in cyber operations publicly and in exclusives to media outlets and relayed material to WikiLeaks.

- Russian intelligence obtained and maintained access to elements of multiple US state or local electoral boards. **DHS assesses that the types of systems Russian actors targeted or compromised were not involved in vote tallying.**
- Russia's state-run propaganda machine contributed to the influence campaign by serving as a platform for Kremlin messaging to Russian and international audiences.

We assess Moscow will apply lessons learned from its Putin-ordered campaign aimed at the US presidential election to future influence efforts worldwide, including against US allies and their election processes.

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Russia's Influence Campaign Targeting the 2016 US Presidential Election



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Russia's Influence Campaign Targeting the 2016 US Presidential Election

Putin Ordered Campaign To Influence US Election

We assess with high confidence that Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election, the consistent goals of which were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. When it appeared to Moscow that Secretary Clinton was likely to win the election, the Russian influence campaign then focused on undermining her expected presidency.

- We also assess Putin and the Russian Government aspired to help President-elect Trump's election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him. All three agencies agree with this judgment. CIA and FBI have high confidence in this judgment; NSA has moderate confidence.
- In trying to influence the US election, we assess the Kremlin sought to advance its longstanding desire to undermine the US-led liberal democratic order, the promotion of which Putin and other senior Russian leaders view as a threat to Russia and Putin's regime.
- Putin publicly pointed to the Panama Papers disclosure and the Olympic doping scandal as US-directed efforts to defame Russia, suggesting he sought to use disclosures to discredit the image of the United States and cast it as hypocritical.

- Putin most likely wanted to discredit Secretary Clinton because he has publicly blamed her since 2011 for inciting mass protests against his regime in late 2011 and early 2012, and because he holds a grudge for comments he almost certainly saw as disparaging him.

We assess Putin, his advisers, and the Russian Government developed a clear preference for President-elect Trump over Secretary Clinton.

- Beginning in June, Putin's public comments about the US presidential race avoided directly praising President-elect Trump, probably because Kremlin officials thought that any praise from Putin personally would backfire in the United States. Nonetheless, Putin publicly indicated a preference for President-elect Trump's stated policy to work with Russia, and pro-Kremlin figures spoke highly about what they saw as his Russia-friendly positions on Syria and Ukraine. Putin publicly contrasted the President-elect's approach to Russia with Secretary Clinton's "aggressive rhetoric."
- Moscow also saw the election of President-elect Trump as a way to achieve an international counterterrorism coalition against the Islamic State in Iraq and the Levant (ISIL).
- Putin has had many positive experiences working with Western political leaders whose business interests made them more disposed to deal with Russia, such as former Italian Prime Minister Silvio Berlusconi and former German Chancellor Gerhard Schroeder.
- Putin, Russian officials, and other pro-Kremlin pundits stopped publicly criticizing the US election process as unfair almost immediately

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after the election because Moscow probably assessed it would be counterproductive to building positive relations.

We assess the influence campaign aspired to help President-elect Trump's chances of victory when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to the President-elect. When it appeared to Moscow that Secretary Clinton was likely to win the presidency the Russian influence campaign focused more on undercutting Secretary Clinton's legitimacy and crippling her presidency from its start, including by impugning the fairness of the election.

- Before the election, Russian diplomats had publicly denounced the US electoral process and were prepared to publicly call into question the validity of the results. Pro-Kremlin bloggers had prepared a Twitter campaign, #DemocracyRIP, on election night in anticipation of Secretary Clinton's victory, judging from their social media activity.

Russian Campaign Was Multifaceted

Moscow's use of disclosures during the US election was unprecedented, but its influence campaign otherwise followed a longstanding Russian messaging strategy that blends covert intelligence operations—such as cyber activity—with overt efforts by Russian Government agencies, state-funded media, third-party intermediaries, and paid social media users or “trolls.”

- We assess that influence campaigns are approved at the highest levels of the Russian Government—particularly those that would be politically sensitive.
- Moscow's campaign aimed at the US election reflected years of investment in its capabilities, which Moscow has honed in the former Soviet states.

- By their nature, Russian influence campaigns are multifaceted and designed to be deniable because they use a mix of agents of influence, cutouts, front organizations, and false-flag operations. Moscow demonstrated this during the Ukraine crisis in 2014, when Russia deployed forces and advisers to eastern Ukraine and denied it publicly.

The Kremlin's campaign aimed at the US election featured disclosures of data obtained through Russian cyber operations; intrusions into US state and local electoral boards; and overt propaganda. Russian intelligence collection both informed and enabled the influence campaign.

Cyber Espionage Against US Political Organizations.

Russia's intelligence services conducted cyber operations against targets associated with the 2016 US presidential election, including targets associated with both major US political parties.

We assess Russian intelligence services collected against the US primary campaigns, think tanks, and lobbying groups they viewed as likely to shape future US policies. In July 2015, Russian intelligence gained access to Democratic National Committee (DNC) networks and maintained that access until at least June 2016.

- The General Staff Main Intelligence Directorate (GRU) probably began cyber operations aimed at the US election by March 2016. We assess that the GRU operations resulted in the compromise of the personal e-mail accounts of Democratic Party officials and political figures. By May, the GRU had exfiltrated large volumes of data from the DNC.

Public Disclosures of Russian-Collected Data.

We assess with high confidence that the GRU used the Guccifer 2.0 persona, DCLeaks.com, and WikiLeaks to release US victim data obtained in

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cyber operations publicly and in exclusives to media outlets.

- Guccifer 2.0, who claimed to be an independent Romanian hacker, made multiple contradictory statements and false claims about his likely Russian identity throughout the election. Press reporting suggests more than one person claiming to be Guccifer 2.0 interacted with journalists.
- Content that we assess was taken from e-mail accounts targeted by the GRU in March 2016 appeared on DCLeaks.com starting in June.

We assess with high confidence that the GRU relayed material it acquired from the DNC and senior Democratic officials to WikiLeaks. Moscow most likely chose WikiLeaks because of its self-proclaimed reputation for authenticity. Disclosures through WikiLeaks did not contain any evident forgeries.

- In early September, Putin said publicly it was important the DNC data was exposed to WikiLeaks, calling the search for the source of the leaks a distraction and denying Russian "state-level" involvement.
- The Kremlin's principal international propaganda outlet RT (formerly Russia Today) has actively collaborated with WikiLeaks. RT's editor-in-chief visited WikiLeaks founder Julian Assange at the Ecuadorian Embassy in London in August 2013, where they discussed renewing his broadcast contract with RT, according to Russian and Western media. Russian media subsequently announced that RT had become "the only Russian media company" to partner with WikiLeaks and had received access to "new leaks of secret information." RT routinely gives Assange sympathetic coverage and provides him a platform to denounce the United States.

These election-related disclosures reflect a pattern of Russian intelligence using hacked information in targeted influence efforts against targets such as Olympic athletes and other foreign governments. Such efforts have included releasing or altering personal data, defacing websites, or releasing e-mails.

- A prominent target since the 2016 Summer Olympics has been the World Anti-Doping Agency (WADA), with leaks that we assess to have originated with the GRU and that have involved data on US athletes.

Russia collected on some Republican-affiliated targets but did not conduct a comparable disclosure campaign.

Russian Cyber Intrusions Into State and Local Electoral Boards. Russian intelligence accessed elements of multiple state or local electoral boards. Since early 2014, Russian intelligence has researched US electoral processes and related technology and equipment.

- DHS assesses that the types of systems we observed Russian actors targeting or compromising are not involved in vote tallying.

Russian Propaganda Efforts. Russia's state-run propaganda machine—comprised of its domestic media apparatus, outlets targeting global audiences such as RT and Sputnik, and a network of quasi-government trolls—contributed to the influence campaign by serving as a platform for Kremlin messaging to Russian and international audiences. State-owned Russian media made increasingly favorable comments about President-elect Trump as the 2016 US general and primary election campaigns progressed while consistently offering negative coverage of Secretary Clinton.

- Starting in March 2016, Russian Government-linked actors began openly supporting President-elect Trump's candidacy in media

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aimed at English-speaking audiences. RT and Sputnik—another government-funded outlet producing pro-Kremlin radio and online content in a variety of languages for international audiences—consistently cast President-elect Trump as the target of unfair coverage from traditional US media outlets that they claimed were subservient to a corrupt political establishment.

- Russian media hailed President-elect Trump's victory as a vindication of Putin's advocacy of global populist movements—the theme of Putin's annual conference for Western academics in October 2016—and the latest example of Western liberalism's collapse.
- Putin's chief propagandist Dmitriy Kiselev used his flagship weekly newsmagazine program this fall to cast President-elect Trump as an outsider victimized by a corrupt political establishment and faulty democratic election process that aimed to prevent his election because of his desire to work with Moscow.
- Pro-Kremlin proxy Vladimir Zhirinovskiy, leader of the nationalist Liberal Democratic Party of Russia, proclaimed just before the election that if President-elect Trump won, Russia would "drink champagne" in anticipation of being able to advance its positions on Syria and Ukraine.

RT's coverage of Secretary Clinton throughout the US presidential campaign was consistently negative and focused on her leaked e-mails and accused her of corruption, poor physical and mental health, and ties to Islamic extremism. Some Russian officials echoed Russian lines for the influence campaign that Secretary Clinton's election could lead to a war between the United States and Russia.

- In August, Kremlin-linked political analysts suggested avenging negative Western reports

on Putin by airing segments devoted to Secretary Clinton's alleged health problems.

- On 6 August, RT published an English-language video called "Julian Assange Special: Do WikiLeaks Have the E-mail That'll Put Clinton in Prison?" and an exclusive interview with Assange entitled "Clinton and ISIS Funded by the Same Money." RT's most popular video on Secretary Clinton, "How 100% of the Clintons' 'Charity' Went to...Themselves," had more than 9 million views on social media platforms. RT's most popular English language video about the President-elect, called "Trump Will Not Be Permitted To Win," featured Assange and had 2.2 million views.
- For more on Russia's past media efforts—including portraying the 2012 US electoral process as undemocratic—please see Annex A: Russia—Kremlin's TV Seeks To Influence Politics, Fuel Discontent in US.

Russia used trolls as well as RT as part of its influence efforts to denigrate Secretary Clinton. This effort amplified stories on scandals about Secretary Clinton and the role of WikiLeaks in the election campaign.

- The likely financier of the so-called Internet Research Agency of professional trolls located in Saint Petersburg is a close Putin ally with ties to Russian intelligence.
- A journalist who is a leading expert on the Internet Research Agency claimed that some social media accounts that appear to be tied to Russia's professional trolls—because they previously were devoted to supporting Russian actions in Ukraine—started to advocate for President-elect Trump as early as December 2015.

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Influence Effort Was Boldest Yet in the US

Russia's effort to influence the 2016 US presidential election represented a significant escalation in directness, level of activity, and scope of effort compared to previous operations aimed at US elections. We assess the 2016 influence campaign reflected the Kremlin's recognition of the worldwide effects that mass disclosures of US Government and other private data—such as those conducted by WikiLeaks and others—have achieved in recent years, and their understanding of the value of orchestrating such disclosures to maximize the impact of compromising information.

- During the Cold War, the Soviet Union used intelligence officers, influence agents, forgeries, and press placements to disparage candidates perceived as hostile to the Kremlin, according to a former KGB archivist.

Since the Cold War, Russian intelligence efforts related to US elections have primarily focused on foreign intelligence collection. For decades, Russian and Soviet intelligence services have sought to collect insider information from US political parties that could help Russian leaders understand a new US administration's plans and priorities.

- The Russian Foreign Intelligence Service (SVR) Directorate S (Illegals) officers arrested in the United States in 2010 reported to Moscow about the 2008 election.
- In the 1970s, the KGB recruited a Democratic Party activist who reported information about then-presidential hopeful Jimmy Carter's campaign and foreign policy plans, according to a former KGB archivist.

Election Operation Signals “New Normal” in Russian Influence Efforts

We assess Moscow will apply lessons learned from its campaign aimed at the US presidential election to future influence efforts in the United States and worldwide, including against US allies and their election processes. We assess the Russian intelligence services would have seen their election influence campaign as at least a qualified success because of their perceived ability to impact public discussion.

- Putin's public views of the disclosures suggest the Kremlin and the intelligence services will continue to consider using cyber-enabled disclosure operations because of their belief that these can accomplish Russian goals relatively easily without significant damage to Russian interests.
- Russia has sought to influence elections across Europe.

We assess Russian intelligence services will continue to develop capabilities to provide Putin with options to use against the United States, judging from past practice and current efforts. Immediately after Election Day, we assess Russian intelligence began a spearphishing campaign targeting US Government employees and individuals associated with US think tanks and NGOs in national security, defense, and foreign policy fields. This campaign could provide material for future influence efforts as well as foreign intelligence collection on the incoming administration's goals and plans.

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Annex A

Russia -- Kremlin's TV Seeks To Influence Politics, Fuel Discontent in US*

RT America TV, a Kremlin-financed channel operated from within the United States, has substantially expanded its repertoire of programming that highlights criticism of alleged US shortcomings in democracy and civil liberties. The rapid expansion of RT's operations and budget and recent candid statements by RT's leadership point to the channel's importance to the Kremlin as a messaging tool and indicate a Kremlin-directed campaign to undermine faith in the US Government and fuel political protest. The Kremlin has committed significant resources to expanding the channel's reach, particularly its social media footprint. A reliable UK report states that RT recently was the most-watched foreign news channel in the UK. RT America has positioned itself as a domestic US channel and has deliberately sought to obscure any legal ties to the Russian Government.

In the runup to the 2012 US presidential election in November, English-language channel RT America -- created and financed by the Russian Government and part of Russian Government-sponsored RT TV (see textbox 1) -- intensified its usually critical coverage of the United States. The channel portrayed the US electoral process as undemocratic and featured calls by US protesters for the public to rise up and "take this government back."

- RT introduced two new shows -- "Breaking the Set" on 4 September and "Truthseeker" on 2 November -- both overwhelmingly focused on criticism of US and Western governments as well as the promotion of radical discontent.
- From August to November 2012, RT ran numerous reports on alleged US election fraud and voting machine vulnerabilities, contending that US election results cannot be trusted and do not reflect the popular will.
- In an effort to highlight the alleged "lack of democracy" in the United States, RT broadcast, hosted, and advertised third-party candidate debates and ran reporting supportive of the political agenda of these candidates. The RT hosts asserted that the US two-party system does not represent the views of at least one-third of the population and is a "sham."



Messaging on RT prior to the US presidential election (RT, 3 November)

* This annex was originally published on 11 December 2012 by the Open Source Center, now the Open Source Enterprise.

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- RT aired a documentary about the Occupy Wall Street movement on 1, 2, and 4 November. RT framed the movement as a fight against "the ruling class" and described the current US political system as corrupt and dominated by corporations. RT advertising for the documentary featured Occupy movement calls to "take back" the government. The documentary claimed that the US system cannot be changed democratically, but only through "revolution." After the 6 November US presidential election, RT aired a documentary called "Cultures of Protest," about active and often violent political resistance (RT, 1-10 November).



RT new show "Truthseeker" (RT, 11 November)

RT Conducts Strategic Messaging for Russian Government

RT's criticism of the US election was the latest facet of its broader and longer-standing anti-US messaging likely aimed at undermining viewers' trust in US democratic procedures and undercutting US criticism of Russia's political system. RT Editor in Chief Margarita Simonyan recently declared that the United States itself lacks democracy and that it has "no moral right to teach the rest of the world" (*Kommersant*, 6 November).

- Simonyan has characterized RT's coverage of the Occupy Wall Street movement as "information warfare" that is aimed at promoting popular dissatisfaction with the US Government. RT created a *Facebook* app to connect Occupy Wall Street protesters via social media. In addition, RT featured its own hosts in Occupy rallies ("Minaev Live," 10 April; RT, 2, 12 June).
- RT's reports often characterize the United States as a "surveillance state" and allege widespread infringements of civil liberties, police brutality, and drone use (RT, 24, 28 October, 1-10 November).
- RT has also focused on criticism of the US economic system, US currency policy, alleged Wall Street greed, and the US national debt. Some of RT's hosts have compared the United States to Imperial Rome and have predicted that government corruption and "corporate greed" will lead to US financial collapse (RT, 31 October, 4 November).

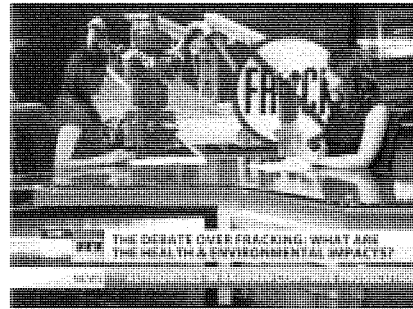


Simonyan steps over the White House in the introduction from her short-lived domestic show on REN TV (REN TV, 26 December 2011)

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RT broadcasts support for other Russian interests in areas such as foreign and energy policy.

- RT runs anti-fracking programming, highlighting environmental issues and the impacts on public health. This is likely reflective of the Russian Government's concern about the impact of fracking and US natural gas production on the global energy market and the potential challenges to Gazprom's profitability (5 October).
- RT is a leading media voice opposing Western intervention in the Syrian conflict and blaming the West for waging "information wars" against the Syrian Government (RT, 10 October-9 November).
- In an earlier example of RT's messaging in support of the Russian Government, during the Georgia-Russia military conflict the channel accused Georgians of killing civilians and organizing a genocide of the Ossetian people. According to Simonyan, when "the Ministry of Defense was at war with Georgia," RT was "waging an information war against the entire Western world" (*Kommersant*, 11 July).



RT anti-fracking reporting (RT, 5 October)

In recent interviews, RT's leadership has candidly acknowledged its mission to expand its US audience and to expose it to Kremlin messaging. However, the leadership rejected claims that RT interferes in US domestic affairs.

- Simonyan claimed in popular arts magazine *Afisha* on 3 October: "It is important to have a channel that people get used to, and then, when needed, you show them what you need to show. In some sense, not having our own foreign broadcasting is the same as not having a ministry of defense. When there is no war, it looks like we don't need it. However, when there is a war, it is critical."
- According to Simonyan, "the word 'propaganda' has a very negative connotation, but indeed, there is not a single international foreign TV channel that is doing something other than promotion of the values of the country that it is broadcasting from." She added that "when Russia is at war, we are, of course, on Russia's side" (*Afisha*, 3 October; *Kommersant*, 4 July).
- TV-Novosti director Nikolov said on 4 October to the Association of Cable Television that RT builds on worldwide demand for "an alternative view of the entire world." Simonyan asserted on 3 October in *Afisha* that RT's goal is "to make an alternative channel that shares information unavailable elsewhere" in order to "conquer the audience" and expose it to Russian state messaging (*Afisha*, 3 October; *Kommersant*, 4 July).
- On 26 May, Simonyan tweeted with irony: "Ambassador McFaul hints that our channel is interference with US domestic affairs. And we, sinful souls, were thinking that it is freedom of speech."

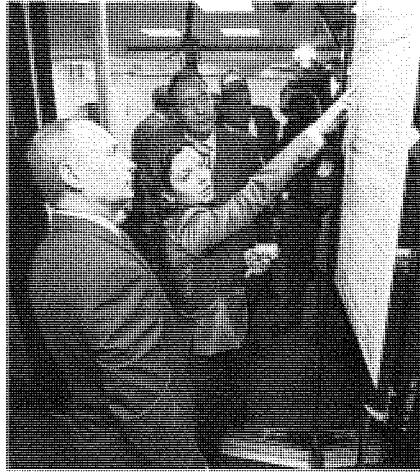
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RT Leadership Closely Tied to, Controlled by Kremlin

RT Editor in Chief Margarita Simonyan has close ties to top Russian Government officials, especially Presidential Administration Deputy Chief of Staff Aleksey Gromov, who reportedly manages political TV coverage in Russia and is one of the founders of RT.

- Simonyan has claimed that Gromov shielded her from other officials and their requests to air certain reports. Russian media consider Simonyan to be Gromov's protege (*Kommersant*, 4 July; *Dozhd TV*, 11 July).
- Simonyan replaced Gromov on state-owned Channel One's Board of Directors. Government officials, including Gromov and Putin's Press Secretary Peskov were involved in creating RT and appointing Simonyan (*Afisha*, 3 October).
- According to Simonyan, Gromov oversees political coverage on TV, and he has periodic meetings with media managers where he shares classified information and discusses their coverage plans. Some opposition journalists, including Andrey Loshak, claim that he also ordered media attacks on opposition figures (*Kommersant*, 11 July).

The Kremlin staffs RT and closely supervises RT's coverage, recruiting people who can convey Russian strategic messaging because of their ideological beliefs.



Simonyan shows RT facilities to then Prime Minister Putin. Simonyan was on Putin's 2012 presidential election campaign staff in Moscow (Rospress, 22 September 2010, Ria Novosti, 25 October 2012).

- The head of RT's Arabic-language service, Aydar Aganin, was rotated from the diplomatic service to manage RT's Arabic-language expansion, suggesting a close relationship between RT and Russia's foreign policy apparatus. RT's London Bureau is managed by Darya Pushkova, the daughter of Aleksey Pushkov, the current chair of the Duma Russian Foreign Affairs Committee and a former Gorbachev speechwriter (*DXB*, 26 March 2009; *MK.ru*, 13 March 2006).
- According to Simonyan, the Russian Government sets rating and viewership requirements for RT and, "since RT receives budget from the state, it must complete tasks given by the state." According to Nikolov, RT news stories are written and edited "to become news" exclusively in RT's Moscow office (*Dozhd TV*, 11 July; *AKT*, 4 October).
- In her interview with pro-Kremlin journalist Sergey Minaev, Simonyan complimented RT staff in the United States for passionately defending Russian positions on the air and in social media. Simonyan said: "I wish you could see...how these guys, not just on air, but on their own social networks, *Twitter*, and when giving interviews, how they defend the positions that we stand on!" ("*Minaev Live*," 10 April).

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RT Focuses on Social Media, Building Audience

RT aggressively advertises its social media accounts and has a significant and fast-growing social media footprint. In line with its efforts to present itself as anti-mainstream and to provide viewers alternative news content, RT is making its social media operations a top priority, both to avoid broadcast TV regulations and to expand its overall audience.

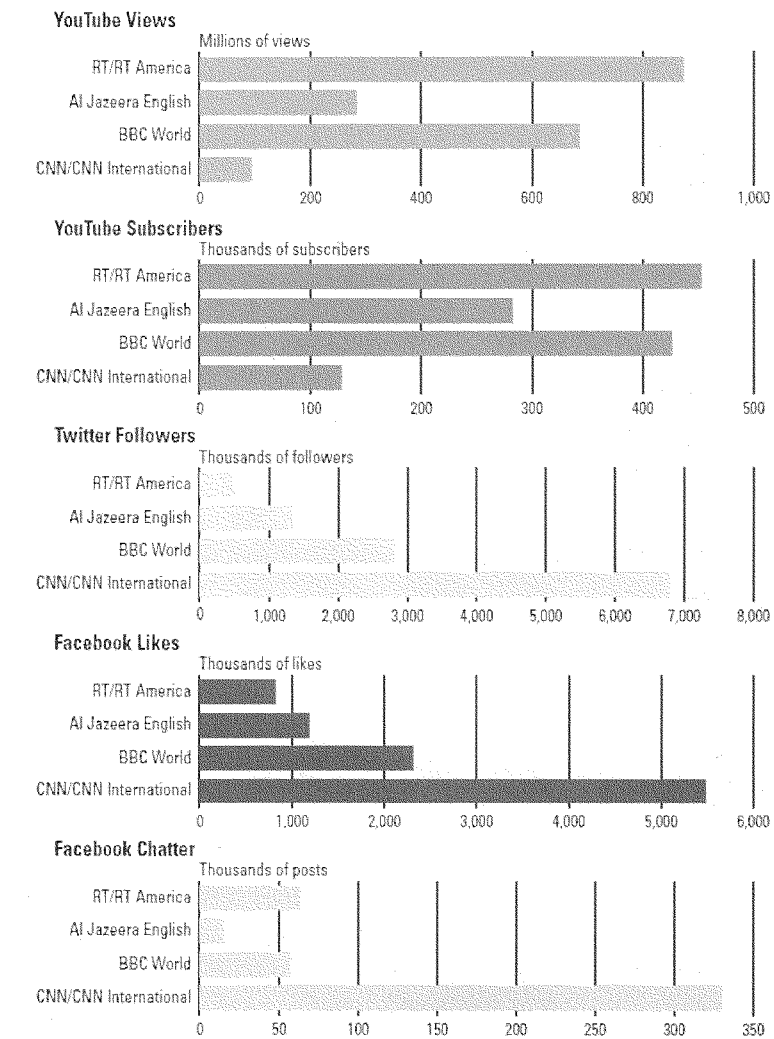
- According to RT management, RT's website receives at least 500,000 unique viewers every day. Since its inception in 2005, RT videos received more than 800 million views on *YouTube* (1 million views per day), which is the highest among news outlets (see graphics for comparison with other news channels) (*AKT*, 4 October).
- According to Simonyan, the TV audience worldwide is losing trust in traditional TV broadcasts and stations, while the popularity of "alternative channels" like RT or Al Jazeera grows. RT markets itself as an "alternative channel" that is available via the Internet everywhere in the world, and it encourages interaction and social networking (*Kommersant*, 29 September).
- According to Simonyan, RT uses social media to expand the reach of its political reporting and uses well-trained people to monitor public opinion in social media commentaries (*Kommersant*, 29 September).
- According to Nikolov, RT requires its hosts to have social media accounts, in part because social media allows the distribution of content that would not be allowed on television (*Newreporter.org*, 11 October).
- Simonyan claimed in her 3 October interview to independent TV channel Dozhd that Occupy Wall Street coverage gave RT a significant audience boost.

The Kremlin spends \$190 million a year on the distribution and dissemination of RT programming, focusing on hotels and satellite, terrestrial, and cable broadcasting. The Kremlin is rapidly expanding RT's availability around the world and giving it a reach comparable to channels such as Al Jazeera English. According to Simonyan, the United Kingdom and the United States are RT's most successful markets. RT does not, however, publish audience information.

- According to market research company Nielsen, RT had the most rapid growth (40 percent) among all international news channels in the United States over the past year (2012). Its audience in New York tripled and in Washington DC grew by 60% (*Kommersant*, 4 July).
- RT claims that it is surpassing Al Jazeera in viewership in New York and Washington DC (*BARB*, 20 November; RT, 21 November).
- RT states on its website that it can reach more than 550 million people worldwide and 85 million people in the United States; however, it does not publicize its actual US audience numbers (RT, 10 December).

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TV News Broadcasters: Comparative Social Media Footprint



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Formal Disassociation From Kremlin Facilitates RT US Messaging

RT America formally disassociates itself from the Russian Government by using a Moscow-based autonomous nonprofit organization to finance its US operations. According to RT's leadership, this structure was set up to avoid the Foreign Agents Registration Act and to facilitate licensing abroad. In addition, RT rebranded itself in 2008 to deemphasize its Russian origin.

- According to Simonyan, RT America differs from other Russian state institutions in terms of ownership, but not in terms of financing. To disassociate RT from the Russian Government, the federal news agency RIA Novosti established a subsidiary autonomous nonprofit organization, TV-Novosti, using the formal independence of this company to establish and finance RT worldwide (Dozhd TV, 11 July).
- Nikolov claimed that RT is an "autonomous noncommercial entity," which is "well received by foreign regulators" and "simplifies getting a license." Simonyan said that RT America is not a "foreign agent" according to US law because it uses a US commercial organization for its broadcasts (AKT, 4 October; Dozhd TV, 11 July).
- Simonyan observed that RT's original Russia-centric news reporting did not generate sufficient audience, so RT switched to covering international and US domestic affairs and removed the words "Russia Today" from the logo "to stop scaring away the audience" (Afisha, 18 October; *Kommersant*, 4 July).
- RT hires or makes contractual agreements with Westerners with views that fit its agenda and airs them on RT. Simonyan said on the pro-Kremlin show "Minaev Live" on 10 April that RT has enough audience and money to be able to choose its hosts, and it chooses the hosts that "think like us," "are interested in working in the anti-mainstream," and defend RT's beliefs on social media. Some hosts and journalists do not present themselves as associated with RT when interviewing people, and many of them have affiliations to other media and activist organizations in the United States ("Minaev Live," 10 April).

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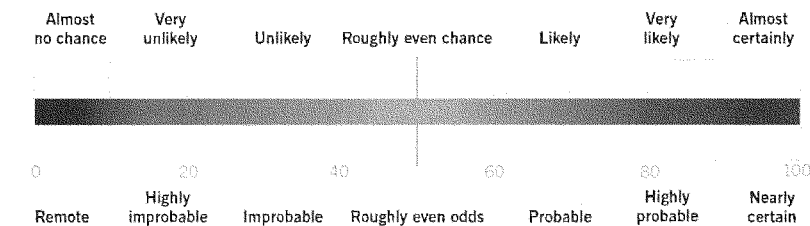
Annex B

ESTIMATIVE LANGUAGE

Estimative language consists of two elements: judgments about the likelihood of developments or events occurring and levels of confidence in the sources and analytic reasoning supporting the judgments. Judgments are not intended to imply that we have proof that shows something to be a fact. Assessments are based on collected information, which is often incomplete or fragmentary, as well as logic, argumentation, and precedents.

Judgments of Likelihood. The chart below approximates how judgments of likelihood correlate with percentages. Unless otherwise stated, the Intelligence Community's judgments are not derived via statistical analysis. Phrases such as "we judge" and "we assess"—and terms such as "probable" and "likely"—convey analytical assessments.

Percent

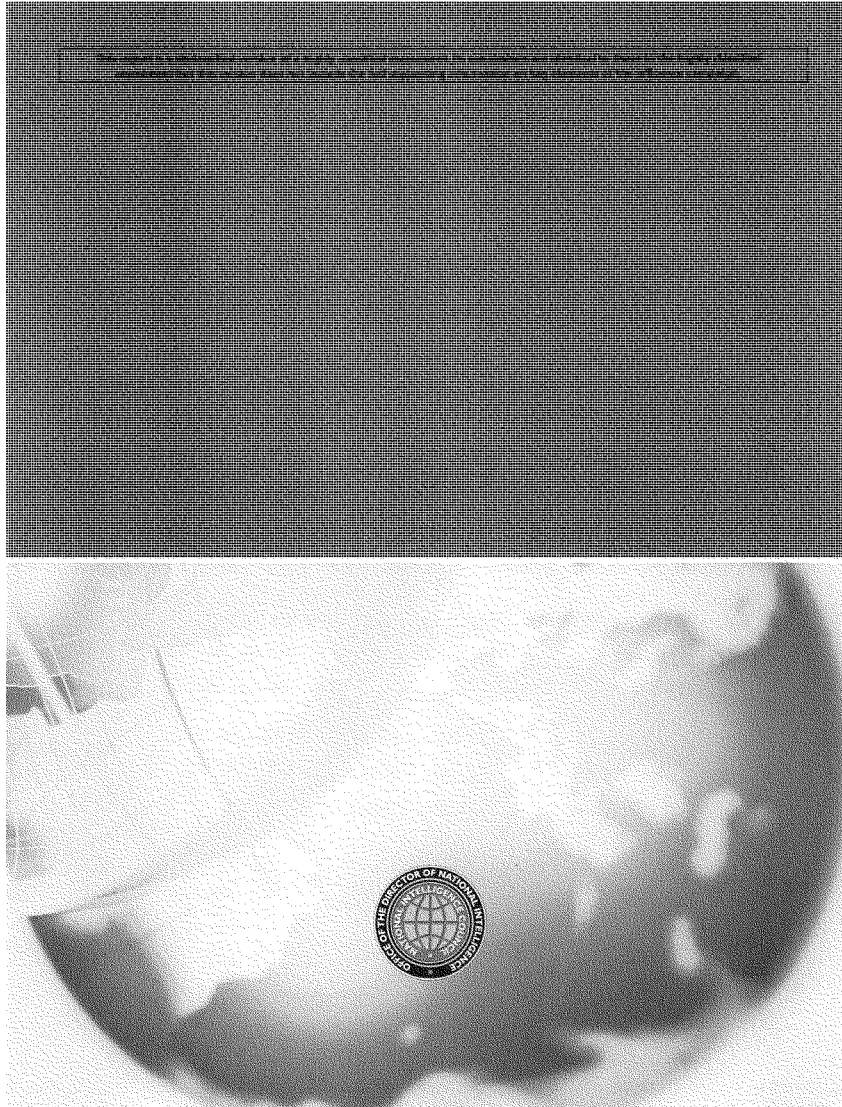


Confidence in the Sources Supporting Judgments. Confidence levels provide assessments of the quality and quantity of the source information that supports judgments. Consequently, we ascribe high, moderate, or low levels of confidence to assessments:

- **High confidence** generally indicates that judgments are based on high-quality information from multiple sources. High confidence in a judgment does not imply that the assessment is a fact or a certainty; such judgments might be wrong.
- **Moderate confidence** generally means that the information is credibly sourced and plausible but not of sufficient quality or corroborated sufficiently to warrant a higher level of confidence.
- **Low confidence** generally means that the information's credibility and/or plausibility is uncertain, that the information is too fragmented or poorly corroborated to make solid analytic inferences, or that reliability of the sources is questionable.

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New Records Shed Light on Donald Trump's \$25,000 Gift to Florida Official

 www.nytimes.com/2016/09/15/us/politics/pam-bondi-donald-trump-foundation.html

Donald J. Trump and Attorney General Pam Bondi of Florida in March at Mar-a-Lago in Palm Beach. Michele Eve Sandberg/Corbis, via Getty Images

TALLAHASSEE, Fla. — It was Aug. 29, 2013, an unremarkable day inside Florida's whitewashed Capitol, and a typically sweltering one outside among the moss-bearded oaks and sabal palms. Around 3:45 p.m., Jennifer Meale, the communications director for Attorney General Pam Bondi, fielded a seemingly routine call from a financial reporter for The Orlando Sentinel. The attorney general of New York had recently filed a lawsuit against Donald J. Trump alleging fraud in the marketing of Trump University's real estate and wealth-building seminars. Had Florida ever conducted its own investigation, the reporter asked.

The call set off an exchange of emails between Ms. Meale and top lawyers in the office. She learned that 23 complaints about Trump-related education enterprises had been filed before Ms. Bondi became attorney general in 2011, and one since. They had never generated a formal investigation, she wrote the reporter, but added, "We are currently reviewing the allegations in the New York complaint."

The Sentinel's report, which was published on Sept. 13, 2013, paraphrased Ms. Meale's response and took it a step further, saying that Ms. Bondi's office would "determine whether Florida should join the multi-state case." Four days later, a check for \$25,000 from the Donald J. Trump Foundation landed in the Tampa office of a political action committee that had been formed to support Ms. Bondi's 2014 re-election. In mid-October, her office announced that it would not be acting on the Trump University complaints.

The proximate timing of the Sentinel article and Mr. Trump's donation, and suspicions of a quid pro quo, have driven a narrative that has dogged Mr. Trump and Ms. Bondi for three years. It has intensified during Mr. Trump's presidential campaign, peaking this month with the filing of ethics complaints, calls for a federal investigation by editorial boards and Democrats in Congress, and a new investigation of Mr. Trump's foundation by New York regulators.

But documents obtained this week by The New York Times, including a copy of Mr. Trump's check, at least partly undercut that timeline. Although the check was received by Ms. Bondi's committee four days after the Sentinel report, and was recorded as such in her financial disclosure filings, it was actually dated and signed by Mr. Trump four days before the article appeared.

The check's date does not categorically demonstrate that Mr. Trump was not seeking to influence Ms. Bondi, a fellow Republican. Even as he has denied trying to do so in this instance, he has boasted brazenly and repeatedly during his presidential campaign that he has

made copious campaign contributions over the past two decades, including to Hillary Clinton and other Democrats, in order to buy access and consideration for his business dealings.

Politicians in Florida, which Mr. Trump considers his second home, have been among his leading beneficiaries. An analysis of public records shows he has contributed at least \$375,000 to state and federal candidates and political committees here since 1995, accounting for 19 percent of the roughly \$2 million he has given to campaigns nationwide, other than his own.

Although not unprecedented, his \$25,000 gift to And Justice for All, the committee supporting Ms. Bondi, is among his largest.

What is more, when Mr. Trump wrote that check, he still theoretically had reason to be concerned that Florida's attorney general could become a player in the legal assault on Trump University.

Through 2010, when the company ceased operations, Florida had been one of the most lucrative markets for his unaccredited for-profit school. It ranked second among states in purchases, with 950 transactions, and third in sales, at \$3.3 million, according to an analysis of sales data revealed in court filings.

On Sept. 9, 2013, Donald J. Trump signed a check from his foundation to And Justice for All, a political committee supporting Pam Bondi, the Florida attorney general. The date of the check, which was included in documents released on Tuesday by the New York attorney general, highlights that the contribution appeared to be on its way before Ms. Bondi's office said publicly that it was reviewing complaints about Mr. Trump's for-profit education company, Trump University.

OPEN Document

The lawsuit by New York's Democratic attorney general, Eric T. Schneiderman, which was announced on Aug. 25, 2013 — two weeks before Mr. Trump wrote the check to And Justice for All on Sept. 9 — did not cite allegations from consumers in Florida. But news organizations had reported as early as 2010 that the attorneys general of Florida and Texas had fielded complaints from consumers who had paid up to \$35,000 for Mr. Trump's seminars and mentoring programs. His contribution, therefore, could have been a pre-emptive investment to discourage Ms. Bondi from joining the New York case.

Brian Ballard, Mr. Trump's lobbyist in Florida, said it was "ridiculous" to think his client sought to buy off Ms. Bondi. "I'm the Trump Organization lobbyist, and he has never, ever brought up Trump University with me," he said. "It wasn't something of concern to him. With Donald Trump, if a friend calls up and says, 'Listen, I'm running for XYZ, could you help me?' his instinct is to say yes. That's all it was."

Yet, even those who doubt anything nefarious between Mr. Trump and Ms. Bondi acknowledge that they bear blame for the intensifying focus on the appearance of a conflict.

For his part, Mr. Trump fanned the embers by sending the contribution from his nonprofit foundation, which cannot under federal law make political donations. When questions arose this year, he agreed to refund \$25,000 to the foundation from his personal account and pay a \$2,500 penalty to the Internal Revenue Service. Trump officials have called the mix-up an inadvertent error by his staff.

Ms. Bondi, meanwhile, has failed to explain why she accepted Mr. Trump's check even after learning that her office was examining the New York case against Trump University. Six months later, she allowed him to host a \$3,000-per-head fund-raiser for her at his Mar-a-Lago Club in Palm Beach. Mr. Trump attended the event, which records indicate raised at least \$50,000.

Now, with the revelation of the date on Mr. Trump's check — which came in a release of correspondence by Mr. Schneiderman — it appears that Mr. Trump and Ms. Bondi had in their possession a piece of favorable evidence that they bewilderingly failed to disclose.

"All these things come together in a way that if you don't unpack the whole thing, the unspoken implications coalesce to create this great suspicion," said Mac Stipanovich, a longtime Florida Republican strategist and lobbyist who disdains Mr. Trump and has never worked with Ms. Bondi. "The optics are terrible even though there is not a shred of evidence that Pam Bondi solicited a bribe or that Donald Trump provided one."

Mr. Trump and Ms. Bondi have said they share a long friendship, but the origins of it are not apparent. Ms. Bondi, who declined requests for an interview, initially backed former Gov. Jeb Bush of Florida for president. After he withdrew from the race, she endorsed Mr. Trump the day before Florida's March 15 primary, snubbing the state's other favorite son, Senator Marco Rubio. The only woman currently holding statewide elected office in Florida, she has since become an enthusiastic Trump surrogate.

Ms. Bondi became a conservative darling in 2010 when, as an assistant state attorney, she won her post in her first campaign of any kind. Her political future is unclear as she faces a two-term limit and has said she will not run for governor in 2018.

It was in late summer 2013, as her re-election campaign was gearing up, that Ms. Bondi called Mr. Trump to solicit the donation, aides to both of them have said; they have declined to provide a precise date. Records show that Mr. Trump had already donated \$500 to Ms. Bondi's campaign on July 15. His daughter Ivanka Trump donated another \$500 on Sept. 10.

The Texas attorney general's office, then under Greg Abbott, a Republican, had also decided in 2010 not to act on complaints against Trump University when it left the state. Mr. Trump later donated \$35,000 to Mr. Abbott's successful 2014 campaign for governor. Mr. Abbott's office has denied there was any connection. No other attorneys general have joined Mr. Schneiderman's litigation.

Both Mr. Trump and Ms. Bondi have said they never discussed complaints against Trump University and a separate entity, Trump Institute, which Mr. Trump did not own but that paid him licensing fees to use his name for wealth seminars held in hotel ballrooms.

There is no evidence in more than 8,000 pages of documents released by Ms. Bondi's office in response to an open records request that she had any direct role in assessing a potential case against Trump University, or that she knew of the Florida complaints when she asked Mr. Trump for money.

That would not be unusual. Although most of the complaints were received before Ms. Bondi's election, her predecessor, Bill McCollum, said he had never heard about them. His two top deputies and the chief lawyer and investigator in his consumer protection division each said in interviews that the complaints never reached their level.

"For whatever reason, the synergy didn't exist before I left office," said Mr. McCollum, who received a \$500 donation from Mr. Trump in 2006.

Tens of thousands of consumer allegations are lodged with Florida's attorney general each year on everything from used-car sales to pharmaceutical marketing to price gouging. The consumer protection division currently has 38 lawyers and 37 investigators. Limits on manpower and resources mean that most complaints do not prompt a formal probe and therefore do not come to the attorney general's attention, former officials said.

Mr. McCollum's deputy, Robert Hannah, and his consumer protection chief, Mary Leontakianakos, said the triage process took into account the quantity, veracity and seriousness of the complaints, as well as the number of Floridians affected and the potential to collect damages. Mr. Hannah said that "20 would not be the number of complaints that would cause someone to get concerned."

The complaints against Trump University continued once Ms. Bondi took over, albeit at a slower pace because Trump University, as well as Trump Institute, based in Boca Raton, Fla., were no longer operating.

In April 2011, Elizabeth J. Starr, then the chief of consumer protection in the Orlando office, wrote in an internal email that she had "light discussion" about devoting additional resources to assessing the Trump complaints. "The decision was made to hold off at that time," she wrote.

In the weeks after the initial September 2013 article in The Sentinel, Ms. Bondi received daily emails from her staff to her personal Yahoo address with news reports about the Trump case. By mid-October, Scott Maxwell, a columnist for The Sentinel, had spotted Mr. Trump's \$25,000 donation in public filings and wrote that it smelled "awfully fishy." His column set off days of critical coverage.


Despite the pressure, Mark Hamilton, a lawyer in the consumer protection division who eventually had a discussion with an attorney prosecuting the New York case, pushed his view internally that already-announced litigation would cover any Floridians who had been harmed

by Trump University. Within two days, The Miami Herald reported that Ms. Bondi's spokeswoman had said no action would be necessary because the affected Florida consumers would be compensated if Mr. Schneiderman won his lawsuit.

Mr. Trump also weighed in for the same article.

"Pam Bondi is a fabulous representative of the people — Florida is lucky to have her," he said in a statement. "The case in New York is pure politics brought by an incompetent attorney general, a political hack."

Giuliani, Sessions, Keating, et al: Time for Loretta Lynch to appoint a Special Counsel

 www.foxnews.com/opinion/2016/11/05/giuliani-sessions-keating-et-al-time-for-loretta-lynch-to-appoint-special-counsel.html

Rudy Giuliani

Editor's note: *The authors of the following column are all supporting Donald Trump for president.*

We are concerned about the egregious damage that has been inflicted on two revered government agencies: the Department of Justice and Department of State. The primary missions of both have been derailed for political purposes.

The Department of Justice has been thwarted by its top officials' refusal to conduct a proper investigation of former Secretary Clinton's unsecured email server and the Pay for Play accusations based on millions of dollars paid to President Clinton personally and the Clinton Foundation by entities having issues before the State Department, all while she was Secretary.

Attorney General Lynch and former President Clinton met on the Phoenix, Arizona tarmac days before Secretary Clinton was to be interviewed by the FBI for possible criminal activity. It has been reported that her staff ordered witnesses not to take pictures and no one was present during their 39-minute conversation. General Lynch never recused herself from decisions on the Clinton investigation after her self-admitted "mistake," as it has also been reported that she continues to deny the FBI the authority to convene a Grand Jury, which is necessary for any meaningful investigation.

Secretary Clinton's conduct at the Department of State corrupted our foreign policy.

It has also been reported that General Lynch opposed Director Comey from fulfilling his obligation to Congress by informing members of the discovery of 650,000 emails on Anthony Weiner's and Huma Abedin's computer, the existence of which had been concealed from government authorities.

Recusal is a formal process. It is a written document specifically describing the scope of the recusal and designating the official in charge of the recused matter. If General Lynch went through the proper procedure for recusal, she has not publicly shared it.

Secretary Clinton's conduct at the Department of State corrupted our foreign policy. She and President Clinton turned the agency into a Pay for Play adjunct of the Clinton Foundation and their personal bank account, the latter via his personal "speaking" fees. UBS, Switzerland's largest bank, contributed over \$600,000 to the Foundation and loaned it over \$30,000,000. UBS was grateful that Secretary Clinton had intervened in the IRS' demand to UBS to provide identities of 52,000 depositors. Secretary Clinton announced the settlement of only 4,450

identities in an “unusual intervention by a top U.S. diplomat,” according to the Wall Street Journal. UBS additionally paid President Clinton personally \$1,500,000 for a series of questions and answers with top management.

President Clinton reaped \$6,200,000 personally from foreign governments and businesses for speeches while she was Secretary of State. For example, Ericsson, a Swedish corporation, had sanction issues pending before the State Department regarding telecom sales in certain countries. Ericsson paid President Clinton \$750,000 for one speech. Days later the State Department announced the sanction list and Ericsson was not affected.

Why should any spouse of a Secretary of State be permitted ever to receive one cent from a foreign entity?

Because of our grave concern for integrity in government we ask for a Special Counsel. When a high public official is accused of serious wrongdoing and there is a sufficient factual predicate to investigate, it is imperative the investigation be thorough, with dispatch and without partisanship.

Secretary Clinton is the subject of two spheres of criminal conduct: her deliberate, systematic mishandling of official and classified emails and her abuse of a family-controlled, tax-exempt Foundation, and corporate and foreign donations for her own economic and political benefit.

These allegations arose well before this election year.

Clinton’s mishandling of emails became public in March 2015, and allegations over abuse of the Foundation arose well before that. There has long been sufficient factual predicate to require these matters be fully investigated.

The appropriate response when the subject matter is public and it arises in a highly-charged political atmosphere is for the Attorney General to appoint a Special Counsel of great public stature and indisputable independence to assure the public the matter will be handled without partisanship.

In 1991-1992, a Special Counsel was appointed for three separate matters: House Bank, Iraqgate, and Inslaw. It was also done in 2003 in the Valerie Plame matter.

Instead of moving with dispatch to ensure a vigorous investigation of Secretary Clinton, it appears that the Justice Department, along with State, have enabled the Clinton campaign to “slow roll” the inquiry.

General Lynch continues to exert control of a matter that she should have assigned to another official.

We are distressed by widespread and credible reports that FBI agents have been hindered by the Justice Department’s withholding of basic investigative tools, such as grand jury subpoenas, which are fundamental in a complex investigation.

It is time to do what should have been done long ago – appoint a Special Counsel.

Rudolph W. Giuliani -- Former Associate Attorney General and U.S. Attorney in Southern District of New York

Senator Jeff Sessions -- former U. S. Attorney for Alabama's Southern District

Frank Keating -- Former Associate Attorney General, U.S. in District of Kansas and Special Agent FBI

Victoria Toensing -- former Deputy Assistant Attorney General in the Criminal Division of the U.S. Justice Department

Henry McMaster -- former U.S. Attorney, District of South Carolina

Rudy Giuliani is the former Mayor of the City of New York.

| |
|---|
| Code of Federal Regulations Title 28. Judicial Administration Chapter I. Department of Justice Part 45. Employee Responsibilities (Refs & Annos) |
|---|

28 C.F.R. § 45.2

§ 45.2 Disqualification arising from personal or political relationship.

Currentness

(a) Unless authorized under paragraph (b) of this section, no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with:

- (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or
- (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

(b) An employee assigned to or otherwise participating in a criminal investigation or prosecution who believes that his participation may be prohibited by paragraph (a) of this section shall report the matter and all attendant facts and circumstances to his supervisor at the level of section chief or the equivalent or higher. If the supervisor determines that a personal or political relationship exists between the employee and a person or organization described in paragraph (a) of this section, he shall relieve the employee from participation unless he determines further, in writing, after full consideration of all the facts and circumstances, that:

- (1) The relationship will not have the effect of rendering the employee's service less than fully impartial and professional; and
- (2) The employee's participation would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.

(c) For the purposes of this section:

- (1) Political relationship means a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof; and
- (2) Personal relationship means a close and substantial connection of the type normally viewed as likely to induce partiality. An employee is presumed to have a personal relationship with his father, mother, brother, sister, child

§ 45.2 Disqualification arising from personal or political relationship., 28 C.F.R. § 45.2

and spouse. Whether relationships (including friendships) of an employee to other persons or organizations are “personal” must be judged on an individual basis with due regard given to the subjective opinion of the employee.

(d) This section pertains to agency management and is not intended to create rights enforceable by private individuals or organizations.

Credits

[Order No. 993–83, 48 FR 2319, Jan. 19, 1983; 61 FR 59815, Nov. 25, 1996]

SOURCE: Order No. 350–65, 30 FR 17202, Dec. 31, 1965; 55 FR 30452, July 26, 1990; 61 FR 59815, Nov. 25, 1996; 62 FR 23943, May 2, 1997; Order No. 2789–2005, 70 FR 69653, Nov. 17, 2005; Order No. 2835–2006, 71 FR 54414, Sept. 15, 2006, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301, 7301, App. 3, 6; 18 U.S.C. 207; 28 U.S.C. 503, 528; DOJ Order 1735.1.


Notes of Decisions (1)

Current through January 12, 2017; 82 FR 4118.

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Idahoan admits to brutal murder of gay man as he pleaded for his life. Now faces hate charge.

 www.washingtonpost.com/news/morning-mix/wp/2017/01/24/idahoan-admits-to-brutal-murder-of-gay-man-as-he-pleaded-for-his-life-now-faces-hate-charge/

Steven Nelson, 49, was attacked and beaten on April 30 and died of his injuries. (Boise State University)

Steven Nelson pulled his car up to the Idaho Walmart that night in April expecting to meet a male escort, a man he had contacted via an ad on the website Backpage. Nelson picked up the bearded, tattooed man named Kelly Schneider and, at his request, drove him to Gotts Point, on the shore of Lake Lowell.

Another man met them there. With him, Schneider pushed Nelson to the ground and kicked him at least 30 times with steel-toed boots while Nelson begged for his life, according to court documents. Nelson was choked and stripped of his clothes before they drove away in his car, taking Nelson's wallet, credit cards and clothing with him.

Barefoot and naked, Nelson knocked on the doors of nearby homes, asking residents to call 911. Hours after being transported to a Boise, Idaho, hospital with broken ribs and a bleeding ear, he died of cardiac arrest.

In a state court Monday, Schneider pleaded guilty to first-degree murder, saying he intended to rob Nelson but not kill him, the Idaho Statesman reported. He admitted to kicking the man repeatedly and acknowledged that his actions caused Nelson's death.

Afterward, Idaho U.S. attorney Wendy J. Olson announced that Schneider, 23, of Nampa, Idaho, had been indicted on federal hate crime charges by a grand jury for willfully assaulting Nelson because of his sexual orientation. The indictment alleges that Schneider's actions resulted in the death of his victim. The charge is punishable by up to life in prison, supervised release of not more than five years and a \$250,000 fine. He is scheduled to be arraigned Tuesday in U.S. District Court in Boise before Magistrate Ronald Bush. A trial date will be set at the same time.

The fatal beating of the openly gay man has been compared by some in the community to the murder of Matthew Shepard, the gay college student from Wyoming whose torture and subsequent death set off a nationwide debate about hate crimes and homophobia and led to the federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.

"Folks are grieving the loss of a fellow colleague, as well as facing the reality that our community can be a hostile and sometimes very dangerous place for folks who identify as LGBTQIA," said Adriane Bang, director of the Gender Equity Center at Boise State University.

Prosecutors dropped Schneider's charges of felony robbery, theft and robbery conspiracy in exchange for his guilty plea on the murder charge. He faces up to life in prison when sentenced March 20. Prosecutors can recommend a fixed sentence as high as 28 years before parole eligibility, and the defense can ask for as little as 10 years.

Deputy Canyon County Prosecutor Chris Boyd said Schneider had lured and beaten other victims "many, many times before." He called the beating of Nelson "particularly brutal," the Idaho Statesman reported.

Jayson Woods, 28, of Nampa, is accused of helping Schneider as he beat and robbed Nelson of his car, wallet and other possessions. Kevin R. Tracy, 21, of Nampa, and Daniel Henkel, 23, of Wilder, are accused of hiding nearby in case Nelson put up a struggle.

Woods's trial began in District Court on Monday, and Tracy and Henkel are scheduled as witnesses. Tracy is scheduled to go to trial Feb. 6 on first-degree murder, robbery and conspiracy charges. Henkel is set for trial March 6 on the same charges. They have both pleaded not guilty, the Idaho Statesman reported.

Investigators identified and arrested Schneider by comparing his tattoos to a photo in the Backpage ad. They found the others with the help of a woman who called the sheriff's office to say her SUV had been used to drop Schneider off at the Walmart. According to court documents, the woman said Woods held her inside the SUV, drove her around and forced her to perform sex acts with random men for money.

In the wake of the news last spring, family and friends mourned Nelson's death, recounting memories of his distinctive baritone voice, his talent for theater lighting and his love for baking croissants.

He was in his late 40s when he finished his bachelor's degree in public relations at the University of Idaho in 2011. He hoped to work as a development director, possibly one day managing fundraising for a political campaign, the Idaho Statesman reported.

Nelson was anything but shy, and gave presentations to university classes about his experiences as an openly gay man, according to University of Idaho Professor Becky Tallent.

"Somebody brought up Matthew Shepard in class one day," she said. "Steven said something along the line of, 'I hope to God we've gotten past that kind of violence.'"


According to KTVB, Tallent said her friend and former student had previously received homophobic slurs and even a punch, but frequently let cruel comments roll off his back.

"As he put it, people are just sometimes so bigoted that there's nothing you can do to talk to them," she said.

Tallent said she was horrified to hear of the brutal way in which her friend died.

"For one human being to do this to another is just beyond the pale, especially as someone as generous as Steven Nelson," she said.

Trump believes millions voted illegally, WH says -- but provides no proof

 www.cnn.com/2017/01/24/politics/wh-trump-believes-millions-voted-illegally/index.html

Story highlights

- Spicer, however, would not provide any concrete evidence for the claim
- He would say only that Trump "has believed that for a while based on studies and information he has"

Washington (CNN) President Donald Trump believes millions of votes were cast illegally in last year's election, White House press secretary Sean Spicer said on Tuesday, but he wouldn't provide any concrete evidence for the claim, which has long been debunked.

"The President does believe that, I think he's stated that before, and stated his concern of voter fraud and people voting illegally during the campaign and continues to maintain that belief based on studies and evidence people have brought to him," Spicer said.

Pressed for what evidence exists, Spicer would say only that Trump "has believed that for a while based on studies and information he has."

When pushed about whether Trump will call for an investigation into the voter fraud, Spicer said, "maybe we will."

Trump surprised the top Republicans and Democrats in Congress on Monday when, during a dinner at the White House, he repeated his claim that millions of undocumented immigrants voted for Hillary Clinton -- allegedly depriving him of the popular vote, according to two sources familiar with the meeting.

Trump lost the popular vote to Hillary Clinton by nearly 3 million votes in November, but won the Electoral College and thus the presidency. Trump, however, has seemingly been fixated on the popular vote, tweeting after the election in November that, "In addition to winning the Electoral College in a landslide, I won the popular vote if you deduct the millions of people who voted illegally."

A number of studies have found no evidence of widespread voter fraud.

The Truth About Voter Fraud, a report written by experts at The Brennan Center for Justice, found voter fraud rates were between 0.00004% and 0.0009%.

"Given this tiny incident rate for voter impersonation fraud, it is more likely that an American will be struck by lightning than that he will impersonate another voter at the polls," reads the report.

Trump's lawyers -- in an objection to Green Party candidate Jill Stein's Michigan recount petition -- have also argued that there was no evidence voter fraud in the 2016 election.

"All available evidence suggests that the 2016 general election was not tainted by fraud

or mistake," the lawyers wrote in a filing.

South Carolina Republican Sen. Lindsey Graham slammed Trump earlier Tuesday over the claim.

"I wasn't there, but if the President of the United States is claiming that 3.5 million people voted illegally, that shakes confidence in our democracy — he needs to disclose why he believes that," Graham told CNN.

Spicer said Tuesday that Trump believes in widespread voter fraud, in part, because of a study that found 14% of people who voted were non-citizens.

Spicer did not say expressly which study Trump has read, but a 2014 study by Jesse Richman and David Earnest found more than 14% of non-citizens in 2008 and 2010 "indicated that they were registered to vote."

The authors wrote, in a Washington Post opinion piece, the report showed "that 6.4 percent of non-citizens voted in 2008 and 2.2 percent of non-citizens voted in 2010."

The study was designed by Cooperative Congressional Election Study, and in 2014 the group said their sample was so small that it could be incorrect and attributable to normal survey error and not non-citizens saying that they are registered to vote.

Trump's campaign cited in October a 2012 study from the Pew Charitable Trusts entitled "Inaccurate, Costly and Inefficient: Evidence that American Voter Registration Systems Needs an Upgrade" as backup for that claim. The study found that "about 24 million voter registrations are no longer valid or are significantly inaccurate" and "more than 1.8 million dead people are listed as voters."


The study, which is based on 2011 data, is about the need to update voter rolls and underscores deficiencies in the voter registration system, but does not show that people who have registrations in two states are voting twice for Democrats or for Republicans.

We found millions of out of date registration records due to people moving or dying, but found no evidence that voter fraud resulted.

— David Becker (@beckerdavidj) November 28, 2016

David Becker, the primary author of the Pew Report, tweeted in November, "We found millions of out of date registration records due to people moving or dying, but found no evidence that voter fraud resulted." CNN's Jennifer Agiesta contributed to this report.

Recidivism Watch: Spicer uses repeatedly debunked citations for Trump's voter fraud claims

 www.washingtonpost.com/news/fact-checker/wp/2017/01/24/recidivism-watch-spicer-uses-repeatedly-debunked-citations-for-trumps-voter-fraud-claims/

"I think there have been studies; there was one that came out of Pew in 2008 that showed 14 percent of people who have voted were not citizens. There are other studies that were presented to him."

—White House press secretary Sean Spicer, news briefing, Jan. 24, 2017

Spicer cited repeatedly debunked research to support Trump's claim that millions of people voted illegally during the 2016 presidential election. These studies do not support Trump's Four-Pinocchio claims of "millions" of people voting illegally — as we've covered [here](#), [here](#), [here](#), [here](#) and [here](#).

Spicer claimed Trump believes there was widespread voter fraud, based on studies that were presented to him. Then Spicer cited a Pew study that — as we [noted before](#) — does not support this claim. Moreover, Spicer conflated the Pew study with another study that — [again](#) — does not support this claim.

A [2012 Pew Center on the States study](#) found problems with inaccurate voter registrations, people who registered in more than one state (which could happen if the voter moves and registers in the new state without telling the former state) and deceased voters whose information was still on the voter rolls.

The primary author of the Pew report tweeted in response to Trump's staff's claim that he "can confirm that report made no findings re: voter fraud."

We found millions of out of date registration records due to people moving or dying, but found no evidence that voter fraud resulted.

— David Becker (@beckerdavidj) [November 28, 2016](#)

Spicer said a Pew study from 2008 showed that "14 percent of people who have voted were not citizens." He likely was referring to research by Old Dominion University professors, using data from 2008 and 2010. They found that 14 percent of noncitizens in the 2008 and 2010 samples said they were registered to vote.

But the researchers warned that "it is impossible to tell for certain whether the noncitizens who responded to the survey were representative of the broader population of noncitizens."

One of the researchers, Jesse Richman, [wrote about](#) the Trump staff's use of his research. The results "suggest that almost all elections in the US are not determined by noncitizen participation, with occasional and very rare potential exceptions," he wrote.

Despite Trump's repeated claims, his attorneys stated there was no evidence of voter fraud in the 2016 election. [In a court filing](#) opposing Green Party candidate Jill Stein's recount petition, lawyers for Trump and his campaign wrote: "All available evidence suggests that the 2016 general election was not tainted by fraud or mistake."

When we debunked this claim on Nov. 29, 2016, we implored Trump's staff members to please drop this talking point — as we are tired of telling them it is false. We can't emphasize this point enough.

The Fact Checker Recidivism Watch tracks politicians who repeat claims that we have previously found to be incorrect or false. These posts are short summaries of previous findings, with links to the original fact-check. We welcome reader suggestions.


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Spicer digs in on Trump's illegal voting claim, as Ryan distances

 www.foxnews.com/politics/2017/01/24/spicer-digs-in-on-trumps-illegal-voting-claim-as-ryan-distances.html

White House Press Secretary Sean Spicer dug in Tuesday on President Trump's claim to congressional leaders that he lost the popular vote to Hillary Clinton last November because between 3 million and 5 million "illegals" cast ballots – even as House Speaker Paul Ryan pushed back.

"I've seen no evidence to that effect. I've made that very, very clear," Ryan said earlier Tuesday.

But Spicer, asked repeatedly by reporters about the issue at Tuesday's briefing, said Trump believes this to be the case.

"It was a comment he made on a longstanding belief," Spicer said. "... He believes what he believes based on the information he's been provided."

Spicer said Trump remains "comfortable" with his Electoral College victory, which handed him the presidency regardless of the popular vote totals.

Pressed on whether the administration would pursue an investigation into illegal immigrants voting given Trump's beliefs, Spicer said: "Maybe we will." He later backed off the suggestion, saying only that anything is possible.

Trump made the claim during a meeting with congressional leaders Monday, though he's made similar assertions before.

In late November, Trump tweeted that he had "won the popular vote if you deduct the millions of people who voted illegally."

At the time, multiple law enforcement sources told Fox News that there was no evidence to support Trump's claims.

Trump defeated Clinton in the Electoral College, collecting 304 votes to her 227. However, Clinton won the popular vote by more than 2.8 million ballots.

Spicer said Tuesday that Trump's claim was based on "studies and evidence."

Spicer did not provide hard data to back up the claim, citing only a 2008 study that called for updating voter rolls but did not conclude there has been pervasive election fraud.

Senate Minority Leader Chuck Schumer, D-N.Y., on Tuesday blasted Trump over the comments, which he described as falsehoods, and said the administration ought to talk about jobs.

Spicer, though, said their focus right now is getting Americans back to work – something Trump has addressed in a flurry of executive actions including measures Tuesday aimed at reviving stalled pipeline projects.

The Associated Press contributed to this report.

Lindsey Graham to Trump: Stop Claiming 'Illegals' Cost You Popular Vote

www.nbcnews.com/politics/2016-election/gop-senator-president-trump-stop-claiming-illegals-cost-you-popular-n711386

by Frank Thorp V and Corky Siemaszko

Exasperated Republican senator Lindsey Graham pleaded with President Donald Trump on Tuesday to stop repeating his widely debunked claim that millions of so-called "illegals" cost him the popular vote.

"To continue to suggest that the 2016 election was conducted in a fashion that millions of people voted illegally undermines faith in our democracy," Graham, of South Carolina, told reporters in a hallway of the Dirksen Senate Office Building in D.C. "It's not coming from a candidate for the office, it's coming from the man who holds the office. So I am begging the president, share with us the information you have about this or please stop saying it."

Graham, who along with Senator John McCain, R-Ariz., has been one of Trump's more outspoken Republican critics, said the new president needs to put this issue to rest — for his own good.

"As a matter of fact I'd like you to do more than stop saying it," he said. "I'd like you to come forward and say having looked at it I am confident the election was fair and accurate and people who voted legally. Cause if he doesn't do that, this is going to undermine his ability to govern this country."

There are no signs that Trump intends to do that. White House spokesman Sean Spicer said Tuesday afternoon that Trump has "believed for a long, long time" that illegal immigrants voted in the presidential election, but declined to share evidence that supports Trump's belief.

When asked if Trump was planning to launch an investigation, Spicer said, "We're here on day two. Let's not prejudge what we may or may not do in the future."

Trump reached the White House by winning the Electoral College, but he lost the popular vote to Hillary Clinton by a whopping 2.9 million votes, according to the certified final election results from all 50 states and the District of Columbia.

Graham spoke out a day after Trump reportedly spent the first 10 minutes of his bipartisan meeting with congressional leaders at the White House claiming once again that 3 to 5 million people who shouldn't have been allowed to vote cast their ballots for Clinton.

It's a false claim that Trump began making back in November when it became clear that he was losing the popular vote to Clinton.

"By repeating false and unsubstantiated voter fraud allegations as the cause for losing the popular vote, President Trump is dangerously attacking the legitimacy of free and fair elections and the foundation of our democracy," California Secretary of State Alex Padilla, a Democrat, said.

There are not "alternative facts," he added.

"They are corrosive lies without any evidence," Padilla said. "Even leaders in the President's own party agree there is no evidence to support his claims since they were irresponsibly made back in November."

But in an interview Tuesday with NBC's Hallie Jackson, Trump supporter Rep. Steve King, R-Iowa, insisted "there is data out there" to back up the president's claim — but said he believes the figure was closer to 2.4 million.

King said he came up with the figure by doing "an extrapolation calculation on how many illegals could have or could be voting in the United States."

"So it's plausible the number, three million sounds like it's a plausible number to me," he said.

Senate Majority Leader Mitch McConnell (R-Kentucky) would not answer whether he agreed with Trump, but said "the notion that election fraud is a fiction is not true."

"It does occur," he told NBC's Kasie Hunt. "There are always arguments on both sides about how much, how frequent, and all the rest."

Still, said McConnell, "most states have done a better job on this front."


So far, just Kansas Secretary of State Kris Kobach — a Republican and political ally — has said Trump might have a case. And he has repeatedly cited a 2014 analysis by professors at Old Dominion University that was widely criticized by other scholars.

Among those panning the Old Dominion analysis was the Cooperative Congressional Election Study at Harvard University, which supplied some of the data.

The National Association of Secretaries of State, which includes many Republicans, also took issue with Trump's claim.

"We are not aware of any evidence that supports the voter fraud claims made by President Trump, but we are open to learning more about the Administration's concerns," the group said in a statement. "In the lead up to the November 2016 election, secretaries of state expressed their confidence in the systemic integrity of our election process as a bipartisan group, and they stand behind that statement today."

Trump Poised to Lift Ban on C.I.A. 'Black Site' Prisons

 www.nytimes.com/2017/01/25/us/politics/cia-detainee-prisons.html

By CHARLIE SAVAGE

WASHINGTON — The Trump administration is preparing a sweeping executive order that would clear the way for the C.I.A. to reopen overseas “black site” prisons, like those where it detained and tortured terrorism suspects before former President Barack Obama shut them down.

President Trump's three-page draft order, titled “Detention and Interrogation of Enemy Combatants” and obtained by The New York Times, would also undo many of the other restrictions on handling detainees that Mr. Obama put in place in response to policies of the George W. Bush administration.

If Mr. Trump signs the draft order, he would also revoke Mr. Obama's directive to give the International Committee of the Red Cross access to all detainees in American custody. That would be another step toward reopening secret prisons outside of the normal wartime rules established by the Geneva Conventions, although statutory obstacles would remain.

Mr. Obama tried to close the prison at Guantánamo Bay, Cuba, and refused to send new detainees there, but the draft order directs the Pentagon to continue using the site “for the detention and trial of newly captured” detainees — including not just more people suspected of being members of Al Qaeda or the Taliban, like the 41 remaining detainees, but also Islamic State detainees. It does not address legal problems that might raise.

The draft order does not direct any immediate reopening of C.I.A. prisons or revival of torture tactics, which are now banned by statute. But it sets up high-level policy reviews to make further recommendations in both areas to Mr. Trump, who vowed during the campaign to bring back waterboarding and a “hell of a lot worse” — not only because “torture works,” but because even “if it doesn't work, they deserve it anyway.”

Elisa Massimino, the director of Human Rights First, denounced the draft order as “flirting with a return to the ‘enhanced interrogation program’ and the environment that gave rise to it.” She noted that numerous retired military leaders have rejected torture as “illegal, immoral and damaging to national security,” and she said that many of Mr. Trump's cabinet nominees had seemed to share that view in their confirmation testimony.

“It would be surprising and extremely troubling if the national security cabinet officials were to acquiesce in an order like that after the assurances that they gave in their confirmation hearings,” she said.

A White House spokesman did not immediately respond to an email inquiring about the draft order, including when Mr. Trump may intend to sign it. But the order was accompanied by a one-page statement that criticized the Obama administration for having “refrained from exercising certain authorities” about detainees it said were critical to defending the country

from "radical Islamism."

Specifically, the draft order would revoke two executive orders about detainees that Mr. Obama issued in January 2009, shortly after his inauguration. One was Mr. Obama's directive to close the Guantánamo prison and the other was his directive to end C.I.A. prisons, grant Red Cross access to all detainees and limit interrogators to the Army Field Manual techniques.

In their place, Mr. Trump's draft order would resurrect a 2007 executive order issued by President Bush. It responded to a 2006 Supreme Court ruling about the Geneva Conventions that had put C.I.A. interrogators at risk of prosecution for war crimes, leading to a temporary halt of the agency's "enhanced" interrogations program.

Mr. Bush's 2007 order enabled the agency to resume a form of the program by specifically listing what sorts of prisoner abuses counted as war crimes. That made it safe for interrogators to use other tactics, like extended sleep deprivation, that were not on the list. Mr. Obama revoked that order as part of his 2009 overhaul of detention legal policy.

One of the Obama orders Mr. Trump's draft order would revoke also limited interrogators to using techniques listed in the Army Field Manual. But in 2015, Congress enacted a statute locking down that rule as a matter of law, as well as a requirement to let the Red Cross visit detainees. Those limits would remain in place for the time being.

Still, the draft order says high-level Trump administration officials should conduct several reviews and make recommendations to Mr. Trump. One was whether to change the field manual, to the extent permitted by law. Another was "whether to reinstate a program of interrogation of high-value alien terrorists to be operated outside the United States" by the C.I.A., including any "legislative proposals" necessary to permit the resumption of such a program.

It was not clear whether the C.I.A. would be enthusiastic about resuming a role in detaining and interrogating terrorism suspects after its scorching experience over the past decade. In written answers to questions by the Senate Intelligence Committee, Mr. Trump's C.I.A. director, Mike Pompeo, said he would review whether a rewrite of the field manual was needed and left the door open to seeking a change in the law "if experts believed current law was an impediment to gathering vital intelligence to protect the country."

Mr. Trump's order says no detainee should be tortured or otherwise subjected to cruel, inhuman or degrading treatment "as prescribed by U.S. law," but it makes no mention of international law commitments binding the United States to adhere to humane standards even if Congress were to relax domestic legal limits on interrogations, such as the Convention Against Torture or the Geneva Conventions.

Another core national security legal principle for Mr. Obama was to use civilian courts, not military commissions, whenever possible in terrorism cases — and to exclusively use civilian law enforcement agencies and procedures, not the military, to handle cases arising on domestic soil. The draft order also signals that the Trump administration may shift that

approach as well.

In 2012, after Congress enacted a statute mandating that the military initially take custody of all foreign Qaeda suspects, Mr. Obama issued a directive that pre-emptively waived that rule for most domestic circumstances, such as if the F.B.I. had arrested the suspect and was already in the process of an interrogation.

But Mr. Trump's draft order calls for the attorney general, in consultation with other national-security officials, to review that directive and recommend modifications to it within 120 days.

Many Republicans — including Senator Jeff Sessions, Mr. Trump's attorney general nominee — criticized the Obama administration's approach as weak, even though the civilian court system has regularly convicted terrorists at trial while the military commissions system has proved to be dysfunctional. During the campaign, Mr. Trump said he would prefer to prosecute terrorism suspects at Guantánamo — including American citizens, although the law currently limits the commissions system to foreign defendants.

Against that backdrop, Mr. Trump's draft order would direct Defense Secretary James N. Mattis, along with the attorney general and the director of national intelligence, to "review the military commissions system and recommend to the president how best to employ the system going forward to provide for the swift and just trial and punishment of unlawful enemy combatants detained in the armed conflict with violent Islamist extremists."

Tom Malinowski, who was assistant secretary of state for human rights in the Obama administration, said the draft order showed that everyone who thought the office of the presidency or the advice of cabinet secretaries like Mr. Mattis would temper Mr. Trump "is being shown wrong again."

"He'll listen to his worst instincts over his best advisers unless restrained by law," Mr. Malinowski said.

Questions for the Record—Senator Jeff Sessions to be the United States Attorney General

Senator Thom Tillis

1. At your hearing, I mentioned a report published in December of 2014 by the Government Accountability Office entitled, “Department of Justice Could Strengthen Procedures for Disciplining Its Attorneys.”¹ This report concluded that the Department of Justice had not appropriately addressed concerns regarding how it implements discipline for attorney professional misconduct. Will you commit to reviewing the report and reevaluating the procedures for addressing attorney professional misconduct?

2. Our immigration system needs reform. One issue that I am particularly concerned with is the backlog in our immigration courts. Under 8 U.S.C. § 1229a (b) (1), Congress gave immigration judges the authority during removal proceedings to sanction by penalty any action or inaction that is in contempt of the judge’s orders under regulations prescribed by the Attorney General. To my knowledge, the Attorney General has never promulgated these regulations. As Attorney General, will you evaluate whether giving immigration judges the authority to hold individuals in contempt will help improve efficiency and reduce the backlog in our immigration courts?

¹ <http://www.gao.gov/products/GAO-15-156>

Questions for the Record

Senator Jeff Sessions

Attorney General Nomination Hearing

Senate Judiciary Committee

January 10, 2017

QUESTIONS POSED BY SENATOR WHITEHOUSE

- 1) During your hearing before the Senate Judiciary Committee, I asked you about comments you made in November, 2016 in an interview with American Family Radio with respect to “secular, progressive liberals” and the “secular Left” making the Department of Justice “unlawful” and “less traditional.” In your response, you stated that you were “not sure” whether a secular person has as good a claim to understanding the truth as a person who is religious. In addition to your comments to American Family Radio and your response to me, you have previously stated the following:
 - “I really believe that this whole court system is really important and the real value and battle that we’re engaged in here is one to reaffirm that there is objective truth, it’s not all relative. And that means some things are right and some things are wrong, and we’re getting too far away from that in my opinion and it’s not healthy for any country and it’s really not healthy for a democracy like ours that’s built on the rule of law” (Faith and Freedom Coalition event, 2016).
 - And if you don’t believe there’s a truth, if you don’t believe in truth, if you’re a secularist, then how do we operate this government? How can we form a democracy of the kind that I think you and I believe in? ... I do believe we are a nation that, without God, there is no truth and it’s all about power, ideology, advancement and agenda, not doing the public service” (Upon receipt of David Horowitz Freedom Center Award, 2014).
- a) *Could you elaborate on your view that secular lawyers have contributed to “unlawfulness” at the Department of Justice?*
- b) *Do practicing Christians have access to the “objective truth?”*
- c) *Do practicing Jews have access to the “objective truth?”*
- d) *Do practicing Muslims have access to the “objective truth?”*
- e) *Do practicing Hindus have access to the “objective truth?”*
- f) *Could you elaborate on your statement at the hearing that a secular attorney may not have as good a claim to understanding the truth as a religious one?*

- 2) Sections 208 and 216, 18 U.S.C. provide civil and criminal penalties for “an officer or employee of the executive branch of the United States Government ... [who] participates personally and substantially as a Government officer or employee, through decision, approval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee ... has a financial interest.... ”
- a) *Can you provide assurances that you will vigorously enforce 18 U.S.C. §§ 208 and 216, as well as other laws and policies relating to executive branch conflicts of interest?*
 - b) *What specific policies will you put in place to ensure that referrals to the Department of Justice regarding potential violations of 18 U.S.C. §§ 208 and/or 216 by political appointees are fully and fairly investigated?*
- 3) *Does the President have the authority to fire the Director of the Office of Government Ethics (OGE)?*
- 4) Terror organizations, drug cartels, human traffickers, and other criminal enterprises abuse United States incorporation laws to establish shell companies designed to hide assets and launder money. The law enforcement community, including the Fraternal Order of Police, Federal Law Enforcement Officers Association; National Association of Assistant U.S. Attorneys; and National District Attorneys Association, have all called on Congress to pass legislation to help law enforcement identify the beneficial owners behind these shell companies. Chuck Canterbury, President of the National Fraternal Order of Police, explains, “When we are able to expose the link between shell companies and drug trafficking, corruption, organized crime and terrorist finance, the law enforcement community is better able to keep America safe from these illegal activities and keep the proceeds of these crimes out of the U.S. financial system.”
- a) *Do you agree that allowing law enforcement to obtain the identities of the beneficial owners of shell companies would help law enforcement to uncover and dismantle criminal networks?*
 - b) *Will you commit to working with Congress on legislation to give law enforcement the tools needed to more effectively untangle the complex web of shell companies criminals use to hide assets and launder money in the United States?*
 - c) *Under current law, banks are required to undertake due diligence to ensure that their customers are not laundering funds. No similar anti-money-laundering standards apply to the attorneys who help set up the shell companies integral to criminal enterprises. Do you support extending anti-money-laundering due diligence requirements to attorneys?*

- 5) As you know, U.S. intelligence agencies are unanimous in their conclusion that Russia interfered in the 2016 elections through a campaign of computer hacking, propaganda, and fake news.
- a) *Are you prepared to use the full resources of the Department of Justice to investigate violations of law related to Russian interference, even if such an investigation could prove politically damaging to Donald Trump?*
 - b) *Will you recuse yourself and appoint special counsel to look into the matter further?*
- 6) Several Trump campaign staff and advisors have close ties to Russia. Most notably, before he resigned, former campaign manager Paul Manafort was exposed to have received \$12.7 million in illegal cash payments from former Ukrainian President Viktor Yanukovich's pro-Russian political party between 2007 and 2012. Manafort even brokered a deal to sell Ukrainian cable TV assets to a partnership he put together with a close ally of Putin. *Are you prepared to recuse yourself and appoint special counsel to investigate any possible involvement of Trump campaign staff or advisors in the Russian election interference or any other illegal transactions with Russia that may have occurred?*
- 7) Earlier this month, the Center for Strategic and International Studies (CSIS) Cyber Policy Task Force issued a report announcing recommendations to the 45th President for strengthening the nation's cybersecurity. *Can you provide your assurances that, as Attorney General, you will familiarize yourself with these recommendations and others and equip the Department of Justice to play a strong role in deterring and combating cybercrime and holding those responsible accountable?*
- 8) Referring to the "alt right," White House strategist Steve Bannon, formerly of Breitbart News, has called you "one of the intellectual, moral leaders of this populist, nationalist movement [alt right] in this country." In February 2015, you told Bannon that "Breitbart has been the absolute bright spot in this whole debate. You get it, your writers get it, every day they find new information that I use repeatedly in debate on the floor of the Senate because it's highlighting the kind of problems that we have. And nobody else is doing it effectively, it's just not happening, so to me it's like a source."

Under Mr. Bannon's leadership, Breitbart News ran the articles with the following headlines:

- Birth Control Makes Women Unattractive and Crazy¹
- The Solution to Online "Harassment" is Simple: Women Should Log Off²
- There's No Bias Against Women in Tech, They Just Suck at Interviews³
- Gabby Giffords: The Gun Control Movement's Human Shield⁴

¹ <http://www.breitbart.com/tech/2015/12/08/birth-control-makes-women-unattractive-and-crazy/>

² <http://www.breitbart.com/milo/2016/07/05/solution-online-harassment-simple-women-log-off/>

³ <http://www.breitbart.com/milo/2016/07/01/not-sexism-women-just-suck-interviews/>

⁴ <http://www.breitbart.com/big-government/2015/03/08/gabby-giffords-the-gun-control-movements-human-shield/>

- Racist, Pro-Nazi Roots of Planned Parenthood Revealed⁵
- Bill Kristol: Republican Spoiler, Renegade Jew⁶
- Trannies Whine About Hilarious Bruce Jenner Billboard⁷

- a) *Do you continue to believe that Breitbart News is a “bright spot”?*
 - b) *Do you believe Breitbart News is a reliable source of information?*
 - c) *Do you believe it would be appropriate to rely on Breitbart as a source in your role as Attorney General, should you be confirmed? Why or why not?*
- 9) Jurisdictions across the country, from South Carolina to California and Ohio to New Hampshire, are investing in a range of treatment alternatives to incarceration for low-level drug offenders. These programs are designed to shift the emphasis of law enforcement intervention toward the delivery of drug treatment and other services. *In addition to drug courts, what treatment alternatives to incarceration models do you support and why?*
 - 10) There is an emerging consensus in Congress, as well as the addiction field, and even in the law enforcement community that we can’t arrest our way out of the drug problem and that the emphasis should be on directing people who struggle with addiction into treatment and away from the criminal justice system.
 - a) *Do you agree with this view?*
 - b) *What steps would you consider taking as Attorney General to support this goal?*
 - 11) *Do you intend to dismantle or keep intact the Department of Justice’s Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Working Group?*
 - 12) In January 2010, DOJ attorney David Margolis issued a memorandum suggesting that attorneys in the Office of Legal Counsel may owe a duty of candor to their clients that is less than the duty owed by workaday litigators to their clients. Since that time, I have been informed that the Department no longer allows this loophole in ethical guidance it provides its attorneys. *What is your view with respect to the duty of candor that OLC attorneys owe their clients?*
 - 13) President Trump has called the Foreign Corrupt Practices Act a “terrible law.” But the Act, as amended by the International Anti-Bribery Act of 1998, is the cornerstone of federal efforts to prevent and prosecute bribery of foreign officials by U.S. corporations, and to maintain a fair and level playing field for small and mid-size corporations doing business overseas. Since 2008, the federal government—DOJ, SEC, and the FBI—have maintained about 150 active investigations at any given time, resulting in \$1.56 billion in fines in 2014.

⁵ <http://www.breitbart.com/big-government/2015/07/14/racist-pro-nazi-roots-of-planned-parenthood-revealed/>

⁶ <http://www.breitbart.com/2016-presidential-race/2016/05/15/bill-kristol-republican-spoiler-renegade-jew/>

⁷ <http://www.breitbart.com/big-government/2015/12/04/trannies-whine-hilarious-bruce-jenner-billboard/>

Will you commit to continued vigorous enforcement of the Foreign Corrupt Practices Act and the International Anti-Bribery Act of 1998?

- 14) ***Is it still your view that broad mens rea reform, such as that encompassed in the Mens Rea Reform Act of 2015 (S. 2298) would hamper the ability of prosecutors to prosecute a wide array of federal crimes?***
- 15) In recently criticizing commutations granted by President Obama, you remarked, "So-called low-level, non-violent offenders simply do not exist in the Federal system."
- a) ***Do you believe this is a true statement?***
 - b) ***What evidence do you have to support it?***
- 16) At your hearing, you testified: "The guidelines have been either made voluntary by the sentencing commission in the courts and the policies of the attorney general." ***Are you aware that the Sentencing Guidelines were made voluntary because of a Supreme Court decision, not because of the Department of Justice or the Sentencing Commission?***
- 17) At your hearing, you testified: "The Justice Department now allows a prosecutor to present a case to the judge that doesn't fully reflect the evidence that they have in their files about a case. That's a problematic thing. You shouldn't charge, I think it's problematic and difficult to justify a prosecutor charging five kilos of heroin when the actual amount was 10 to get a lower sentence."
- a) ***From where do you derive the idea that a prosecutor must charge the maximum charge in every case?***
 - b) ***Do you hold this view consistently across all federal criminal statutes and civil charges?***
 - c) The United States Attorney's Manual clearly disagrees with your narrow view of prosecutorial discretion. It states: "Under the Federal criminal justice system, the prosecutor has wide latitude in determining when, whom, how, and even whether to prosecute for apparent violations of Federal criminal law. The prosecutor's broad discretion in such areas as initiating or foregoing prosecutions, selecting or recommending specific charges, and terminating prosecutions by accepting guilty pleas has been recognized on numerous occasions by the courts." ***Please explain how your testimony fits with the substantial discretion retained by prosecutors to determine which specific charges should be filed in a given case.***
 - d) The American Bar Association states one of the duties of a prosecutor is to "seek justice, not merely to convict," and another as, "the prosecutor must exercise sound discretion in the performance of his or her functions." ***How is it consistent with those obligations to always charge the maximum charge or charges in a given case?***

- e) *If you believe there are any considerations that counsel against levying the maximum charges in a given case, what are those considerations? Please list all of them.*
- 18) In the context of hate crimes prosecutions, you agreed with Senator Graham's statement as follows: "When the state's doing its job, the federal government should let the states do their job." You then said it is a "general principle." Your testimony here seems inconsistent with your view of other prosecutions, particularly drug prosecutions.
- a) *Why in some contexts do you think the federal government should step in and file maximum charges, but in other where federal charges are available you nevertheless believe the states should take the lead? Please explain.*
 - b) *Do you believe the federal government must always file maximum charges under the federal hate crimes law when the facts support such charges? Please explain.*
 - c) *Do you believe the federal government must always file maximum charges under the civil rights laws when the facts support such charges? Please explain.*
 - d) *Do you believe the federal government must always bring the most civil claims supportable by the facts under the civil rights laws? Please explain.*
 - e) *Do you believe the federal government must always bring the most civil claims supportable by the facts under the voting rights laws? Please explain.*
- 19) You opposed the Matthew Shepard Hate Crimes Prevention Act, explaining that there was not sufficient evidence that crimes against the LGBT community were being underprosecuted at the state level. *How many underprosecuted crimes are necessary to justify federal intervention?*
- 20) The Southern Poverty Law Center and the Counsel on American-Islamic Relations both reported a sharp increase in hate crimes following the election.
- a) *Do you have an opinion on the reason for cause this increase?*
 - b) *What steps will you take to investigate this trend?*
 - c) *What steps will you take to work with minority communities to build trust and open lines of communication with the Department of Justice?*
 - d) *What is the federal role in preventing and prosecuting crimes directed against racial, ethnic, and religious minority groups?*
- 21) *Will the Civil Rights Division continue to investigate disparate impact discrimination claims?*

- 22) In 2003, former Attorney General John Ashcroft directed prosecutors to charge the “most serious, readily provable offense” available. You appeared to criticize any changes in policy to the Ashcroft memo instituted by former Attorney General Eric Holder in 2013. What are the substantive changes, if any, you intend to make as Attorney General to the Holder 2013 memo on “Department Policy on Charging and Sentencing”? ***Please outline the rationale for the changes that you would propose.***
- 23) In 1996, as Alabama Attorney General, you told the Crime Subcommittee of the House Judiciary Committee that “[w]e must end this separation of the irrational and artificial wall between [the adult and juvenile] justice systems.” You also lauded your office’s push to remove the ability of a juvenile to immediately appeal his transfer to adult court and lamented the “red tape” associated with transfer hearings.
- a) ***Do you still believe that the division between the criminal and juvenile justice systems in this country is inappropriate?***
 - b) ***Do you believe that youth who are detained should be separated from adults?***
- 24) In 1997, you introduced a bill in this chamber that would allow states to jail juveniles as young as 13 with adults, prior even to conviction, would cut funding for juvenile crime prevention while increasing funding for new detention centers, and would allow states to expel children school for six months for “offenses” such as smoking cigarettes. ***Does the Violent and Repeat Juvenile Offenders Act of 1997 still reflect your views with respect to juvenile justice?***
- 25) Under President Bush, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) suffered a severe loss of morale and the desertion of numerous career civil servants. Administrator Flores left the Office under a cloud of corruption and mismanagement.
- a) ***Can you assure the Senate that you will take the responsibility of this Office seriously and ensure, to the extent that you are able, its capable and competent leadership?***
 - b) ***As far as the Juvenile Justice and Delinquency Prevention Act (JJDP), do we have your assurances that you will empower OJJDP to effectively monitor states’ compliance with its core protections for youth?***
- 26) In a 1999 floor speech, you decried the lack of enforcement of campaign finance laws and called for increased disclosure of outside spending. You stated:
- ***Frankly, we ought to start enforcing the law. I spent 15 years as a Federal prosecutor. We are not doing a very good job, in my view, of finding people who violate existing laws and seeing that people are held accountable. There are going to be mistakes, and I am not talking about witch hunts and trying to disturb honest and decent candidates who have done their best to comply with many regulations, but we really need to watch those cases where we have serious enforcement problems.***

Will you commit to vigorously enforcing existing campaign finance laws, including prosecuting individuals that opening flaunt campaign finance disclosure laws, in your role as Attorney General?

27) Social welfare groups, organized under section 501(c)(4) of the Tax Code, are required to report political spending to the Federal Election Commission (FEC). Social Welfare Organizations are also required to file reports with the Internal Revenue Service (IRS), detailing the groups' actual or expected political activity.

- **Question 15 on IRS Form 1024** (application for recognition of tax exemption) asks, "Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office . . . ?"
- **Question 3 on IRS Form 990** (annual return of exempt organization) asks, "Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If 'Yes,' complete Schedule C, Part I."

Both IRS Forms 1024 and 990 are signed under penalty of perjury. Section 1001 of the U.S. criminal code, makes it a criminal offense to make 'any materially false, fictitious or fraudulent statement or representation' in official business with the government; and section 7206 of the Internal Revenue Code, makes it a crime to willfully make a false material statement on a tax document filed under penalty of perjury.

- a) ***In your view, if an organization files inconsistent statements regarding their political activity with the FEC and the IRS, can the group be liable under section 1101 or 7206?***
- b) ***Will you commit to investigating any such inconsistent statements of which the Department of Justice becomes aware?***

28) At your confirmation hearing, you stated "I would just say that every election needs to be managed closely and we need to ensure that there is integrity in it. And I do believe we regularly have fraudulent activities occur during election cycles."

- a) ***How did you reach the conclusion that "fraudulent activities" occur regularly during election cycles?***
- b) ***What types of "fraudulent activities" occur during election cycles?***
- c) ***Are you aware of any evidence of widespread voter fraud?***
- d) ***Does the Department of Justice have sufficient tools to combat voter fraud?***

- 29) As discussed at your confirmation hearing, the Department of Justice has, at various points and under both Democratic and Republican Administrations, adopted procedures governing communications between the White House and DOJ in order to prevent political interference. Such efforts were documented, in the Clinton Administration, in correspondence between the Reno Justice Department and Senator Hatch. Several years later, following the hiring and personnel scandals under Attorney General Gonzales, Attorney General Michael Mukasey wrote that, "Communications [between the White House and DOJ] with respect to pending criminal or civil-enforcement matters...must be limited" in order to ensure "that there is public confidence that the laws of the United States are administered and enforced in an impartial manner."
- a) *Will you commit to implementing a policy limiting contacts and channels of communication between the White House and the Department of Justice based on the principles articulated in correspondence between the Clinton DOJ and White House as well as in the Mukasey letter?*
 - b) *If so, will you commit to making this policy available to the Senate Judiciary Committee?*
 - c) *With respect to the Civil Rights Division, can you provide your assurances that you will follow the "Experienced Attorney and Attorney Manager Hiring Policy," which outlines a detailed and transparent process that minimizes undue political interference when new attorneys are hired?*
- 30) Subject to certain limitations, the United States Attorneys Manual authorizes the Deputy Assistant Attorneys General in the Environment and Natural Resources Division, with respect to matters assigned to the Environment and Natural Resources Division, the "authority to compromise, dismiss or close cases." ***Do you commit to report to this Committee every instance in which the ENRD Assistant Attorney General makes a determination to close or settle a case (i.e., in which such decisions are made without relying on the delegation authority outlined above and in USAM 5-5.220)?***
- 31) ***Do you commit to report to this Committee each instance in which DOJ declines to initiate a case referred by the Environmental Protection Agency?***
- 32) ***Do you commit to report to this Committee every instance in which the Civil Rights Division Assistant Attorney General makes a determination to close or settle a case?***
- 33) Should you be confirmed as the lead law enforcement official for the United States, you would be responsible for the faithful execution of the Clean Air Act and other important environmental statutes. With respect to the Clean Air Act specifically, the Supreme Court found in its 2007 *Massachusetts v. Environmental Protection Agency* decision that there was insufficient uncertainty regarding the factual basis of manmade global climate change to permit the EPA to justify not regulating carbon dioxide (and greenhouse gas) as an air pollutant under the Clean Air Act. ***As Attorney General, would you ensure that EPA remains true to the letter of the law and that decision?***

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017**

QUESTIONS FROM SENATOR BLUMENTHAL

1. The Domestic Emoluments Clause of Article II of the United States Constitution specifically prohibits the President from receiving “any other emolument,” meaning anything other than his salary from the federal government or state governments.

a. Will President-Elect Trump be bound by this clause?

RESPONSE: Yes. The Constitution provides that “The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them. *See* U.S. Const., Art. II, § 1, cl. 7.

b. Will the tax breaks and subsidies that President-Elect Trump’s businesses receive from state and local governments place him in violation of this clause?

RESPONSE: The question posited is not one on which I have devoted any study, and would depend on a number of facts and specific circumstances, which do not exist at this time. Therefore, I am not in a position to offer even an informal opinion on it. If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

c. Should you need to investigate whether President-Elect Trump has violated this clause, will you commit to recusing yourself from any such investigation and appointing a special counsel?

RESPONSE: The President has a constitutional obligation to comply with the Emoluments Clause of Article II. If confirmed as Attorney General, I would provide the President with the best legal advice and assistance that he might require in that regard. I am not aware of a basis to recuse myself from such investigations. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

2. The Stop Insider Trading on Congressional Knowledge (STOCK) Act bars the President and other executive branch employees from using “nonpublic information derived from [or acquired through] their position as an executive branch employee as a means for making a private profit.”

a. Would you agree that if a member of President-Elect Trump’s family who

is acting as an official or unofficial West Wing adviser uses private information they learn through government service for a business decision, they have violated the STOCK Act or other insider trading laws?

RESPONSE: While I have not thoroughly studied this issue, as you note, this provision of the STOCK Act covers “executive branch employee[s].” I am not aware of any guidance the Office of Government Ethics has provided on the definition of “executive branch employee.” Any analysis of the STOCK Act’s application would take into account a number of factors, including any applicable guidance from that Office, the specific circumstances of the family member’s position and duties, and the nature of the information in question.

- b. Would you agree that if President-Elect Trump passes information he has learned from government service to a member of his family and that family member uses it for a business decision, this violates the STOCK Act or other insider trading laws?**

RESPONSE: While I have not thoroughly studied this issue, according to guidance from the Office of Government Ethics, the STOCK Act prohibits the same conduct as the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct). The Standards of Conduct prohibit “knowing unauthorized disclosure” of “nonpublic information” to further one’s own private interest “or that of another.” 5 U.S.C. § 2635.703(a), *cited in* OGE Advisory LA-16-10 (2016). Any analysis of the STOCK Act’s application likely would take into account a number of factors, including the nature of the information in question, the knowledge of the person disclosing it, and whether he or she disclosed it to further the recipient’s private interest.

3. It may be difficult to know whether a member of the President-Elect’s family is using private information to make business decisions – particularly if the family members who are running his businesses participate in private meetings with other government officials or foreign leaders. These meetings would provide these family members with exactly the kind of advantage the STOCK Act was designed to protect against.

- a. If a member of the Trump family sits in on a private meeting that could discuss information related to the family member’s business interests, will you commit to investigating whether there has been a violation of the STOCK Act?**

RESPONSE: The hypothetical question posited would depend on a number of facts and specific circumstances which do not exist at this time. If confirmed as Attorney General, I will ensure that the Department applies the same standards in deciding to initiate an investigation whether the subject of the investigation is a member of the President’s family or not. In addition, the Department would carefully investigate any evidence of insider trading provided by the Securities and Exchange Commission.

- b. Will you commit to recusing yourself from any such investigation and appointing a special counsel?**

RESPONSE: I am not aware of a basis to recuse myself from such investigations. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

4. The Department of Justice (DOJ) recently announced that it has reached a settlement of claims with Deutsche Bank concerning sales of securities, and reports state that inquiries continue regarding allegations that Deutsche Bank helped launder money for Russian clients. It has been well publicized that Deutsche Bank is President-Elect Trump's biggest creditor. During your hearing, you stated that you didn't know if President-Elect Trump's interests would be implicated in this case due to his borrowing from Deutsche Bank.

- a. **Now that you have had a chance to study the matter, would you agree that this case presents the potential for a conflict of interest? Why or why not?**

RESPONSE: I am not privy to the details of the Department's settlement with Deutsche Bank, nor am I familiar with the President's interests as they relate to Deutsche Bank. Without all the facts and without the resources of the Department of Justice at my disposal, it would be premature for me to provide a legal opinion on the matter.

- b. **If the Deutsche Bank matter has the potential to impact President-Elect Trump's interests, will you commit to recusing yourself from this matter and appointing a special counsel?**

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- c. **What specific steps will you take to ensure that the President-Elect's interests do not affect the final settlement and the outcome of those inquiries?**

RESPONSE: If I am confirmed and it is determined that the President has a conflict arising from Deutsche Bank's status as his creditor, I will take whatever steps are necessary to ensure that the Department of Justice represents the interests of the American people in the impartial enforcement of the law. I am not privy to the details of the Department's settlement with Deutsche Bank, nor am I familiar with the President's interests as they relate to Deutsche Bank. Without all the facts and without the resources of the Department of Justice at my disposal, it would be premature for me to announce how the Department would proceed.

- d. **Will you commit to setting up firewalls between the White House and DOJ to avoid conflicts of interest or the appearance of conflicts of interest?**

RESPONSE: As the nation's chief law enforcement officer, it is important for the Attorney General to have an open line of communication to the President. In certain circumstances, it

may be appropriate to set up firewalls between the White House and the Department of Justice to avoid conflicts of interest or the appearance of conflicts of interest. Such determinations are fact-specific. If I am confirmed, I will endeavor to uphold the highest standards of ethical conduct and avoid conflicts of interest or the appearance of conflicts of interests at all times.

5. If President-Elect Trump continues to have a financial stake in the Trump organization after he becomes President, as he has indicated he will, he will face other situations in which companies or governments have economic leverage over him or the potential to affect his financial interests through their actions. The American public is unable to understand the full extent of this leverage because President-Elect Trump has not released his tax returns or other comprehensive accounting of his financial and business arrangements.
 - a. **Have you seen President-Elect Trump's tax returns or any other comprehensive accounting of his financial and business arrangements?**
 - b. **If you have, do you believe this information should be shared with the American people?**

RESPONSE: I have not seen President Trump's tax returns or any other comprehensive accounting of his financial and business arrangements. While he has a financial disclosure form that is available to the public, I have not studied it.

- c. **If you have not, how will you know whether President-Elect Trump may have a personal financial interest in a matter being pursued or investigated by DOJ? If you do not have that knowledge and President-Elect Trump weighs in on DOJ actions or policies, how will you ensure that this does not present the potential for a conflict of interest?**

RESPONSE: If I am confirmed as Attorney General, I will review any relevant information at my disposal to determine whether the President has a conflict of interest that could affect Department of Justice matters or investigations. I will also instruct the Office of Legal Counsel to provide the President with guidance on identifying and mitigating conflicts of interest.

6. America's intelligence agencies agree that Russia attempted to disrupt the 2016 presidential election in a manner that violates U.S. laws against hacking. During both of the last Democratic administrations, you demanded that the Attorney General recuse herself rather than participate in an investigation with potential political ramifications. During your nomination hearing, however, you would not commit to recusing yourself from an investigation of alleged Russian hacking.
 - a. **Will you commit to recusing yourself from any case regarding the Trump campaign – and, specifically, the investigation of Russian interference with the election? If not, why not?**

RESPONSE: I am unaware of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe that all investigations by the Department of Justice must be initiated and conducted in a

fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am fortunate enough to be confirmed as Attorney General.

I am not aware of a basis to recuse myself from such investigations. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

7. DOJ is currently investigating Hapoalim Bank for helping wealthy Americans avoid paying taxes, and the bank could face hundreds of millions of dollars in penalties. Jared Kushner, President-Elect Trump's son-in-law, has received multiple loans from Hapoalim.

- a. **What specific steps will you take to ensure that Mr. Kushner's interests do not affect DOJ's investigation into Hapoalim?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will review any relevant information at my disposal to determine whether any such conflict of interest exists that could affect Department of Justice matters or investigations. I will also instruct the Office of Legal Counsel to provide guidance on identifying and mitigating conflicts of interest.

- b. **Will you commit to setting up firewalls between the White House and DOJ to avoid conflicts of interest or the appearance of conflicts of interest?**

RESPONSE: As the nation's chief law enforcement officer, it is important for the Attorney General to have an open line of communication to the President. In certain circumstances, it may be appropriate to set up firewalls between the White House and the Department of Justice to avoid conflicts of interest or the appearance of conflicts of interest. Such determinations are fact-specific. If I am confirmed, I will endeavor to uphold the highest standards of ethical conduct and avoid conflicts of interest or the appearance of conflicts of interests at all times.

- c. **Will you recuse yourself and appoint a special counsel to handle the investigation and any future prosecution of Hapoalim?**

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

8. Operation Rescue and associated anti-choice groups ran a publicity campaign in the 1990s that involved "wanted posters" for abortion providers. Some of these posters identified specific providers and provided personal information, such as license plate numbers and descriptions of cars. An *en banc* federal appeals court has held that these posters

constituted “true threats” and therefore fall outside of the First Amendment’s protections. *Planned Parenthood of Columbia/Willamette, Inc. v. American Coalition of Life Activists*, 290 F.3d 1058 (9th Cir. 2002) (en banc).

a. Do you agree that these posters are “true threats”?

RESPONSE: As I testified before the Committee, these providers are entitled to the protection of relevant federal law. If I am fortunate enough to be confirmed as Attorney General, I will faithfully follow and enforce the law as defined by the courts, including the FACE Act and all other federal laws that the Attorney General is authorized to enforce.

9. In his statement of support for your nomination, Operation Rescue President Troy Newman said, “I have worked on projects with Sen. Sessions in the past.”

a. What projects have you worked on with Troy Newman?

RESPONSE: I am unaware of any such projects.

10. Access to women’s health clinics is protected under the federal Freedom of Access to Clinic Entrances (FACE) Act, which makes it a crime to use force or threat of force to interfere with a person obtaining or providing reproductive health services, or to damage a reproductive health facility.

a. Will you commit to strong enforcement of the FACE Act?

RESPONSE: As I testified before the Committee, if I am fortunate enough to be confirmed as Attorney General, I will faithfully follow and enforce federal laws as defined by the courts, including the FACE Act and all other federal laws that the Attorney General is authorized to enforce.

b. Will you direct your staff to continue work that has been done under the Obama Administration and deliver trainings for local law enforcement in order to educate officers about what constitutes a violation of the FACE Act?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will review all Departmental practices to ensure the full and fair enforcement of federal laws.

c. As your predecessors have, will you direct U.S. Marshals to protect abortion providers when extremists have made threats to their lives?

RESPONSE: As I testified before the Committee, if I am fortunate enough to be confirmed as Attorney General, I would use the resources of the Department to ensure the full and fair enforcement of federal law. Any specific enforcement decisions or actions would depend upon the facts and circumstances of each case.

11. During the campaign, President-Elect Trump said that women who have abortions should be punished? After a significant backlash, he tried to reverse his position.

a. **Do you think that women who have abortions should be punished?**

RESPONSE: The Supreme Court has interpreted the Constitution to provide a right to an abortion. That right has been limited by various state and federal statutes restricting abortion, many of which have been upheld as constitutional. If I am fortunate enough to be confirmed as Attorney General, I will faithfully enforce all federal laws and do so consistently with the Constitution as interpreted by the Supreme Court.

b. **If you are opposed to punishing women for having an abortion, what steps will you take as Attorney General to discourage the use of the criminal legal system to deny pregnant women access to reproductive health services?**

RESPONSE: Rights that are expressly protected by the Constitution, or found to be implied by the Supreme Court, can only be abridged in limited circumstances. The Supreme Court has identified some such circumstances in regard to abortion rights. If I am fortunate enough to be confirmed as Attorney General, it will be my duty to ensure that these rights are not unconstitutionally restricted, but also, that lawful restrictions are not disregarded.

c. **What will you do to ensure that women who have abortions or whose pregnancy losses are perceived as abortions, as well as those who provide reproductive health services, will not be subjected to prosecution or criminal punishment?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will take no enforcement actions that are unauthorized by federal law. Individuals who seek abortions and abortion providers who comply with federal laws should not be subject to prosecution or criminal punishment.

12. The Affordable Care Act requires insurance plans to cover a full range of FDA-approved methods of birth control without charging patients co-pays. This benefit has made a tremendous difference for women's health and economic security. DOJ has defended this benefit from legal challenges by companies that do not want to comply with the requirement.

a. **If confirmed as Attorney General, will you direct DOJ to continue to defend this requirement in court?**

RESPONSE: I am fortunate enough to be confirmed as Attorney General, it will be my responsibility to conduct a thorough review of departmental matters pending in the courts to ensure the fair administration of justice. I have no specific knowledge of the case in question, but will follow the law and the Constitution without reservation.

b. **If a business owner believes it is his religious duty to discriminate based on race, religion, or sexual orientation, do you believe the business owner has a right to do so?**

RESPONSE: I disagree with the characterization of those who hold traditional or religious

values as believing in a “duty to discriminate” if they are asked to provide a service or take some other action that would conflict with their consciences. With respect to the Affordable Care Act’s contraception mandate, the Supreme Court held that there are protections available under the Religious Freedom and Restoration Act for religious individuals and businesses. I have not personally studied the parameters of that decision or its impact. If I am confirmed, when such matters come before the Department of Justice, I will carefully and objectively evaluate the facts and circumstances of each case and endeavor to uphold and defend the Constitution in the pursuit of justice.

13. During your hearing, you agreed with Senator Leahy that acts that President-Elect Donald Trump has described performing – grabbing women by the genitals without their consent – would constitute sexual assault.

- a. **Would you agree that a law enforcement official who hears that a woman has been grabbed by the genitals without her consent should investigate to determine whether prosecution for sexual assault is appropriate?**

RESPONSE: Yes.

- b. **Will you commit to encouraging and supporting vigorous investigation and prosecution of sexual assault by state and local as well as federal authorities?**

RESPONSE: Yes.

14. On the subject of sexual assault in the military, President-Elect Trump has said, “What did these geniuses expect when they put men & women together?”

- a. **Do you agree with President-Elect Trump that sexual assault is the natural result of having male and female service members working together? Why or why not?**
- b. **What specific steps will you take to combat the problem of military sexual assault?**

RESPONSE: I do not believe that sexual assault, nor any criminal activity for that matter, is “inevitable,” particularly among the members of our armed forces. If I am confirmed as Attorney General, I will support the enforcement of federal laws against sexual assault and all other violent crimes, in the military.

15. On your questionnaire for this committee, you list *Davis v. Board of School Commissioners of Mobile County* as one of the most significant litigated matters that you handled. You listed Joseph D. Rich, who then worked in the Educational Opportunities Litigation Section of DOJ’s Civil Rights Division, as your co-counsel on that case. Mr. Rich has said that you had “no substantive involvement” in the case, and at your hearing you said, “I don’t know Mr. Rich. Perhaps he handled a case that I never worked with.”

- a. **Do you know Joseph D. Rich?**
- b. **Did you work with him on *Davis v. Board of School Commissioners of Mobile***

County?

- c. **What specific work did you do on *Davis v. Board of School Commissioners of Mobile County*?**

RESPONSE: The Questionnaire requested the “ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.”

To be clear, *Davis v. Board of School Commissioner of Mobile County* was a case of historic significance with far-reaching impact. I was the attorney of record, along with five other co-counsel for the plaintiffs including Mr. Rich. I have no specific recollection of Mr. Rich in dealing with this litigation. In October 1981, after I was confirmed as the United States Attorney, I was listed as counsel for the United States’ Response to Defendants’ Objection to Exhibits of United States and Plaintiffs. In 1983, I co-filed the Revised Pretrial Brief of United States along with colleagues in the Civil Rights Division, and, in 1985, the United States supplemented that brief. This case was certainly one of the ten most significant matters during my time as a United States Attorney. It is true that every matter a United States Attorney handles is significant; however, very few have the historic impact as that of *Davis v. Board of School Commissioner of Mobile County*. I would not relegate the level or importance of this case to include another case—one more characteristic of a United States Attorney’s caseload—simply because I may have had greater participation. I clarified the nature of my involvement as in a supportive role in supplemental responses to the Questionnaire.

16. Section 1557 of the Affordable Care Act prohibits health care programs or activities that receive HHS funding or are involved with the insurance marketplaces from discriminating on the basis of race, color, national origin, sex, age, or disability. In August 2016, five states and several private organizations filed a lawsuit challenging the final regulations implementing Section 1557.

- a. **If you are confirmed as Attorney General, will you direct DOJ to continue to defend these regulations in court?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, it will be my responsibility to conduct a thorough review of departmental matters pending in the courts to ensure the fair administration of justice. I have no specific knowledge of the case in question, but will follow the law and the Constitution without reservation.

17. Last November, Carl Higbie – spokesman for a Donald Trump Super PAC and a campaign

surrogate – cited the World War II-era Japanese internment camps as a precedent for a Muslim registry. The Supreme Court allowed the use of these camps in *Korematsu v. United States*, a case that has been called a “stain on American jurisprudence.”

- a. **If you are confirmed as Attorney General, will you agree not to positively cite *Korematsu* in briefs or other legal documents that you or your representatives file on behalf of the United States?**

RESPONSE: Yes.

18. You have objected to President Obama’s efforts to admit refugees from areas where, in your words, “terrorists roam freely.” These refugees are screened for 18 to 24 months by law enforcement, the military, and the intelligence communities. America has a history of admitting refugees in times of conflict – including, notably, refugees from Germany in the 1930s and 1940s and from Vietnam in the 1970s.

- a. **Was America’s system for screening refugees better in the 1930s and 1940s than it is today?**
 b. **Was America’s system for screening refugees better in the 1970s than it is today?**
 c. **If today’s screening is inadequate but still better than what existed previously, should America have refused entry to European refugees in the 1930s and 1940s and to Vietnamese refugees in the 1970s?**

RESPONSE: As I testified before the Committee, because of the circumstances involving these refugees, I believe that a thorough vetting is critical to ensure that those we admit are not national security risks to the United States. The comparative effectiveness of refugee screening processes from different decades, spanning 30 to 85 years ago, is an area of expertise best left to the departments primarily responsible for such tasks.

19. In your testimony, you said, “I understand the demands for justice and fairness made by our LGBT community. I will ensure that the statutes protecting their civil rights and their safety are fully enforced.”

- a. **What specifically do you understand about “the demands for justice and fairness made by our LGBT community”?**

RESPONSE: I firmly believe that all Americans are entitled to equal protection under the law, no matter their background. While as Senators we may have disagreed about the most effective ways to address the challenges facing our country, my duty as Attorney General, if I am fortunate enough to be confirmed, would be to enforce the laws passed by Congress. I would endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure full enforcement of all federal laws and the protections inherent in them.

- b. **What statutes protecting LGBT safety and civil rights will you enforce?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will uphold and

enforce all federal laws and the Constitution.

20. Imagine that an employer fires an employee solely because the employee is gay.

- a. **Would such an action conflict with “the demands for justice and fairness made by our LGBT community?”**

RESPONSE: In general, such a firing would appear to be in violation of the law and would conflict with justice and fairness. Congress, within the bounds of the Constitution, determines the scope of the protections of such laws.

- b. **Would you support a law that would prohibit this kind of firing?**

RESPONSE: It is up to Congress to define the scope of federal law. The Justice Department’s role is to faithfully enforce those laws, which I will do if I am fortunate enough to be confirmed as Attorney General.

- c. **If the employer maintains that his religion compels him to fire gay workers, is the employer’s action protected by the Constitution?**

RESPONSE: The Supreme Court has ruled on similar questions in the past, at least in part. The Court’s most recent holding on an issue of this kind reaffirmed that the Establishment Clause of the First Amendment protects religious entities from government interference with employment decisions. I have not thoroughly studied the holdings or reasoning and therefore am not in a position to offer an opinion on how the Court’s interpretation would apply generally to such a situation.

21. In 2011, the Alabama legislature adopted H.B. 56. Major provisions of the law included requiring police to arrest anyone of whom they had a “reasonable suspicion” of being in the country illegally and denying public services, including public education, to undocumented immigrant children. DOJ’s Civil Rights division closely monitored the implementation of the law to ensure that it did not result in illegal discrimination on the basis of race or ethnicity by public institutions or law enforcement agencies.

- a. **If confirmed as Attorney General, what steps would you take to ensure that H.B. 56 and similar legislation does not result in discrimination on the basis of race or ethnicity?**

RESPONSE: In 2013, the Department of Justice secured a permanent injunction against major provisions of H.B. 56 on grounds that the law was unconstitutional. If I am confirmed, I will enforce the injunction.

- b. **What actions would you take if investigation revealed that the implementation of such laws did, in fact, result in discrimination?**

RESPONSE: If I am confirmed, the Department of Justice will pursue declaratory judgments, injunctions, and other remedies against laws that result in discrimination.

22. Last year, during the presidential campaign, Donald Trump argued that it would not require a constitutional amendment to end birthright citizenship for children born to parents who are in the U.S. illegally. He argued that it would only require an act of Congress. You have said that this is not an extreme position. You have also repeatedly expressed skepticism that the drafters of the Fourteenth Amendment intended to grant citizenship to children born in the United States to parents who are not United States citizens.

- a. **In your opinion, does the Fourteenth Amendment guarantee citizenship to all children born on American soil?**

RESPONSE: As I testified before the Committee, under the current state of the law, children born in the United States become citizens.

- b. **If so, would a constitutional amendment be required to overturn this guarantee?**

RESPONSE: I have not reviewed the details of whether a constitutional amendment would be required.

- c. **If not, how would you determine clearly which children are American citizens and which are not?**

RESPONSE: I have not reviewed the details of this matter.

23. No Senator since at least 1900 has voted in favor of his or her own confirmation to a Cabinet position. At your hearing, you stated that you did not have plans to vote on your own nomination.

- a. **I interpreted your answer at your hearing as a commitment that you would not vote on your own nomination. Is that correct?**

RESPONSE: Yes.

- b. **If your answer was not intended as a commitment, will you commit now to not voting on your nomination? If not, why not?**

RESPONSE: See response to 23(a).

- c. **Will you commit to not voting on any other Trump Administration nominations while your nomination is pending? If not, how does that not present a conflict of interest?**

RESPONSE: As Senator Durbin has noted, unless or until I am fortunate enough to be confirmed as Attorney General, I am “still the Senator from Alabama.”¹ As such, I have an

¹ Seung Min Kim, “Dems demand Sessions recuse himself on confirmation votes,” *Politico*, Jan. 18, 2017.

obligation to faithfully represent my constituents for as long as I am their Senator. I do not believe that is a conflict of interest. To do otherwise would reduce the representation to which the State is constitutionally entitled. I would also note that other Senators in my situation have proceeded in the same manner.

24. After you submitted your initial questionnaire response to this committee, it quickly became clear that you had left out large amounts of significant material. In 2010, you asserted that Goodwin Liu, a nominee for the Ninth Circuit Court of Appeals, had omitted 117 items from his questionnaire. You said of Liu,

“At best, this nominee’s extraordinary disregard for the Committee’s constitutional role demonstrates incompetence; at worst, it creates the impression that he knowingly attempted to hide his most controversial work from the Committee. Professor Liu’s unwillingness to take seriously his obligation to complete these basic forms is potentially disqualifying and has placed his nomination in jeopardy.”

You also suggested at Liu’s hearing that he might be guilty of a felony for failing to provide every document called for by the questionnaire. Although you supplemented your initial questionnaire responses, it was revealed at your hearing that you failed to include numerous items responsive to the requests.

- a. **If Goodwin Liu’s omissions were inexcusable, why is that that yours are acceptable?**

RESPONSE: It is my recollection that Justice Liu withheld a substantial percentage of his records, which the Committee members did not have access to, and which prevented the members of the Committee from being able to fully review his record. On the other hand, I provided a more complete record in response to the Committee’s Questionnaire than any nominee for the position of Attorney General in recent memory.² The records I submitted were voluminous, totaling more than 150,000 pages, including thousands of press releases, floor speeches, hearing statements, and other materials, and more than 2,000 television, radio, and print interviews. I also submitted more than 50 hours of video and audio clips of interviews, speeches, and press conferences. Additionally, I supplemented my Questionnaire responses three times. Despite all of my good faith efforts, with such an extensive career in public service, of course it is likely that there are an extremely small percentage of items that I was unable to locate, identify, or remember. Finally, my long record of public service was already well known to the members of the Committee and to my colleagues in the Senate, many of whom have served with me for more than 20 years.

25. In your initial questionnaire response, you repeatedly indicated that you relied on “searches of publicly available electronic databases” in order to gather all relevant information.

² Letter from Ranking Member Dianne Feinstein to Chairman Charles E. Grassley, Dec. 13, 2016 (“Senator Sessions’ production is, as I understand it, in excess of 150,000 pages of material. This is more than 100 times what Attorney General Lynch produced (1500 pages) and more than 29 times what Attorney General Holder produced (5100 pages)).”

- a. **Did you search for information on your record on Google? For example, when looking for examples of speeches, did you search for “Jeff Sessions” and “speech”?**

RESPONSE: Yes, in assisting me with the preparation of my questionnaire responses, staff used Google for various searches.

- b. **If so, why did you not include the first result from a Google search – your speech to the 2016 Republican National Convention?**

RESPONSE: Both speeches I gave at the 2016 Republican National Convention were, in fact, included as video attachments to my original response to the Committee’s Questionnaire.

- c. **In trying to find transcripts of your appearances on news shows, many of which you listed as unavailable, did you search the websites of the shows on which you appeared?**

RESPONSE: In assisting me with the preparation of my Questionnaire, staff searched many of the websites of shows on which I appeared, in addition to searching various transcript databases.

- d. **If so, why did you not include transcripts that are readily available from searching the websites of those shows – for example, a transcript of your responses during an October 13, 2016 appearance on Breitbart Radio, which can be found simply by searching for your name on the Breitbart website?**

RESPONSE: I identified over 2,000 television, radio, and print interviews in my responses to the Committee. It appears that the partial transcript of the October 13, 2016 interview was inadvertently not included in the responses, although the interview itself was identified in my responses and is publicly available.

- e. **When you saw that your initial questionnaire included only 134 speeches given over 35 years in public life, did that not suggest to you that the response was not comprehensive?**

RESPONSE: I submitted to the Committee all responsive items I was able to identify through extensive searches. These responses included more than 150,000 pages of materials, including more than 1,000 speeches from my time in the United States Senate alone—many on the Senate floor—and more than 250 speeches outside of the United States Senate.

- f. **When you saw that your initial questionnaire did not include any print or radio interviews prior to September 2002, did that not suggest to you that the questionnaire was incomplete?**

RESPONSE: I submitted to the Committee all responsive items that I was able to identify through extensive searches, including more than 2,000 television, radio, and print interviews, including several from the late 1990s.

26. You have received awards from at least two organization designated by the Southern Poverty Law Center as extremist groups – the Federation for American Immigration Reform and the Center for Security Policy – but you only disclosed one of these on your questionnaire.

- a. **Have you received any other awards from SPLC-designated extremist groups that you have not yet reported to this Committee?**
- b. **Have you given any speeches to SPLC-designated extremist groups that you have not yet reported to this Committee?**

RESPONSE: I have submitted to the Committee all awards that I have received and speeches that I have given that I have been able to identify, locate, or recall. As I testified before the Committee, I, like all members of Congress, have received many awards from and given many speeches before many groups over my long career in public service. That does not mean that I am familiar with or agree with every position taken or statement made by every group or every member of every group, or would be influenced by the particular point of view espoused by every group or every member of every group. Furthermore, SPLC's opinion of an organization or individual is not universally accepted.

27. In a keynote address at the David Horowitz Freedom Center's 2013 West Coast Retreat, you said, "[David Horowitz has] written some papers. I've passed them around, the draft, to a bunch of senators, and shared these thoughts." At your hearing, you called David Horowitz a "brilliant writer."

- a. **Which papers did you circulate to your fellow Senators?**

RESPONSE: As I testified before the Committee, I believe I have read two of Mr. Horowitz's books. Further, he has been a prolific writer, authoring many books, articles, and papers, and I am unsure as to which particular papers I may have shared with colleagues.

- b. **Do you agree with Horowitz when he says – in the chapter title of one of his books – that "guns don't kill blacks, other black people do"?**

RESPONSE: I do not believe I have read that particular book, so I am unfamiliar with the subject matter in that chapter and what information the author might be referring to with that chapter title. It would be imprudent to judge a chapter by its title, particularly without having read additional information to know whether the chapter title is referring to something specific or is in a particular context.

- c. **Do you agree with Horowitz when he says it is "obvious" that "too many blacks are in prison because too many blacks commit crimes"?**

RESPONSE: I am unfamiliar with that quote. As I testified before the Committee, I am not familiar with everything Mr. Horowitz has ever said. I do not know the context of the quote referenced above, so I do not know what he meant. However, I strongly believe that too many crimes are committed in the United States in general. In an ideal world, there would be far

fewer people committing crimes and, as a result, there would be far fewer people in prison for those crimes, and far fewer victims of crimes.

- d. **Do you agree with Horowitz when he says that the term “people of color” is “a racist phrase designed...to enforce the fascist hierarchy”?**

RESPONSE: I am unfamiliar with that quote. As I testified before the Committee, I am not familiar with everything Mr. Horowitz has ever said. I do not know the context of the quote referenced above, or the full quote, so I do not know what he meant.

- e. **Do you agree with David Horowitz that Black Lives Matter is “a racist group” and “a roving lynch mob”?**

RESPONSE: I am unfamiliar with that quote. As I testified before the Committee, I am not familiar with everything Mr. Horowitz has ever said. I do not know the context of the quote referenced above, or the full quote, so I do not know what he meant.

- f. **Do you agree with Horowitz that “there is no credible evidence [that] racism against blacks is still a prevalent and systemic problem”?**

RESPONSE: I am unfamiliar with that quote. As I testified before the Committee, I am not familiar with everything Mr. Horowitz has ever said. I do not know the context of the quote referenced above, so I do not know what he meant.

28. In your questionnaire, you did not disclose that you received the Franklin Society Award from the Federation for American Immigration Reform, which was founded by John Tanton.

- a. **Do you agree with Tanton when he says, “Migrants are usually selfish in their motivation”?**
 b. **Do you agree with Tanton that he says, “Too much diversity leads to divisiveness and conflict”?**

RESPONSE: On page 1 of the Supplemental Questionnaire I submitted to the Committee on December 23, 2016, I disclosed that I received the Franklin Society Award from the Federation for American Immigration Reform. As I testified before the Committee, I, like all members of Congress, have received many awards from and given many speeches before many groups over my long career in public service. That does not mean that I am familiar with or agree with every position taken or statement made by every group or every member of every group, or would be influenced by the particular point of view espoused by every group or every member of every group. As I also testified, I believe the United States should have a lawful system of immigration that is fair and objective and gives people from all over the world the right to apply for admission in order to prosper and to improve their lives and our country.

29. As a former prosecutor, I am disturbed that President-Elect Trump’s continued insistence that the five black and Latino men known as the Central Park 5 are guilty – despite their

exoneration by DNA evidence. During the campaign, you said that President-Elect Trump's 1989 campaign to reinstate the death penalty for the Central Park 5 showed his dedication to "law and order."

a. Do you believe that the Central Park 5 are innocent? If not, why not?

RESPONSE: First, I reject the characterization of my comments. My actual comments were in reference to an advertisement the President published over 20 years ago calling for a restoration of the rule of law, particularly in New York City. That advertisement does not mention the Central Park Five or any other case—rather, it was a general commentary on the deterioration of the rule of law, which had led to an epidemic of violent crime and murders and made many residents of New York City, including African-American, Hispanic, and other minority families, afraid to go out at night. My comments referred to the general notion that the President has long been in favor of restoring the rule of law and deterring serious crime, which is something that the Department of Justice will be committed to doing if I am fortunate enough to be confirmed as Attorney General. With respect to the above-referenced case, it is my understanding that the defendants' convictions were vacated.

b. If you do believe that the Central Park 5 are innocent, will you say unequivocally that President-Elect Trump was wrong to call for them to be killed and wrong to double down on his position after they were exonerated?

RESPONSE: I have not discussed the case with the President, so I cannot say whether any statements he may have made about the case were inaccurate or were supported by relevant information.

c. Does Donald Trump's approach to the Central Park 5 case reflect the approach that you will take to similar cases if confirmed as Attorney General?

RESPONSE: I have not discussed this case with the President, and I am unsure as to what is meant by his "approach" to the case. Certainly, a politician on the campaign trail is likely to "approach" criminal cases differently than would a prosecutor involved in or overseeing an investigation or prosecution.

d. Do you agree that failing to pursue all possible methods of exonerating an innocent defendant, including DNA evidence, leaves open the possibility that the real criminal will go free and commit additional crimes?

RESPONSE: I agree that it is of the utmost importance that only those who commit crimes be prosecuted and convicted. Certainly, whenever an innocent defendant is convicted of a crime they did not commit, that means the real criminal has gone free and will likely commit additional crimes.

30. At your hearing, you said, "Congress has taken an action now that makes it absolutely improper and illegal to use waterboarding or any other form of torture in the United States by our military and by all our other departments and agencies."

- a. Are stress positions designed to inflict pain torture?
- b. Is forced nudity torture?
- c. Is slamming individuals into walls torture?
- d. Is slapping or hitting detainees torture?
- e. Is depriving detainees of sleep for prolonged periods torture?

RESPONSE: Federal law is clear that it is unlawful for either the military or our intelligence agencies to subject detainees to cruel, inhuman, or degrading treatment, or to use interrogation techniques that are not prescribed by the Army Field Manual. Thus, both our military and intelligence agencies are permitted to employ only those interrogation techniques authorized by the Army Field Manual.

- f. What actions would you take if the Trump Administration attempted to change the rules governing use of these techniques without seeking Congressional approval?

RESPONSE: The rules governing these and other techniques are now set by federal statute and cannot be unilaterally altered by the executive branch. The President has a duty to faithfully execute all federal laws—even those that he disagrees with, and even if he is frustrated that Congress will not enact his agenda. If the President claimed the authority to nullify federal laws, or to refuse to enforce valid federal laws, I would inform him that such action is illegal and insist that he follow the law.

31.

- a. If an individual detained at Guantanamo Bay Cuba can show that they were detained based on faulty intelligence or mistaken identity, should they be released?
- b. Should Guantanamo detainees be given the chance to prove that they were detained based on faulty intelligence or mistaken identity?

RESPONSE: It is ultimately up to Congress to determine the scope of such policies. However, the U.S. Supreme Court has held that detainees held at the Guantanamo Bay detention facility may challenge their detention via a writ of *habeas corpus*.

- c. How long can an individual be detained – at Guantanamo or anywhere else – before they are given a chance to show that their detention was wrongful?

RESPONSE: Under the law, the United States can detain an active member of al Qaeda or other enemy combatants for as long as the conflict persists and as long as the person continues to pose a threat to others. While it is proper to periodically reevaluate the status of detainees and to release and repatriate those who no longer pose a threat, a number of detainees who have been released from the Guantanamo Bay detention facility have returned to waging war against the United States and its allies. Some have killed innocent people, including Americans.

- 32. When passing the USA FREEDOM Act, Congress made bulk collection under section 215 of the USA PATRIOT Act illegal. In a *National Review* op-ed, you argued that law

enforcement can still use a subpoena to collect all of the information that used to be collected under section 215. During your hearing, you were asked if you agreed that the executive branch cannot reinstate the bulk collection of America's phone records without amending federal statutes. You responded, "That appears to be so and I can't swear that that's absolutely, totally, always true, but it appears to be so."

a. Please detail the situations where the principle would not hold true.

RESPONSE: In a May 20, 2015 op-ed titled "Why Should Terrorists Be Harder to Investigate than Routine Criminals?," I noted that section 215 is a type of subpoena authority, and that, even as originally enacted, section 215 requests for business records are subject to restrictions that are not applied to other types of subpoena authorities that are routinely used by criminal investigators. For example, I noted that unlike subpoenas used by the Drug Enforcement Administration, section 215 requests require pre-approval by a federal judge. In the op-ed, I criticized the then-pending USA Freedom Act and its further restrictions on the use of section 215 to obtain bulk telephone records data, noting that the Act "would prevent our intelligence officers from obtaining information in this manner *at all*." (Emphasis in original.) I continue to believe that this is true and am not aware of any interpretation of the USA Freedom Act that would allow the bulk collection of telephone records under section 215, absent further amendments by Congress to the Foreign Intelligence Surveillance Act.

33. Using a device called a stingray, law enforcement can scan a crowd and identify every cell phone within the specified area. Without clear rules governing the use of stingrays, these devices give law enforcement the ability to create massive databases of individuals who have protested against the government, individuals who belong to a minority or unpopular religion, or simply Americans who have assembled to express views that the government does not like.

a. Will you commit to not tracking Americans' location in order to target and catalog individuals' exercise of First Amendment activities, such as religious activities, protests, and political rallies?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will carry out my duty to enforce the laws and will do so with unreserved fidelity to the Constitution, including the First Amendment.

b. Will you commit not to use stingrays to identify every American who has chosen to attend a particular political rally or worship service, unless you have probable cause to believe that a specific criminal or dangerous individual is in attendance?

RESPONSE: Without having studied this issue in depth, I cannot comment on what federal law or the Constitution allows in these circumstances. It is my understanding that this is an unsettled question amongst the federal courts of appeal. If I am fortunate enough to be confirmed as Attorney General, I will carry out my duty to enforce the laws and will do so with unreserved fidelity to the Constitution, including the First Amendment.

- c. **If you do collect information on all of the attendees at a rally or worship service – for example, because you believed a criminal would attend – will you commit to purge the information of any innocent American whose information was captured inadvertently?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will carry out my duty to enforce the laws and will do so with unreserved fidelity to the Constitution, including the First Amendment.

- 34. The American people want to know that you will take white collar crime as seriously as you will take other crimes.

- a. **Will you commit to zealously investigating white collar crimes?**

RESPONSE: Yes.

- b. **Will you commit to leaving in place, and considering expanding upon, the Yates Memo, which established Justice Department procedures that encourage prosecutors to actively investigate and prosecute individual criminal liability for corporate crimes?**

RESPONSE: I have reviewed the Yates memo and generally agree with it. However, I have not made any decisions with respect to whether I would change that policy if confirmed.

- 35. DOJ has initiated or considered initiating a number of investigations in recent years that are particularly important to me. Will you commit to continue actively pursuing the following investigations and prosecutions:

- a. **Takata and Takata executives**

RESPONSE: It is my understanding that Takata Corp. pled guilty on January 13, 2017, and has agreed to pay \$1 billion to resolve the case referenced in the above question. It is also my understanding that three Takata executives have been indicted. If I am fortunate enough to be confirmed as Attorney General, I will conduct a thorough review of all departmental matters pending in the courts to ensure the fair administration of justice. I have no specific knowledge of the case in question, but will follow the law and the Constitution without reservation.

- b. **Price collusion by United States airlines**

RESPONSE: The goal of United States antitrust law is to protect American consumers. If companies collude in setting prices, Americans suffer from price-gouging and lack of competition in the marketplace. If I am fortunate enough to be confirmed as Attorney General, the Antitrust Division of the Justice Department would be focused on the core mission of protecting the integrity of the markets in which American consumers participate, and will do whatever is necessary, within the bounds of the law, to ensure that those markets function fairly and efficiently.

c. The merger of Anthem with Cigna and of Aetna with Humana

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, the Department would analyze merger challenges in the same manner it always has: by evaluating whether the merger is likely to reduce competition in the relevant market, and by extension, whether that merger will negatively impact consumer welfare. Under my leadership, the Department would conduct a full and fair economic analysis of the likely effects of this merger on American consumers. We would determine, based on the results of that analysis, whether to challenge the deal.

36. In 2014, I was proud to lead an effort to successfully amend the Animal Welfare Act to prohibit attendance at a cockfight universally and without qualification in Puerto Rico and all other U.S. jurisdictions. Before these 2014 amendments became law, the longstanding prohibition on sponsoring or exhibiting an animal in a cockfight only applied in Puerto Rico to the extent a defendant knew that a bird was bought, sold, delivered, transported or received in interstate commerce for the purpose of participating in the fight. There is still much work to be done in ensuring that the law's protections are fully implemented.

- a. **Will you develop a plan to ensure that federal animal fighting laws are enforced in Puerto Rico, and to begin the process of shutting down the dozens of arenas in Puerto Rico in which animal fights are conducted in contravention of federal law?**

RESPONSE: While I have not studied this issue in depth, if I am fortunate enough to be confirmed as Attorney General, I expect to learn more about it and will ensure that federal law is being enforced to the fullest extent.

37. In recent years, there have been hundreds of cases in which individuals were exonerated based on faulty forensic evidence. This has long been an issue of bipartisan concern.

- a. **Will you continue to work with Members of this Committee and the Commerce Committee to ensure that law enforcement and criminal justice stakeholders have the strongest and most reliable forensic tools possible to ensure that crimes are solved, public safety is protected, and wrongful convictions are avoided?**

RESPONSE: Yes.

- b. **As you know, the FBI has been working to review thousands of cases involving erroneous hair analysis testimony, resulting in the exoneration of innocent people and, in many cases, the identification of the true perpetrators of crimes. Will you work with the FBI and others to ensure that this review is completed, and that this type of error is not repeated going forward in this or other forensic disciplines?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to

ensure the enforcement of federal law and the protections inherent therein. I will carefully evaluate any current departmental practices and the effectiveness of those practices to aid in the administration of justice.

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 23, 2017**

QUESTIONS FROM SENATOR BLUMENTHAL

In my original questions for the record, I asked whether you would commit to recusing yourself from any investigation into whether or not your boss, President Trump, has violated the Domestic Emoluments Clause or the insider trading laws. I also asked whether you would recuse yourself from cases in which President Trump or his family have a financial or political interest. You responded that you are “not aware of a basis to recuse yourself” but would not say one way or the other whether you would recuse yourself.

- a. Are there circumstances under which you would consider it appropriate to handle an investigation of civil or criminal wrongdoing by your own boss? Please answer yes or no.**
- b. If you believe that such an investigation would not pose a conflict of interest, please explain why.**

RESPONSE to (a) – (b): Each case depends on facts and specific circumstances. It would not only be impossible, but unwise, for me to suggest that an Attorney General would or would not be presented with a conflict in every possible scenario that involves the President. In other words, I cannot offer an opinion that would fit in every instance. I can only reiterate that, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

- c. You have committed to “consult with [Justice] Department ethics officials” if your “impartiality might reasonably be questioned.” Will you commit to accepting the advice of career staff if they recommend that you recuse yourself from a particular investigation or case?**

RESPONSE: I would seek the recommendations of Justice Department ethics officials and value them in my decision-making on such a question.

- d. Can you give any examples of a situation where an Attorney General has investigated civil or criminal wrongdoing by the President who appointed him or her and where you consider the Attorney General’s conduct to have been appropriate?**

RESPONSE: I do not know whether such examples exist. Any past decision by an Attorney General to recuse or to proceed in a case involving the President should not be read to suggest that recusal or lack of recusal would be necessary or proper in every case. As I indicated above, a decision to recuse or to proceed should be based only on the facts and circumstances presented.

- e. **Have you discussed the Domestic Emoluments Clause, the Foreign Emoluments Clause, or the insider trading laws with President Trump, with any employee of President Trump, or with any agent for President Trump? If so, please discuss the content and depth of those conversations.**
- f. **Have you discussed whether or not President Trump, his family, or individuals who did paid or unpaid work for his campaign may face civil or criminal liability, under any statute or Constitutional provision, with President Trump or any of his agents or employees? If so, please discuss the content and depth of those conversations.**
- g. **Have you discussed with President Trump or any of his agents or employees the possibility that an ongoing or future investigation could embarrass the President or his Administration? If so, please discuss the content and depth of those conversations.**
- h. **Have you discussed Russian hacking with President Trump or any of his agents or employees? If so, please discuss the content and depth of those conversations.**

RESPONSE to (e) – (h): No.

In response to a question for the record from Senator Durbin, you indicated that you have not read the unclassified or classified version of the January 6 Intelligence Community Assessment “Assessing Russian Activities and Intentions in Recent US Elections.”

- a. **Have you read that assessment or any part of that assessment – for example, the 1.5 page “Key Judgments” section – since Senator Durbin asked about it?**
- b. **If so, how will this information inform your decisions regarding investigatory priorities should you become Attorney General? If not, why not?**
- c. **Have you discussed your decision to read or not read this intelligence assessment with President Trump or any of his agents or employees?**

RESPONSE to (a) – (c): No.

In my original questions for the record, I asked whether a member of President Trump’s family who relies on nonpublic information to make business decisions has violated the STOCK Act or other insider trading laws.” While you did not answer this question, you indicated that the answer hinges on whether the Trump family member is an “executive branch employee.”

- a. **If a Trump family member does not qualify as an “executive branch employee,” as that term is used in the STOCK Act, do you believe that such family member can use private information they learn through government service to make business decisions? Please provide a yes or no answer.**

RESPONSE: Such individuals would be subject to any applicable federal laws to the same extent as any other individual subject to the jurisdiction of federal law.

In response to my original questions for the record, you said that you “have not reviewed the details of whether a constitutional amendment would be required” to overturn the Fourteenth Amendment’s guarantee of citizenship to all children born on American soil. You expressed skepticism of birthright citizenship as far back as 2010, and more recently you indicated that you have been reading legal briefs on the subject. Now that you have had additional time to review the details of this issue, I would appreciate your answer on this important question.

- a. Would a constitutional amendment be required to overturn the Fourteenth Amendment’s guarantee of citizenship to all children born on American soil?**
- b. How would you determine which children are guaranteed American citizenship and which are not?**

RESPONSE to (a) – (b): I have been aware of this issue for many years. I am aware that scholars have differing views and I have not conducted the careful research needed to express an opinion on the subject.

In my original questions for the record, I asked you to detail the circumstances under which the executive branch could reinstate the bulk collection of Americans’ phone records without amending federal statutes. While you provided some additional information about your past statements, which I appreciate, you did not answer my question. To be clear, I am not asking about what you have said in the past. I want to know what you believe today.

- a. Under what circumstances could the executive branch reinstate the bulk collection of Americans’ phone records without working with Congress to amend federal statutes?**

RESPONSE: In your original question, you note my testimony wherein I agreed that the current state of the law appears to be that the executive branch cannot reinstate bulk collection without amending federal statutes. In addition, this sentence appears at the end of my original written response: “I . . . am not aware of any interpretation of the USA Freedom Act that would allow the bulk collection of telephone records under section 215, absent further amendments by Congress to the Foreign Intelligence Surveillance Act.”

In my original questions for the record, I asked whether you would “commit to not tracking Americans’ location in order to target and catalog individuals’ exercise of First Amendment activities, such as religious activities, protests, and political rallies.” You responded merely that you will “enforce the laws and will do so with unreserved fidelity to the Constitution.” While I appreciate your general willingness to follow the law as you interpret it, my question asked you to make a specific commitment. The American people should not have to wait until you are in office to find out whether you plan to track their First Amendment-protected activities.

- a. **Will you commit not to track Americans' location in order to target and catalog individuals' First Amendment-protected activities, such as religious activities, protests, and political rallies?**

RESPONSE: I reiterate my commitment that, if I am fortunate enough to be confirmed as Attorney General, I will carry out my duty to enforce the laws and will do so with unreserved fidelity to the Constitution, including the First Amendment. If any such action was necessary to further a legitimate law enforcement or national security purpose, it should be conducted only within the parameters set by the Constitution.

In my original questions for the record, I asked you for two commitments regarding the appropriate use of stingray technology. In your response, you declined to comment on "what federal law or the Constitution allows in these circumstances." With respect, I did not ask what federal law or the Constitution allows. I asked whether you would commit not to engage in the practices described. Please respond with a yes or no answer.

- a. **Will you commit not to use stingrays to identify every American who has chosen to attend a particular political rally or worship service, unless you have probable cause to believe that a specific criminal or dangerous individual is in attendance?**
- b. **If you do collect information on all of the attendees at a rally or worship service – for example, because you believed a criminal would attend – will you commit to purge the information of any innocent American whose information was captured inadvertently?**

RESPONSE to (a) – (b): It is my understanding that the Justice Department adopted a policy in 2015 that requires a warrant based on probable cause before stingray surveillance can be used, unless exceptional circumstances are present. If I am fortunate enough to be confirmed as Attorney General, I will evaluate this policy, as well as any relevant data, in order to ensure that our constitutional protections are upheld.

**Nomination of Senator Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017**

QUESTIONS FROM SENATOR COONS

1. Evidence shows that solitary confinement has significant mental health consequences when used for extended periods of time.

- a. Do you believe solitary confinement should only be used as a last resort?

RESPONSE: It is vital that our prisons be able to secure prisoners and maintain order, but it is also important that they be a safe environment for those prisoners while they are incarcerated, as well as for those guarding them. I believe that we should closely evaluate the studies and evidence and make the best determination about how to handle what can be a dangerous prison population in a way that is both constitutional and effective.

- b. Do you believe solitary confinement should ever be used for juveniles?

RESPONSE: It is vital that our prisons be able to secure prisoners and maintain order, but it is also important that they be a safe environment for those prisoners while they are incarcerated, as well as for those guarding them. The need to maintain safety is especially true for juveniles, who often present unique correctional challenges. I believe that we should closely evaluate the studies and evidence and make the best determination about how to handle what can be a dangerous prison population in a way that is both constitutional and effective.

2. Individuals are being jailed throughout the country when they are unable to pay a variety of court fines and fees. There is often little or no attempt to learn whether these individuals can afford to pay the imposed fines and fees or to work out alternatives to incarceration.

- a. Under your leadership, will the Department of Justice work to end this practice?

RESPONSE: These are legitimate concerns, and if I am fortunate enough to be confirmed as Attorney General, I will make every effort to protect the constitutional rights of individuals in the federal criminal justice system.

- b. What is your position on the practice of imposing unaffordable money bail, which results in the pretrial incarceration of the poor who cannot afford to pay?

RESPONSE: There have been a number of concerns expressed by different groups, stakeholders, and officials regarding the use of money bail, and there is also ongoing litigation in various jurisdictions around the country regarding this practice. I believe that we should closely evaluate these concerns and the evidence to determine areas where pretrial incarceration practices can be improved, while also securing suspected criminals or providing adequate assurances that they will be present for court proceedings.

3. The Department of Justice established the Office for Access to Justice (ATJ) in March

2010 to address the access-to-justice crisis in the criminal and civil justice system. ATJ's mission is to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. How will you improve access to justice for indigent criminal and civil defendants?

RESPONSE: Ensuring that individuals are aware of and able to exercise their rights is an important part of a fair justice system. If I am fortunate enough to be confirmed as Attorney General, I will work to ensure that the constitutional rights of defendants are protected.

4. In August of 2013, the Department of Justice released the Cole memorandum, providing that states could pursue their own marijuana policy as long as the policy does not violate certain federal priorities, such as selling to minors or transporting marijuana across state lines.
 - a. Will you continue to follow the Cole memorandum?

RESPONSE: While I am generally familiar with the Cole memorandum, I am not privy to any internal Department of Justice data regarding the effectiveness and value of the policies contained within that memorandum. If I am fortunate enough to be confirmed as Attorney General, I will certainly review and evaluate those policies, including the original justifications for the memorandum, as well as any relevant data and how circumstances may have changed or how they may change in the future.

- b. Will you instruct Department of Justice prosecutors to bring actions against those who use state-sanctioned medical marijuana, provided they are using it in accordance with the guidance of the Cole memorandum?

RESPONSE: While I am generally familiar with the Cole memorandum, I am not privy to any internal Department of Justice data regarding the effectiveness and value of the policies contained within that memorandum. If I am fortunate enough to be confirmed as Attorney General, I will certainly review and evaluate those policies, including the original justifications for the memorandum, as well as any relevant data and how circumstances may have changed or how they may change in the future.

5. How will you implement and enforce the Death In Custody Reporting Act and the FBI National Use of Force database?

RESPONSE: It is my understanding that in December 2016, the Department of Justice issued a report on the progress of implementing the Death in Custody Reporting Act (DCRA), which requires federal, state, and local law enforcement agencies to report information regarding deaths of detainees, arrestees, or prisoners while they are in the custody of those agencies. The report indicated that guidelines for reporting that data will not be finalized before the second quarter of Fiscal Year 2017. It is also my understanding that the FBI is collaborating with major law enforcement organizations to develop a national use-of-force data collection effort, whereby law enforcement agencies may voluntarily collect and report data regarding the non-lethal use of force by their officers. If I am fortunate enough to be confirmed as Attorney General, I will support these efforts.

6. When you were the Alabama Attorney General, Alabama was the only state that handcuffed prisoners to “hitching posts” as punishment, cuffing them by both wrists to a pole at chest level with feet shackled for up to 10 hours at a time, unprotected from the sun, heat, or rain, and without access to water or even access to a bathroom. On March 27, 1995, the Department of Justice sent letters to you, as Alabama’s Attorney General, along with the Governor and other state officials declaring Alabama’s use of the hitching post unconstitutional and unjustified. However, the use of the hitching post continued. On June 27, 1995, the Justice Department sent a letter to the Alabama Department of Corrections stating, “We remain deeply concerned about your unwillingness to take any corrective action regarding the ‘rail’ or ‘hitching post.’ . . . [W]e have concluded that the use of the ‘rail’ is without penological justification.” The Alabama Department of Corrections was sued over the use of the hitching post in 1995 but continued to defend its use. At the hearing and in our private meeting, I asked you about the use of the hitching post in Alabama prisons when you were the Alabama Attorney General. However, you indicated in our meeting that you did not remember the issue, and your response at the hearing only addressed the use of chain gangs. Do you believe that the use of hitching posts is acceptable?

RESPONSE: In a series of cases decided years after I was no longer the Attorney General for the State of Alabama, the Supreme Court held that the use of hitching posts for punitive reasons unrelated to safety issues or emergencies is prohibited under the Eighth Amendment. If I am fortunate enough to be confirmed as Attorney General, I will enforce federal law as interpreted by the Supreme Court.

7. In *Hope v. Pelzer*, 536 U.S. 730, 744 (2002), the Supreme Court ruled that prison officials “violated clearly established law” when they continued to use the hitching post. Why didn’t you intervene to stop this unconstitutional practice when you were Alabama Attorney General?

RESPONSE: To my knowledge, in that case, the Supreme Court prohibited the use of the hitching post as applied in that case, due to the circumstances that case presented. The complaint in that case was not filed until after I was elected to the Senate, and the first filing by Alabama in that case was not until nearly two months after I had left the Alabama Attorney General’s Office.

8. In 2014, the Department of Justice concluded its investigation of allegations of sexual abuse and sexual harassment at the Julia Tutwiler Prison for Women, finding that:

For nearly two decades, Tutwiler staff have harmed women in their care with impunity by sexually abusing and sexually harassing them. Staff have raped, sodomized, fondled, and exposed themselves to prisoners. They have coerced prisoners to engage in oral sex. Staff engage in voyeurism, forcing women to disrobe and watching them while they use the shower and use the toilet. Staff sexually harass women, subjecting them to a daily barrage of sexually explicit verbal abuse.

Also, there are federal lawsuits pending against Alabama state prisons challenging unconstitutional conditions, including high rates of violence and inadequate medical and

mental health treatment. On October 6, 2016, the Justice Department announced that it had opened a statewide investigation into Alabama's prisons for men, which "will focus on whether prisoners are adequately protected from use of excessive force and staff sexual abuse by correctional officers, and whether the prisons provide sanitary, secure and safe living conditions."

- a. Will you ensure that the Department of Justice continues all of these investigations into conditions in Alabama prisons?

RESPONSE: Safe and secure prison conditions are an essential part of our justice system. If I am fortunate enough to be confirmed as Attorney General, I will ensure that violations of federal law in prison facilities are investigated and remedied no matter the state, and that our justice system protects inmates and those guarding them.

- b. As a public official in Alabama, what have you done to ensure that Alabama prison facilities comply with the Constitution?

RESPONSE: It is vital that our prisons be able to secure prisoners and maintain order, but it is also important that they be a safe environment for prisoners and those who guard them. That is why, in 2003, Senator Kennedy and I introduced the Prison Rape Elimination Act, which has been critical in making prisons a safer and more humane environment. If I am fortunate enough to be confirmed as Attorney General, I will continue to look for solutions like this to the challenges faced by correctional facilities.

9. The President-elect has claimed that millions of people voted illegally in the presidential election.
 - a. Do you agree, and if so, on what evidence do you rest your claim?

RESPONSE: As I testified before the Committee, I am not aware of the context or the basis for the President-elect's remarks and have conducted no research nor reviewed data on the issue.

- b. If not, do you contend that there were instances of voter fraud in the 2016 presidential election, and on what evidence do you base your claim?

RESPONSE: As I testified before the Committee, I believe that fraudulent activities regularly occur during election cycles. There is no reason to believe that this election is any exception. I would also note that the bipartisan Carter-Baker Commission report, "Building Confidence in U.S. Elections: Report of the Commission on Federal Election Reform," found that "there is no doubt" that voter fraud occurs, that "a good ID system could deter, detect, or eliminate several potential avenues of fraud – such as multiple voting or voting by individuals using the identities of others or those who are deceased – and thus it can enhance confidence," and that "most advanced democracies have fraud-proof voting or national ID cards, and their democracies remain strong."

- c. How do you plan on using the resources of the Department of Justice to investigate

alleged instances of voter fraud in the 2016 presidential election?

RESPONSE: The Department of Justice has a number of important responsibilities in this area, including investigating and prosecuting election fraud that violates federal criminal statutes, as well as investigating and bringing suit to prevent violations of federal voting rights laws. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department's jurisdiction, including the laws regarding voting, in a fair and even-handed manner. Any specific enforcement decisions or actions would depend upon the facts and circumstances of each case.

10. A 2014 study by Justin Levitt published in the *Washington Post* found that since 2000, there were only 31 credible allegations of voter impersonation, during a period in which there were 1 billion ballots cast. In light of this report, do you think it is justifiable for the Department of Justice to spend resources on combatting in-person voter fraud?

RESPONSE: Please see responses to 9(b) and (c).

11. Do you agree that certain photo ID laws can disenfranchise otherwise eligible voters and disproportionately and unreasonably burden African-American and Latino voters?

RESPONSE: As I testified at the hearing, government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote. The voting rights of Americans are protected by federal law, including the Voting Rights Act. The Supreme Court held in *Crawford v. Marion County Election Board*, that voter identification laws are neither *per se* unconstitutional, nor do they necessarily violate the Voting Rights Act. The analysis of such laws are specific to the particular law, the jurisdiction, and a wide range of factors that Congress has identified as relevant in determining whether a particular voting practice comports with the Voting Rights Act. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department's jurisdiction, and particularly the laws regarding voting, in a fair and even-handed manner.

12. The FBI reported that hate crimes targeting Muslims increased by 67% in 2015. How do you believe the Department of Justice should use its resources to address rapid, documented increases in crimes such as this one?

RESPONSE: I believe that Americans of all backgrounds and religious faiths are entitled to equal protection of the law. I share your commitment to protecting all Americans and, if I am fortunate enough to be confirmed as Attorney General, I will work with our law enforcement professionals to enforce laws and to tailor enforcement efforts as necessary.

13. Would you ever rely on *Korematsu v. United States*, 323 U.S. 214 (1944), as precedent?

RESPONSE: I would not positively cite *Korematsu v. United States* as precedent.

14. Do you believe internment of American citizens or residents is lawful?

RESPONSE: I am unaware of any proposal for internment of American citizens or residents. The *Korematsu* lesson our nation learned in WWII from the unjustified internment of Japanese citizens and residents must never be forgotten. This was a national tragedy that cannot be allowed to happen again. No person or groups of persons should be interned without a clear legal basis.

15. Last year, without debate or congressional action, Rule 41 of the Federal Rules of Criminal Procedure was amended to expand the government's ability to obtain a warrant and remotely access electronic devices. The rules now allow federal prosecutors to seek a warrant in any district "where activities related to a crime may have occurred." Will you instruct the Department of Justice to issue guidance on how this should be interpreted?

RESPONSE: It is my understanding that the new version of Federal Rule of Criminal Procedure 41 regarding venue took effect less than two months ago, after Congress chose not to take action to disapprove of the changes adopted by the Supreme Court. As this change is relatively new and I have not had a chance to study its impact, I do not yet know whether additional guidance is necessary.

16. Do you believe that religious institutions, including mosques, should be targeted for warrantless surveillance?

RESPONSE: I do not believe that a building or organization should be targeted for surveillance because it is a religious institution.

17. What will you do to ensure vigorous enforcement of the Ethics in Government Act, bribery and honest services laws, and anti-nepotism laws?

RESPONSE: If confirmed as Attorney General, I will ensure that the Department of Justice properly and professionally enforces all federal laws within its jurisdiction, including those involving government ethics, bribery, and anti-nepotism. I will ensure that Department personnel comply with the financial disclosure requirements of the Ethics in Government Act, *see* 5 U.S.C. § 101, and follow the rules of the Office of Government Ethics, *see id.*, § 402, 404, in a just and proper manner.

18. What is your interpretation of the effect of the Emoluments Clause on the ability of President-elect Trump or his family members to continue doing business with foreign governments after inauguration?

RESPONSE: The question posited is not one on which I have devoted any study, and would depend on a number of facts and specific circumstances. Therefore, I am not in a position to offer even an informal opinion on it. If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

- a. Do you understand the arrangements announced at the President-elect's press conference on January 11, 2017 to be sufficient to comply with the Emoluments

Clause?

RESPONSE: The question posited is not one on which I have devoted any study. Therefore, I am not in a position to offer even an informal opinion on it. However, President Trump has stated that he will comply with his obligations under the Foreign Emoluments Clause, and in fact, that he will take additional steps beyond what may be required under the Constitution.

- b. If your answer is “yes,” what is the basis for your understanding that the President-elect is not receiving monetary or other benefits from foreign entities through his continued ownership interests in the Trump Organization, even if he does not have day-to-day control?

RESPONSE: See response to 18(a).

19. President-elect Trump, through the Trump Organization, has a contract with the U.S. Government that allows the Trump International Hotel Washington, D.C. to lease the Old Post Office property. This contract, however, contains a clause stating that “No . . . elected official of the Government of the United States . . . shall be admitted to any share or part of this lease, or to any benefit that may arise therefrom.” If President-elect Trump does not divest his interests in this hotel prior to inauguration, the question of whether this contract has been breached will need to be decided. As Attorney General, your responsibilities would include enforcement of government contracts like this one.

- a. If President-elect Trump does not divest his interests in the Trump International Hotel Washington, D.C., will you enforce the contract?

RESPONSE: The question posited is not one on which I have devoted any study and would depend on a number of facts and specific circumstances with which I am not familiar. Therefore, I am not in a position to offer even an informal opinion on it.

- b. What steps do you commit to taking to prove to the public that the Justice Department’s actions and your own will not be influenced in any way by the President-elect’s monetary interests?

RESPONSE: If it is determined that the President has a conflict with the potential to influence, or to appear to influence, the impartiality of the Department of Justice, I will take whatever steps are necessary to ensure that the Department of Justice represents the interests of the American people in the objective enforcement of the law. Any such decisions will depend on the specific facts and circumstances of the matter; therefore, it would be premature for me to announce how the Department might proceed.

20. The Office of Legal Counsel (OLC) supports the Attorney General in fulfilling his responsibility to provide legal advice to the President, heads of executive departments, and heads of military departments.

- a. Do you agree that, as discussed in the Best Practices for OLC Legal Advice and Written Opinions (May 16, 2005 and July 16, 2010), the Attorney General and OLC

should provide “candid, independent, and principled advice—even when that advice may be inconsistent with the desires of policymakers” including the President?

RESPONSE: I believe that the Attorney General and the Office of Legal Counsel should always provide candid, independent, and principled advice.

- b. What standard do you believe must be met before an Attorney General or OLC opinion is overturned?

RESPONSE: As I testified before the Committee, the Office of Legal Counsel is a vitally important office which opines on important legal issues facing the Executive Branch. The OLC should render objective decisions, and thus should overturn a previous OLC opinion only after the most careful study and reflection.

21. The total volume of worldwide piracy in counterfeit products is estimated to be 2.5% of world trade (USD \$461 billion). Counterfeit products such as fake pharmaceutical drugs or faulty electronics can cause direct physical harm to Americans, and the profits from these illicit sales often go directly to the coffers of organized crime. How will you use Department of Justice resources to address this growing threat?

RESPONSE: Intellectual property crime is a serious problem that threatens the safety of American consumers, the success of American companies, and even our national security. If I am fortunate enough to be confirmed as Attorney General, I will ensure the Department of Justice investigates violations of federal law, and prosecutes whenever appropriate, to safeguard the American people and the American economy.

22. The Department of Justice has made substantial efforts to combat trade secret theft by foreign nationals. In 2009, only 45 percent of federal trade secret cases were against foreign companies; this number increased to over 83 percent by 2015.

- a. Will you prioritize enforcement actions to combat trade secret theft by foreign nationals?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will devote the resources of the Department of Justice to achieving the Department’s missions in many areas, and the priorities of each enforcement action will be an evolving decision based on the facts, the needs at the time, and the resources available to the Department, so that we can best ensure justice for the American people and entities, including those affected by trade secret theft.

- b. How do you plan to continue the Department of Justice’s efforts to successfully target criminal trade secret theft?

RESPONSE: The Department of Justice’s efforts to combat trade secret theft involve coordination between multiple components that have jurisdiction and bring relevant expertise to these issues. If I am fortunate enough to be confirmed as Attorney General, I will ensure that the Department regularly reviews the allocation of resources and the results of these efforts to determine the right methods to improve the work to combat trade secret theft.

23. The United States' scientific and technological leadership is a prime reason for our economic advancement over many decades. Our innovation ecosystem is driven by the rewards of scientific innovation made possible by a vibrant capitalist economy. It relies on generous funding of scientific research and an educational system that is broad-based at the bottom and unparalleled in availability and quality at the top. It further relies on immigration, a commitment to sustained investment, and certainty provided by the rule of law. How will the Department of Justice, under your leadership, work to support components of the Executive Branch with missions focused on promoting scientific and technological progress, such as the National Institutes of Health, the National Institutes of Standards and Technology, the National Oceanic and Atmospheric Administration, and the United States Patent and Trademark Office?

RESPONSE: The U.S. Department of Justice defends these agencies, and others, before the courts. If I am fortunate enough to be confirmed as Attorney General, the Justice Department will properly and vigorously represent these agencies when they are sued, and ensure that their views on legal issues are taken into consideration in such matters.

24. Do you support the revocation or modification of the 14th Amendment's constitutional guarantee of birthright citizenship?

RESPONSE: I have not studied this issue in-depth. If I am confirmed, I will enforce the law and the Constitution, and recognize that Congress may determine whether to enact changes to the law.

25. You previously have expressed support for Arizona's SB 1070 and Alabama's HB 56, but both laws contained unconstitutional provisions.

- a. Would you have the Justice Department intervene if a state passes a law like Arizona's SB 1070 or Alabama's HB 56?
- b. Which portions of these laws do you understand to be constitutional, if any?

RESPONSE: The constitutionality of state laws is evaluated on a case-by-case basis before a determination is made by the Attorney General to intervene. Any specific decisions or actions would depend upon the facts and circumstances of each case and therefore I am unable to answer the hypothetical. I would defer to the Supreme Court's reasoning as to which portions of these laws were found to be constitutional.

26. The Victims of Child Abuse Act (VOCAA) authorizes funds to directly support establishment and operation of local and regional Children's Advocacy Centers (CACs), as well as training and technical assistance related to improving the investigation and prosecution of child abuse and neglect. These centers are intended to coordinate a multidisciplinary response to child abuse (e.g., law enforcement, child protection/social services, medical services, mental health) in a manner that ensures child abuse victims receive the support services they need and do not experience the investigation of child abuse as an added trauma. Close to 312,000 children were served at CACs in 2015. Will you include full funding for the Victims of Child Abuse Act in the Department of Justice's proposed budget?

RESPONSE: The aims of VOCAA are noble and critically important. I am grateful to have had the opportunity to work with you on this important legislation. I have been a long and vigorous supporter of CACs and served on the board of one in Mobile, Alabama. These centers have produced a positive sea change in the way children's cases have been handled. If I am fortunate enough to be confirmed as Attorney General, I will endeavor to utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law and, in particular, protections for children in danger of abuse and neglect.

27. When the Justice Department decided not to defend the Defense of Marriage Act (DOMA), the Department "notif[ied] the courts of [the Department's] interest in providing Congress a full and fair opportunity to participate in the litigation in [the DOMA] cases." If the Department of Justice decides it cannot defend a law, will you take whatever steps are necessary to ensure that Congress or others can continue to defend the law?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will ensure that the Justice Department notifies the other branches of the government, as appropriate, on the rare occasion that such a decision is reached.

28. The Department of Justice established the Violence Reduction Network in 2014. VRN provides a comprehensive approach to reducing violent crime in communities around the country by deploying federal resources in a targeted, strategic, data-driven way to assist state and local law enforcement. Through its participation in the VRN, the Wilmington Police Department created a new homicide unit, and the homicide clearance rate rose from less than 10 percent to more than 50 percent on current-year cases.

- a. How will you support the sustainability of the Violence Reduction Network improvements in cities that have participated in the program?
- b. Will you expand the VRN to work with additional cities?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will endeavor to utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law. While I am not familiar with the details of the Violence Reduction Network, I will carefully evaluate any current departmental practices and the effectiveness of those practices to aid in the administration of justice. The positive results cited above are remarkable and could justify replication.

29. Studies show that 5 percent of gun dealers sell 90 percent of guns that are subsequently used in criminal activity. How will you direct the Department of Justice to instruct the Bureau of Alcohol, Tobacco, Firearms and Explosives to crack down on dealers that funnel thousands of crime guns to city streets?

RESPONSE: When I served as a United States Attorney, protecting the public from violent gun-related crime was among my top priorities. As I testified before the Committee, I will enforce federal background check laws. Properly enforced, the federal gun laws can reduce crime in our cities and communities. Those who deliberately violate federal gun laws should be investigated and prosecuted. If I am fortunate enough to be confirmed as Attorney General, I will support the continued enforcement of federal gun laws, as appropriate, and focus on

criminal offenders.

30. The Justice Department has supported the Youth Mentoring Program, which provides much needed funding to organizations like Boys & Girls Clubs of America. In my state of Delaware, those mentoring funds support programming to 44,100 young people between the ages of 5-18 years old. As Attorney General, will you ensure that the Youth Mentoring Program will be fully funded?

RESPONSE: While I am not familiar with the specifics of the funding associated with this particular program, if confirmed, I will make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in the administration of justice. I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law. I will note that I have personally observed the work of the Boys and Girls Clubs and believe them to be important and cost-effective programs.

31. In May 2015, the President's Task Force on 21st Century Policing made a series of recommendations aimed at making communities safer, including developing lasting positive connections between law enforcement and the communities they serve and improving youth attitudes toward law enforcement. How will the Department of Justice promote and support partnerships between law enforcement and young people to promote stronger, safer communities?

RESPONSE: As I testified before the Committee, trust and partnerships between law enforcement and the communities they protect are essential to the ability of officers to keep those communities safe. If I am fortunate enough to be confirmed as Attorney General, working with and supporting State and local law enforcement in these efforts will be one of my top priorities.

**Nomination of Senator Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 30, 2017**

QUESTIONS FROM SENATOR COONS

1. In response to Question for the Record 1(b) regarding the use of solitary confinement, you stated that “[t]he need to maintain safety is especially true for juveniles, who often present unique correctional challenges.”
 - a. Why do you believe that there is a greater need for maintaining safety for juveniles compared to other incarcerated people?
 - b. Why do you believe that there are “unique correctional challenges” presented by incarceration of juveniles that impact the need for the use of solitary confinement?
 - c. What are these “unique correctional challenges”?

RESPONSE to (a) – (c): There have been studies and research demonstrating that juveniles represent unique incarceration challenges due to the fact that they are usually in earlier stages of psychological, mental, and physical development, and therefore can be particularly vulnerable, especially to the danger of suicide. If I am fortunate enough to be confirmed as Attorney General, I will evaluate these studies and our juvenile justice practices to ensure that our incarceration programs for juveniles are safe and effective.

2. Question for the Record 2 noted that individuals are being jailed throughout the country when they are unable to pay a variety of court fines and fees, often with little or no attempt to learn whether these individuals could afford to pay or to work out alternatives to incarceration. In your response, you stated that you would “make every effort to protect the constitutional rights of individuals in the federal criminal justice system.” However, this is not a problem confined to the federal criminal justice system. For example, a Department of Justice report (available at https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) found that traffic offenses such as expired license plates and failure to register a vehicle “comprised the majority of offenses that led to a[n arrest] warrant” in Ferguson, Missouri, besides Failure to Appear ordinance violations. If you are confirmed, how will the Department of Justice work to end the incarceration of individuals for failure to pay fines and court fees when they cannot afford to pay them?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will evaluate such practices to ensure that the constitutional rights of all incarcerated individuals are protected.

3. Question for the Record 3 asked “how” you would improve access to justice for indigent criminal and civil defendants. Your response stated that you would “work to ensure that the constitutional rights of defendants are protected.”
 - a. What affirmative steps will you take to improve access to justice?
 - b. How will you support the work of the Department of Justice Office for Access to Justice?

RESPONSE to (a) – (b): I am not familiar with the inner-workings or current practices of the Office for Access to Justice, so it would be difficult for me to opine as to how these practices could be improved or supported. If I am fortunate enough to be confirmed as Attorney General, I will evaluate current practices or policies in place by the Department and the effectiveness of those practices to aid in the administration of justice.

4. With respect to Question for the Record 4, you previously stated you are “generally familiar with the Cole memorandum” but declined to explain whether you would follow the Department of Justice’s established practice of focusing Controlled Substance Act enforcement to address the most significant threats. The Cole memorandum is available at <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.
 - a. Do you agree that the Department of Justice’s resources are best focused on “significant threats” and that individuals who use medical marijuana in accordance with state law do not present such a threat?
 - b. Do you believe that prosecution of the seriously ill is a good use of the Department of Justice’s limited resources?

RESPONSE to (a) – (b): If I am fortunate enough to be confirmed, I would endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure full enforcement of all federal laws. A decision to prosecute is made based on the law and the unique circumstances surrounding a case; therefore, I cannot offer an opinion that would fit every instance.

5. With respect to Questions for the Record 6 and 7 regarding Alabama’s use of the hitching post, you stated that the Complaint in *Hope v. Pelzer*, 536 U.S. 730 (2002) “was not filed until after [you] w[ere] elected to the Senate.” Other lawsuits were also pending while you were Alabama Attorney General. See *Austin v. Hopper*, 15 F. Supp. 2d 1210 (1998) (relevant claims filed in September 1995); see also *Fountain v. Talley*, 104 F. Supp. 2d 1345 (M.D. Ala. 2000) (filed in 1994). Question for the Record 6 specifically refers to two letters from the Department of Justice that were sent to you on March 27, 1995, about two months into your two years of service as Alabama Attorney General, informing you of the Justice Department’s findings that the use of the hitching post was “indefensible” and “violates constitutional standards” and that “[p]ractices of this sort cannot be justified no matter how many superficial safeguards exist.” These letters are available at https://www.judiciary.senate.gov/download/hitching-post-report_-tutwiler and https://www.judiciary.senate.gov/download/hitching-post-report_-easterling. What, if any, actions did you take to stop the use of the hitching post when you were serving as Alabama Attorney General?

RESPONSE: As I previously stated, the Supreme Court in *Hope v. Pelzer* prohibited the use of the hitching post only as applied in that case, due to the circumstances that case presented. The complaint in that case was not filed until after I was elected to the Senate, and the first filing by Alabama in that case was not until nearly two months after I had left the Alabama Attorney General’s Office.

6. Question for the Record 8 cites several recent or pending federal investigations and lawsuits related to the treatment of prisoners in Alabama prison facilities and inquires as to your efforts to ensure Alabama’s prison facilities comply with the Constitution. Your

response cites your 2003 introduction of the Prison Rape Elimination Act.

- a. As U.S. Attorney for the Southern District of Alabama and as Alabama Attorney General, what actions did you take to ensure that Alabama prison facilities complied with the Constitution?
- b. During your time in the Senate since 2003, what have you done to address the continued mistreatment of prisoners?

RESPONSE to (a) – (b): Throughout my career, I have worked to address challenges facing the justice system. My efforts include leading the bipartisan passage of the Prison Rape Elimination Act. If I am fortunate enough to be confirmed as Attorney General, I will continue to seek solutions to the challenges facing incarceration facilities.

7. With respect to Question for the Record 9(b), you stated that you “believe that fraudulent activities regularly occur during election cycles,” and that “[t]here is no reason to believe that this election is any exception.” You cited the 2005 report from the Carter-Baker Commission on Federal Election Reform. The report has been criticized as deeply flawed for its lack of transparent process, failure to consult with recognized experts, and minimal attempt to gather empirical data to support its conclusions.
 - a. Have you reviewed and considered criticisms of the Carter-Baker Commission report, such as those reported in the Brennan Center’s report (available at <https://www.brennancenter.org/press-release/voting-rights-groups-respond-carter-baker-commission-report-election-reform>)?
 - b. What empirical evidence do you have to support your belief that voter fraud “regularly occur[s]”?
 - c. Do you believe that millions of individuals voted illegally in the 2016 U.S. presidential election?

RESPONSE to (a) – (c): As I previously stated, I believe that fraudulent activities regularly occur during election cycles. There is no reason to believe that this election is any exception. I would also note that the views of the Brennan Center are not universally accepted.

8. Question for the Record 10 references a 2014 report in the *Washington Post* (available at https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/?utm_term=.dc645a28fb6b) finding that since 2000, there were only 31 credible allegations of voter impersonation, during a period in which there were 1 billion ballots cast. You previously responded, “Please see responses to 9(b) and (c),” but these responses do not address whether the expenditure of Department of Justice resources to combat in-person voter fraud is justified in light of this study. In light of the 2014 report by Justin Levitt, do you think it is justifiable for the Department of Justice to spend resources on combatting in-person voter fraud?

RESPONSE: Whether an investigation or prosecution of a voter fraud case or any other case is justified is a decision based on the unique circumstances and evidence presented in each case.

9. In your response to Question for the Record 11, you stated that the “government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote.”

Recently, the Fifth Circuit, in an en banc decision, affirmed that a Texas Statute “violates Section 2 of the Voting Rights Act through its discriminatory effects” on minorities. *Veasey v. Abbott*, 830 F.3d 216, 272 (5th Cir. 2016). The Department of Justice was recently granted a 30-day continuance to allow additional time to brief the new leadership of the Department of Justice on this case and the issues to be addressed. Do you believe that the Department of Justice should continue to vigorously litigate this case, where there has been a direct violation of the Voting Rights Act?

RESPONSE: As I have not yet been confirmed as Attorney General, I have not received the briefings referenced and do not have access to the internal information available to the Department. Accordingly, I cannot yet make a determination as to this specific case.

10. In Response to Question for the Record 14, you stated that “[n]o person or groups of persons should be interned without a clear legal basis.”
 - a. Do you believe it would be possible to demonstrate a clear legal basis to intern U.S. citizens and/or residents?
 - b. If your answer is “yes,” please cite specific justifications and sources you would rely upon.

RESPONSE to (a) – (b): As I previously stated,

“I am unaware of any proposal for internment of American citizens or residents. The *Korematsu* lesson our nation learned in WWII from the unjustified internment of Japanese citizens and residents must never be forgotten. This was a national tragedy that cannot be allowed to happen again. No person or groups of persons should be interned without a clear legal basis.”

11. In response to Question for the Record 16, you stated that you “do not believe that a building or organization should be targeted for surveillance because it is a religious institution.”
 - a. Do you believe that a religious institution should be targeted because it is of a particular faith, *i.e.*, should a religious institution be targeted because it is a Muslim institution?

RESPONSE: I believe that my original response answers this question.

- b. Will you commit to instructing the FBI that the agency should not surveil a house of worship unless there is probable cause of criminal activity?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will work to ensure that any Department of Justice surveillance of any institution or person, regardless of religion, is conducted in accordance with applicable law.

12. In your response to Question for the Record 18, you stated that “President Trump has stated that he will comply with his obligations under the Foreign Emoluments Clause, and in fact, that he will take additional steps beyond what may be required under the Constitution.” However, the plan President Trump outlined on January 11, 2017 (to address his potential conflicts and violation of the Emoluments Clause) did not require

President Trump to relinquish ownership of his business or to establish a blind trust. The plan also did not indicate that President Trump would seek the consent of Congress to keep the benefits he receives from foreign entities through his businesses. The Director of the Office of Government Ethics has stated that this plan breaks with the practice of past presidents.

- a. Based on these facts, has President Trump, in your view, complied with the requirements of the Emoluments Clause?
- b. On January 23, 2017, Citizens for Responsibility and Ethics in Washington, supported by a bipartisan group of past presidential ethics lawyers and constitutional law scholars, filed a complaint against President Trump for violating the Emoluments Clause (available at <http://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2017/01/23222937/Complaint-17-458.pdf>). Will you recuse yourself from this matter, given your personal involvement in President Trump's campaign in which he repeatedly stated his views about what he did and did not have to do to avoid conflicts of interest?

RESPONSE to (a) – (b): As I have previously stated, this question is not one on which I have devoted any study. Therefore, I am not in a position to offer even an informal opinion on it.

13. In response to Question for the Record 20 regarding the Office of Legal Counsel (OLC):
 - a. You agreed with prior Best Practices for OLC Legal Advice and Written Opinions (May 16, 2005 and July 16, 2010) that OLC should provide “candid, independent, and principled advice,” but you did not comment on the second portion of the quoted statement in Question 20(a), that OLC should provide such candid, independent, and principled advice “even when that advice may be inconsistent with the desires of policymakers” including the President. It is your view that OLC should provide “candid, independent and principled advice—even when that advice may be inconsistent with the desires of policymakers” including the President?

RESPONSE: The nature of “candid, independent and principled advice” is that it is candid, independent and principled, which by definition means it may be inconsistent with the desires of policymakers.

- b. You noted that an OLC opinion should be overturned “only after the most careful study and reflection,” but Question 20(b) asked what standard should be met before an Attorney General or OLC opinion is overturned. What do you contend is the appropriate legal standard?

RESPONSE: If a serious question arose as to the legitimacy of a particular OLC opinion, the Attorney General should review it to determine whether or not it contains a reasonable interpretation of the law. If, after careful study and reflection, the Attorney General found that it did not, it would be necessary to overturn it.

14. In response to Question for the Record 24 regarding the 14th Amendment's constitutional guarantee of birthright citizenship, you indicated that you “have not studied this issue in-depth” and would “enforce the law and the Constitution, and recognize that Congress may

determine whether to enact changes to the law.”

- a. Based on your review of the 14th Amendment, *United States v. Wong Kim Ark*, 169 U.S. 649 (1898) and its progeny, and U.S. law, do you believe a constitutional amendment would be required for the U.S. to stop recognizing children born in the U.S. to undocumented immigrants as U.S. citizens?
- b. In an interview with Laura Ingraham in August 2015, you reportedly stated that it is “not an extreme position” to interpret the 14th Amendment such that a person born in the U.S. to parents who are undocumented is not entitled to U.S. citizenship at birth (available at <http://dailycaller.com/2015/08/19/jeff-sessions-backs-trump-on-birthright-citizenship-absolutely-not-an-extreme-position-video/>). Is that your position?

RESPONSE to (a) – (b): As I have previously stated, I am aware that scholars have differing views and have not conducted the careful research needed to express an opinion on the subject.

15. In response to Question for the Record 25 regarding Arizona’s SB 1070 and Alabama’s HB 56, you indicated that “[t]he constitutionality of state laws is evaluated on a case-by-case basis” and that you “would defer to the Supreme Court’s reasoning as to which portions of these laws were found to be constitutional.”
 - a. What is your understanding of the judicial rulings in *Arizona v. United States*, 132 S. Ct. 2492 (2012), *Hispanic Interest Coalition of Alabama v. Governor of Alabama*, 691 F.3d 1236 (11th Cir. 2012), and *United States v. Alabama*, 691 F.3d 1269 (11th Cir. 2012)?
 - b. Will you follow the law as set forth in these rulings?

RESPONSE to (a) – (b): These cases, and others like them, have been based on an analysis of when federal immigration law preempts state laws on immigration. If I am confirmed as Attorney General, it will be my duty to enforce federal immigration laws as written and as interpreted by the courts.

16. In response to Question for the Record 29 regarding Justice Department instructions to the Bureau of Alcohol, Tobacco, Firearms and Explosives, you noted that if confirmed, you “will support the continued enforcement of federal gun laws, as appropriate, and focus on criminal offenders.” What factors will you consider when determining whether it is appropriate to enforce federal gun laws?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will support the continued enforcement of federal gun laws based on careful evaluation of the pertinent facts and law in each case and the resources available to the Department. Effective enforcement of gun laws is a valuable tool in reducing violence in America and will be a priority.

17. In response to Question for the Record 30 regarding the Justice Department’s support for the Youth Mentoring Program, you indicated that you were “not familiar with the specifics of the funding associated with this particular program,” and, if confirmed, you would “make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in

the administration of justice.” What metrics will you use to evaluate Department of Justice programs, and what tools will you use to judge the effectiveness of these programs in aiding the administration of justice?

RESPONSE: The effectiveness of any program within the Department would be measured by the mission and stated objectives of that program, the success of the program in meeting those objectives, and the efficiency with which program resources were utilized.

18. In response to Question for the Record 31, you indicated that, if confirmed, “working with and supporting State and local law enforcement” to build trust and partnerships with the communities they serve will be a top priority, but you did not indicate how you will do so. This question referenced the recommendations of the President’s Task Force on 21st Century Policing, which are available at https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf. Please identify any recommendations you will support to build trust and partnerships between law enforcement and the communities they serve.

RESPONSE: State and local law enforcement agencies face unique challenges, just as they also face challenges similar to federal law enforcement. If I am fortunate enough to be confirmed as Attorney General, I will listen to the concerns and experiences of these agencies and will work with and support them in dealing with these challenges and building partnerships with the communities they serve.

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
January 17, 2017**

QUESTIONS FROM SENATOR DURBIN

For any questions with subparts, please respond to each subpart separately.

1. When we met in my office prior to your confirmation hearing, I talked with you about the epidemic of gun violence facing the City of Chicago.

In September, Mayor Emanuel put forward a public safety plan; I handed you a copy of it at our meeting. The plan calls for hiring nearly a thousand more Chicago police officers and detectives. It calls for more training and equipment, like body-worn cameras and gunshot detection technology. It calls for more mentoring programs for youth. And it calls for policing reforms to rebuild trust and cooperation between the police and the community.

All of these are areas where the Justice Department can help. The COPS grant program helps put local police departments put more cops on the beat. The Byrne-JAG program helps them buy equipment. The Office of Juvenile Justice and Delinquency Prevention provides mentoring and violence prevention funds. And the Justice Department was invited in by the mayor, the state Attorney General and me to review the Chicago Police Department's policies and practices.

I believe the Justice Department must sustain and increase its support for Chicago in light of the crisis there. On January 2, President-elect Trump tweeted that Mayor Emanuel should ask for federal help in light of the violence. I was surprised in our meeting when I asked if you would support programs like COPS and Byrne-JAG as Attorney General and you replied "well, I'm going to take what Congress gets me." I then asked if you would include those grant programs in Justice Department budget requests and you said, "well, I'll think about it. I've thought in the past the money is not best spent on COPS." Your comments troubled me, because cutting these programs is the last thing Chicago needs now.

Now that you have had further time to think about it, please answer the following questions:

- a. **Will you commit that, if you are confirmed as Attorney General, you will not seek to cut Justice Department grant funding for the City of Chicago and instead seek increases in that funding to help address the gun violence crisis there?**

RESPONSE: I am committed to working with you and Mayor Emanuel on addressing the violent crime problem in Chicago. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes in Chicago and elsewhere throughout the country, and to partner with state and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely providing a particular amount

of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

- b. Will you commit to provide federal resources and support to improve Chicago's public safety, including helping the City to (1) hire additional officers and detectives through the COPS program; (2) purchase body-worn cameras and other equipment through the Byrne-JAG program and other Office of Justice Programs initiatives; (3) boost mentoring and violence prevention programs through the Office of Juvenile Justice and Delinquency Prevention and other Office of Justice Programs initiatives; and (4) reform its policing practices pursuant to the investigation findings and recommendation made by the Department on January 13? Please respond to each subpart of this questions separately.**

RESPONSE: I agree with you that each of the federal resources mentioned in your question are important for improving public safety and I am committed to working with you and Mayor Emanuel on addressing the violent crime problem facing Chicago. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes in Chicago and elsewhere throughout the country, and to partner with state and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely providing a particular amount of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

- c. Will you commit not to request cuts to the COPS Hiring Program below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**

RESPONSE: I believe the COPS Hiring Program serves an important purpose, particularly given the increase in violent crime across the country and the challenges facing State and local law enforcement and the communities they protect and serve. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes throughout the country, and to partner with State and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely providing a particular amount of federal resources for certain purposes without knowing how circumstances might change needs or priorities in the future.

- d. Will you commit not to request cuts to the Byrne-JAG program below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**

RESPONSE: I believe the COPS Hiring Program serves an important purpose, particularly given the increase in violent crime across the country and the challenges facing State and local law enforcement and the communities they protect and serve. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other throughout the country, and to partner with State and local

law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely provide a particular amount of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

- e. Will you commit not to request cuts to the Office of Juvenile Justice and Delinquency Prevention below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**

RESPONSE: I believe the Office of Juvenile Justice and Delinquency Prevention serves an important purpose. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes throughout the country, and to partner with State and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely provide a particular amount of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

2. On January 13, the Department of Justice announced the findings of an investigation into the Chicago Police Department (CPD) that had been initiated on December 7, 2015 by the Civil Rights Division and the U.S. Attorney's Office for the Northern District of Illinois. The investigation had been requested by a number of Illinois federal, state and local officials, including myself, Illinois Attorney General Lisa Madigan, and Chicago Mayor Rahm Emanuel, after the release of the videotape of the fatal police shooting of Laquan McDonald. The investigation lasted for 13 months and was conducted with thoroughness and professionalism by career Department employees.

The Department's findings reveal that the Department found reasonable cause to believe that the CPD has engaged in a pattern or practice of using force, including deadly force, in violation of the Constitution. The Department largely attributes this pattern or practice of unconstitutional force to deficiencies in CPD's training, supervision, accountability, and data collection systems. The findings also reveal that CPD's pattern or practice of unreasonable force falls disproportionately on predominantly minority neighborhoods, and that some CPD officers have engaged in racially discriminatory conduct. The findings are sobering, and they make clear that CPD must undergo significant reforms to restore the trust and confidence of the communities it polices and also to boost the morale of CPD officers who are committed to engaging in effective, ethical and active policing but who feel they are insufficiently trained and supported in that effort.

On January 13, the City of Chicago and the Justice Department signed an Agreement in Principle in which they commit to negotiate reforms over the coming months to ensure sustainable, constitutional and effective policing in Chicago. The Agreement states:

Going forward, the Parties commit to negotiate in good faith to reach a comprehensive settlement in the form of a consent decree to be entered as an order of the U.S. District Court for the Northern District of Illinois. The Settlement Agreement will include

reforms of CPD's use of force practices and accountability mechanisms, as well as its training, community policing, supervision, data collection, transparency, officer wellness systems and promotion practices.

When I met with you prior to your confirmation hearing, I told you about this Justice Department investigation into the CPD and asked you about moving forward with a consent decree upon the issuance of the investigation's findings. You replied that you "don't know anything about" the investigation and that you "would have to study it." At your confirmation hearing, you responded to a question by Senator Hirono by saying "[t]he consent decree itself is not necessarily a bad thing, could be a legitimate decision...I just think that caution is always required in these cases."

It was the assessment of the career Justice Department professionals who conducted the CPD investigation that the CPD must undergo significant reforms to rebuild trust with the communities most challenged by violent crime and that "it is not likely to be successful in doing so without a consent decree with independent monitoring."

a. Will you commit that, if you are confirmed, you will honor the Agreement in Principle that the Justice Department signed on January 13?

RESPONSE: While I have not been privy to the discussions that led to the aforementioned agreement, I believe it is important to partner with law enforcement agencies that require assistance, and the recommendations made by career staff can be useful in attempting to achieve those goals. As I testified before the Committee, I think that there are concerns with the impact of using consent decrees for policy purposes and that caution should be used in these cases. If I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate this agreement and the internal information that led to that agreement, and continue to search for solutions to problems in policing so we can best protect the rights of individuals while also protecting the public from crime. I look forward to working with you, the City of Chicago, and the Chicago Police Department on this important matter.

b. Will you commit that, if you are confirmed, you will work with the City to implement the reform recommendations made by the Department, including through the use of a consent decree?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate this agreement and the internal information that led to that agreement, and continue to search for solutions to problems in policing so we can best protect the rights of individuals while also protecting the public from crime. I look forward to working with you, the City of Chicago, and the Chicago Police Department on this important matter.

3. I sent a letter on December 13 to Attorney General Lynch inquiring whether there is an ongoing criminal investigation by career Justice Department employees into Russian interference in the 2016 U.S. presidential election. That night Attorney General Lynch stated in a television interview that an investigation is ongoing.

When you and I met prior to your confirmation hearing, I asked if you would continue this investigation if you were confirmed as Attorney General. You responded “If there’s a basis to continue it, yes. There may be. But Congress also has investigations ongoing.”

I was troubled by your answer. Congress does have a key role to play in investigating Russia’s actions and amplifying the Obama Administration’s sanctions on Russia. But only the Justice Department has the authority to prosecute the perpetrators. We need an Attorney General who will protect our democratic processes from foreign interference. And that Attorney General may also have to stand up to President-elect Trump, who inexplicably continues to embrace Russian President Vladimir Putin.

- a. Have you read the unclassified or classified versions of the January 6 Intelligence Community Assessment “Assessing Russian Activities and Intentions in Recent US Elections”?**

RESPONSE: No.

- b. Do you believe that this assessment provides the “basis” you said you needed for the Department of Justice to continue a criminal investigation into Russian interference in the 2016 U.S. presidential election?**

RESPONSE: See response to 3(a).

- c. Will you commit that, if you are confirmed as Attorney General, you will not impede or shut down any FBI or Justice Department investigation into Russian efforts to influence the 2016 U.S. presidential election?**

RESPONSE: I am unaware of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

- d. Will you commit that, if you are confirmed as Attorney General, you will recuse yourself from any ongoing FBI or Justice Department investigation into Russian efforts to influence the 2016 U.S. presidential election?**

RESPONSE: I am not aware of a basis to recuse myself from such investigations. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- c. **Will you commit that, if you are confirmed as Attorney General, you will recuse yourself from any investigation into whether President-elect Trump or any of his family, campaign staff, business associates or advisors had any communication with Russian officials or operatives during the 2016 U.S. presidential campaign, or had any connection to, knowledge of, or involvement in Russian efforts to influence the 2016 U.S. presidential election?**

RESPONSE: I am not aware of a basis to recuse myself from such investigations. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

4. In 2008, Donald Trump Jr. said the following about the Trump Organization: “we see a lot of money pouring in from Russia.”

- a. **Do you know how much of the Trump Organization’s assets or debts are held or owned by Russian individuals, businesses, and/or government officials?**

RESPONSE: No.

- b. **Do you know how much money Russian individuals, businesses and/or government officials have paid to, invested in, or otherwise “pour[ed] in” the Trump Organization?**

RESPONSE: No.

- c. **If you are confirmed as the chief law enforcement officer of the United States, how will you ensure that the actions of President-elect Trump and his administration are not influenced or impacted by the Trump Organization’s financial connections with Russian individuals, businesses, or government officials?**

RESPONSE: If I am confirmed as Attorney General, I would faithfully enforce federal laws, including any applicable laws regarding conflicts of interest. I will also instruct the Office of Legal Counsel to provide the President with guidance on identifying and mitigating conflicts of interest.

- d. **Do you believe the American people would benefit from full transparency of the Trump Organization’s assets, debts, and foreign entanglements?**

RESPONSE: As required by law, President Trump released a financial disclosure form that is available to the public. I have not studied it. However, it is my understanding that while a tax return shows how much a taxpayer paid in taxes, it does not provide any more information than a financial disclosure about the identity and nature of one’s assets.

- e. **Should such transparency include the public release of President-elect Trump's tax returns for each year in which he has campaigned for or served in the office of President of the United States?**

RESPONSE: See response to 4(d).

5. On July 9, 1997, you expressed strong support for robust bipartisan Congressional investigations into whether China attempted to influence the 1996 presidential election. You said on the Senate floor:

We need a bipartisan effort, similar to those conducted in the past. We need the spirit of Howard Baker in the Watergate hearings who, as a Republican, made sure that he cooperated in that investigation and sought the truth. We need the spirit of Warren Rudman, Republican, who participate in the Irangate matters that were investigated here. He always sought to get to the truth regardless of politics.

- a. **Do you believe that we need to "get to the truth" about Russian interference in the 2016 U.S. presidential election, "regardless of politics"?**

RESPONSE: It is always important to see truth, regardless of politics.

- b. **If your answer to question 5(a) is yes, how do you believe we should get to this truth?**

RESPONSE: In general, the best way to get to truth is in a fair, professional, and impartial manner, without regard to politics or outside influence.

- c. **If your answer to question 5(a) is no, how do you differentiate allegations of Chinese interference in the 1996 election from allegations of Russian interference in the 2016 election?**

RESPONSE: I do not have a basis for comparison, as I am not aware of the details of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

- d. **If you are confirmed as Attorney General, will you support and assist Congressional investigations into Russian interference in the 2016 U.S. presidential election, including by providing information that Members of Congress – Democrats, Republicans and Independents alike - request as part of such investigations?**

RESPONSE: I will support all appropriate investigations and respond to appropriate requests.

6. During his confirmation hearing, Congressman Michael Pompeo, the nominee for the Director of the Central Intelligence Agency, was asked by Senate Select Committee on Intelligence (SSCI) Vice Chairman Mark Warner “[d]o you pledge to continue to pursue your own investigation into ongoing Russian active measures and any attempts they or others may have to undermine the United States, our political system, or our position in the world?” Congressman Pompeo answered “Senator, I do.”

Do you pledge to continue to pursue any ongoing investigation by the Justice Department into Russian interference in the 2016 election or any other attempts Russia may have made to undermine the United States, our political system, or our position in the world?

RESPONSE: I am unaware of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

7. On September 28, 2016, Director James Comey of the Federal Bureau of Investigation testified before the House Judiciary Committee and was asked about the Department’s standard for commenting on whether an investigation is underway. Director Comey stated that “[o]ur standard is we do not confirm or deny the existence of investigations,” but he cited examples of “exceptional circumstances” that he said justified commenting on the existence of investigations, including “when there is a need for the public to be reassured” and “where the public needed transparency.”
 - a. **Do you agree with Director Comey that Department of Justice officials are justified in commenting on the existence of investigations in exceptional circumstances, including “when there is a need for the public to be reassured” and “where the public need[s] transparency”?**

RESPONSE: I am not familiar with the basis for Director Comey’s remarks.

- b. **Do you believe that the American people deserve to know whether the Department of Justice is fully investigating the extent of Russian interference in the 2016 U.S. presidential election?**

RESPONSE: Decisions regarding informing the public of ongoing Department investigations should comply with the law and departmental procedures.

- c. **Will you commit to promptly inform the American people about the outcome of the Department of Justice's investigation of Russian interference in the 2016 U.S. presidential election?**

RESPONSE: If confirmed, I will follow the law and departmental procedures with regard to informing the public regarding the outcome of Department investigations.

- d. **Will you commit to promptly inform the American people if the Department of Justice closes, terminates, or declines to further pursue an investigation into Russian interference in the 2016 U.S. presidential election?**

RESPONSE: If confirmed, I will follow the law and departmental procedures with regard to informing the public regarding the outcome of Department investigations.

8. During his confirmation hearing, General John Kelly, the nominee for Secretary of Homeland Security, was asked if he accepted the conclusions of the intelligence community regarding Russian interference in our election. He answered "yes, with high confidence."

Do you agree with General Kelly's answer?

RESPONSE: I have no reason to disagree with him.

9. The Foreign Emoluments Clause in Art. I, Section 9, Clause 8 of the Constitution states that "No Title of Nobility shall be granted by the United States; and no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State."

The Foreign Emoluments Clause reflects a fundamental priority of the Founding Fathers as they designed our form of government. They were worried about foreign powers attempting to influence and corrupt the leadership of our nation, so the Constitution included safeguards against pressure from such powers, particularly the Foreign Emoluments Clause, which was adopted unanimously at the Constitutional Convention. As Delegate Edmund Randolph of the Continental Congress said during the ratification debates in Virginia, "[i]t was thought proper, in order to exclude corruption and foreign influence, to prohibit any one in office from receiving or holding any emoluments from foreign states."

- a. **Do you believe that all current provisions of the Constitution must be followed and enforced, including the Foreign Emoluments Clause?**

RESPONSE: Yes.

- b. **If you are confirmed as Attorney General, what steps will you take to ensure that the Foreign Emoluments Clause is followed and enforced?**

RESPONSE: If confirmed as Attorney General, I will take all appropriate actions in the course of my duties, including providing legal advice upon request, to ensure that office holders comply with their constitutional obligations.

- c. **President-elect Trump says that he is taking steps to avoid unconstitutional emoluments. But without seeing his federal tax returns and having full transparency of his and his family's business holdings and debts, how can the American people be confident that all potential emoluments have been eliminated and will continue to be avoided throughout his Presidency?**

RESPONSE: As you noted, President Trump has stated that he will comply with his obligations under the Foreign Emoluments Clause, and in fact, will take additional steps beyond what may be required under the Constitution.

- d. **President-elect Trump has said he will donate to the U.S. Treasury profits from foreign government payments made to his hotels. Do you believe that the subsequent donation of payments can cure a violation of the Foreign Emoluments Clause, which provides that no officeholder may "accept" such payment? If so, why?**

RESPONSE: The question posited is not one on which I have devoted any study, and would depend on a number of facts and specific circumstances, which do not exist at this time. Therefore, I am not in a position to offer even an informal opinion on it. If I am fortunate enough to be confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

- e. **If the Office of Legal Counsel is asked to assess the legality of any receipt of emoluments by President Trump, would you recuse yourself from reviewing or influencing the Office's decision? If not, why not?**

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- f. **On what basis will you decide when to personally recuse yourself from involvement in a case, investigation or other matter involving the financial interests of President-elect Trump or his family?**

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at

my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- g. If you recuse yourself from involvement in a case, investigation, or other matter involving the financial interests of President-elect Trump or his family, will you commit to having the matter handled by career Justice Department officials instead of political appointees? If not, why not?**

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

10. If we are serious about reducing the number of shootings in Chicago, we cannot ignore the pipeline of illicitly-trafficked guns from Indiana into Chicago. As Lake County Indiana Sheriff John Buncich said last year, hundreds of guns from Lake County show up in Chicago crimes every year, and “individuals are skirting federal law, especially at these gun shows...there’s a lot of illegal gun sales.”

- a. Will you commit that, if you are confirmed, you will work with officials in Indiana on reforms that will reduce the illicit trafficking of guns from Indiana gun shows to the streets of Chicago?**

RESPONSE: If I am confirmed, I will make enforcement of federal gun crimes a top priority and aggressively engage with state and local law enforcement partners to achieve consistent policies for the apprehension of those violating federal gun laws. Properly enforced, federal gun laws can reduce crime in our cities and communities.

- b. Will you commit that, if you are confirmed, you will make it a priority of the Department of Justice to investigate and prosecute those who are selling guns that supply Chicago’s criminal gun market?**

RESPONSE: If I am confirmed, I will make enforcement of federal gun crimes a top priority and aggressively engage with state and local law enforcement partners to achieve consistent policies for the apprehension of those violating federal gun laws. Properly enforced, federal gun laws can reduce crime in our cities and communities.

- c. If you are confirmed, what steps will you take to ensure that cases involving straw purchasing, gun trafficking, and dealing in firearms without a license are prosecuted? Will the Department of Justice’s budget requests support additional resources, specifically for ATF, to enforce these laws?**

RESPONSE: If I am confirmed, I will make reduction of illegal interstate trafficking of firearms a priority. I will work with Congress to ensure that the ATF has the resources necessary to fairly and efficiently investigate criminal activity. I understand the challenges ATF faces and believe

with proper support and with vigorous prosecutions, ATF will be more productive without large increases in funding.

11. Two critically important law enforcement tools for fighting violent crime are crime gun tracing and ballistics matching. Local police departments and sheriff's offices can use ATF's online eTrace tool to trace guns recovered in crime in order to generate leads in criminal investigations and to identify those who illegally traffic in guns. And ATF's National Integrated Ballistic Information Network (NIBIN) lets local law enforcement take digital computer images of ammunition casing evidence recovered at crime scenes and match them to particular guns. This helps law enforcement identify trigger-pullers and helps discover links between gun crimes.

I have made it a priority to encourage every local law enforcement agency in Illinois to trace all of their crime guns through eTrace and to use NIBIN for all recovered ammunition casings. I have reached out to hundreds of police chiefs and sheriffs in my state about these tools, and 476 Illinois law enforcement agencies now use eTrace and 260 use NIBIN. These tools help solve crimes.

If confirmed as Attorney General, would you take steps to urge all state and local law enforcement agencies to use eTrace and NIBIN for all guns and ammunition casings recovered in crimes?

RESPONSE: I have always believed that forensic analysis, and particularly firearms analysis, is key in reducing gun crime. If I am confirmed, I look forward to working with you with respect to eTrace and NIBIN.

12. You have repeatedly emphasized the importance of enforcing the gun laws on the books. FBI NICS background checks on prospective gun purchasers are one of the most important mechanisms we have to enforce the laws that prohibit felons, the mentally unstable, and other prohibited purchasers from obtaining guns.

- a. **Will you commit that, if you are confirmed, you will work to ensure that the records in the NICS background check system are as complete and up-to-date as possible?**

RESPONSE: Yes.

- b. **Will you commit that, if you are confirmed, the Department of Justice will not submit budget requests that seek to reduce the amount of FBI resources and the number of FBI personnel dedicated to operating the NICS system below FY17 levels?**

RESPONSE: Through my service as a United States Attorney, and as a Senator, I am aware of the difficult choices that the Justice Department has to make during times of fiscal uncertainty. If I am fortunate enough to be confirmed as Attorney General, I will strive to ensure that the Department maintains the resources necessary to accomplish its mission, and that those resources are utilized in the most efficient and effective manner possible.

- c. Will you commit that, if you are confirmed, the FBI will respect and enforce current federal and state laws regarding NICS background checks, including by assisting each state to conduct checks on gun sales in that state?

RESPONSE: Yes.

- d. Will you commit that, if you are confirmed, the FBI will continue to run NICS background checks on private sales in any state when the private seller voluntarily goes to a federally-licensed dealer to conduct a background check on the buyer?

RESPONSE: Yes.

13. On May 6, 1998, you spoke at length on the Senate floor about federal conflict of interest laws. You described the “fundamental principle that a man or woman can only serve one master, not two, and should not be holding public office with a clear conflict of interest.”

You continued:

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to anything other than the government which he represents. That is what we are looking for. Somewhere in the Book of Ecclesiastes the preacher said “A bribe corrupts the mind.” A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master.

You also said in a press release that day that “Laws should apply equally to all people.”

- a. Do you believe that President-elect Trump has rid himself of his conflicts of interest such that his “total fidelity” is now only to the government which he represents?

RESPONSE: While I have not studied this matter, it is my understanding that President Trump has taken steps to isolate himself from his business interests and to devote himself fully to the duties of the presidential office.

- b. How can the American people verify that President-elect Trump’s “total fidelity” is only to the government which he represents if he does not release his annual tax returns?

RESPONSE: As required by law, President Trump released a financial disclosure form that is available to the public. I have not studied it. However, it is my understanding that while a tax return shows how much a taxpayer paid in taxes, it does not provide any more information than a financial disclosure about the identity and nature of one’s assets.

14. In an interview on November 23, President-elect Trump said “the president can’t have a conflict of interest.

In your view, is this an accurate statement?

RESPONSE: I have not discussed this matter with the President and therefore do not know what he meant by that statement.

15. In your May 6, 1998 Senate floor speech on conflicts of interest you said “U.S. attorneys are prosecuting people who do these kinds of things with these kinds of conflicts. To pass a law to say everybody else has to adhere to them except for one individual because he or she is special is a big mistake.”

Do you think it is a “big mistake” to have federal criminal conflict of interest laws that do not apply to the President?

RESPONSE: I have not had a chance to study this issue in any detail. It is my understanding that in recent history, Presidents have followed the conflicts statute as though it applied to them, but the Department of Justice has explained that applying conflicts laws to the President would either disable him from performing one or more of his constitutional duties or augment the Constitution’s qualifications for becoming President because, in general, conflicts laws force either recusal or divestiture. The Constitution precludes both.

16. On January 5, *The Wall Street Journal* published a story entitled “Trump’s Debts are Widely Held on Wall Street, Creating New Potential Conflicts.” The story noted that President-elect Trump said in his financial disclosure form that his businesses owe at least \$315 million to ten companies. But *The Wall Street Journal* analyzed these debts and found that they had been securitized and are now held by more than 150 companies. Also, Mr. Trump did not list in his disclosure form his debts for partnerships that he does not fully control. *The Journal* was able to identify at least \$1.5 billion in such debts, including loans that Mr. Trump personally guaranteed.

The potential for conflicts of interest here is staggering. For example, as *The Journal* noted, “Deutsche Bank, which is under investigation by the U.S. Justice Department over its equity trades for wealthy clients in Russia, is the single biggest lender to properties controlled by Mr. Trump.”

In addition, *The Journal* found that “If the Trump businesses were to default on their debts, the giant financial institutions that serve as so-called special servicers of these loan pools would have the power to foreclose on some of Mr. Trump’s marquee properties or seek the tens of millions that Mr. Trump personally guaranteed on the loans.” One of the main servicers of Mr. Trump’s debt is Wells Fargo, which was recently penalized by the Consumer Financial Protection Bureau for creating sham consumer accounts.

As *The Journal* concluded, a broad array of financial institutions “now are in a potentially powerful position over the incoming president.”

a. Do you agree with this conclusion?

RESPONSE: I have not had a chance to study this issue, and I am not privy to the details of the Department's settlement with Deutsche Bank, nor am I familiar with the President's interests as they relate to Deutsche Bank. Without all the facts and without the resources of the Department of Justice at my disposal, it would be premature for me to provide a legal opinion on the matter.

b. What would be your plan, if you are confirmed, to ensure that President Trump and his family are not susceptible to pressure from the financial institutions that hold their and their businesses' debt?

RESPONSE: If I am confirmed, I will take whatever steps are necessary to ensure that the Department of Justice represents the interests of the American people in the impartial enforcement of the law. I am not privy to the details of the President's or his family's interests as they relate to any financial institutions. Therefore, it would be premature to announce how the Department might proceed in mitigating a hypothetical conflict of interest.

17. There is an important program in the Justice Department's Office of Justice Programs called the John R. Justice Program. Named after the late former president of the National District Attorneys Association, the John R. Justice Program provides student loan repayment assistance to state and local prosecutors and public defenders across the nation. Congress created this program in 2008 and modeled it after a student loan program that DOJ runs for its own attorneys. The John R. Justice program helps state and local prosecutors and defenders pay down their student loans in exchange for a three-year commitment to their job. This is a very effective recruitment and retention tool for prosecutor and defender offices. And since DOJ is giving hundreds of millions of dollars in grants each year to state and local law enforcement, which generates more arrests and more criminal cases, it is critical that we help prosecutor and defender offices keep experienced attorneys on staff to handle these cases.

The John R. Justice Program has helped thousands of prosecutors and defenders across the country. But for the program to remain successful, the Department of Justice must remain committed to funding this program and to carefully administering it.

Will you commit to keep this program operating during your tenure if you are confirmed?

RESPONSE: While I am not familiar with the specifics of the current funding levels associated with the John R. Justice Program, if confirmed, I will make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in the administration of justice. I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law and the protections they provide.

18. You have said that marijuana should not be legalized and that “good people don’t smoke marijuana.”

Would you oppose the nomination of a person to a position in the Justice Department or a federal judgeship if you found out that the person had used marijuana in his or her life?

RESPONSE: My words have been grossly mischaracterized and taken out of context. As can be seen from the full quote, which I have provided below, I was discussing the value of treating people for using dangerous and illegal drugs like marijuana, and the context in which treatment is successful. As I have done in the Senate, if I were fortunate enough to be confirmed as Attorney General, I would look closely at potential nominees to evaluate their character and fitness for the position.

Senate Caucus on International Narcotics Control, April 2016:

“I’ll just comment, because I was talking to somebody that’s experienced in this, recently; it was the prevention movement that really was so positive. And it led to this decline, to the creating of knowledge that this drug is dangerous, you cannot play with it, it’s just not funny it is not something to laugh about, and trying to send that message with clarity that good people don’t smoke marijuana. And the result of that is, to give that away and make it socially acceptable, creates the demand—the increased demand that results in people being addicted or impacted adversely. I just hope that we can get our thoughts together on it. I believe the Department of Justice needs to be clearer. I believe the President really needs to reassert some leadership on this; I think it’s really serious.”

19. Although the population of Alabama is more than one quarter African American, there has never been an African-American judge from Alabama on the federal appeals court. Last February, President Obama sought to fill an 11th Circuit vacancy by nominating Abdul Kallon, a highly-regarded African-American judge from Alabama whose district court nomination you supported in 2009. However, you did not submit your blue slip for Judge Kallon’s nomination to the 11th Circuit, meaning this Committee could not move forward with a hearing.

a. Why did you not submit your blue slip?

RESPONSE: As Senator Shelby and I expressed in our statement when Judge Kallon was nominated, we had negotiated in good faith for several months with the White House to fill judicial vacancies. We believed progress had been made, but as it turned out, the White House was not interested in good faith negotiations. The White House announced Judge Kallon’s nomination outside of those negotiations and at a very late date. Accordingly, we exercised our Senatorial prerogative not to return the blue slips.

b. In your view, is Judge Kallon qualified to serve on the 11th Circuit?

RESPONSE: I supported Judge Kallon's nomination to the United States District Court for the Northern District of Alabama in 2009. As you know, Senators exercise a more exacting review for nominees to the circuit courts, which I never had the opportunity to do in this case. As you may recall, ten of President George W. Bush's circuit court nominees were not confirmed and were returned at the end of his Administration. Of note, Judge William Smith was nominated to the First Circuit on December 6, 2007, and was rated "Well Qualified" by the American Bar Association (ABA), but neither Senator Reed nor Senator Whitehouse returned blue slips on his nomination citing the need to conduct a "through and independent review" of his record and stating: "Before giving someone a lifetime appointment to the federal bench we need to carefully review their record."¹ Previously, Senator Whitehouse had suggested in September 2007 that it was too late in the president's term to consider a nomination to the First Circuit. Also notable is the nomination of Mr. Shalom Stone to the Third Circuit on July 17, 2007. He was rated "Substantial Majority Qualified/Minority Well Qualified" by the ABA, but neither Senator Lautenberg nor Senator Menendez returned blue slips on his nomination. Similarly, U.S. Attorney Rod Rosenstein was nominated to the Fourth Circuit on November 15, 2007, and was rated "Unanimous Well Qualified" by the ABA, but neither Senator Cardin nor Senator Mikulski returned blue slips on his nomination.

20. On January 23, 2009, you issued a press release announcing your opposition to President Obama's nomination of Timothy Geithner for Treasury Secretary. You said:

I have decided to vote against Mr. Geithner's nomination because his failure to properly pay his taxes on multiple occasions was, in my view, likely a deliberate attempt to avoid his tax obligations. Failure to pay taxes would disqualify any IRS agent from further employment, so it should also disqualify Mr. Geithner from being confirmed Secretary of the Treasury, a cabinet position that oversees the IRS and prosecutions for tax evasion.

You went on to say:

The American people have made clear that they want accountability and responsibility restored to Washington. Ignoring Mr. Geithner's failure to pay his taxes and elevating him to Secretary—where he will supervise agents and other officials who would be subject to termination for a similar breach of trust—is not a good way to meet the public's expectations.

Are you confident that President-elect Trump has properly paid all his taxes? Please explain the basis for your response.

RESPONSE: President Trump is the duly-elected President of the United States. The American people have decided he is both qualified and the best person for the job of leading this country. I have no knowledge regarding the President's taxes that would cause me to doubt what he has publicly stated regarding that issue.

¹ John Mulligan and G. Wayne Miller, "Bush selects Smith for U.S. appeals court," *The Providence Journal*, Dec. 7, 2007.

21. **Will you commit that, if you are confirmed as Attorney General, you will work to enjoin state laws that restrict voting and registration in ways that disproportionately affect African-American or other minority voters?**

RESPONSE: As I testified before the Committee, government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department's jurisdiction, and particularly the laws regarding voting, in a fair and even-handed manner.

22. At your nomination hearing, you suggested that section 2 of the Voting Rights Act provides adequate remedies to problematic voting restrictions. However, consider the example of the North Carolina voting law, which the U.S. Court of Appeals for the Fourth Circuit held was based on discriminatory intent. While section 2 of the Voting Rights Act permitted the state's misconduct to be remedied through litigation, this only occurred after much of the law had been implemented in the 2014 election. Prior to *Shelby County*, this law would have been reviewed by DOJ through the preclearance mechanism and these unconstitutional voting restrictions would have been stopped before any harm was done.

In light of the time lag involved in section 2 enforcement, how can you suggest a Voting Rights Act without preclearance is adequate?

RESPONSE: If I am confirmed as Attorney General, I will enforce the law and the Constitution and leave to Congress the determination of whether to enact changes to the law. Further, this question implicates an ongoing legal matter that I may be called upon to review; therefore, it would be inappropriate for me to offer an opinion at this time.

23. At your nomination hearing, you stated that the "Supreme Court decided that we should not have...preclearance." However, in *Shelby County v. Holder*, the Supreme Court did not find that preclearance was unconstitutional, but that the formula for determining which jurisdictions are subject to preclearance is unconstitutional.

In 2015, I joined Senator Leahy and Senator Coons in introducing the Voting Rights Advancement Act (VRAA), in order to update the preclearance formula and restore the Voting Rights Act. The VRAA responds to many of the Court's concerns about the original preclearance formula, which you also criticized during the 2006 reauthorization of the Act. For example, the VRAA includes a rolling preclearance coverage formula that applies to all states and hinges on a finding of repeated voting rights violations in the preceding 25 years.

- a. **Do you agree that the Supreme Court has not held that preclearance is unconstitutional?**

RESPONSE: The U.S. Supreme Court has not held that preclearance is necessarily unconstitutional. The Court has concluded that preclearance is an "extraordinary" remedy that may be permitted in the appropriate circumstances under Congress's exercise of its power under the Reconstruction Amendments.

b. Without asking you to take a position on the specifics of the VRAA, would an updated coverage formula address your concerns about preclearance?

RESPONSE: If confirmed as Attorney General, I would welcome the opportunity to work with your office and any members of the Committee on legislation affecting our nation's voting laws. This would include legislation that is both consistent with constitutional limits and designed to address the issues you have raised. I would defer to Congress on how this important issue should be deliberated within the legislative branch.

24. In Wisconsin, a newly-implemented voter photo identification law led to challenges and confusion in the April primary. Consider the case of Eddie Lee Holloway, Jr. He moved from my home state of Illinois to Wisconsin in 2008 and was able to vote without any problems before the voter ID law went into effect. After the law was passed, Mr. Holloway went to a DMV in Milwaukee with an expired Illinois photo ID, his birth certificate, and his Social Security card to obtain a Wisconsin photo ID for voting. However, his application was rejected due to a clerical error on his birth certificate, which read "Eddie Junior Holloway."

Mr. Holloway spent hundreds of dollars traveling to Illinois to try to fix this problem. In addition to the Milwaukee DMV, he visited the Vital Records System in Milwaukee, the Illinois Vital Records Division in Springfield, an Illinois DMV, and his high school in Decatur, Illinois—all in an attempt to obtain sufficient records for a Wisconsin voter ID. Despite all of these efforts, Mr. Holloway was unable to vote in the April primary.

Unfortunately, Mr. Holloway is not alone. Last year, a study based on data from the annual Cooperative Congressional Election Study found: "The patterns are stark. Where strict identification laws are instituted, racial and ethnic minority turnout significantly declines." For example, among Latino voters, "turnout is 7.1 percentage points lower in general elections and 5.3 percentage points lower in primaries in strict ID states than it is in other states."

What is your response to people like Mr. Holloway who have been prevented from exercising their fundamental right to vote due to burdensome voter ID laws?

RESPONSE: As I testified at the hearing, government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote. The voting rights of Americans are protected by federal law, including the Voting Rights Act. The Supreme Court held in *Crawford v. Marion County Election Board*, that voter identification laws are neither *per se* unconstitutional, nor do they necessarily violate the Voting Rights Act. The analysis of such laws are specific to the particular law, the jurisdiction, and a wide range of factors that Congress has identified as relevant in determining whether a particular voting practice comports with the Voting Rights Act. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department's jurisdiction, and particularly the laws regarding voting, in a fair and even-handed manner.

25. In 2014, GAO released a study on the impact of voter ID laws, at the request of Senators Sanders, Leahy, Schumer, Nelson, and myself. The study found that in two states with strict

voter ID laws—Kansas and Tennessee—the laws hurt turnout. The impact of the law was greatest among African-Americans, young people, and newly-registered voters.

Do the results of this study concern you?

RESPONSE: I am not familiar with this study. I would note, however, that the bipartisan Carter-Baker Commission report, “Building Confidence in U.S. Elections: Report of the Commission on Federal Election Reform,” found that “there is no doubt” that voter fraud occurs, that “a good ID system could deter, detect, or eliminate several potential avenues of fraud – such as multiple voting or voting by individuals using the identities of others or those who are deceased – and thus it can enhance confidence,” and that “most advanced democracies have fraud-proof voting or national ID cards, and their democracies remain strong.”

26. At our meeting before your nomination hearing, you acknowledged that in your state, there was a “brutal, ruthless denial of the right to vote.” You went on to say that the Voting Rights Act “fixed it.” However, just two years ago, your state made national headlines for closing or reducing service at more than 30 DMV locations, shortly after Alabama enacted a law requiring voters to present a photo ID to vote.

The NAACP Legal Defense Fund wrote to state officials to “raise [their] grave concerns regarding the State’s intended closures” which occurred “predominantly in rural counties with large Black populations, high poverty rates, and little to no public transportation.” Congresswoman Terri Sewell called for a DOJ investigation into the closures, stating that the “closures will potentially disenfranchise Alabama’s poor, elderly, disabled, and black communities.” The federal Department of Transportation opened a civil rights investigation to examine the incident.

Did you disagree with Congresswoman Sewell’s conclusions on how the closures might impact Alabama voters?

RESPONSE: As I testified before the Committee, it is my understanding that these offices were closed and selected for consolidation due to state budgetary constraints and that the offices were selected based on areas with the lowest population levels. It was later determined that many of the closures were in counties with large African-American populations and so the decision was reversed. It is my understanding that every county in the state has a Board of Registrars and state election officials now issue photo voter identification cards on their own to ensure residents in affected counties retain the ability to obtain state-issued identification for the purposes of voting. As a federal elected official, I was not involved in or consulted regarding this process.

27. You have been outspoken in your defense of religious freedom for Christians. For example, you denounced a 1997 court order that limited prayer in Alabama public schools, calling it “one more example of the effort by the courts to eliminate the natural expression of religious belief from public life.” A year later, you introduced a Senate resolution “affirming the right to display the Ten Commandments in public places, including government offices and courthouses.” You said “[w]e’ve got to end the hostility toward the display of the Ten Commandments in public places.”

You have been much more ambivalent about religious freedom for Muslims. You have referred to it as “a toxic ideology” and said of American Muslims “our nation has an unprecedented assimilation problem.” In response to President-elect Trump’s proposed ban on Muslim immigrants, you said, “I think it’s appropriate to begin to discuss this, and he has forced that discussion.”

President-elect Trump has gone further, saying “Islam hates us.” He has also said that there is “absolutely no choice” but to close some mosques and that he would consider creating a database of American Muslims. And, last July, he launched an offensive attack against Khizr and Ghazala Khan—the grieving parents of a fallen Muslim-American soldier.

At the same time, American Muslims are facing a surge in anti-Muslim hate crimes, according to the FBI and other experts.

a. Will you commit to vigorously enforcing civil rights laws to combat discrimination against American Muslims, including federal hate crimes laws?

RESPONSE: If I am confirmed as Attorney General, I will enforce all civil rights law to combat discrimination against all Americans, including American Muslims.

b. Do you believe it would be legally permissible to shut down mosques?

RESPONSE: This scenario certainly does not sound like something that a law enforcement official normally would be engaged in, but without knowing more specifics, I am not able to respond to the hypothetical.

c. Do you believe it would be legally permissible to create a database of American Muslims?

RESPONSE: I do not believe a database of any group of Americans based on their religion would pass constitutional scrutiny.

d. Do you think that President-elect Trump’s comments on the Khan family were appropriate?

RESPONSE: I believe that the President has made clear that he respects the sacrifice made by the Khan family.

e. Last year, President-elect Trump said American Muslims “know who the bad apples are, where the bad seeds are and they don’t report them.” But FBI Directors Mueller and Comey have both praised the Muslim community for cooperating with law enforcement and reporting suspected terrorists. Do you agree with the President-elect or Directors Mueller and Comey?

RESPONSE: Based on the individual situations each were referring to at the time, it is likely that I would agree with both the President and Directors Mueller and Comey.

28. Last October marked the seven-year anniversary of the passage of one of the most important civil rights laws of our time, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009.

You vigorously opposed the law at the time of its passage, saying it was “unwarranted, possibly unconstitutional... and it violates the basic principle of equal justice under the law.” You went on to say that the bill “has been said to cheapen the civil rights movement.” At your nomination hearing, Senator Leahy asked you about this law. You stated: “[T]he law has been passed. The Congress has spoken. You can be sure I will enforce it.”

If you are confirmed to be Attorney General, what steps will you take to vigorously enforce the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009?

RESPONSE: I firmly believe that all Americans are entitled to equal protection under the law, no matter their background. While as Senators we may have disagreed about the most effective ways to address the challenges facing our country, my duty as Attorney General, if I am fortunate enough to be confirmed, would be to enforce the laws passed by Congress. I would approach enforcement of this law the same way that I would any other federal law—I would endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure full enforcement of federal laws and the protections inherent in them. And I will work with our law enforcement professionals to tailor our efforts to ensure the safety of all of our communities.

29. When the Senate considered the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, you expressed particular concern about a provision in the law that expanded federal hate crime protections to cover victims who are targeted based on their gender, gender identity, sexual orientation, or disability. You even suggested this provision was unnecessary because women and LGBT individuals do not face serious discrimination, saying: “today I am not sure women or people with different sexual orientations face that kind of discrimination. I just don’t see it.”

However, as the *New York Times* reported last year:

Even before the shooting rampage at a gay nightclub in Orlando, [Florida], lesbian, gay, bisexual and transgender people were already the most likely targets of hate crimes in America, according to an analysis of data collected by the Federal Bureau of Investigation.

According to the data, LGBT Americans are “twice as likely to be targeted as African-Americans, and the rate of hate crimes against them has surpassed that of crimes against Jews.”

- a. At your nomination hearing, you stated that you “understand the demands for justice and fairness made by our LGBT community” and that you “will ensure that the statutes protecting their civil rights and their safety are fully enforced.” Can you elaborate on how you will ensure that the civil rights of gay, lesbian, bisexual, and transgender Americans are protected?

RESPONSE: I firmly believe that all Americans are entitled to equal protection under the law, no matter their background. While as Senators we may have disagreed about the most effective ways to address the challenges facing our country, my duty as Attorney General, if I am fortunate enough to be confirmed, would be to enforce the laws passed by Congress. I would endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure full enforcement of federal laws and the protections inherent in them. And I will work with our law enforcement professionals to tailor our efforts to ensure the safety of all of our communities.

- b. My staff was unable to find any other instance of you using the term “LGBT” in public prior to your nomination hearing. Is this a term that you have ever used in public prior to your hearing?

RESPONSE: Yes.

30. In a 2014 speech to the Anti-Defamation League, FBI Director Comey said:

Hate crimes are different from other crimes. They strike at the heart of one’s identity—they strike at our sense of self, our sense of belonging. The end result is loss—loss of trust, loss of dignity, and in the worst case, loss of life. Hate crimes impact not just individuals, but entire communities. When a family is attacked because of the color of their skin, it’s not just the family that feels violated, but every resident of that neighborhood. When a teenager is murdered because he is gay, the entire community feels a sense of helplessness and despair. And when innocent people are shot at random because of their religious beliefs—real or perceived—our nation is left at a loss.

Do you agree with Director Comey’s statement?

RESPONSE: I agree with Director Comey that attacks motivated out of prejudice have no place in our society.

31. In 2012, I chaired a hearing of the Subcommittee on the Constitution, Civil Rights, and Human Rights that examined hate crimes and the threat of domestic extremism. After the hearing, at my request, the FBI began tracking hate crimes against Arab Americans, Hindu Americans, and Sikh Americans, among others. This is a positive step, but if state and local law enforcement agencies fail to report hate crimes, we cannot understand the full extent of the problem and what steps must be taken to address it.

In his speech to the Anti-Defamation League, Director Comey also highlighted this issue, noting:

We need to do a better job of tracking and reporting hate crime to fully understand what is happening in our communities and how to stop it. There are jurisdictions that fail to report hate crime statistics. Other jurisdictions claim there were no hate crimes in their community—a fact that would be welcome if true. We must continue to impress upon our state and local counterparts in every jurisdiction the need to track and report hate crime. It is not something we can ignore or sweep under the rug.

a. Do you share Director Comey's concerns about hate crimes being underreported?

RESPONSE: I am unable to thoroughly evaluate this assertion or offer an opinion as I have not been presented with the information necessary to do so. However, if I am fortunate enough to be confirmed as Attorney General, I would expect to learn more about this issue and give it careful consideration.

b. Will you commit that, if you are confirmed, you will take steps to ensure that the FBI and the Department of Justice work together to improve hate crime reporting by state and local law enforcement?

RESPONSE: Certainly, effective engagement of state and local law enforcement is absolutely critical to protecting all Americans. If I am fortunate enough to be confirmed as Attorney General, it will be incumbent upon me to ensure that the resources of the Department of Justice and our partnerships with state and local law enforcement are utilized in a way that will ensure the enforcement of federal law and the protections our laws provide equally for all citizens.

32. When I was Chairman of the Subcommittee on the Constitution, Civil Rights, and Human Rights, I held two hearings on the human rights, fiscal, and public safety consequences of solitary confinement. Anyone who heard the chilling testimony of Anthony Graves and Damon Thibodeaux—exonerated inmates who each spent more than a decade in solitary confinement—knows that this is a critical human rights issue that we must address.

In light of the mounting evidence of the harmful—even dangerous—impacts of solitary confinement, states around the country have led the way in reassessing the practice. Progress has been made at the federal level as well. However, there are still nearly 10,000 federal inmates in segregation.

a. Do you believe that long-term solitary confinement can have a harmful impact on inmates?

RESPONSE: It is vital that our prisons be able to secure prisoners and maintain order, but it is also important that they be a safe environment for those prisoners while they are incarcerated, as well as for those guarding them. I believe that we should closely evaluate the studies and evidence and make the best determination about how to handle what can be a dangerous prison

population in a way that is both constitutional and effective.

- b. If you are confirmed, can you assure me that you will examine the evidence and work with BOP to make ensure that solitary confinement is not overused?**

RESPONSE: Yes.

33. In federal prosecutions, the majority of drug offenders are non-violent, have low criminal histories, and are not leaders or organizers. In 2015, 48.1 percent of drug offenders were in criminal history category I, and 12.9 percent were in criminal history category II. Indeed, 82.8 percent of all drug offenses did not involve the use of a weapon. Only 7.7 percent of all drug offenders had an aggravating role adjustment (were leaders, organizers, managers or supervisors). A 2016 Report by the United States Sentencing Commission found that the number of federal offenders whose most serious offense was simple drug possession increased nearly 400 percent during the six-year period between fiscal years 2008 and 2013.

I introduced Alton Mills to you as an example of one of these low level offenders. Alton Mills spent 22 years in federal prison, on a life sentence, until December 2015 when President Obama commuted his sentence.

- If you are confirmed as Attorney General, will you prioritize the prosecution of high-level drug offenders over low-level offenders?**

RESPONSE: The same 2016 Sentencing Commission Report referenced above notes that the 400 percent increase in drug possession offenses “is almost entirely attributable” to marijuana offenders arrested at or near the United States’ border with Mexico, and that the median quantity of marijuana possessed by those arrestees was 22,000 grams, which is 48.5 pounds. Compared to the median of 5.2 grams (one-fifth of an ounce) of marijuana possessed by arrestees for drug possession offenses in other locations, this seems excessive. These, clearly, are not low-level drug possessors, but are drug traffickers who are smuggling their life-destroying poisons across the border and into our communities to turn a profit for violent drug cartels. If I am fortunate enough to be confirmed as Attorney General, I will vigorously enforce the law and ensure that we make the most effective use of our limited enforcement resources to stop illicit drugs from being trafficked into our country and our communities.

34. During your confirmation hearing, you said “We will prosecute those who repeatedly violate our borders. It will be my priority to confront these crimes vigorously, effectively and immediately.”

The bipartisan United States Sentencing Commission noted in its April 2015 report that illegal reentry cases are a significant portion of all federal cases in which offenders are sentenced under the United States Sentencing Guidelines, constituting 26 percent of all such cases in fiscal year 2013.

In April 2016, the chair of the Sentencing Commission noted that, “there are many low level offenders who return to the United States for reasons related to family or work as well as reasons relating to conditions in their home country.”

- a. How you would seek to balance limited prosecutorial resources when considering illegal reentry cases versus national security cases and other non-immigration criminal cases?**

RESPONSE: With limited resources, it is important that the Department of Justice make the best use of its resources to address criminal activity. Striking that balance requires regular review of enforcement priorities, threats, and available resources to ensure the best allocation. If I am fortunate enough to be confirmed as Attorney General, I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law.

- b. How would you use your discretion in choosing to prosecute particular illegal reentry cases? Would work or family ties in the U.S., or conditions in the foreign national's home country, impact your decision?**

RESPONSE: The choice of whether to prosecute any particular case should always involve a review of all of the unique and legally pertinent facts of that case, the relevant law, available evidence, and the likelihood of success in the prosecution.

35. Under the Immigration and Nationality Act, the Attorney General's determination and ruling on all questions of law is controlling. During your confirmation hearing, I asked you how you would use your vast authority as Attorney General, including in your role overseeing the immigration courts. You will also oversee the Board of Immigration Appeals (BIA), the highest administrative body for interpreting and applying immigration laws, including our asylum laws which provide protection to vulnerable individuals seeking refuge from persecution. You will have the authority to unilaterally revoke decisions of the BIA or to reduce the BIA's membership from its current number of 17. You will have the authority to hire and fire immigration judges.

- a. Will you commit to not removing any currently serving immigration judges or BIA members, except for cause?**

RESPONSE: I am unfamiliar with the staffing requirements at the Board of Immigration Appeals or in the immigration courts, so it would be premature for me to offer an opinion at this time on whether any changes should be made.

- b. What is your plan to deal with the backlog of more than 500,000 pending cases in the immigration courts?**

RESPONSE: I am very concerned by the backlog of pending cases, and if I am confirmed, I will carefully evaluate what actions should be taken to address it.

- c. **Will you commit to maintaining or increasing the current number of immigration judges and courts nationwide?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will devote the appropriate number of immigration judges and courts to address the current backlog and any new cases.

- d. **How do you plan to hire immigration judges in the future and what criteria would you use to disqualify applicants? Would you view as a negative factor prospective judges' membership in groups like the American Immigration Lawyers Association or the American Civil Liberties Union?**

RESPONSE: I have not had the opportunity to review the position description for immigration judges, but would expect them to be ethical, impartial, hard-working, and well-versed in immigration law, and believe those factors are more important than membership in any particular organization.

- e. **Do you believe a child can represent herself fairly in immigration court without access to counsel?**

RESPONSE: My understanding is that the immigration laws of the United States provide all aliens with the privilege of being represented by the counsel of their choosing in civil immigration proceedings. It is also my understanding that Congress has specified that, while an alien retains such a privilege, any such representation must occur at no expense to the government. The sole exception to this is codified in section 1232(a)(5)(C) of Title 8, which charges the Department of Health and Human Services with ensuring:

to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

36. The goal of so-called "sanctuary cities" policies is to promote effective community policing by encouraging immigrant communities to trust local police.

Do you believe that existing law authorizes the Executive Branch to bar or limit federal funding to the estimated 364 counties and 39 cities nationwide that have policies limiting their police department's role in enforcing immigration laws or would this require Congress to change the law?

RESPONSE: My understanding is that the Department of Justice's current position—announced after a recent review conducted by the Inspector General—is that applicants for Justice

Department grants must comply with section 1373 of Title 8, as it is “an applicable federal law” for purposes of grant eligibility.

37. Regarding refugees, a joint statement by Michael Hayden, former director of the CIA and NSA, and James Stavridis, former NATO Supreme Allied Commander, said:

It’s ironic, to say the least, that today some politicians are seeking to shut out refugees in the name of national security. The global refugee crisis is straining the resources and infrastructures of Lebanon, Jordan, and Turkey, which are hosting the vast majority of Syrian refugees. By doing more to host and help refugees, the United States would safeguard the stability of these nations and thereby advance its own national security interests.

Moreover, hostility to refugees helps ISIS. Conversely, welcoming refugees regardless of their religion, nationality, or race exposes the falseness of terrorist propaganda and counters the warped vision of extremists.

Do you agree that limiting refugee resettlement could assist ISIS propaganda efforts?

RESPONSE: I have not yet been briefed on all aspects of the U.S. Refugee Admissions Program, but should I be confirmed, I will faithfully enforce our immigration law pertaining to refugees consistent with federal law and with the policy preferences of the President.

38. A document titled, Immigration Handbook For The New Republican Majority: A Memo For Republican Members From Sen. Jeff Sessions, dated January 2015, is available via your Senate website.

Did any outside groups assist you or your staff in creating, editing, or reviewing this document, and if so, which groups?

RESPONSE: My understanding is that my staff may have contacted some outside groups, such as the Center for Immigration Studies, to inquire about their publicly-available research that was cited in the document. However, we received no assistance from any outside group in creating, editing, or reviewing the document.

39. In the Immigration Handbook For The New Republican Majority: A Memo For Republican Members From Sen. Jeff Sessions, you state:

The Congressional Research Service estimates that the foreign-born population could reach as high as 58 million within a decade based on recent trends. Only an adjustment in policy will change this trajectory—just as policy was changed early in the 20th century to allow labor markets to tighten.

There had been a great wave of immigration in the four decades leading up to the

Coolidge Administration. This substantial increase in the labor pool had created a loose labor market that tilted the balance of power to large employers over everyday workers. Coolidge believed it was rational and sensible to swing the pendulum back towards the average wage-earning American.

The Immigration Act of 1924, to which you refer, limited the number of immigrants to the U.S. via a national origins quota based on the 1890 census. It excluded immigrants from Asia, and severely restricted new immigration from much of the world outside of Northwest Europe and Scandinavia.

Please explain why you cited the immigration restrictions enacted by the Coolidge Administration without mentioning their exclusionary nature?

RESPONSE: The specific restrictions per country of origin was not the focus of the paragraph. The focus of the paragraph was how President Coolidge changed the immigration laws to adjust the labor pool in a manner that would benefit the average wage-earning American worker.

40. According to the Department of Justice website, clemency applications are handled in the following manner: "After all relevant information has been received, OPA prepares a proposed recommendation for disposition of the case that is submitted to the Deputy Attorney General, who makes the final determination of the Justice Department's recommendation to the President. The Deputy Attorney General's signed recommendation is then transmitted to the White House, and the President acts on each case when he believes it is appropriate to do so."

a. Will you commit to keep the practice in place of the Deputy Attorney General making the final determination on a clemency application?

RESPONSE: Internal practices exist to provide a regular process for effective, consistent execution of legal duties. However, these practices must sometimes undergo review and changes if it is found that they are ineffective, inefficient, or can be improved due to changes in the law, circumstances, or available resources. It would be unwise to commit to continuing an internal practice indefinitely and without regard to necessary changes or available improvements that may arise.

b. Will you commit that you will not review or overturn the Deputy Attorney General's recommendation in any clemency case?

RESPONSE: I cannot categorically commit that, if I am confirmed as Attorney General, I would never review or take action in any future case where I have legal authority or responsibility for the actions of the Department, unless it is a particular case in which a conflict of interest has caused me to recuse myself completely.

Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017

QUESTIONS FROM SENATOR FEINSTEIN

1. News reports have indicated that President-Elect Trump's chosen National Security Advisor, Retired Army Gen. Michael Flynn, engaged in multiple communications with the Russian Ambassador Sergey Kislyak, on the same day that President Obama announced sanctions against Russia.
 - a. *Have you communicated with President-Elect Trump about these communications to the Russian Ambassador? Have you spoken with anyone else on the transition team (including General Flynn) or President-Elect Trump's staff? If so, please specify who you communicated with, and when.*

RESPONSE: No.

- b. *If confirmed, you will be interacting frequently with General Flynn in his capacity as National Security Advisor. Will you recuse yourself from any FBI or Justice Department investigation into whether Flynn's communications were permissible under the law, including the Logan Act? If not, why not?*

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

2. At your hearing, Senator Coons asked whether you would support legislation to strengthen and uphold sanctions against Russia for the cyber-attack it organized that was designed to influence the American elections. You responded that "That is something that is appropriate for Congress and the Chief Executive to consider. In other words, how do you respond to what is believed to be a cyber attack from a major nation? It is difficult just to say, well, we are going to prosecute the head of the KGB or some group that has participated in it—no longer a KGB, of course. So in many ways, the political response, the international foreign policy response, may be the only recourse."

In fact, the federal criminal code contains numerous criminal statutes levying serious penalties that might be available in a case involving allegations of international hacking. In addition, the Department of Justice has used these to prosecute individuals in the past. In addition, the Department may be required to decide whether to bring criminal charges against any person who committed these hacks, aided and abetted these hacks, or conspired to commit these hacks.

- a. The Department has charged similar cases against state-sponsored individuals associated with the Iranian government, as well as members of the Chinese military. Will you commit that the Department will take any and all steps necessary to enforce federal statutes that were violated, and not just rely on political diplomacy?*

RESPONSE: If confirmed, I will examine, and where appropriate, enforce, the federal statutes referred to above.

- b. Have you reviewed either the classified or unclassified assessments by the Intelligence Community regarding Russian activities and intentions in recent U.S. elections?*

RESPONSE: No.

- c. Do you agree with the Intelligence Community's assessments? If not, please specify those assessments with which you disagree.*

RESPONSE: I have not reviewed their assessments, but I assume I would have no reason to disagree with their assessments.

- d. Given the extent of your involvement in President-Elect Trump's political campaign, will you recuse yourself from any decision regarding whether to bring federal criminal prosecutions in connection with Russian hacking of the election? If not, why not?*

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- e. Please identify all persons with whom you have spoken who share your view that the U.S. response to Russian hacking should be limited to "the political response, the international foreign policy response."*

RESPONSE: My view is not that the response "should be limited" to a political or international foreign policy response. When I testified before the Committee, I was merely suggesting that in some cases, such a response may be the only recourse. As you point out, federal criminal statutes may be applicable. However, I am not privy to the facts or details of any ongoing investigations and my knowledge of the subject is limited to what is contained in public reporting, so I do not know what the appropriate response should be in this particular case.

3. The Department of Justice Inspector General recently wrote to Congress indicating that the OIG would be reviewing a number of issues with respect to the Hillary Clinton email server investigation.

When asked during your oral testimony how you would handle any investigation involving Secretary Clinton or the Clinton Foundation, you stated, "I believe the proper thing for me to

do would be to recuse myself from any questions involving those kind of investigations that involve Secretary Clinton and that were raised during the campaign or could be otherwise connected to it.”

- a. Does your commitment to recuse yourself extend to the recently-announced review by the Department of Justice’s Office of the Inspector General into a number of issues with respect to the Hillary Clinton email server investigation? If not, why not?*

RESPONSE: I stand by my commitment to recuse myself from any investigation of Secretary Clinton or the Clinton Foundation. I do not have sufficient information with respect to the Inspector General’s investigation at this time and so I am unable to make a decision about recusal in that matter. If I am fortunate enough to be confirmed as Attorney General and a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

- b. If confirmed, who will handle any recommendations made by DOJ regarding any investigation involving Secretary Clinton or the Clinton Foundation? Who will handle recommendations by the Inspector General?*

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, in any matter where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

- c. Senator Grassley posed the following question to Attorney General Lynch after her hearing, and I would pose the same question: “Given the clear language of the Inspector General Act, will you give me your commitment that, if confirmed, you will not stonewall the Inspector General or delay his work?”*

RESPONSE: The role of the Inspector General is critical to any agency’s operation and provides a vital service to the general public. If I am fortunate enough to be confirmed as Attorney General, I will respect the independence of the Inspector General and cooperate with him or her in every way possible.

- d. Will you also give me your commitment that you will not allow any subordinate official at the Department to stonewall or delay the Inspector General’s work?*

RESPONSE: Yes.

4. You testified at your hearing that the Supreme Court’s decision in *Roe v. Wade* is “the law of the land. It has been so established and settled for quite a long time and it deserves respect. And I would respect it and follow it.”

- a. How will you “respect it and follow it”?*

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, my personal convictions on the issue of abortion—which are well known—would not hinder me in my duty to faithfully enforce federal law and adhere to Supreme Court precedent on this issue.

b. What is your understanding of the meaning of a case being “settled law”?

RESPONSE: The 1973 decision of *Roe v. Wade* established a constitutional right to privacy that included the right to an abortion. Though limitations to this right have been upheld as constitutional by the Court in later cases, the basic premise of *Roe* has not been disrupted, meaning that it is settled law. There have been clarifying opinions on the subject of abortion since then.

c. Do you commit that the Department of Justice will not file amicus briefs or in other ways try to alter case law on reproductive rights?

RESPONSE: Such decisions would depend upon the unique circumstances of the case or cases as they arise. If I am fortunate enough to be confirmed, I will ensure all matters receive a thorough and careful evaluation to ensure the fair administration of justice and will follow the law and the Constitution without reservation.

5. You also testified at your hearing that the *Roe* decision “violated the Constitution and really attempted to set policy and not follow law.”

a. If you believe a case is “the law of the land” and “settled for a long time” but you also believe the case “violated the Constitution,” how would that impact the conduct of the Justice Department under your leadership? Are there other Supreme Court cases you believe to be settled law, yet which you also believe violate the Constitution? If so – please list each and explain the constitutional provision that is violated.

RESPONSE: As a Senator, I have expressed opinions on a number of Supreme Court cases. As Attorney General, my role would be very different. If a matter arose before the Department and circumstances demanded a fresh analysis of a Supreme Court decision, that would be conducted by the Solicitor General and the attorneys at the Justice Department. Asking the Supreme Court to overrule its own precedent is a very serious matter that requires careful, case-specific analysis at the time of the litigation. If I am fortunate enough to be confirmed, I will ensure all matters receive a thorough and careful evaluation to ensure the fair administration of justice and will follow the law and the Constitution without reservation.

6. Senator Hirono asked you at your hearing whether you would “direct or advise your Solicitor General to weigh in before that Supreme Court which has an opportunity to overturn *Roe v. Wade*?” You responded that the decision is “firmly ensconced as the law of the land, and I do not know we would see a change in that.”

In that same answer, you told Senator Hirono that “cases seldom come up on such a clear issue. They come up at the margins” of the constitutional right to have an abortion as set forth in *Roe*.

- a. If confirmed, will the Justice Department under your leadership argue that Roe v. Wade and its progeny (e.g., Planned Parenthood v. Casey, Whole Woman's Health v. Hellerstedt) should be overturned? Please answer yes or no.*

RESPONSE: Such decisions would depend upon the unique circumstances of the case or cases as they arise. I will not pre-judge the issues. If I am fortunate enough to be confirmed, I will ensure all matters receive a thorough and careful evaluation to ensure the fair administration of justice and will follow the law and the Constitution without reservation. As stated above, asking the Supreme Court to overrule its own precedent would be a very serious matter that would only come as the result of careful, case-specific analysis at the time of the litigation.

7. Violence at women's health clinics remains a very serious issue. In the fall of 2015, for example, a Colorado man killed three people at a clinic. At your hearing, you testified that you will "enforce the laws that make clear that a person who wants to receive a lawful abortion cannot be blocked by protesters and disruption of a doctor's practice...I am pro-life, as you know, but we have settled on some laws that are clearly effective, and as Attorney General, you can be sure we would follow them." You also testified that medical professionals who provide abortions "deserve the same protection that any entity, business or otherwise or health care entity is entitled to...[Maybe] [e]ven more so, because we have a specific law about abortion clinics." That law, of course, is the Freedom of Access to Clinic Entrances Act (FACE) of 1994.
8. Part of the Justice Department's efforts to enforce FACE and protect women and providers from violence at women's health clinics is the National Task Force on Violence Against Health Care Providers, which was established in 1998 by then-Attorney General Janet Reno and which is staffed through the Department's Civil Rights Division. The Task Force includes DOJ attorneys as well as investigators from the FBI, ATF, and the U.S. Marshals Service.

- a. Will you ensure that the National Task Force on Violence Against Health Care Providers has adequate resources?*

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law.

- b. Will you ensure that the Department will continue to be active and engaged on issues related to patient and provider safety at women's health clinics, including by bringing relevant cases under FACE and interacting with groups that represent providers and clinics?*

RESPONSE: As I testified before the Committee, if I am fortunate enough to be confirmed as Attorney General, I will faithfully follow and enforce federal laws as defined by the courts, including the FACE Act and all other federal laws that the Attorney General is authorized to enforce. I will use the resources of the Department to ensure the full and fair enforcement of

federal law. Any specific enforcement decisions or actions would depend upon the facts and circumstances of each case.

9. At the nomination hearing, I asked you about a provision of the Justice for Victims of Trafficking Act, which sets aside at least \$5 million and up to \$30 million of funding for grants or programs for “the provision of health care or medical items or services to victims of trafficking.” (18 U.S.C. § 3014(h)(1)-(2))

I read the following from Senator Cornyn’s floor remarks explaining that these funds are subject to the Hyde Amendment and its important exceptions:

“[E]veryone knows the Hyde amendment language contains an exception for rape and the health of the mother. So under this act, these limitations on spending wouldn’t have anything to do with the services available to help those victims of human trafficking.”

You testified that you were “not aware of how the language for this grant program has been established,” but that you “would follow the law.”

Please review the provision and Senator Cornyn’s explanation above to answer the following question:

- a. Will you commit that these grant funds will not be denied to service providers who assist victims of sex trafficking in obtaining the comprehensive health services they need, including an abortion?*

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I would consult with the attorneys at the Justice Department to analyze the Hyde Amendment and the statutory language in question to determine what the intersection of these laws dictates in regard to anti-trafficking expenditures.

10. In response to Senator Hatch’s question about the importance of religious freedom, you testified that “It would be a very high priority of mine.”

- a. If confirmed, how would you ensure that enforcement of religious freedoms will not harm women’s access to healthcare, including contraception, or the rights of LGBT individuals?*

RESPONSE: The Supreme Court has held that there are protections available under the Religious Freedom and Restoration Act for religious individuals and businesses. However, I have not personally studied the parameters of the Court’s relevant decisions on this question or their impact. If I am confirmed, when such matters come before the Department of Justice, I will carefully and objectively evaluate the facts and circumstances of each case and endeavor to uphold and defend the Constitution in the pursuit of justice.

- b. Do you believe that a business open to the public has a right under the First Amendment to refuse to serve an individual because that individual is gay, or lesbian, or bisexual, or transgender?**

RESPONSE: That question has not been clearly settled by the Supreme Court or by statute. Typically, these matters are decided by state-enacted public accommodation laws and it is unlikely that the federal government would be directly involved in such cases. However, if I am so fortunate as to be confirmed as the Attorney General, it will be my duty to uphold and defend the Constitution and to do so in keeping with Supreme Court precedent.

11. The Office of Government Ethics (OGE) wrote a letter to Congress warning that President-Elect Trump's nominees' hearings are taking place even before OGE has completed its review of all of the nominees to ensure there are no ethical, financial or criminal concerns. The Director of OGE stated: "I am not aware of any occasion in the four decades since OGE was established when the Senate held a confirmation hearing before the nominee had completed the ethics review process."

On May 6, 1998, you expressed similar concerns when discussed your experience as a former prosecutor and stressed the importance of adhering to ethics laws. You also stressed the role of OGE in preventing government corruption and analyzing whether waivers should be provided.

In this particular speech, you were speaking in opposition to legislation that would have allowed someone paid by the IRS employees' union to participate on an IRS oversight board. You stated that such an arrangement flouted OGE advice, and was arguably criminal. You stated, in part:

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to anything other than the government which he represents.

Somewhere in the Book of Ecclesiastes the preacher said "A bribe corrupts the mind." A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master.

You can't serve two masters.

After making these comments, you then enumerated the conflicts of interest statutes in the criminal code. Those statutes are aimed at preventing officials with financial interests from making government decisions clouded by financial interests.

- a. If you are confirmed—and President-Elect Trump's other nominees are confirmed—you will work together closely together in the President's Cabinet. If any of President-Elect Trump's nominees are confirmed prior to ethics clearance and a criminal conflict of interest is discovered, will you recuse yourself from the investigation?**

RESPONSE: The Attorney General is different from other cabinet members because he or she is responsible for fair enforcement of the law. I am not aware of a basis to recuse myself from such investigations. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

b. If you do not recuse yourself, what steps will you take to ensure that the Department faithfully investigates and prosecutes, if appropriate, such violations?

RESPONSE: All investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

12. Last week, President-Elect Trump announced that he would retain ownership of his company while shifting assets into a trust managed by his sons; make “no new foreign deals”; subject any new domestic business deals to review by an ethics adviser whom he would appoint; give up his position as an officer at the Trump Organization; and limit communications with company executives to profits and loss statements.

The Director of OGE said that “stepping back from running his business is meaningless from a conflict of interest perspective.” He also stated that “the plan does not comport with the tradition of our Presidents over the past 40 years. This isn’t the way the Presidency has worked since Congress passed the Ethics in Government Act in 1978 in the immediate aftermath of the Watergate scandal.”

a. President-Elect Trump has decided to maintain his financial interests in entities that are likely to be impacted by his Presidential decisions – such as decisions about laws to sign, executive actions to take, treaty negotiations, military decisions, and domestic policy decisions. Do you believe that if his financial interests are impacted by his decisions, this violates the anti-corruption principles that you identified in 1998? If yes, what are the proper steps for the Attorney General to take in such a situation? If not, why not? Please explain your answer in detail.

RESPONSE: The question posited is not one on which I have devoted any study, and would depend on a number of facts and specific circumstances. Therefore, I am not in a position to offer even an informal opinion on it. If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

b. You testified that you would be willing to say “no” to the President. Have you communicated with President-Elect Trump about his business interests and how to

resolve any conflicts arising from those interests? If your answer is yes, please describe those communications. If your answer is no, do you plan to? Please explain your rationale.

RESPONSE: I have not communicated with the President regarding his business interests or how to resolve any conflicts arising from those interests. If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

President-Elect Trump has claimed on many occasions that he cannot release his tax returns because of an ongoing audit by the Internal Revenue Service ("IRS").

a. Do you believe the President-elect should release his tax returns when the IRS audit is complete? If not, why not?

RESPONSE: As required by a law passed by Congress, President Trump released a financial disclosure form that is available to the public. I have not studied it. However, it is my understanding that no law requires the disclosure of a President's tax returns. The mandated financial disclosure provides public disclosure of the key financial matters that Congress believed necessary.

b. If confirmed, as a general matter, what specific steps do you envision taking to ensure that any legal issues arising from President-Elect Trump's business interests are handled in the same manner by the Department as any other American citizen?

RESPONSE: All investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

c. You were extensively involved in President-Elect Trump's political campaign. If the IRS determines that the President-Elect has potentially violated a criminal or civil tax law, and the case is referred to the Department of Justice, will you recuse yourself from any decisions that are made regarding possible criminal or civil actions? If not, why not?

RESPONSE: I am not aware of a basis to recuse myself from such matters. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- d. If you do not recuse yourself, what steps will you take to ensure the Department of Justice thoroughly investigates any allegations and appropriately pursues any civil or criminal enforcement action that is within the Department's jurisdiction?*

RESPONSE: See response to 12(b).

13. There is a clause of the Constitution that prohibits foreign government payments to federal officials. This clause is called the Emoluments Clause. It states:

“No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”

This Clause has become more and more important as President-Elect Trump's dealings abroad and conversations with foreign leaders have become known.

According to longstanding Office of Legal Counsel (OLC) opinions, this clause was intended by the Framers to preserve the independence of officers of the United States from corruption and foreign influence. One of the relevant OLC opinions states: “Those who hold offices under the United States must give the government their unclouded judgment and their uncompromised loyalty.”

- a. OLC opinions clearly establish that the President is covered by the Emoluments Clause. Will you assure the Committee that you will uphold this OLC precedent?*

RESPONSE: While I have not reviewed the OLC opinions referred to above, nor have I devoted any study to this issue, in general, OLC opinions should be overturned only rarely and after careful study and reflection. If I am confirmed, I have no reason to believe that the Office of Legal Counsel would change its approach to such matters.

- b. Do you agree that cabinet officers are covered by the Clause?*

RESPONSE: While I have not devoted any study to this issue, it is my understanding that cabinet officers are covered by the Foreign Emoluments Clause.

- c. OLC opinions clearly establish that foreign state-owned or state-controlled businesses are “presumptively foreign states under the Emoluments Clause” – so that U.S. officials cannot receive emoluments from foreign state-owned businesses. Will you assure the Committee that OLC will not change its view during President-Elect Trump's administration?*

RESPONSE: It is my understanding that OLC opinions have examined ownership and control exercised by foreign states in determining whether a business should be deemed a foreign state under the Emoluments Clause. If I am confirmed, I have no reason to believe that the Office of Legal Counsel would change its approach to such matters.

d. What is the proper enforcement mechanism for an emoluments violation?

RESPONSE: The Constitution is the supreme law of the land, and all federal office holders are obligated to abide by its terms. If confirmed as Attorney General, I will discharge all of the responsibilities of the office based upon my understanding of the requirements of the Constitution.

14. As Attorney General you will be charged with enforcing the Voting Rights Act. This obligation is all the more important after the Supreme Court's 2013 decision in *Shelby County, Alabama v. Holder*, which struck down a key component of the Voting Rights Act.

That same year, however, you spoke about voting rights issues and declared that "there's just huge areas of the South where there's no problem."

In 2013, the Department of Justice sued the State of Texas, alleging that its voter ID law violated the Voting Rights Act. And just last year, the *en banc* Fifth Circuit Court of Appeals agreed, holding that Texas' voter ID law violated the Voting Rights Act and "diminished African Americans' and Hispanics' ability to participate in the political process."

Also in 2013, the Department of Justice sued the State of North Carolina, alleging that a state law had been adopted with the purpose, and would have the result, of denying or abridging the right to vote on account of race, color, or membership in a language minority group, in violation of the Voting Rights Act. And just last year, the Fourth Circuit Court of Appeals found that a North Carolina law, including voter ID provisions, was enacted with discriminatory intent and "restricted voting and registration in five different ways, all of which disproportionately affected African Americans".

- a. If you are confirmed, will the Justice Department continue to investigate claims that voter ID laws have a disproportionate impact on minority voters, and bring charges if the evidence supports bringing such a case? Please answer yes or no. If yes, will the Department work to investigate those matters quickly?*

RESPONSE: As I testified before the Committee, government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote. The voting rights of Americans are protected by federal law, including the Voting Rights Act. The Supreme Court held in *Crawford v. Marion County Election Board* that voter identification laws are neither *per se* unconstitutional, nor do they necessarily violate the Voting Rights Act. The analysis of such laws are specific to the particular law, the jurisdiction, and a wide range of factors that Congress has identified as relevant in determining whether a particular voting practice comports with the Voting Rights Act. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department's jurisdiction, and particularly the laws regarding voting, in a fair and even-handed manner.

- b. Texas has sought Supreme Court review of the Fifth Circuit's decision in Veasey v. Abbott, the Texas voter ID case. In October, the Justice Department filed a brief in*

opposition to Texas's petition for certiorari. If confirmed, do you plan to continue defending the position that the Justice Department has taken since 2013—that Texas's law violates the Voting Rights Act? If not, please explain.

RESPONSE: If I am confirmed as Attorney General, I will enforce the law and the Constitution. This question implicates an ongoing legal matter that I likely will be called upon to review and therefore it would be inappropriate for me to comment at this time. However, as with all cases, I will carefully and objectively evaluate the facts and circumstances of the case and endeavor to uphold and defend the Constitution in the pursuit of justice.

c. If confirmed, will the Justice Department change its position in any current voting rights case? If so, please identify all such cases.

RESPONSE: This question implicates ongoing legal matters that I will be called upon to review if confirmed; therefore, it would be inappropriate for me to comment at this time. I will carefully and objectively evaluate the facts and circumstances of each case and endeavor to uphold and defend the Constitution in the pursuit of justice.

15. During the hearing, I asked you, "Do you believe that the government can, pursuant to a general authorization to use military force, indefinitely detain Americans in the United States without charge or trial?"

You answered: "Classically, the answer is yes. Classically, if you captured a German soldier, they could be held until the war ended. That was done, I'm sure, at the Civil War and most wars since."

I responded: "I'm talking about Americans."

You then stated:

"I hear you. So then the question is, we're in a war like we have now that's gone on multiple years and I would think the principle of law certainly would appear to be valid. But as reality dawns on us, and wars might be even longer, you know, it's honest to discuss those issues.

"So I respect your willingness to think about that and what we should do, but in general I do believe – and Senator Graham has argued forcefully for many years – that we are in a war and when members who – unlike the Japanese who were never proven to be associated with a military regime like the Japanese government, these individuals would have to be proven to be connected to an enemy, a designated enemy of the United States."

"So I am – I probably explained more than I should, but that's basically the arguments and the issues we're facing. I respect your concerns and I'm sure they will continue to be debated in the future."

a. Do you believe that an American citizen or lawful permanent resident apprehended in the United States can, pursuant to an authorization to use military force, be indefinitely

detained by the U.S. Government without charge or trial? I am not asking about detention pursuant to criminal or immigration proceedings, but specifically detention pursuant to an authorization to use military force. Yes or no, and please explain your answer.

The following discussion took place between you and Senator Graham:

Senator Graham. So as to how long an enemy combatant can be held, traditionally under the law of war, people are taken off the battlefield until the war is over or they are no longer a danger. Does that make sense to you?

Senator Sessions. It does make sense, and that is my understanding of the traditional law of war.

Senator Graham. ... When do you think this war will be over? Do you think we'll know when it's over?

Senator Sessions. I've asked a number of witnesses in armed services about that, and it's pretty clear we're talking about decades before we have a complete alteration of this spasm in the Middle East that just seems to have legs, and will continue for some time.

b. Is it your understanding that the law allows the U.S. Government to militarily detain American citizens or lawful permanent residents captured in the United States for decades pursuant to an authorization to use military force? Yes or no, and please explain your answer.

RESPONSE to (a) – (b): Under current law, it would appear that the United States may detain an active member of al Qaeda or other enemy combatants for as long as the conflict persists. As you know, in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), a plurality of the Supreme Court stated that “[t]here is no bar to this Nation’s holding one of its own citizens as an enemy combatant.” The plurality relied in part on *Ex Parte Quirin*, 317 U.S. 1 (1942), in which the Court held that Congress authorized the military trial of a U.S. citizen who entered the country with orders from the Nazis to blow up domestic war facilities, but was captured before he could execute them. See also *Padilla v. Hanft*, 423 F.3d 386 (4th Cir. 2005); *Al-Marri v. Pucciarelli*, 534 F.3d 213 (4th Cir. 2008). Of course, citizens can contest their detention in federal court by writ of *habeas corpus*.

16. The Department of Justice currently is confronted with a clear conflict in federal and state law, and a determination of how to use federal enforcement resources in marijuana cases. Currently, twenty-eight states and the District of Columbia have legalized medical or recreational marijuana, or both. This includes Colorado, Washington, and most recently, California. An additional 14 states have laws in place related to cannabidiol, a non-psychoactive component of marijuana, in place.

Federal law, as you know, prohibits numerous actions with respect to marijuana, including possession of marijuana with the intent to distribute it. In December 2014, Congress passed an appropriations bill that contained the following provision:

None of the funds made available in this Act to the Department of Justice may be used, with respect to any of the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming, or with respect to the District of Columbia, Guam, or Puerto Rico, to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

Subsequently, the Ninth Circuit – in an opinion written by Judge Diarmuid O’Scainnlain, and joined by Judges Carlos T. Bea and Barry G. Silverman – concluded that this language, “at a minimum, . . . prohibits DOJ from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws.” (*United States v. McIntosh*, Aug. 16, 2016)

- a. How do you intend to balance federal marijuana enforcement with other enforcement priorities, given the number of states that have legalized recreational or medical marijuana under their own laws?*

RESPONSE: As former Attorney General Loretta Lynch herself said during her confirmation hearings almost two years ago, marijuana is still a criminal substance under federal law, and it is also still illegal under federal law not only to possess marijuana, but to distribute marijuana. I echo Attorney General Lynch’s comments, and commit, as she did, to enforcing federal law with respect to marijuana, although the exact balance of enforcement priorities is an ever-changing determination based on the circumstances and the resources available at the time.

- b. If confirmed, do you plan to continue the policies contained in the “Cole Memo”, which set forth eight enforcement priorities for federal marijuana enforcement? If you do intend to change the Cole Memo, how do you intend to change it?*

RESPONSE: While I am generally familiar with the Cole memorandum, I am not privy to any internal Department of Justice data regarding the effectiveness of the policies contained within that memorandum. If I am fortunate enough to be confirmed as Attorney General, I will certainly review and evaluate those policies, including the original justifications for the memorandum, as well as any relevant data and how circumstances may have changed or how they may change in the future.

17. The National Academy of Sciences just released a report entitled “The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research” (2017). According to the press release issued with the report, this report was “an in-depth and broad review of the most recent research to establish firmly what the science says and to highlight areas that still need further examination.”

The National Academy of Sciences also stated: “One of the therapeutic uses of cannabis and cannabinoids is to treat chronic pain in adults. The committee found evidence to support that patients who were treated with cannabis or cannabinoids were more likely to experience a significant reduction in pain symptoms. For adults with multiple sclerosis-related muscle spasms, there was substantial evidence that short-term use of certain “oral cannabinoids” – man-made, cannabinoid-based medications that are orally ingested – improved their reported symptoms. Furthermore, in adults with chemotherapy-induced nausea and vomiting, there was conclusive evidence that certain oral cannabinoids were effective in preventing and treating those ailments.”

The National Academy of Sciences also stated: “Regarding the link between marijuana and cancer, the committee found evidence that suggests smoking cannabis does not increase the risk for cancers often associated with tobacco use – such as lung and head and neck cancers.”

However, the National Academy also stated: “Evidence suggests that cannabis use prior to driving increases the risk of being involved in a motor vehicle accident. Furthermore, evidence suggests that in states where cannabis use is legal, there is increased risk of unintentional cannabis overdose injuries among children.”

The National Academy also noted that there are numerous challenges and barriers to conducting research on the beneficial and harmful effects of cannabis and cannabinoid use.

During the last session of Congress, Senators Grassley, Leahy, Tillis and I introduced legislation to reduce barriers associated with researching marijuana. This legislation would expedite the Drug Enforcement Administration registration process to research marijuana, and allow doctors to use their existing registrations to conduct research and clinical trials on cannabidiol, rather than the Schedule I registration that is currently needed. It would also increase the scientific research base for marijuana by authorizing medical and osteopathic schools, as well as research universities and pharmaceutical companies, to conduct research using their own strains of marijuana and cannabidiol. The goal, if the science shows that marijuana or its components are indeed helpful in treating certain medical conditions, is to develop medicines that can be brought to the market with FDA-approval, just like any other medicine. I believe this is important legislation and plan to reintroduce it again this session.

- a. Given the number of states that have legalized recreational and medical marijuana under their own laws, wouldn't you agree it is important that we know as much as possible about the health-related and other impacts of marijuana usage?*

RESPONSE: Yes.

- b. What do you intend to do as Attorney General to advance our knowledge in that area? Are there specific regulations that you would ease related to marijuana research? If so, which ones?*

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will defer to the American Medical Association and the researchers at the National Institutes of Health and elsewhere about the medical effects of marijuana. Without having studied the relevant regulations in depth, I cannot say whether they may need to be eased in order to advance research; but, I will review this. If confirmed, will be to enforce federal law, under which marijuana is currently a Schedule One controlled substance—defined as a drug with no currently accepted medical use and a high potential for abuse.

18. Senator Leahy asked you about the most recent FBI hate crimes statistics. The FBI's most recent annual hate crimes report found that in 2015, there were 5,818 single-bias incidents involving 7,121 victims. Of those victims, 17.7 percent were targeted because of their sexual orientation; and 1.7 percent because of their gender identity. We also know that these numbers are likely underreported.

- a. Senator Graham asked you "If a state is not prosecuting crimes against people based on their sex, their race, whatever reason, then it's proper for the federal government to come in and provide justice, don't you think?" You responded "I do."

Do you similarly agree that if a state is not prosecuting crimes against people based on their sexual orientation or gender identity, it is likewise proper for the federal government to "come in and provide justice," in accordance with the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, my duty will be the pursuit of equal enforcement of the law for all Americans. From time to time, this duty may necessitate federal involvement in a state where federal law is not being followed or where equal justice under the law is not being administered.

- b. *Do you believe it is inappropriate for the Justice Department to prosecute cases under the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009 if the state is prosecuting the same defendant based on the same factual scenario?*

RESPONSE: Any decision by the Justice Department to initiate a prosecution must be conducted in a fair, professional and impartial manner, and only after careful consideration of the facts and law presented by the case. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

- c. *Five states do not have any hate crimes laws—including South Carolina, where Dylann Roof was recently convicted and sentenced by a jury on federal hate crimes and firearms charges. Additionally, 14 states have hate crimes laws that do not include sexual orientation, and 28 states have hate crimes laws that do not include gender identity—but sexual orientation and gender identity are covered under the Shepard-Byrd Act. Under your leadership, if confirmed, what steps will the Department take to ensure hate crimes that occur in these states continue to be prosecuted?*

RESPONSE: Any decision by the Justice Department to initiate a prosecution must be conducted in a fair, professional and impartial manner, and only after careful consideration of the facts and law presented by the case. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

- d. *Can you assure the Committee hate crimes enforcement will remain vigilant? Yes or no. If your answer is yes, please detail the steps you will take to ensure that enforcement of such crimes across the country remains a priority. For example, in 2015, the Civil Rights Division – in conjunction with U.S. Attorneys Offices and the FBI – organized a series of regional hate crimes trainings in Mississippi, California, Oregon, Kansas and Florida. These meetings helped to train local and federal law enforcement in how to recognize, investigate, and prove hate crimes. They helped to educate communities and engage them in the process of ensuring public safety. And they helped to encourage better hate crime reporting and data collection. If the answer is no, please explain your rationale.*

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, the Department will be vigilant in the full enforcement of all federal laws. I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law. The specific steps I will take to ensure the enforcement of any particular law will be decided after careful evaluation of any current practices of the Department and the effectiveness of those practices.

- e. *Many other crimes—crimes involving the possession and distribution of illegal drugs, for example—are criminalized at both the state and federal level. Please provide to the Committee all other examples where you, as a Senator, sought evidence that states were doing an inadequate job prosecuting certain crimes before you voted to criminalize certain conduct at the federal level, or voted increase penalties for certain conduct at the federal level. If there are no other examples you can identify, please say so.*

RESPONSE: Over the course of nearly 20 years serving in the Senate, I have cast numerous votes against federal action or interference when I believed that principles of federalism demanded it. A review of my voting history and public statements clearly reflect an adherence to this philosophy. Nevertheless, if I am fortunate enough to be confirmed as Attorney General, my duty will be to enforce federal laws enacted by Congress and I will do so without reservation.

19. The career civil service in our country is a fundamental part of the guarantee to all Americans that nobody will be targeted for investigation or prosecution based on political beliefs or favoritism. That means that protection for career Department of Justice attorneys is extremely important. During the Bush Administration, even the hiring of career Department attorneys, particularly in the Civil Rights Division, became politicized.

You did an interview on *American Family Radio* on November 7, 2016, the day before the election, and the radio host stated that, in her view, the Department of Justice was “being filled, packed, with left-wing attorneys.” She called Department attorneys “the left of the left,” and “a nightmare.”

She then asked you, “If Donald Trump is elected, what would happen to the Justice Department, do you think?”

You responded: “First, you are exactly right.” You then noted you had spoken with former Attorney General John Ashcroft about how, in your view, “If Hillary Clinton is elected, there will be four more years of filling every spot in the Department of Justice with these secular, progressive, liberals that are going to make the Department even less traditional and lawful in its policies, more of a political machine, and that is the wrong direction. But every other cabinet person, place will be the same—whether it’s EPA, whether it’s the Department of Commerce, the Department of Education, the Department of Health and Human Services—all of those Departments will be packed with also, now, for 12 consecutive years, with the secular left. It just—is. And this is another reason this election’s stakes are so high.”

a. Please explain your comments on this radio program. What did you mean by your statements?

RESPONSE: These comments were made in response to my perception that individuals within the Department were using their own opinions of “truth” to decide when particular laws ought to be enforced, rather than consulting federal statutes or the Constitution. Abdicating a duty to enforce the law based on one’s personal belief that an act clearly prohibited by law is nonetheless acceptable would fit my definition of “unlawfulness.” The Department of Justice is an organization composed overwhelmingly of career professionals who do their duty every day. I will provide leadership that respects their professionalism and insists upon it. I will strive to enforce laws and set priorities that are consistent with the Constitution and the legislated intent of Congress.

b. Will you assure this Committee that the Department of Justice will not make any hiring, promotion, transfer, termination, or evaluation determinations based on an individual’s political or religious beliefs?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, the Department will follow federal law and Departmental regulations regarding all personnel decisions.

20. U.S. Attorneys are, as you know, selected with the advice of their home-state senators—and they are subject to an approval process for those senators known as a blue slip, which you yourself have used many times.

a. How do you and the Administration intend to consult with home-state senators from both parties and ensure that politics is kept out of the U.S. Attorney appointments?

RESPONSE: While I have not discussed this matter with the President, I have no expectation that this process will deviate from the precedent set by prior Administrations and hope that the Senate will follow its traditions so that the process works to the benefit of the American people.

21. In your Committee Questionnaire, you listed four civil rights cases on your list of top ten “most significant litigated matters which you personally handled.” I would like to better understand your role in these cases, and the extent to which you “personally handled” them. For each of these four cases—*Davis v. Board of School Commissioners of Mobile County*, *United States v. Concanah County*, *United States v. Dallas County Commission*, and *United States v. Marengo County Commission*—please list the following:

a. Every pleading or document filed with the court that you not only read, but also edited or otherwise substantially contributed to the arguments or positions developed therein.

RESPONSE: It is my understanding that these pleadings and documents have been entered into the record for this hearing. As each pleading or document evidences, I was responsible for all of the content consistent with my ethical obligations under the Alabama State Bar’s professional responsibility regulations and Rule 11 of the Federal Rules of Civil Procedure. My name and signature on the pleadings signified my full support of the pleading, that it was justified, and it represented my view as to what was appropriate, just as it did in criminal or other cases that I did not personally try.

b. Every hearing, oral argument or other court proceeding in which you directly participated.

RESPONSE: These cases were adjudicated over thirty years ago and I did not keep a record of every hearing, oral argument, or other court proceeding associated with them. My role as U.S. Attorney was to represent to the court my decision in these cases.

c. Any other role you may have had in litigating or supervising other government attorneys who worked on these cases.

RESPONSE: The role I had in these cases was equal to that of my five co-counsel in that we were each responsible for all of the content contained in the filings and for all representations made to the court, consistent with our ethical obligations under our State Bar’s professional responsibility regulations and Rule 11 of the Federal Rules of Civil Procedure.

22. At your hearing, you were asked about your vote against reauthorization of the Violence Against Women Act in 2013. The law included important expanded protections for vulnerable groups, including LGBT, Native American, and immigrant victims, in an effort to ensure that all victims of violence are protected.

You testified that you voted against the bill because of “some specific add-on revision in the bill that caused my concern.” You also testified that “[o]ne of the more concerning provisions was a provision that gave tribal courts jurisdiction to try persons who were not tribal members.”

a. Which provisions of the law do you mean to indicate were “add-ons”?

RESPONSE: My testimony referred to the tribal-jurisdiction provision. This provision was not part of the original Violence Against Women Act, or a part of the 2000 and 2006 reauthorizations (which I supported). Further, as I recall, the addition of this provision was the principal reason why eight of the nine Republican members of the Senate Judiciary Committee opposed the 2013 bill.

b. If the provision on tribal jurisdiction had not been part of the bill, would you have supported the bill’s protection from discrimination for LGBT victims? If not, why not?

RESPONSE: My principal concerns about the 2013 VAWA reauthorization centered on the tribal jurisdiction provision. The 2013 Act also includes a provision that prohibits recipients of federal grants (such as women’s domestic-violence shelters) from discriminating on the basis of, among other things, sex, gender identity, and sexual orientation. This provision includes an exception that a grantee may carry out sex segregation or sex-specific programming if it can show that such programming is “necessary to the essential operation of a program,” and if it provides comparable services to individuals who cannot be provided with sex-segregated or sex-specific programming. My and other Senators’ concerns about this provision centered on the fact that, on its face, its broad prohibition would appear to preclude operation of a women-only (or women and children-only) domestic violence shelter, and the Act’s exception to this prohibition appears narrow and is unclear. Although a woman who has been the victim of violence at the hands of a husband or boyfriend may be better served by services that are provided outside the presence of men, it is unclear whether a women’s domestic-violence shelter would be able to meet the Act’s requirement that it show that providing women-only services is “necessary to the essential operation” of the shelter. I believe that, in some circumstances, it is appropriate for VAWA grant recipients to provide services that are limited to women. To the extent that VAWA 2013’s new anti-discrimination provision is construed to, for example, prevent or make it difficult for a women’s domestic violence shelter to provide services that it believes should be limited only to women, I continue to have serious reservations about that provision. In the past, I have received strong objections from a respected women and children’s shelter on this very issue.

c. If the provision on tribal jurisdiction had not been part of the bill, would you have supported the bill’s expanded protections for immigrant victims? If not, why not?

RESPONSE: My principal concerns about the 2013 VAWA centered on the tribal jurisdiction provision. The 2013 Act also includes a provision that expands the U visa program. U visas are available to aliens who have been victims of domestic violence and other crimes—they are intended to allow the alien to assist with a prosecution of the offense. These visas allow an alien to remain in the United States for four years and seek permanent-resident status. The Judiciary Committee received numerous statements from American citizens who have been victims of marriage fraud perpetrated by aliens who have abused the U visa program. These aliens have married a U.S. citizen without the intention of remaining married, and then falsely accused their spouse of domestic violence or other crimes in order to obtain a U visa and remain in the United States. During the Judiciary Committee’s consideration of the VAWA reauthorization, an

amendment was offered as an alternative to VAWA 2013 that would have applied basic anti-fraud protections to the U visa program. These proposals would have required that an alleged crime that justified a U visa be recently reported, that it be under actual investigation, and that U.S. Citizenship and Immigration Services interview the parties (including the alleged perpetrator, if the victim consents) to determine if the allegations are credible. The Committee's then-majority refused to include any of these anti-fraud measures in VAWA 2013, and instead expanded the number of visas available from 10,000 to 15,000. I continue to have concerns about fraud, and believe that the 2013 Act's expansion of the program should have been accompanied by provisions that would prevent such abuse of the program.

d. Now that the 2013 reauthorization of the Violence Against Women Act has been implemented for three years, including the provision on tribal jurisdiction, do you still oppose it? If so, why? And would you seek to challenge that provision of the law? Would you seek to challenge any other provisions of the law?

RESPONSE: If I am confirmed as Attorney General, I will enforce all federal laws, including the 2013 reauthorization of VAWA. I understand that a pilot program has been initiated that seeks to conform tribes' exercise of criminal jurisdiction over non-Indians to the requirements of the Sixth Amendment. I will carefully study this program before reaching any legal conclusions about the VAWA tribal jurisdiction provision.

During my meetings with Senators in preparation for this hearing, I have heard numerous concerns about non-enforcement in these matters. I will work to improve this issue. Sexual assault and other violent crime on Indian reservations are very serious problems—in some places, the problem has reached epidemic proportions. The federal government exercises criminal jurisdiction over many Indian reservations. If I am confirmed as Attorney General, I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on federal reservations, and will request additional resources where existing resources are inadequate. Finally, I would note that on many Indian reservations, state and local authorities exercise criminal jurisdiction. State and local law enforcement resources greatly exceed those of federal and tribal governments combined. On the exclusively federal reservations where federal law enforcement has proved to be inadequate to reduce high levels of violent crime, Congress may consider allowing state and local authorities to exercise criminal jurisdiction. State and local law enforcement has proven effective on many existing Indian reservations, and the extension of such criminal jurisdiction to both Indians and non-Indians in Indian country does not offend constitutional guarantees.

I am not aware of any other provision of the law that raises constitutional concerns.

e. If confirmed, will you recommend that the Administration support reauthorization of the law as-is?

RESPONSE: If I am confirmed as Attorney General, I will study the law and its impact to determine whether improvements can be made.

23. A 2016 report from the American Association of University Women states: “At the rate of change between 1960 and 2015, women are expected to reach pay equity with men in 2059. But even that slow progress has stalled in recent years. If change continues at the slower rate seen since 2001, women will not reach pay equity with men until 2152.” (“The Simple Truth about the Gender Pay Gap,” Fall 2016)

In addition, the Bureau of Labor Statistics’ data from 2014 showed that women earned dramatically less than men in occupations from legal, to sales, to education, to technology, to healthcare.

- a. Do you believe that there is a pay gap for women in which women are discriminated against and paid less for doing substantially similar or the same work even when factors such as education or experience are accounted for?*

RESPONSE: Any discrimination against a woman, because she is a woman, would violate federal law. I will enforce the law to the letter where evidence of such discrimination exists, if I am fortunate enough to be confirmed as Attorney General. There should be equal pay for equal work.

24. Lilly Ledbetter had worked for Goodyear in Gadsden, Alabama for 19 years, mostly as a manager. During the years she worked at Goodyear, her pay “slipped in comparison to the pay of male area managers with equal or less seniority.” (Ginsburg dissent.) The problem Lilly Ledbetter had a problem, however, because she had no idea she was being discriminated against. By the time she found out, it had been going on for years.

In a 5-4 decision, the Supreme Court concluded her claims were barred. The Court ruled the deadline to bring a case started to run at the time the discrimination first occurred – not when she found out it happened. This decision meant employers could discriminate with impunity so long as they kept it hidden from their employees for 180 days.

Congress voted to overturn this decision in the Lilly Ledbetter Fair Pay Act of 2009. Four Republican women Senators voted for the law. At the hearing, you were asked about your vote against the legislation. You testified, “We had a hearing on it in the Judiciary Committee. A number of witnesses testified, and the testimony, as I understood it, was that [Lilly Ledbetter] did in fact have notice, and the Court found that she had notice, and that is why they had that statute of limitations was enforced. You need a statute of limitations of some kind, and if they do not know, then you can allow it to continue indefinitely. But as I understood, that was the ruling. So it was less problematic for future cases than was discussed, but my recollection is not perfectly clear on that issue. That was one of the factors I remember being involved in my decision.”

- a. Now that you have had an opportunity to review the issue and the Supreme Court’s decision, please discuss the reasons you were opposed to the Lilly Ledbetter Fair Pay Act of 2009. Are you still opposed to the law?*

RESPONSE: It is my recollection that the legislation would have effectively eliminated the statute of limitations for Title VII pay discrimination claims as long as an employee is receiving paychecks. This would appear to undermine the traditional goals that limitations periods seek to further even where, as here, according to testimony at Judiciary Committee hearings, a person had actual notice of alleged pay disparity, long before filing the action. Nevertheless, no position I took as a Senator would hinder me from enforcing any duly-enacted law.

- b. Please provide with specificity the basis of your statement at the hearing: "We had a hearing on it in the Judiciary Committee. A number of witnesses testified, and the testimony, as I understood it, was that [Lilly Ledbetter] did in fact have notice, and the Court found that she had notice, and that is why they had that statute of limitations was enforced."*

RESPONSE: On Tuesday, September 23, 2008, the Senate Judiciary Committee held a hearing entitled "BARRIERS TO JUSTICE: EXAMINING EQUAL PAY FOR EQUAL WORK." Lilly Ledbetter, Cyrus Mehri, and Lawrence Lorber testified about the case and the Supreme Court's ruling in favor of the employer, Goodyear. Testimony offered by the witnesses, and the facts that were exposed in the case, indicated that Ms. Ledbetter's record included poor performance reviews and repeated layoffs. Nevertheless, she waited more than five years before filing a claim.

25. Pursuant to 8 C.F.R. § 1003.1, the Attorney General has authority to certify cases of the Board of Immigration Appeals (BIA) to himself. Through this authority, the Attorney General can establish or reverse precedent in immigration law. According to the Congressional Research Service, in the past this authority has been used very rarely: it was used in just five cases by Attorney General Mukasey, and in just three cases by Attorney General Holder.

- a. Do you believe that, in line with established practice, this authority for the Attorney General to decide immigration appeals himself or herself must be used sparingly—leaving the adjudicative process to function as it usually does with decisions made by immigration judges and members of the board of immigration appeals?*

RESPONSE: My understanding is that this authority is entirely discretionary. Decisions to use such authority would only be decided on a case-by-case basis, and I cannot speculate as to how often that authority should be exercised.

- b. If confirmed as Attorney General, what criteria do you intend to consider in deciding which BIA cases you will seek to certify to yourself?*

RESPONSE: I have not given thought to what criteria would be essential to a determination of whether to certify a case to myself for review.

26. The Department of Homeland Security (DHS) has acknowledged that its resources enable it to remove only a fraction of the undocumented population each year. You have also

recognized that financial considerations do not make it possible to identify and remove everybody who is in the country illegally.

- a. Do you believe that young people who have qualified and received deferred action through the 2012 Deferred Action for Childhood Arrivals (DACA) program constitute high enforcement priorities?*

RESPONSE: As you know, decisions about “enforcement priorities” with regard to our civil immigration system reside in the Department of Homeland Security. Should I be confirmed as the Attorney General, I will have no role in establishing the Department of Homeland Security’s civil enforcement priorities.

- b. What about the parents of children who are U.S. citizens or legal permanent residents?*

RESPONSE: Please see response to 26(a).

- c. Which types of individuals do you believe constitute high enforcement priorities?*

RESPONSE: Please see response to 26(a).

27. 8 U.S.C. § 1373 establishes certain guidelines regarding communication between state and local governments and federal immigration agencies with respect to an individual’s citizenship or immigration status. In interpreting this statute, the Department of Justice’s Bureau of Justice Assistance (BJA) has concluded that it “does not impose on states and localities the affirmative obligation to collect information from private individuals regarding their citizenship or immigration status, nor does it require that states and localities take specific actions upon obtaining such information.”

- a. Will you adhere to BJA’s current interpretation of 8 U.S.C. § 1373?*

RESPONSE: Should I be confirmed as Attorney General, I will faithfully execute the laws for which I am responsible for administering.

- b. If not, what is your interpretation of 8 U.S.C. § 1373? And what is your interpretation based on?*

RESPONSE: I have not had the opportunity to undertake a detailed review of the BJA’s interpretation of the statute. If the BJA’s interpretation of the statute is correct, I see no reason not to follow it.

28. The principle of birthright citizenship, regardless of the citizenship or immigration status of an individual’s parents, is enshrined in the Citizenship Clause of the 14th Amendment. That clause provides that “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” The Supreme Court affirmed this principle almost 120 years ago in *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898), noting: “But citizenship by birth is established by the mere fact of birth

under the circumstances defined in the Constitution. Every person born in the United States, and subject to the jurisdiction thereof, becomes at once a citizen of the United States, and needs no naturalization.” And: “In the forefront both of the Fourteenth Amendment of the Constitution and of the Civil Rights Act of 1866, the fundamental principle of citizenship by birth within the dominion was reaffirmed in the most explicit and comprehensive terms.”

- a. Do you believe that a child born in the United States to undocumented parents is a citizen of the United States?*

RESPONSE: As I testified before the Committee, under the current state of the law, children born in the United States become citizens.

- b. With respect to a child born in the United States, under what circumstances do you believe that Congress can modify the scope of birthright citizenship by statute?*

RESPONSE: I have not reviewed the details of that. I do know there is some dispute about whether or not the Congress could change the status of current law regarding birthright citizenship.

- c. If you are confirmed, will the Justice Department file briefs in support of efforts to alter the constitutional provision regarding birthright citizenship?*

RESPONSE: The determination as to how to handle a particular case is fact-specific, and I cannot speculate as to how the Department of Justice might litigate future hypothetical cases.

29. A number of states across the country, including California, have passed laws allowing undocumented students to qualify for in-state tuition. California’s in-state tuition law has made it possible for undocumented students in the state to pursue higher education and develop the skills and knowledge to contribute more fully to their communities and our economy.

- a. Do you believe that federal law prohibits states from providing access to in-state tuition for undocumented students?*

RESPONSE: My current understanding is that responding to this question would require an analysis of the laws of each individual state, compared with applicable federal law. At this time, I cannot comment on this issue.

- b. Do you intend to take any action against states that provide in-state tuition for undocumented students? If so, what type of legal action do you intend to pursue against these states?*

RESPONSE: Should I be confirmed as Attorney General, I will faithfully execute the laws of the United States.

30. In *Plyler v. Doe*, 457 U.S. 202 (1982), the Supreme Court held that states cannot deny undocumented children free K-12 public education. In its opinion, the Court noted: “By

denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.”

a. Will you commit to upholding and enforcing Plyler v. Doe?

RESPONSE: Should I be confirmed as Attorney General, I will enforce the law as interpreted by the Supreme Court.

31. On a variety of occasions you have expressed strong concerns about Congress passing immigration reforms because you were worried about jobs being taken from American citizens. In 2013 you said, “Why would any member of Congress want to vote for a bill at a time of high unemployment, falling wages, to bring in a huge surge of new labor that can only hurt the poorest among us.” And on the Senate Floor on June 23, 2016, you went so far as to say that all jobs created in the country during the period between 2000 and 2014 “went to the foreign born.”

The *Washington Post*, as recently as Christmas 2016, reported that a Virginia vineyard owned by President-Elect Trump or his company had applied for six H-2A visas to work seasonal jobs. Additionally, as you know, President-Elect Trump’s companies have applied for a number of H-2B visas, mostly in his hotel businesses, including 20 waiters and waitresses for his Trump International Beach Resort in Florida, in December 2016 alone. Further, the *Washington Post* reported that since 2013, President-Elect Trump’s businesses have requested 513 employment-based visas, with 269 of these visas for foreign workers set to begin employment after President-Elect Trump declared his candidacy for President.

a. If any of these companies, or individuals working with these companies, is believed to violate federal criminal law, how will the Department of Justice proceed to investigate or prosecute individuals from the President’s own companies?

RESPONSE: I believe that all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

b. You were extensively involved in President-Elect Trump’s political campaign. Will you recuse yourself from any decisions regarding the investigation or prosecution of President-Elect Trump’s own companies?

RESPONSE: I am not aware of a basis to recuse myself from such matters. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

32. Throughout the campaign, President-Elect Trump accused U.S. District Court Judge Gonzalo Curiel of being biased based on Judge Curiel's heritage. President-Elect Trump was quoted by the press as saying:

- "He's a Mexican. We're building a wall between here and Mexico." (Politifact, June 8, 2016, quoting Jake Tapper interview with CNN)
- "I'm building a wall. It's an inherent conflict of interest." (Wall Street Journal, June 3, 2016)
- "It's an absolute conflict" (Wall Street Journal, June 3, 2016)
- "He's a member of a club, or society, very strongly pro-Mexican" (John Dickerson, Face the Nation, Interview, June 5, 2016)
- "I think the judge has been extremely hostile to me. I think it has to do with perhaps the fact that I'm very, very strong on the border. Very, very strong on the border. ... Now, he is Hispanic, I believe. He is a very hostile judge to me. I said it loud and clear." (Fox News Sunday, February 27, 2016)

In addition, in an interview with John Dickerson on CBS News Mr. Trump was asked whether he believed a judge who is a Muslim would also be unfair to him. He said, "*that would be possible, absolutely.*"

- a. Would it ever be appropriate for the Department of Justice to seek a judge's recusal from a case involving the Trump administration based on the judge's race, gender, ethnicity, family heritage or national origin, religion, sexual orientation, or gender identity? If so, please explain.*

RESPONSE: No.

- b. Through the Office of Legal Policy and otherwise, the Department historically has had a significant role in the judicial nominations process. Can you assure the Committee that the Department of Justice will not support any efforts by the President-Elect to reject candidates for judicial positions based on their race, gender, ethnicity, family heritage or national origin, religion, sexual orientation, or gender identity?*

RESPONSE: Yes.

33. After your initial submission of your Senate Judiciary Questionnaire ("Committee Questionnaire") on December 9, 2016, you made three subsequent supplemental submissions to address missing materials. These additional submissions included over 50 hours of audio and visual material and hundreds of pages of documents. Your initial submission was, therefore, incomplete.

Additionally, the Committee never received the following requested material from your years as U.S. Attorney for the Southern District of Alabama or as Attorney General of Alabama: Interviews: Radio, television, and print interviews while you were U.S. Attorney for the Southern District of Alabama and Attorney General of Alabama.

Nominees regularly produce materials documenting statements to the press regardless of whether a full transcript is available, or whether the statements were part of a formal interview. I identified examples of such materials to you in a list on January 5, 2017. In a letter to me on January 6, 2017, you responded that you were not sure if the materials were responsive because you could not confirm the exact circumstances under which you made the comments. However, nominees are generally expected to produce press statements whether they were part of a formal interview or not. The burden to establish exactly how the comments were made is not on the Committee.

For example, a 1996 Birmingham News article available in a public database but missing from your materials indicates you made comments during an interview about strengthening criminal laws. (Stan Bailey, *Sessions Says Crime Laws Need Change*, BIRMINGHAM NEWS, Dec. 18, 1996 (“‘I was most surprised at how much more difficult it is, it seems to be, to prosecute fraud and corruption,’ Sessions said in an interview Tuesday.”)) Another 1996 article missing from your materials but available in a public database indicates you made comments to the press regarding the National Rifle Association (NRA) at an event while you were campaigning for U.S. Senate. (Sean Reilly, *Sessions: NRA comments were a mistake*, MOBILE REGISTER, November 2, 1996 (“‘I don’t agree with that comment,’ Sessions said Friday of the NRA letter. ‘It’s not something that should have been said.’”))

Speeches: For the fourteen years you served as U.S. Attorney for the Southern District of Alabama and Attorney General of Alabama, you listed just three speeches, and you had notes or transcripts for just one of these. During this time, you campaigned for Alabama Attorney General and the U.S. Senate.

You served as the U.S. Attorney for the Southern District of Alabama for 12 years. An online search shows that the current U.S. Attorney for the Southern District of Alabama has made at least ten speeches in the last five years. You also served for two years as Alabama Attorney General. An online search shows that the current Attorney General of Alabama has made at least seven speeches in the last year alone.

- a. *What steps did you or your staff take to ensure that the materials you provided to the Committee in response to the Questionnaire were complete? Please specifically detail the efforts you or your staff made to identify and locate materials from your time as U.S. Attorney and Alabama Attorney General.***

RESPONSE: In preparing my response to the Committee’s Questionnaire, my staff and I conducted a thorough review of my own files, searches of publicly available electronic databases, and consultation with the Senate Library, the Congressional Research Service, and relevant committee libraries and historical offices within the Senate. In an effort to be as responsive as possible, my staff also conducted further review of existing files from the era, including historical archives maintained in electronic research databases such as LexisNexis, WestLaw, and ProQuest, public search engines, and Internet archive services that maintain records of websites that no longer exist. Additionally, as records from my time as United States Attorney and Attorney General of the State of Alabama existed before the proliferation of the Internet and before electronic storage was as readily available as it is today, most of those

records do not exist in any electronic databases of which I am aware, and my staff and I consulted with the Alabama Attorney General's Office and with the United States Attorney's Office for the Southern District of Alabama to locate archived files from my time in those offices. All responsive records identified or located as a result of these searches were submitted to the Committee.

- b. After your initial incomplete production, did you or your staff take any different or additional steps to gather a more complete set of materials? For example, did you or your staff attempt to identify and search newspaper archives of Alabama news publications that may be available in the state but not searchable nationwide? Did you or your staff ask the Alabama Attorney General to produce material in the state archive, or work with the state archives directly? Please detail your and your staff's efforts.*

RESPONSE: After my initial voluminous production, which was more extensive than any Committee Questionnaire response by any Attorney General nominee in recent memory and encompassed more than 100 times the records produced by Attorney General Lynch,¹ items were brought to my attention as potentially responsive that had not been submitted. Some already had been submitted to the Committee, and some were not responsive items at all. A miniscule percentage of items, however, were responsive and subsequently submitted to the Committee in a supplemental response, which is a common practice for nominees. Additionally, in an effort to be as responsive as possible, my staff conducted additional searches to locate any other items that might have been missing.

34. During your hearing, you testified that "I've received hundreds – multiple hundreds of awards over my career." You have only listed 79 awards as part of your Committee Questionnaire.

- a. What process did you use to determine which of the "multiple hundreds of awards" you have received would be listed on your Committee Questionnaire? Put another way: how did you decide which awards not to include on your Committee Questionnaire? Please outline what steps were taken to ensure a full inventory of your awards were provided.*

RESPONSE: My comment that I had received "multiple hundreds of awards" was hyperbole and I should have been more careful with my words. I listed in my response to the Committee Questionnaire all awards that I was able to locate, identify, or remember.

- b. Please provide the Committee with a list of any missing awards.*

RESPONSE: I have already provided to the Committee all responsive items, including awards, that I was able to locate, identify, or remember.

¹ Letter from Ranking Member Dianne Feinstein to Chairman Charles E. Grassley, Dec. 13, 2016 ("Senator Sessions' production is, as I understand it, in excess of 150,000 pages of material. This is more than 100 times what Attorney General Lynch produced (1500 pages) and more than 29 times what Attorney General Holder produced (5100 pages))."

35. Since 2009, funding for the Byrne Justice Assistance Grant (Byrne JAG) program and the COPS Hiring program have dropped by 32 percent and 37 percent, respectively. Byrne JAG is the cornerstone federal justice assistance program, providing hundreds of millions of dollars to state and local law enforcement each year. The COPS Hiring program provides more than a hundred million in funding to hire new, or rehire, law enforcement or to increase community policing.

Police officers need this support. And cutting support for this funding – or allowing cuts to be made – would undermine the brave law enforcement officers that put their lives on the line for communities every day. The cuts since 2009 have had real impact.

a. Will you support increased funding for these essential programs?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes throughout the country, and to partner with State and local law enforcement agencies to help them address these issues. I will make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in the administration of justice. This will include a review of the Department's Inspector General's report criticizing program administration. As you know, resources are limited; therefore, prior to such an evaluation, it would be unwise for me to commit to an increase in funding for any specific purpose.

b. In FY16, California received \$30.3 million from Byrne-JAG and \$11.725 million from the COPS program. Will you ensure funding for California law enforcement in these programs is not reduced, except as may be proportional to any overall reduction in the program by Congress?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes throughout the country, and to partner with State and local law enforcement agencies to help them address these issues. I will make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in the administration of justice. As you know, resources are limited; therefore, prior to such an evaluation, it would be unwise for me to commit to an increase in funding for any specific purpose.

36. I believe that the men and women who serve as state and local law enforcement officers are some of the finest and bravest public servants we have. The vast majority of police officers do exemplary work and build strong relationships with the community to keep the public safe. However, we also know that in many communities, trust between community members and state and local law enforcement is deeply frayed.

I recently convened a pair of meetings with more than 50 African American community, religious and political leaders, and law enforcement officers in San Francisco and Los Angeles. A key point that emerged was that change must take root from the bottom up, but

the federal government – especially the Justice Department – has a role to play in recommending best practices and providing or supporting civilian oversight. In some cases, where the Department has found a pattern or practice of unconstitutional policing, the Department has entered consent decrees in order to ensure that needed reforms happen at an institutional level.

During your hearing, you told Senator Hirono that “there’s a concern that good police officers and good departments can be sued by the Department of Justice when you just have individuals within the department who have done wrong, and those individuals need to be prosecuted.”

- a. Please list all investigations or proceedings under Section 14141 that the Civil Rights Division has undertaken since 1994 that you believe were undertaken erroneously and/or should not have been brought.*

RESPONSE: I have not been privy to internal Department data and information regarding every investigation undertaken under this section. However, if I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate the authorities and tools available to the Department, including this section, and partner with departments to provide best practices and information whenever appropriate.

37. In addition to Section 14141 investigations, the Justice Department’s Office of Community Oriented Policing Services (COPS) provides, upon request, assistance to police departments to help develop long-term, holistic strategies to improve policing.

In my home city of San Francisco, the COPS unit has helped identify specific areas for the San Francisco Police Department to improve its own policies, particularly in the wake of several use-of-force incidents that sparked protests across the state. The program under which the COPS office assisted the SFPD is called the Collaborative Reform Initiative, and it is a program that has collaborated with police departments nationwide, including in Baltimore, Memphis, Philadelphia, and Salinas.

- a. Will you commit to continuing this type of technical assistance for police departments that request it?*

RESPONSE: While I am unfamiliar with the specific assistance provided to San Francisco, I agree it is important for law enforcement agencies to build trust and good relationships with the communities they protect, and the Community Oriented Policing Services Office of the Department of Justice can provide valuable information, resources, and technical assistance to law enforcement agencies looking to improve their practices. If confirmed, I will support their efforts.

38. In May 2016, the Department of Justice filed an indictment against South Carolina Police Officer Michael Slager after he fatally shot Walter Scott, an African American man. Officer Slager was indicted both on federal criminal civil rights and obstruction charges.

On December 6, MSNBC's Mika Brzezinski asked Vice President-Elect Pence "Will the next administration support the feds continuing the case against Slager?" Vice President-Elect Pence replied, "Well, I think that'll be a decision that the Attorney General will review and make after January the 20th, and I'll let our designee and of course President-Elect [Trump] review that."

- a. Have you discussed this case with President-Elect Trump, Vice President-Elect Pence, or other members of the transition team? Please specify.*

RESPONSE: No.

- b. Do Vice President-Elect Pence or President-Elect Trump have any reason to believe that you plan to withdraw a previously-filed indictment in this case—or any other criminal or civil rights cases the Justice Department is currently prosecuting?*

RESPONSE: I have not discussed this case with the President or the Vice President and therefore cannot comment on what they may or may not believe. I have not had an opportunity to review this case and have not made any decisions with regard to it or any other pending cases. However, I do not anticipate withdrawing any pending prosecutions that are justified by the facts and circumstances of the case and relevant laws.

- c. Do you believe it would be appropriate for President-Elect Trump to "review" any prosecutorial decisions you, or any other employees of the Department of Justice, make?*

RESPONSE: No.

39. When I was chairman of the Senate Intelligence Committee, the Committee approved a full report on detention and interrogation – more than 6,700 pages and 38,000 footnotes. This report was produced based on a fulsome staff review of mostly CIA documents describing the Central Intelligence Agency's detention and interrogation program. It includes extensive information about the Justice Department's role in authorizing this program, but also how the CIA repeatedly provided inaccurate information to the Justice Department about the operation of the program.

This report was approved by a bipartisan vote in the Intelligence Committee of 9-6.

After months of negotiations, the Executive Summary of this report was declassified with redactions. This summary runs 500 pages. The Committee sent copies of the full report to a number of relevant agencies, including the Department of Justice and FBI.

- a. Have you read the Executive Summary?*

RESPONSE: No.

- b. Will you commit to reading the full report if confirmed – and instructing appropriate officials to read the full report, to ensure that we do not repeat the mistakes of the past?*

RESPONSE: If confirmed, I will ensure that I and other appropriate officials are fully briefed on the contents of the report to the extent that it is pertinent to the operations and mission of the Department of Justice.

- c. Will you commit that you will not return the Justice Department's copy of the report to the Senate?*

RESPONSE: Yes.

40. At your hearing, Senator Graham asked you whether you support the continuation of use of Guantanamo Bay as a confinement facility for foreign terrorists.

The U.S. has been detaining individuals without charge or trial at the Guantanamo Bay detention facility for the past 15 years. A total of 780 people have been held at the facility since it opened. Of this number, approximately 540 were released during the George W. Bush administration, and 183 during the Obama administration. Another nine died in custody, six by suspected suicide. A total of 55 remain.

During this time, only a very small number of cases were prosecuted in the military commissions, fifteen in total. Eight of these resulted in convictions, three of which have been fully overturned on appeal; several others were partially overturned. A number of other appeals are pending. Other cases are bogged down in pre-trial hearings. The case against the five men accused in the September 11, 2001 attacks is in its fourth year of pre-trial hearings and a trial date is still years away.

Meanwhile, the government has prosecuted more than 500 terrorism suspects in federal court, including Dzhokhar Tsarnaev, the Boston Marathon bomber; Faisal Shahzad, who tried to set off a car bomb in Times Square; and Umar Farouk Abdulmutallab, the so-called "underwear bomber," all of whom were convicted.

You have made comments indicating that individuals captured by the U.S. abroad should not be prosecuted in federal court, but rather in military commissions in Guantanamo.

- a. Do you agree the Department of Justice has a record of success bringing terrorism-related criminal charges against hundreds of defendants since September 11, 2001?*

RESPONSE: Yes. I also believe that the prosecution of terrorists in the military commission system would be successful if used.

- b. As Attorney General, do you intend to stop prosecuting terrorist suspects in federal court? Do you intend to stop enforcing, for example, 18 U.S.C. § 2339B, which criminalizes the provision of material support or resources to a designated foreign terrorist organization?*

RESPONSE: The statute you cite has proven to be a particularly valuable tool in the war on terrorism and I expect to vigorously prosecute offenses under that law where warranted.

41. In the past, you have asserted that existing gun laws must be enforced aggressively. You have said when you were the U.S. Attorney in the Southern District of Alabama, you committed yourself to prosecute violations of “hundreds of gun laws.”

You went so far as to claim you sent a newsletter to local law enforcement to bring you cases involving gun violations. You stated, “I created a newsletter and sent it to every sheriff. I said: If you have the kind of criminal that needs prosecuting under federal gun laws, you bring those cases to me and we will prosecute them.”

You also have the highest political rating from the National Rifle Association and consistently have voted against attempts to strengthen background checks and otherwise make federal gun laws stronger.

- a. Will you commit to fully enforcing existing gun laws, including by taking enforcement measures strongly opposed by gun rights groups?*

RESPONSE: If I am confirmed, I will make enforcement of federal gun crimes a top priority and aggressively engage with state and local law enforcement partners to ensure consistent policies for the apprehension of those violating federal gun laws. I fully expect gun prosecutions to increase. Properly enforced, federal gun laws can reduce crime in our cities and communities.

- b. There have been legal challenges to federal, state and local gun laws since the Heller and McDonald decisions in 2008 and 2010.*

If confirmed, under what circumstances would the Department of Justice decline to defend a federal firearms law against a legal challenge?

RESPONSE: The Executive Branch has a clear and unwavering duty to vigorously defend the constitutionality of any law for which a reasonable defense may be made. This includes the responsibility to defend in court acts of Congress with which the President may disagree as a matter of policy. That is an important and a time-honored principle to which I fully subscribe. There are two exceptions: (1) where a statute intrudes upon the separation of powers by infringing on the President’s constitutional authority, and (2) where there are no reasonable arguments that can be presented in defense of a statute. These are narrow exceptions, and require the most careful consideration before being adopted.

42. As you are aware, any person engaged in the business of dealing in firearms must conduct background checks on gun buyers. Courts have identified several factors to determine whether an individual is “engaged in the business” of buying and selling firearms; there is no specific threshold number of firearms purchased or sold that triggers the requirement. As ATF stated in its January 2, 2016 guidance document, “even a few firearms transactions, when combined with other evidence, can be sufficient to establish that a person is ‘engaged in the business’ of dealing in firearms.”

For example, in *United States v. Shan*, the Second Circuit found that the defendant was properly convicted of dealing in firearms without a license when he sold just two firearms in a month and acknowledged that he had a source for more guns. The Sixth Circuit has similarly noted, “[T]he statute does not establish a minimum threshold for the number of guns sold.” As a result of decisions like these, the Justice Department has brought cases against individuals who illegally sold guns without a license, only later to have those guns found at deadly crime scenes. In St. Paul, for example, a man transferred a gun at least 9 times after buying guns online and then trying to sell those guns on the secondary market. Court records indicated that several of the guns that were sold were part of drug trafficking crimes, and other “shots-fired” incidents.

This case is but one example of individuals buying guns and then illegally selling them to individuals without background checks, and the guns then being found at crime scenes.

a. Will you commit to investigating and prosecuting illegal gun dealers who are selling weapons without conducting a background check? If your answer is yes, please describe in detail your plan for doing so.

RESPONSE: When I served as a United States Attorney, protecting the public from violent gun-related crime was among my top priorities. As I testified before the Committee, I will enforce federal background check laws. Properly enforced, the federal gun laws can reduce crime in our cities and communities. Those who deliberately violate federal gun laws should be investigated and prosecuted. The Congress and government regulations set forth the circumstances and methods by which gun dealers may sell guns. If I am fortunate enough to be confirmed as Attorney General, violators will be prosecuted as appropriate.

43. In 2014, in *Abramski v. United States*, the Supreme Court held in a 5-4 decision that “a person who buys a gun on someone else’s behalf while falsely claiming that it is for himself” violates the law prohibiting material false statements on federal gun forms.

This decision is vital to the prosecution of so-called “straw purchasers” who buy guns on behalf of those, such as felons, who cannot pass a background check. The Department of Justice’s position in this case was that the buyer’s “knowingly false statement that he was the actual purchaser of the handgun” violated the law.

The National Rifle Association’s position was that this was “not a permissible construction” of the law.

a. If you are confirmed, will the Justice Department prosecute those who lie on federal firearm sale forms by falsely claiming they are the actual purchasers?

RESPONSE: Properly enforced, the federal gun laws can reduce crime in our cities and communities. Those who deliberately violate federal gun laws should be investigated and prosecuted. I have personally prosecuted and supported prosecutions of those who lie on these

forms. If I am fortunate enough to be confirmed as Attorney General, I will support the continued enforcement of federal gun laws, as appropriate.

b. Will you defend this law, including the Supreme Court's Abramski decision, against a constitutional challenge?

RESPONSE: It is appropriate for the Justice Department to consider the role of precedent whenever advocating before the Supreme Court. In addition, it is important for the Department to consider the facts of an individual case, and also to consider sound jurisprudence when determining the Justice Department's position on a legal issue. If I am fortunate enough to be confirmed as Attorney General, the Justice Department will fairly and thoroughly evaluate these factors in arguments before the Supreme Court.

44. The ATF – the agency that investigates gun crimes – lacks sufficient resources to carry out its statutory responsibilities. You and other Republican colleagues have said that we should focus on fully enforcing existing gun laws before passing new ones.

However, since Fiscal Year 2011 (the first year Republicans were in charge of the House during the Obama Administration), Congress appropriated \$182.3 million over five years less than the agency said it needed, because of Republican opposition to greater funding.

Since Fiscal Year 2011, ATF has grown by a total of only 10 people or 0.2 percent (from 5,016 employees to 5,026 employees). Over the same period, the number of guns bought and sold in America skyrocketed. The FBI conducted 27 percent more background checks in 2014 than in 2011 (from 16.5 million to 21 million). In addition, I understand that 544 Special Agents (one-fifth of the total ATF Special Agent population) were eligible to retire last year.

The only way to truly enforce existing gun laws is to ensure agencies like ATF have the funding they need to do the job.

a. Would you agree that in order for gun laws to be fully enforced, we need ATF to be fully staffed and ATF investigators to be well-trained and well-equipped? Yes or no.

RESPONSE: Yes.

b. Will you commit, if you are confirmed as the Attorney General, to make sure that the DOJ budget request reflects the resources necessary to ensure that ATF can fully execute the mission given to it by Congress?

RESPONSE: Through my service as a United States Attorney, and as a Senator, I am aware of the difficult choices that the Justice Department has to make during this time of tight budgets. Such awareness should be present in any request for taxpayer funds. I understand the challenges that ATF faces and believe that with proper support and with vigorous prosecutions, ATF can be more productive without large increases in funding. If I am fortunate enough to be confirmed as

Attorney General, I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law.

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 26, 2017**

QUESTIONS FROM SENATOR FEINSTEIN

Recusals

1. Senator Leahy asked you whether you would recuse yourself from DOJ actions against or investigations of Donald Trump or his finances. You responded: "If merely being a supporter of the President's during the campaign warranted recusal from involvement in any matter involving him, then most typical presidential appointees would be unable to conduct their duties. I am not aware of a basis to recuse myself from such matters." I asked you a similar question, whether you would recuse from deciding whether to bring prosecutions in connection with Russian hacking of the election, and you responded, "I am not aware of a basis to recuse myself from such matters."

You were not merely "a supporter of the President's during the campaign." You were the first senator to expressly support him, almost one year ago. You appeared with him at multiple rallies. You spoke at the Republican National Convention. You were an active surrogate for Mr. Trump's campaign. The Washington Post has written that "After Sessions became one of the first members of Congress to endorse Trump this February, he became an adviser on almost every major decision and policy proposal Trump made during the campaign," including chairing his National Security Advisory Committee. It has also written that you assisted with the selection of Vice President Pence. The Trump campaign website states: "Senator Sessions has been one of Mr. Trump's most trusted policy advisers, assisting him in making selections." All of this goes far beyond what we are used to seeing from political appointees.

a. Please state for the record:

(1) all Trump campaign events that you attended or participated in;

RESPONSE: Attached is a list (Appendix A) of all campaign events that I attended of which I have records.

(2) all capacities in which you advised the President-elect during the campaign; and

(3) every specific decision made during the campaign on which you advised the President-elect.

RESPONSE to (a)(2) – (a)(3): The President sought my input on a number of matters on which I have taken very public positions as a Senator; however, he had many advisors and it would be impossible for me to know any specific decisions that were made as a result of my

advice. I endorsed him in part because he was a leader advocating for issues I supported and believed in.

- b. In light of your efforts as a campaign surrogate on the Trump campaign, will you reconsider your stated intention not to recuse yourself from matters before the Department involving Mr. Trump, his campaign, or connections to Russia?**

RESPONSE: I cannot offer an opinion on recusal as to this, or any other issue, without knowing the particular facts and circumstances that would need to be considered. There is no opinion I could provide that would fit in every instance. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

- c. Is there any scenario under which you would find it inappropriate to handle a matter before the Department involving Mr. Trump?**

RESPONSE: Each case depends on facts and specific circumstances. It would not only be impossible, but unwise, for me to suggest that an Attorney General would or would not be presented with a conflict in every possible scenario that involves the President. In other words, I cannot offer an opinion that would fit in every instance. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. Recusal, of course, is one option.

2. In your hearing before the Committee, you pledged to recuse yourself from involvement in “those kind of investigations that involve Secretary Clinton and that were raised during the campaign or could otherwise be connected to it.”

You were announced in March 2016 as the Chair of the Trump Campaign’s National Security Advisory Committee. In a later announcement from a month before the election, the Trump campaign stated the campaign’s “National Security Advisory Council” had already included you, General Mike Flynn, and others.

So far you have refused to commit to recusing yourself from involvement in any investigations related to the Russian influence on the 2016 U.S. elections to benefit President Trump. You testified that you *still* have not reviewed the Intelligence Community’s classified and unclassified assessments on these Russian activities and intentions. The media has reported that intelligence agencies are examining links between President Trump and his senior advisors and the Russian government. For example, reports state that the intelligence agencies are examining contacts between President Trump’s National Security Adviser Michael Flynn, who served with you on the campaign’s national security team, and Russian government officials.

I want to give you an opportunity to reconsider your answer on recusal, especially in light of the Washington Post’s editorial on January 24, 2017: “Mr. Sessions played a key role in the

president's campaign. At the least, Mr. Sessions would raise the appearance of a conflict if he made law enforcement decisions related to that campaign. He should commit to recusing himself now."

- a. **Given the extent to which you were publicly identified with President Trump's political campaign and national security advisory council, will you commit to recuse yourself from involvement in any investigations into ties between President Trump, his businesses, or his campaign aids and the Russians?**
- b. **Will you commit to recuse yourself from involvement in any investigations into Mr. Flynn's ties to the Russians?**
- c. **Would you commit to recuse yourself from involvement in any investigations related to the Trump's campaign's contacts with the Russians?**

RESPONSE to (a) – (c): I cannot offer an opinion on recusal as to this, or any other issue, without knowing the particular facts and circumstances that would need to be considered. There is no opinion I could provide that would fit in every instance. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

- d. **If not, please explain the difference between investigations involving candidate Hillary Clinton (for which you said you would recuse yourself), and investigations into the Trump campaign and candidate Donald Trump (for which you have said you are unaware of a basis to recuse)?**

RESPONSE: Prior to being nominated, I voiced publicly my opinion with respect to certain issues relating to the investigations involving Secretary Clinton. I am not aware of any investigations into the Trump campaign, and having been privy to no such information on which to opine, I have taken no position publicly or privately. As I have previously stated, each case depends on the facts and circumstances. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

- e. **If the Department ethics officials recommended that you recuse yourself from a matter involving President Trump, his businesses, or his associates, would you commit to follow their recommendation?**

RESPONSE: I would seek the recommendations of Department ethics officials and value them significantly in my decision-making on such a question.

- f. **Do you doubt that the Department of Justice's National Security Division and the Deputy Attorney General are adequately equipped to handle such an investigation without the involvement of the Attorney General?**

RESPONSE: Certainly, the Justice Department is full of talented and experienced attorneys and I will endeavor to utilize them in the most effective ways possible to aid in the fair administration of justice. The question of recusal should not turn on whether others in the Department are equipped to handle an investigation without my involvement. As the leader of any office or business, you hope to surround yourself with staff that can handle issues in your absence; however, the confidence that you have in your staff is not a sufficient reason, in and of itself, for a constitutional officer to step away from a matter.

- g. Your written testimony regarding what you would recuse from is substantially narrower than how you testified at your hearing.**

At the hearing, you said that you will recuse from “those kind of investigations that *involve* Secretary Clinton and that *were raised during the campaign or could otherwise be connected to it.*”

Your written response stated you would recuse “from any investigation of Secretary Clinton or the Clinton Foundation.”

Do you stand by your original statement, or are you changing the answer you gave in your committee hearing?

RESPONSE: I stand by both statements and see no inconsistency in them.

3. 28 C.F.R. § 45.2 prohibits a DOJ employee from participating in a criminal investigation or prosecution if he has a personal or political relationship with any person or organization that is the subject of the investigation. Political relationship is defined in the regulation as meaning “a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof.”

- a. You have a close political relationship with President Trump, as one of his major campaign surrogates. Do you believe 28 C.F.R. § 45.2 requires you to recuse yourself? If not, why not?**
- b. If not, in what scenario would a political relationship make it improper for an Attorney General to participate in an investigation?**

RESPONSE to (a) – (b): As I previously stated, if a matter arose in which I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. Such a consultation would necessarily include careful evaluation of the statute in question and the factors it lists, in light of relevant facts and circumstances that are established at the time. It would not be appropriate to make this determination in a vacuum and without the expertise and experience of Department attorneys.

4. The DOJ has a general standard that an employee shall endeavor to avoid any actions creating the appearance that the employee is violating the Department's ethical standards, 5 C.F.R. § 2635.101(b)(14).

- a. **Do you maintain that participating in an investigation into a person for whom and with whom you campaigned closely and on whose campaign you performed a leadership role does not create the appearance of violating DOJ ethical standards, or create the appearance of impropriety?**

RESPONSE: 5 C.F.R. § 2635.101(b)(14) states:

Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

As I previously stated, if a matter arose in which I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. Such a consultation would necessarily include careful evaluation of the statute in question and the factors it lists, in light of relevant facts and circumstances that are established at the time. It would not be appropriate to make this determination in a vacuum and without the expertise and experience of Justice Department attorneys.

5. In my questions for the record, I asked you if you had reviewed either the classified or unclassified assessments by the Intelligence Community regarding Russian activities and intentions during the recent U.S. elections. Your response, which I found surprising, was "I have not reviewed their assessments."

- a. **Did you receive specific directions or advice not to review these assessments?**

RESPONSE: No.

- b. **If you did receive such direction or advice, please tell us the sum and substance of that advice.**

RESPONSE: See response to 5(a).

- c. **If you did receive such direction or advice, please identify each person who gave you such advice or direction.**

RESPONSE: See response to 5(a).

- d. If there is another reason you have not reviewed these assessments—which were widely reported on and, in my belief, represent a truly dangerous threat to our democracy—please discuss.**

RESPONSE to (a) – (d): If I am fortunate enough to be confirmed as Attorney General, I will have the resources of the Department, including experienced personnel, at my disposal to rely on in forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment at this time or to endeavor to reach any conclusion on this or other matters being discussed in the media.

The unclassified assessment begins: “Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.”

The unclassified assessment continues: “We also assess Putin and the Russian Government aspired to help President-Elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

- e. Please review the rest of the unclassified assessment, and state whether you have done so.**
- f. Please review the classified assessment, and state whether you have done so.**
- g. Please state for each individual finding of the unclassified assessment whether you agree or disagree:**

“Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.”

“We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia’s goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. We have high confidence in these judgments.”

“We also assess Putin and the Russian Government aspired to help President-elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

“We assess with high confidence that Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election, the

consistent goals of which were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. When it appeared to Moscow that Secretary Clinton was likely to win the election, the Russian influence campaign then focused on undermining her expected presidency.”

- h. Is there any assessment in the unclassified assessment with which you disagree? If so, please identify it.**

RESPONSE to (e) – (h): If I am fortunate enough to be confirmed as Attorney General, I will have the resources of the Department, including experienced personnel, at my disposal to rely on in forming opinions on these statements as well as their legal ramifications. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to attempt to form any fixed opinions on these matters or to comment on these matters at this time.

6. I also asked you whether, as Attorney General, you would continue defending the position that the Department of Justice has taken since 2013 in a lawsuit the Department filed against the State of Texas—that the State’s voter ID law violates the Voting Rights Act. You responded that my question “implicated an ongoing legal matter” and therefore that it would be “inappropriate” for you to comment. Just after President Trump’s Inauguration on Friday, however, the Justice Department requested to postpone a hearing initially scheduled in the case for Tuesday “[b]ecause of the change in administration.”

- a. Do you believe that the Justice Department’s requested delay in the Texas voter ID case leaves open the door for abandoning the position the Department has taken since 2013—that the Texas law violates the Voting Rights Act? If so, will you commit to continue defending the Department’s longstanding position if confirmed?**

RESPONSE: I have had no discussions with the outgoing leadership of the Department of Justice about their decision in this matter or the reasoning behind it. I cannot comment or make commitments about any ongoing legal matter involving the Department. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

7. In my questions for the record, I asked you about the Justice Department’s duty to investigate voter ID laws and the disproportionate impact such laws have on minority voters. In response, you noted that “The Supreme Court held in *Crawford v. Marion County Election Board* that voter identification laws are neither per se unconstitutional, nor do they necessarily violate the Voting Rights Act.”

- a. Where in the *Crawford* opinion do you identify a holding that Voter ID laws do not necessarily violate the Voting Rights Act?**

RESPONSE: My response should have read as follows: “As the Supreme Court held in *Crawford v. Marion County Election Board* voter identification laws are not per se unconstitutional. Nor do they necessarily violate the Voting Rights Act.” In other words, the subject of the sentence was intended to be “voter identification laws” and not the *Crawford* decision.

- b. Do you agree that no question under any section of the Voting Rights Act was presented to the Supreme Court or decided in *Crawford*?
- c. Do you agree that no question of the legality of Voter ID laws under Section 2 of the Voting Rights Act was even litigated at any level in *Crawford*?

RESPONSE to (b) – (c): See response to 7(a).

- d. The Department of Justice that you have been nominated to lead has successfully challenged voter ID provisions such as the very restrictive voter ID law that Texas passed in 2013. Please detail the kinds of factors you would look at to determine whether a voter ID law runs afoul of the Voting Rights Act, and in determining whether an enforcement action is appropriate.

RESPONSE: I cannot comment or make commitments about any ongoing legal matter currently involving the Department. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

Abortion and Punishment

- 8. Senator Blumenthal submitted to you a Question for the Record related to President Trump’s comment during the campaign that women who have abortions should be punished. The President later tried to walk back his comment.

Senator Blumenthal asked you, “Do you think that women who have abortions should be punished?” You did not answer his question. You responded by pointing to how the Supreme Court has interpreted the Constitution.

In addition, Senator Blumenthal asked what you would do to ensure that women who have abortions are not prosecuted or criminally punished. You answered: “I will take no enforcement actions that are unauthorized by federal law. Individuals who seek abortions and abortion providers who comply with federal laws should not be subject to prosecution or criminal punishment.”

- a. Would you support a change in criminal law to punish women who have abortions? Please answer yes or no.

RESPONSE: Congress is charged with making laws and with deciding whether to criminalize particular behavior, in accordance with the Constitution. As Attorney General, my job will be to enforce the laws duly passed by Congress.

- b. Should women who receive abortions be punished by means outside of the criminal justice system? For example, under civil law? Please answer yes or no.**

RESPONSE: This is a policy decision that must be decided by Congress.

9. A news article last week reported that President Trump's Transition Team was meeting with career staff at the White House about their intent to cut spending in the federal government, including by eliminating certain programs. (THE HILL, January 19, 2017) The Transition Team is reportedly relying on a document entitled *Blueprint for Balance: A Federal Budget for 2017*, published by the Heritage Foundation, to outline cuts to programs.

In the *Blueprint for Balance*, one of the recommendations is to eliminate grants provided under the Violence Against Women Act (VAWA) because "these services should be funded and implemented locally. Using federal agencies to fund the routine operations of domestic violence programs that state and local governments could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government."

VAWA was first passed in 1994 to address the need for a national response to develop and strengthen services for victims of domestic violence, dating violence, sexual assault and stalking. VAWA now provides grant resources to service providers working directly with victims, many of them to help victims pursue justice under the law against their perpetrators. Elimination of these programs would return victims to a time when inadequate and irregular local services prevented many of them from living safely and rebuilding their lives.

At your hearing, you testified that while you did not vote for reauthorization in 2013, you have twice voted to support the Violence Against Women Act. You testified, "It is kind of frustrating to be accused of opposing VAWA, the Violence Against Women Act, when I have voted for it in the past."

- a. Do you agree with the Heritage *Blueprint for Balance's* recommendation to eliminate VAWA grants? If not, why?**
- b. Do you agree with the Heritage *Blueprint for Balance's* rationale for eliminating VAWA grants that using federal funding for domestic violence programs is a "misuse of federal resources and a distraction from concerns that are truly the province of the federal government"?**
- c. Given your support for VAWA prior to its 2013 reauthorization, if confirmed, what steps would you take to ensure that the President understands the importance of VAWA programs? What steps would you take to ensure that DOJ's budget request reflected these programs?**

RESPONSE to (a) – (c): I have not reviewed the report in question, nor have I been a participant in the meetings referenced above. As I have previously stated, if I am confirmed, I will ensure that VAWA programs, and the funds made available by Congress, are employed in the most effective manner possible in furtherance of their stated missions.

10. At your hearing, I asked you about your ownership interest in subsurface mineral rights in Alabama. These ownership interests were not listed on either your financial disclosure to the Judiciary Committee or on the forms the Committee received for your nomination from the Office of Government Ethics.

I asked you whether you owned these interests. You testified, “I believe that is so.” Later in your testimony, you assured me that “It’s something I’m going to take affirmative action in...I want to adhere to high standards. We’re going to find out what we did or didn’t do and correct it.”

- a. Have you indeed reviewed your financial filings with the Office of Government Ethics, Judiciary Committee, and Ethics Committee? If so, did you determine that disclosure of ownership of the subsurface mineral was missing?**

RESPONSE: Yes.

- b. What steps have you taken to update and correct these filings? Please also note if the Committee should expect to receive updated filings.**

RESPONSE: On Wednesday, January 25, 2017, I filed a revised Form 278, setting out my mineral interests separately. As required, I also revised my ethics agreement to cover these mineral interests. My understanding is that OGE forwarded an approved copy of this form to the Committee on January 27, 2017. On January 27, 2017, I filed a revised 2015 Senate financial disclosure form setting out all of my mineral holdings separately.

- c. Please describe in detail your knowledge of these mineral rights and the land under which they are located.**

RESPONSE: I own lands in Wilcox County and Monroe County, Alabama, with all mineral rights. There have never been any producing wells on these properties. I also own property in Choctaw County, Alabama, with full surface and mineral rights. In addition, in Choctaw County, I own certain mineral interests in lands where I do not own the surface. I have been generally aware that some of those mineral interests were reserved when my grandfather sold lands to the Adams Land and Timber Company over 60 years ago. In the 1950s, the U.S. Government purchased land from the Adams Land and Timber Company and my family that was to be flooded by the Coffeeville Lock and Dam, as well as for a wildlife preserve. The Adams Land and Timber mineral interests and my family’s interests were reserved in the agreed upon sale of surface rights to the government. The income, all or part, that I receive from the one declining oil well that is now producing, arises from the reserved mineral rights that I own lying beneath the lands purchased by the government. These mineral interests

have passed in the residuary clauses of a number of wills without ever being described. Further, in 2015, Chief Capital contacted me to lease certain mineral interests of which ownership I was completely unaware. These interests passed from the wife of my mother's brother to him, then to my mother and her sister, and then to me. These mineral interests were not described in any of the wills and passed by general residuary clauses.

My original OGE Form 278 and 2015 Senate financial disclosure form disclosed all of the income received from the mineral interests. My amended OGE Form 278 and my amended 2015 Senate financial disclosure form now list the non-fee simple mineral interests in Choctaw County, as required.

APPENDIX A

Campaign Events

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| August 21, 2015 | Campaign Event, Mobile, AL |
| February 28, 2016 | Campaign Rally, Madison, AL |
| July 17-22, 2016 | Republican National Convention, Cleveland, OH |
| August 23, 2016 | Campaign Event, Austin, TX |
| August 24, 2016 | Campaign Event, Tampa, FL |
| August 30, 2016 | Campaign Event, Everett, WA |
| August 31, 2016 | Campaign Event, Phoenix, AZ |
| September 17, 2016 | Campaign Events, Manchester, Salem, and Dover, NH |
| September 26, 2016 | Presidential Debate, Hofstra University, NY |
| September 29, 2016 | Campaign Fundraiser, NY, NY |
| October 3, 2016 | Campaign Event, Dulles, VA |
| October 4, 2016 | Vice-Presidential Debate, Farmville, VA |
| October 15, 2016 | Campaign Events, Bangor, ME and Portsmouth, NH |
| October 19, 2016 | Presidential Debate, Las Vegas, NV |
| October 24, 2016 | Trump Victory office visit, Urbandale, IA |
| | Jasper County Central Committee Meeting, IA |
| | Breakfast, Des Moines, IA |
| | Lunch, Indianola, IA |
| October 30, 2016 | Colorado Christian University Event |
| | GOTV Rally, Lakewood, CO |
| | Denver Broncos Watch Party, Parker, CO |
| | Dinner with CO Volunteers |
| October 31, 2016 | Presidential Debate, Las Vegas, NV |
| November 1, 2016 | Breakfast, Santa Rosa Beach, FL |
| | Lunch, Navarre, FL |
| | Headquarters Visit, Pensacola, FL |
| November 4, 2016 | Border Tour, Naco, AZ |
| | Meeting, Cochise County Sheriff's Office, AZ |
| November 5, 2016 | Concord, Keene, Red Arrow Diner, NH |
| | Nashua, NH visit |
| | Windham, NH visit |
| November 6, 2016 | Meet and Greet, Portland, ME |
| | Trump Headquarters Event, Auburn, ME |
| November 7, 2016 | Richmond, Farmville, Lynchburg, Roanoke, VA events |
| November 8, 2016 | NYC Victory Party |

Non-Campaign Events (attended in support of the campaign):

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| May 7, 2016 | NC GOP Meeting, Greensboro, NC |
| May 14, 2016 | Texas GOP Meeting, Dallas, TX |
| May 20, 2016 | NRA Leadership Forum, Louisville, KY |

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| May 22, 2016 | Tennessee GOP Reagan Dinner, Murphreesboro, TN |
| October 22, 2016 | Lawrence County, PA GOP Dinner, New Castle, PA |
| October 23, 2016 | First Baptist Church of Charlotte Church Service, Charlotte, NC |
| | North Carolina State Fair, Raleigh, NC |
| October 24, 2016 | Pike County GOP Dinner, West Des Moines, IA |
| October 25, 2016 | Trump International Hotel Grand Opening, Washington, DC |
| October 29, 2016 | Iowa GOP Dinner, Iowa |

Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 29, 2017

QUESTIONS FROM SENATOR FEINSTEIN

1. Significant concerns have been raised by both Democratic and Republican members of the Senate Judiciary Committee regarding President Trump's Executive Orders, and especially the Executive Order titled "Protecting the Nation from Foreign Terrorist Entry into the United States." One Republican Senator noted, for example, that this executive order "may do more to help terrorist recruitment than improve our security."

Did you read, review, provide legal analysis, or provide any other comments regarding the following Executive Orders before they were issued? If so, please describe in detail what role you played with regard to each Executive Order. Also, please provide copies of any documents reflecting your input regarding the content of the orders.

- a. Executive Order: "Enhancing Public Safety in the Interior of the United States," January 25, 2017, text available at <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>
- b. Executive Order: "Border Security and Immigration Enforcement Improvements," January 25, 2017, text available at <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>
- c. Executive Order: "Protecting the Nation From Foreign Terrorist Entry Into the United States," January 27, 2017, text available at <https://www.nytimes.com/2017/01/27/us/politics/refugee-muslim-executive-order-trump.html>

RESPONSE to (a) – (c): No.

2. According to press reports, the Executive Orders referenced in Question 1 were drafted primarily by your longtime aide Stephen Miller and by White House advisor Steve Bannon. Please describe in detail (including dates) any communications, correspondence, or discussions you had with Mr. Miller, Mr. Bannon, or any other White House official relating to each of the orders listed above.

RESPONSE: I have had no such communications.

3. During the 2016 presidential campaign, did you participate in creating documents that resembled or served as the basis for the Executive Orders listed in Question 1? If so, please provide copies of those documents.

RESPONSE: No.

4. The Office of Legal Counsel's (OLC's) website states that: "All executive orders and proclamations proposed to be issued by the President are reviewed by the Office of Legal Counsel for form and legality, as are various other matters that require the President's formal approval." However, the Justice Department has declined to comment officially as to whether OLC reviewed the Executive Orders listed in Question 1.

- a. Did OLC review the orders before they were issued?
- b. If OLC reviewed the orders before they were issued, who specifically reviewed them?
- c. If not, what officials or attorneys within the executive branch reviewed the executive order to evaluate their form or legality?

RESPONSE: As a United States Senator, I have no knowledge regarding this matter.

5. Executive Order 11030 states in part:

Sec. 2. Routing and approval of drafts

- (a) *A proposed Executive Order or proclamation shall first be submitted...to the Director of the Office of Management and Budget...*
- (b) *If the Director of the Office of Management and Budget approves the proposed Executive Order or proclamation, he shall transmit it to the Attorney General for his consideration as to its form and legality.*
- (c) ***If the Attorney General approves the proposed Executive Order or proclamation,** he shall transmit it to the Director of the Office of the Federal Register, National Archives and Records Administration: Provided, that in cases of sufficient urgency the Attorney General may transmit it directly to the President; and provided further, that the authority vested in the Attorney General by this section may be delegated to him, in whole or in part, to the Deputy Attorney General, Solicitor General, or to such Assistant Attorney General as he may designate.*

And 28 C.F.R. § 0.25 states "The following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General, Office of Legal Counsel:

- (a) *Preparing the formal opinions of the Attorney General; rendering informal opinions and legal advice to the various agencies of the Government; and assisting the Attorney General in the performance of his functions as legal adviser to the President and as a member of, and legal adviser to, the Cabinet.*

- (b) Preparing and making necessary revisions of proposed Executive orders and proclamations, and advising as to their form and legality prior to their transmission to the President; and performing like functions with respect to regulations and other similar matters which require the approval of the President or the Attorney General.”

Based on these documents:

- a. What is your understanding of OLC's role in reviewing and approving Executive Orders?
- b. Do you agree that OLC has, by law, been delegated the authority to review virtually all Executive Orders?
- c. If President Trump issued an Executive Order without allowing OLC to review its form and legality, would the Department of Justice, under your leadership, continue to defend the legality of that Executive Order?
- d. If President Trump attempted to circumvent OLC's role when issuing Executive Orders, how would you respond? Would you resign?

RESPONSE to (a) – (d): My understanding is that Office of Legal Counsel does play an important role in reviewing Executive Orders. If I am confirmed, I would insist that the proper and independent role that OLC has traditionally played in vetting Executive Orders be respected.

6. Before the Executive Orders listed above were issued, were they distributed to, or vetted by, the agencies that will be asked to interpret and enforce them?

RESPONSE: As a United States Senator, I have no knowledge regarding this matter.

7. A news report¹ has stated that not only was the January 27 Executive Order not reviewed by the Office of Legal Counsel, but in fact, lawyers in other Departments who were concerned about the breadth of the Executive Order were overruled by non-lawyers at the White House:

“Friday night, DHS arrived at the legal interpretation that the executive order restrictions applying to seven countries -- Iran, Iraq, Libya, Somalia, Syria, Sudan and Yemen -- did not apply to people with lawful permanent residence, generally referred to as green card holders. The White House overruled that guidance overnight, according to officials familiar with the rollout. That order came from the President's inner circle, led by Stephen Miller and Steve Bannon. Their decision held that, on a case by case basis, DHS could allow green card holders to enter the US.”

¹ See: <http://www.cnn.com/2017/01/28/politics/donald-trump-travel-ban/>.

- a. To the best of your knowledge, is this description of the process that led to the issuance of the January 27 Executive Order correct?
- b. If you do not have personal knowledge of that process: Do you believe that such a process, if correctly described, is appropriate?
- c. What is the legal basis for applying the Executive Order's restrictions to Lawful Permanent Residents ("green card holders") from the seven affected countries?

RESPONSE to (a) – (c): As a United States Senator, I have no knowledge regarding this matter. It is also my understanding that there may be ongoing litigation regarding this Executive Order involving the Department and therefore I cannot comment. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

- 8. With respect to the January 27 Executive Order: Is there any legal justification for denying entry to Iraqis who risked their lives serving as translators for U.S. servicemembers?

RESPONSE: As a United States Senator, I have no knowledge regarding this matter. It is also my understanding that there may be ongoing litigation regarding this Executive Order involving the Department and therefore I cannot comment. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

- 9. With respect to the January 27 Executive Order: Is there any legal justification for preventing lawful permanent residents of the United States from travelling home because they are nationals of Syria, Iraq, Iran, Sudan, Somalia, Libya or Yemen?

RESPONSE: As a United States Senator, I have no knowledge regarding this matter. It is also my understanding that there may be ongoing litigation regarding this Executive Order involving the Department and therefore I cannot comment. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

- 10. With respect to the January 27 Executive Order: There have been reports that the Executive Order is being applied to dual citizens of the seven listed countries, many of whom are also citizens of the United States' closest allies. What is the legal basis for applying the Executive Order's restrictions to dual citizens?

RESPONSE: As I am not currently the Attorney General, I have no knowledge regarding this matter. It would be inappropriate for me to provide a legal opinion simply relying on unverified reporting and without knowing the facts. It is also my understanding that there may be ongoing litigation regarding this Executive Order involving the Department and therefore I cannot comment. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

11. Senators McCain and Graham stated on January 29, 2017 that they believed that President Trump's January 27 Executive Order "was not properly vetted." Do you agree or disagree with that statement?

RESPONSE: Senators are certainly entitled to their opinions and to voice them. It is my understanding that there may be ongoing litigation regarding this Executive Order involving the Department and therefore I cannot comment. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

12. You have been nominated to be the nation's chief law enforcement official. Senators McCain and Graham have expressed their concern that the Executive Order "may do more to help terrorist recruitment than improve our security." Do you agree or disagree with that statement?

RESPONSE: Senators are certainly entitled to their opinions and to voice them. It is my understanding that there may be ongoing litigation regarding this Executive Order involving the Department and therefore I cannot comment. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

**Nomination of Senator Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017**

QUESTIONS FROM SENATOR FLAKE

1. Historically, the federal False Claims Act has been used to pursue entities that commit serious fraud against the government. However, under President Obama, the Department of Justice for the first time used the Act to bring claims against lenders for technical violations of Federal Housing Administration (FHA) guidelines. In many cases, these actions were based on finding minor documentation or processing errors that did not cause loan defaults or otherwise impact loan quality or performance. Many lenders have been forced to settle these allegations for billions of dollars to mitigate reputational harm and legal costs. As a result of these risks, many lenders have scaled back or left the FHA program altogether, limiting access to credit for working families that rely on FHA for financing their first home.
 - a. Under your leadership, will the Justice Department only pursue False Claims Act cases in which the individual *knowingly* uses a false record or *knowingly* makes a false statement that is material to a false claim?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will faithfully enforce 31 U.S.C. § 3729 and *Universal Health Services, Inc. v. United States ex rel. Escobar*, 136 S. Ct. 1989 (2016), the most recent False Claims Act decision issued by the U.S. Supreme Court implicated by this question.

- b. During your confirmation hearing, Senator Grassley asked that you regularly report to Congress on the status of False Claims Act cases.
 - i. Will you commit to reporting on outstanding False Claims Act cases?

REPONSE: If I am confirmed, I will make every effort to respond to all Congressional reporting requirements.

- ii. If so, will you identify in these reports to Congress which False Claims Act cases rely on a false-certification theory?

RESPONSE: If Congress so requires, yes.

**Nomination of Senator Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017**

QUESTIONS FROM SENATOR FRANKEN

Question 1. During my time in the Senate, one of the issues I've focused on is advancing equality for the lesbian, gay, bisexual, and transgender (LGBT) community. For me, that means making sure that our federal civil rights laws protect LGBT kids from discrimination and harassment in school. It means making clear that in this country, no one should be fired because they're gay or transgender. And generally, it means making sure that LGBT people are treated with the same dignity and respect afforded to everyone else under the law. So I was heartened to see you acknowledge LGBT people in your hearing testimony, where you stated that you "understand the demands for justice and fairness made by the LGBT community."

However, I have trouble reconciling that claim with your record on LGBT issues. You voted against prohibiting job discrimination against LGBT people. You voted against ending "Don't Ask, Don't Tell." You argued that expanding our hate crimes law to protect LGBT people would "cheapen the civil rights movement." And you described the Supreme Court decision granting same-sex couples the right to marry as "part of a continuing effort to secularize, by force and intimidation, a society that would not exist but for the faith which inspired people to sail across unknown waters."

- Give your past record with regard to LGBT issues, how can you assure the LGBT community that you truly understand their demands for justice and, if confirmed, that you will work in their best interests?

RESPONSE: I firmly believe that all Americans are entitled to equal protection under the law, no matter their background, and if I am confirmed as Attorney General, I will work to ensure that our laws are enforced efficiently and effectively on behalf of all. While as Senators we may have disagreed about the most effective ways to address the challenges facing our country, my duty as Attorney General, if I am fortunate enough to be confirmed, would be to enforce the laws passed by Congress. I would endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure full enforcement of federal laws and the protections inherent in them. And I will work with our law enforcement professionals to tailor our efforts to ensure the safety of all of our communities.

- In your testimony, you stated that you "will ensure that the statutes protecting their rights and their safety are fully enforced." Under Attorneys General Holder and Lynch, the Department's work to protect and advance the rights of LGBT people was an integral part of DOJ's civil rights enforcement. If confirmed, can Americans expect the same from you?

RESPONSE: The Civil Rights Division has a historic and proud record of defending the civil rights of all Americans, particularly the most vulnerable. That will certainly continue under my leadership, if I am fortunate enough to be confirmed as Attorney General.

Question 2. For the majority of Americans, requiring that LGBT people are treated equally does not come at the expense of protecting other people's rights. Nor do most people believe that treating LGBT people equally is incompatible with respecting the religion of people who don't necessarily share our beliefs. However, you are a supporter of the deceptively named First Amendment Defense Act (FADA), a bill that would allow people and some institutions, even those that receive taxpayer dollars, to ignore laws that require them to recognize marriage equality if doing so is contrary to their religious beliefs. If enacted, this bill would prevent the federal government from enforcing laws and regulations that require federal benefits for same-sex spouses, and that prevent commercial landlords and even homeless shelters from turning away married same-sex couples, among other laws.

Some have argued that FADA is necessary to protect pastors, ministers, and churches who fear that they'll be forced to marry gay and lesbian couples. But the First Amendment already prevents clergy or churches from being forced to marry a couple if doing so is contrary to their beliefs. It always has. The Supreme Court's decision in *Obergefell v. Hodges*, which recognized that same-sex couples have the right to marry in all 50 states, did not change that.

- Why do you believe that a bill like FADA is necessary? And how do you reconcile your support for FADA, which would sanction discrimination against lawfully married gay and lesbian couples, with your claim to "understand the demands for justice and fairness made by the LGBT community?"

RESPONSE: First, I reject the characterization of the First Amendment Defense Act as "deceptively named." During the oral argument in *Obergefell*, Justice Alito asked former Solicitor General Donald Verrilli whether a private university or college could lose its tax-exempt status if it opposed same-sex marriage. General Verrilli responded: "it's certainly going to be an issue. I don't deny that." Thus, the purpose of the legislation was to prohibit the federal government from taking discriminatory actions against any person based on their belief or action in accordance with a religious or moral conviction. I supported this legislation because I believe that we can, and should, protect the rights of all citizens—including LGBT individuals and those with traditional views of marriage. I do not see freedom as a zero-sum game. I understand the critical and historic role of Department of Justice in upholding our nation's civil rights laws. If I am fortunate enough to be confirmed as Attorney General, I will enforce those laws to the letter.

Question 3. You strongly opposed the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, which extended federal hate crimes protections to victims who were targeted on the basis of their sexual orientation or gender identity. Such crimes have an especially pernicious impact on members of the LGBT community. As FBI Director Comey explained, "[h]ate crimes are different from other crimes. They strike at the heart of one's identity. They strike at our sense of self, our sense of belonging. The end result is loss: loss of trust, loss of dignity and, in the worst case, loss of life."

In November, the FBI released its annual report on hate crime statistics, which relies upon data gathered and reported by state and local law enforcement agencies. According to the report, 7,121 people were victims of hate crimes in 2015. Of those 7,121 victims, 17.7 percent were

targeted because of their sexual orientation and 1.7 percent were targeted because of their gender identity. However, during a 2009 hearing on the bill that extended protections to the LGBT community, you stated that “I’m not sure women or people with different sexual orientations face that kind of discrimination. I just don’t see it.”

- In light of the data gathered by the FBI, do you still hold the view that LGBT people do not experience that kind of discrimination? If so, why?

RESPONSE: Any statement I made during debate over the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 reflected an opinion that I reached based on information available to me at the time. If I am fortunate enough to be confirmed as Attorney General, I will work diligently to ensure that all Americans receive equal protection under our laws.

Although the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act enables the Department to prosecute crimes motivated by the victim’s actual or perceived sexual orientation or gender identity, and to provide assistance to state and local authorities in the investigation and prosecution of hate crimes, federal law does not require state or local law enforcement to report such incidents. As a result, Director Comey acknowledged, “[t]here are jurisdictions that fail to report hate crime statistics. Other jurisdictions claim there were no hate crimes in their community, a fact that would be welcome if true.”

- In recognition of this fact, the FBI has worked with advocacy and law enforcement organizations to improve the investigation of hate crimes and to develop a standard for collecting, analyzing, and reporting hate crime incidents. Do you agree that underreporting of hate crime incidents by state and local law enforcement remains an obstacle to combatting hate crimes? If not, why?

RESPONSE: While I am generally familiar with Director Comey’s concerns about underreporting, but am unable to thoroughly evaluate his assertion or offer an opinion as I have not been presented with information necessary to do so. However, if I am fortunate enough to be confirmed as Attorney General, I would expect to learn more about this issue and give it my careful consideration.

- What steps will you take to encourage greater participation in hate crimes reporting by state and local law enforcement agencies?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, the Department will be vigilant in the full enforcement of all federal laws. I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law. The specific steps I will take to ensure the enforcement of any particular law will be decided after careful evaluation of any current practices of the Department and the effectiveness of those practices.

Question 4. A number of organizations and individuals have voiced support for your nomination or submitted letters praising your suitability for the post. On the day your nomination was

announced, the antiabortion group Operation Rescue issued a press release in which its president, Troy Newman wrote quote, “[w]e could not be happier about the selection of Sen. Jeff Sessions as the next Attorney General. I have worked on projects with Sen. Sessions in the past and know him to be an experienced prosecutor and principled pro-life advocate with a reputation for honesty.”

- What projects did you work on with Mr. Newman? Please list each project separately and describe your level of involvement in each.

RESPONSE: I am unaware of any such projects.

The title of the above Operation Rescue press release is “We Stand Ready to Assist Attorney General-Designate Sessions in Prosecuting Planned Parenthood.” In the release, Mr. Newman said “a new sheriff is coming to town” and that Planned Parenthood would no longer be protected.

- Have you made a commitment to Mr. Newman or to Operation Rescue to prosecute Planned Parenthood? If so, please describe any discussions you have had with Mr. Newman or his associates regarding the prosecution of Planned Parenthood or other reproductive health providers.

RESPONSE: I have made no commitments to any individual, including Mr. Newman, nor have I engaged in discussions about specific legal action the Department might take if I am fortunate enough to be confirmed as Attorney General. It would be highly inappropriate to do so.

In 1994, Congress passed the Freedom of Access to Clinic Entrances (FACE) Act. FACE prohibits threatening or intimidating women seeking reproductive health services and the doctors who provide them. It prohibits physically interfering with or injuring patients and clinicians. It prohibits damaging clinic property. And the Department of Justice enforces the FACE Act.

- It is critically important, especially in light of your support from radical elements within the antiabortion movement, that patients and women’s health providers not doubt the Department’s willingness to enforce the law and guard against threats. How can you reassure abortion providers and women seeking health care services that you will strictly enforce the FACE Act, if confirmed?

RESPONSE: As I testified before the Committee, these providers are entitled to the protection of relevant federal law. If I am fortunate enough to be confirmed as Attorney General, I will faithfully follow and enforce the law as defined by the courts, including the FACE Act and all other federal laws that the Attorney General is authorized to enforce.

Question 5. In September 2015, the Department of Justice released policy guidance on the use of cell-site simulators—portable surveillance devices that collect cell phone identification and location information by mimicking cellphone towers. The guidance was released after I wrote to the Department raising concerns about the use of these systems.

Cell-site simulators, known as International Mobile Subscriber Identity Catcher devices (IMSI-catchers), “DRTBoxes,” “dirtboxes,” or “Stingrays,” have the ability to compel affected mobile phones to reveal their location and users’ registration information. Recent complaints filed with the FCC have also alleged that cell-site simulators can disrupt cellular service and may interfere with calls for emergency assistance. As such, I believe that the devices must be used with great care and only in limited circumstances. In my view, the need for law enforcement to monitor and apprehend criminal suspects should not come at the expense of innocent Americans’ privacy. In order to ensure that the Department uses cell-site simulators in a manner that is consistent with the Constitution, the Department’s 2015 guidance provides that law enforcement agencies must first obtain a search warrant supported by probable cause before deploying cell-site simulators. However, this guidance could be repealed at any time.

- The 2015 policy provides a critical protection for Americans’ privacy. If you are confirmed, will you continue to require a warrant before authorizing the use of cell-site simulators? If not, why?

RESPONSE: While I am generally familiar with this policy, I am not privy to any internal Department of Justice data regarding the effectiveness of the policy in balancing the interests of law enforcement and public safety with protection of civil liberties. If I am fortunate enough to be confirmed as Attorney General, I will carefully review and evaluate this policy, including any relevant data and how circumstances may have changed or how they may change in the future.

- The 2015 guidance also sets forth practices concerning the collection and retention of data. If confirmed, will you commit to keeping the guidance’s data retention and transparency provisions in place? If not, why?

RESPONSE: While I am generally familiar with this policy, I am not privy to any internal Department of Justice data regarding the effectiveness of the policy in balancing the interests of law enforcement and public safety with protection of civil liberties. If I am fortunate enough to be confirmed as Attorney General, I will carefully review and evaluate this policy, including any relevant data and how circumstances may have changed or how they may change in the future.

- If confirmed, will you commit to preventing the Department from using cell-site simulators to surveil individuals participating in First Amendment-protected activities, such as attending political protests or religious ceremonies? If not, why?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will carry out my duty to enforce the laws and will do so with unreserved fidelity to the Constitution, including the First Amendment.

Question 6. As the ranking member of the Subcommittee on Privacy, Technology and the Law, I have watched the proliferation of body-worn cameras with cautious optimism. Body cameras have the potential to help build trust between law enforcement and the community, and reduce uncertainty in the courtroom. At the same time, body cameras collect incredibly sensitive

information, and it is essential that law enforcement agencies develop privacy and data protection policies to address how data captured by body cameras is collected and used. In September 2015, the Department of Justice awarded more than \$23 million in grants to local and tribal law enforcement agencies to expand the use of body-worn cameras. The grants support the purchase of cameras, training and technical assistance, and efforts to catalog and examine the impact of their use. The Department also created a body-worn camera toolkit, which includes model policies that grantee agencies may reference in setting up their own programs. Under the current program, grantees are required to develop and articulate policies on privacy and data retention, but the Department does not require that grantee policies meet any one standard.

In my view, it's essential that the public and law enforcement have a clear understanding of how the sensitive information captured by body cameras is handled. So long as the Department of Justice is supporting the purchase of body-worn cameras by state and local law enforcement agencies, I think it's important that DOJ make sure departments who purchase body cameras with federal funds have a meaningful policy in place guiding their use, including a privacy policy.

- If confirmed, will you commit to working with me to ensure that grantees develop strong policies to protect the integrity of the data and the privacy of both police and the public? If not, why?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I would commit to working with you and any other member of Congress on policies to protect the integrity of the data and the privacy of both police and the public.

Question 7. Senator Hatch asked you about the Religious Land Use and Institutionalized Persons Act (RLUIPA), which is enforced by the Department of Justice's Civil Rights Division. You told Senator Hatch that "religious freedom is a great heritage of America. We respect people's religion.... It's mandated in the Constitution."

- In a 2016 report on the Department's RLUIPA work, the Department noted that the number of RLUIPA investigations involving mosques or Islamic schools had risen dramatically from 2000 to 2006. In December 2016, for example, the Department filed a lawsuit against Culpeper County, Virginia, alleging that the county violated RLUIPA when it denied a sewage permit application to the Islamic Center of Culpeper (ICC), effectively preventing the ICC from building a mosque. The complaint alleges that since 1992, the county had considered 26 applications and never denied the permit for a commercial or religious use prior to ICC's application. Do you agree that enforcement of RLUIPA—on behalf of all religious faiths—is critically important?

RESPONSE: Yes.

- Will you commit to defending the rights of Muslim Americans—as strenuously as those of any other faith—to be free from unduly burdensome, unreasonable or discriminatory zoning, landmarking, and other land use regulations?

RESPONSE: RLUIPA is federal law and, if I am fortunate enough to be confirmed as Attorney General, I would ensure its even-handed enforcement when the facts and circumstances of a case dictate Department action.

- The 2016 report by the Department also contained this finding: “Another troubling statistic that emerges from the last five-and-a-half years reinforces the conclusion that there is particularly severe discrimination faced by Muslims in land use: While 84% of non-Muslim investigations opened by the Department resulted in a positive resolution without the United States or private parties filing suit, in mosque and Islamic school cases, only 20% have resulted in a positive resolution without the filing of a RLUIPA suit.” Will you commit that the Department will maintain the same resources for its RLUIPA work, including work on behalf of Muslim Americans?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law and the protections inherent therein. I will carefully evaluate any current departmental practices and the effectiveness of those practices to aid in the administration of justice.

- You are reported as having said, that the true threat confronting the United States is “the toxic ideology of Islam.” How can you assure an asylum applicant claiming persecution based on their Islamic faith will receive a fair hearing in the immigration courts, if you are confirmed?

RESPONSE: If I am confirmed, asylum applicants claiming persecution in the immigration courts will have an equal opportunity to qualify for asylum consistent with the our duly-enacted immigration laws.

Question 8. I am concerned about further consolidation in the media and telecommunications markets because it often leads to higher prices, fewer choices, and even worse service for consumers. Furthermore, when you have a small group controlling what Americans can watch, the risk of private censorship over political content grows.

In a speech in October, President-elect Trump announced his opposition to AT&T’s proposed acquisition of Time Warner, saying that his administration would not approve the deal. He also stated that his administration would revisit Comcast’s acquisition of NBCUniversal, suggesting that it never should have been approved in the first place.

- At a time when a typical American household spends on average about \$2,700 annually on telephone, video, and broadband services, do you agree with the president-elect that consolidation in the media and telecommunications industries is a problem?

RESPONSE: The antitrust division at the Department of Justice plays a vital role in keeping our markets competitive and protecting consumers. The media and telecommunications markets are no exception. If I am confirmed as Attorney General, the antitrust division will play a central role in protecting consumers in these particular markets and will not hesitate to

take action against violations of law. I look forward to working with you and other members of Congress to learn more about the specific issues facing the media and telecommunications marketplaces and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement.

- Should you be confirmed as attorney general, how will an Antitrust Division under your supervision evaluate AT&T's proposed acquisition of Time Warner? Will it revisit Comcast's acquisition of NBCUniversal?

RESPONSE: If confirmed as Attorney General, the antitrust division will conduct a thorough evaluation, consistent with federal law, of all proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies.

Question 9: In December, President-elect Trump met with Masayoshi Son, chief executive of Softbank, which owns Sprint. Mr. Son has allegedly long sought for his company to acquire T-Mobile, which would collapse the U.S. wireless market from four major nationwide carriers to three. Following the meeting, Mr. Son reportedly committed to investing \$50 billion in the United States and creating 50,000 new jobs. What Mr. Son will receive in return for these investments is unclear.

- Have you discussed the meeting between Mr. Son and the president-elect with Mr. Trump? If so, what promises were made to Mr. Son in exchange for his commitments to invest in the United States?

RESPONSE: No.

- What role will an Antitrust Division under your supervision play in the new administration? Should companies seeking regulatory approval of their mergers and acquisitions plan to communicate with the president-elect directly prior to – or during – the Department of Justice review process? How will you ensure an impartial review?

RESPONSE: The antitrust policies of the United States must be consistent and as clear as possible, and if I am fortunate enough to be confirmed, I will not hesitate to enforce antitrust law to protect against anti-competitive transactions. Though I am not thoroughly familiar with the precise processes currently employed by the Department, antitrust review under my leadership will be consistent with federal antitrust law, objective, independent, and based on sound economic analysis.

Question 10: I am increasingly concerned about internet companies that can use their positions as dominant media platforms to stifle competition and inhibit the free flow of information. In recent years, we've heard allegations of online intermediaries leveraging their market dominance to the detriment of content creators and innovative startups. For example, Google has given preference to its own products and services in search results while downgrading competitors' products and services. I've also heard from photographers in my home state that Google is taking original content from photographers' distributors' websites without appropriate compensation or attribution. Apple is preventing its competitors in the music streaming market from promoting

lower prices to consumers on Apple iOS. And Amazon is using its dominance in the book market to impose unfair contractual terms on publishers and authors.

- What will an Antitrust Division under your supervision do to address allegations that these dominant platforms' unilateral behavior is anticompetitive and may ultimately harm the free flow of ideas and content?

RESPONSE: Ensuring competition on the internet is of vital importance in our modern, digital economy. If I am confirmed as Attorney General, the antitrust division will look at all markets to ensure compliance with federal antitrust law. It will conduct a thorough evaluation, consistent with federal law, of all proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies. I look forward to working with you and other members of Congress to learn more about these particular issues and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement.

In recent years, antitrust investigations against Google and Apple for alleged anti-competitive conduct have taken place at the Federal Trade Commission, which shares antitrust enforcement authority with the Department of Justice. However, this does not preclude the Justice Department from asserting jurisdiction over these issues in the new administration.

- As Attorney General, would you be open to examining allegations of anti-competitive conduct by some of these dominant platforms at the Department of Justice?

RESPONSE: As I testified before the Committee, the antitrust policies of the United States have to be as consistent and as clear as possible to protect against anti-competitive transactions in any industry or marketplace. If confirmed as Attorney General, I will not hesitate to enforce antitrust law to protect against anti-competitive transactions.

Question 11: As we saw following Comcast's acquisition of NBCUniversal, conditions that are placed on deals that are approved can be difficult to enforce and are not always reliable. Another major problem is that those conditions expire.

- How do you believe the Department of Justice can ensure that merger conditions actually have enough teeth to protect consumers in the long term?

RESPONSE: Federal antitrust laws are in place to protect consumers and to ensure a competitive marketplace. If I am confirmed as Attorney General, the antitrust division will not hesitate to enforce such laws and impose appropriate conditions to protect consumers, as necessary.

- There is increasing evidence that other types of merger remedies, including divestitures, aren't sufficient in protecting consumers from harm. Do you agree that in cases such as those, the DOJ should be more willing to challenge these deals in court, as it was slated to do in the case of Comcast-Time Warner Cable?

RESPONSE: If I am confirmed as Attorney General, the antitrust division will examine each transaction on the merits and will not hesitate to challenge transactions or impose conditions or other remedies as necessary to protect consumers.

Question 12: Four years ago, as the Supreme Court was considering *American Express v. Italian Colors*, I asked Assistant Attorney General William Baer about the importance of private antitrust enforcement. He has since told me that the Supreme Court's decision in that case made it much harder for small businesses to file private antitrust enforcement actions and instead they are forced to arbitrate their claims.

- Do you agree that antitrust enforcement has changed since that decision? Do you currently have concerns about small business' ability to bring antitrust claims to a public court of law? If not, why?

RESPONSE: I have not studied the Court's decision or its implications for small businesses. If I am fortunate enough to be confirmed as Attorney General, I expect to learn more about this issue.

Question 13: Since entering the Senate, I have made it a priority to combat the widespread and harmful impact of forced arbitration. These clauses restrict Americans' access to justice by stripping consumers and workers of their legal rights and insulating corporations from any accountability.

I have a letter that you sent on June 10, 1999 to one of your constituents. You write, "thank you for taking the time to contact me with your concerns about the Federal Arbitration Act and consumer transactions. I appreciate the reality that in many cases, arbitration clauses in contracts for sales of consumer goods limit a person's right to sue in state or federal court."

- Do you still believe that arbitration clauses often limit Americans' right to sue in a public court of law?

RESPONSE: I have no reason to disagree with the sentiment expressed in the letter.

I do not oppose the use of arbitration when it is voluntarily agreed to by both parties after a dispute has arisen. But consumers and workers have a right to a meaningful choice about where to enforce important state and federal laws. Forced arbitration clauses, by their very nature, effectively deny Americans of this choice. In 2012, in response to President Obama's weekly address, you stated that "before entering politics, I was a federal prosecutor. I tried many cases and spoke to many juries. The brilliance of our legal system is that it places judgment in the hands of everyday citizens. Twelve complete strangers, from all walks of life, sit in a jury box, carefully weigh the evidence, and then reach an impartial verdict." Despite the praise you have offered for our nation's public courts and justice system, you have consistently defended forced arbitration clauses in consumer and employment contracts.

- Why should any American be forcibly denied the fundamental rights and protections inherent in the "brilliance of our legal system" as you so aptly recognized in 2012?

RESPONSE: I do not believe any American should be forcibly denied the fundamental rights and protections inherent in the brilliance of our legal system.

One very public example of mandatory arbitration is former Fox News anchor Gretchen Carlson's lawsuit alleging that she'd been sexually harassed by her boss Roger Ailes, the founder, and former CEO and chairman of the network. Ailes' lawyers tried to force her case into private arbitration, arguing that Ms. Carlson had breached the terms of her employment contract, which included a forced arbitration clause. The arbitration clause in Ms. Carlson's contract also prohibited her from speaking out about the claims – as is the case in most forced arbitration agreements. Had Roger Ailes and Fox News been successful in forcing Ms. Carlson into arbitration and abiding by those terms, her colleagues at Fox News, many of whom were also victims of sexual harassment, would have been left in the dark about her case and may never have come forward with their own claims.

According to the Equal Employment Opportunity Commission, at least 25% of American women say they have experienced sexual harassment in the workplace.

- Do you agree that women with claims of sexual harassment and employment discrimination deserve access to the courts and an impartial jury verdict? If not, why?

RESPONSE: Yes. All victims of sexual harassment and employment discrimination should have the ability to obtain justice and seek appropriate recourse against the perpetrator.

- Do you believe it is it fair for corporations and employers to force consumers and workers to surrender their fundamental legal rights before a dispute has even arisen? If so, why?

RESPONSE: Arbitration is intended to avoid the formalities, expense, and delay of formal dispute resolution before courts. It is one of the most cost-effective means of resolving disputes. Unlike businesses, consumers and employees generally cannot afford a team of lawyers to represent them. Furthermore, consumers, employees, and small businesses that enter into contracts covered by the Federal Arbitration Act is entitled to have their disputes resolved in accordance with fundamental principles of due process, and in a speedy and cost-effective manner.

- In light of the fact that arbitration proceedings are shrouded in secrecy and have the ability to cover up discriminatory patterns and practices, why should they not be subject to the same transparency afforded participants in the civil justice system you praised in 2012?

RESPONSE: Consumers, employees, and small businesses that enter into contracts covered by the Federal Arbitration Act is entitled to have their disputes resolved in accordance with fundamental principles of due process, and in a speedy and cost-effective manner.

Forced arbitration also impacts servicemembers who are trying to enforce the legal rights they fight to protect. Take the case of Kevin Ziober, a Navy Reservist who, after informing his

company he was being deployed to fight for his country in Afghanistan, was thrown a farewell party with an American-flag shaped cake, and then summarily dismissed by his employer in violation of a federal law called the Uniformed Services Employment and Reemployment Rights Act. After returning from active duty, Kevin filed suit against his former employer, and has been fighting for years for the right to enforce congressionally mandated protections for servicemembers in a public court of law.

- Do you agree that we should afford the same protections inherent in our civil justice system to everyone, especially our men and women in uniform?

RESPONSE: I am not familiar with the above-mentioned case. Regardless, anyone, including our men and women in uniform, who enters into a contract covered by the Federal Arbitration Act is entitled to have their disputes resolved in accordance with fundamental principles of due process, and in a speedy and cost-effective manner.

Question 14: In recent years, the growing use of so-called stalking apps, which allow users to track someone's location – or even listen to their phone calls and read their text messages – without their knowledge or consent, has raised serious concerns. Federal law does not currently prohibit developers from creating apps that surreptitiously track geo-location data. This loophole in the law grants stalkers and domestic abusers access to a powerful tool enabling increased violence against women.

- Do you agree that location data can be highly personal information and is deserving of privacy protections?

RESPONSE: Your tireless efforts to shed light on this very important issue, particularly as it relates to victims of domestic violence, have been admirable. If I am fortunate enough to be confirmed as Attorney General, I will ensure that the Department continues to prosecute these matters, and will be happy to work with you and other members of Congress to advance policies that protect victims.

Last year, I reintroduced legislation – the Location Privacy Protection Act – that would, among other things, amend the federal wiretap statute to explicitly include the interception of location data and allow for the forfeiture of proceeds from the sale of smartphone tracking apps.

- Should you be confirmed as Attorney General, will you work with me on this legislation to ensure that the federal government has all the tools necessary to protect women from stalking apps and their attendant violence and abuse?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will be happy to work with you to ensure that federal prosecutors have all the tools needed to protect victims from stalking, violence, and abuse.

DOJ has the authority under existing wiretap laws to prosecute creators of apps that allow stalkers to listen to victims' phone calls, intercept text messages, or otherwise intercept content from victims' phones. In response to my request, which was joined by Senators Grassley,

Cornyn, and Graham, the DOJ exercised this authority and began taking criminal action against the creators of these stalking apps within the last few years. Although this is a positive development in the enforcement of our nation's laws, there is more that DOJ can do to protect the victims of stalking apps.

- What will you do to ensure DOJ continues taking such action against the creators of stalking apps?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I am happy to work with you and other members of Congress to advance policies that protect victims of domestic violence and stalking by pursuing appropriate criminal actions.

Question 15: In our courtesy visit, we discussed violence against Native women, and I told you how important the issue is to me. When I provided you with a statistic demonstrating just how prevalent violence against Native women is – and at the hands of non-Indians – you expressed shock and said that you didn't realize the extent of the problem.

Over 84% of Native women experience domestic or sexual violence. And over 97% of them are victimized by non-Indians. That's a recent stat. But in 2012, all you had to do was talk to one tribe, and you would have learned that women in Indian Country are regularly abused by non-Indians who go unprosecuted and unpunished.

During the hearing you told me you would spend a little time with the Poarch Band of Creek Indians in Alabama to better understand how the issue of domestic and sexual violence is affecting Indian Country. I also think it is necessary to visit at least one tribe where the special domestic violence jurisdiction is being exercised. Tribes are using that authority to secure long overdue justice for victims and are doing so with care and deliberation and in a manner that protects defendants' rights.

- During the hearing you also told Senator Hirono that you can't commit to not challenging VAWA on these grounds. But you also admitted to not understanding the gravity of the problem of violence against native women when you voted on it in 2013. Now that you are better informed on the issue, will you commit to enforcing and defending this very important provision?

RESPONSE: If I am confirmed as Attorney General, I will enforce all federal laws, including the 2013 reauthorization of VAWA. I understand that a pilot program has been initiated that seeks to conform tribes' exercise of criminal jurisdiction over non-Indians to the requirements of the Sixth Amendment. I will carefully study this program before reaching any legal conclusions about the VAWA tribal jurisdiction provision.

Sexual assault and other violent crime on Indian reservations are very serious problems—in some places, the problem has reached epidemic proportions. The Federal government exercises criminal jurisdiction over many Indian reservations. If I am confirmed as Attorney General, I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request

additional resources where existing resources are inadequate. Finally, I would note that on many Indian reservations, state and local authorities exercise criminal jurisdiction. State and local law enforcement resources greatly exceed those of Federal and tribal governments combined. On the exclusively Federal reservations where federal law enforcement has proved to be inadequate to reduce high levels of violent crime, Congress may consider allowing state and local authorities to exercise criminal jurisdiction. State and local law enforcement has proven effective on many existing Indian reservations, and the extension of such criminal jurisdiction to both Indians and non-Indians in Indian country does not offend constitutional guarantees.

Question 16: In 2011, the Office for Victims of Crime established the National Coordination Committee on the American Indian/Alaska Native (AI/AN) Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative. The Committee has since issued a report with specific recommendations for the Department of Justice on improving the federal government's response to adult and child victims of sexual violence in tribal nations, and the Obama Administration has implemented many of these recommendations.

- As attorney general, will you commit to continuing these policies to further address sexual violence in Indian Country? If not, why?

RESPONSE: I am not familiar with this report, however, if I am confirmed as Attorney General I will certainly review it and its recommendations. I will implement recommendations that improve the Federal government's fulfillment of its role in enforcing criminal laws on Federal reservations. If confirmed, I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request additional resources where existing resources are inadequate.

Question 17: The Department of Justice has the primary responsibility for investigating and prosecuting crime in much of Indian country. The rates of violent victimization on many Indian reservations are the highest in the nation, but crimes in Indian country still largely go unprosecuted and unpunished.

- What will be your approach to addressing crime in Indian country? What steps will you take to reduce crime in Indian country?

RESPONSE: If I am confirmed as Attorney General, I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request additional resources where existing resources are inadequate.

Question 18: In recent years the media has increasingly highlighted the tragic prevalence of sexual assault in our country – whether it be on our military bases, on our college campuses, or at the hands of once-beloved public figures. In response, most of us in Congress have publicly committed to doing whatever is necessary to combat such violence and ensure that victims have

access to justice. But critical to that effort is also our willingness – as the nation’s leaders – to speak openly and honestly about the systemic barriers to addressing the problem.

- As attorney general – and the nation’s top victim advocate – what would you say to the hundreds of thousands of survivors of sexual violence who may be unwilling to report their abuse for fear of retaliation or concern that they will not be believed?

RESPONSE: I would urge victims to report all incidents of sexual assault to law enforcement authorities, and would assure them that federal authorities (which, for example, typically have jurisdiction over military bases) will take all reports seriously and will investigate and prosecute all appropriate cases to the fullest extent of the law.

- What steps do you think our law enforcement can take to address a culture that often fails to hold perpetrators accountable and instead blames the victims?

RESPONSE: Law enforcement authorities can best “address” such a culture by aggressively investigating sexual assault offenses and vigorously prosecuting them to the fullest extent of the law.

Question 19: As we’ve explored previously in the Judiciary Committee – and as research continues to demonstrate – runaway and homeless youth are particularly vulnerable to trafficking and exploitation. Covenant House New York’s 2013 survey found that youth involved in commercial sexual activity frequently reported exchanging sexual acts for basic necessities like food or a place to sleep. And a more recent study by Covenant House New Orleans found that a quarter of the homeless youth they interviewed had been victims of trafficking or sexual labor. Finally, according to the Human Rights Campaign, of the nearly 2 million young people who are affected by homelessness each year, research shows that up to 40 percent of homeless youth identify as LGBT.

- You were one of three senators who opposed the effort to reauthorize the Runaway and Homeless Youth Act in the Judiciary Committee in the 113th Congress. Why exactly did you oppose?

RESPONSE: I was concerned with what I believed to be overly broad and vague language in the bill that could have discriminated against faith-based organizations that help form the fabric of the United States’ social services, and would have undermined the goal of the bill by making it more difficult to protect and provide services for at-risk individuals.

- Should you be confirmed as attorney general, how can I trust that you will work to ensure that all kids, including LGBT youth and those that need it the most, have access to shelter and other necessary services to prevent them from becoming a victim of trafficking?

RESPONSE: As a United States Senator, I was a cosponsor and strong supporter of the Adam Walsh Act of 2006, which imposed tough, mandatory penalties for sex trafficking of minors, child pornography, and federal sexual assault offenses. I also have supported reauthorizations of the Violence Against Women Act, and have supported other legislation

that has done much to prevent sexual assault and other violence, including trafficking. Additionally, I worked to add an amendment to the 2005 Violence Against Women Act that expanded DNA sampling and has prevented many of these types of crimes over the past decade. If I am fortunate enough to be confirmed as Attorney General, I will continue in my commitment to strongly address these types of terrible crimes, and to protect and ensure justice for their victims.

Question 20: As the Department of Housing and Urban Development has frequently recognized, survivors of domestic violence face unique challenges in securing and maintaining adequate housing. Indeed, according to the Department of Justice, one-in-four homeless women in the United States is a survivor of domestic violence. And not surprisingly, once a woman becomes homeless, she becomes more vulnerable to violence and exploitation. In fact, nine-in-ten homeless women have experienced severe physical or sexual abuse.

- The Department of Justice is charged with protecting Americans' right to access housing free from discrimination. Should you be confirmed as Attorney General, what will you do to address the link between homelessness and domestic violence? How will you work with the Department of Housing and Urban Development to accomplish these goals?

RESPONSE: If I am confirmed, I will fully enforce all existing laws relating to sexual assault, and all non-discrimination laws. I assume that the Department of Housing and Urban Development refers cases of potential violation of the laws to the Justice Department for prosecution, and I would expect to continue such cooperation.

Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 23, 2017

QUESTIONS FROM SENATOR FRANKEN

Question 1. In my original questions for the record, I asked what assurances you could provide the lesbian, gay, bisexual, and transgender (LGBT) community that you would work to protect their rights. I also noted that under both Attorneys General Holder and Lynch, the Department of Justice made protecting and advancing the rights of LGBT people an integral part of the Department's civil rights enforcement. You responded that "[t]he Civil Rights Division has a historic and proud record of defending the civil rights of all Americans, particularly the most vulnerable. That will certainly continue under my leadership, if I am fortunate to be confirmed as Attorney General."

As a part of the Civil Rights Division's efforts to combat discrimination against LGBT people, attorneys, staff, and members of the Division's leadership participate in the LGBTI Working Group. The Working Group advises the Division's leadership and sections on legal and policy issues relating to discrimination based on sexual orientation, gender identity, intersex status, and HIV/AIDS status. In addition to exploring how existing federal civil rights laws can address discrimination against LGBT people, the Group also identifies appropriate matters and cases for the Division.

- In acknowledgement of your commitment to continue the Civil Rights Division's "historic and proud record of defending the civil rights of all Americans, particularly the most vulnerable," will you commit to allowing the LGBTI Working Group to continue its work within the Division?

RESPONSE: In response to a similar question from Senator Blumenthal, I explained that I am not familiar with this working group. I have been cautious not to make any such commitments without a proper evaluation which, of course, I have not been able to undertake as a Senator. If I am fortunate enough to be confirmed, I will evaluate any current practices of the Department or its partnerships as to their effectiveness in the enforcement of federal law and the protections therein.

Question 2. In my original questions for the record, I raised the issue of your opposition to the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, which extended federal hate crimes protections to victims targeted on the basis of their sexual orientation or gender identity. During a 2009 hearing on that bill, you stated that "I'm not sure that women or people with different sexual orientations face that kind of discrimination. I just don't see it."

In my question, I provided you with data from the FBI's annual report on hate crime statistics, which documented that of the 7,121 victims of hate crimes in 2015, 17.7 percent were targeted due to their sexual orientation and 1.7 percent because of their gender identity (*see* U.S. DEP'T OF JUSTICE, FED. BUREAU OF INVESTIGATION, THE UNIF. CRIME REPORTING PROGRAM, HATE CRIME STATISTICS, 2015 (2017), *available at* <https://ucr.fbi.gov/hate-crime/2015>). I asked you whether

you still hold the view that LGBT people do not “face that kind of discrimination.” In response, you wrote that your 2009 statement “reflected an opinion that I reached based on information available to me at the time” and you committed to “work diligently to ensure that all Americans receive equal protection under our laws.” You did not, however, answer the question.

- In light of the data gathered by the FBI, do you still hold the view that LGBT people do not experience that kind of discrimination? If so, why?

RESPONSE: I respect the findings of the FBI report and have no reason to question the accuracy of this data.

- The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act requires that the attorney general or a designee authorize all criminal prosecutions brought under the Act. Given your opposition to the Act, will you commit to signing off on charges brought pursuant to the Act, including for crimes targeting members of the LGBT community?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, the Justice Department will be guided by the applicable facts and law in each individual case, together with appropriate Justice Department guidelines, in determining which charges to file. I will not hesitate to approve charges in appropriate cases.

Question 3. In my original questions for the record, I explained that federal law does not require state or local law enforcement to report hate crime incidents to the federal government, and I drew your attention to FBI Director Comey’s statements acknowledging that underreporting of hate crimes remains a challenge (*see* James B. Comey, Director, Fed. Bureau of Investigation, Address at the Anti-Defamation League National Leadership Summit (April 28, 2014), *available at* <https://www.fbi.gov/news/speeches/the-fbi-and-the-adl-working-toward-a-world-without-hate>). I asked whether you agreed that underreporting of hate crime incidents by state and local law enforcement remains an obstacle to combatting hate crimes. You responded that you had “not been presented with the information necessary” to form an opinion or to evaluate Director Comey’s assertion.

In 2013, the U.S. Department of Justice’s Bureau of Justice Statistics (BJS) issued a report that analyzed data from BJS’s National Crime Victimization Survey (NCVS) which documented that while 46 percent of hate crime incidents were reported to police for years 2003-2006, that number dropped to 35 percent for years 2007-2011 (*see* U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS, NCJ 241291, SPECIAL REPORT: HATE CRIME VICTIMIZATION, 2003-2011 (2013), *available at* <https://www.bjs.gov/content/pub/pdf/hcv0311.pdf>).

Of the 14,997 law enforcement agencies that participated in the FBI’s Uniform Crime Reporting Program in 2015, 88.4 percent of agencies reported that no hate crimes occurred in their jurisdictions (*see* U.S. DEP’T OF JUSTICE, FED. BUREAU OF INVESTIGATION, UNIFORM CRIME REPORT, HATE CRIME STATISTICS, 2015, HATE CRIME BY JURISDICTION (2016), *available at* https://ucr.fbi.gov/hate-crime/2015/topic-pages/jurisdiction_final). Moreover, according to an Anti-Defamation League analysis of the FBI’s 2015 hate crime statistics, 87 American cities

with populations over 100,000 either failed to report any information at all or reported zero bias-motivated crimes.

- Having now been presented with Justice Department and FBI data, as well as FBI Director Comey's views on underreporting, are you able to evaluate his assertion or offer an opinion as to whether underreporting of hate crime incidents by state and local law enforcement remains a problem?

RESPONSE: It would be difficult to draw sound conclusions, relying solely on the information provided. If I am fortunate enough to be confirmed as Attorney General, I will evaluate the data using personnel with specific experience on this issue to more thoroughly consider the possibility of underreporting.

Question 4. During your hearing, I expressed an interest in better understanding why you listed four civil rights cases among the top ten "most significant litigated matters which you personally handled" on your questionnaire. In light of your answers, I would like to further explore the role you played in these cases.

RESPONSE: My role in non-criminal civil rights cases, as the local U.S. Attorney and as the senior Department of Justice official in the Southern District of Alabama, was not to prepare the individual filings or make appellate arguments in these historically significant cases from 30 years ago. Question 15 of the Committee's Questionnaire states: "Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record." As I said in my responses to the Committee's Questionnaire: "For the cases described in 2 [*Conecuh County*], 4 [*Davis*], 8 [*Dallas County*] and 9 [*Marengo County*], my role, like most U.S. Attorneys in the nation with non-criminal civil rights cases, was to provide support for the Department of Justice, Civil Rights Division, attorneys. I reviewed, supported and co-signed complaints, motions, and other pleadings and briefs that were filed during my tenure as U.S. Attorney. I provided assistance and guidance to the Civil Rights Division attorneys, had an open-door policy with them, and cooperated with them on these cases."

As Gerry Hebert, an attorney in the Civil Rights Division of the Justice Department, testified:

"We have had difficulty with several U.S. attorneys in cases we have wanted to bring. We have not experienced that difficulty in the cases that I have handled with Mr. Sessions. In fact, quite the contrary." [1986 Hr'g Tr. 58.]

"I have needed Mr. Sessions' help in those cases and he has provided that help every step of the way. In fact, I would say that my experience with Mr. Sessions has led me to believe that I have received more cooperation from him, more active involvement from him, because I have called upon him." [*Id.* at 56.]

"I have had occasion numerous times to ask for his assistance and guidance. I have been able to go to him; he has had an open-door policy and I have taken advantage of that and found him cooperative." [*Id.* at 57.]

"I have worked side by side with him on some cases in the sense that I have had to go to him for some advice." [*Id.* at 62.]

Davis v. Board of School Commissioners of Mobile County

The *Davis* school desegregation case listed on your questionnaire was filed in 1963, long before you became U.S. Attorney.

- Is it correct that your name and signature are not on the complaint? Yes or no.

RESPONSE: My name and signature are not on the first complaint filed in 1963, but the historically significant *Davis* case continued for decades and included my tenure as U.S. Attorney, and my name was listed on pleadings when I was U.S. Attorney.

- Did you prepare any legal brief or other filing in this case? Yes or no. If yes, please provide all such filings.

RESPONSE: See response to Question 4, pp. 3-4.

- Did you appear in any court hearing in this case? Yes or no.

RESPONSE: I do not recall appearing at a hearing. My role, as the local U.S. Attorney, was not to argue the case at hearings, but to provide assistance and guidance. See response to Question 4, pp. 3-4.

- In your questionnaire entry for this case, you listed as co-counsel Joseph D. Rich and Angela Schmidt. Did you supervise either of them on this case? Yes or no.

RESPONSE: My role, as the local U.S. Attorney, was not to supervise the Civil Rights Division attorneys from Washington, D.C, but to provide assistance and guidance. See response to Question 4, pp. 3-4.

- Did any Assistant United States Attorney in your office personally litigate this case along with Joseph D. Rich or Angela Schmidt? Yes or no. If yes, please provide that Assistant U.S. Attorney's name for the record.

RESPONSE: I do not recall. Often, Civil Rights Division attorneys work with Assistant U.S. Attorneys on cases throughout the country. For example, when I was an Assistant U.S. Attorney in the late 1970s, I provided support to Dan Bell of the Civil Rights Division. He described that case as follows: "As a matter of fact, my impression of Mr. Sessions is that he is very eager to pursue criminal civil rights cases and he certainly was at the beginning of my acquaintance with him. The particular case I tried, the government had indicted the sheriff of Mobile County and eight of his deputies for deliberately setting up an ambush and murdering a black inmate, an extremely unpopular case in Mobile, and there were a number of people even in the United States Attorney's office who were not too eager to be that friendly to the prosecution, especially a couple of Washington-based lawyers. And Mr. Sessions and the

then U.S. Attorney, Charles Whitespunner, and his successor, William K[imbrough], were all very helpful to the prosecution." [1986 Hr'g Tr. 133-134.] Additionally, when I was U.S. Attorney, my staff would, when needed, consult with Civil Rights Division attorneys and file pleadings for them.

Various court filings from the mid-1980s in this case are signed solely by attorneys for the Civil Rights Division. Many do not list your name. Some list your name without a signature. Examples are below. For each one, please describe, if you recall, your substantive involvement in any of these filings and state whether you believe they were prepared primarily by attorneys from the Department of Justice's Civil Rights Division based in Washington, DC.

- One filing dated August 26, 1986, is signed by Angela Schmidt. Then-Assistant Attorney General William Bradford Reynolds and Joseph D. Rich are also listed. Your name is not listed.
- Another filing, from July 21, 1986 is signed by Joseph D. Rich. Then-Assistant Attorney General for Civil Rights William Bradford Reynolds and Angela Schmidt are also listed. Your name is not listed.
- Another filing, dated August 21, 1985, is signed by Joseph D. Rich. Then-Assistant Attorney General William Bradford Reynolds, H. Joseph Beard, Jr., and Angela Schmidt are also listed. Your name is not listed.
- Another filing, dated October 16, 1981, is signed by Myron S. Lehtman of the Civil Rights Division. Then-Assistant Attorney General William Bradford Reynolds, Walter Gorman, and Kenneth Barnes of the Civil Rights Division are also listed. Your name is listed as United States Attorney.

RESPONSE: Of the numerous filings in the *Davis* case, I do not recall my involvement for each specific filing, just my responsibility for the litigation and support thereof. See response to Question 4, pp. 3-4.

United States v. Conecuh County

The *Conecuh County* case was filed while you were United States Attorney.

The docket sheet in this case lists Mr. Jones, Mr. Rosenbaum, Mr. Tanner, and you as attorneys. It states that, on November 2, 1983, a hearing on a motion for a temporary restraining order and preliminary injunction was held in Selma, Alabama and denied by the court.

- Did you appear at that hearing?

RESPONSE: I do not recall any specific hearings in this historically significant case from 30 years ago. See response to Question 4, pp. 3-4.

- Did any Assistant United States Attorney under your supervision appear at that hearing?

RESPONSE: I do not recall. Often, Civil Rights Division attorneys work with Assistant U.S. Attorneys on cases throughout the country. For example, when I was an Assistant U.S. Attorney in the late 1970s, I provided support to Dan Bell of the Civil Rights Division. He described that case as follows: "As a matter of fact, my impression of Mr. Sessions is that he is very eager to pursue criminal civil rights cases and he certainly was at the beginning of my acquaintance with him. The particular case I tried, the government had indicted the sheriff of Mobile County and eight of his deputies for deliberately setting up an ambush and murdering a black inmate, an extremely unpopular case in Mobile, and there were a number of people even in the United States Attorney's office who were not too eager to be that friendly to the prosecution, especially a couple of Washington-based lawyers. And Mr. Sessions and the then U.S. Attorney, Charles Whitespinner, and his successor, William K[imbrough], were all very helpful to the prosecution." [1986 Hr'g Tr. 133-134.] Additionally, when I was U.S. Attorney, my staff would, when needed, consult with Civil Rights Division attorneys and file pleadings for them.

- Was this hearing primarily handled by attorneys from the Department of Justice's Civil Rights Division based in Washington?

RESPONSE: While I do not specifically recall, it would be the usual practice for hearings to be handled primarily by the Civil Rights Division attorneys from Washington, D.C., with the local U.S. Attorney providing assistance and guidance.

The consent decree in the *Conecuh County* case is signed by: Judge W.B. Hand; John K. Tanner of the Voting Section of the Civil Rights Division; and attorneys for the defendants (Robert G. Kendall; J.B. Nix; Edward S. Allen; and Carroll H. Sullivan). Steven H. Rosenbaum is also listed, from the Voting Section of the Civil Rights Division. Your name is not listed.

- Please describe in detail the nature of your participation in the preparation or negotiation of this consent decree.

RESPONSE: I do not recall specific negotiations in this case from over 30 years ago, but my general role in these cases was to provide assistance and guidance. See response to Question 4, pp. 3-4.

- Was this consent decree primarily negotiated by attorneys from the Department of Justice's Civil Rights Division based in Washington? Yes or no.

RESPONSE: While I do not specifically recall, it would be the usual practice for negotiations to be handled primarily by the Civil Rights Division attorneys from Washington, D.C., with the local U.S. Attorney providing assistance and guidance. I do recall a Civil Rights Division attorney discussing this settlement with me. The attorney was pleased, and I was pleased, with the result.

- Did any Assistant United States Attorney under your supervision substantively participate in the negotiation or preparation of this consent decree? Yes or no. If yes, please identify that Assistant United States Attorney.

RESPONSE: I do not recall. Often, Civil Rights Division attorneys work with Assistant U.S. Attorneys on cases throughout the country. For example, when I was an Assistant U.S. Attorney in the late 1970s, I provided support to Dan Bell of the Civil Rights Division. He described that case as follows: “As a matter of fact, my impression of Mr. Sessions is that he is very eager to pursue criminal civil rights cases and he certainly was at the beginning of my acquaintance with him. The particular case I tried, the government had indicted the sheriff of Mobile County and eight of his deputies for deliberately setting up an ambush and murdering a black inmate, an extremely unpopular case in Mobile, and there were a number of people even in the United States Attorney’s office who were not too eager to be that friendly to the prosecution, especially a couple of Washington-based lawyers. And Mr. Sessions and the then U.S. Attorney, Charles Whitespunner, and his successor, William K[imbrough], were all very helpful to the prosecution.” [1986 Hr’g Tr. 133-134.] Additionally, when I was U.S. Attorney, my staff would, when needed, consult with Civil Rights Division attorneys and file pleadings for them.

United States v. Dallas County Commission

As you state, *United States v. Dallas County Commission* was filed in 1978, and the first trial in this case took place in 1979 and 1980—all before you became U.S. Attorney. The post-trial decision issued by the district court in 1982.

Following the first trial, the district court concluded that the government had not proven vote dilution. The Eleventh Circuit reversed and remanded in 1984. See *United States v. Dallas County Commission*, 739 F.2d 1529 (11th Cir. 1984).

The 1984 appellate decision in this case, as available on an online search database (LexisNexis), lists the following as counsel from the Civil Rights Division in Washington, DC: William Bradford Reynolds; Jessica Silver; and Irving Gornstein. It also lists Thomas H. Figures, an Assistant U.S. Attorney in Mobile, Alabama, who was under your supervision.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this case? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

According to the Eleventh Circuit, following a remand from the 1984 appellate decision, “The district court conducted a hearing with regard to elections for County Commission, and on March 6, 1986 it issued a preliminary injunction against at-large voting in Commission races in the June 1986 Democratic Primary.” *United States v. Dallas County Commission*, 791 F.2d 831, 832 (11th Cir. 1986).

- Did you draft any brief or motion seeking this preliminary injunction?

RESPONSE: While I do not recall the preparation of specific briefs and motions in this case from over 30 years ago, my role, as the U.S. Attorney, was not to draft briefs, but to provide assistance and guidance. See response to Question 4, pp. 3-4. I do recall the Proposed Findings of Fact in this case, which set forth the history of blatant voter discrimination dating back to the late 1800s that had effectively disenfranchised African-American voters.

- Did you otherwise participate in the briefing on this motion for a preliminary injunction? If so, what was the nature of your participation?

RESPONSE: I do not recall particular briefs or hearings in this case from over 30 years ago. In general, however, my role as the U.S. Attorney was to provide assistance and guidance. See response to Question 4, pp. 3-4.

- Did you participate in the preliminary injunction hearing discussed in this quotation? If so, what was the nature of your participation?

RESPONSE: I do not recall particular briefs or hearings in this case from over 30 years ago. In general, however, my role as the U.S. Attorney was to provide assistance and guidance. See response to Question 4, pp. 3-4.

According to the Eleventh Circuit, the district court after the 1984 remand denied a motion for preliminary injunction against the Dallas County School Board—and the United States appealed. *Dallas County*, 791 F.2d at 831-33. The Eleventh Circuit reversed and ordered the district court to grant the preliminary injunction. *Id.* at 833.

The 1986 appellate decision in this case, as available on an online search database (LexisNexis), lists the following as counsel from the Civil Rights Division in Washington, DC: Gerald W. Jones, Paul F. Hancock; J. Gerald Hebert. It also lists you as U.S. Attorney.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this case? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

Following the remand of the school board case, the district court entered orders approving remedial plans for the County Commission and School Board over the objections of the United States. See *United States v. Dallas County Commission*, 850 F.2d 1433, 1436 (11th Cir. 1988) (school board); *United States v. Dallas County Commission*, 850 F.2d 1430 (11th Cir. 1988) (county commission). In both cases, the Eleventh Circuit reversed, finding that the remedial plans approved by the district court did not cure the violations of the Voting Rights Act.

The 1988 appellate decision in the Dallas County Commission case (850 F.2d 1430) as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: "Marie Klimesz McElderry, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, Jessica Dunsay Silver"; and "Wm. Bradford Reynolds, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, For U.S.A." It does not list your name.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in the *Dallas County Commission* appeal that resulted in the 1988 decision? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

The 1988 appellate decision in the *Dallas County School Board* case (850 F.2d 1433) as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: "Marie Klimesz McElderry, U.S. Dept. of Justice, Jessica Dunsay Silver, Civil Rights Division, Washington, District of Columbia, J. Gerald Hebert, U.S. Dept. of Justice, William Bradford Reynolds, Voting Section, Gerald W. Jones, Civil Rights Division, Paul F. Hancock, Washington, District of Columbia, J.B. Sessions U.S. Attorney, Mobile, Alabama."

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in the *Dallas County School Board* appeal that resulted in the 1988 decision? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

Following the 1988 Eleventh Circuit decisions, the district court entered an order finding that commissioners elected in 1988 were only to serve two-year terms, instead of four-year terms. This was appealed to the Eleventh Circuit, which reversed. *United States v. Dallas County Commission*, 904 F.2d 26 (11th Cir. 1990).

The 1990 appellate decision in this case as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: "John R. Dunne, Asst. Attorney General, Department of Justice, Jessica Dunsay Silver, Irving Gornstein, Washington, District of Columbia for plaintiff."

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this appeal? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

The 1988 appellate decision in the *Dallas County School Board* case (850 F.2d 1433) as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: "Marie Klimesz McElderry, U.S. Dept. of Justice, Jessica Dunsay Silver, Civil Rights Division, Washington, District of Columbia, J. Gerald Hebert, U.S. Dept. of Justice, William Bradford Reynolds, Voting Section, Gerald W. Jones, Civil Rights Division, Paul F. Hancock, Washington, District of Columbia, J.B. Sessions U.S. Attorney, Mobile, Alabama."

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in the *Dallas County School Board* appeal that resulted in the 1988 decision? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

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The 1990 appellate decision in this case as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: "John R. Dunne, Asst. Attorney General, Department of Justice, Jessica Dunsay Silver, Irving Gornstein, Washington, District of Columbia for plaintiff."

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this appeal? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

United States v. Marengo County Commission

The Department of Justice's complaint in *United States v. Marengo County Commission* was filed in 1978, and the first trial in this case was conducted in Selma, Alabama on October 23, 1978 and January 4, 1979. See *Clark v. Marengo County*, 469 F. Supp. 1150, 1154 (S.D. Ala. 1979). The post-trial decision issued on April 23, 1979 (469 F. Supp. 1150). All of these actions took place before you became U.S. Attorney.

The Eleventh Circuit in 1984 noted that the 1979 decision found that the "at-large system for electing the Marengo County, Alabama county commission and school board" did not violate the Constitution, Civil Rights Act of 1870, or Section 2 of the Voting Rights Act. *United States v. Marengo County Commission*, 731 F.2d 1546, 1550 (11th Cir. 1984).

In that appellate decision, the court noted that, since the 1979 decision, the court had "remanded this case once" already. The decision later notes that, following the Supreme Court's decision in *City of Mobile v. Bolden*, 446 U.S. 55 (1980), the appeals court remanded the case to the district court for presentation of additional evidence. *Marengo County*, 731 F.2d at 1552.

The appeals court decision then notes: "On July 30, 1981, the district court in the present case again ordered judgment for defendants on the ground that the plaintiffs had not established unresponsiveness. The court rejected the United States' offer to present additional evidence." *Id.*

- Any proceedings leading up to this July 30, 1981 order occurred prior to your becoming the U.S. Attorney, correct?

RESPONSE: Yes.

The United States appealed the July 30, 1981 order. The Eleventh Circuit then granted the United States' motion to hold the appeal in abeyance pending the outcome of the Supreme Court's review of *Rogers v. Lodge*, 458 U.S. 613 (1982). See *Marengo County*, 731 F.2d at 1552.

Following the Rogers decision and the 1982 amendments to Section 2 of the Voting Rights Act, the Eleventh Circuit in 1984 "remand[ed] this case to the district court to allow the parties a limited opportunity to update the record and, in the event that the court finds a continuing violation of the Voting Rights Act, to allow the court to devise an appropriate remedy."

The 1984 appellate decision in this case as available on an online search database (LexisNexis) lists the following as attorneys for the United States in the appeal: "William F. Smith, Attorney General, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, William B. Reynolds, Asst. AG, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, Joan A. Magagna, U.S. Department of Justice, Civil Rights Division, Washington, District of Columbia, Brian K. Landsberg, U.S. Department of Justice, Civil Rights Division, Washington, D.C., William R. Favre, Jr., U.S. Attorney, Mobile, Alabama, Thomas H. Figures Mobile, Alabama, for Appellant." Your name does not appear.

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this appeal? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- As U.S. Attorney, did you participate in the preparation of any motions in this appeal? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

The Eleventh Circuit's 1984 decision notes, "The purpose of the remand is to allow the parties to update the record and to supplement the record with evidence that might tend to affect our finding of discriminatory results. In view of the evidence already in the record, the defendants

bear the burden of establishing that circumstances have changed sufficiently to make our finding of discriminatory results in 1978 inapplicable in 1984.” *Marengo County*, 731 F.2d at 1574-75.

The district court held a post-remand hearing in March 1985 in the Northern Division (Selma). See *Clark v. Marengo County*, 623 F. Supp. 33 (S.D. Ala. 1985). The district court found “no significant changes have occurred since 1978 that affect the Eleventh Circuit Court of Appeals’ finding of a Section 2 violation.” *Id.* at 34. The Court says that the Eleventh Circuit’s mandate essentially made the district court’s role “merely ministerial.” *Id.*

The 1985 district court decision as available on an online search database (Westlaw) lists the following as attorneys for the United States: “J. Gerald Hebert, Christopher G. Lehmann, Dept. of Justice, Civil Rights Div., Washington, D.C., for United States.”

- As U.S. Attorney, did you participate in the preparation of any filings leading up to the March 1985 post-remand hearing in this case? If so, how?

RESPONSE: I do not recall the preparation of specific filings in this case. See response to Question 4, pp. 3-4.

- Did you participate in the March 1985 post-remand hearing? If so, how?

RESPONSE: I do not recall the particular hearings in this case. See response to Question 4, pp. 3-4.

- As U.S. Attorney, did you participate in the preparation of any motions in this appeal? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in the oral argument in the Eleventh Circuit? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

The Eleventh Circuit’s 1984 decision notes, “The purpose of the remand is to allow the parties to update the record and to supplement the record with evidence that might tend to affect our finding of discriminatory results. In view of the evidence already in the record, the defendants bear the burden of establishing that circumstances have changed sufficiently to make our finding of discriminatory results in 1978 inapplicable in 1984.” *Marengo County*, 731 F.2d at 1574-75.

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finding of a Section 2 violation.” *Id.* at 34. The Court says that the Eleventh Circuit’s mandate essentially made the district court’s role “merely ministerial.” *Id.*

The 1985 district court decision as available on an online search database (Westlaw) lists the following as attorneys for the United States: “J. Gerald Hebert, Christopher G. Lehmann, Dept. of Justice, Civil Rights Div., Washington, D.C., for United States.”

- As U.S. Attorney, did you participate in the preparation of any filings leading up to the March 1985 post-remand hearing in this case? If so, how?

RESPONSE: I do not recall the preparation of specific filings in this case. See response to Question 4, pp. 3-4.

- Did you participate in the March 1985 post-remand hearing? If so, how?

RESPONSE: I do not recall the specific hearings in this case. See response to Question 4, pp. 3-4.

On August 8, 1986, the District Court issued another order, which is cited in your questionnaire. *Clark v. Marengo County*, 643 F. Supp. 232 (S.D. Ala. 1986). The decision notes that there had been a hearing “on July 29, 1986 for the purpose of addressing the parties’ objections to the Court’s June 23, 1986 districting plan and determining whether said plan complies with Section 2 of the Voting Rights Act.” *Id.* at 233.

The 1986 district court decision in this case as available on an online search database (Westlaw) lists the following as attorneys for the United States: “Jefferson B. Sessions, III, W.A. Kimbrough, Jr., U.S. Attys., Mobile, Ala., J. Gerald Hebert, Voting Section, Civil Rights Div., Dept. of Justice, Washington, D.C., for U.S.”

- As U.S. Attorney, did you participate in the preparation of any filings (including proposed districting plans) leading up to the July 29, 1986 hearing? If so, what was the nature of your participation?

RESPONSE: I do not recall the preparation of specific filings in this case. See response to Question 4, pp. 3-4.

- As U.S. Attorney, did you participate in the preparation of any filings (including proposed districting plans) filed with the court in 1985 or 1986 prior to the Court’s issuance of the June 23, 1986 districting plan?

RESPONSE: I do not recall the preparation of specific filings in this case. See response to Question 4, pp. 3-4.

- Did you participate in the July 29, 1986 hearing? If so, what was the nature of your participation?

RESPONSE: I do not recall the specific hearings in this case. See response to Question 4, pp. 3-4.

As you note, on appeal, the Eleventh Circuit upheld the districting plan. *Clark v. Marengo County*, 811 F.2d 610 (11th Cir. 1987) (table).

- As U.S. Attorney, did you participate in the preparation of the appellate briefs in this appeal? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

- Did you participate in any oral argument in the Eleventh Circuit in this appeal? If so, what was the nature of your participation?

RESPONSE: Normally, the Civil Rights Division attorneys would handle the appeals in these cases. See response to Question 4, pp. 3-4.

Question 5. After you admitted to not understanding the gravity of the problem of violence against native women when you voted against the reauthorization of the Violence Against Women Act (VAWA) in 2013, I asked you on the record about your willingness to defend the special domestic violence criminal jurisdiction (SDVCJ) provision. Your response stated, “I understand that a pilot program has been initiated that seeks to conform tribes’ exercise of criminal jurisdiction over non-Indians to the requirements of the Sixth Amendment. I will carefully study this program before reaching any legal conclusions about the VAWA tribal jurisdiction provision.”

VAWA 2013, which was enacted on March 7, 2013, recognizes tribes’ inherent power to exercise SDVCJ over non-Indians who commit acts of domestic violence and amends the Indian Civil Rights Act to require due process protections before a tribe can exercise SDVCJ. Congress recognized that it may take time for many tribes to get these protections in place and set the effective date for the provision two years after passage of the law. Congress also created the Pilot Project, which you reference in your response, to allow for accelerated implementation for those tribes who demonstrated to the attorney general’s satisfaction that the tribe’s criminal justice system had adequate safeguards in place to protect defendants’ rights. The Pilot Project ended nearly two years ago, in March 2015. It has been widely hailed as a success for holding domestic violence offenders accountable while also protecting their fundamental right to due process. It has been the subject of DOJ reports, Congressional briefings, law review articles, and dozens of newspaper articles and conference sessions. Two bills have since been introduced to build on the success of the Pilot Project and further strengthen tribal authority.

- When did you learn about the SDVCJ pilot program, which was a key provision of the law you opposed in 2013? Was it before or after your nomination hearing, during which you stated that your opposition to VAWA rested on your concerns surrounding the SDVCJ provision?

RESPONSE: The pilot program was enacted by Congress. Therefore, as Attorney General, it would be my duty to review the program's findings as would be necessary to enforce the 2013 law, regardless of past opinions I may have held. As a Senator, however, I have not had an occasion to conduct an evaluation of the pilot program.

- In the two weeks since your hearing, during which your familiarity with SDVCJ was raised several times, what efforts have you undertaken to learn more about how tribes are exercising this jurisdiction? Have you spoken with any tribal governments exercising SDVCJ?

RESPONSE: While I am still currently charged with carrying out my duties as a Senator from Alabama, I would undertake these efforts if confirmed as Attorney General. While I do not have these resources available to me at present, as Attorney General, I would have two specific agencies within the Justice Department at my disposal that maintain substantial expertise on tribal matters and jurisdiction.

Question 6: In response to my question about how you would address the high rates of violent crime in Indian country you stated, "I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request additional resources where existing resources are inadequate." Thank you for your commitment. I look forward to working with you to ensure the federal government fulfills its responsibilities to investigate and prosecute crime on reservations.

In response to my question about violence against Native women, however, you stated that "State and local law enforcement resources greatly exceed those of Federal and tribal governments combined. On the exclusively Federal reservations where federal law enforcement has proved to be inadequate to reduce high levels of violent crime, Congress may consider allowing state and local authorities to exercise criminal jurisdiction. State and local law enforcement has proven effective on many existing Indian reservations, and the extension of such criminal jurisdiction to both Indians and non-Indians in Indian country does not offend constitutional guarantees."

Your suggestion to empower state law enforcement on reservations is not new. It was first enacted by Congress in 1953 as Public Law 83-280 (PL 280). Initially enacted in six states, PL 280 authorized state jurisdiction on Indian reservations and eliminated federal jurisdiction over major crimes committed in Indian country, but it also allowed other states to acquire jurisdiction at their option. At first, PL 280 was forced on tribes without their consent. President Nixon disavowed it, calling it a "policy of forced termination", in favor of a policy that acknowledged that tribal governments are best positioned to exercise authority to govern their lands and people. Since amendments to PL 280 in 1968, tribal consent is required before a state can acquire jurisdiction and states are permitted to cede jurisdiction back to the federal government. Importantly, since 1968, no tribe has consented to state jurisdiction, and many states have ceded jurisdiction back to the federal government, often citing their view that PL 280 is largely an unfunded mandate to police lands that they cannot tax.

Finally, the bipartisan Indian Law & Order Commission concluded in its recent report – A Roadmap for Making Native America Safer – that “While problems associated with institutional illegitimacy and jurisdictional complexities occur across the board in Indian country, the Commission found them to be especially prevalent among Tribes subject to P.L. 83-280 or similar types of State jurisdiction. Distrust between Tribal communities and criminal justice authorities leads to communication failures, conflict, and diminished respect.”

- What is the basis for your recommendation that Congress should consider allowing state and local authorities to exercise greater jurisdiction on tribal lands?

RESPONSE: The vast majority of the nation’s criminal law-enforcement resources, *i.e.*, police officers and prosecutors, belong to state and local governments. In many cases, these state and local authorities will have a proximity to a reservation, and manpower—something that a U.S. Attorney’s Office cannot match. Because both Indians and non-Indians alike vote in elections and serve on juries of the state, county, and municipal governments where they are residents, allowing these authorities to exercise criminal jurisdiction over them does not offend constitutional guarantees. Thus, to the extent that Congress is concerned about the high level of crime on Indian reservations under exclusively federal jurisdiction, extending state and local law-enforcement jurisdiction to such reservations appears to be an obvious solution.

- Have you reviewed the effectiveness of PL 280, the Indian Law & Order Commission’s report on the issue, or gathered the views of tribal governments about an expansion of state jurisdiction on their lands?

RESPONSE: I have not had the occasion to review this report. However, as I have stated many times, this is an issue I look forward to learning more about if I am so fortunate as to be confirmed.

Question 7: During your hearing, I asked you about a claim made by the then-president-elect. In late November, he tweeted that “In addition to winning the electoral college in a landslide, I won the popular vote if you deduct the millions of people who voted illegally.” As you know, President Trump lost the popular vote by 2.86 million votes. And as you know, state officials have found virtually no credible reports of fraud, and no sign of widespread fraud.

So I asked you whether you agreed with the president-elect that millions of fraudulent votes had been cast, and you responded, “I don’t know what the President-elect meant or was thinking when he made that comment, or what facts he may have had to justify his statement.” I also asked you whether you had talked to the president-elect about the issue. You replied, “I have not talked to him about that in any depth.”

Yesterday, January 24, 2017, President Trump welcomed House and Senate leaders to the White House for their first official meeting, where the president reportedly again claimed that he lost the popular vote because millions of undocumented immigrants cast illegal votes. Only this time he provided a slightly more specific number, saying it was somewhere between 3 million and 5 million fraudulent votes. These were the headlines in two of our nation’s leading papers in

response to his claim: “Trump Repeats Lie About Popular Vote in Meeting With Lawmakers,” the *New York Times* said. “Without evidence, Trump tells lawmakers 3 million to 5 million illegal ballots cost him the popular vote,” reported the *Washington Post*.

- Yes or no, do you agree with the president that millions of fraudulent votes were cast in the presidential election? If not, why? Do you anticipate that he will request that the Department investigate once you are confirmed?

RESPONSE: I have not been privy to any information that might have been relied upon in making this assertion, nor have I discussed this with the President. I have no basis on which to opine as to whether or not an investigation will be requested.

- If somewhere between 3 million and 5 million illegal votes were cast in the presidential election, where do you believe such votes were cast? Please identify the states and precincts where the criminal activity is alleged to have taken place.

RESPONSE: I have not been provided with any information on this matter.

- In what way are the 3 million to 5 million votes believed to be illegal?

RESPONSE: I have not been provided with any information on this matter.

- Since your hearing, have you spoken with the president about his claims that millions of illegal ballots were cast? Have you asked the president why he continues to believe that there was widespread voter fraud in the presidential election? If so, when? And please describe your conversation.

RESPONSE: No.

Question 8: I asked you what steps law enforcement can take to address a culture that often fails to hold perpetrators of sexual violence accountable and instead blames the victims. You replied, “Law enforcement authorities can best ‘address’ such a culture by aggressively investigating sexual assault offenses and vigorously prosecuting them to the fullest extent of the law.”

In December 2015, the Department of Justice issued guidance – “Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence” – that examined how gender bias can undermine the response of law enforcement agencies to sexual and domestic violence and provided a basic set of recommendations for law enforcement to help address that gender bias. The guidance, which was designed in collaboration with law enforcement leaders and advocates, found that gender biases can affect law enforcement officers’ perceptions of crimes committed against members of certain populations and prevent them from effectively handling allegations of such crimes, which could ultimately amount to unlawful discrimination. For example, if a police officer believes a sexual assault to be less severe because the victim was assaulted by an acquaintance or was intoxicated when the assault occurred, that constitutes gender bias and could impact whether the officer fully investigates the claim or prioritizes a swift response. The guidance also found that eliminating gender bias in policing

practices is integral to combatting sexual and domestic violence and preventing future victimization because an appropriate law enforcement response fosters victim confidence and makes victims more likely to report future incidents. On the other hand, if law enforcement does not respond effectively to an incident of sexual assault or domestic violence, the guidance found that victims are less likely to participate in the investigation and prosecution of their case or seek police assistance in the future.

- Are you familiar with this guidance? If not, will you commit to reviewing it to better understand some of the system barriers to addressing sexual violence?

RESPONSE: I have not had the occasion to review the Department's guidance on this issue. However, as I have stated, if I am fortunate enough to be confirmed as Attorney General, I will evaluate any current practices of the Department—including this particular guidance—as to its effectiveness in furthering the enforcement of federal law and the protections therein.

- Do you agree that this guidance demonstrates that addressing sexual violence in our country requires more than simply “aggressively investigating and vigorously prosecuting” sexual assault offenses? Will you work with me to address these systemic barriers?

RESPONSE: As stated above, I have not yet had the occasion to review the Department's guidance on this issue. However, if I am confirmed, I would be happy to work with you and other members of Congress to find ways to further the enforcement of federal law and the protections therein, particularly as it pertains to sexual assault.

Nomination of Senator Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017

QUESTIONS FROM SENATOR GRAHAM

1. Along with Senator Donnelly, I introduced at the end of last Congress the INVEST to Prevent Crime Act. The Act authorizes for five years a grant program focused on neighborhoods struggling to address persistent crime. Grantees will develop cross-sector partnerships between residents, local law enforcement, a research entity, and community and business partners. The partnerships will plan and implement strategies to address specific drivers of crime in their target neighborhoods. The program builds on DOJ's Byrne Criminal Justice Innovation Program, which has been appropriated between \$10.5M and \$18M since FY2013, and has shown very promising results in reducing crime rates.

Do you agree that building structured partnerships between community members and local police agencies could help reduce crime?

RESPONSE: Yes. As I noted in my written testimony, positive relations and great communication between the people and the police are essential for any good police department to be effective in reducing crime. We must re-establish and strengthen the partnership between federal and local officers to enhance a common and unified effort to reverse the current rising crime trends.

Do you plan to continue DOJ's support for grant programs like the Byrne Criminal Justice Innovation Program, which are designed to reduce crime in our country's most challenging neighborhoods while improving community-police relations?

RESPONSE: I believe these programs serve important purposes, particularly given the increase in violent crime across the country and the challenges facing state and local law enforcement and the communities they protect and serve. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes throughout the country, and to partner with state and local law enforcement agencies to help them address these issues. I will make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in the administration of justice. Resources are limited, however, and it would be unwise to commit to indefinitely providing a particular amount of to a single jurisdiction or for individual purposes without knowing how circumstances might change the needs or priorities in the future.

Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017

QUESTIONS FROM SENATOR GRASSLEY

Sue-and-Settle and Settlement Slush Funds

Under the Obama administration, the Justice Department arranged for settling defendants to donate money to non-victim third-parties, including politically favored groups. This was simply another tool by which the Obama Justice Department would pick winners and losers based on a politically-driven agenda. Payments ordered by settlements with the Department of Justice should only be used to punish the defendant and to make actual victims whole again, not to benefit favored groups.

The Obama Justice Department also abused its settlement authority by signing off on settlements and consent decrees with interest groups that committed agencies to fast-track new regulations. This practice, known as sue-and-settle, undermines transparency and accountability in the rulemaking process and offends the intent of Congress.

As Attorney General, will you commit to working with Congress and this Committee to ensure that settlements entered into by the Department, and any payments derived from them, are used appropriately for punishment of defendants and redress of actual victims? Will you likewise commit to working with Congress and this Committee to end abusive sue-and-settle tactics?

RESPONSE: Yes.

FOIA

The Obama administration promised a new era of open government. President Obama even called his administration the most transparent in history. But the facts demonstrate otherwise. Under President Obama, FOIA lawsuits and FOIA request denials reached record highs. And it's no secret that some of his top officials used methods that totally circumvented transparency and accountability protections.

With a new administration comes an opportunity to set a new standard for transparency. And the Justice Department plays a central role in ensuring government-wide compliance with FOIA, our nation's premier transparency law. Accordingly, as Attorney General, will you commit to working with Congress and this Committee to ensure that both the letter and the spirit of FOIA are carried out?

RESPONSE: The Freedom of Information Act (FOIA) is an important law that has played an integral role in helping the public hold the government accountable by rooting out waste, fraud, and abuse. If confirmed, I will ensure that the Department and the Executive Branch appropriately complies with FOIA, as well as works with you and this Committee to ensure that FOIA is carried out as intended.

Prescription Drug Prices

As you know, the high cost of prescription drugs is an increasing concern for American consumers. President-Elect Trump agrees and has pledged to “bring down drug prices.” Do you believe that the Antitrust Division at the Justice Department has a role to play with respect to these concerns? Can you assure me that drug competition issues will be a priority for the Justice Department, if you are confirmed to be U.S. Attorney General?

RESPONSE: I agree that the high cost of prescription drugs is a concern for the American consumer. The Justice Department’s antitrust division enforces the antitrust laws to ensure competition in the marketplace and to protect consumers from anti-competitive action. If confirmed as Attorney General, the antitrust division will be vigilant in evaluating drug competition issues to determine whether they constitute a violation of federal antitrust law and harm consumers.

Bankruptcy

I believe the bankruptcy system has been made much better and fairer thanks to the enactment of comprehensive bankruptcy reform legislation in 2005. Nevertheless, critics desire to weaken the statute.

1. Will you commit to actively supporting, defending, and making enforcement of the bankruptcy laws a priority for the U.S. Trustee Program?

RESPONSE: Yes.

2. Will you support and encourage greater enforcement actions by the U.S. Trustee Program to prevent abusive or fraudulent bankruptcy filings, including vigorous review of attorney fee applications in large Chapter 11 bankruptcy cases?

RESPONSE: Yes, I will support the U.S. Trustee Program’s efforts to prevent abusive or fraudulent bankruptcy filings. This program could indeed be an important factor in eliminating bankruptcy fraud. I would also consider pursuing more prosecutions of fraud.

3. Will you assist in efforts to fight attempts to undermine the bankruptcy reform law?

RESPONSE: Yes.

Juvenile Justice System

1. A significant number of girls in the juvenile justice system are actually victims of human trafficking. What efforts will the Attorney General make to promote the identification of these victims and help ensure their needs are better met?

RESPONSE: As a United States Senator, I was a cosponsor and strong supporter of the Adam Walsh Act of 2006, which imposed tough, mandatory penalties for sex trafficking of minors,

child pornography, and federal sexual assault offenses. I also have supported reauthorizations of the Violence Against Women Act, and have supported other legislation that has done much to prevent sexual assault and other violence, including trafficking. Additionally, I worked to add an amendment to the 2005 Violence Against Women Act that expanded DNA sampling and has prevented many of these types of crimes over the past decade. If I am fortunate enough to be confirmed as Attorney General, I will continue to pursue and support solutions to the problem of human trafficking, including vigorous prosecution of human traffickers and improved forensic science efforts to identify victims and serve justice.

2. The programs authorized under the 1974 Juvenile Justice & Delinquency Prevention Act are long overdue for reauthorization. There was broad bipartisan support for these programs' reauthorization in the 114th Congress (as evidenced by the Senate Judiciary Committee's unanimous approval of a reauthorization bill in 2015 and the House of Representatives' 2016 passage of a companion bill by a vote of 382-29). JJDP A reauthorization remains a top priority for this Committee in the 115th Congress.

Alabama in recent years has embraced the importance of juvenile justice reforms. (Research indicates that such reforms not only conserve taxpayer resources but also promote better outcomes for the nation's at-risk youth.) Given Alabama's recent success in juvenile justice reform and the federal taxpayers' 40-year investment in JJDP A implementation, will you encourage the rest of the nation to adopt similar reforms and engage in a robust implementation of the JJDP A?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will encourage jurisdictions to continue to study and implement reforms of their juvenile justice systems, including utilizing best practices from around the country while also finding what works best in their particular jurisdiction.

Scope of Executive Privilege

For the past five years, the U.S. House of Representatives Committee on Oversight and Government Reform (HOCR) has sought subpoenaed documents from the Department of Justice related to Operation Fast and Furious.^[1] Originally, the Department failed to produce any documents responsive to the October 2011 subpoena despite failing to formally assert a legally recognized privilege. In fact, only a feeble attempt to rely on "confidentiality interests" and "separation of powers" was proffered.^[2] Eventually the Department asserted executive privilege over the majority of relevant documents, and shortly thereafter, the Committee voted to hold Attorney General Eric Holder in contempt of Congress.

In August 2012, HOCR filed a civil lawsuit in the U.S. District Court for the District of Columbia seeking to enforce its subpoena of documents, including those created after a February 4, 2011

^[1] Stephen Dinan, *Election eve surprise: DOJ belatedly releases Fast & Furious documents*, WASH. TIMES, Nov. 4, 2014, available at <http://www.washingtontimes.com/news/2014/nov/4/justice-dept-submits-64k-pages-fast-furious-docs/?page=all>.

^[2] Brief of Petitioner-Appellant at 21, *Committee on Oversight and Government Reform of the United States House of Representatives v. Loretta Lynch*, No. 16-5078 (D.C. Cir. Oct. 6, 2016) ["HOCR Brief"].

letter to me which falsely claimed the Department had not been walking guns, to understand how the Department came to know the letter was false.^[3] In August 2014, after years of litigation, the court ordered the Department to produce a privilege log. However, the court also held that the deliberative process privilege “could be invoked in response to a congressional subpoena.”^[4]

In response to the order, the Department produced an incomplete “list” of a subset of documents, along with about two thirds of those documents which it had previously unlawfully withheld, given that it had a legal obligation to comply with the subpoena and given that even the Department did not take the position that those documents were privileged. The remaining documents on the Department’s “list” were categorically withheld on deliberative process grounds as well as five other claims of “privilege” never previously asserted.

HOCR then filed a motion to compel production of *all* documents, without redactions, created following the Department’s false and misleading February 2011 letter to Congress.^[5] On January 19, 2016, the district court granted the Committee’s motion in part and denied it in part. The court ordered the Department to produce all documents from its 2014 “set” that it had withheld on deliberative process grounds, but denied the Committee’s motion to compel remaining responsive documents.^[6]

HOCR appealed on October 2016 to seek production of all other documents responsive to the subpoena.^[7] Among other things, the appeal also generally challenges the district’s court’s holding that the common law “deliberative process” privilege can form a valid basis for denying access to information regarding Executive Branch misconduct sought by a congressional subpoena. The appeal is currently pending.

The most problematic aspect of the long negotiation and litigation over the Fast and Furious documents is the Department’s continued insistence, and the district court’s assent to the Department’s position, that the constitutionally based Executive Privilege extends far below the President to shield the “deliberative process” of lower-level, unelected bureaucrats. The deliberative process privilege is a common law doctrine and a basis for a Freedom of Information Act exemption. It is not a Constitutional privilege of equal standing with the inherent power of Congress to conduct oversight inquiries. Deliberative process also traditionally applies only to content that is deliberative and pre-decisional.^[8] It does not shield material created after a decision is made, or that is purely factual.

Worse, the Department has even used this exceedingly broad view of Executive Privilege to shield production of documents the former Attorney General himself admitted *were not actually privileged at all*.^[9] The Department’s Office of Legal Counsel opinion on the President’s assertion

^[3] Complaint available at <http://legaltimes.typepad.com/files/complaint-13.pdf>.

^[4] HOCR brief at 9.

^[5] Available at <http://oversight.house.gov/wp-content/uploads/2014/11/Cover-Letter.pdf>.

^[6] HOCR brief at 25.

^[7] *Id.*

^[8] *In re Sealed Case*, 121 F.3d 729, 745 (D.C. Cir. 1997).

^[9] Def.’s Mot. For Certification of Sept. 30, 2013 Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) at 8-9, *Committee on Oversight and Government Reform, U.S. House of Representatives v. Holder*, 1:12-cv-1332 (D.D.C. Nov. 15, 2013).

of Executive Privilege further suggests inexplicably that the privilege applies to a document, “regardless of whether a given document contains deliberative material.”^[10]

Moreover, in a very troubling trend, the Department and other Executive Branch agencies also have relied on the district court’s opinion in their refusal to produce a vast array of information to Congress in response to subpoenas, claiming broadly not only a dubious “deliberative process” privilege but also general, unarticulated “confidentiality” interests and other vague concepts.

Many of those examples are featured in an amicus brief that I and several other congressional committee chairmen in the House and the Senate filed in the HOCR appeal.^[11] The brief challenges the attempts by the Obama administration to stretch the Executive Privilege beyond its constitutional boundaries to shield from congressional review documents it claims are “deliberative” or even merely “confidential.” The brief asserts that the administration’s overbroad privilege claims, including in response to congressional subpoenas, serve only to thwart legitimate congressional oversight.^[12]

1. What is the scope of executive privilege, particularly over agency documents unrelated to the President?

RESPONSE: The practice of the political branches and the courts have recognized that the following types of information may be protected by executive privilege: state secrets relating to foreign relations and military affairs; certain sensitive information relating to law enforcement investigations; presidential communications—including not only communications to and from the President but also, in some cases, communications made or solicited and received by White House staff in the course of preparing advice for the President; and information that reflects the internal, pre-decisional deliberations of the Executive Branch. *See, e.g., NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975); *United States v. Nixon*, 418 U.S. 683, 705 (1974); *Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974) (en banc).

Courts have recognized the deliberative process privilege to apply to deliberative agency documents that do not relate to presidential decisions, and the contours and limits of that privilege have been described in case law. *See, e.g., In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997). If I am fortunate enough to be confirmed as Attorney General, I would, of course, follow the applicable case law and seek the legal guidance of attorneys within the Department of Justice regarding the applicability of any privilege claim.

2. Does the President have an executive privilege to withhold documents subpoenaed by Congress that have nothing to do with advice or communications involving the White House? If so, what is the legal basis for that claim?

^[10] 36 Op. O.L.C. 1, 3 (June 19, 2012).

^[11] Brief of Amici Curiae Chairmen of Certain House and Senate Oversight Committees in Support of Appellant, *Committee on Oversight and Government Reform of the United States House of Representatives v. Loretta Lynch*, No. 16-5078 (D.C. Cir. Oct. 13, 2016).

^[12] “[T]he power of inquiry—with the process to enforce it—is an essential and appropriate auxiliary to the legislative function.” *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927).

RESPONSE: Each claim of executive privilege must be carefully evaluated and determined individually based upon the specific nature and contents of the documents or communications at issue. Although I am aware that past administrations have asserted executive privilege over, for example, pre-decisional deliberative materials in response to congressional inquiries, I have not studied the specific legal bases for those claims.

As noted above, the contours and limits of the deliberative process privilege has been discussed in case law. Additionally, case law indicates that, where practicable, the Executive Branch and Congress should try in good faith to resolve inter-branch disputes regarding executive privilege through negotiation and accommodation.

3. Will you commit that, if confirmed, you will personally review and examine the expansive claims of Executive Privilege asserted by the Department in this long running litigation with Congress under its previous leadership and decide whether it is proper and consistent with the law to continue litigating them?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will review these matters.

Whistleblowers

On December 16, 2016, President Obama signed into law the Grassley-Leahy FBI Whistleblower Protection Enhancement Act. The Act clarifies, once and for all, that FBI employees are protected for making disclosures of waste, fraud, and abuse within their chains of command—just like every other federal government employee. The Department of Justice should work swiftly to update its current regulations in accordance with the new statute^[13] and ensure FBI employees are fully apprised of their protections.

Unfortunately, the version of the FBI WPEA—which unanimously passed the Judiciary Committee early in 2016—did not become law. This version sought to improve the investigative and adjudicative procedures for FBI reprisal claims to address significant deficiencies noted by the Government Accountability Office and the Department of Justice in their respective reports on the FBI whistleblower program.

For example, that version of the bill would have addressed lengthy delays in the investigations and adjudications procedures for FBI whistleblower claims. Among other things, the bill provided for the ability of the Department to utilize more experienced administrative law judges to evaluate cases and allowed for interim relief for whistleblowers where the Office of the Inspector General finds a reasonable basis to believe reprisal occurred. The bill also would have required the Department to meet its obligations under FOIA and follow the example of the Merit Systems Protection Board in publicizing its opinions. The Department has promised to consider doing so,

^[13] 28 C.F.R. Part 27. The current regulations limit the individuals to whom FBI employees may make protected disclosures to nine specifically designated entities or individuals. In establishing such a limited group, the Department ignored the central purpose of whistleblower protection laws, which is to encourage disclosures and protect employees from the individuals or entities most likely to reprise against them.

but in nearly two years has failed to publicize a single FBI whistleblower case. The result is that the FBI has access to case precedent, but potential whistleblowers do not.

Notably, the Judiciary Committee unanimously approved these key reforms in early 2016.

However, the Department of Justice and the FBI objected to these improvements—behind the scenes—without ever providing any official written comment on the bill.

1. If confirmed, how will you ensure that FBI employees are fully apprised of their new protections from reprisal committed by their supervisors?

RESPONSE: Strong protections for whistleblowers are important to ensure that governmental misconduct is investigated and appropriately addressed. If I am fortunate enough to be confirmed as Attorney General, I will endeavor to make certain that employees of the Department of Justice and its components are informed of their rights and protections from reprisal when they help appropriate individuals identify and prevent misconduct, including through regular review of, and if necessary, updates to the policies and procedures of the Department.

2. If confirmed, how will you ensure that the Department and the FBI work with this Committee to continue to improve protections for whistleblowers at the FBI?

RESPONSE: Strong protections for whistleblowers are important to ensure that governmental misconduct is investigated and appropriately addressed. If I am fortunate enough to be confirmed as Attorney General, I will direct the Department to conduct regular review of its policies and procedures related to whistleblower protections, and will work with Congress and with this Committee whenever new authorities or changes to the law are necessary to protect whistleblowers and prevent governmental misconduct.

3. If confirmed, will you commit to reviewing any changes the Department makes to its policies and procedures in handling FBI whistleblower complaints?

RESPONSE: Yes.

4. If confirmed, will you provide this committee with regular updates on the Department's progress in improving the effectiveness and timeliness of its policies and procedures for addressing these claims?

RESPONSE: Yes.

Improper Handling Restrictions on Committee Documents

During the course of the Clinton investigation, the FBI provided a document production that was largely unclassified but contained some classified material. The production included "handling restrictions" on all the unclassified material which prevented necessary staff without a clearance from reviewing the unclassified material. These restrictions were never negotiated for, rather the FBI unilaterally used them.

The FBI's action is entirely contrary to the executive order and regulations governing the handling of classified information. Under the law, the unclassified material should have been produced directly to the Committee, with only a classified addendum submitted to the Office of Senate Security. Executive Order 13526 states:

The classification authority shall, whenever practicable, use a classified addendum **whenever classified information constitutes a small portion of an otherwise unclassified document** or prepare a product to allow for dissemination **at the lowest level of classification possible or in unclassified form.**

Moreover, Section 1.7(a) of Executive order 13526 specifically states:

In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to:

- (1) conceal violations of law, inefficiency, or administrative error;
- (2) prevent embarrassment to a person, organization, or agency;
- ...
- (3) prevent or delay the release of information that does not require protection in the interest of national security.**

Importantly, by definition, unclassified information does not require protection in the interest of the national security. And Executive Order 13526 mandates that "in no case" shall it "be maintained as classified," which accordingly prohibits FBI's attempt to require the unclassified materials to be treated as classified and stored in a SCIF.

The FBI's actions raise serious Constitutional separation of powers issues when the imposition of such document controls interferes with the independent oversight function of the Judiciary Committee.

1. Do you agree that the Legislative Branch has independent and constitutionally based oversight powers that provide it the authority to oversee the Executive Branch?

RESPONSE: Yes. Your continued work to hold the executive branch accountable for its actions regardless of party is very important. If I am confirmed, I can assure you that the Department will respect your constitutional oversight role and the separation of powers between the Executive and Legislative branches.

2. Do you agree that unilateral document controls by the Executive Branch undermine the independent and constitutionally based oversight powers of the Legislative Branch? If not, why not? Please explain.

RESPONSE: As a Senator, I understand the important role that congressional oversight plays in our system of government. At the same time, the President and his senior officers have a vital

need to receive candid and confidential advice from those within the Executive Branch, as well as to protect other confidential information such as national security and law enforcement information from public disclosure. For this reason, both the courts and the political branches have recognized that some Executive Branch documents may be privileged from disclosure to Congress. Each claim of executive privilege must be carefully evaluated and determined individually based upon the specific nature and contents of the documents or communications at issue. Although I am aware that past administrations have asserted executive privilege over, for example, pre-decisional deliberative materials in response to congressional inquiries, I have not studied the specific legal bases for those claims. Where practicable, and as they have many times in the past, the Executive Branch and Congress should try in good faith to resolve inter-branch disputes regarding executive privilege through negotiation and accommodation.

3. If confirmed, will you instruct Justice Department employees and its components to negotiate in good faith any handling restrictions with the Committee before production? If not, why not?

RESPONSE: Yes, I agree that the Executive Branch and Congress should try in good faith to resolve inter-branch disputes regarding handling restrictions through negotiation and accommodation, and I would act accordingly.

Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017

QUESTIONS FROM SENATOR HIRONO

1. During the hearing I asked Senator Sessions whether he would implement the Freedom of Access to Clinic Entrances act. He said, "I don't know exactly how threats are worded but if it is improperly done, they can be subject to criminal prosecutions and they would be evaluated properly in my administration."
- a. The Ninth Circuit Court of Appeals ruled in 2002 that WANTED posters targeting abortion providers, as well as websites listing the addresses and telephone numbers of abortion providers and declaring them guilty of crimes against humanity, constitute actionable threats under the FACE Act. Do you agree with this ruling by the Ninth Circuit?

RESPONSE: As I testified before the Committee, these providers are entitled to the protection of relevant federal law. If I am fortunate enough to be confirmed as Attorney General, I will faithfully follow and enforce the law as defined by the courts, including the FACE Act and all other federal laws that the Attorney General is authorized to enforce.

2. During the hearing I asked Senator Sessions whether he supported "enhanced vetting" of people with "extreme views."
- a. How would you characterize what constitutes an extreme view?

RESPONSE: An example of an extreme view would include those that call for the harming or killing those who do not share your religious beliefs.

- b. Do you believe certain religions are more prone to extreme views than others? And if so, which ones?

RESPONSE: It is my understanding that individuals across the world in every religion have adopted views that could be described as extreme and there are periods in which some religions exhibit more extreme and dangerous views than others.

3. At the hearing I asked if Senator Sessions would commit to maintaining and enforcing the consent decrees that the Justice Department has negotiated during the Obama administration. You said "those consent decrees remain in force until and if they are changed." You also stated "...I just wouldn't commit that there would never be any changes in them. And if departments have complied or reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that."
- a. In light of ample empirical evidence showing that consent decrees have been an effective tool in addressing police misconduct, do you plan to instruct the Civil Rights Division of the U.S. Department of Justice to continue issuing them?

RESPONSE: As I testified before the Committee, consent decrees themselves are not necessarily bad things, but there are also concerns with the use or overuse of them, and the ramifications are deserving of caution. If I am fortunate enough to be confirmed as Attorney General, I will exercise caution and my best judgment in determining how and when to use that tool.

- b. Absent a showing that a police department has actually achieved full compliance with specific provisions of a consent decree or the entirety of a previously-negotiated consent decree, will the Department of Justice under your leadership maintain, enforce, and defend against proposed changes to that consent decree?

RESPONSE: As I testified before the Committee, I would not pre-judge a specific case, nor would I commit that there would never be any changes to consent decrees that have been entered into, particularly if departments have either complied or have made other improvements that might justify the withdrawal or modification of the consent decree.

- c. If your answer to the prior question was anything other than yes, please identify all criteria you will use to determine whether to maintain, enforce, and defend against changes to an existing consent decree entered into between a police department and the Justice Department.

RESPONSE: As I testified before the Committee, I would not pre-judge a specific case. If departments have either complied or have made other improvements that might justify the withdrawal or modification of the consent decree, then I would carefully evaluate all of the relevant facts and circumstances to determine whether action needs to be taken.

- d. What did you mean by “And if departments have... reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that”? What “other developments could justify the withdrawal or modification” of a consent decree?

RESPONSE: As I testified before the Committee, I would not pre-judge a specific case. Just as each consent decree is unique to each jurisdiction, each case necessarily differs in what developments or improvements might justify withdrawal or modification of the consent decree.

- 4. During the hearing I cited the current Wells Fargo investigation and asked whether Senator Sessions would instruct the Department of Justice to pursue and hold accountable individual and corporate wrongdoers who defraud the American consumer.
- a. Do you believe that any financial institutions have a large enough financial impact that the Department of Justice would be hindered in any way from holding those institutions and/or their executives fully accountable in any case of lawbreaking?

RESPONSE: As I testified before the Committee, the duty of the Attorney General is to ensure that the law is properly and fairly enforced. No matter how wealthy or well-connected, no individual or institution is above the law.

- b. If confirmed, if you determine that the size or interconnectedness of any financial institution hinders the Department of Justice's ability to hold a bank or its executives accountable, will you work with banking regulators to take any necessary remedial action, including requiring the institution to divest assets, to ensure that the institution and its executives can be held accountable to the full extent of the law?

RESPONSE: Yes.

- c. As you know, many of Wells Fargo's consumer contracts contain provisions that require consumers to adjudicate disputes through arbitration, rather than in the court system. Wells Fargo has argued for dismissal of numerous consumer lawsuits over the fake account scandal based on these provisions. You have strongly defended the use of "forced arbitration" clauses during your time in the Senate.¹ If confirmed, will you defend rules enacted by banking regulators that limit the use of forced arbitration in consumer banking contracts to the full extent of the law?

RESPONSE: I have not devoted significant study to this issue. However, if I am confirmed, if such matters come before the Department of Justice, I will carefully and objectively evaluate the facts and circumstances of each case and endeavor to uphold and defend the Constitution in the pursuit of justice.

¹ See e.g., <https://www.congress.gov/congressional-record/2000/3/28/senate-section/article/s1810-2?q=%7B%22search%22%3A%5B%22financial%22%5D%7D&r=5>, [https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Track_Regulatory_Issues/Pending_Regulatory_Changes/2016/Congressional%20Letter%20to%20Cordray%20re%20arbitration5b25d%20\(1\).pdf](https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Track_Regulatory_Issues/Pending_Regulatory_Changes/2016/Congressional%20Letter%20to%20Cordray%20re%20arbitration5b25d%20(1).pdf)

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 24, 2017**

QUESTIONS FROM SENATOR HIRONO

1. In your response to my written question 1a., you indicated that you would “follow and enforce the law as defined by the courts, including the FACE Act”. The question was whether you agree with the 2002 decision of the Ninth Circuit Court of Appeals (*Planned Parenthood of the Columbia/Willamette, Inc. v. Am. Coalition of Life Activists*, 290 F.3d 1058, 1062-66 (9th Cir.2002) (en banc)) that “WANTED posters targeting abortion providers” constitute actionable threats under the FACE Act. Your position on this would be important in jurisdictions where the courts have not made a determination about this type of actionable threat against abortion providers, and the Department of Justice would have to decide whether to bring an action under the FACE Act.

- a. Do you agree with the decision in the Ninth Circuit?

RESPONSE: I have not had the opportunity to study this case. If I am fortunate enough to be confirmed as Attorney General, I will conduct a thorough review of departmental matters pending in the courts to ensure the fair administration of justice. I will follow the law and the Constitution as defined by the courts.

- b. Would you direct prosecutors to pursue cases under the FACE Act against this type of threat jurisdictions where the Ninth Circuit decision is not controlling?

RESPONSE: As I testified before the Committee, if I am fortunate enough to be confirmed as Attorney General, I will faithfully follow and enforce federal laws as defined by the courts, including the FACE Act and all other federal laws that the Attorney General is authorized to enforce.

2. In your response to my written question 2a., you stated that “An example of an extreme view would include those that call for the harming or killing those who do not share your religious beliefs.” This seems to indicate that there are other views that might also be considered “extreme” for the purpose of “enhanced vetting.”

- a. Are there other religious views that you would consider extreme?

RESPONSE: Question 2a. asked “how would you characterize what constitutes an extreme view,” in the context of “extreme vetting.” My answer, which is restated above, merely provided an example. I have nothing further to add.

3. In your response to my written question 2b., you suggested that there is a historical context as to whether one religion is more likely to “exhibit more extreme and dangerous views than others.”

- a. Which U.S. Government official(s) would properly determine whether a view is “extreme” or “dangerous” for the purpose of extreme vetting?

RESPONSE: The administration of our various immigration and visa programs are largely within the purview of the Department of State and the Department of Homeland Security. If I am fortunate enough to be confirmed as Attorney General, my role in determining the ability of certain individuals to enter the United States will be limited. But in that capacity, I would ensure that adequate Department of Justice resources and assets are devoted to supporting the critical mission of determining who among the millions who seek to enter the United States pose a threat to our safety and security.

- b. How would you ensure that enhanced vetting would not result in impermissible profiling or discrimination based on religious views?

RESPONSE: As I indicated above, the administration of our various immigration and visa programs are largely within the purview of the Department of State and the Department of Homeland Security. If a question of law arose regarding vetting policies, the Department of Justice would provide guidance as to any relevant law or constitutional provision.

4. In response to my written question 3b., you wrote, “[a]s I testified before the Committee, I would not pre-judge a specific case, nor would I commit that there would never be any changes to consent decrees that have been entered into, particularly if departments have either complied or have made other improvements that might justify the withdrawal or modification of the consent decree.”

- a. In the absence of compliance or improvements made on the part of the parties bound by the consent decree, will the Department of Justice under your leadership maintain, enforce, and defend against proposed changes to that consent decree?

RESPONSE: Such determinations would depend on the specific facts and circumstances of each case. The Department must follow the facts wherever they lead, and make decisions regarding any potential changes based upon the facts and the law. That is what I always did as a United States Attorney, and it is what I will insist upon if I am fortunate enough to be confirmed as Attorney General.

- b. In 2008, you wrote that consent decrees “constitute an end run around the democratic process.”¹ Given your hostility to consent decrees and your refusal to provide assurances that you will maintain, enforce, and defend against changes to an existing consent decree entered into between a police department and the Justice Department, how can this Committee be confident that those decrees are safe from premature changes?

RESPONSE: I reject the assertion that I am hostile to consent decrees. The foreword I penned clearly states that “consent decrees are, and will remain, an important part of the settlement of litigation in America.” It continues: “important improvements...can be made to the process.”

¹ <http://www.alabamapolicy.org/wp-content/uploads/API-Research-Consent-Decrees.pdf>

As I have not studied any of the consent decrees to which the Department is currently a party, nor have I been privy to the negotiations, and because the facts and circumstances of each vary dramatically, I cannot offer further comment.

- c. During the hearing, you said that consent decrees are “not necessarily a bad thing.” Can you please provide a situation in which you would consider a consent decree a “bad thing”?

RESPONSE: I provided an example in the foreword referenced here. When I became Attorney General, the State was bound by a consent decree because my predecessor entered into an agreement, which I believed violated the state constitution. I opposed this action, and my position was ultimately approved by the Eleventh Circuit.

- d. Under what circumstances would you oppose a consent decree regarding allegations of police misconduct?

RESPONSE: Such determinations would depend on the specific facts and circumstances of each case. The Department must follow the facts wherever they lead, and make decisions regarding any potential changes based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am fortunate enough to be confirmed as Attorney General.

- 5. In response to my written question 4c., you responded, “I have not devoted significant study to this issue. However, if I am confirmed, if such matters come before the Department of Justice, I will carefully and objectively evaluate the facts and circumstances of each case and endeavor to uphold and defend the Constitution in the pursuit of justice.”
 - a. As I noted in written question 4c., you strongly defended the use of “forced arbitration” clauses during your time in the Senate, including in a statement on the floor of the Senate.² Please provide any sources you relied upon in preparing your remarks on the Senate floor.

RESPONSE: While I cannot recall the sources relied on in the 17-year-old speech referenced in the above question—which were likely relied on by staff—I would note that the text of the speech references an Alabama law firm’s newsletter and also mentions that a number of groups had raised concerns about the legislation mentioned in the speech, which I said should be “explored more fully.” I also noted that “the arbitration process must be fair.” In fact, I proposed and filed legislation to ensure the arbitration process was fair for all.

- 6. The Consumer Financial Protection Bureau has studied the issue of forced arbitration in an extensive report to congress. The report is available here:
http://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf

² <https://www.congress.gov/congressional-record/2000/3/28/senate-section/article/s1810-2?q=%7B%22search%22%3A%5B%22financial%22%5D%7D&r=5>

- a. Given the information in this report, does that change your response to question 4c: "If confirmed, will you defend rules enacted by banking regulators that limit the use of forced arbitration in consumer banking contracts to the full extent of the law?"

RESPONSE: In any contract, the parties must agree to all the terms and clauses included in the contract document, including an arbitration clause. This is basic contract law, and the basic premise of the Federal Arbitration Act for over 75 years. If the contract was obtained through exploitation, fraud or coercion, then the consequences of those actions, whether under contract law or criminal law, would apply. Acceptable arbitration provisions in contracts should be conducted fairly and, in the past, I have offered detailed legislation to ensure fairness.

Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017

QUESTIONS FROM SENATOR KLOBUCHAR

Synthetic Drugs

Synthetic drugs continue to be a major nationwide problem. Part of the problem is that sellers of these dangerous drugs have managed to find loopholes in the law, often avoiding detection by disguising their products and labeling them as “not for human consumption.”

- Can you comment on this issue, and will you commit to addressing the sale and distribution of synthetic drugs as Attorney General?

RESPONSE: You raise an important point about a very serious problem facing our country. Synthetic versions of illicit drugs are often used as a way to circumvent drug laws and enforcement efforts, and many of these synthetics are marketed directly to young people, sometimes in colorful packaging and offered for sale in legitimate businesses. Synthetic or not, the addiction and adverse health effects caused by these drugs are real. If I am fortunate enough to be confirmed as Attorney General, I will faithfully execute the laws of the United States, and I will work with Congress to find solutions to these problems and loopholes.

High Intensity Drug Trafficking Area (HIDTA) Designation for Five Minnesota Counties

The deadly opioid abuse and heroin epidemic has devastated communities in Minnesota and across the country. Until recently, Minnesota was one of the only states without a designated High Intensity Drug Trafficking Area (HIDTA). This program, which was established in 1988, is intended to reduce drug trafficking by facilitating cooperation and information sharing among federal, state, and local law enforcement agencies. Although the HIDTA program is administered by the Office of National Drug Control Policy (ONDCP), the Drug Enforcement Administration (DEA) plays an active role in supporting the program.

- As Attorney General, would you continue to support the important work being done by the HIDTA program?

RESPONSE: Yes.

- After I wrote a letter to the Office of National Drug Control Policy (ONDCP) in August 2016, five Minnesota counties (Hennepin, Ramsey, Anoka, Dakota, and Washington) were included in the Wisconsin HIDTA designation. It is important to me that the five Minnesota counties receive meaningful funding through this designation. If you are confirmed as Attorney General, will you commit to looking into this issue?

RESPONSE: Yes.

Drug Courts

Drug courts are a proven and effective tool to help non-violent offenders receive the treatment they need, while also saving taxpayers money and reducing crime. I have led efforts to advocate for funding for these important programs in the Senate. I understand that you brought the first expert on drug courts to Alabama in the early 1980s in an effort that led to the establishment of the Mobile County Drug Court.

- Will you commit to continuing your support of drug courts if you are confirmed as Attorney General?

RESPONSE: Drug courts can be a very effective tool for helping non-violent drug users receive treatment that they need, and I am proud of my work in this area. If I am fortunate enough to be confirmed as Attorney General, I will continue to support the appropriate use of drug courts.

Antitrust: Platform Competition

As Ranking Member of the Antitrust Subcommittee, I have heard complaints that the internet is now dominated by a small number of companies that serve as platforms for the digital economy – similar to the way railroads did a century ago. Others argue that these companies remain integral to creating opportunities for start-up businesses to grow and succeed.

- What should the Antitrust Division be doing to ensure that digital markets remain open and competitive?

RESPONSE: It is important that the Antitrust Division have a thorough understanding of emerging markets and new technologies. If I am confirmed as Attorney General, the Antitrust Division will not hesitate to enforce federal antitrust law to protect competition in these markets.

Antitrust: Anheuser-Busch InBev's Acquisition of SABMiller

Recently, the Department of Justice filed its consent decree regarding Anheuser-Busch's acquisition of SABMiller. Conditions that protect beer wholesaler independence and that require Anheuser-Busch to report its acquisitions of craft brewers are critical to protecting the vital competition and innovation that craft brewers have provided the market.

- Will you commit to vigorously enforcing the terms of the consent decree to protect competition and to carefully review any additional consolidation in the beer industry, including the acquisition of craft brewers by large national or international competitors?

RESPONSE: As I testified before the Committee, if I am confirmed, I would have no hesitation enforcing antitrust laws to protect against anti-competitive transactions. The Antitrust Division will look at all markets to ensure compliance with federal antitrust law. It will conduct a thorough evaluation of proposed mergers and acquisitions to determine

whether they violate federal antitrust law. I look forward to working with you and other members of Congress to learn more about these particular issues and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement.

Antitrust: Agricultural Consolidation

Currently, both E. I. du Pont de Nemours and Company merger with the Dow Chemical Company and Bayer AG's acquisition of Monsanto Company, Inc., are under review by the Department of Justice. Minnesota is the nation's fifth-largest agricultural producing state, and our farmers contribute nearly \$21 billion to Minnesota's economy each year. I have heard concerns that each merger could undermine incentives to develop new traits and to license technology, that the Dow-DuPont merger could increase prices for corn seeds and soybean seeds, and that Bayer's acquisition of Monsanto could excessively increase concentration for certain types of herbicides.

- Will you commit to closely examining these transactions to make sure they do not harm farmers, limit innovation, or increase seed prices?

RESPONSE: While it would be premature to comment or commit specifically on any matters currently being reviewed by the Department, if I am confirmed as Attorney General, the Antitrust Division will conduct a thorough evaluation, consistent with federal law, of all proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies. The agricultural sector of our nation's economy is of vital importance, and I look forward to working with you and other members of Congress to learn more about these particular issues and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement.

National Voter Registration Act (NVRA)

Another responsibility of DOJ's Voting Section is to enforce the National Voter Registration Act (NVRA), or the "motor voter law." Many states do not comply with the voter access provisions of the bipartisan NVRA, and, to date, DOJ has not been particularly active in enforcing these provisions.

- If you are confirmed as Attorney General, will you commit to active enforcement of Sections 5 and 7 of the NVRA, which, respectively, require states to provide voter registration opportunities at DMVs and at state public assistance and disability offices?

RESPONSE: If I am confirmed as Attorney General, I will enforce all federal laws, including the National Voter Registration Act.

- Another important section of the NVRA is Section 8, which sets requirements for how states maintain voter registration lists for federal elections. What role, if any, do you believe DOJ has in enforcing Section 8 of the NVRA, to purge duplicate registrations or

registrations of deceased voters from the rolls? What protections do you believe are required to ensure that legitimate voters are not inappropriately purged from the rolls?

RESPONSE: As I testified before the Committee, the intensity of every election must be monitored and it is a responsibility of the government to ensure its integrity. This includes the Department of Justice's responsibility to enforce all federal voting laws, including all sections of the national Voter Registration Act.

Freedom of the Press

In your hearing, I asked you if you would commit to following the standards now in place at the Justice Department to not put reporters in jail for doing their jobs. You responded that you did not know and "had not studied those regulations."

- Upon further consideration, will you commit to not putting reporters in jail for doing their jobs?

RESPONSE: I have not had the occasion to study the outgoing Administration's regulations on this matter. If I am confirmed as Attorney General, I would discuss this matter with the Justice Department's career experts before making any decision to maintain or modify the current regulations. I would note, however, that the existing regulations did not prevent the outgoing Administration from aggressively investigating and prosecuting a larger-than-normal number of leak cases. Leaks of classified information can be damaging to U.S. national security, and can also violate the federally-protected rights of other federal employees—for example, in cases where restricted information from an individual's personnel file is leaked to the press. In some cases, the only way to investigate wrongdoing is by subpoena. Such subpoenas to reporters, however, raise concerns about intimidation or restriction of the press. A free press plays a vital role in ensuring the accountability of powerful institutions in our society. For these reasons, I support Justice Department caution when contemplating the use of a subpoena to obtain material from a journalist.

Immigration

Research has shown that not only do immigrants already help grow the size of the economy for all Americans, but, according to one study, immigration reform would increase the wages of all Americans by \$625 billion over a decade and create on average 145,000 new jobs each year. According to another recent study, immigrants contributed \$22.4 billion to Minnesota's GDP, totaling 7.5 percent of the state's GDP in 2012. Immigrants also own 8.5 percent of businesses in the Minneapolis-St. Paul region alone.

- When I raised the issue of the economic benefits of immigration in your hearing, you said, "I think as a nation, we should evaluate immigration on whether or not it serves and advances the national interest, not the corporate interest." Can you elaborate on this statement? Do you believe that immigration benefits the U.S. economy?

RESPONSE: Immigration can benefit the U.S. economy; but excessive labor flow will depress wages and job prospects of U.S. workers.

National Security / Extremist Activities

Protecting national security should always be a top priority of the Justice Department. In the Twin Cities, extremist recruitment has been a particular challenge. I was pleased that, in 2014, the Twin Cities were among three metropolitan areas selected for a pilot program to counter violent extremism run by the Departments of Justice and Homeland Security. Our local community groups, faith leaders, U.S. Attorney, and law enforcement have partnered together to create a program called Building Community Resilience. I have repeatedly asked for the strongest possible level of funding for these efforts.

- While much of the funding made available to this program has been through the Department of Homeland Security (DHS), the Department of Justice (DOJ) has also provided funding in the past. Will you commit to supporting efforts like this to counter extremist recruitment as Attorney General?

RESPONSE: If I am confirmed as Attorney General, I would be pleased to receive and review information concerning efforts that are effective at steering individuals away from extremist ideologies that have led to acts of terrorism. It will ensure that the resources of the Department of Justice and our partnerships with state and local law enforcement are utilized in a way that will ensure public safety and full enforcement of the law while being effectively managed.

In Minnesota, we know that law enforcement must partner with community leaders to build trust and put in place the programs that can guard against extremist recruiting efforts. Our U.S. Attorney Andy Luger has prosecuted dozens of terrorism cases and brought together community leaders working to address extremism. In addition, community groups are engaging populations that ISIS seeks to exploit and providing much-needed social services to communities that are underserved.

- If you are confirmed, how would you work to support programs like the one in Minnesota that seek to strengthen trust between law enforcement and communities?

RESPONSE: Effective engagement of state and local law enforcement, and supporting their outreach efforts in communities, is absolutely critical to protecting all Americans. If I am fortunate enough to be confirmed as Attorney General, I will ensure that the resources of the Department of Justice and our partnerships with state and local law enforcement are utilized in a way that will ensure public safety and full enforcement of the law.

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017**

QUESTIONS FROM SENATOR LEAHY

1. At your hearing, I asked you several questions about your opposition to these two bills. With respect to VAWA, you stated “a number of people opposed some of the provisions in that bill.” You mentioned specifically the tribal victims provision.

a. Did you also oppose the new protections for LGBT Americans?

RESPONSE: My principal concerns about the 2013 VAWA reauthorization centered on the tribal jurisdiction provision. The 2013 Act also includes a provision that prohibits recipients of federal grants (such as women’s domestic-violence shelters) from discriminating on the basis of, among other things, sex, gender identity, and sexual orientation. This provision includes an exception that a grantee may carry out sex segregation or sex-specific programming if it can show that such programming is “necessary to the essential operation of a program,” and if it provides comparable services to individuals who cannot be provided with sex-segregated or sex-specific programming. My and other Senators’ concerns about this provision centered on the fact that, on its face, its broad prohibition would appear to preclude operation of a women-only (or women and children-only) domestic violence shelter, and the Act’s exception to this prohibition appears narrow and is unclear. Although a woman who has been the victim of violence at the hands of a husband or boyfriend may be better served by services that are provided outside the presence of men, it is unclear whether a women’s domestic-violence shelter would be able to meet the Act’s requirement that it show that providing women-only services is “necessary to the essential operation” of the shelter. I believe that, in some circumstances, it is appropriate for VAWA grant recipients to provide services that are limited to women. To the extent that VAWA 2013’s new anti-discrimination provision is construed to, for example, prevent or make it difficult for a women’s domestic violence shelter to provide services that it believes should be limited only to women, I continue to have serious reservations about that provision. In the past, I have received strong objections from a respected women and children’s shelter on this very issue.

I asked if you would defend the law’s constitutionality, and you did not provide a full answer. You said only that you would “if it is reasonably defensible.”

b. Do you believe the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims’ provisions, is “reasonably defensible”?

RESPONSE: If I am confirmed as Attorney General, I will enforce all federal laws, including the 2013 reauthorization of VAWA. I understand that a pilot program has been initiated that seeks to conform tribes’ exercise of criminal jurisdiction over non-Indians to the requirements of the Sixth Amendment. I will carefully study this program before reaching any final legal conclusions about the VAWA tribal jurisdiction provision.

Sexual assault and other violent crime on Indian reservations are very serious problems—in some places, the problem has reached epidemic proportions. The federal government exercises criminal jurisdiction over many Indian reservations. If I am confirmed as Attorney General, I will be committed to ensuring that federal law-enforcement resources are fully deployed to investigate and prosecute crime on federal reservations, and will request additional resources where existing resources are inadequate. Finally, I would note that on many Indian reservations, state and local authorities exercise criminal jurisdiction. State and local law-enforcement resources greatly exceed those of federal and tribal governments combined. On the exclusively federal reservations where federal law enforcement has proved to be inadequate to reduce high levels of violent crime, Congress may consider allowing state and local authorities to exercise criminal jurisdiction. State and local law enforcement has proven effective on many existing Indian reservations, and the extension of such criminal jurisdiction to both Indians and non-Indians in Indian country does not offend constitutional guarantees.

At your hearing, I asked about your statement that my hate crimes amendment “has been said to cheapen the civil rights movement.”

c. What did you mean by that? Do you believe that the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act “cheapen[ed] the civil rights movement”?

RESPONSE: In a statement on the Senate floor on July 20, 2009, I outlined my opposition to the Act. Early in the speech, I stated that “the hate crimes amendment . . . has been said to cheapen the civil rights movement.” Those were not *my* words. However, I did note concerns about the variances in approach to the historic civil rights laws and the hate crimes legislation, and went on to outline those concerns. Regardless of my position then, the Act is now federal law and if I am fortunate enough to be confirmed as Attorney General, I will enforce it and all other federal laws.

2. As Attorney General you would be charged with overseeing the Office of Violence Against Women. This Office is a component of the Justice Department, and was developed to reduce violence against women by prosecuting acts of domestic violence, dating violence, sexual assault, and stalking. This office provides 24 separate grant programs that support law enforcement, state and tribal coalitions, non-profit organizations, and institutions of higher education to serve survivors and hold offenders accountable.

Will you commit to preserving these critical grant programs and to ensure they receive the funding they need so that the Office can effectively carry out its mission?

RESPONSE: If I am confirmed, I will ensure that these programs, and the funds made available by Congress, are fully employed in the most effective manner possible in furtherance of their stated missions.

3. The Attorney General has delegated authority to the Executive Office for Immigration Review, which oversees our country’s immigration courts and the Board of Immigration

Appeals. In recent years, developments in immigration law have led to a recognition that domestic violence can serve as the basis for an asylum claim. These cases often involve immigrant women who have endured severe abuse at the hands of their partner and would be placed in danger if returned to their home country. But asylum continues to be denied to many of them.

If confirmed as Attorney General, will you commit to protecting victims of domestic violence who fear being returned to their home countries?

RESPONSE: Should I be confirmed as Attorney General, I will faithfully enforce all federal laws, including those regarding domestic violence. It is my understanding is that if an individual receives relief from removal under the laws of the United States, then they will not be removed from the United States.

4. We have heard a lot in the last two months about the President-elect's business and financial holdings, and how he and his family might personally benefit from his decisions as President. This raises extremely troubling issues with respect to conflicts of interest, the STOCK Act, and the Emoluments Clause of the Constitution.

I understand that you plan to divest some of your holdings if you are confirmed to be Attorney General. You also stated in your questionnaire that you have consulted with the Office of Government Ethics and "will follow their guidance" on conflicts of interest.

a. Should the President-elect follow your example and heed the Office of Government Ethics' guidance and divest from assets that might create a conflict of interest?

RESPONSE: I have not studied the issue in this context and am not familiar with the details of the President's business and financial holdings as they relate to these issues. Therefore, I am not in a position to offer even an informal opinion on it. If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

b. If President-elect Trump does not follow the guidance of the Office of Government Ethics, what steps will you take to ensure that the new administration eliminates its conflicts of interest? Will you recuse yourself from conflicts of interest charges against the President-elect or members of his family?

RESPONSE: If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters. I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I

made clear at my confirmation hearing, I will always work within the law and the established procedures of the Department.

In a hearing early last year, Senator Tillis raised a question about the Emoluments Clause, which states that “no person holding any office of profit or trust under [the United States] shall, without the consent of the Congress, accept of any present, emolument, office, or title ... from any king, prince, or foreign state.” He and Chairman Grassley both followed up with Attorney General Lynch on the issue. The question was whether the receipt of any payment “from a foreign government or an instrumentality of a foreign government” by a spouse of an executive branch officer violated the Constitution. Such questions are even more pressing when it is the constitutional officer himself who is receiving such payments.

c. If the President-elect does not fully divest, does the rent paid by the Industrial and Commercial Bank of China to the President-elect for space at Trump Tower in New York raise concerns vis a vis the Emoluments Clause? The Bank, which is owned by the Chinese government, is according to news reports the largest tenant in Trump Tower.

RESPONSE: The question posited is not one on which I have devoted any study, and the answer would depend on a number of facts and specific circumstances. I am not aware of the details of any of the arrangements in the case of Trump Tower and the lease in question. Therefore, I am not in a position to offer even an informal opinion.

d. If the President-elect does not fully divest, does money paid by the embassies of various foreign governments for the use of event space or lodging at the President-elect’s hotel here in Washington raise concerns vis a vis the Emoluments Clause?

RESPONSE: The question posited is not one on which I have devoted any study, and the answer would depend on a number of facts and specific circumstances. Therefore, I am not in a position to offer even an informal opinion on it. If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

A 2009 Office of Legal Counsel opinion found that the Emoluments Clause “surely” applies to the president. As Justice Alito explained when he served in that office in 1986, the Clause is intended to minimize “the potential for ‘corruption and foreign influence.’” It was good to hear you state at your hearing, in response to Senator Blumenthal, that the Clause does apply to the President.

e. What is the Justice Department’s role in enforcing the Emoluments Clause?

RESPONSE: If confirmed as Attorney General, I will take all appropriate actions in the course of my duties, including providing legal advice upon request, to ensure that office holders comply with their constitutional obligations. While I am not aware of a federal law that directly charges the Department of Justice with enforcing the Emoluments Clause, the

Department is charged with enforcing conflicts of interest provisions under the U.S. Code, such as those under 18 U.S.C. § 207, and I will enforce the laws that demand my action.

f. Who would have standing to bring a case regarding the Emoluments Clause? Do states have standing to enforce it?

RESPONSE: I am not aware of any cases in which the Foreign Emoluments Clause has presented a justiciable issue, and I am unable to answer that question in the abstract. The Supreme Court has set forth the test for Article III standing in *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), and subsequent cases. If I am confirmed as Attorney General, and a case presents itself involving the Emoluments Clause, the Department of Justice would, I believe, apply that test in connection with the facts and circumstances of a particular case.

The President-elect has tried to minimize the potential conflicts of interest presented by his business interests by stating that his children will run the Trump Organization. Yet he has refused to give up his stake in the company, which does business with countless organizations and individuals tied to foreign governments. Ethics experts have declared that these conflicts of interest will not be resolved as long as the President-elect maintains a financial stake in his companies.

g. When the President has a personal financial stake in the policies and trade deals his administration pursues, doesn't that pose a conflict of interest?

RESPONSE: The question posited is not one on which I have devoted any study, and the answer would depend on a number of facts and specific circumstances, which do not exist at this time. Therefore, I am not in a position to offer even an informal opinion on it. If confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

h. If President-elect Trump fails to fully divest, how will the American public know if the President is making a decision to benefit America, or to make himself or his family more money?

RESPONSE: The question posited is not one on which I have devoted any study. Therefore, I am not in a position to offer even an informal opinion on it. However, President Trump has stated that he will comply with his legal ethical obligations, and in fact, that he will take additional steps beyond what may be required under the Constitution.

i. Doesn't the public interest demand full financial disclosure and divestment?

RESPONSE: As required by law, President Trump released a financial disclosure form that is available to the public, which I have not studied. It is also my understanding that President Trump has taken steps to isolate himself from his business interests and to devote

himself fully to the duties of the presidential office.

Even if Mr. Trump fully divests himself from the Trump Organization and his children take full control of it, the problems do not go away. His children have taken an active role in the transition, and anything that benefits them will of course benefit their father.

k. Should President-elect Trump's children participate in government policy discussions or meetings with foreign governments while they are also running or maintaining a stake in the Trump Organization? Does participation by President-elect Trump's children or other family members in his administration raise concerns about possible violations of anti-nepotism laws?

RESPONSE: I have not studied this issue and am unable to provide even an informal legal opinion regarding a hypothetical situation involving the prudence or legality of a family member's participation in discussions or meetings. The answer to that question would depend on a number of facts and specific circumstances, which do not exist at this time.

Last month former House Speaker Newt Gingrich argued that "traditional rules don't work" and that Congress should change existing ethics laws in order to accommodate the incoming President. These laws exist to ensure that public officials are focused on serving the public, and not on enriching themselves.

l. Do you agree with Speaker Gingrich that we should weaken our ethics laws to accommodate the President-elect?

RESPONSE: I am not familiar with Speaker Gingrich's comments or the context in which they were made and am unable to comment on this.

5. While serving as Attorney General of Alabama, you attempted to vacate a consent decree that successfully reformed Alabama's child welfare system, turning it from "dysfunctional" to a national model, according to the New York Times. When you filed your motion to vacate the decree, you alleged that your predecessor and the client agency had colluded and engaged in "fraud upon the court." I am troubled that you made this allegation when the court "found no evidence" that "any party actively misled or deceived the Court." If confirmed as Attorney General, you will be tasked with representing the federal government in court, and you will have to defend not only laws you voted against, but administrative actions taken by prior administrations that you disagree with.

a. Is it common for an attorney to accuse their client of collusion and fraud? Do you believe that such accusations are consistent with an attorney's obligation to provide zealous advocacy on behalf of his or her client?

RESPONSE: As the Attorney General of the State of Alabama, I represented the Executive branch of the State government. However, I had a duty to the people of the State to uphold and defend the State Constitution and the laws of the State. The duties of the Attorney

General require that settlements and decrees are properly entered into and are not violative of law. I would also note that it is common for a successor administration to have a different view from the preceding administration on whether agreements to settle cases should have been made and whether they should be continued.

b. Is it appropriate for an attorney, let alone an Attorney General, to make accusations of fraud in court without evidence to support the claim?

RESPONSE: As the Attorney General of the State of Alabama, I believed then and I believe now that all applications to courts by my office were made on the basis of evidence. A trier of fact or law can, and often does, come to different conclusions based upon the set of facts presented by both sides in a dispute.

Even the judge in this case said, "If the Court were to speculate, it would guess that political gamesmanship played perhaps the biggest role in determining the timing of this challenge. What was convenient and beneficial for one administration has saddled its successor with serious obligations with which it would rather not comply."

c. Given this criticism, what steps will you take, if confirmed, to ensure that you make decisions as Attorney General only on the basis of law rather than your own ideology?

RESPONSE: If I am confirmed, I will enforce the laws as passed by Congress.

6. In the past year, four people, including a newborn baby, have died in the jail run by Milwaukee Sheriff David Clarke, and according to news reports the Department of Justice is considering opening an investigation into that jail. The Sheriff's office issued a statement that essentially says he is counting on you as Attorney General to quash any investigation into the conditions at the jail.

Did you campaign for Mr. Trump with Sheriff Clarke, or have any other interaction with him in the last year? If so, please describe them. If so, will you recuse yourself from any Justice Department investigation of that jail or of Sheriff Clarke?

RESPONSE: Yes, Sheriff Clarke and I crossed paths on the campaign trail from time to time. I have no knowledge of any such investigations. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

7. Traditionally, the Attorney General and the Department's Office of Legal Policy have had a significant role in the selection of judicial nominees. Unprecedented obstruction in the Senate has resulted in 108 current vacancies, including the vacancy on the Supreme Court to which Merrick Garland was nominated and should have been confirmed last year.

a. What will be your role in the Trump administration with respect to judicial nominations?

RESPONSE: Although I have not discussed this with the President, I expect that, consistent with prior Administrations, the Department of Justice's Office of Legal Policy will provide support to the President in his selection of judicial nominees and will assist in shepherding them through the nomination process.

I am concerned that your record on nominations does not indicate any efforts at diversity. You failed to return the blue slip for Kenneth Simon, and failed to return the blue slip for Judge Kallon, who would have been the first African American judge to fill an Alabama seat on the Eleventh Circuit. Moreover, each of the ten Bush-nominated judges confirmed to seats in Alabama was white. Just three African Americans have ever served on the federal bench in Alabama. Over the past eight years, President Obama has made judicial diversity a priority, and has made significant progress in ensuring the federal bench reflects the Nation it serves.

b. If confirmed, will you and the incoming administration commit to continuing this work, and putting forward nominees who represent a breadth of racial, religious, and professional backgrounds?

RESPONSE: I expect the President to nominate qualified individuals who will apply the laws as written and adhere to the Constitution.

I supported Judge Kallon's nomination to the United States District Court for the Northern District of Alabama in 2009 and worked to assist his confirmation. As you know, Senators exercise a more exacting review for nominees to the circuit courts, which I never had the opportunity to do in this case. I participated in negotiations with Senator Shelby and the White House in an attempt to move a diverse group of nominations for Alabama but those negotiations did not conclude.

As you may recall, ten of President George W. Bush's circuit court nominees were not confirmed and were returned at the end of his Administration. Of note, Judge William Smith was nominated to the First Circuit on December 6, 2007, and was rated "Well Qualified" by the American Bar Association (ABA), but neither Senator Reed nor Senator Whitehouse returned blue slips on his nomination, citing the need to conduct a "through and independent review" of his record and stating: "Before giving someone a lifetime appointment to the federal bench we need to carefully review their record."¹ Previously, Senator Whitehouse had suggested in September 2007 that it was too late in the president's term to consider a nomination to the First Circuit. Also notable is the nomination of Mr. Shalom Stone to the Third Circuit on July 17, 2007. He was rated "Substantial Majority Qualified/Minority Well Qualified" by the ABA, but neither Senator Lautenberg nor Senator Menendez returned blue slips on his nomination. Similarly, U.S. Attorney Rod Rosenstein was nominated to the Fourth Circuit on November 15, 2007, and was rated "Unanimous Well Qualified" by the ABA, but neither Senator Cardin nor Senator Mikulski returned blue slips on his nomination.

¹ John Mulligan and G. Wayne Miller, "Bush selects Smith for U.S. appeals court," *The Providence Journal*, Dec. 7, 2007.

As a Senator and a member of this Committee for 20 years, you are very familiar with the blue slip and the role that home state Senators play in judicial selection. You used the blue slip to block the nominations of Kenneth Simon and Abdul Kallon. But the blue slip also guarantees the constitutional role of advise and consent as a check against presidential power, and ensure that the Senate is not a mere rubber stamp. Chairman Grassley recently reiterated his support for the blue slip and his intent to keep the current policy – that nominees will not move forward without two positive blue slips – in place.

c. If confirmed, will you continue to support this policy, even if it means nominations made by the President-elect do not receive a hearing?

RESPONSE: If confirmed as Attorney General, my role will be different than has been as a U.S. Senator serving on the Judiciary Committee. Decisions on committee and Senate process will be the responsibility of members of the Senate.

During the previous Republican administration, many Senators were concerned that the administration circumvented its traditional role of making recommendations for judgeships and instead effectively outsourced the process to right-wing legal groups.

d. Will you and the incoming administration commit to preserving the rights of home state Senators, and work with all 100 of us to find consensus nominees to serve on our independent judiciary?

RESPONSE: I expect the President to nominate qualified individuals who will apply the laws properly and adhere to the Constitution. I have no reason to expect that the Trump Administration will deviate from precedent set by prior administrations in consulting with home state Senators when selecting judicial nominees.

8. When evaluating President Clinton and President Obama's judicial and executive branch nominees, you often asked questions based on nominees' associations with particular groups and organizations, particularly if nominees had been members of organizations such as the ACLU. For example, when opposing Judge Susan Mollway, you said:

"I know all of us are active in various activities. And I think it is appropriate that we be asked about those activities when we are nominated for a position like this... I am certain that as a board member she did not sign those pleadings, and maybe did not personally conduct in-depth research. In fact, I think she suggested she has not researched each one of these issues. But I think it is appropriate for us to ask about those positions"

You concluded that this organization held views that were "outside the mainstream." You noted that "when asked at our confirmation hearing if there were any policy positions of the Hawaii ACLU that she disagreed with" this nominee did not name any, and you argued this was "a sufficient basis...to have a serious concern" about the nomination.

I have grave concerns regarding organizations with which you have been involved.

In 2014, you accepted the “Daring the Odds” award from the David Horowitz Freedom Center. The Southern Poverty Law Center has repeatedly called David Horowitz an “anti-Muslim extremist” and has an extensive and detailed profile of Mr. Horowitz’s racist and repugnant remarks against Muslims, Arabs, and African-Americans.

In your hearing, you stated to Senator Blumenthal with regard to Mr. Horowitz that “I am not aware of everything he has ever said or not.” You also defended your association with him by saying “I am not aware of those comments, and I do not believe David Horowitz is a racist or a person that would treat anyone improperly, at least to my knowledge.” Now you have had the opportunity to learn more about the extremist remarks Mr. Horowitz has made.

For example, Mr. Horowitz has repeatedly claimed that the United States government has been infiltrated by Muslims. He has referred to Muslims as “Islamic Nazis” who “want to kill Jews, that’s their agenda.”

a. Do you disavow and condemn that remark?

Mr. Horowitz has said “Obama is an anti-American radical and I’m actually sure he’s a Muslim, he certainly isn’t a Christian. . . . He’s a pretend Christian in the same way he’s a pretend American.”

b. Do you disavow and condemn that remark?

Mr. Horowitz has even claimed that Muslims have “infiltrated” the Republican Party, and that “Grover Norquist is a Muslim, he is a practicing Muslim.”

c. Do you disavow and condemn that remark?

Given statements like those, it’s not shocking that Mr. Horowitz was cited in the manifesto written by Norway terrorist Andres Breivik. Mr. Breivik killed 77 people in a 2011 attack that was inspired by his belief that Muslims were taking over Europe.

RESPONSE to (a) – (c): First, I am not a board member or even a member of this organization. The judicial nominees I questioned were active members of the ACLU and some held offices such as chair of a litigation committee. I then respectfully asked the nominee if they shared the ACLU’s position, the organization of which they were a member or officer, on issues such as drug legislation, child pornography, and the like. As I recall, I have voted for many nominees who were affiliated with the ACLU. I believe that all of us have a responsibility to work for harmony and not discord. While I do not hold the views that these questions attribute to Mr. Horowitz, I have no knowledge of whether he actually said the remarks or in what context.

d. Other than that award, have you had any involvement with that organization? Has all such involvement been disclosed in your Questionnaire?

RESPONSE: The Annie Taylor “Daring the Odds” award to which this question refers was listed on my original Questionnaire on page 4, fifth from the bottom of the page. My limited involvement with the David Horowitz Freedom Center and Restoration Weekend is disclosed in my Questionnaire. A number of prominent people have received that award or spoken at events sponsored by Mr. Horowitz, including Senators Sam Nunn, Zell Miller, Joe Lieberman, and Lindsay Graham, former Mayor of Washington D.C. Adrian Fenty, women’s rights advocate Gloria Allred, civil rights activist and president of Operation Hope, John Bryant, and Governors George W. Bush, George Voinovich, Tim Pawlenty, and Sam Brownback. I have spoken at the Weekend or participated in several panel discussions over the years. I am not aware of any other involvement with the Freedom Center.

In 2015, you received the “Keeper of the Flame” award from the Center for Security Policy. The Center for Security Policy has been strongly criticized by the Anti-Defamation League, and is considered a hate group by the Southern Poverty Law Center.

In 2011, its founder, Frank Gaffney, was banned from the Conservative Political Action Conference (CPAC) because, in the words of one board member, “they didn’t want to be associated with a crazy bigot.” Among his disgraceful statements, Mr. Gaffney has said that the two Muslims in Congress, Representative Keith Ellison and Andre Carson, have “longstanding Muslim Brotherhood ties.”

e. CPAC did not want to be associated with a “crazy bigot,” but you accepted an award from him in 2015. Do you condemn Mr. Gaffney’s remarks and his insinuation that the two Muslim Congressmen are affiliated with the Muslim Brotherhood?

RESPONSE: I have not and will not associate myself with any racially insensitive or discriminatory remarks made by anyone. I have no knowledge of the information on which CPAC relied in forming their opinion of the gentleman in question.

f. Do you believe it is acceptable for the Attorney General to associate with Mr. Gaffney and his extremist organization?

RESPONSE: No government official should lend the prestige of his or her office to any individual or organization that does not reflect American values.

g. Mr. Gaffney has complained about Somali refugees holding jobs in the meat processing industry, saying “it kind of creeps me out that they are getting jobs in the food supply of the United States.” Do you condemn that statement?

h. Mr. Gaffney argued that a Muslim member of Congress should not be allowed to serve on the House Intelligence Committee because of his “extensive personal and political associations with...jihadist infrastructure in America.” Do you condemn that remark?

i. Mr. Gaffney has said of President Obama that it is an “increasingly indisputable fact that this president is providing aid and comfort to enemies of the United States. And that is

the definition, as you know, of treason.” Do you condemn the offensive allegation that President Obama is a traitor?

RESPONSE to (g) – (i): While I do not hold the views that this question attributes to Mr. Gaffney, I have no knowledge of whether he actually said these remarks or in what context.

j. Other than that award, have you had any involvement with that organization or with Mr. Gaffney? Has all such involvement been disclosed in your Questionnaire?

RESPONSE: My involvement has been disclosed in my Questionnaire to the best of my recollection. In addition, my staff and I conducted a review of my own files, searches of publicly available electronic databases, and consultation with the Senate Library, the Congressional Research Service, and relevant committee libraries and historical offices within the Senate. In an effort to be as responsive as possible, my staff also conducted further review of existing files from the era, including historical archives maintained in electronic research databases such as LexisNexis, WestLaw, and ProQuest, public search engines, and Internet archive services that maintain records of websites that no longer exist. Additionally, as records from my time as United States Attorney and Attorney General of the State of Alabama existed before the proliferation of the Internet and before electronic storage was as readily available as it is today, most of those records do not exist in any electronic databases of which I am aware, and my staff and I consulted with the Alabama Attorney General’s Office and with the United States Attorney’s Office for the Southern District of Alabama to locate archived files from my time in those offices. All responsive records identified or located as a result of these searches were submitted to the Committee.

President-elect Trump has appointed Michael Flynn to be his National Security Advisor. The National Security Advisor has typically been the President’s principal advisor on national security matters, a position that does not require Senate confirmation.

Mr. Flynn serves on the board of advisors for an organization called ACT for America. The Southern Poverty Law Center has called this organization “far and away the largest grassroots anti-Muslim group in America.” In August 2016 – less than six months ago – Mr. Flynn spoke at an event for this group. He is on video saying that Islam “is a political ideology. It definitely hides behind this notion of it being a religion.” He also added that Islam is “like a malignant cancer.”

k. Do you disavow and condemn Mr. Flynn’s remarks?

RESPONSE: I have not made such a statement and will not associate myself with any racially or religiously insensitive or discriminatory remarks. I have no knowledge whether the gentleman referred to in this question actually said the remarks that the question attributes to him or in what context.

l. Do you believe that the President’s national security advisor should refer to Islam as a “malignant cancer”?

RESPONSE: I have not made such a statement and will not associate myself with any racially or religiously insensitive or discriminatory remarks. I have no knowledge whether the gentleman referred to in this question actually said the remarks that the question attributes to him or in what context.

m. Do you believe the National Security Advisor should be associated with organizations that promote anti-Islamic bigotry and conspiracy theories?

RESPONSE: I have not made such a statement and will not associate myself with any racially or religiously insensitive or discriminatory remarks. I have no knowledge whether the gentleman referred to in this question actually said the remarks that the question attributes to him or in what context.

In the unclassified Intelligence Community Assessment on “Assessing Russian Activities and Intentions in Recent US Elections” released on January 6, 2017, there are seven pages describing the activities of RT America TV. The report notes that the network’s “Leadership [is] closely tied to, controlled by Kremlin.” Mr. Flynn has given a paid speech to RT, and attended a dinner celebrating the network’s anniversary, where he sat at the same table as Vladimir Putin.

n. What legal issues does the relationship between the incoming National Security Advisor and the Russian government raise?

RESPONSE: As with any case, any legal issues raised would depend on the actual facts of any such relationship.

In 2015, you received an award from the Eagle Forum for “Excellence in Leadership.” The late founder of that organization has a long history of controversial remarks. That includes advocating for “railroad cars full of illegals going south” and increasing the pay gap between men and women, and arguing that married women by definition cannot be raped by their husbands.

o. Do you agree that there should be “railroad cars full of illegals going south”? Do you condemn that remark?

p. Do you agree that married women by definition cannot be raped by their husbands? Do you condemn that remark?

q. Do you agree that the pay gap between men and women should be increased, rather than diminished?

r. Ms. Schlafly also claimed “it would be useful to reinstate the House Committee on Un-American Activities” to target Muslims. Do you agree with that statement?

RESPONSE to (o) – (r): While I do not hold the views that this question attributes to the deceased woman referred to in this question, I have no knowledge of whether she actually said

these remarks or in what context.

s. Other than that award, have you had any involvement with that organization? Has all such involvement been disclosed in your Questionnaire?

RESPONSE: I have been friends with some of the members of the local organization over the years and I have attended a few events, to my recollection. My involvement has been disclosed in my Questionnaire to the best of my recollection. In addition, my staff and I conducted a review of my own files, searches of publicly available electronic databases, and consultation with the Senate Library, the Congressional Research Service, and relevant committee libraries and historical offices within the Senate. In an effort to be as responsive as possible, my staff also conducted further review of existing files from the era, including historical archives maintained in electronic research databases such as LexisNexis, WestLaw, and ProQuest, public search engines, and Internet archive services that maintain records of websites that no longer exist. Additionally, as records from my time as United States Attorney and Attorney General of the State of Alabama existed before the proliferation of the Internet and before electronic storage was as readily available as it is today, most of those records do not exist in any electronic databases of which I am aware, and my staff and I consulted with the Alabama Attorney General's Office and with the United States Attorney's Office for the Southern District of Alabama to locate archived files from my time in those offices. All responsive records identified or located as a result of these searches were submitted to the Committee.

9. Over the course of the 2016 campaign, you offered extensive criticisms of the power that elites and special interests have in our politics. Even after *Citizens United* unleashed a massive flow of money into our elections, there are still laws that regulate political spending and coordination between campaigns and PACs. Under the leadership of Eric Holder, the Department of Justice in 2015 successfully prosecuted illegal coordination between a campaign and a PAC. This was the first prosecution of its kind. The lead prosecutor on the case stated: "The Department of Justice is fully committed to addressing the threat posed to the integrity of federal primary and general elections by coordinated campaign contributions, and will aggressively pursue coordination offenses at every appropriate opportunity."

If confirmed, you will be joining an administration that has pledged to "drain the swamp" in Washington. In order to ensure that our government is open responsive to its citizens, it is critical that Americans know who is lobbying their representatives. The Lobbying Disclosure Act created a registration requirement for lobbyists which is enforced by the Department of Justice through the U.S. Attorney's Office in Washington, DC. Will you ensure that the Lobbying Disclosure Act and its reporting requirements are fully enforced, and that the President-elect's choice for U.S. Attorney in Washington, DC, makes it a priority?

RESPONSE: If I am fortunate enough to be confirmed, I will enforce the law. U.S. Attorneys are presidentially-appointed subject to confirmation by the Senate and report to the Attorney General. The Attorney General outlines the enforcement priorities for the Department and may set rules for how cases are handled.

10. The President-Elect has proposed that to fight terrorists, the United States should “take out their families.” Intentionally killing the family members of a terrorist would violate any number of laws, including the Geneva Conventions as well as U.S. statutes.

If you are confirmed, would you advise the President that targeting and killing family members of terrorists is not a legal option?

RESPONSE: Yes, intentionally targeting and killing family members of terrorists would not be a legal option.

11. Too often, deportation cases are brought against immigrant children who do not have lawyers. Last year, I was appalled when I heard that an immigration judge stated it is possible to teach immigration law to three- and four-year olds. That is outrageous. These vulnerable children have often fled horrific violence in their home countries. Then they are expected to navigate our complex immigration laws on their own, without counsel. That hardly constitutes justice. The least we can do is give these children a fair day in court.

When Senator Coons asked you about this issue, you deflected, saying only that “I do not believe we can afford nor should we undertake to provide free lawyers for everybody that enters the country unlawfully.” You added simply that “Congress would need to decide what to do about it.” If confirmed as Attorney General, you will have broad discretion over the immigration courts system, including the appointment of immigration judges, and so I am asking about your personal views.

a. Do you believe that unaccompanied minors in immigration court should receive access to counsel? Do you agree that toddlers can learn immigration law sufficiently to understand the consequences they are facing and meet the requirements of due process?

RESPONSE: My understanding is that immigration laws of the United States provide all aliens with the privilege of being represented by the counsel of their choosing in civil immigration proceedings. It is also my understanding that Congress has specified that, while an alien retains such a privilege, any such representation must occur at no expense to the government. The sole exception to this is codified in section 1232(a)(5)(C) of Title 8, which charges the Department of Health and Human Services with ensuring:

to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

b. If confirmed as Attorney General, how will you ensure that these vulnerable children

receive due process?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will faithfully enforce the duly-enacted immigration laws of the United States, which are determined by Congress.

12. The First Amendment and a free and vibrant press are at the heart of our democracy. As the President-elect takes office, conscientious whistleblowers may seek to provide the press with vital information about abuses. Too often, when the government or private litigants are unhappy with leaks, they seek to punish the journalists for doing their job. Given that the incoming White House Press Secretary has demanded a journalist apologize for attempting to ask the President-elect a question, and threatened to have him removed from future press conferences, I am deeply concerned about the incoming administration's commitment to bedrock First Amendment principles.

This Committee twice approved bipartisan federal media shield legislation that would establish a qualified privilege for journalists to protect their sources and the public's right to know. On both occasions, you voted against the shield bill.

a. Will you maintain existing Department regulations restricting subpoenas issued to the news media (28 CFR 50.10)?

RESPONSE: I have not had the occasion to study the outgoing Administration's regulations on this matter. If I am confirmed as Attorney General, I would discuss this matter with the Justice Department's career experts before making any decision to maintain or modify the current regulations. I would note, however, that the existing regulations did not prevent the outgoing Administration from aggressively investigating and prosecuting a larger-than-normal number of leak cases. Leaks of classified information can be damaging to U.S. national security, and can also violate the federally-protected rights of other federal employees—for example, in cases where restricted information from an individual's personnel file is leaked to the press. In some cases, the only way to investigate wrongdoing is by subpoena. Such subpoenas to reporters, however, raise concerns about intimidation or restriction of the press. A free press plays a vital role in ensuring the accountability of powerful institutions in our society. For these reasons, I support Justice Department caution when contemplating the use of a subpoena to obtain material from a journalist.

b. What limits do you believe the First Amendment places on attempts to stifle the free press? What role should the Justice Department play to protect journalists?

RESPONSE: The First Amendment generally proscribes governmental efforts to "stifle" a free press. In addition to being careful with the use of subpoenas against journalists, I believe that the Justice Department protects journalists by enforcing the criminal laws when a journalist is the target of threats or extortion.

13. We are grappling with a new wave of drug abuse, this time to powerful prescription opioids

and heroin. Rural states, like my home state of Vermont, have been particularly hard-hit. You have said that “The best way for us to improve our pressure from the law enforcement end on drug trafficking in America is to increase prosecutions and investigations.” Enforcement will always play a role, and the Justice Department’s Drug Enforcement Administration plays a critical role in preventing the diversion and over-prescription of opioid painkillers. But at the root of every drug crisis is addiction. And we cannot arrest our way out of this problem. One important lesson from the failed war on drugs is that supply will relentlessly chase demand fueled by addiction – regardless of the penalties. We must confront addiction like we do any other public health crisis: through evidence-based prevention, treatment, and recovery efforts.

a. If you are confirmed, what will your strategy be to confront addiction to prescription painkillers?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will work with law enforcement partners to enforce the law, reduce the availability of illicit drugs that cause addiction, and support treatment and recovery efforts to help addicted individuals overcome their addiction. The *New England Journal of Medicine* has reported that the heroin surge is a result of more availability, higher purity and lower price. Enforcement impacts these factors.

b. The Justice Department currently supports numerous diversion programs to keep certain offenders with addiction issues out of the criminal justice system, and naloxone programs to save addicts’ lives. Would you continue both the diversion programs and the naloxone programs?

RESPONSE: Many diversion programs, such as drug courts, have proven to be effective solutions for some offenders. I have been a strong supporter of drug courts. Naloxone, likewise, has shown promise as a way to help save lives of some individuals who have overdosed on heroin and other opioids. If I am fortunate enough to be confirmed as Attorney General, I will support efforts to provide appropriate opportunities and support to drug users looking to turn their lives around, as well as efforts to ensure first responders are able to assist in saving lives destroyed by addiction. To date, treatment has not proven universally successful. Prevention of use and addiction is critical, also.

14. John Yoo’s 2002 OLC memo justifying torture stated that: “Any effort by Congress to regulate the interrogation of battlefield combatants would violate the Constitution’s sole vesting of the Commander-in-Chief in the President.”

a. You voted against both of Senator McCain’s amendments to ban torture and other cruel treatment by U.S. officials, first in 2005 and again last year. Do you agree with John Yoo that congressional regulation of torture is unconstitutional?

b. Will you commit that you will not reinstate that OLC opinion, or any of the other OLC opinions justifying torture that were later rescinded?

RESPONSE to (a) – (b): Federal law is clear that it is unlawful for either the military or our

intelligence agencies to subject detainees to cruel, inhuman, or degrading treatment, and that it is illegal to use interrogation techniques that are not prescribed by the Army Field Manual. I believe that this statute is constitutional, and thus do not anticipate issuing any opinion that does not require compliance with this statute.

c. Is John Yoo participating in any capacity on the new administration's transition team? What role is he playing? Have you been in contact with him in the last year?

RESPONSE: I have not been in contact with Mr. Yoo within the last year, and do not know of any work that he has done for the transition team.

During the Bush Administration, John Yoo and Jay Bybee wrote OLC opinions stating that the President has the power, as Commander-in-Chief, to violate acts of Congress – both the criminal prohibition on torture, and the Foreign Intelligence Surveillance Act. That dangerous theory has been largely repudiated. Many of the memos they drafted or signed have been rescinded.

d. Do you believe that the President has the authority under any circumstances to exercise a "commander-in-chief override" to violate acts of Congress?

RESPONSE: The President does have some constitutionally assigned powers that cannot constitutionally be rescinded by Congress. I have no reason to believe that the existing law referred to above contravenes these constitutional limits.

15. The Department of Justice is responsible for enforcing the National Voter Registration Act (NVRA), which sets forth certain voter registration requirements in connection with federal elections, including at Department of Motor Vehicle offices (the "motor-voter" registration process). The Tenth Circuit Court of Appeals recently held that a Kansas law requiring that voter registration applicants provide documentary proof of citizenship would cause a "mass denial of a fundamental constitutional right," and enjoined the Kansas law from being enforced because it conflicts with the NVRA's federal voter registration form. As a result, the Court held that the Kansas law was preempted by the NVRA and could not be enforced with respect to motor-voter applicants. Alabama has a similar law, but the secretary of state has not enforced it. If confirmed as Attorney General, you would be responsible for making decisions regarding enforcement of the NVRA and to following court decisions on the NVRA.

If confirmed, will your Justice Department take positions that are contrary to the Tenth Circuit's ruling on the NVRA by asserting that a state may require Americans to submit proof of citizenship papers to register to vote at a DMV office?

RESPONSE: I believe the case referred to in the above question is *Fish v. Kobach*, 840 F.3d 710 (10th Cir. 2016). As the timeline for U.S. Supreme Court review has not yet terminated, and because the Department of Justice may wish to enter an appearance in the case if U.S. Supreme Court review is sought or granted, it would be inappropriate for me to comment on future plans with respect to enforcement of the panel decision at this time. If I am confirmed, I will carefully and objectively evaluate the facts and circumstances of each case

and endeavor to uphold and defend the Constitution in the pursuit of justice.

16. American consumers and employees are increasingly waiving their legal rights by agreeing to forced arbitration clauses. These are often slipped into a contract and written in legal jargon. Through hearings in this Committee and other efforts, we have learned that the arbitration process has none of the safeguards of our court system. There is no rule of law or precedent. No transparency. No way to appeal an adverse judgment.

The secrecy of the arbitration process allows wrongdoing to go undiscovered and unpunished for years. Recent examples include Wells Fargo's forced arbitration over millions of sham accounts, and Gretchen Carlson's fight against sexual harassment at Fox News.

a. If confirmed, what steps will you take to ensure that the Justice Department pursues and prosecutes companies who try to exploit consumers and employees by hiding behind one-sided arbitration agreements?

RESPONSE: In any contract, the parties must agree to all the terms and clauses included in the contract document. This includes the arbitration clause. This is basic contract law, and the basic premise of the Federal Arbitration Act for over 75 years. If the contract was obtained through exploitation, fraud or coercion, then the consequences of those actions, whether under contract law or the criminal law, will apply. Acceptable arbitration provisions in contracts should be conducted fairly and, in the past, I have offered detailed legislation to ensure fairness.

On January 13, the Supreme Court granted certiorari in three related employment arbitration cases and consolidated them for argument. In one of those cases, *NLRB v. Murphy Oil*, the Justice Department argued in its petition for certiorari that arbitration agreements that bar work-related class actions by employees violate the National Labor Relations Act and are therefore unenforceable.

b. If confirmed, do you commit that you will not change the government's position in this case in any way?

RESPONSE: Because this case involves pending litigation in which the Department is a party, it would be unwise for me to comment further. If I am fortunate enough to be confirmed as Attorney General, I will thoroughly review this case in conjunction with the expert and career attorneys in the Department of Justice to make a decision about how best to proceed.

17. When opposing many of President Obama's nominees, you argued that some were simply too political to be trusted in leadership positions at the Department of Justice. You complained that one nominee "has a record of and a reputation for very strong political activity" and that "I am concerned whether he is capable of putting aside partisan beliefs." You also stated that "The Attorney General is the top law enforcement officer in the country. This is not traditionally a political position. It is a law position." I agree with you on that.

I don't think that there is any doubt you are a conservative Republican politician. You have also been a loyal advocate for Donald Trump over the past year.

If we adopt your standard in opposing Justice Department nominees with "very strong political activity," how can we support your nomination, or those of other potential Trump nominees?

RESPONSE: You and I agree that the key qualifications for someone wishing to occupy the office of the Attorney General is a commitment to the rule of law, independence, and integrity. If confirmed, I will enforce and defend the law and the Constitution, regardless of my own personal and philosophical views.

18. Last August, the Department of Justice announced that the Bureau of Prisons would begin to phase out its use of private prisons. In her memo ordering the phase-out, Deputy Attorney General Yates wrote that private prisons "simply do not provide the same level of correctional services, programs, and resources; they do not save substantially on costs; and as noted in a recent report by the Department's Office of Inspector General, they do not maintain the same level of safety and security." I strongly oppose the use of for-profit prison companies for detention purposes and believe this was a positive step toward ending the government's reliance on such facilities.

a. Do you believe that detention should be a for-profit business?

RESPONSE: I believe that detention facilities should be safe, secure, and humane, both for inmates and for correctional staff, regardless of whether the facilities are publicly or privately operated. They should fulfill their role in an efficient and cost-effective manner.

b. In the interests of better serving the goals of the Justice Department and reducing costs to the American taxpayer, will you continue this phase-out of for-profit prisons?

RESPONSE: I am generally aware of concerns regarding Deputy Attorney General Yates' memorandum, and whether its conclusions are fully supported by the evidence. If I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate the relevant evidence and the Department of Justice's policies to ensure that its detention facilities are safe, secure, humane, and represent an effective use of resources.

19. You have been a strong and consistent proponent of the theory that the United States should treat terrorism suspects as so-called "enemy combatants." You have argued that we should subject them to mandatory military custody and interrogation, without access to lawyers, and that we should try them by military commission if at all. You have argued that this should apply even to individuals picked up inside the United States, as this country is included in the "battlefield" in the war with al Qaeda.

a. Do you believe this war framework should apply to American citizens picked up in the United States?

RESPONSE: Under the historic rules of war and U.S. law, the United States may detain an active member of al Qaeda or other enemy combatants for as long as the conflict persists. As you know, in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), a plurality of the Supreme Court stated that “[t]here is no bar to this Nation’s holding one of its own citizens as an enemy combatant.” The plurality relied in part on *Ex Parte Quirin*, 317 U.S. 1 (1942), in which the Court held that Congress authorized the military trial of a U.S. citizen who entered the country with orders from the Nazis to blow up domestic war facilities, but was captured before he could execute them. See also *Padilla v. Hanft*, 423 F.3d 386 (4th Cir. 2005); *Al-Marri v. Pucciarelli*, 534 F.3d 213 (4th Cir. 2008). Captured citizens who are at war with the U.S., can of course, contest their detention in federal court by writ of *habeas corpus*.

b. Should Timothy McVeigh, who killed 168 people in the Oklahoma City bombing, have been placed in military custody and treated as a wartime enemy?

RESPONSE: I have not studied this case in any depth and would want to consult with legal experts in this field before reaching a definitive opinion on such matters. It does appear that McVeigh’s actions, while a heinous act of terrorism, would not have constituted part of a campaign of war against the United States.

c. If we are at war with al Qaeda, and if you believe the battlefield includes the United States, can we also use lethal force against al Qaeda suspects in the United States?

RESPONSE: Law enforcement officers may, even in non-terrorism criminal cases, use lethal force to defend themselves and others. Congress has declared that the U.S. may use lethal force against al Qaeda and associated forces, but great care should be taken before using lethal force in the U.S.

20. In 2000, you described the Individuals with Disabilities Education Act (IDEA) as the “single greatest obstacle our educators face.” You then stated it creates “lawsuit after lawsuit, special treatment for certain children.” You said it is “a big factor in accelerating the decline in civility and discipline in classrooms all over America.”

a. Do you still hold believe that mainstreaming causes a “decline in civility and discipline in classrooms all over America?”

RESPONSE: The phrases cited derive from a speech I gave on the Senate floor during the last reauthorization of the Individuals with Disabilities Education Act. I believe it is important that those phrases be looked at in context, so I have provided the passages from the speech in which those phrases were used.

In addition, I would note that the issues I raised were very real problems that Senators on both sides of the aisle, including Senator Kennedy, understood the importance of addressing, which is why we developed a solution that passed into law with bipartisan support. Indeed, during a July 17, 1997, Judiciary Committee markup on another bill, while debating an amendment, Senator Feinstein offered to clarify the IDEA to ensure that all students who

bring a dangerous weapon to school would be subject to the same discipline, I said:

“I will really tell you what I think happened from what I understand is that the Disabilities Act made it much more difficult for schools to discipline those who have disabilities. And they felt like they wanted clear language that said if they brought a dangerous weapon to school, they wouldn’t have to be subjected to many of the protections that the Disabilities Act provides.”

In response to my statement, Senator Feinstein said: “That is absolutely correct. Well said.”

My concern was that the legal promises the set forth under the IDEA created confusion, discord, and difficulties for teachers and principals. My legislation, carefully drafted, received strong bipartisan support and improved the IDEA, not harmed it. Any suggestion that I somehow oppose special-needs children receiving the education they deserve is simply false. If I am fortunate enough to be confirmed as Attorney General, I will be committed to ensuring the equal protection of the law for all Americans and the protections inherent therein.

Floor Remarks, May 2000:

“Over 25 years ago, for example, we passed a federal disabilities act. It was designed to mandate to school systems and require that they not shut out disabled kids from the classroom and that they be involved in the classroom. If they have a hearing loss, or a sight loss, or if they have difficulty moving around, in a wheelchair, or whatever, the school system must make accommodations for them. They would be mainstreamed. They would not be treated separately.

That was a good goal, a goal from which we should not retreat. I hope no one interprets what I say today as a retreat from that goal. But in the course of that time, we have created a complex system of Federal regulations and laws that have created lawsuit after lawsuit, special treatment for certain children, and that are a big factor in accelerating the decline in civility and discipline in classrooms all over America. I say that very sincerely.

...

It was really brought to my attention a little over a year ago when a long-time friend, District Attorney David Whetstone, in Baldwin County, AL, called me about a youngster in the school system classified as having a disability. It is called “emotional conflict.” He was emotionally conflicted. He could not, or would not, behave. An aide would meet him in the morning at his home, get on the bus with him, and go to school, sit through the class all day, and ride home on the school bus with him. This student was known to curse principals and teachers openly in the classroom. Because he was a disabled student, he could not be disciplined in the normal way. The maximum 10-day suspension rule-and 45 days is the maximum a child can be disciplined under this federal law and then they are back in the classroom. One day, he attacked the school bus driver on the way home.

The aide tried to restrain him. He then attacked the aide. District Attorney Whetstone told me, 'I was never more stunned when I talked to school officials and they told me this is common in our county.'

We have children we cannot control because of this federal law. He came to Washington, and we sat up in the gallery and talked about it. I respect David Whetstone and his views. He said this cannot be. I began to ask around, is this true? As a matter of fact, this very incident was focused on in Time magazine. There was a full-page story about it called 'The Meanest Kid in Alabama,' and '60 Minutes' did a story about it because it is, unfortunately, so common around the country.

What can we do about it? I began to ask leaders in education around the State. The State superintendent: 'Absolutely, it is one of the biggest problems we have.' I talked to Paul Hubbard, head of the teachers union in Alabama: 'Absolutely, it is a big problem.' 'I am tired,' he said in the newspaper recently, 'of children cursing my teachers in the classroom and nothing being done about it.'

Then we began to talk to teachers, principals, and school board superintendents. They talked about the lawyers and the complicated regulations with which they deal. It is really unacceptable. Teachers who have been trained with masters' degrees in special education to deal with these children have also overwhelmingly told me this is not a healthy thing, that we are telling special children with physical disabilities, or disabilities as defined by the federal law, that they don't have to adhere to the same standards other children do. Right in the classroom, we create, by federal law, two separate standards for American citizens. You can say to one child: You can't do this, you are out of school. But we can say to another children: You can do it, and you are only out 10 days, or maybe 45 days, and then you are back in the classroom. That is not defensible."

Last year, the Justice Department filed a lawsuit against Georgia alleging that its segregation of students with disabilities violates the Americans with Disabilities Act (ADA). You have previously argued in favor of such segregation and expressed skepticism of mainstreaming. In this lawsuit, the Justice Department noted that some of the facilities used by students with disabilities "are located in poor-quality buildings that formerly served as schools for black students during de jure segregation."

b. If confirmed, will you continue to pursue this case, and bring others where students with disabilities are being segregated from their peers in violation of the ADA?

RESPONSE: Because this case involves pending litigation in which the Department is a party, it would be unwise for me to comment further. If I am fortunate enough to be confirmed as Attorney General, I will thoroughly review this case in conjunction with the expert and career attorneys in the Department of Justice to make a decision about how best to proceed.

Last week the Supreme Court heard oral argument in *Endrew F. v. Douglas County School District*. The Justice Department filed an amicus brief in support of the petitioner, arguing that

the IDEA requires states to provide more than *de minimis* educational benefits and in fact “give eligible children with disabilities an opportunity to make significant educational progress.”

c. If you are confirmed, will the Department of Justice maintain its position in this case?

The ADA contains, at 42 U.S.C. § 12202, a waiver of state sovereign immunity. Twice during the Bush administration, in *Tennessee v. Lane* (2004) and *U.S. v. Georgia* (2006), the Justice Department argued, and the Supreme Court agreed, that the waiver was a valid exercise of Congressional power under Section V of the Fourteenth Amendment.

RESPONSE: It is my understanding that this case remains as pending litigation in which the Department is a party, and for that reason, I cannot comment further. If I am fortunate enough to be confirmed as Attorney General, I will thoroughly review this case in conjunction with the expert and career attorneys in the Department of Justice and make a decision about how best to proceed.

d. If confirmed, will you commit to defending the constitutionality of this exercise of Congress's Section V power?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will vigorously defend the laws passed by Congress for which a reasonable defense can be made. That is a vitally important principle and a longstanding tradition of the Department of Justice, which affords appropriate respect to Congress as a co-equal branch of government, and I fully subscribe to it.

The voting rights of Americans with disabilities are protected by the ADA, the Voting Rights Act, and several other statutes. But several studies have found individuals with disabilities face barriers to the franchise that are exacerbated by voter ID requirements.

e. If confirmed, what steps will you take to ensure that the voting rights of Americans with disabilities are protected?

RESPONSE: As you note, the voting rights of Americans with disabilities are protected by federal law, including the ADA and the Voting Rights Act, among others. The Supreme Court held in *Crawford v. Marion County Election Board* that voter identification laws are neither *per se* unconstitutional, nor do they necessarily violate the Voting Rights Act. The analysis of such laws is specific to the particular law, the jurisdiction, and a wide range of factors that Congress has identified as relevant to determining whether a particular voting practice comports with the Voting Rights Act. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department's jurisdiction, including investigating alleged violations of the federal voting rights laws in a fair and even-handed manner.

21. You claim to be a champion of the Voting Rights Act because you voted for VRA's reauthorization in 2006. But aside from this single vote, you have consistently criticized the VRA. You have called it an “intrusive piece of legislation” and have questioned its

constitutionality based on your belief that there is “relatively little present-day evidence” of voter discrimination. When the 2013 *Shelby County* decision struck down a central provision of the VRA, you argued that the decision was “good news...for the South” and observed that “Shelby County never had a history of denying the vote.”

a. Since the *Shelby County* decision, some individuals have argued that there is no need to restore the protections of Section 5 because the Justice Department can still use Section 2 to bring lawsuits against states and localities that are discriminating against voters. But at the same time, some of these same individuals have argued that Section 2 might also be unconstitutional. Do you believe that Section 2 of the Voting Rights Act is unconstitutional?

RESPONSE: First, the above question does not provide a full accounting of my statement, so I will complete it for the record. Over 30 years ago, I said that the VRA “is an intrusive piece of legislation, but I do not believe—and I have seen, and I am absolutely certain of this, that racial progress could not have been made in the South without the power of the federal courts and the federal Government.” When I testified before the Committee, I added that “[t]he Voting Rights Act passed in 1965 was one of the most important Acts to deal with racial difficulties that we face. And it changed the whole course of history, particularly in the South.” Second, and to your direct question, the Supreme Court has concluded that Section 2 is constitutional, and if I am so fortunate as to be confirmed, I will enforce this important section and others.

The current Justice Department is involved in several suits against states that have enacted severe voting restrictions that disproportionately harm minority voters. In two of these cases, courts of appeals found that voter ID laws in North Carolina and Texas were discriminatory and violated the VRA.

b. If you are confirmed, will the Justice Department maintain its current position in these cases – especially since federal appeals courts have found these voter ID laws to be discriminatory?

RESPONSE: Because this case involves pending litigation in which the Department is a party, it would be unwise for me to comment further. If I am fortunate enough to be confirmed as Attorney General, I will thoroughly review this case in conjunction with the expert and career attorneys in the Department of Justice to make a decision about how best to proceed.

22. The intelligence community has concluded that Russia intervened in the 2016 election in an effort to help elect Donald Trump. The report is available at https://www.dni.gov/files/documents/ICA_2017_01.pdf. Russian interference in our elections is larger than any candidate or political party. This is about protecting our democracy.

a. Do you accept the conclusion of the intelligence community that Russia was responsible for the hack of the DNC and Hillary Clinton’s campaign chair?

RESPONSE: I have not reviewed the report, but I have no reason not to accept the intelligence community's conclusion(s) as contained in the report.

b. Do you accept the conclusion of the intelligence community that Russia provided to Wikileaks the information that it stole?

RESPONSE: I have not reviewed the report, but I have no reason not to accept the intelligence community's conclusion(s) as contained in the report.

c. Do you accept the conclusion of the intelligence community that Russia engaged in these activities in order to interfere with the election in Donald Trump's favor?

RESPONSE: I have not reviewed the report, but I have no reason not to accept the intelligence community's conclusion(s) as contained in the report.

d. Do you consider this to be illegal behavior, and a threat to our democratic process?

RESPONSE: I have not reviewed the matter in any detail; therefore, I am not in a position to opine on it.

e. Several of the President-Elect's nominees or senior advisers have Russian ties. Have you been in contact with anyone connected to any part of the Russian government about the 2016 election, either before or after election day?

RESPONSE: No.

f. Attorney General Lynch has confirmed that career officials are investigating Russian interference in the 2016 elections. If confirmed, will you commit to allowing this investigation to move forward? What will you do if the White House directs you to end the investigation?

RESPONSE: I am unaware of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

23. I am greatly concerned about racial disparities within our criminal justice system. In 2010, you agreed to reduce the dramatic disparity between sentences for crack and powder cocaine offenses, but you refused to eliminate the disparity altogether or to allow the changes in the Fair Sentencing Act to be retroactive.

But our justice system is full of disparities. Racial minorities still receive nearly 80 percent of all mandatory minimum sentences for drug offenses. For years I have worked with a bipartisan group of senators on this Committee to reduce mandatory minimum sentences for drug offenses. This bipartisan effort has had the strong support of the Justice Department and many others in law enforcement.

You were the most vocal opponent of those efforts on this Committee. That concerns me.

a. If you are confirmed to be the next Attorney General, what do you plan to do to reduce racial disparities in our criminal justice system?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will faithfully enforce the law equally to all persons and defend the Constitution of the United States. Our laws, including our drug laws, should be enforced as written, with no special or harsher treatment given to anyone on account of their race. That is how I would direct the Department of Justice to proceed. I would note that as a Senator, I offered legislation to reduce mandatory sentences in 2001 for crack cocaine and my legislation was opposed by the Bush Administration.

In 2013, the Justice Department established a policy to reserve the most severe mandatory minimum sentences for high-level or violent drug traffickers. This was after the Sentencing Commission found that nearly half of mandatory minimum sentences in drug cases were imposed on lower-level offenders, not managers and importers. That is not what Congress intended. The often used 10- and 5-year minimums, for example, were intended to capture only serious traffickers – not low-level offenders like couriers.

b. If confirmed as Attorney General, would you leave the 2013 policy in place to focus these mandatory minimum penalties on high-level and violent offenders, consistent with the Justice Department's current policy?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate any current practices or policies in place by the Department and the effectiveness of those practices to aid in the administration of justice.

24. When you were Attorney General of Alabama, your office was reprimanded for prosecutorial misconduct in a case against a Birmingham-based company called TIECO. The judge in that case found "extensive evidence of serious and wholesale prosecutorial misconduct by the Office of the Attorney General." While you were investigating TIECO, your office seized TIECO's business records, and then made those confidential records available to another company, which then sued TIECO.

Ultimately, the criminal case against TIECO was thrown out because of the prosecutorial misconduct findings against your office. These findings are deeply troubling.

I understand that your deputy Attorney General, Bill Pryor, took over for you, and was heading

up the office when the criminal case against TIECO was dismissed. But the misconduct occurred when the office was under your watch. And Attorney General Pryor did not appeal the dismissal.

a. Why do you think that the office you had led decided against appealing the misconduct order in that case? It was not just a reflection on you, but the entire office. Do you agree that your office mishandled the case?

RESPONSE: First, much of the language and the entire statement of facts in the county judge's order were adopted from Tieco's motion to dismiss. Second, the Alabama Ethics Commission addressed the sharing of investigatory materials with the alleged victims of Tieco's conduct and unanimously exonerated me. Third, the Alabama State Bar received the criminal court's order and a bar complaint filed against me by one of Tieco's lawyers. After reviewing over 20 ethics charges, the State Bar took no action on the complaint. Fourth, the Eleventh Circuit reviewed the county judge's order that had been used to support Tieco's counterclaims for a violation of its constitutional rights and malicious prosecution in a civil case between U.S. Steel and Tieco. The Eleventh Circuit concluded that the criminal court's order was "particularly unreliable and misleading," and that the statement of facts was "self serving," as it was drafted by Tieco's defense counsel. Without the misleading order, the Eleventh Circuit concluded there was "no evidence" that Tieco's constitutional rights were violated and that there was probable cause to support an indictment as a matter of law; thus, Tieco's malicious prosecution claim failed.

After the Attorney General's office dismissed many of the counts of the indictment, the county judge dismissed the remaining counts. It is unclear why my successor decided not to appeal that judge's adoption of Tieco's motion to dismiss, as I am not aware of any statement or press release made about the decision not to appeal. As for whether my office mishandled the case, the decisions of the Ethics Commission, the State Bar, and the Eleventh Circuit in reviewing the conduct underlying the county judge's order speak for themselves.

b. The judge said "[T]he misconduct of the Attorney General in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this court." How would you conduct the case differently, if you were able to do it over again?

RESPONSE: The sentence referenced in the above question is taken from Tieco's motion to dismiss, which the state judge made a part of his order, and which the Eleventh Circuit characterized as self-serving, misleading, and unreliable. If I could go back in time and re-do the litigation, I may have realized more quickly that the multi-pronged attack on my office by Tieco might have been partially related to my first run for the Senate. See "Democrats Level Guns at Sessions as Senatorial Rhetoric Picks Up," *The Birmingham News*, 4C, April 2, 1996 ("The Democratic Senatorial Campaign Committee is focusing on Sessions because he appears to be the front runner, said committee spokeswoman Kate Jeffrey in Washington. . . . The Democratic committee has touted an ethics complaint filed against Sessions, alleging he has allegedly gave records seized from the Birmingham-based Tieco Inc. to that company's

competitor, USX Corp.”).

These findings also suggest a lack of understanding that sensitive documents collected by law enforcement officials must not be handed over to political allies. In the past year, DOJ and FBI have been involved in some very sensitive investigations, with very high stakes and a profound impact on our nation.

c. If confirmed, what steps would you take to guard against prosecutorial misconduct in the Justice Department?

RESPONSE: It is my understanding that the Department currently provides guidance and training opportunities to its attorneys that are aimed at preventing misconduct. If I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate this training and guidance and the effectiveness of it in guarding against prosecutorial misconduct. I will likewise assess the strength of the Department’s current procedures for managing complaints of misconduct and handling disciplinary decisions.

I believe it must be the highest priority of the head of a large office to provide strong leadership to ensure problems do not arise in cases and to devise mechanisms to deal with them when they arise. I have had a long career in personally prosecuting complex cases and supervising cases of all kinds. I am very proud of the professionalism and integrity of that work.

25. After the U.S. Supreme Court upheld marriage equality, Alabama Supreme Court Justice Roy Moore effectively ordered the probate judges in Alabama to refuse marriage licenses to gay couples. He was later suspended by the Alabama Court of the Judiciary for “disregard for binding federal law.”

a. Do you agree with the Alabama court’s decision to suspend Justice Moore for his actions?

RESPONSE: I have had no involvement in or briefings on this matter, as the events unfolded at the state level without input from my office; therefore, I have no opinion as to the appropriateness of what took place.

b. If confirmed, what actions would you take if any official refuses to issue a marriage license to a same-sex couple?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will enforce the law and adhere to Supreme Court precedent. Without having the facts of a specific case before me, it would be difficult to comment on any actions that I might take in order to carry out this duty.

c. When is it appropriate for a judge or other public official to disregard a Supreme Court decision?

RESPONSE: It is never appropriate for a judge or other public official to disregard a Supreme Court decision.

26. Last year, we enacted the most sweeping reforms to the Freedom of Information Act in decades. Our bill codified the “presumption of openness,” requiring all administrations to operate with transparency as their default setting. The DOJ Office of Information Policy is responsible for enforcing compliance with FOIA across the federal government. President-elect Trump has a demonstrably poor record on transparency. He has still refused to release his tax returns. He has even denied press credentials to reporters who criticize him.

If confirmed, you will be FOIA’s chief enforcer in the federal government. How will you enforce the “presumption of openness” in the face of the President-elect’s resistance to transparency?

RESPONSE: The Freedom of Information Act (FOIA) is an important law that has played an integral role in providing the public with the tools necessary to oversee their government. If confirmed, I will ensure that the Department and the Executive Branch appropriately comply with FOIA, as well as work with you and this Committee to make sure that the letter and the spirit of FOIA is carried out.

27. I am very concerned about the abuse of administrative civil asset forfeiture laws, which are not overseen by a judge. As a former prosecutor, I believe that if there is a crime, you prove it. You do not let the suspect go and simply keep their cash because the seizure is protected by a low standard of proof and a labyrinth of administrative hurdles for the property owner. In a column criticizing your support for civil asset forfeiture, conservative columnist George Will compared this to “Alice in Wonderland” where the queen says “Sentence first—verdict afterwards.” Chairman Grassley and I have worked on a bill to ensure that this law enforcement tool does not devolve into a mere fundraising tool.

The Justice Department recently took some very modest steps to guard against questionable seizures of cash during road-side stops, and seizures of bank accounts where there is little evidence of a crime. If you are confirmed, will you commit to maintaining these limited protections for innocent property owners?

RESPONSE: Individuals are certainly justified in wanting to ensure that law enforcement is focused on enforcing the law and that corruption is not incentivized. My understanding is that the changes announced by Attorney General Holder at the beginning of 2015, that greatly curtailed the adoption program, were in direct response to these kinds of concerns. If I am confirmed, I will review the Department of Justice’s policies to ensure that these changes have adequately addressed any such issues and have not created new issues or complications. The seizure of the proceeds of illegal activity, especially drugs, is an effective way to deter drug dealing, but must be done according to law.

28. In your testimony you said “I deeply understand the history of civil rights in our country” and that “We must continue to move forward and never back.” One of the witnesses who testified in

support of your nomination described you as “A son of the South who has had up-close experiences with our great civil rights movement”

a. Please describe your “up-close experiences” with the Civil Rights Movement.

RESPONSE: Most of us who grew up in Alabama during the struggle for civil rights can truthfully say that we had a number of up-close experiences with the movement. I saw and experienced segregation as well as a number of other forms of arbitrary discrimination against African-Americans. In later years, as a federal prosecutor, I had a very up-close experience with the KKK as I oversaw the investigation and prosecution of a Klansman who murdered a young African-American teenager. I experienced the segregated public school system and how separate was absolutely not equal. I have observed employment discrimination. I have seen systematic and sustained actions of white officials to deny voting rights to African-Americans. I am deeply aware of this blatant discrimination and have learned more as civil rights cases were filed to attack these discriminatory actions. The “white power” establishment worked, with only a few exceptions, to resist changes that law, morality, and decency demanded. I saw the resistance, often fierce, and my experience has caused me to more fully understand it than would someone who did not live amongst it. I can see clearly the power of Dr. Martin Luther King, Jr.’s moral leadership and how that peaceful, courageous and relentless campaign achieved historic results and laid the foundation for reconciliation, integration and progress. As an adult, I have shared in many conversations with African-American friends and colleagues who lived through the very real oppression that existed. These unique experiences with the Civil Rights Movement have provided me with insight into the challenges we have overcome and the ones we still face. I probably would not have this same appreciation had I grown up in another part of the country.

That witness also stated, “Senator Sessions is not oblivious to the fact that we have more to do in the area of racial equality.”

b. In what areas do racial inequalities persist? What, specifically, are the appropriate remedies for these inequalities?

RESPONSE: Where inequality is found in the enforcement of laws, the Department of Justice and the Civil Rights Division certainly have a clear role to play in remedying disparities. Inequalities that persist outside of the enforcement of laws and their inherent protections, perhaps stemming from bias or divisive rhetoric, present a more difficult question that the citizens of this country must continue to work to correct. By engaging with state and local law enforcement and communities around the country, the Department of Justice undoubtedly has opportunities to contribute to improved race relations. Good law enforcement is essential for the safety of our minority communities but we must work constantly to ensure those communities are part of the solution and see it as fair.

This past weekend, the President-elect tweeted criticisms of Congressman John Lewis. He said: “Congressman John Lewis should spend more time on fixing and helping his district, which is in

horrible shape and falling apart (not to..... mention crime infested) rather than falsely complaining about the election results. All talk, talk, talk - no action or results. Sad!"

c. Do you agree with President-elect Trump that John Lewis is "All talk, talk, talk?"

RESPONSE: Congressman Lewis was a key figure in the civil rights movement and has my utmost respect. Though I am disappointed to learn of his concerns about my nomination, if confirmed, I hope that he will be willing to work with me in the Department's ongoing efforts to protect the civil rights of all Americans. I was proud to co-sponsor with Senator Booker the Congressional Gold Medal for the Selma to Montgomery marchers and to be with Congressman Lewis on that bridge where that historic event occurred 50 years before.

29. While your hearing was happening, Congressman Brooks stated "in a radio interview on Tuesday that criticism of Alabama Sen. Jeff Sessions...is part of an ongoing 'war on whites' by Democrats."

Do you agree that Democrats are waging "war on whites?"

RESPONSE: I did not hear the interview and will not speculate on what Congressman Brooks meant in his statement. I do have concerns about the growing frequency with which those who disagree with a number of conservative policies use that as a basis to loosely accuse conservatives of bigotry and racial animus. I would not label these tactics as a "war on whites," however.

30. According to several news reports, Florida Attorney General Pam Bondi will hold a position in the Trump administration. In 2013, while Bondi's office was considering joining a lawsuit against Trump University for fraud (which was settled two months ago for \$25 million), Mr. Trump donated \$25,000 to a group supporting Bondi. The donation was made illegally from Mr. Trump's foundation, and he was forced to reimburse the foundation and to pay a penalty to the IRS. One month after the donation was received, Bondi's office decided not to join the lawsuit against Mr. Trump.

Do you believe that the decision not to join the lawsuit against Trump University, following Mr. Trump's illegal donation, raises concerns questions about a quid pro quo?

RESPONSE: I am not aware of facts that would support the assertions made in the above question and am unable to opine on this matter.

31. In 2015, after Chairman Grassley and I wrote several letters expressing concerns about the use of cell-site simulators (sometimes called "Stingrays"), which can sweep up cell signals indiscriminately from cell phones in their vicinity, the Justice Department issued new policy guidance governing their use.

Will you commit to keeping that policy in place?

RESPONSE: While I am generally familiar with this policy, I am not privy to any internal Department of Justice data regarding the effectiveness of the policy in balancing the interests of law enforcement and public safety with protection of civil liberties. If I am fortunate enough to be confirmed as Attorney General, I will carefully review and evaluate this policy, including any relevant data and how circumstances may have changed or how they may change in the future and will be prepared to listen to members of Congress and their concerns.

32. In 2010, the Antitrust Division and the U.S. Department of Agriculture held five joint public workshops to explore competition issues affecting the agricultural sector and the appropriate role for antitrust and regulatory enforcement. Many in agriculture were very frustrated that those workshops, although they highlighted many concerns and antitrust problems in agriculture, did not appear to lead to any new enforcement or stricter actions by the Department of Justice in the agriculture sector.

a. In your opinion, are there areas within the agriculture sector where the Department should take a stronger look at competition affecting agriculture?

RESPONSE: I know that several members of this Committee have particular concern about ensuring competition in the agricultural sector of our economy. If I am confirmed as Attorney General, the Antitrust Division will conduct a thorough evaluation, consistent with federal law, of proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies. I look forward to working with you and this Committee to learn more about these particular issues and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement, particularly in this vitally important sector of our economy.

b. Do you believe that there are actions that the Department should take regarding consolidation and the conduct of dominant players in the dairy industry? If confirmed, what will you do to address the long-standing concerns to make sure that dairy farmers, small processors, and consumers are treated fairly in the marketplace?

RESPONSE: As I testified before the Committee, I have no hesitation to enforce antitrust law to protect against anti-competitive transactions and behavior. If I am confirmed as Attorney General, the Antitrust Division will look at all markets to ensure compliance with federal antitrust law.

In the last quarter-century, as highlighted in the Judiciary Committee hearing on September 20, 2016, the agricultural industry has consolidated dramatically into what many refer to as the “Big Six” companies that now control the market for seeds and agrochemicals. Due to several mergers proposed last year, the market may soon shift to the “Big Four.” Many concerns have been raised in the agriculture industry that this will raise barriers to entry for new innovators and increase the prices that farmers pay.

c. How will the proposed agriculture mergers involving Dow, DuPont, Monsanto, Bayer,

and Syngenta affect small businesses and the prices our farmers pay?

RESPONSE: I cannot at this time comment or commit specifically on any ongoing investigations by the Department, but if I am confirmed as Attorney General, the Antitrust Division will conduct a thorough evaluation, consistent with federal law, of proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies. The agricultural sector of our Nation's economy is of vital importance, and I look forward to working with you and this Committee to learn more about these particular issues and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement.

d. How should the Justice Department evaluate these proposed agriculture mergers? Do you believe that the effects of these mergers on American farmers and consumers should be reviewed collectively?

RESPONSE: I understand that the Department of Justice is currently reviewing a number of mergers in the agricultural sector of our economy, and I understand your concerns about the cumulative impacts of these transactions. While I cannot at this time comment or commit specifically on any ongoing investigations, if I am confirmed as Attorney General, the Antitrust Division will conduct a thorough evaluation, consistent with federal law, of proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies.

Last year the French-Multinational food-products corporation Danone proposed to acquire White Wave Foods, Inc. ("White Wave"), which many in the organic dairy sector fear could lessen producers' leverage in any contract negotiations on pay price and contractual obligations, effectively creating a monopsony.

e. If confirmed, what will you do to scrutinize this proposed acquisition and ensure that the Department applies conditions to this merger to alleviate the very real monopsony concerns that have been raised?

RESPONSE: I cannot at this time comment or commit specifically on any matter currently being reviewed by the Department, but if I am confirmed as Attorney General, the Antitrust Division will conduct a thorough evaluation, consistent with federal law, of proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies.

According to reports you have accepted contributions from Monsanto and Bayer, two companies with mergers currently being reviewed by the Department of Justice. I have seen reports that President-elect Trump also holds stock in Monsanto.

f. If confirmed, how will you ensure that you and the Department of Justice will remain objective in any review and scrutiny of these mergers? Will you recuse yourself from reviews of mergers involving companies from which you have received campaign contributions?

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

g. If confirmed, will you ensure that the President-elect provides solid evidence to substantiate the claims made by his Transition Team that he sold off all of his investments in the stock market last year, to ensure that he does not have a financial interest in the mergers and acquisitions that the Department of Justice reviews?

RESPONSE: If I am confirmed as Attorney General, I will take whatever steps are necessary to ensure that the Department of Justice represents the interests of the American people in the impartial enforcement of the law, including its review of mergers and acquisitions. At this point, and without the resources of the Department of Justice at my disposal, it would be premature to announce specific steps to mitigate a hypothetical conflict of interest.

I am deeply concerned by reports that “Top executives of Bayer AG and Monsanto Co. met with President-elect Donald Trump...to pitch the benefits of their planned deal.”

h. If confirmed, what steps will you take to ensure that reviews of proposed mergers are free of political considerations?

RESPONSE: While I am not familiar with the Department’s specific procedures for the review of proposed mergers, if I am fortunate enough to be confirmed as Attorney General, I will have no hesitation to enforce antitrust law. I will ensure that proper safeguards are in place and, assuming they are already in place, that they are followed to the letter to guard against political influence in these decisions.

33. If confirmed, you will be the first Attorney General in 12 years to have previously been an elected official, which raises concerns about decisions the Justice Department may make regarding your campaign contributors. The Project on Government Oversight has found that approximately one-third of your top donors have “current, known matters involving the Department of Justice.” As others have noted, you were also a strong supporter and surrogate of the President-elect, which raises concerns about how you would handle Department actions against Mr. Trump or businesses to which he is connected. In a November 5, 2016, op-ed, you and several other prominent Trump supporters harshly criticized Attorney General Lynch for not recusing herself from matters involving Hillary Clinton because Lynch had had a “39-minute conversation” with President Bill Clinton.

a. By the recusal standard that you put forth in that op-ed, is it fair to expect you to recuse yourself from any matters regarding Mr. Trump or his finances?

RESPONSE: There are significant differences between the issue discussed in the op-ed

referenced above and the broad hypothetical presented regarding an investigation into the President. Secretary Clinton was under investigation at the time Attorney General Lynch met with President Clinton. If merely being a supporter of the President's during the campaign warranted recusal from involvement in any matter involving him, then most typical presidential appointees would be unable to conduct their duties. I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

b. In cases or investigations involving Mr. Trump or your own campaign contributors, what will your recusal standard be, if not the standard articulated in the op-ed?

RESPONSE: I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

34. At a Senate Judiciary Committee executive business meeting on March 26, 2015, you voted against reporting my Bulletproof Vest Partnership Grant Program Reauthorization Act, which reauthorized a grant program that has helped state and local law enforcement agencies to purchase more than 1.2 million protective vests. This program's reauthorization will ensure that more than 200,000 more officers receive such vests. You also voted against reporting the Rafael Ramos and Wenjian Liu National Blue Alert Act, which created a national alert system for law enforcement officers who are missing, killed, or seriously injured in the line of duty. The bills were reported by voice vote, but you requested to be recorded as a "nay" to both. Despite your opposition in Committee, both bills ultimately passed and are now law. These bills will save officers' lives, and both received enthusiastic support from the law enforcement community.

Why did you vote against my Bulletproof Vest Partnership reauthorization? Why did you vote against Blue Alert?

RESPONSE: With respect to both, my concerns with the legislation were fiscally-related and shared by several of our colleagues on the Judiciary Committee. Since that time, the bills were passed and signed into law by the President. If I am fortunate enough to be confirmed as Attorney General, I will seek to ensure that these programs are properly administered and implemented by the Department in a manner that achieves the stated objective of the law.

35. At your confirmation hearing, in response to a question of mine on whether you would use our limited federal resources to prosecute sick people who followed their state laws with regards to medical marijuana, you said "I won't commit to never enforcing federal law, Senator Leahy, but absolutely it's a problem of resources for the federal government."

a. Does this mean you would consider arresting and prosecuting patients who follow their

state medical marijuana laws?

RESPONSE: As I testified before the Committee, I will not commit to never enforcing Federal law. Whether an arrest and investigation of an individual who may be violating the law is appropriate is a determination made in individual cases based on the sometimes unique circumstances surrounding those cases, as well as the resources available at the time.

Congress, through an appropriations amendment, has decided the federal government should not dismantle state medical marijuana programs. Since 2014, the Justice Department cannot “prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.” Last August, in *United States v. McIntosh*, the U.S. Court of Appeals for the 9th Circuit held that “at a minimum, [this amendment] prohibits DOJ from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws.”

b. Would this congressional prohibition prevent the DEA from raiding medical marijuana dispensaries that are compliant with state law, or from shutting down banks or other businesses that work with dispensaries?

RESPONSE: The Ninth Circuit case you referenced is relatively recent, and I am not familiar with how other courts may have interpreted the relevant appropriations language or the Ninth Circuit’s opinion. As an emerging issue, that is one that will need to be closely evaluated in light of all relevant law and facts. I am fortunate enough to be confirmed as Attorney General, I will conduct such a review. Of course, medical marijuana use is a small part of the growing commercial marijuana industry.

36. Article 36 of the Vienna Convention on Consular Relations (VCCR) requires parties to the treaty, including the United States, to promptly inform, upon arrest, nationals of signatory nations, that they have the right to meet with consular officials. Thousands of Americans are arrested in foreign countries every year, sometimes on questionable charges. The right to visit with U.S. consular officials provides U.S. nationals the ability to communicate with their families, retain competent legal counsel, and receive assistance from the U.S. Government. To help ensure domestic compliance with Article 36, the U.S. Supreme Court adopted an amendment to Rule 5 of the Federal Rules of Criminal Procedure mandating that a judge presiding at the defendant’s initial appearance inform “a defendant who is not a United States citizen [that he or she] may request that an attorney for the government or a federal law enforcement official notify a consular officer from the defendant’s country of nationality that the defendant has been arrested.”

a. Do you agree that this amendment to the Federal Rules of Criminal Procedure is a helpful change that will ensure Article 36 compliance at the Federal level? What other steps would you take to ensure compliance with Article 36?

RESPONSE: The United States is a signatory to the VCCR, and the amendment is helpful in

ensuring that foreign nationals are informed that they may ask for consular notification. The Committee Notes on that particular amendment recognize that certain questions remain unresolved by the courts concerning Article 36. If I am fortunate enough to be confirmed as Attorney General, I will review those unresolved questions and determine whether additional changes or steps are necessary.

There are a number of well documented cases in which the U.S. is not in compliance with our Article 36 obligations, and that noncompliance has strained our relationships with a number of important allies including Great Britain and Mexico. President Bush attempted to remedy one set of cases in 2008 through Executive Memorandum. However, the Supreme Court in *Medellin v. Texas* recognized the obligation but instructed that Congress must pass legislation to provide a remedy in these cases.

b. In order to meet our legal obligations and protect the interests of U.S. national traveling abroad, would you work with the Congress to enact legislation that provides a mechanism to redress failures to provide the legally required VCCR notifications?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I would be glad to work with Congress to ensure that the United States meets its international legal obligations and protects the interests of U.S. citizens.

37. At a hearing before the Senate Select Committee on Intelligence in 2016, the Director of the National Security Agency and Commander of U.S. Cyber Command Admiral Mike Rogers testified that “[e]ncryption is foundational to the future. And anyone who thinks we are just going to walk away from that, I think, is totally unrealistic.” Secretary of Defense Ash Carter has similarly stated that “encryption is a necessary part of data security and strong encryption is a good thing. . . . [W]e need our data security and encryption to be as strong as possible.”

In addition to Admiral Rogers and Secretary Carter, countless other national security experts have emphasized that strong encryption is vital to our national security and that any attempt to weaken encryption only makes Americans less secure – particularly when the United States and the American people face increased threats of cyberattack from hostile nation-states and cybercriminals.

Do you agree with NSA Director Rogers, Secretary of Defense Carter, and other national security experts that strong encryption helps protect this country from cyberattack and is beneficial to the American peoples’ digital security?

RESPONSE: Encryption serves many valuable and important purposes. It is also critical, however, that national security and criminal investigators be able to overcome encryption, under lawful authority, when necessary to the furtherance of national-security and criminal investigations.

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 25, 2017**

QUESTIONS FROM SENATOR LEAHY

Many answers to my written questions were non-responsive. While some answers quoted statutes and cases to support your position (e.g. Questions 4b, 11a, 15, 19a), in other responses you professed a complete lack of knowledge, even on topics that have dominated the news in recent months. You acknowledged in one response that you believe a statute is constitutional, but in others you refused even to say whether you considered a law to be “reasonably defensible.” When responding to these follow up questions, please review any necessary materials to provide substantive answers to my questions.

I also was troubled by your responses to questions 8 and 22, in which you consistently did not answer the question directly and stated that you had “no knowledge of whether [an individual] actually said [remarks relevant to the question] or in what context.” Yet you omitted in your response footnotes that I included, which provided the relevant source material. I am re-asking those questions here and, for your convenience, I am appending these source materials to this document.

RESPONSE: I reject the contention that my answers were non-responsive. I received over 550 follow-up questions, many of which would be impossible or inappropriate for me to answer prior to taking office, should I be confirmed. Nevertheless, I made a good faith effort to do so in a timely manner, answering each question to the best of my knowledge and without the vast resources of the Department of Justice at my disposal.

Questions 8 and 22

8. In 2014, you accepted the “Daring the Odds” award from the David Horowitz Freedom Center. The Southern Poverty Law Center has repeatedly called David Horowitz an “anti-Muslim extremist” and has an extensive and detailed profile of Mr. Horowitz’s racist and repugnant remarks against Muslims, Arabs, and African-Americans.

In your hearing, you stated to Senator Blumenthal with regard to Mr. Horowitz, “I am not aware of everything he has ever said or not.” You also defended your association with him by saying “I am not aware of those comments, and I do not believe David Horowitz is a racist or a person that would treat anyone improperly, at least to my knowledge.” Now you have had the opportunity to learn more about the extremist remarks Mr. Horowitz has made.

For example, Mr. Horowitz has repeatedly claimed that the United States government has been infiltrated by Muslims. He has referred to Muslims as “Islamic Nazis” who “want to kill Jews, that’s their agenda.”¹

- a. **Do you disavow and condemn that remark?**

Mr. Horowitz has said “Obama is an anti-American radical and I’m actually sure he’s a Muslim, he certainly isn’t a Christian. . . . He’s a pretend Christian in the same way he’s a pretend American.”²

b. Do you disavow and condemn that remark?

Mr. Horowitz has even claimed that Muslims have “infiltrated” the Republican Party, and that “Grover Norquist is a Muslim, he is a practicing Muslim.”³

c. Do you disavow and condemn that remark?

RESPONSE to (a) – (c): As I said in my original response, I do not hold the views that these questions attribute to Mr. Horowitz.

In 2015, you received the “Keeper of the Flame” award from the Center for Security Policy. The Center for Security Policy has been strongly criticized by the Anti-Defamation League, and is considered a hate group by the Southern Poverty Law Center.

In 2011, its founder, Frank Gaffney, was banned from the Conservative Political Action Conference (CPAC) because, in the words of one board member, “they didn’t want to be associated with a crazy bigot.”⁴ Among his disgraceful statements, Mr. Gaffney has said that the two Muslims in Congress, Representative Keith Ellison and Andre Carson, have “longstanding Muslim Brotherhood ties.”⁵

e. CPAC did not want to be associated with a “crazy bigot,” but you accepted an award from him in 2015. Do you condemn Mr. Gaffney’s remarks and his insinuation that the two Muslim Congressmen are affiliated with the Muslim Brotherhood?

RESPONSE: As I said in my original response, I have not and will not associate myself with any racially insensitive or discriminatory remarks made by anyone.

f. Do you believe it is acceptable for the Attorney General to associate with Mr. Gaffney and his extremist organization?

RESPONSE: As I said in my original response, no government official should lend the prestige of his or her office to any individual or organization that does not reflect American values.

g. Mr. Gaffney has complained about Somali refugees holding jobs in the meat processing industry, saying “it kind of creeps me out that they are getting jobs in the food supply of the United States.”⁶ Do you condemn that statement?

h. Mr. Gaffney argued that a Muslim member of Congress should not be allowed to serve on the House Intelligence Committee because of his “extensive personal and political associations with...jihadist infrastructure in America.”⁷ Do you condemn that remark?

i. Mr. Gaffney has said of President Obama that it is an “increasingly indisputable fact that this president is providing aid and comfort to enemies of the United States. And that is the definition, as you know, of treason.”⁸ Do you condemn the offensive allegation that President Obama is a traitor?

RESPONSE to (g) – (i): As I said in my original response, I do not hold the views that these questions attribute to Mr. Gaffney.

President-elect Trump has appointed Michael Flynn to be his National Security Advisor. The National Security Advisor has typically been the President's principal advisor on national security matters, a position that does not require Senate confirmation.

Mr. Flynn serves on the board of advisors for an organization called ACT for America. The Southern Poverty Law Center has called this organization "far and away the largest grassroots anti-Muslim group in America." In August 2016 – less than six months ago – Mr. Flynn spoke at an event for this group. He is on video saying that Islam "is a political ideology. It definitely hides behind this notion of it being a religion." He also added that Islam is "like a malignant cancer."⁹

- k. **Do you disavow and condemn Mr. Flynn's remarks?**
- l. **Do you believe that the President's national security advisor should refer to Islam as a "malignant cancer"?**
- m. **Do you believe the National Security Advisor should be associated with organizations that promote anti-Islamic bigotry and conspiracy theories?**

RESPONSE to (k) – (m): As I said in my original responses to each of these questions, I will not associate myself with any racially or religiously insensitive or discriminatory remarks.

In the unclassified Intelligence Community Assessment on "Assessing Russian Activities and Intentions in Recent US Elections" released on January 6, 2017, there are seven pages describing the activities of RT America TV. The report notes that the network's "Leadership [is] closely tied to, controlled by Kremlin." Mr. Flynn has given a paid speech to RT, and attended a dinner celebrating the network's anniversary, where he sat at the same table as Vladimir Putin.¹⁰

- n. **Given the facts presented here, what legal issues does the relationship between the National Security Advisor and the Russian government raise?**

RESPONSE: I am not privy to the facts or details other than what is contained in public reporting, so I do not know what the appropriate response should be in this particular case.

In 2015, you received an award from the Eagle Forum for "Excellence in Leadership." The late founder of that organization has a long history of controversial remarks. That includes advocating for "railroad cars full of illegals going south"¹¹ and increasing the pay gap between men and women,¹² and arguing that married women by definition cannot be raped by their husbands.¹³

- o. **Do you agree that there should be "railroad cars full of illegals going south"? Do you condemn that remark?**
- p. **Do you agree that married women by definition cannot be raped by their husbands? Do you condemn that remark?**

- q. Do you agree that the pay gap between men and women should be increased, rather than diminished?
- r. Ms. Schlafly also claimed “it would be useful to reinstate the House Committee on Un-American Activities” to target Muslims.¹⁴ Do you agree with that statement?

RESPONSE to (o) – (r): As I said in my original response, I do not hold the views that these questions attribute to the deceased woman referenced therein.

22. The intelligence community has concluded that Russia intervened in the 2016 election in an effort to help elect Donald Trump. The report is available at https://www.dni.gov/files/documents/ICA_2017_01.pdf. Russian interference in our elections is larger than any candidate or political party. This is about protecting our democracy. Please review this report and respond to the following questions.

- a. Do you accept the conclusion of the intelligence community that Russia was responsible for the hack of the DNC and Hillary Clinton’s campaign chair?
- b. Do you accept the conclusion of the intelligence community that Russia provided to Wikileaks the information that it stole?
- c. Do you accept the conclusion of the intelligence community that Russia engaged in these activities in order to interfere with the election in Donald Trump’s favor?

RESPONSE to (a) – (c): If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment.

Additional follow-up questions

1. You previously responded to questions 22a-c that you “have no reason not to accept the intelligence community’s conclusion(s) as contained in the report.” Given that response, I was surprised that when I then asked you if Russia’s behavior, which was detailed in the report, was illegal and a threat to our democracy, your response was only, “I have not reviewed the matter in any detail; therefore, I am not in a position to opine on it.”

This issue has received significant news coverage, has been the subject of the DNI report provided with these questions, and will be the subject of an investigation by the Intelligence Committee (<https://www.burr.senate.gov/press/releases/joint-statement-on-committee-inquiry-into-russian-intelligence-activities>). Senators McCain, Schumer, Graham, and Reed previously called for an investigation by a select bipartisan committee (https://www.washingtonpost.com/news/the-fix/wp/2016/12/18/mccain-calls-for-committee-to-investigate-russia-hacking-theres-no-doubt-of-interference/?utm_term=.36d83eddfc08).

Please read the appended report before responding.

- a. Given the information presented in the DNI report, do the Russian attempts to interfere in the 2016 election, including its hacks of the Democratic National Committee and of “some Republican-affiliated targets” (Report 3), constitute illegal behavior? If your answer is anything other than an unambiguous “yes,” please explain how this hacking might possibly be legal.
- b. The report states on page one:

“We assess with high confidence that Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election, the consistent goals of which were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency.”

Given these conclusions and the entirety of the report, do you believe the Russian attempts to interfere in the 2016 election constitute a threat to our democratic process? If your answer is anything other than an unambiguous “yes,” please explain why such foreign interference in the American electoral process – seeking to “undermine public faith in the US democratic process” – is acceptable.

RESPONSE to (a) – (b): If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment at this time on any conclusion I may have reached.

2. I previously asked you about the propriety of President Trump giving a White House position to Florida Attorney General Pam Bondi. I noted, “In 2013, while Bondi’s office was considering joining a lawsuit against Trump University for fraud (which was settled two months ago for \$25 million), Mr. Trump donated \$25,000 to a group supporting Bondi. The donation was made illegally from Mr. Trump’s foundation, and he was forced to reimburse and to pay a penalty to the IRS once the illegal payment became public. One month after the donation was received, Bondi’s office decided not to join the lawsuit against Mr. Trump.” I asked whether these facts, and the reported White House job for Attorney General Bondi, raised concerns about a quid pro quo.

You responded, “I am not aware of facts that would support the assertions made in the above question and am unable to opine on this matter.” I have appended to these questions a *New York Times* article from last year, titled “New Records Shed Light on Donald Trump’s \$25,000 Gift to Florida Official.” Please review the article, which provides the factual predicate for the question.

Do the facts of Mr. Trump’s illegal donation, Ms. Bondi’s ensuing decision not to join the lawsuit, and now the White House job for Ms. Bondi raise any concerns about a quid pro quo?

RESPONSE: It would be unwise for me to rely solely on an article to offer an opinion as to

the legitimacy of the facts contained in it, or the implications of it. While I have no knowledge on which to evaluate the truthfulness of the article you have asked me to review, it is well-known that the *New York Times* was regularly critical of the Trump campaign and sometimes less than objective.

3. When I asked what your recusal standard will be, if confirmed, your responses were not satisfactory. You argued in an op-ed that Attorney General Lynch should have recused herself from matters involving Secretary Hillary Clinton because Lynch had had a single conversation with President Bill Clinton while the investigation was ongoing (<http://www.foxnews.com/opinion/2016/11/05/giuliani-sessions-keating-et-al-time-for-loretta-lynch-to-appoint-special-counsel.html>). I asked whether you would apply the same standard to yourself regarding President Trump.

You argued that it would be unfair to expect you to recuse yourself for “merely being a supporter of the President’s during the campaign.” I fear you are selling yourself short. ABC News referred to you as “Top Trump foreign policy adviser Sen. Jeff Sessions” (<http://abcnews.go.com/Politics/top-trump-adviser-jeff-sessions-trump-campaign/story?id=41358247>). The *Washington Post* said, “In Donald Trump’s world, most roads, it seems, lead back to Sen. Jeff Sessions (R-Ala.), President-elect Trump’s pick for attorney general. After Sessions became one of the first members of Congress to endorse Trump this February, he became an adviser on almost every major decision and policy proposal Trump made during the campaign” (<https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/10-things-to-know-about-sen-jeff-sessions-donald-trumps-pick-for-attorney-general/>). Your relationship with President Trump went beyond mere support.

Your response to my recusal questions was that you would consult with Justice Department ethics officials in cases where you “believed [your] impartiality might reasonably be questioned.” Justice Department recusal standards are codified at 28 C.F.R. § 45.2 (see appended). In relevant part, the regulations state:

...no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with:

- (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or
- (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

“Political relationship” is defined as “a close identification with an elected official...arising from service as a principal adviser thereto or a principal official thereof.”

Under the definition in 28 C.F.R. § 45.2(c), did you have a “political relationship” with President Trump before you were nominated to be Attorney General? Please answer yes or no.

RESPONSE: As I previously stated, if a matter arose in which I believed my impartiality

might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. Such a consultation would necessarily include careful evaluation of the statute in question, in light of relevant facts and circumstances. I will not make this determination in a vacuum and without the expertise of Department attorneys.

4. In my first round of written questions I asked you whether, when opposing the 2013 Leahy-Crapo VAWA reauthorization, you opposed its new protections for LGBT Americans. Your response was nearly 300 words, but it did not directly answer the question, so I will ask again.

Did you oppose the new protections for LGBT Americans in the 2013 VAWA reauthorization? Please answer yes or no.

RESPONSE: As I noted in my original response, on its face, the broad prohibition in this provision

“would appear to preclude operation of a women-only (or women and children-only) domestic violence shelter, and the Act’s exception to this prohibition appears narrow and is unclear. I believe that, in some circumstances, it is appropriate for VAWA grant recipients to provide services that are limited to women. To the extent that VAWA 2013’s new anti-discrimination provision is construed to, for example, prevent or make it difficult for a women’s domestic violence shelter to provide services that it believes should be limited only to women, I continue to have serious reservations about that provision. In the past, I have received strong objections from a respected women and children’s shelter on this very issue.”

5. I asked at your hearing whether you would defend VAWA’s constitutionality, and you said only “if it is reasonably defensible.” I then asked in my written questions whether you believed “the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims’ provisions, is ‘reasonably defensible.’” You answered only that you “will carefully study this program before reaching any final legal conclusions about the VAWA tribal jurisdiction provision.”

Based on your strong opposition to the law, as well as your thorough preparation for this nomination process, I find it difficult to believe you have not “carefully stud[ied]” it. Moreover, you did assert that particular laws were constitutional in other responses. In your response to 14a-b, you wrote, “I believe that this statute is constitutional.” Here, I am not asking for such an endorsement of a law’s constitutionality, I am just asking whether you believe it is “reasonably defensible.”

Do you believe the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims’ provisions, is “reasonably defensible”? Please answer yes or no.

RESPONSE: As I said in my original response,

“[i]f I am confirmed as Attorney General, I will enforce all federal laws, including the

2013 reauthorization of VAWA. I understand that a pilot program has been initiated that seeks to conform tribes' exercise of criminal jurisdiction over non-Indians to the requirements of the Sixth Amendment. I will carefully study this program before reaching any legal conclusions about the VAWA tribal jurisdiction provision."

I am not aware of any other provision of the law that raises constitutional concerns. Furthermore, as Attorney General, it would be my duty to review these provisions as would be necessary to enforce the 2013 law, regardless of past opinions I may have held. While I do not have these resources available to me at present, as Attorney General, I would have agencies within the Department with substantial expertise on tribal matters and jurisdiction to assist me in these matters.

6. In response to question 37, on encryption, you wrote "It is also critical, however, that national security and criminal investigators be able to overcome encryption."

- a. **Please explain what you mean by this.**
- b. **Do you believe that all encryption should provide a "back door" for law enforcement officials? Please answer yes or no.**

RESPONSE to (a) – (b): Encryption is part of many quickly-developing technologies, and it would be imprudent to guess at what an appropriate categorical rule should be for all of those technologies without first undertaking extensive review or without considering the possibility of adequate tailoring of those rules based on the particular technology in question, especially when encryption is likely to undergo exponential development and expansion in the next few years, just as it has recently. Encryption serves many valuable and important purposes, but it is also important that national security and law enforcement investigators be able to continue use lawful authorities to prevent, investigate, and respond to threats.

7. In response to Question 19(c), you said the United States should take "great care" before using lethal force in the United States in the armed conflict against al Qaeda and associated forces.

- a. **Aside from circumstances such as self-defense when law enforcement officials are permitted to lawfully use lethal force, what circumstances could justify the use of lethal force on U.S. soil?**

RESPONSE: Examples would include law enforcement's response to the San Bernardino and Orlando terror attacks.

In 2013, Senator Rand Paul wrote to former Attorney General Eric Holder asking, "Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?" Former Attorney General Holder responded categorially, "The answer to that question is no."

- b. **Do you agree with former Attorney General Holder? Please answer yes or no.**

RESPONSE: Lethal force cannot be used against Americans without lawful justification.

8. I asked in my first round of written questions about your comment that the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act “has been said to cheapen the civil rights movement.” You emphasized, “Those were not *my* words.” I recognize that.

The *Washington Post* reported Tuesday that the U.S. Attorney in Idaho has used the Act to bring federal hate crimes charges against a man who murdered a gay man by “push[ing] [the victim] to the ground and kick[ing] him at least 30 times with steel-toed boots while [the victim] begged for his life.” The *Post* noted, “The fatal beating of the openly gay man has been compared by some in the community to the murder of Matthew Shepard, the gay college student from Wyoming whose torture and subsequent death set off a nationwide debate about hate crimes and homophobia and led to the federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.” The article is appended and can be found at <https://www.washingtonpost.com/news/morning-mix/wp/2017/01/24/idahoan-admits-to-brutal-murder-of-gay-man-as-he-pleaded-for-his-life-now-faces-hate-charge>.

While you emphasized that you were not speaking in your own words when you said that my hate crimes amendment “has been said to cheapen the civil rights movement,” I would still like to know whether you agree with that statement.

When you said in 2009 that “the hate crimes amendment . . . has been said to cheapen the civil rights movement,” did you agree with that viewpoint? Do you agree with it now? Please answer yes or no.

RESPONSE: Hate crimes legislation deals with serious and important issues and it is not correct to say it cheapens our commitment to civil rights.

9. At your hearing, Senator Franken asked you about President Trump’s claims that there were millions of illegal votes cast in the 2016 election. You responded, “I don’t know what the President-elect meant or was thinking when he made that comment, or what facts he may have had to justify his statement. I would just say that every election needs to be managed closely and we need to ensure that there is integrity in it, and I do believe we regularly have fraudulent activities occur during election cycles.”

Earlier this week, President Trump reportedly “surprised the top Republicans and Democrats in Congress on Monday when, during a dinner at the White House, he repeated his claim that millions of undocumented immigrants voted for Hillary Clinton.” (<http://www.cnn.com/2017/01/24/politics/wh-trump-believes-millions-voted-illegally>.) In a press briefing Tuesday afternoon, Press Secretary Sean Spicer responded to a question about that erroneous claim by saying, “The President does believe that, I think he’s stated that before, and stated his concern of voter fraud and people voting illegally during the campaign and continues to maintain that belief based on studies and evidence people have brought to him.” Again, as Senator Franken noted at your hearing, there is zero evidence to support this outlandish claim. The *Washington Post*’s “Fact Checker Recidivism Watch” stated:

Despite Trump's repeated claims, his attorneys stated there was no evidence of voter fraud in the 2016 election. In a court filing opposing Green Party candidate Jill Stein's recount petition, lawyers for Trump and his campaign wrote: 'All available evidence suggests that the 2016 general election was not tainted by fraud or mistake.'

When we debunked this claim on Nov. 29, 2016, we implored Trump's staff members to please drop this talking point — as we are tired of telling them it is false. We can't emphasize this point enough. (https://www.washingtonpost.com/news/fact-checker/wp/2017/01/24/recidivism-watch-spicer-uses-repeatedly-debunked-citations-for-trumps-voter-fraud-claims/?utm_term=.89751bee5353.)

Speaker Paul Ryan evidently agreed with President Trump's attorneys and is quoted by Fox News saying, "I've seen no evidence to that effect. I've made that very, very clear." (<http://www.foxnews.com/politics/2017/01/24/spicer-digs-in-on-trumps-illegal-voting-claim-as-ryan-distances.html>.)

Senator Lindsey Graham also evidently agreed with President Trump's attorneys, and argued, "To continue to suggest that the 2016 election was conducted in a fashion that millions of people voted illegally undermines faith in our democracy." (<http://www.nbcnews.com/politics/2016-election/gop-senator-president-trump-stop-claiming-illegals-cost-you-popular-n711386>.)

Press Secretary Spicer stated that President Trump believes these claims, even though the president's lawyers do not. I am not asking you to explain the President's beliefs; I would like to know whether you share that belief.

Do you share President Trump's belief that "millions of undocumented immigrants voted for Hillary Clinton" in the 2016 election? Please answer yes or no. If your answer is anything other than an unambiguous "no," please provide evidence to support the claim that millions of votes were cast illegally.

RESPONSE: I have not studied any data that the President might have relied upon in making this assertion, nor have I discussed this with him. At this time I do not know how many people illegally voted.

10. On Wednesday President Trump announced several executive orders involving immigration, including an order involving constructing a border wall and others targeting immigrants. Additional executive orders, targeting refugees, are expected on Thursday.

What role did you or your staff have in formulating and drafting these executive orders?

RESPONSE: None. Neither I, nor any of my current staff, had such a role. During the campaign, President Trump sought my and my staff's input on a number of matters on which I have taken very public positions as a Senator; however, it would be impossible for me to know the degree to which that input was relied upon in formulating or drafting the Executive Orders in question.

11. The New York Times reported this morning that President Trump is preparing an

executive order that would expand the use of the ineffective military commission system, allow individuals to be transferred to the detention facility at Guantanamo Bay, and allow the CIA to reopen secret “black sites,” among other things.

- a. **Do you believe international law prohibits U.S. officials from engaging in torture or cruel, inhuman or degrading treatment? If so, what is the source of that prohibition?**

RESPONSE: While I have not studied the relevant international law on this question, as I have previously stated, U.S. federal law deems it unlawful for either the military or our intelligence agencies to subject detainees to torture or cruel, inhumane, or degrading treatment.

- b. **Do you believe, as a matter of law, that we are in an armed conflict with those who “harbor” Al Qaeda, the Taliban, or associated forces? What constitutes “harboring”?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment.

- c. **Do you believe, as a matter of law, that we are in an armed conflict with those who provide “substantial support” to Al Qaeda, the Taliban, or associated forces? What constitutes “substantial support”?**

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment.

- d. **What limits does the U.S. Constitution set on placing U.S. citizens in military custody on U.S. soil?**

RESPONSE: As I have previously stated, under the historic rules of war and U.S. law, the United States may detain an active member of al Qaeda or other enemy combatants for the duration of the hostilities. As you know, in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), a plurality of the Supreme Court stated that “[t]here is no bar to this Nation’s holding one of its own citizens as an enemy combatant.” The plurality relied in part on *Ex Parte Quirin*, 317 U.S. 1 (1942), in which the Court held that Congress authorized the military trial of a U.S. citizen who entered the country with orders from the Nazis to blow up domestic war facilities, but was captured before he could execute them. *See also Padilla v. Hanft*, 423 F.3d 386 (4th Cir. 2005); *Al-Marri v. Pucciarelli*, 534 F.3d 213 (4th Cir. 2008). Captured citizens who are at war with the U.S., can of course, contest their detention in federal court by writ of *habeas corpus*.

- e. **Do you believe the United States is in an armed conflict with all “violent Islamic extremists”? How would you define a “violent Islamic extremist?”**

RESPONSE: The United States is currently in an armed conflict with a number of violent Islamic extremist groups that are named in the AUMF (including associated forces). Of course we are in a state of conflict and hostility with all those who carry out violent attacks against us.

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017**

QUESTIONS FROM SENATOR TILLIS

1. At your hearing, I mentioned a report published in December of 2014 by the Government Accountability Office entitled, "Department of Justice Could Strengthen Procedures for Disciplining Its Attorneys."¹ This report concluded that the Department of Justice had not appropriately addressed concerns regarding how it implements discipline for attorney professional misconduct. Will you commit to reviewing the report and reevaluating the procedures for addressing attorney professional misconduct?

RESPONSE: Yes.

2. Our immigration system needs reform. One issue that I am particularly concerned with is the backlog in our immigration courts. Under 8 U.S.C. § 1229a (b) (1), Congress gave immigration judges the authority during removal proceedings to sanction by penalty any action or inaction that is in contempt of the judge's orders under regulations prescribed by the Attorney General. To my knowledge, the Attorney General has never promulgated these regulations. As Attorney General, will you evaluate whether giving immigration judges the authority to hold individuals in contempt will help improve efficiency and reduce the backlog in our immigration courts?

RESPONSE: Yes.

¹ <http://www.gao.gov/products/GAO-15-156>

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 17, 2017**

QUESTIONS FROM SENATOR WHITEHOUSE

- 1) During your hearing before the Senate Judiciary Committee, I asked you about comments you made in November, 2016 in an interview with American Family Radio with respect to “secular, progressive liberals” and the “secular Left” making the Department of Justice “unlawful” and “less traditional.” In your response, you stated that you were “not sure” whether a secular person has as good a claim to understanding the truth as a person who is religious. In addition to your comments to American Family Radio and your response to me, you have previously stated the following:
 - “I really believe that this whole court system is really important and the real value and battle that we’re engaged in here is one to reaffirm that there is objective truth, it’s not all relative. And that means some things are right and some things are wrong, and we’re getting too far away from that in my opinion and it’s not healthy for any country and it’s really not healthy for a democracy like ours that’s built on the rule of law” (Faith and Freedom Coalition event, 2016).
 - And if you don’t believe there’s a truth, if you don’t believe in truth, if you’re a secularist, then how do we operate this government? How can we form a democracy of the kind that I think you and I believe in? ... I do believe we are a nation that, without God, there is no truth and it’s all about power, ideology, advancement and agenda, not doing the public service” (Upon receipt of David Horowitz Freedom Center Award, 2014).
- a) *Could you elaborate on your view that secular lawyers have contributed to “unlawfulness” at the Department of Justice?*

RESPONSE: These comments were made in response to my perception that individuals within the Department were using their own opinions of “truth” to decide when particular laws ought to be enforced, rather than consulting federal statute or the Constitution. Abdicating a duty to enforce the law based on one’s personal belief that an act clearly prohibited by law is nonetheless acceptable would fit my definition of “unlawfulness.”

- b) *Do practicing Christians have access to the “objective truth?”*
- c) *Do practicing Jews have access to the “objective truth?”*
- d) *Do practicing Muslims have access to the “objective truth?”*
- e) *Do practicing Hindus have access to the “objective truth?”*

RESPONSE: My personal philosophy on objective truth is immaterial to my duty to enforce the law and would not hinder me from doing so, if I am fortunate enough to be confirmed as Attorney General.

- f) *Could you elaborate on your statement at the hearing that a secular attorney may not have*

as good a claim to understanding the truth as a religious one?

RESPONSE: My personal philosophy on objective truth is immaterial to my duty to enforce the law and would not hinder me from doing so, if I am fortunate enough to be confirmed as Attorney General. Justice Department attorneys, secular or religious, must likewise carry out the duties of the office with fidelity to federal law and the Constitution, regardless of their personal philosophies.

- 2) Sections 208 and 216, 18 U.S.C. provide civil and criminal penalties for “an officer or employee of the executive branch of the United States Government ... [who] participates personally and substantially as a Government officer or employee, through decision, approval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee ... has a financial interest.... ”

- a) *Can you provide assurances that you will vigorously enforce 18 U.S.C. §§ 208 and 216, as well as other laws and policies relating to executive branch conflicts of interest?*

RESPONSE: Yes. If confirmed as Attorney General, I will enforce all federal laws, including 18 U.S.C. §§ 208 and 216, as appropriate based on the facts and circumstances of each case.

- b) *What specific policies will you put in place to ensure that referrals to the Department of Justice regarding potential violations of 18 U.S.C. §§ 208 and/or 216 by political appointees are fully and fairly investigated?*

RESPONSE: The Department of Justice has discretion to bring civil suits for penalties and injunctions for violations of this statute. If I am confirmed, I will carefully review any referrals regarding potential violations of this statute and prosecute meritorious cases. At this point and without the resources of the Department of Justice at my disposal, it would be premature to announce specific policies to process hypothetical referrals.

- 3) *Does the President have the authority to fire the Director of the Office of Government Ethics (OGE)?*

RESPONSE: I have not studied this question. However, it is my understanding that the Director of the Office of Government Ethics, by statute, is appointed to a five-year term by the President and confirmed by the Senate. It is also my understanding that the current director has not completed his five-year term. While some fixed-term appointees can be released only for cause, as specified in statute, there is no such provision in place for the Director of the Office of Government Ethics. If I am fortunate enough to be confirmed as Attorney General, and the President asked me to advise him on this question, I would consult with the attorneys at the Justice Department to ensure that the law is faithfully followed in reaching a decision.

- 4) Terror organizations, drug cartels, human traffickers, and other criminal enterprises abuse

United States incorporation laws to establish shell companies designed to hide assets and launder money. The law enforcement community, including the Fraternal Order of Police, Federal Law Enforcement Officers Association; National Association of Assistant U.S. Attorneys; and National District Attorneys Association, have all called on Congress to pass legislation to help law enforcement identify the beneficial owners behind these shell companies. Chuck Canterbury, President of the National Fraternal Order of Police, explains, "When we are able to expose the link between shell companies and drug trafficking, corruption, organized crime and terrorist finance, the law enforcement community is better able to keep America safe from these illegal activities and keep the proceeds of these crimes out of the U.S. financial system."

- a) *Do you agree that allowing law enforcement to obtain the identities of the beneficial owners of shell companies would help law enforcement to uncover and dismantle criminal networks?*

RESPONSE: While I have not studied this issue in depth, it is important and one which I expect to learn more about should I be confirmed. I look forward to working with you and other members of Congress to find ways to improve prosecutions in these areas.

- b) *Will you commit to working with Congress on legislation to give law enforcement the tools needed to more effectively untangle the complex web of shell companies criminals use to hide assets and launder money in the United States?*

RESPONSE: Yes.

- c) *Under current law, banks are required to undertake due diligence to ensure that their customers are not laundering funds. No similar anti-money-laundering standards apply to the attorneys who help set up the shell companies integral to criminal enterprises. Do you support extending anti-money-laundering due diligence requirements to attorneys?*

RESPONSE: While I have not studied this issue in depth, it is important and one which I expect to learn more about should I be confirmed. I look forward to working with you and other members of Congress on proposals such as this in order to increase public safety and the administration of justice.

- 5) As you know, U.S. intelligence agencies are unanimous in their conclusion that Russia interfered in the 2016 elections through a campaign of computer hacking, propaganda, and fake news.

- a) *Are you prepared to use the full resources of the Department of Justice to investigate violations of law related to Russian interference, even if such an investigation could prove politically damaging to Donald Trump?*

RESPONSE: Any investigation by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and decisions must be based solely upon

the facts and the law, and consistent with established procedures of the Department. That is the process I followed as United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

b) *Will you recuse yourself and appoint special counsel to look into the matter further?*

RESPONSE: I am not aware of a basis to recuse myself from such investigations. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

6) Several Trump campaign staff and advisors have close ties to Russia. Most notably, before he resigned, former campaign manager Paul Manafort was exposed to have received \$12.7 million in illegal cash payments from former Ukrainian President Viktor Yanukovich's pro-Russian political party between 2007 and 2012. Manafort even brokered a deal to sell Ukrainian cable TV assets to a partnership he put together with a close ally of Putin. *Are you prepared to recuse yourself and appoint special counsel to investigate any possible involvement of Trump campaign staff or advisors in the Russian election interference or any other illegal transactions with Russia that may have occurred?*

RESPONSE: I am not aware of a basis to recuse myself from such investigations. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

7) Earlier this month, the Center for Strategic and International Studies (CSIS) Cyber Policy Task Force issued a report announcing recommendations to the 45th President for strengthening the nation's cybersecurity. *Can you provide your assurances that, as Attorney General, you will familiarize yourself with these recommendations and others and equip the Department of Justice to play a strong role in deterring and combating cybercrime and holding those responsible accountable?*

RESPONSE: Yes. If I am fortunate enough to be confirmed as Attorney General, I anticipate that I and those in the Justice Department who lead its efforts on cybersecurity issues will be briefed on the recommendations of the report.

8) Referring to the "alt right," White House strategist Steve Bannon, formerly of Breitbart News, has called you "one of the intellectual, moral leaders of this populist, nationalist movement [alt right] in this country." In February 2015, you told Bannon that "Breitbart has been the absolute bright spot in this whole debate. You get it, your writers get it, every day they find new information that I use repeatedly in debate on the floor of the Senate because it's highlighting the kind of problems that we have. And nobody else is doing it effectively, it's just not happening, so to me it's like a source."

Under Mr. Bannon's leadership, Breitbart News ran the articles with the following headlines:

- Birth Control Makes Women Unattractive and Crazy
- The Solution to Online “Harassment” is Simple: Women Should Log Off
- There’s No Bias Against Women in Tech, They Just Suck at Interviews
- Gabby Giffords: The Gun Control Movement’s Human Shield
- Racist, Pro-Nazi Roots of Planned Parenthood Revealed
- Bill Kristol: Republican Spoiler, Renegade Jew
- Trannies Whine About Hilarious Bruce Jenner Billboard

- a) *Do you continue to believe that Breitbart News is a “bright spot”?*
- b) *Do you believe Breitbart News is a reliable source of information?*
- c) *Do you believe it would be appropriate to rely on Breitbart as a source in your role as Attorney General, should you be confirmed? Why or why not?*

RESPONSE: I am not familiar with the articles referenced above. I believe a number of media sources contain useful information. Of course, I would not rely on any information from any media source without verification.

- 9) Jurisdictions across the country, from South Carolina to California and Ohio to New Hampshire, are investing in a range of treatment alternatives to incarceration for low-level drug offenders. These programs are designed to shift the emphasis of law enforcement intervention toward the delivery of drug treatment and other services. *In addition to drug courts, what treatment alternatives to incarceration models do you support and why?*

RESPONSE: Under the right circumstances, treatment alternatives to incarceration can be part of an effective law enforcement strategy to get people off the cycle of crime and drugs. If used, treatment alternatives should be in sync with traditional law enforcement, and be carefully implemented on a case-by-case basis. My support for treatment alternatives will be guided by many factors, including a rigorous examination of the rate of success and the effect on deterrence of criminal activity.

- 10) There is an emerging consensus in Congress, as well as the addiction field, and even in the law enforcement community that we can’t arrest our way out of the drug problem and that the emphasis should be on directing people who struggle with addiction into treatment and away from the criminal justice system.

- a) *Do you agree with this view?*

RESPONSE: Treatment alternatives can be one part of an effective and comprehensive law enforcement response to the spread of dangerous drugs. When I was a United States Attorney, my office spent significant resources combating narcotics. I have also been a strong supporter of drug courts. If I am fortunate enough to be confirmed as Attorney General, I would carefully analyze the benefits that could be realized by alternatives to law enforcement and weigh them carefully against the costs. However, traditional law enforcement approaches have succeeded in lowering the prevalence of illegal drugs in the past, and I believe those tools should remain at the forefront of our approach. To date, treatment has not proven universally successful. Prevention of use and addiction is critical, also.

b) *What steps would you consider taking as Attorney General to support this goal?*

RESPONSE: See response to 10(a).

11) *Do you intend to dismantle or keep intact the Department of Justice's Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Working Group?*

RESPONSE: I am not familiar with this working group. However, if I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate any current practices of the Department as to their effectiveness in the enforcement of federal law and the protections inherent therein.

12) In January 2010, DOJ attorney David Margolis issued a memorandum suggesting that attorneys in the Office of Legal Counsel may owe a duty of candor to their clients that is less than the duty owed by workaday litigators to their clients. Since that time, I have been informed that the Department no longer allows this loophole in ethical guidance it provides its attorneys. *What is your view with respect to the duty of candor that OLC attorneys owe their clients?*

RESPONSE: The Office of Legal Counsel is a critical component within the Department of Justice. I would expect OLC to provide candid, independent, and principled advice. It is essential that OLC's lawyers be of extraordinary legal ability in order that they be able to provide strongly reasoned analysis that is clear and accurate.

13) President Trump has called the Foreign Corrupt Practices Act a "terrible law." But the Act, as amended by the International Anti-Bribery Act of 1998, is the cornerstone of federal efforts to prevent and prosecute bribery of foreign officials by U.S. corporations, and to maintain a fair and level playing field for small and mid-size corporations doing business overseas. Since 2008, the federal government—DOJ, SEC, and the FBI—have maintained about 150 active investigations at any given time, resulting in \$1.56 billion in fines in 2014.

Will you commit to continued vigorous enforcement of the Foreign Corrupt Practices Act and the International Anti-Bribery Act of 1998?

RESPONSE: Yes, if confirmed as Attorney General, I will enforce all federal laws, including the Foreign Corrupt Practices Act and the International Anti-Bribery Act of 1998, as appropriate based on the facts and circumstances of each case.

14) *Is it still your view that broad mens rea reform, such as that encompassed in the Mens Rea Reform Act of 2015 (S. 2298) would hamper the ability of prosecutors to prosecute a wide array of federal crimes?*

RESPONSE: Changes to *mens rea* requirements could have a significant impact on the ability of the Justice Department to combat crime in the United States. However, I recognize that Congress may determine to enact change to law. If I am fortunate enough to be confirmed as

Attorney General, I will enforce the laws that Congress passes.

15) In recently criticizing commutations granted by President Obama, you remarked, "So-called low-level, non-violent offenders simply do not exist in the Federal system."

a) *Do you believe this is a true statement?*

RESPONSE: This quote is taken out-of-context from a longer statement against President Obama's commutations of 214 drug-traffickers and firearms felons. I believe it to be a true statement.

b) *What evidence do you have to support it?*

RESPONSE: The lowering of the crack cocaine sentencing disparity that I spearheaded with Senator Durbin in the Senate, as well as changes in sentencing law and practice by the Sentencing Commission and the Supreme Court, have substantially curtailed the number of low-level, non-violent offenders in the federal system. The Bureau of Justice Statistics keeps detailed information on the federal criminal justice system, as does the federal Bureau of Prisons.

16) At your hearing, you testified: "The guidelines have been either made voluntary by the sentencing commission in the courts and the policies of the attorney general." *Are you aware that the Sentencing Guidelines were made voluntary because of a Supreme Court decision, not because of the Department of Justice or the Sentencing Commission?*

RESPONSE: I was talking about unilateral actions by the U.S. Sentencing Commission to make changes to the sentencing guidelines, with the full support of the Obama Administration, resulting in the release of tens of thousands of federal drug offenders, many of whom are violent offenders and/or have serious criminal histories. I have often discussed the impact of the Supreme Court's decision in *United States v. Booker* and my views in that regard are well-known.

17) At your hearing, you testified: "The Justice Department now allows a prosecutor to present a case to the judge that doesn't fully reflect the evidence that they have in their files about a case. That's a problematic thing. You shouldn't charge, I think it's problematic and difficult to justify a prosecutor charging five kilos of heroin when the actual amount was 10 to get a lower sentence."

a) *From where do you derive the idea that a prosecutor must charge the maximum charge in every case?*

b) *Do you hold this view consistently across all federal criminal statutes and civil charges?*

RESPONSE to (a) – (b): Prosecutors retain discretion in the application of law enforcement resources available to them. Generally speaking, prosecutors evaluate the evidence available in a case as a major factor in determining what to charge.

- c) The United States Attorney's Manual clearly disagrees with your narrow view of prosecutorial discretion. It states: "Under the Federal criminal justice system, the prosecutor has wide latitude in determining when, whom, how, and even whether to prosecute for apparent violations of Federal criminal law. The prosecutor's broad discretion in such areas as initiating or foregoing prosecutions, selecting or recommending specific charges, and terminating prosecutions by accepting guilty pleas has been recognized on numerous occasions by the courts." *Please explain how your testimony fits with the substantial discretion retained by prosecutors to determine which specific charges should be filed in a given case.*

RESPONSE: The United States Attorney's Manual sets forth that discretion "should be read in the broader context of the basic responsibilities of Federal prosecutors: assurance of warranted punishment, deterrence of further criminal conduct, protection of the public from dangerous offenders, and rehabilitation of offenders . . . while making certain also that the rights of individuals are scrupulously protected." If I am fortunate enough to be confirmed as Attorney General, the Justice Department will be mindful of these basic responsibilities.

- d) The American Bar Association states one of the duties of a prosecutor is to "seek justice, not merely to convict," and another as, "the prosecutor must exercise sound discretion in the performance of his or her functions." *How is it consistent with those obligations to always charge the maximum charge or charges in a given case?*

RESPONSE: As set forth in the United States Attorney's Manual, a prosecutor's discretion should be read in the broader context of the basic responsibilities of federal prosecutors. If I am fortunate enough to be confirmed as Attorney General, the Justice Department will be mindful of these basic responsibilities.

- e) *If you believe there are any considerations that counsel against levying the maximum charges in a given case, what are those considerations? Please list all of them.*

RESPONSE: See response to 17(c).

- 18) In the context of hate crimes prosecutions, you agreed with Senator Graham's statement as follows: "When the state's doing its job, the federal government should let the states do their job." You then said it is a "general principle." Your testimony here seems inconsistent with your view of other prosecutions, particularly drug prosecutions.

- a) *Why in some contexts do you think the federal government should step in and file maximum charges, but in other where federal charges are available you nevertheless believe the states should take the lead? Please explain.*

RESPONSE: Whether the Federal government should step into an area where States have traditional jurisdiction should be determined on a case-by-case basis, based on the facts and applicable law in each individual case.

- b) *Do you believe the federal government must always file maximum charges under the*

federal hate crimes law when the facts support such charges? Please explain.

- c) *Do you believe the federal government must always file maximum charges under the civil rights laws when the facts support such charges? Please explain.*

RESPONSE to (b) – (c): If I am so fortunate as to be confirmed as Attorney General, the Justice Department will be guided by the applicable facts and law in each individual case, together with appropriate Justice Department guidelines, in determining which charges to file.

- d) *Do you believe the federal government must always bring the most civil claims supportable by the facts under the civil rights laws? Please explain.*

- e) *Do you believe the federal government must always bring the most civil claims supportable by the facts under the voting rights laws? Please explain.*

RESPONSE to (d) – (e): If I am so fortunate as to be confirmed as Attorney General, the Justice Department will be guided by the applicable facts and law in each individual case, together with appropriate Justice Department guidelines, in determining which claims to file.

- 19) You opposed the Matthew Shepard Hate Crimes Prevention Act, explaining that there was not sufficient evidence that crimes against the LGBT community were being underprosecuted at the state level. *How many underprosecuted crimes are necessary to justify federal intervention?*

RESPONSE: Any statement I made during debate over the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 reflected an opinion that I reached based on information available to me at the time. If I am fortunate enough to be confirmed as Attorney General, I will work diligently to ensure that all Americans receive equal protection under our laws.

- 20) The Southern Poverty Law Center and the Counsel on American-Islamic Relations both reported a sharp increase in hate crimes following the election.

- a) *Do you have an opinion on the reason for cause this increase?*

RESPONSE: I am unable to thoroughly evaluate this assertion or offer an opinion, as I have not been presented with information necessary to do so. However, if I am fortunate enough to be confirmed as Attorney General, I would expect to learn more about this issue and give it my careful consideration.

- b) *What steps will you take to investigate this trend?*

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law and the protections inherent therein. Any specific steps I will take to this end will be decided after careful evaluation of any current practices of the Department and the effectiveness of those practices.

- c) *What steps will you take to work with minority communities to build trust and open lines of communication with the Department of Justice?*

RESPONSE: Effective engagement of state and local law enforcement, and supporting their outreach efforts in communities, is absolutely critical to protecting all Americans. If I am fortunate enough to be confirmed as Attorney General, I will ensure that the resources of the Department of Justice and our partnerships with state and local law enforcement are utilized in a way that will ensure public safety and full enforcement of the law.

- d) *What is the federal role in preventing and prosecuting crimes directed against racial, ethnic, and religious minority groups?*

RESPONSE: If confirmed, it will be my duty to ensure that all Americans receive equal protection under our laws. This will necessarily entail strong communication and partnerships with state and local law enforcement. From time to time, federal involvement might be necessary where federal law is not being followed or where equal justice under the law is not being administered. Decisions to intervene must only be reached after careful consideration of the facts and applicable law.

- 21) *Will the Civil Rights Division continue to investigate disparate impact discrimination claims?*

RESPONSE: The Civil Rights Division was established to ensure equal protection of the law, particularly for the vulnerable, and to enforce federal anti-discrimination laws. This will continue to be the mission of the Division, if I am fortunate enough to be confirmed as Attorney General.

- 22) In 2003, former Attorney General John Ashcroft directed prosecutors to charge the “most serious, readily provable offense” available. You appeared to criticize any changes in policy to the Ashcroft memo instituted by former Attorney General Eric Holder in 2013. What are the substantive changes, if any, you intend to make as Attorney General to the Holder 2013 memo on “Department Policy on Charging and Sentencing”? *Please outline the rationale for the changes that you would propose.*

RESPONSE: I was not asked specifically for my position on the Ashcroft memo. Substantive changes, if any, to the Holder memo would be made after internal discussions with Justice Department staff, and consultation with law enforcement agencies.

- 23) In 1996, as Alabama Attorney General, you told the Crime Subcommittee of the House Judiciary Committee that “[w]e must end this separation of the irrational and artificial wall between [the adult and juvenile] justice systems.” You also lauded your office’s push to remove the ability of a juvenile to immediately appeal his transfer to adult court and lamented the “red tape” associated with transfer hearings.

- a) *Do you still believe that the division between the criminal and juvenile justice systems in this country is inappropriate?*

RESPONSE: I have spoken many times of the need to address the problem of juvenile crime in the United States. In some instances, outmoded juvenile justice systems failed to adequately address violent crime among juveniles. Division between juvenile and adult treatment is appropriate, as with misdemeanor offenders. However, in some cases it is appropriate for serious violent crime to be handled by the criminal justice system.

b) *Do you believe that youth who are detained should be separated from adults?*

RESPONSE: It is certainly appropriate, where possible, for juveniles to be separated from adult criminals, if sufficient facilities and resources are available to law enforcement.

24) In 1997, you introduced a bill in this chamber that would allow states to jail juveniles as young as 13 with adults, prior even to conviction, would cut funding for juvenile crime prevention while increasing funding for new detention centers, and would allow states to expel children school for six months for "offenses" such as smoking cigarettes. ***Does the Violent and Repeat Juvenile Offenders Act of 1997 still reflect your views with respect to juvenile justice?***

RESPONSE: I introduced the Violent and Repeat Juvenile Offenders Act in the Senate to address a set of conditions that existed in this country 20 years ago. Since then, we have made tremendous progress in law enforcement and reduction of crime nationwide. I have not studied the provisions of that legislation in the context of present-day circumstances of juvenile crime.

25) Under President Bush, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) suffered a severe loss of morale and the desertion of numerous career civil servants. Administrator Flores left the Office under a cloud of corruption and mismanagement.

a) *Can you assure the Senate that you will take the responsibility of this Office seriously and ensure, to the extent that you are able, its capable and competent leadership?*

RESPONSE: It is important that grant programs be run efficiently and effectively. We must ensure that we eliminate waste, fraud and mismanagement in all grant programs. To accomplish this, we need capable and competent leadership so that the money that is appropriated by Congress is used as efficiently as possible in accomplishing the ends identified in such appropriations.

b) *As far as the Juvenile Justice and Delinquency Prevention Act (JJDP), do we have your assurances that you will empower OJJDP to effectively monitor states' compliance with its core protections for youth?*

RESPONSE: As Attorney General, I will diligently monitor compliance with any statutory requirements of the Juvenile Justice and Delinquency Prevention Act, or any other Act of Congress, so long as they are lawful and consistent with the Constitution.

26) In a 1999 floor speech, you decried the lack of enforcement of campaign finance laws and called for increased disclosure of outside spending. You stated:

- *Frankly, we ought to start enforcing the law. I spent 15 years as a Federal prosecutor. We are not doing a very good job, in my view, of finding people who violate existing laws and seeing that people are held accountable. There are going to be mistakes, and I am not talking about witch hunts and trying to disturb honest and decent candidates who have done their best to comply with many regulations, but we really need to watch those cases where we have serious enforcement problems.*

Will you commit to vigorously enforcing existing campaign finance laws, including prosecuting individuals that opening flaunt campaign finance disclosure laws, in your role as Attorney General?

RESPONSE: Yes, I will vigorously enforce all federal laws, including campaign finance laws, as appropriate based on the facts and circumstances of each case.

27) Social welfare groups, organized under section 501(c)(4) of the Tax Code, are required to report political spending to the Federal Election Commission (FEC). Social Welfare Organizations are also required to file reports with the Internal Revenue Service (IRS), detailing the groups' actual or expected political activity.

- **Question 15 on IRS Form 1024** (application for recognition of tax exemption) asks, "Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office . . . ?"
- **Question 3 on IRS Form 990** (annual return of exempt organization) asks, "Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If 'Yes,' complete Schedule C, Part I."

Both IRS Forms 1024 and 990 are signed under penalty of perjury. Section 1001 of the U.S. criminal code, makes it a criminal offense to make 'any materially false, fictitious or fraudulent statement or representation' in official business with the government; and section 7206 of the Internal Revenue Code, makes it a crime to willfully make a false material statement on a tax document filed under penalty of perjury.

- a) *In your view, if an organization files inconsistent statements regarding their political activity with the FEC and the IRS, can the group be liable under section 1101 or 7206?*
- b) *Will you commit to investigating any such inconsistent statements of which the Department of Justice becomes aware?*

RESPONSE to (a) – (b): The question posited is not one on which I have devoted any study, and would depend on a number of facts and specific circumstances which do not exist at this time. Therefore, I am not in a position to offer even an informal opinion on it. If I am confirmed as Attorney General, I would consult with career prosecutors at the Department before reaching a decision.

28) At your confirmation hearing, you stated "I would just say that every election needs to be

managed closely and we need to ensure that there is integrity in it. And I do believe we regularly have fraudulent activities occur during election cycles.”

- a) *How did you reach the conclusion that “fraudulent activities” occur regularly during election cycles?*
- b) *What types of “fraudulent activities” occur during election cycles?*
- c) *Are you aware of any evidence of widespread voter fraud?*

RESPONSE to (a) – (c): As I testified before the Committee, I believe that fraudulent activities regularly occur during election cycles. There is no reason to believe that this election is any exception. I would also note that the bipartisan Carter-Baker Commission report, “Building Confidence in U.S. Elections: Report of the Commission on Federal Election Reform,” found that “there is no doubt” that voter fraud occurs, that “a good ID system could deter, detect, or eliminate several potential avenues of fraud – such as multiple voting or voting by individuals using the identities of others or those who are deceased – and thus it can enhance confidence,” and that “most advanced democracies have fraud-proof voting or national ID cards, and their democracies remain strong.”

- d) *Does the Department of Justice have sufficient tools to combat voter fraud?*

RESPONSE: The Department of Justice has a number of important responsibilities in this area, including investigating and prosecuting election fraud that violates the federal criminal statutes, as well as investigating and bringing suit to prevent violations of the federal voting rights laws. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department’s jurisdiction, including the laws regarding voting, in a fair and even-handed manner. Any specific enforcement decisions or actions would depend upon the facts and circumstances of each case.

29) As discussed at your confirmation hearing, the Department of Justice has, at various points and under both Democratic and Republican Administrations, adopted procedures governing communications between the White House and DOJ in order to prevent political interference. Such efforts were documented, in the Clinton Administration, in correspondence between the Reno Justice Department and Senator Hatch. Several years later, following the hiring and personnel scandals under Attorney General Gonzales, Attorney General Michael Mukasey wrote that, “Communications [between the White House and DOJ] with respect to pending criminal or civil-enforcement matters...must be limited” in order to ensure “that there is public confidence that the laws of the United States are administered and enforced in an impartial manner.”

- a) *Will you commit to implementing a policy limiting contacts and channels of communication between the White House and the Department of Justice based on the principles articulated in correspondence between the Clinton DOJ and White House as well as in the Mukasey letter?*

b) *If so, will you commit to making this policy available to the Senate Judiciary Committee?*

RESPONSE (a) – (b): As I testified before the Committee, I will maintain Department of Justice policies and procedures governing communications between the White House and the Department, including the Mukasey memorandum.

c) *With respect to the Civil Rights Division, can you provide your assurances that you will follow the “Experienced Attorney and Attorney Manager Hiring Policy,” which outlines a detailed and transparent process that minimizes undue political interference when new attorneys are hired?*

RESPONSE: The Hatch Act prohibits partisan politics from being considered in making career hires. Except for the very small number of political appointees in the Justice Department, partisan politics is irrelevant in hiring and I will ensure that all managers and supervisors are trained in these requirements when they are hired.

30) Subject to certain limitations, the United States Attorneys Manual authorizes the Deputy Assistant Attorneys General in the Environment and Natural Resources Division, with respect to matters assigned to the Environment and Natural Resources Division, the “authority to compromise, dismiss or close cases.” *Do you commit to report to this Committee every instance in which the ENRD Assistant Attorney General makes a determination to close or settle a case (i.e., in which such decisions are made without relying on the delegation authority outlined above and in USAM 5-5.220)?*

RESPONSE: It is important to have open channels of communication between the Department of Justice and Congress, particularly with respect to oversight. I am unfamiliar with the provision referenced in the question; however, if confirmed, I look forward to examining this issue more closely.

31) *Do you commit to report to this Committee each instance in which DOJ declines to initiate a case referred by the Environmental Protection Agency?*

RESPONSE: I appreciate the important role Congress plays in conducting oversight of federal departments and agencies, including the Department of Justice, and the enforcement activities that are taken to execute our nation’s environmental laws. If confirmed as Attorney General, I will follow applicable laws, regulations, and Department policies to ensure lawful and appropriate responses to congressional requests for this kind of information.

32) *Do you commit to report to this Committee every instance in which the Civil Rights Division Assistant Attorney General makes a determination to close or settle a case?*

RESPONSE: If confirmed as Attorney General, I will follow applicable laws, regulations, and Department policies to ensure lawful and appropriate responses to congressional requests for this kind of information.

33) Should you be confirmed as the lead law enforcement official for the United States, you

would be responsible for the faithful execution of the Clean Air Act and other important environmental statutes. With respect to the Clean Air Act specifically, the Supreme Court found in its 2007 *Massachusetts v. Environmental Protection Agency* decision that there was insufficient uncertainty regarding the factual basis of manmade global climate change to permit the EPA to justify not regulating carbon dioxide (and greenhouse gas) as an air pollutant under the Clean Air Act. *As Attorney General, would you ensure that EPA remains true to the letter of the law and that decision?*

RESPONSE: I understand the Supreme Court ruled in *Massachusetts v. Environmental Protection Agency* that greenhouse gases are considered “air pollutants” for purposes of the Clean Air Act. As Attorney General, my responsibility would be to enforce federal law as interpreted by the Supreme Court.

PUBLIC INTEREST

— LEGAL FOUNDATION —

January 5, 2017

The Honorable Charles E. Grassley
Chairman
The Honorable Diane Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Nomination of the Honorable Jeff Sessions to the Office of Attorney General of the United States; Deval Patrick Letter of January 3, 2017.

Dear Chairman Grassley and Ranking Member Feinstein:

There were a number of significant legal and factual errors in a January 3, 2017 letter from Mr. Deval L. Patrick to your Committee. The letter related to the nomination of Senator Jeff Sessions to the office of Attorney General of the United States. It would be unfortunate if Committee members were to rely on the representations in the letter when deciding on this nomination. Because the letter touched on matters about which I have some close familiarity, and matters that relate to the Public Interest Legal Foundation's mission of protecting election integrity, it is important to understand the errors in Mr. Patrick's letter.

Most notably, Mr. Patrick's recitation of the legal and factual circumstances of the prosecutions for improperly assisting the casting of ballots widely misses the mark. Mr. Patrick characterizes the prosecution in the 1980's of individuals in Perry County, Alabama, who were harvesting and often casting absentee ballots on behalf of African-American voters, as if it were a noble civil rights endeavor. This characterization could not be farther from the truth.

While I was an attorney at the Voting Section at the United States Department of Justice Civil Rights Division, I brought what are likely the only two voter intimidation cases filed by the United States under Section 11 of the Voting Rights Act in at least three decades. One went to trial and involved corrupt behavior strikingly similar to that which Mr. Sessions prosecuted at the time. The opinion by the United States District Court in that case both defines what is actual voter "intimidation" prohibited by federal law and catalogs the corrupt and criminal methods used by vote harvesters in the South to exploit African-American voters. Far from being some noble endeavor couched in civil rights, these absentee ballot activities steal votes by stripping the will of the voter away and giving it to a corrupt political enterprise. Far from being an exercise in voter intimidation, prosecution of these crimes by federal officials is essential to preserving

the right to vote and the integrity of our elections. Mr. Patrick is squarely wrong when he says otherwise.

The right to vote means the right to vote of *the voter*, not the right of a political machine *to force assistance* on voters or *mark the ballot for them without the voter's input*. And it certainly does not mean the right to alter the ballot of a voter against the will of the voter, which was the central charge brought by Mr. Sessions in the Perry County case. Mr. Sessions should be praised for pressing these prosecutions--not criticized. Indeed, you will see below that after Mr. Sessions' prosecutorial efforts in the 1980's, criminality surrounding elections in this part of Alabama only grew worse -- and with it the wholesale disenfranchisement of African-American voters by a corrupt political machine.

Legal Errors in Mr. Patrick's Letter

Mr. Patrick makes the implausible claim that the **"theory of Mr. Sessions' case was that it was a federal crime for someone to help someone else vote or to advise them how to vote."** Mr. Patrick may not have read the actual indictment very carefully in the case against his client, Spencer Hogue, Jr., and Albert and Evelyn Turner. The indictment alleged two different statutory charges -- a violation of 18 U.S.C. § 1341 -- essentially a mail fraud statute -- and a violation of 42 U.S.C. § 1973i(e) (since recodified at 52 U.S.C. § 10307(e)) which bans voting more than once in a federal election. Mr. Patrick erroneously alludes to the right of voters to receive assistance (found in Section 208 of the Voting Rights Act of 1965).

But the United States has never considered the right of voters to receive assistance to extend to the right of a political machine to corruptly harvest and cast absentee ballots without the input of the voters. Perhaps Mr. Patrick holds the view that since the voters and the harvesters were merely of the same race, no crime occurred because the harvesters knew who the voters should (or would) support. While this excuse might seem outlandish to sensible people, it was an excuse which I encountered frequently while I investigated these types of cases at the Department of Justice Voting Section. It is not an excuse with a basis in law.

The United States District Court in the Southern District of Mississippi confronted nearly identical behavior from a region not far from Perry County in the case of *United States v. Ike Brown*. (Attached and found at 494 F.Supp.2d 440 (S.D.Miss. 2007)). I served on the trial team in that case and spent a number of years investigating behavior nearly identical to what was alleged in Mr. Sessions' prosecution. Some portions of the District Court's opinion in that case are worth highlighting:

The Government also presented direct evidence of fraud in the collection of absentee ballots by one notary in particular, Carrie Kate Windham Another black voter, Nikki Nicole Halbert, testified at trial that Windham came to her home and recruited her and her mother to vote absentee, telling them all they had to do in order to vote absentee was to let Windham know. Although Halbert never requested an absent ballot application, a ballot came in the mail. Not long after, Windham came by Halbert's house to pick up the ballots. Halbert had already voted her ballot. Halbert handed Windham the envelope and ballot and Windham

left without signing or sealing it. When shown the application form and envelope at trial, Halbert maintained that the signatures on the application and ballot envelope were not hers, and that whoever had filled out the application had checked the box indicating Halbert was voting absentee because she had a temporary or permanent disability, which was untrue.

U.S. v. Brown, 459-60. The quoted example is but one of many instances of similar absentee ballot fraud described in the opinion of the District Court. Contrary to Mr. Patrick's letter, prosecuting this sort of absentee ballot behavior is not based on an outlandish theory that anyone, including Mr. Sessions, believes it violates federal law to assist someone to vote. *Federal law is violated when absentee ballot harvesters cast multiple ballots without the input or against the will of the voters.* Section 208's promise of the right of assistance is not a federal right to have your vote stolen.

Mr. Sessions should be praised, not criticized, for bringing cases that protect the sanctity of the vote and the individual dignity of the voters in Perry County who had their vote stolen. Mr. Patrick should reacquaint himself with the indictment because the victims of the criminal enterprise in Perry County were named individually. These victims, all of whom were black, had their votes stolen when someone else voted for them.

I would urge members of the Committee to read the full opinion in *U.S. v. Brown* to enjoy a complete understanding of the pervasive, insidious and immoral violation of voting rights which occurred in that case through the imposition of a scheme strikingly similar to the one which Mr. Sessions prosecuted. Members will see that Section 208's right to receive assistance has nothing to do with criminals forcing assistance on them in an absentee ballot fraud scheme.

Lastly, Mr. Patrick's **most incendiary and unfair allegation is that it constitutes voter intimidation to prosecute voter fraud.** Voter intimidation is prohibited by Section 11 of the Voting Rights Act. The United States brought, and lost, a voter intimidation claim in *U.S. v. Brown*.

Members of the Committee are free to read the facts the United States alleged in that case, and that the District Court found insufficient to establish intimidation, and thereafter judge whether Mr. Patrick's claims are credible. In sum, they are not. The process of producing witnesses for trial in an absentee ballot fraud case is not easy – especially when the fraud is as pervasive as it was in Perry and Noxubee Counties. Mr. Patrick surely understands the enormously complex task to subpoena and produce dozens of witnesses, all governed by rules of procedure and ethical cannons, and should not so lightly mischaracterize those efforts as “a concerted campaign to intimidate susceptible witnesses.” His letter said “many observers” held this view. He never says *he* holds this view and one can only hope and presume a former Department of Justice official familiar with the complexities of producing large numbers of witnesses in a criminal case would not share such an incendiary and unfair opinion.

Factual Errors in Mr. Patrick's letter

Mr. Patrick's letter has a number of important factual errors.

Contrary to the assumptions in his letter, the prosecution brought by Mr. Sessions was not initiated only on his own motion but was approved by the Public Integrity Section at the Justice Department. Any election crimes prosecution at the Justice Department undergoes multiple layers of review and oversight. For example, the Public Integrity Section, Election Crimes Branch, would conduct an independent review of the merits of the case. This unit would be required to approve any proposed prosecution as being in the interests of justice and provable beyond a reasonable doubt. The Public Integrity Section is independent and would have vetoed and stopped any case as preposterous as the one characterized by Mr. Patrick. You will note Mr. Patrick entirely omits any mention of the Public Integrity Section's review in his letter – an omission which is most unfortunate because he certainly knew it occurred from his own time spent at the Justice Department supervising such matters.

Contrary to the assumptions in his letter, the prosecution brought by Mr. Sessions was overseen by officials in the Criminal Division of the Department of Justice. Mr. Patrick surely understands that the Criminal Division *supervised* the prosecution. The prosecution was not “led” by Mr. Sessions as Mr. Patrick claims in his letter. Prosecutions of election-related crimes are “supervised” by Criminal Division officials in Washington D.C. at Main Justice. “The Section has exclusive jurisdiction over allegations of criminal misconduct on the part of federal judges and also *supervises the nationwide investigation and prosecution of election crimes.*” (emphasis added)(found at <https://www.justice.gov/criminal/pin>). “The Department of Justice has a longstanding consultation policy for election crimes investigations involving violations of the statutes discussed in this chapter [including casting of multiple ballots]. The policy is set forth in Section 9-85.210 of the U.S. DEP’T OF JUSTICE, UNITED STATES ATTORNEYS’ MANUAL (USAM).” FEDERAL PROSECUTION OF ELECTION OFFENSES, Seventh Edition, 2007. As Mr. John Keeney, a Deputy Assistant Attorney General in the Criminal Division of the Justice Department, testified to the Senate Judiciary Committee in Mr. Sessions’ 1986 confirmation hearing, the Public Integrity Section was closely involved in the prosecution “at every stage of the process.”

Contrary to the statements in his letter, the federal court overseeing the prosecution found the theories plausible. Mr. Patrick did not inform this Committee in his letter that United States District Judge Emmett Cox (later elevated to the Court of Appeals for the Eleventh Circuit) found the evidence submitted to the jury to be sufficient to support convictions on legal theories brought in the prosecution, which he found to be perfectly plausible. On July 3, 1985, he very specifically *denied* motions for judgments of acquittal on many of the criminal counts brought in the case. This finding by the District Court that the prosecution presented plausible claims included the charges that the defendants actively altered the votes cast by certain voters without their consent and that the defendants were voting multiple absentee ballots. (Specifically Counts 28 and 29 of the indictment.)

Mr. Patrick’s letter omits the fact that the defendants offered to plead guilty to misdemeanor election crimes. Certainly if the prosecution’s case were as outlandish as Mr. Patrick portrays it to be, no attorney would have properly and ethically advised his client to plead guilty. As Mr. Patrick represented one of the defendants, perhaps he can explain this conundrum to the Committee.

Since Mr. Sessions brought the case in question, the disturbing pattern of absentee ballot fraud has continued to plague this part of Alabama. As I note in my book *Injustice*:

By 2004 and 2005, elections in Hale and Perry Counties featured open lawlessness both in the polls and in the collection of absentee ballots. Cochran and others discovered false voting registration addresses, including abandoned houses with trees growing through them and vacant lots sporting only a fire hydrant. Meanwhile, teams of notaries swarmed the counties collecting absentee ballots from black voters. After questionable absentee ballots were seized and placed in a bank vault to await further scrutiny, *the bank was burned to the ground overnight, destroying the evidence.*

The criminal absentee ballot harvesters apparently learned that a jury trial is not the only way to escape justice. In August 2009, multiple individuals entered guilty pleas for possessing forged absentee ballots in this same part of Alabama, including Gay Nell Tinker, Rosie Lyles and Valada Paige Banks. Despite her absentee ballot fraud convictions, Tinker (now named Singleton) *presently serves on the bench* as the appointed municipal magistrate in Greensboro, Alabama.

Mr. Sessions should be applauded for his efforts to combat voter fraud in Alabama. Mr. Patrick's letter misses the mark and should not be given credible consideration. Lawlessness in elections is a pervasive and ongoing problem in Perry County, Alabama. When political machines steal the votes of the most vulnerable, everyone should be outraged. All sides of the election law debate recognize that absentee ballot fraud is a serious problem. On *National Public Radio*, one law professor even noted "The most common kind of voter fraud we see, usually in a local election where maybe dozens or 100 ballots could make a difference, involving absentee ballots. Usually, it's absentee ballots that are bought or sold." (Found at <http://www.npr.org/2016/10/25/499274789/rigging-an-election-its-not-so-easy-voting-law-expert-says>).

The Public Interest Legal Foundation (PILF) is a 501(c)(3) public interest law firm dedicated to election integrity. PILF exists to assist states and other in aiding the cause of election integrity and fighting against lawlessness in American elections. Drawing on numerous experts in the field, PILF protects the right to vote and preserves the Constitutional framework of American elections.

Thank you for your attention,

Respectfully,



Christian Adams, President
Public Interest Legal Foundation

attachment



January 13, 2017

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Sharon L. Edwards
Shereen El Feki, PhD
Robin Elliott
Robert Garofalo, MD, MPH
Erica J. Gibson, MD
Kirin Gupta
Sarah Higdon-Sudow
Miriam "Mimi" Madrid
Carly Manes
Karlo Barrios Marcelo
Garrett Mize
Suzanne Petroni, PhD
Héctor Sanchez-Flores
Judy Senderowitz
Valerie Tarco, PhD
Rich Thomas, JD

Debra Hauser, MPH
President

Chairman Chuck Grassley
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
United States Senate

Re: Testimony on the nomination of Senator Jeff Sessions to serve as
United States Attorney General

Dear Chairman Grassley and Ranking Member Feinstein:

Advocates for Youth ("Advocates") is a national nonprofit organization that partners with youth leaders, adult allies, and youth-serving organizations to advocate for policies and champion programs that recognize young people's rights to honest sexual health information; accessible, confidential, and affordable sexual health services; and the resources and opportunities necessary to create equity for all youth. ***We urge the Senate Judiciary Committee ("Committee") to reject Senator Jeff Sessions' nomination for Attorney General.***

Young people, particularly low-income youth, young people of color, immigrant youth and LGBT young people, face significant barriers to accessing safe community environments, and information and care related to their own health and well-being. We believe the potential nomination of Senator Jeff Sessions will do nothing but exacerbate obstacles for young people in the United States and we urge the Committee to oppose his nomination.

Advocates partners with youth activists from across the country on a number of reproductive and sexual health/rights issues. The following are testimonies from our youth activists stating the reasons why they urge the Senate Judiciary Committee to reject Senator Jeff Sessions' nomination.

Youth Testimony

Sam St. John, age 16, Birmingham, Alabama:

I am a high school student and a current constituent of Senator Jeff Sessions. I am also a member of the Alabama Alliance for Healthy Youth. As an advocate for the LGBT+ community in particular, and the promotion of sexual health and reproductive rights for all people, I doubt Senator Sessions' past actions and statements display a regard for the protection of civil and human rights and individuals' bodily autonomy. Sessions, in fact, dismisses those who work to protect these rights: as Attorney General of Alabama, Senator Sessions attempted to bar the

Page 2

Southern LGBT College Conference from meeting at the University of Alabama on the basis of a defunct and discriminatory anti-LGBT law that was later ruled unconstitutional by the United States Supreme Court.ⁱ I do not trust Senator Sessions to support such safe spaces, institutions, or even laws protecting young people, especially LGBT young people.

In my opinion, a candidate with no experience whatsoever would be far preferable to hold the venerable office of the Attorney General than Senator Jeff Sessions, a man with a long career founded upon the repression of civil liberties. After the 2015 Supreme Court Decision in *Obergefell v. Hodges*, the Supreme Court Case establishing the right of same-sex couples to marry, Senator Sessions stated that the case was “part of a continuing effort to secularize, by force and intimidation, a society that would not exist but for the faith which inspired people to sail across unknown waters.”ⁱⁱ This type of negative rhetoric has very serious implications on the lives of those in my community.

There are few places more historically infamous for oppression *de jure* than Alabama. As a person born in Northport and raised in Birmingham, I feel that this affiliation grants me a great opportunity to comment on the state of civil liberties in Alabama. People in Alabama have not forgotten Senator Sessions’ actions, such as his opposition to a lawsuit brought by the poorest, most marginalized schools in Alabama for receiving unequal funding.ⁱⁱⁱ Actions like this make me feel that Senator Sessions does not have the interest of the most marginalized young people at heart.

Sessions has done all that he can to prevent institutions including schools, ACLU, Southern Poverty Law Center, and the state government from protecting these liberties and will almost certainly subject LGBT+ people, people of color, and women to discrimination. Therefore, I cannot, and do not, support the nomination of Jeff Sessions as Attorney General. I urge the Senate Judiciary Committee to consider my testimony and the impact of this nomination on the lives of people like me and ultimately reject this nomination.

Kristen Marion, age 20, High Point, North Carolina:

My name is Kristen Marion. I am a youth advocate from North Carolina with Advocates for Youth. Because of my love for politics and my concern for the current state that our country is in, I am very anxious about Senator Jeff Sessions’ nomination to the Attorney General position. If Senator Sessions becomes the Attorney General, as an African American woman, I am afraid that everything my parents and ancestors have worked for in the civil rights realm will be disregarded. We know that in 1986, testimonies given by Senator Sessions’ own colleagues recalled his use of “hate speech,” against the African American community, and this is one example of why Senator Sessions is not fit for the role of Attorney general.^{iv}

Senator Sessions has continually opposed the rights of African Americans in our country. He has claimed that organizations such as the NAACP and the ACLU were forcing civil rights “down the throats of people.”^v Yet, these are the types of organizations that protect the rights of my community. However, if that is not enough, his attempts to prosecute activists that have tried to register black voters in response to changes in the Voting Rights Act are absolutely

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Page 3

unacceptable.^{vi} Any government official who cannot bring themselves to acknowledge statistically proven disenfranchisement should not be awarded the responsibility of overseeing the proceedings of justice for the entire country.

I feel very strongly that to appoint this man to Attorney General is to ignore the needs of an entire demographic of people who have been fighting for freedom and acknowledgement for a very long time. We are paying attention; and we will remember the political decisions that are made by this Congress today. More than anything, what this country needs right now is to focus on unity. Appointing a man who has a record of singling out African Americans and denying them their rights will only succeed in causing more friction and polarization. I do not support the nomination of Jeff Sessions as Attorney General. I urge the Senate Judiciary Committee to consider my testimony and the impact of this nomination on the lives of people like me and ultimately reject this nomination.

Winnie Ye, age 22, Brooklyn, New York:

My name is Winnie Ye and I am a youth advocate with Advocates for Youth. The Attorney General is an increasingly important position given rising threats in the United States, and I do not believe Senator Jeff Sessions is qualified to protect citizens like me given his anti-women's health views.

Senator Sessions openly opposes women's health protections and could follow previous administrations in refusing to enforce critical protections, endangering the life of providers, and patients like me. Senator Sessions has stated his strong opposition to abortion rights in the U.S. by repeatedly voting against resolutions that support abortion rights and for anti-choice legislation such as the so called Unborn Victims of Violence Act, a bill that creates legal rights for pregnancies.^{vii} He has also voted to defund Planned Parenthood, a healthcare center that is frequently utilized by young people, particularly low-income young people and young people of color. Senator Sessions has also voted to limit the rights of young people from crossing state lines to receive abortion services, which is necessary when clinics in their communities are too dangerous or too far to reach because of unnecessary restrictions.^{viii} Young women access these clinics every day, but because of heightened security issues, we often feel unsafe. The Department of Justice's Civil Rights Division is responsible for enforcing federal protections for abortion providers against clinic violence, and based on his record, I do not feel that Senator Sessions will ensure these federal protections.

For the reasons stated above, I do not support the nomination of Jeff Sessions as Attorney General and I urge the Senate Judiciary Committee to consider my testimony and the impact of this nomination on the lives of people like me and ultimately reject this nomination.

Conclusion

Discrimination against young people has tangible consequences. We are concerned that the nomination of Senator Sessions for the position of Attorney General would make civil rights protections harder to attain for young people, particularly young people most at risk.

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Page 4

We know harms from discrimination are even greater for LGBTQ young people, who may face violence at school or in their homes, may avoid seeking treatment for physical or mental health concerns, and may attempt self-harm or suicide at alarmingly high rates due to discrimination because of their identity.^{ix} Yet, Senator Sessions has opposed legislation that would extend federal hate crime protections to LGBT individuals because he does not see the need for such protections.^x

The U.S. Attorney General has a duty to enforce federal laws that protect the rights of Americans, yet Senator Sessions' record against equity in schools and racial justice, opposition to LGBT protections and civil rights, and disapproval of women's access to healthcare, are only a few reasons why we believe he is unfit to serve as the Attorney General.

Advocates for Youth, along with our youth activists, strongly urge you to oppose the nomination of Senator Jeff Sessions as U.S. Attorney General.

Sincerely,



Diana Rhodes
Director of Public Policy
Advocates for Youth

ⁱ Andrew Kaczynski, *Jeff Sessions fought as Ala. attorney gen. to keep an LGBT conference from meeting on a pub. campus*, CNN, <http://www.cnn.com/2016/12/01/politics/kfile-jeff-sessions-lgbt-conference/> (Dec. 2016).

ⁱⁱ Jeff Sessions for United States Senator for Alabama, *Sessions: The Supreme Court Has Become A Supreme Legislature*, <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=85FA3DD5-8679-437D-9F52-C4448505D84A> (Jun. 2015).

ⁱⁱⁱ Thomas J. Sugrue, *Jeff Session's Other Civil Rights Problem*, The New York Times, https://www.nytimes.com/2016/11/21/opinion/jeff-sessions-other-civil-rights-problem.html?_r=1 (Nov. 2016).

^{iv} Scott Zamost, *Sessions dogged by old allegations of racism*, CNN, www.cnn.com/2016/11/17/politics/jeff-sessions-racism-allegations/ (Nov. 2016).

^v *Id.*

^{vi} Ari Berman, *Jeff Sessions, Trump's Pick for Attorney Gen., Is a Fierce Opponent of Civil Rights*, The Nation, <https://www.thenation.com/article/jeff-sessions-trumps-pick-for-attorney-general-is-a-fierce-opponent-of-civil-rights/> (Nov. 2016).

^{vii} Unborn Victims of Violence Act, H.R. 1997, 3/25/04.

^{viii} U.S. Senate Roll Call Votes 109th Congress, United States Senate, www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=00216 (July, 2006).

¹⁸ Laura Davis and Urooj Arshad, *Adolescent Sexual Health and the Dynamics of Oppression A Call for Cultural Competency*, Advocates for Youth, http://www.advocatesforyouth.org/storage/advfy/documents/adolescent_sexual_health_and_the_dynamics.pdf (Aug. 2010).

¹⁹ Sen. Jeff Sessions (R-AL) Part 1 on hate crime bill, <https://www.youtube.com/watch?v=Xczq5NLgZAo> (Jul. 2009).

January 9, 2017

Senator Chuck Grassley
Chairman, Senate Judiciary Committee
135 Hart Senate Office Building
Washington, DC 20510

Re: Concerns over Senator Sessions' Confirmation Hearing Due to his Incomplete Questionnaire Responses

Dear Senator Grassley:

On behalf of the undersigned affinity bar associations, we write to express our deep concerns over the confirmation process for Senator Jeff Sessions' nomination to be the next Attorney General of the United States. It has come to our attention that Senator Sessions has failed to adequately respond to the standard Senate Judiciary Questionnaire (SJQ) in preparation for his scheduled hearing on January 10-11, 2016.

We strongly urge you to seriously consider delaying the confirmation hearing until Senator Sessions has sufficiently answered all the requests in the Senate Judiciary Questionnaire. Civil rights organizations and Senators on your Committee have pointed out that despite providing a supplement to his SJQ on December 23, 2016, Senator Sessions continues to omit important information about his record in elected and appointed office, including:

- Information on media interviews conducted, op-eds published, and speeches given during his time as U.S. Attorney for the Southern District of Alabama (1981-1993), Attorney General of Alabama (1995-1997), and his first term as U.S. Senator (1997-2002)
- Information on any candidate questionnaires he may have completed for third parties during any of his elections
- Information on awards he has received from outside organizations

It appears Senator Sessions is unwilling or unable to make a comprehensive effort and provide a completed questionnaire to the committee. As organizations that represent the interests of a diverse group of attorneys, we are incredibly troubled by what appears to be a lack of transparency to this process on the part of the candidate. Moreover, we are concerned about the short time allotted for these hearings. If we consider that Mr. Sessions' 1986 confirmation hearings lasted four days, allotting half that time for a review of an additional thirty years' worth of records and experience seems grossly inadequate.

There is precedent during your chairmanship of the Senate Judiciary Committee for delaying a confirmation hearing because of concerns over an incomplete record. In January 2015, your committee delayed the hearing date for Attorney General nominee Loretta Lynch until you had acquired complete information from Ms. Lynch. Although she had submitted her SJQ on December 1, 2014, more than a month passed before Ms. Lynch's confirmation hearing was scheduled and finally held on Jan 28-29, 2014. Even after your Committee voted to move forward on her nomination, her final Senate confirmation vote was delayed for several months, until she was finally confirmed on April 23.

Given the recent history of delays with Attorney General Lynch's nomination, we urge you to avoid the appearance of a double standard and heed the calls of members of your own

Committee to give them sufficient time to review Senator Sessions' extensive record, once completed.

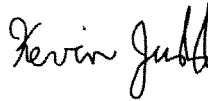
We share your desire to have a full and fair hearing of Senator Sessions' record as you weigh his qualifications to be the nation's chief law enforcement officer. A delay of his January 10 confirmation hearing would signal that you are committed to such a process.

Thank you for your attention to this matter.


Respectfully,



Pedro J. Torres-Díaz
President
Hispanic National Bar Association



Kevin Judd
President
National Bar Association



Cyndie M. Chang
President
National Asian Pacific American Bar
Association



Eduardo Juárez
President
National LGBT Bar Association

AFL-CIO

LEGISLATIVE ALERT

January 13, 2017

Dear Senator Grassley and Ranking Member Feinstein:

I am writing on behalf of the AFL-CIO to express our opposition to the confirmation of Senator Jefferson Beauregard Sessions, III (R-AL) as the 84th Attorney General of the United States. Our opposition is based upon a review of the testimony provided during his confirmation hearing and of his record as a U.S. Senator, Alabama Attorney General, and U.S. attorney.

The objectivity of the attorney general should not be in question. Yet throughout his decades-long career, Senator Sessions has expressed policy positions that demonstrate a troubling pattern of hostility toward legal protections depended upon by working families. His 20-year Senate record includes opposition to the Lilly Ledbetter Fair Pay Act, the Violence Against Women Act reauthorization, and the Shepard-Byrd Hate Crimes Act. As a Senator, he has denounced the Individuals with Disabilities Education Act provisions that cover students with social, learning, and emotional difficulties. Though he was one of the 98 Senators who voted to reauthorize the Voting Rights Act in 2006, Senator Sessions applauded the Supreme Court's 5-4 *Shelby County v. Holder* decision—halting the pre-clearance requirements protecting voters in states with the worst histories of racial discrimination in voting.

Senator Sessions testified that he would enforce federal laws as attorney general despite his past opposition to their enactment. However, other troubling aspects of his record suggest the values he would bring to the role of our nation's chief law enforcement officer. As a Senator, he:

- supported a federal voter ID requirement;
- challenged the 14th Amendment principle that all persons born in the United States are U.S. citizens;
- criticized Department of Justice consent decrees;
- opposed bipartisan criminal justice reform efforts; and
- made statements suggesting that he considers any history of civil rights work enough to render a nominee unfit for government service.

We are alarmed by the nomination of Senator Sessions for attorney general and the testimony provided during his confirmation hearing has failed to allay the AFL-CIO's concerns. I urge you to oppose the confirmation of Jefferson Beauregard Session III as Attorney General of the United States.

Sincerely,



William Samuel, Director
Government Affairs Department

WS/CC/lkr

American Federation of Labor and Congress of Industrial Organizations
815 16th St., N.W. • Washington, D.C. 20006 • 202 637 5000 • www.aflcio.org

RICHARD L. TRUMKA
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ELIZABETH H. SHULER
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AAMIA

AFRICAN AMERICAN MINISTERS IN ACTION

A Project of People For the American Way

January 9, 2017

The Honorable Chuck Grassley, Chairman
US Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein, Ranking Member
US Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Senator Feinstein:

We, the undersigned group of over 100 African American faith leaders, come together to urge you to vote against the confirmation of Sen. Jeff Sessions as the next U.S. attorney general. With his long and troubling history of attacks on civil rights, Sen. Sessions simply cannot be relied on to protect the rights of all Americans—a critical responsibility of our nation’s attorney general.

While serving as a U.S. attorney in the 1980s, Sen. Sessions unsuccessfully prosecuted multiple African American voting rights advocates, including a trusted advisor to Dr. Martin Luther King, Jr., who had worked to register rural, elderly African Americans in Alabama. With his actions, Mr. Sessions sent a chilling message to those working to ensure African Americans were able to exercise their constitutionally-protected right to vote.

When Mr. Sessions was being considered for a position as a U.S. District Court judge, a federal prosecutor testified that Sessions had agreed with a comment that a white attorney representing African American clients may be a “disgrace to his race.” The prosecutor also reported that Mr. Sessions had called the NAACP “un-American,” and a Black attorney testified that Mr. Sessions had referred to him as “boy.”

But our concern is aroused not only by these previous actions, but also by his current record. As a senator, Mr. Sessions voted against reauthorizing the Violence Against Women Act, legislation designed to fight sexual and domestic violence, and against the Lilly Ledbetter Fair Pay Act, a proposal to help address the gender pay gap. He applauded the 2013 Supreme Court *Shelby County v. Holder* decision that gutted a key provision of the Voting Rights Act and has since opposed efforts to modernize and restore these crucial protections against racial discrimination in voting.

It is not an overstatement to say that Sen. Sessions’ nomination is a grave threat to the civil rights of the communities we serve as faith leaders.

Ensuring the enforcement of our country’s civil rights laws is, as the NAACP Legal Defense and Education Fund’s Sherrilyn Ifill aptly calls it, a “sacred duty.” It is the way we protect the steady but fragile progress made towards the vision of a country where justice is applied fairly across all people, where all people can work without harassment or discrimination, and where all of us can exercise the franchise free from barriers or intimidation.

Sen. Sessions’ record as a civil rights opponent, his unswerving hostility to the very rights he would be tasked with protecting, makes him categorically unfit to take up this sacred work. We urge you in

the strongest possible terms to heed the concerns of African American faith leaders, and many other communities, and to reject Sen. Sessions' nomination for attorney general.

Signed,

1. African American Episcopal Church
2. Reverend Charles Adams, Detroit, MI
3. Reverend Terry Alexander, Florence, SC
4. Minister Dr. James Allen, Virginia Beach, VA
5. Reverend William C. Bailey, Baltimore, MD
6. Reverend Dr. Kip Banks, Washington, DC
7. Reverend Dr. Steve Bland, Jr., Detroit, MI
8. Reverend Brendolyn Boseman, Aiken, SC
9. Reverend DeLishia Boykin, Burke, VA
10. Reverend Dr. Paul Brown, Sr., Atlanta, GA
11. Reverend Herbert Bruce, Forestville, MD
12. Reverend Paul Bush, Aiken, SC
13. Mother Merceil Burkhalter, Minneapolis, MN
14. Reverend Dr. William C. Calhoun, Baltimore, MD
15. Reverend Dr. Carolyn Clark Carlisle, Columbia, SC
16. Bishop Kenneth Carter, Atlanta, GA
17. Minister Dorothy Chaney, Miami, FL
18. Pastor H.L. Chaney, Cairo, GA
19. Dr. Nesa Chappelle, Upper Marlboro, MD
20. Dr. Pernella Chubbs-Wilson, Roanoke, VA
21. Reverend Levi Combs, III, Camden, NJ
22. Dr. Christopher Cockrell, Meridian, MS
23. Dr. Veronica R. Coleman, Virginia Beach, VA
24. Bishop Victor Couzens, Cincinnati, OH
25. Reverend Fred Crawford, New York City, NY
26. Reverend Jeffrey Dove, New Smyrna Beach, FL
27. Darryl E. Edwards II, Jacksonville, FL
28. Reverend Susie Elliott, Brooklyn, NY
29. Reverend Dr. Willie Gable, New Orleans, LA
30. Apostle Marlella Gantt, Philadelphia, PA
31. Reverend Jimmy Gates, Cleveland, OH
32. Bishop AD Givens, Camden, SC
33. Reverend Johnnie Green, New York City, NY
34. Pastor Reginald Gundy, Jacksonville, FL
35. Reverend Barry Hargrove, Baltimore, MD
36. Reverend Sekinah Hamlin, Greensboro, NC
37. Reverend Barry Hargrove, Baltimore, MD
38. Reverend Sedrick Hamner, Atlanta, GA
39. Elder Lee Harris, Jacksonville, FL
40. Minister Bessie R. Hayes, Kensington, MD
41. Reverend Carolyn Henry-Hurst, MD, Cleveland, OH
42. Pastor Jerome Hurst, Cleveland, OH
43. Deacon Bobbi VL Jackson, Winnsboro, SC
44. Rev. Leonard B. Jackson, Las Vegas, NV

45. Sister Carrie Johnson, Longwood, FL
46. Reverend Cathy C. Jones, Charlotte, NC
47. Reverend Louis B. Jones, II, Washington, DC
48. Reverend Greg King, Richmond, VA
49. Dr. Terence K. Leathers, Clayton, NC
50. Reverend A. Faye London, Memphis, TN
51. Reverend Alvin Love, Chicago, IL
52. Dr. Lester A. McCorn, Baltimore, MD
53. Sister Glenda McCullough, Jacksonville, FL
54. Reverend Isaac C. McCullough, Jacksonville, FL
55. Reverend Timothy McDonald, III, Atlanta, GA
56. Minister Leslie Watson Malachi, Waldorf, MD
57. Reverend Dr. Tony Minor, Cleveland, OH
58. Reverend Dr. Susan Newman Moore, Washington, DC
59. Reverend Robert Nicolas, Washington, DC
60. Reverend Wanda C. Outlaw, Suitland, MD
61. Minister Jabari Paul, Tallahassee, FL
62. Reverend Dr. Clarence Pemberton, Philadelphia, PA
63. Reverend Dr. Geraldine Pemberton, Philadelphia, PA
64. Dr. Leenette Morse Pennington, Cocoa Beach, FL
65. Reverend Gilbert Pickett, New York City, NY
66. Minister Tammy Pink, Los Angeles, CA
67. Elder Terry Price, Tallahassee, FL
68. Reverend Frank Raines, III, Buffalo, NY
69. Reverend Calvin Rice, New York City, NY
70. Pastor Jason Ridley, Columbus, OH
71. Deacon Marva Riley, Cheverly, MD
72. Sister Catherine Jackson-Roberts, Washington, DC
73. Sister Melba Salter, Denver, CO
74. Reverend Dr. Kenneth Samuel, Stone Mountain, GA
75. Reverend Dr. Robert Shine, Philadelphia, PA
76. Reverend Madison Shockley, Los Angeles, CA
77. Reverend Lavee Sims, Hattiesburg, MS
78. Rev. Lester A. Smalls, Aiken, SC
79. Sister Beverly C. Smith, Catonsville, MD
80. Reverend Dr. Susan Smith, Columbus, OH
81. Reverend T. Anthony Spearman, Greensboro, NC
82. Rev. Dr. Rebecca Stitt, Cleveland, OH
83. Reverend L. Charles Stovall, Dallas, TX
84. Bishop Mitchell Taylor, New York City, NY
85. Presiding Elder Jane E. Thomas, Perry, GA
86. Reverend Dr. Jackie Thompson, Oakland, CA
87. Reverend James Thompson, North Charleston, SC
88. Reverend Da'Henri Thurmond, Sr., Savannah, Georgia
89. Reverend Ezra Tillman, Flint, MI
90. Pastor Bertie Vereen, Jacksonville, FL
91. Sister Jackie DuPont Walker, Los Angeles, CA
92. Reverend Carl Washington, New York City, NY
93. Reverend Mark Whitlock, Los Angeles, CA

- 94. Reverend Dr. Dennis Wiley, Washington, DC
- 95. Reverend Dr. Christine Wiley, Washington, DC
- 96. Dr. Mercuria Chase Williams, Atlanta, GA
- 97. Elder Willie Wiley, Augusta, GA
- 98. Dr. Barbara Williams-Skinner, Eastern Shore, MD
- 99. Reverend Charles Williams, Detroit, MI
- 100. Reverend Lavisha S. Williams, Raleigh, NC
- 101. Presiding Elder Melvin E. Wilson, Brooklyn-Westchester District, NY
- 102. Reverend Patrick Young, E. Elmhurst, NY



January 13, 2017

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President

Laura Reyes
Secretary-Treasurer

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Braulio Torres
San Juan, PR

Anthony Wells
New York, NY

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0716

The Honorable Charles Grassley
Chair
Committee on Judiciary
United States Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
Committee on Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to express our strong opposition to the nomination of Senator Jefferson "Jeff" Sessions to be Attorney General (AG) of the United States. Sen. Sessions' record on civil rights and immigration are inconsistent with the critical mission of the Department of Justice, and we cannot support his nomination to be chief law enforcement officer of our nation. His nomination should be rejected.

The U. S. Department of Justice (DOJ) has the responsibility to uphold the laws of the land, particularly those laws supporting the civil rights of all Americans. AFSCME, as an organization, has a rich history in this struggle and is compelled to support only those leaders who will enforce laws fairly, without personal bias, and who will defend the constitutional freedoms of all American citizens regardless of race, religion, class, gender identity, sexual orientation or national origin. Senator Sessions' record is unsettling on key civil rights issues like voting rights, immigration, and protections for our brothers and sisters in the LGBTQ community.

Throughout his service in Congress Sen. Sessions has consistently voted against key civil rights reforms. He has made no secret of his personal views, which raises serious questions about his ability to remain an impartial steward of the law on many pressing civil rights questions, including those dealing with voting rights, racial justice and other issues. In particular, he has called the Voting Rights Act of 1965 "intrusive" and has been accused of failing to protect voting rights of advocates who were working to register minority voters.

Comprehensive immigration reform (CIR) is one of the most important civil rights challenges in our country today. In 2010 when he had an opportunity to show his leadership, as Ranking Member of the Judiciary Committee, he voted against the Development, Relief, and Education for Alien Minors (DREAM) Act that protects children and provides a pathway for legal status for the thousands who were brought to this country at no fault of their own. Sen. Sessions has repeatedly voted against CIR – in 2006, 2007, and in 2013. At DOJ, he would be in a position to shape the character of the next administration's approach to what should be equality and civil justice to undocumented persons. However, we share with many in our nation, legitimate anxiety

American Federation of State, County and Municipal Employees, AFL-CIO

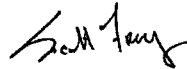
TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB afscme.org 1625 L Street, NW, Washington, DC 20036-5687

that his views on immigration may further inflame growing hostility toward those seeking legal status based on country of origin and race. This issue is particularly important to AFSCME members who are either immigrants themselves or who have family members who are immigrants. The AG should have a strong demonstrated public support for pathways to citizenship for undocumented people of diverse backgrounds.

Finally, Sen. Sessions has a checkered civil rights record on LGBTQ matters. Senator Sessions opposed inclusion of LGBTQ people in the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act and in the Violence Against Women Act reauthorization. Hate crimes against many groups seem to be increasing across the nation especially targeted toward persons identified with the LGBTQ community.

Again, Sen. Sessions' views on these core issues are out of step with many Americans, and inconsistent with the mission of the Department of Justice. We ask you to oppose his nomination.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Frey", written in a cursive style.

Scott Frey
Director of Federal Government Affairs

SF:KLS:mc



PRESIDENT
NAN ARON
CHAIR
KEN GROSSINGER

AN OPEN LETTER TO THE SENATE

January 9, 2017

The Alliance for Justice Urges Senators to Reject the Nomination of Sen. Jeff Sessions for U.S. Attorney General

Dear Majority Leader McConnell, Democratic Leader Schumer, Chairman Grassley, and Ranking Member Feinstein:

On behalf of The Alliance for Justice, a national association of over 100 organizations representing a broad array of groups committed to the creation of an equitable, just, and free society, I write to urge you to reject the nomination of Sen. Jeff Sessions for the position of U.S. Attorney General.

The U.S. Attorney General is responsible for the enforcement of some of our nation's most critical statutes. S/he is responsible for independently enforcing the law consistent with essential constitutional values and the rule of law. Unfortunately, Sen. Sessions, throughout his career, has demonstrated that he is unqualified for and incapable of performing the duties of this important role.

The Alliance for Justice was a strong opponent of Sen. Sessions' nomination for a federal judgeship in 1986. At that time, his pattern of egregious behavior toward African Americans came to light and the Senate, on a bipartisan basis, rightly rejected his nomination to be a federal district court judge. Today we expect to hear from some quarters that the events of thirty years ago are irrelevant. Unfortunately, we need not look that far back to conclude that Sen. Sessions is a person who is uniquely hostile to so many vulnerable populations in this country.

In short, we believe the burden of proof on Sen. Sessions, to demonstrate that he can lead a Department of Justice that fairly and equitably serves *all* Americans, is unattainable. We believe that Senators who study his record, highlighted below, and consult their consciences on this matter will reach the same conclusion that Sen. Sessions cannot be confirmed to serve as Attorney General of the United States.

Record as Prosecutor

As U.S. Attorney for the Southern District of Alabama, Sessions became known for his animus toward African Americans. Numerous lawyers testified at his 1986 confirmation hearing for a federal judgeship that Sessions had made racist remarks. The Justice Department's J. Gerald Hebert testified that Sessions claimed the NAACP and the ACLU were "communist inspired" and "un-American" organizations "because they forced Civil Rights down the throats of people."

Thomas Figures, a black prosecutor who worked under Sessions, testified that Sessions said the Ku Klux Klan was "okay" until he found out they smoked marijuana. Figures also testified that Sessions called him "boy" and told him to "be careful what you say to white folks." Alarming, Figures was prosecuted after his testimony in what has been characterized as an act of revenge; Figures was acquitted of any wrongdoing at trial.

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As U.S. Attorney, Sessions prosecuted civil rights activists in Alabama for allegedly committing voter fraud while assisting African-American voters complete absentee ballots. A jury, in deliberations that lasted only a few hours, acquitted the voting-rights activists, although the prosecution chilled voting-rights activities in the state.

Record as Senator

During his 20 years in the Senate, Sen. Sessions has repeatedly voted against legislation that would safeguard equality and liberty; statutes that as Attorney General he would be responsible for enforcing. Sen. Sessions has failed to demonstrate how, given his vocal opposition to their passage, he would ensure proper enforcement of these critical statutes. If he is confirmed, we will see a reversal of decades' worth of progress on the advancement of equality for millions of Americans. The following examples are illustrative of his contempt for civil rights and equality:

- Senator Sessions has called the Voting Rights Act, a "piece of intrusive legislation." When the Supreme Court in *Shelby County v. Holder* struck down Section 5 of the Voting Rights Act, making it easier for states and localities to erect barriers to voting, Sen. Sessions applauded the ruling. He also opposed efforts to update the law.
- In 2013, Sen. Sessions voted against the reauthorization of the Violence Against Women Act, which protects women from domestic violence, dating violence, and sexual assault. He also dismissed the controversy over Donald Trump's comments about assaulting women as overblown because "everybody knows that Trump likes women." When he was asked, "so if you grab a woman by the genitals, that's not sexual assault," he responded, "I don't know."
- He voted against the Shepard-Byrd Hate Crime Act, a bill that enables broader federal prosecution of hate crimes. He said providing civil rights protections to LGBTQ citizens as part of the Act would "cheapen the civil rights movement."
- Sessions has opposed critical laws that protect persons with disabilities, including criticizing the Individuals with Disabilities Education Act and blaming federal protections for children with disabilities for "accelerating the decline in civility and discipline in classrooms all over America." Sessions said that federal laws that are designed to ensure children with disabilities can receive an equal education "may be the single most irritating problem for teachers throughout America today."
- He voted against the Lilly Ledbetter Fair Pay Act, which seeks to ensure equal pay for equal work for women.

In addition, Senator Sessions has consistently fought workers' rights and regularly opposed efforts to protect our environment. He has also vigorously opposed efforts to make our criminal justice system fairer and more just, including a bipartisan proposal spearheaded by Judiciary Committee Chairman Grassley and Senator Dick Durbin. He has defended a proposed ban on all Muslim immigrants. He voted against Senator John McCain's bipartisan amendment reaffirming our nation's prohibition on torture. He has even challenged the basic Constitutional principle enshrined in the Fourteenth Amendment that all persons born in the United States are citizens of this country.

It is almost impossible to overstate how wrong, in both substance and symbol, Senator Sessions' confirmation would be. On substance, Sen. Sessions has long taken positions hostile to the rights of *all*

Americans. It is not surprising that countless civil rights groups immediately condemned his nomination. In addition, his confirmation would send the wrong message regarding our nation's commitment to the principle of equal justice under the law, particularly at a time of heightened awareness of injustices that impact so many communities throughout our country.

The Alliance for Justice respectfully urges the Senate to make the only moral and defensible choice and reject the nomination of a candidate who is wholly unfit for the role of Attorney General.

The members of the Alliance for Justice are grateful for the opportunity to share this information with you. The President of the Alliance, Nan Aron, is available in our Washington, D.C., office at 202-822-6070 to answer any questions you may have.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nan Aron", with a stylized flourish at the end.

Nan Aron



January 9, 2017

AN OPEN LETTER TO THE UNITED STATES SENATE
Association of Equal Opportunity, Affirmative Action and Diversity Professionals
Opposes the Confirmation of Senator Jefferson B. Sessions III for
Attorney General of the United States

Dear Majority Leader McConnell, Democratic Leader Schumer, Chairman Grassley, and Ranking Member Feinstein:

The American Association for Access, Equity and Diversity (AAAED) respectfully urges the United States Senate to reject the nomination of Senator Jefferson Beauregard Sessions III for the position of Attorney General of the United States. Upon reviewing the voting record of Senator Sessions, which is replete with evidence of a bias against efforts to promote equal opportunity for women, minorities, persons with disabilities and the LGBT community, the association finds that Senator Sessions lacks the fundamental qualification for Attorney General: the demonstrated ability to serve as the chief legal enforcer of rights for all including the historically disadvantaged.¹

Founded in 1974 as the American Association for Affirmative Action (AAAA), AAAED is a national not-for-profit association of professionals working in the areas of equal opportunity, compliance and diversity. AAAED has more than 40 years of leadership in providing professional training to members, enabling them to be more successful and productive in their careers. It also promotes understanding and advocacy of affirmative action and other equal opportunity laws to enhance the tenets of access, inclusion and equality in employment, economic and educational opportunities.

We do not take this position lightly and without due consideration. After a review of the voting record of Senator Sessions, in addition to his many statements and actions as reported by the press and recounted by civil rights and government leaders, we cannot in good conscience remain silent.

His votes not to confirm many nominees of color and women who are champions of equal opportunity in their chosen fields also raise serious concerns about bias against persons who support the principles of access, equity and diversity.

¹ See the December 1, 2016 letter from the Leadership Conference on Civil and Human Rights, which AAAED co-signed. <http://www.civilrights.org/advocacy/letters/2016/civil-and-human-rights.html>

Senator Sessions reportedly stated that he believes that Race and Civil Rights is a “very, very difficult subject.” We do not. In 1997 Sessions said:

“I think it has, in fact, been a cause of irritation and perhaps has delayed the kind of movement to racial harmony we ought to be going forward [with] today. I think it makes people unhappy if they lost a contract or a right to go to a school or a privilege to attend a university simply because of their race.”

Laws intended to promote equal opportunity through affirmative action bar making selections in employment, education or contracts solely on the basis of race. They are designed to prevent discrimination and to promote opportunities for all who are qualified to compete regardless of their race, religion, sex, ethnicity, disability, veteran’s status, gender identity or sexual orientation. An attorney of the stature and experience of Senator Sessions should know that.

In addition, we take note of the following aspects of the Senator’s legislative record:

- Senator Sessions supported an ultimately unsuccessful effort to end affirmative action programs in the federal government (a measure so extreme that many conservatives were against it).²
- Sessions scores 7% by the NAACP on affirmative action, indicating an anti-affirmative-action stance. “Strongly opposes affirmative action.”³
- Sessions voted NO on expanding hate crimes to include sexual orientation. Vote on an amendment that would expand the definition of hate crimes to include gender, sexual orientation and disability. The previous definition included only racial, religious or ethnic bias.⁴
- Voted NO on setting aside 10% of highway funds for minorities and women.⁵
- Voted YES on ending special funding for minority and women-owned business. This legislation would have abolished a program that helps businesses owned by women or minorities compete for federally funded transportation.⁶

Moreover, Senator Sessions Voted “Nay” on the following legislation:

- Paycheck Fairness Act, 2012 and 2014
- Employment Non-Discrimination Act of 2013
- Violence against Women Reauthorization Act of 2013
- The Convention on the Rights of Persons with Disabilities, Treaty Ratification 2012
- Reauthorizing the Violence Against Women Act 2012
- Lilly Ledbetter Fair Pay Act of 2009
- Equal Pay Bill of 2008
- Hate Crimes Amendment, 2000

² Closed Session,” New Republic, Sarah Wildman, December 30, 2002, <https://newrepublic.com/article/61363/closed-sessions>.

³ http://www.ontheissues.org/Domestic/Jeff_Sessions_Civil_Rights.htm

⁴ Reference: Bill S.2549; vote number 2000-136 on Jun 20, 2000

⁵ Vote to table, or kill, an amendment to repeal the Disadvantaged Business Enterprise [DBE] Program, which requires no less than 10% of highway construction projects funded by the federal government to be contracted to 'disadvantaged business enterprises.' Reference: Bill S.1173; vote number 1998-23 on Mar 6, 1998.

⁶ Status: Cloture Motion Rejected Y) 48; N) 52.

Senator Sessions voted "Yea" on a controversial bill to exempt religiously affiliated employers from rules prohibiting discrimination based on sexual orientation and gender identity. (Exempts Religiously Affiliated Employers from the Prohibition on Employment Discrimination Based on Sexual Orientation and Gender Identity, 2013)⁷

Lastly, Senator Sessions voted to oppose the confirmations of the following Obama nominees of color and women, especially those who had strong records in support of affirmative action and equal opportunity. This we find equally troubling:

- Loretta E. Lynch to be Attorney General
- Wilhelmina Wright to Be U.S. District Judge
- Julian Castro to be Secretary of Housing and Urban Development
- Elena Kagan, Associate Justice to the U.S. Supreme Court
- Sonia Sotomayor, Associate Justice to the U.S. Supreme Court
- David Satcher, Surgeon General of the Public Health Service
- Debo P. Adegbile, Assistant Attorney General for Civil Rights
- Tom Perez, Secretary of Labor

On the matter of the confirmation of Ninth Circuit Appeals Court Nominee Goodwin Liu, Senator Sessions stated:

"I am very disappointed by President Obama's nomination of Professor Goodwin Liu to the U.S. Court of Appeals for the Ninth Circuit--already an activist court that has handed down decisions striking "under God" from the Pledge of Allegiance and finding Megan's Law to be unconstitutional. I fear that Professor Liu will be an activist judge in this same mold.

"Instead of nominating an individual who has demonstrated an impartial commitment to following the Constitution and the rule of law, President Obama has selected someone far outside the mainstream of American jurisprudence. Professor Liu believes that judges should look to "evolving norms and social understandings" in interpreting the Constitution, *he has a history of advocating for racial preferences, and he served on the Board of the directors of the ACLU.* (Emphasis added)

"Professor Liu's record will be examined carefully and fairly, and I will withhold final judgment until after his hearing. But it seems to me that his judicial philosophy does not respect the American ideal of judges as neutral arbiters of the law. I hope my initial impressions are wrong."

⁷ Source:

http://sessions.senate.gov/public/index.cfm?FuseAction=PressShop.NewsReleases&ContentRecord_id=0bb94adb-edcd-bc3d-65d7-4306b54d8556&Region_id=&Issue_id=

https://votesmart.org/public-statement/486784/sessions-expresses-concerns-with-appeals-court-nominee#.WG1D_Efg81w

Goodwin Liu withdrew his name after the Senate failed to overcome a filibuster of his nomination.⁸

AAAED is mindful of the fact that the President deserves the right to nominate individuals who, in his judgment, will faithfully execute the laws and policies entrusted to his stewardship on behalf of the American people. We are also mindful, however, of the essential role that the United States Attorney General plays in enforcing the laws in a way that will mete out justice for all, including women, minorities, persons with disabilities, religious minorities and members of the LGBT community. It is the historically disadvantaged that depend most upon the vigilance and even-handedness of the Attorney General.

We are particularly concerned that, given his views on affirmative action, diversity and related matters, Senator Sessions will not be a vigorous defender of matters before the federal courts, including the U.S. Supreme Court as in the case of *Fisher v. the University of Texas at Austin*. Too much progress has been made in the past fifty years for this nation to retreat now.

We therefore, cannot conclude, from a review of Senator Sessions' record, that he is the best qualified person for this august position.

Thank you for your kind attention to our concerns. If you would like to discuss the matter further, please contact Shirley J. Wilcher, AAAED Executive Director, at 202-349-9855; execdir@aaaed.org.

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⁸ <http://articles.latimes.com/2011/may/25/nation/la-na-0526-goodwin-liu-20110526>



December 19, 2016

RECEIVED JAN 03 2017

The Honorable Charles E. Grassley
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick J. Leahy
Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:

By way of introduction, the American Center for Law and Justice (ACLJ) is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States and other federal and state courts in a number of significant cases involving the freedoms of speech and religion. The ACLJ and its international affiliates defend human rights and religious liberty around the world.

We are writing to express the ACLJ's views about the requirements for holding the position of Attorney General of the United States. We also write to express our view that the current nominee for the post, Senator Jeff Sessions, meets and even exceeds those requirements.

First, any prospective Attorney General must have a long and proven record of commitment to the U.S. Constitution and the rule of law it undergirds. This concept is foundational to the American form of government and the law enforcement structure on which the Department of Justice (DOJ) rests. Unfortunately, recent years have demonstrated that fidelity to this concept is woefully lacking within the current DOJ.

We are heartened that Senator Sessions has not only repeatedly expressed his dedication to the Constitution and the rule of law, but has also spent his life putting that commitment into practice. As a private attorney, U.S. attorney, Attorney General of Alabama, and U.S. Senator, Senator Sessions has consistently applied the law enforcement principles set forth in the U.S.

Constitution. These varied experiences will allow him to bring a much-needed multi-faceted perspective to the DOJ.

Next, we believe it is particularly important at this time in our history that the next Attorney General be equipped to repair the damaged reputation of the DOJ. With no ill will toward the many dedicated employees of the DOJ, the recently-concluded election cycle and the track record of the last few years have caused the American People to be less than fully confident in the neutrality of its top law enforcement agency. Some may quibble with whether that lack of confidence is justified, but everyone should acknowledge that it is critical to regain that confidence. The American People deserve a judicial system that can be trusted to act free of partisan influence.

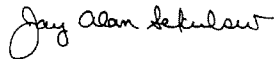
Senator Sessions is supremely equipped to meet this challenge on two main levels. First, he has the administrative experience from his time as the Attorney General of Alabama to conduct a top to bottom review of the DOJ and make needed improvements. Next, Senator Sessions' long track record of working across lines—be they political, racial, or socioeconomic lines—is exemplary. His professionalism and proven record make him uniquely qualified for this challenge.

Finally, we expect any prospective nominee for this post to be forthcoming with the Committee, and expect the Committee to respectfully but thoroughly examine the nominee's qualifications. This is a model that Senator Sessions himself followed as a member of the Committee. Maybe the most notable example of this practice occurred in 2009 when Senator Sessions respectfully explored a number of areas in which he and the then-nominee for Attorney General Eric Holder disagreed. Upon completing the review process, Senator Sessions voted to confirm Mr. Holder despite the sustained policy differences. We respectfully ask the Committee to now return the same courtesy of a thorough, fair, and respectful confirmation process to Senator Sessions.

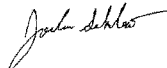
In our view, the end result will clearly reflect that Senator Sessions is supremely and uniquely qualified to be the 84th Attorney General of the United States.

We stand ready to assist you as you fulfill your advice and consent duties under Article II, Section 2, Clause 2 of the U.S. Constitution.

Sincerely,



Jay A. Sekulow
Chief Counsel



Jordan Sekulow
Executive Director

CC: Members of the Senate Committee on the Judiciary



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January 9, 2017

The Honorable Charles E. Grassley
 Chairman
 U.S. Senate Committee on the Judiciary
 135 Hart Senate Office Building
 Washington, D.C. 20510

The Honorable Dianne Feinstein
 Ranking Member
 U.S. Senate Committee on the Judiciary
 331 Hart Senate Office Building
 Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

As the Committee on the Judiciary considers the nomination of Sen. Jeff Sessions to be the next Attorney General of the United States, the American Gaming Association (AGA) requests that you bear in mind the importance of the Department of Justice in cracking down on illegal gambling activities across the country.

Illegal gambling takes many forms: illicit machines, Internet sweepstakes cafes, online and often offshore wagering, and animal betting. A recent report by a Virginia Commonwealth University criminologist details the strong ties between illegal gambling operations and organized crime organizations in the U.S. The prevalence of illegal gambling has been so significant that, in 2014 alone, 80 operators in 23 states were convicted of running illegal gambling businesses. In working with state and local law enforcement, the next attorney general can make significant progress in these areas through enforcement action.

The most prevalent form of illegal betting, however, is sports betting, and requires a different approach. Today, the 1992 *Professional and Amateur Sports Protection Act (PASPA)* bans sports betting outside of Nevada. But instead of restricting betting, the federal ban has only fueled a growing \$150 billion illegal market with no consumer protections, no tax benefits for communities and no safeguards for sport integrity. The past 25 years and society's evolving attitudes have proven that enforcement is very unlikely to work, which is why we are focused on regulation – which the incoming president appears to support.

As Americans prepare to illegally wager in excess of \$4 billion on next month's Super Bowl, President-elect Donald Trump has recognized the reality of the current state of affairs. In a 2015 interview, he seemed to agree with many law enforcement officials who prefer a regulated market. "I'm OK with it because it's happening anyway. Whether you have it (PASPA) or you don't have it, you have it (sports betting)," said the President-elect.

Further, a September report authored by the AGA's Illegal Gambling Advisory Board concluded that "the current approach to sports betting in the United States is not working; instead, it's fueling criminal enterprises. The time has come to repeal the current sports betting ban and replace it with rigorous regulations that benefit states, protect consumers and maintain the integrity of the games."

The next attorney general will be forced to use limited resources in the most effective manner. We encourage a new legal approach that would dramatically reduce the illegal sports betting market and allow law enforcement at every level to focus on other pressing matters. In the meantime, continued vigilance, focus and resources are required to combat other forms of illegal gambling and, until the federal ban is lifted, illicit sports betting.

We hope the next attorney general will welcome opportunities to work with Congress to effectively address illegal gambling. In doing so, the AGA stands ready as a willing partner to work with you, and with members of the Committee, on this and other issues in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Freeman", written in a cursive style.

Geoff Freeman
President and CEO



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January 9, 2017

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of Americans United for Separation of Church and State, representing members and supporters in all 50 states and the District of Columbia, we write to voice our strong opposition to the confirmation of Sen. Jeff Sessions as Attorney General.

Our opposition is based on actions Sen. Sessions has taken and statements he has made throughout his career that contravene the dearly held constitutional guarantee of religious freedom.

Lack of Respect for the Constitutional Protections for Religious Freedom

The separation of church and state guarantees religious freedom by allowing everyone to freely choose their beliefs without government intrusion. The government may not tax its people to fund religion, nor may it promote one religion over another or religion over non-religion. This is the foundation of religious freedom in our country and protects the integrity of both religion and the government.

Sen. Sessions, however, has claimed the "wall of separation" is "not constitutional and is not historical."¹

This disquieting view is reflected in his support for prayers at public schools² and by a judge in the courtroom,³ as well as his support for the government display of the Christian cross⁴ and the Ten Commandments,⁵ all of which violate the Establishment Clause of the First Amendment of the U.S. Constitution.

¹ Religious Liberty Protection Act: Hearing on S. 2148 Before the Senate Comm. On the Judiciary, 105th Cong. 40 (Statement of Sen. Sessions).

² E.g., Sen. Sessions, *Floor Statement* (June 26, 2002).

³ See *Alabama ex rel. Fab James & Jeff Sessions v. ACLU of Ala.*, 711 So. 2d 952 (1998) (filing lawsuit while Alabama Attorney General claiming that judge's practice of praying and displaying Ten Commandments in courtroom was constitutional).

⁴ Bill to preserve the Mt. Soledad Veterans Memorial, S. 3683, 109th Cong. (enacted as Pub. L. No. 109-272). The cross is the preeminent symbol of Christianity and it is not a universal symbol used by other faiths, like Judaism, or by those who are non-believers. Nonetheless, the bill's findings state that there are many veterans' memorials with crosses. This is incorrect. The cross does not represent all members of the Armed Forces; indeed, almost one-third of members of the Armed Forces are non-Christians.

⁵ E.g., S. Con. Res. 13, 105th Cong. (1997).

Bias Against Muslims and Support for Anti-Muslim Groups

The United States has a proud history of religious liberty and of providing safe harbor for members of communities fleeing persecution and seeking a better life. Sen. Sessions has made statements that demean this proud tradition.

For example, Sen. Sessions opposed legislation that supported barring religious litmus tests for people entering the country. He argued that the government should pick and choose among religions, explaining he believed the provision would be a move to prohibit “favor[ing] or disfavor[ing] any interpretation of a religion” or favoring a “moderate” religious leader over a “radical” one.⁶

In addition, Sen. Sessions has suggested that Muslims follow “an ideology that is dangerous”⁷ and has spoken to and received awards from notorious anti-Muslim groups that have flamed anti-Muslim bigotry.⁸

Sen. Sessions has demonstrated that he believes the government should prefer some religions over others and that Muslims can be singled out for disparate treatment and aversion. The Attorney General, however, should believe that all people should be treated equally regardless of religion.

Support for a Religious Test

Sen. Sessions’s statements indicate that he thinks belief in God is prerequisite to understanding the truth, telling the truth, and making legal judgments.

He criticized then-nominee for the Supreme Court, Sonia Sotomayor, who is Catholic, suggesting that because he believed she is not religious, she could not see objective truth. He said, “If you . . . don’t believe in a higher being, maybe you don’t believe there is any truth.”⁹ He also rebuked then-Chairman of the Judiciary Committee, Patrick Leahy because he swore in witnesses without requiring them to say “So help me, God.” Sen. Sessions remarked, “Ninety-five percent of the people believe in God. An invocation of His name, in conjunction with the seriousness of telling the truth, has an importance beyond mere legal requirement.”¹⁰

In these statements, Sen. Sessions has effectively argued for a religious test for judges and those who testify. Article VI of the Constitution, however, explicitly forbids this.

⁶ Press release, Sen. Sessions, Sessions Delivers Remarks In Opposition To Global “Right To Migrate” Amendment (Dec. 10, 2015).

⁷ Sam Kestenbaum, *Trump’s Muslim Ban Has an Advocate in Attorney General Pick Jeff Sessions*, Forward, Nov. 18, 2016.

⁸ Miranda Blue, *Jeff Sessions and the Extreme Anti-Immigrant, Anti-Muslim Lobby*, Right Wing Watch, Jan. 4, 2017.

⁹ Susan Beck, *Jones Day Panel on Judiciary Plays to Republican Crowd*, Nat’l Law J., July 20, 2016.

¹⁰ *Senator Demands Restoration of “So Help Me God” Oath*, Church & State (Sept. 2001). Close to 25% of the Americans who have no religious affiliation and some religions, including some Christian denominations, forbid oaths.

Use of Religion as an Excuse to Harm Others

Sen. Sessions has co-sponsored two bills that were aimed at sanctioning discrimination against LGBTQ people in the name of religion.

The deceptively named First Amendment Defense Act¹¹ would allow individuals, government employees, government-funded employees, and businesses to cite religion as an excuse to ignore all laws that recognize and protect same-sex couples. And, the Child Welfare Provider Inclusion Act¹² would allow child welfare service providers to refuse to provide any service that violates their religious beliefs—even if they get federal funding—regardless of the best interest of the child.

These two bills are troubling because they would allow federal employees to refuse to serve all citizens equally and federally funded social service providers to discriminate, under the guise of religious freedom. As enshrined in the Constitution, however, religious freedom guarantees the freedom to believe according to the dictates of one's conscience, and to practice that faith—but it does not allow anyone to ignore laws that protect others or to take away the rights of others even if motivated by religious beliefs.

* * *

For these reasons, Americans United opposes the confirmation of Sen. Sessions as Attorney General. Please contact Maggie Garrett, (202) 466-3234 x. 226, garrett@au.org, or Dena Sher, (202) 466-3234 x. 281, sher@au.org, if you have questions or would like further information on our position.

Sincerely,



Maggie Garrett
Legislative Director



Dena Sher
Assistant Legislative Director

¹¹ First Amendment Defense Act, S. 1598, 114th Cong. (2015). He also co-sponsored the prior version of this legislation, the Marriage and Religious Freedom Act, S. 1808, 113th Cong. (2013).

¹² Child Welfare Provider Inclusion Act, S. 667, 114th Cong. (2015) & S. 2706, 113th Cong. (2014).

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Steven C. Shierberg
National Director Emeritus

Atsuhiko H. Kusun
Anti-Defamation League

Foundation
President

Glen S. Levy



January 9, 2017

The Honorable Chuck Grassley
Chair
Senate Committee on the Judiciary
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein,

In advance of the upcoming confirmation hearings on the nomination of United States Senator Jeff Sessions to the position of Attorney General of the United States, the Anti-Defamation League ("ADL") urges you and your colleagues on the Judiciary Committee to closely examine Senator Sessions' views on the role of the Attorney General and the Justice Department in interpreting and enforcing provisions in the United States Constitution and federal law that guarantee and protect fundamental civil rights and individual liberties.

Specifically, we believe there are seven main areas which deserve the Committee's special attention. These include Senator Sessions' position on the First Amendment's religious liberty clauses, the enforcement of federal civil rights and hate crime laws, the protection of voting rights, criminal justice reform and law enforcement training, LGBT rights, immigration enforcement, and reproductive health.

Separation of Church and State

ADL believes deeply in the importance of preserving and safeguarding freedom of religion in our increasingly pluralistic nation. We strongly believe that government should neither promote nor be hostile to religion. This position reflects a profound respect for religious freedom and recognition of the extraordinary diversity of religions represented in the United States. Both as a matter of law and as a matter of good public policy, the First Amendment should be read to protect minority religious groups from being subject to the coercion and pressure of state-instituted religion.

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ADL opposes efforts to post the Ten Commandments in schools, government buildings, and courthouses. While often well-intentioned, we believe that these activities are both unconstitutional and bad policy. Governmental posting of the Ten Commandments flies in the face of the Constitution's guarantee of separation of church and state and may lead to the kind of divisive religious debate that the First Amendment was designed to prevent. Indeed, there is no one version of the Ten Commandments. Rather, there are multiple forms of it within the Christian and Jewish traditions. Therefore, any official posting of the Ten Commandments inevitably prefers one faith to the exclusion of all others within and outside the Christian and Jewish traditions.

In 1997 Sen. Sessions introduced a resolution after Alabama Supreme Court Judge Roy Moore had been ordered to remove a copy of the Ten Commandments that he had posted in his courtroom. The proposed resolution stated that "(1) the Ten Commandments are a declaration of fundamental principles that are the cornerstones of a fair and just society; and (2) the public display, including display in government offices and courthouses, of the Ten Commandments should be permitted."¹ In the speech he gave on the Senate floor, Sen. Sessions said, "The Ten Commandments represent a key part of the foundation of western civilization of our legal system in America. To exclude a display of the Ten Commandments because it suggests an establishment of religion is not consistent with our national history, let alone common sense itself. This Nation was founded on religious traditions that are an integral part of the fabric of American cultural, political, and societal life."²

We urge Committee members to ask the nominee questions on these issues:

- **Do you support calls for the posting of the Ten Commandments in courthouses, public buildings, and public schools?**
- **If you support posting the Ten Commandments in public schools, on what basis do you do so, in light of the Supreme Court's clear guidance for public schools in *Stone v. Graham*, 449 U.S. 39 (1980)?**

It is well-settled that government-sponsored prayer in the public school setting, whether in the classroom or at a school event, violates the First Amendment to the United States Constitution.³ Indeed, the only type of prayer that is constitutionally permissible is private and voluntary student prayer. Prayers at athletic events, graduation ceremonies, and even school board meetings send an exclusionary message to students and community members of favoring one religion over others. In a speech on the Senate floor, Sen. Sessions said, "We take a minute, and somebody says a little prayer that acknowledges something more important than who is the

¹ Jeff Sessions, *Display of the Ten Commandments*, Floor Statements (Mar. 19, 1997), <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=adb9120e-7e9c-9af9-7ebe-04856d3931c6>

² *Id.*

³ See, e.g., *Engel v. Vitale*, 370 U.S. 421 (1962); *School District of Abington Township, Pa. v. Schempp*, 374 U.S. 203 (1963), *Santa Fe Indep. School Dist. v. Doe*, 530 U.S. 290 (2000).

toughest football player on the field. I don't think there is anything wrong with that. I don't believe it violates anybody's rights."⁴

In a Senate Judiciary Committee hearing on the Religious Liberty Protection Act of 1998, Sen. Sessions said, "This wall of separation, this obsession with eliminating every expression of religious faith in the public sphere is not constitutional and is not historical."⁵

We urge Committee members to ask the nominee questions on these issues:

- **What is your position on the constitutional breadth and parameters of the separation between church and state?**
- **Do you support prayer at public school events, including athletic events?**
- **If so, on what basis do you do so, given the U.S. Supreme Court's clear guidance in *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000)?**

Hate Crimes Prevention and Prosecution

For more than three decades, ADL has spearheaded the drafting, enactment, and implementation of hate crimes laws, working in partnership with other civil rights and religious organizations, law enforcement groups, civic agencies, and business leaders. Hate crimes merit a priority response because of their special impact on the victim and the victim's community. Failure to address this unique type of crime could cause an isolated incident to explode into widespread community tension. The damage done by hate crimes cannot be measured solely in terms of physical injury or dollars and cents. Hate crimes may effectively intimidate other members of the victim's community, leaving them feeling isolated, vulnerable, and unprotected by the law. Because hate crimes often render members of minority communities fearful, angry, and/or suspicious of other groups – and of the power structure that is supposed to protect them – these incidents can damage the fabric of our society and fragment communities.

Criminal activity motivated by bias is distinct and different from other criminal conduct. These crimes occur because of the perpetrator's bias or animus against the victim on the basis of actual or perceived status – the victim's race, color, religion, national origin, sexual orientation, gender, gender identity, or disability is the reason for the crime. In the vast majority of these incidents, no crime would have occurred at all were it not for the victim's personal characteristic. Statistics recently released by the FBI⁶ show that in 2015 the nation's law enforcement agencies reported that there were 5,850 hate crimes in the United States, which reflects a 7% increase from 2014.

⁴ Jeff Sessions, *Under God*, Floor Statements (Jun. 26, 2002), <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=A3AF7243-7E9C-9AF9-784D-C587FDF755E7>.

⁵ Religious Liberty Protection Act of 1998: Hearings on S. 2148 Before the Senate Judiciary Comm., 105th Cong. 40 (1998).

⁶ 2015 Hate Crimes Statistics, FBI: Uniform Crime Reporting (2016), <https://ucr.fbi.gov/hate-crime/2015>.

In 2015, as in every year over the past 25 years, race was the most frequent hate crime—2,754 incidents (more than 47% of the total). Crimes against African-Americans made up the vast majority of that category, 1,745 incidents (almost 30%). Crimes directed against individuals and institutions on the basis of religion were second most frequent (1,244, over 21%). Crimes against Jews and Jewish institutions accounted for more than 50% of the religion category and there was a substantial increase in anti-Muslim crimes – from 154 in 2014 to 257 in 2015. In addition, 1,053 (18%) of the victims were targeted because of their sexual orientation and another 114 (about 2%) were targeted because of their gender identity.

The FBI has been collecting this hate crime data from law enforcement authorities across the country since 1991 under the Hate Crime Statistics Act.⁷ In 2015, the most recent data available, 87 cities over 100,000 in population either did not report any data to the FBI or affirmatively reported zero (0) hate crimes. The state of Alabama reported ten hate crimes. By contrast, in 2015, the city of Phoenix, Arizona reported 231 hate crimes, the city of Columbus, Ohio reported 137 hate crimes, and the city of Boston, Massachusetts reported 139 hate crimes.

We respectfully request that the Committee question the nominee with respect to the following:

- **What steps would you take as Attorney General to ensure that police departments are well trained to identify, report, and respond to hate crimes that occur in their jurisdictions?**

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA), signed into law on October 28, 2009, is the most important, comprehensive, and inclusive hate crime enforcement law enacted in the past 40 years.⁸ Among other things, the HCPA extended federal hate crimes protections to victims targeted because of their sexual orientation, gender or gender identity, or disability. It also closed gaps in federal enforcement authority, encouraged partnerships between state and federal law enforcement officials to address hate violence more effectively, and provided limited expanded authority for federal hate crime investigations and prosecutions when local authorities are unwilling or unable to act.

Under the HCPA, the Attorney General or a designee must sign off on all criminal prosecutions brought under the Act. Federal hate crimes cases have significant national import. Hate crimes charges filed by the Department of Justice in recent years include cases involving organized hate groups, cases with special community or national impact, and cases in which local authorities lacked the resources, or the will, to vindicate justice.

In addition, since passage of the HCPA, lawyers at the Department of Justice have worked with FBI officials, U.S. Attorneys, and professionals from the Community Relations Service to organize a series of dozens of training programs on the tools the Act provides, enforcement strategies, and community engagement – including training programs in each of the five states with no hate crime laws.⁹ Several thousand state and local law enforcement officials have been trained at these sessions. In addition, the Justice Department, in coordination with several lead

⁷ 28 U.S.C. § 534.

⁸ Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249 (2009).

⁹ The five states without hate crimes laws are Arkansas, Georgia, Indiana, South Carolina, and Wyoming.

U.S. Attorneys, has vigorously defended the HCPA in both facial and as applied constitutional challenges.

Sen. Sessions ardently opposed passage of the HCPA.¹⁰ In 2009 Senator Sessions condemned the Act as “a broad power that we give to the Attorney General and a broad statute I don’t believe is compelled by the facts [about hate crime] that are happening in America today.”¹¹ After the law had passed, he said, “The hate crimes amendment is unwarranted, possibly unconstitutional—certainly, I believe it is unconstitutional in certain parts—and it violates the basic principle of equal justice under the law. The hate crimes amendment to this bill has been said to cheapen the civil rights movement.”¹²

Given Sen. Sessions’ opposition to the HCPA, and the fact that as Attorney General he would be required to sign off on all federal hate crimes prosecutions, we believe it is imperative to ask the nominee about his positions on hate crimes prosecutions and hate crimes laws. We respectfully request that the Committee question the nominee with respect to the following:

- **Will you sign off on charges brought pursuant to the HCPA, including for crimes targeting members of the lesbian, gay, bisexual and transgender (LGBT) community?**
- **Will you continue the Department of Justice’s training programs, including in the five states that have no hate crimes laws, and ensure that U.S. Attorneys, FBI agents, and local law enforcement agents all have the tools they need to prevent bias crimes and to prosecute them diligently and effectively?**
- **In light of the U.S. Supreme Court’s unanimous 1993 *Wisconsin v. Mitchell* decision upholding a similar state hate crimes law against a First Amendment challenge, will you defend the constitutionality of the HCPA in court should it be challenged, as the current Justice Department has done on several occasions¹³?**

Voting Rights

Voting rights are the keystone of our democracy, and ADL believes that the necessity of securing and safeguarding the right to vote for all eligible Americans cannot be underscored enough. Recognizing the Voting Rights Act of 1965 (VRA) as one of the most important and most effective pieces of civil rights legislation ever enacted, the League has strongly supported the VRA and its extensions since its passage almost 50 years ago. ADL has consistently filed briefs before the U.S. Supreme Court supporting the constitutionality of the VRA, including in *Shelby County v. Holder*.¹⁴

¹⁰ Brandon Ellington Patterson, *Jeff Sessions Fought Against Hate Crime Protections for LGBT Victims*, Mother Jones (Nov. 22, 2016), <http://www.motherjones.com/politics/2016/11/jeff-sessions-hate-crime-law>.

¹¹ Brian Levin, *Jeff Sessions Will Be In Charge of Enforcing the Federal Hate Crime Law He Vehemently Opposed*, Huffington Post (Nov. 18, 2016), http://www.huffingtonpost.com/brian-levin-jd/trumps-attorney-general-nominee-was_b_13080004.html.

¹² Jeff Sessions, *Sessions Expresses Concern About the Hate Crimes Act*, Floor Statements (Jul. 20, 2009), <http://www.sessions.senate.gov/public/index.cfm/2009/7/sessions-expresses-concern-about-the-hate-crimes-act>.

¹³ *Hate Crimes*, Department of Justice, <https://www.justice.gov/crt/hate-crimes-0>.

¹⁴ *Shelby County v. Holder*, 133 S. Ct. 2612 (2013).

Sen. Sessions' record on voting rights can be described, at best, as deeply concerning. In 1985, when Mr. Sessions was U.S. Attorney for the Southern District of Alabama, he brought a case against Albert Turner – leader of the Perry County Civic League and a voting rights advocate who had walked directly behind Representative John Lewis during the Bloody Sunday march in Selma – and two others who had helped elderly black voters in Alabama with their absentee ballots. Mr. Sessions charged the “Marion Three” with 29 counts of mail fraud, altering absentee ballots, and conspiracy to vote more than once. The defendants faced more than 100 years in prison on criminal charges, including violations of the VRA that had seldom been used even to prosecute white officials who had systematically disenfranchised black voters for decades. Evidence showed that the defendants were helping elderly black voters complete mail-in ballots. The jury deliberated for less than three hours before returning not guilty verdicts on all counts.¹⁵

The following year, during his confirmation hearings for a federal judgeship in 1986, the then-nominee told the Senate that he had considered the VRA a “piece of intrusive legislation.”¹⁶ At those same hearings J. Gerald Hebert, who worked in the Department of Justice's Voting Section, testified that, when a federal judge called James Blacksher, who is white, “a disgrace to his race” for representing black clients in voting rights cases. Sessions responded, “Well, maybe he is.”¹⁷

Sen. Sessions' opposition to the VRA and troublesome record on voting rights did not end in the 1980s. Before running for a U.S. Senate seat, in 1996 Mr. Sessions argued that the VRA was a tool to engineer particular political outcomes, not to protect access to the ballot box. Sen. Sessions voted for the extension of the VRA in 2006, but he later said he had misgivings: “I wanted to vote for it, but at the very last minute I was very uneasy, because all of a sudden they expanded it to 25 years, and that probably wasn't justified.” After the Supreme Court's decision in *Shelby County v. Holder* in 2013, which essentially gutted the heart of the Act, Sen. Sessions called it, “Good news, I think, for the South.”¹⁸

In the role of Attorney General, the nominee would be tasked with protecting the right to vote for all Americans. We would urge the Committee to ask the nominee questions in this area:

➤ **Do you believe you made a mistake in prosecuting the Marion Three?**

¹⁵ Robert Pear, *Judge Nomination Stirs Opposition*, New York Times (Dec. 1, 1985), <http://www.nytimes.com/1985/12/01/us/judge-nomination-stirs-opposition.html>; Ari Berman, *Jeff Sessions, Trump's Pick for Attorney General, Is a Fierce Opponent of Civil Rights*, The Nation (Nov. 18, 2016), <https://www.thenation.com/article/jeff-sessions-trumps-pick-for-attorney-general-is-a-fierce-opponent-of-civil-rights/>.

¹⁶ Osita Nwanevu, *Jeff Sessions, Defender of the Muslim Ban, Is Trump's Pick for Attorney General*, Slate (Nov. 18, 2016), http://www.slate.com/blogs/the_slatest/2016/11/18/jeff_sessions_is_trump_s_pick_for_attorney_general.html.

¹⁷ Mary Troyman and Brian Lyman, *Black Belt Voter Fraud Case in Alabama Shaped Sen. Jeff Sessions' Career*, USA Today (Nov. 18, 2016), <http://www.usatoday.com/story/news/politics/2016/11/18/black-belt-voter-fraud-case-alabama-shaped-sen-jeff-sessions-career/94088186/>.

¹⁸ Tierney Sneed, *Why Jeff Sessions as Attorney General Horrifies Voting Rights Advocates*, Talking Points Memo (Nov. 18, 2016), <http://talkingpointsmemo.com/dc/why-trump-s-choice-of-jeff-sessions-as-ag-is-alarming-voting-rights-advocates>.

- **Given your history of prosecuting African-American voting rights advocates while you were U.S. Attorney, what reassurance can you provide that you will fairly enforce the Voting Rights Act?**
- **You have expressed support for the *Shelby County v. Holder* decision. How broad do you believe the Justice Department's authority is now to enforce the Voting Rights Act?**
- **Why do you support voter ID requirements when the overwhelming evidence is that in-person voter impersonation is almost non-existent, and clear evidence exists that these restrictions limit access for minority, poor, old, disabled, and young voters?**

Criminal Justice Reform and Law Enforcement Training

In recent years, there have been multiple proposals at the federal and state levels to reform criminal justice and police policies, including reforming pretrial detention; adopting alternatives to arrest and incarceration for minor, non-violent offenses; appointing special prosecutors in cases of police involvement in fatalities of unarmed civilians and allegations of serious police misconduct; requiring law enforcement officers to wear body cameras; expanding FBI and Justice Department data collection on police use of lethal force; providing treatment, rather than incarceration, for substance abuse and mental health; limiting mandatory minimum sentences to the most serious offenses; ensuring fairness in the selection of jurors and grand jurors; focusing prisons on rehabilitation efforts; and promoting best practices to ease reentry and reduce recidivism.

ADL supported the Sentencing Reform and Corrections Act of 2015, as well as other reform efforts designed to reduce mass incarceration, oppose racism, reform practices that disproportionately impact communities of color, create safe environments for all communities, and build trust between law enforcement and the communities they serve and protect.

ADL is the largest non-governmental provider in the United States for law enforcement training on hate crimes, extremism and terrorism. In recent years, we have welcomed a number of well-crafted police reform initiatives, including the President's Task Force on 21st Century Policing.¹⁹ The League has strongly supported the work of the Task Force and an ADL representative presented testimony before the Task Force focused on our flagship Law Enforcement and Society (LEAS) core values program and a range of other policing practices designed to promote effective crime reduction while building public trust and collaborative relationships between law enforcement officials and the communities they serve and protect.²⁰

The Department of Justice has also engaged in leadership work to accomplish police reform and promote improved police-community relations and trust through the Civil Rights Division's

¹⁹ President's Task Force on 21st Century Policing 2015, *Final Report of the Task Force on 21st Century Policing*, Office of Community Oriented Policing Services (May 2015), https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

²⁰ Press Release, Anti-Defamation League, President Obama's Task Force on 21st Century Policing Consults with ADL on Law Enforcement Training (Feb. 14, 2015), <http://www.adl.org/press-center/press-releases/miscellaneous/presidents-task-force-21st-century-policing-consults-adl.html?referrer=https://www.google.com/#.WG-EvCMrKM4>.

active enforcement of its civil “pattern or practice” authority to address policing that violates the Constitution or other federal laws. According to a report released earlier this month, the Division has opened 11 new pattern or practice investigations and negotiated 19 new reform agreements since 2012, often with the substantial assistance of the local U.S. Attorney’s Offices.²¹

These cases focus on systemic police misconduct and involve very substantial investigations. If the Department does find a pattern or practice of police misconduct, it works with local government and police authorities to address and remedy the situation, usually through a consent decree overseen by a federal court and an independent monitoring team.

In June, 2016 the Justice Department announced that every federal law enforcement official and every federal prosecutor would participate in implicit bias training in the coming months. ADL applauded this announcement;²² the League had recommended such core values training initiatives in its submissions to the President’s Task Force on 21st Century Policing.

Sen. Sessions has disregarded evidence about diminishing crime rates²³ and has strongly opposed bipartisan criminal justice reform efforts.²⁴ In another context, Sen. Sessions has harshly criticized consent decrees as “an end run around the democratic process.”²⁵

We would urge the Committee to probe the nominee’s views on criminal justice issues.

- **What is your view on efforts to address mass incarceration?**
- **Do you support the use of consent decrees and settlement agreements to address a pattern and practice of police misconduct? Are there specific police misconduct consent decrees entered into by the Obama Justice Department with which you disagree?**
- **Would you commit to continuing the Justice Department’s important implicit bias training initiative?**

²¹ Civil Rights Division U.S. Dept. of Justice, *The Civil Rights Division’s Pattern and Practice Police Reform Work: 1994-Present* (Jan. 2017), <https://www.justice.gov/crt/file/922421/download>.

²² Press Release, Anti-Defamation League, ADL Applauds Department of Justice Commitment to Implicit Bias Training (Jun. 27, 2016), <http://www.adl.org/press-center/press-releases/civil-rights/justice-dept-applauded-commitment-to-implicit-bias-training.html?referrer=https://www.google.com/#WG-lbiMrKM4>.

²³ News Releases, Jeff Sessions, *Sessions: Don’t Weaken Criminal Law in Middle of Crime Wave* (Oct. 13, 2015), <http://www.sessions.senate.gov/public/index.cfm/2015/10/sessions-don-t-weaken-criminal-law-in-middle-of-crime-wave>.

²⁴ Carl Hulse, *Why the Senate Couldn’t Pass a Crime Bill Both Parties Backed*, New York Times (Sept. 16, 2016), http://www.nytimes.com/2016/09/17/us/politics/senate-dysfunction-blocks-bipartisan-criminal-justice-overhaul.html?_r=0.

²⁵ Jeff Sessions, *Foreword to Consent Decrees in Institutional Reform Litigation: Strategies for State Legislatures* (Michael E. DeBow, Gary J. Palmer, and John J. Park, Jr.)(2008), <http://www.alabamapolicy.org/wp-content/uploads/API-Research-Consent-Decrees.pdf>.

LGBT Equality

In recent years, the Justice Department has been a powerful voice in support of LGBT equality and it was a strong supporter of the constitutionality²⁶ and importance²⁷ of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA), legislation that, among other things, provided authority for FBI investigations and Justice Department prosecutions of certain bias-motivated crimes, including crimes directed at individuals because of their sexual orientation or gender identity. The FBI updated its excellent Hate Crime Training Manual with thoughtful definitions and scenarios to aid police in understanding hate crimes directed against members of LGBT communities.²⁸ As previously mentioned, Sen. Sessions voted against the HCPA.

In 2011, then-Attorney General Eric Holder announced that the Department would no longer support the constitutionality²⁹ of the ill-conceived Defense of Marriage Act.³⁰ Sen. Sessions strongly disagreed with that decision, saying he was “very troubled” by the step and calling it “unacceptable.”³¹ He has supported a constitutional ban on same-sex marriage.³²

The Justice Department has strongly supported³³ the Employment Non-Discrimination Act (ENDA), legislation designed to ensure workplace anti-discrimination protections for LGBT people. In 2013, Sen. Sessions voted against Senate consideration of ENDA.³⁴ In addition, Sen. Sessions is a cosponsor of the misnamed “First Amendment Defense Act,”³⁵ legislation which

²⁶ Robert Raben, *Constitutionality of the Matthew Shepard Hate Crimes Prevention Act: Memorandum Opinion for the Assistant Attorney General Office of Legislative Affairs* (Jun. 16, 2009), https://www.justice.gov/sites/default/files/ole/opinions/2009/06/31/shepard-hate-crimes_0.pdf.

²⁷ Eric Holder, *Attorney General Eric Holder Before the Committee on the Judiciary United States Senate at a Hearing Entitled, ‘The Matthew Shepard Hate Crimes Prevention Act of 2009,’* (Jun. 25, 2009), <https://www.justice.gov/ag/justice-news-3>.

²⁸ Law Enforcement Support Section, *Hate Crime Data Collection Guidelines and Training Manual* (Feb. 27, 2016), <https://ucr.fbi.gov/hate-crime-data-collection-guidelines-and-training-manual.pdf>.

²⁹ Press Release, Department of Justice, *Statement of the Attorney General on Litigation Involving the Defense of Marriage Act* (Feb. 23, 2011), <https://www.justice.gov/opa/pr/statement-attorney-general-litigation-involving-defense-marriage-act>.

³⁰ Defense of Marriage Act, 1 U.S.C. § 7 and 28 U.S.C. § 1738c (1996), <https://www.gpo.gov/fdsys/pkg/PLAW-104publ199/html/PLAW-104publ199.htm>.

³¹ Senator Sessions Sharply Questions Nominee for Solicitor General (Mar. 30, 2011), https://www.youtube.com/watch?v=LR5xQnmo_lk&feature=youtu.be.

³² On the Cloture Motion (Motion to Invoke Cloture on the Motion to Proceed to the Consideration of S.J. Res. 1), U.S. Roll Call Votes 109th Congress—2nd Session (Jun. 7, 2006), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=00162.

³³ Thomas E. Perez, *Statement of Thomas E. Perez, Assistant Attorney General, Department of Justice, Before the Committee on Health, Education, Labor and Pensions, U.S. Senate, Entitled ‘Employment Non-Discrimination Act: Ensuring Opportunity for All Americans,’* Dept. of Justice (Nov. 5, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2009/11/05/perez_testimony_11509.pdf.

³⁴ On the Cloture Motion to Proceed (Motion to Invoke Cloture on the Motion to Proceed to S. 815), U.S. Senate Roll Call Votes 113th Congress—1st Session (Nov. 4, 2013), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=1&vote=00229.

³⁵ First Amendment Defense Act, S. 1594, 114th Cong. (2015), <https://www.congress.gov/bills/114/1594/congress/senate-bills/1598/cosponsors?q=%7B%22search%22%3A%5B%22first-amendment+defense+act%22%5D%7D&r=2>.

would prevent the government from taking action against businesses that discriminate against LGBT people based on their “religious belief or moral conviction.”

In light of this consistent record of opposition to LGBT equality, we would urge Committee members to question Sen. Sessions on the following:

- **Do you believe same-sex marriage equality is the settled law of the land?**
- **Do you believe that individuals should be able to violate federal civil rights laws if their non-compliance is grounded in religious or moral objections?**
- **Will you enforce existing protections against transgender discrimination?**

Immigration

ADL has advocated for fair and humane immigration policies since its founding in 1913. The League has helped expose anti-immigrant hate that has been a fixture of the recent immigration debate, and has called for a responsible public discourse that will honor America’s history as a nation of immigrants.

The Attorney General and the Department of Justice have tremendous power over immigration law. The Department of Justice has the power to prosecute immigration violations and the responsibility to administer immigration courts. As head of the Department of Justice, the Attorney General oversees the Executive Office for Immigration Review and the Board of Immigration Appeals, giving him or her broad authority over the enforcement of immigration laws and the fate of asylum seekers, which are often life-and-death decisions. The nominee’s views on immigration, therefore, are exceptionally consequential and deserve in-depth questioning.

During his time in the Senate, Sen. Sessions has led efforts to defeat immigration reform and bills that would include a pathway to citizenship for undocumented immigrants, has championed the creation of a fence along the U.S.-Mexico border and has supported zero-tolerance policies for unlawfully crossing the border, advocating for more aggressive prosecution. He has consistently voted to restrict immigration, increase funding for border patrol, and expand border barriers. Sen. Sessions has supported legislation that would require local law enforcement to report “any undocumented immigrants to the Department of Homeland Security”³⁶ and has insisted that it is “a violation of the criminal code to enter our country illegally.” He introduced a bill that would make unlawful presence in the United States a crime, mandating jail time for people who overstayed their visa,³⁷ and voted to invoke cloture on a bill that would increase

³⁶ Mary Troyan, *Jeff Sessions, a Deficit Hawk, May Need to Spend Big on Immigration*, USA Today (Dec. 6, 2016), <http://www.usatoday.com/story/news/politics/2016/12/06/jeff-sessions-deficit-hawk-may-need-spend-big-immigration/94756084/>.

³⁷ Carolyn Lochhead, *Republicans Hardening Stance on Immigration*, San Francisco Gate (Aug. 4, 2007), <http://www.sfgate.com/politics/article/Republicans-hardening-stance-on-immigration-3416115.php>.

penalties for those who unlawfully reentered the United States after removal.³⁸ A memo that Sen. Sessions wrote in 2015 outlined his thoughts on immigration. Among other things, he argued in favor of cancelling federal funds to so-called “sanctuary cities,” establishing criminal penalties for visa overstay, and “ending catch-and-release on the border with mandatory detention and expedited deportations.”³⁹

Sen. Sessions has also supported legal changes to the 14th Amendment to deny citizenship to American-born children of undocumented immigrants. In 2010 he called for hearings on whether the 14th Amendment should be amended to deny birthright citizenship to children of undocumented immigrants⁴⁰ and said that birthright citizenship has been “clearly abused.”⁴¹ The Fourteenth Amendment to the U.S. Constitution states that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the state in which they reside.”⁴² Section 301(a) of the Immigration and Nationality Act similarly codifies that “a person born in the United States, and subject to the jurisdiction thereof,” is a national and citizen of the United States at birth.⁴³ It is long-settled law that “the Fourteenth Amendment affirms the fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country, including all children here born of resident aliens.”⁴⁴ The right, commonly referred to as “birthright citizenship,” extends equally to all persons born in the United States, regardless of their parents’ citizenship or immigration status.

The adoption of the Fourteenth Amendment expressly overturned the tragic and infamous *Dred Scott* decision, widely regarded as among “our most shameful failures to discharge our duty of defending constitutional civil liberties against the popular hue and cry that would have us abridge them.”⁴⁵ In *Dred Scott*, the Supreme Court had held that “a negro, whose ancestors were imported into this country and sold as slaves [sic]” was “not intended to be included, under the word ‘citizens’ in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States.”⁴⁶ At least in part, *Dred Scott* has been so reviled in the history books because it created an underclass of people born in the United States but unable to gain full and equal access to the rights to “Life, Liberty

³⁸ United States Roll Call Votes 114th Congress—2nd Edition (Jul. 6, 2016), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=2&vote=00120.

³⁹ Jeff Sessions, *Immigration Handbook for the New Republican Majority* (Jan. 2015), <http://www.sessions.senate.gov/public/cache/files/67ae7163-6616-4023-a5c4-534c53e6fc26/immigration-primer-for-the-114th-congress.pdf>.

⁴⁰ Louis Jacobson, *Fact-checking the Claims About ‘Anchor Babies’ and Whether Illegal Immigrants ‘Drop and Leave,’* Politifact (Aug. 6, 2010), <http://www.politifact.com/truth-o-meter/statements/2010/aug/06/lindsey-grahan/illegal-immigrants-anchor-babies-birthright/>.

⁴¹ Devin Dwyer and Jonathan Karl, *Republicans Eye Change to Birthright Citizenship*, ABC News (Aug. 3, 2010), <http://abcnews.go.com/Politics/birthright-citizenship-14th-amendment-republican-senators-explore-change/story?id=11313973>.

⁴² U.S. Const. amend. XIV, § 1.

⁴³ 8 U.S.C. §1401(a).

⁴⁴ *United States v. Wong Kim Ark*, 169 U.S. 649, 693 (1898).

⁴⁵ *United States v. Zapata-Ibarra*, 223 F.3d 281, 282 (5th Cir. 2000).

⁴⁶ *Dred Scott v. Sandford*, 60 U.S. 393, 403, 404 (1857).

and the pursuit of Happiness” boldly set forth as a guarantee in the Declaration of Independence.⁴⁷

In December 2015, after President-elect Trump proposed a “total and complete shutdown of Muslims” entering the United States, Sen. Sessions said, “It’s time for us to think this through and the classical, internal American religious principles I don’t think apply providing constitutional protections to persons not citizens who want to come here.”⁴⁸ Soon thereafter Sen. Patrick Leahy introduced a “sense of the Senate” resolution to reaffirm that the United States should not bar people from this country because of their religion. Sen. Sessions voted against the resolution, giving a 30-minute speech about why others should reject it.⁴⁹ In addition to his apparent support for a ban on Muslim immigration, Sen. Sessions has made derogatory comments about immigrants from the Dominican Republic. In a speech on the Senate floor, Sen. Sessions said, “Almost no one coming from the Dominican Republic to the United States is coming because they have a skill that would benefit us and that would indicate their likely success in our society.”⁵⁰

Given the Attorney General’s power over immigration and Sen. Sessions’ record on the issues, ADL believes it would be appropriate to question the nominee in-depth about his intentions. In particular, we respectfully request that the Committee question him with regard to the following:

- **How—and to what extent—do you intend to use Department of Justice resources to prosecute immigration cases?**
- **Are there any cases from the Board of Immigration Appeals that you have flagged for reconsideration?**
- **Do you believe that immigrants, including undocumented immigrants, have due process rights? Do you believe that people who have overstayed their visas should be prosecuted and sentenced to time in jail or prison? Do you believe that people who reenter the country unlawfully after a removal should be prosecuted and sentenced to time in jail or prison?**
- **What is your position regarding the status of people who received Deferred Action for Childhood Arrivals?**

⁴⁷ The Declaration of Independence para. 2 (U.S. 1776).

⁴⁸ Jennifer Jacobs and Steven T. Dennis, *Trump Names Senator Jeff Sessions to Be His Attorney General*, Bloomberg Politics (Nov. 18, 2016), <https://www.bloomberg.com/politics/articles/2016-11-18/trump-said-to-pick-senator-jeff-sessions-for-attorney-general>.

⁴⁹ Sari Horwitz and Ellen Nakashima, *Jeff Sessions Is Expected to Bring Sweeping Changes to the Justice Department*, The Washington Post (Nov. 18, 2016), https://www.washingtonpost.com/world/national-security/jeff-sessions-is-expected-to-bring-sweeping-changes-to-the-justice-department/2016/11/18/f480019c-ad93-11e6-8b45-f8e493f06fcd_story.html?utm_term=.e6a904b69430.

⁵⁰ Jeff Sessions, *Sen. Sessions on Immigration*, Floor Statements (May 22, 2006), <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=ee49e505-7c9c-9af9-731c-006d27095530>.

- If the federal government were to pass a law withholding federal funding from so-called “sanctuary cities,” how would you prioritize Department of Justice resources to file charges against cities that did not comply?
- Would you defend the civil rights of people with undocumented parents who had received citizenship by virtue of being born in the United States? If so, would that include the rights of those children to attend public schools? If not, on what basis do you hold that view, given the Supreme Court’s clear guidance in *Plyler v. Doe*, 457 U.S. 202 (1982)?
- Do you believe that banning entry of Muslims into the United States would be constitutional? Would you defend an Executive Order to that effect if the President were to promulgate one?

Reproductive Health

As a national Jewish civil rights and human relations organization dedicated to principles of religious and individual liberty, including the right to privacy, ADL views reproductive choice as an issue of personal and religious freedom. Accordingly, we believe that government should not unnecessarily intrude on a woman’s decision about abortion. Rather, the decision should be made in consultation with a doctor and in accordance with a woman’s own religious and moral convictions.

Sen. Sessions has consistently opposed abortion access. In 2003, for example, Sen. Sessions voted for the Partial-Birth Abortion Ban Act, which created a fine and up to two years’ imprisonment for physicians who knowingly performed such an abortion.⁵¹ The following year, he voted in favor of the Unborn Victims of Violence Act.⁵² In 2008, he voted yes on an amendment that would have removed pregnant women’s health insurance coverage on the State Children’s Health Insurance Program and instead provide coverage to the unborn fetus.⁵³ He also voted to make it a federal crime to transport a minor across state lines in order to obtain an abortion to circumvent parental notification laws⁵⁴ and to bar the use of funds or facilities of the Indian Health Services to provide abortions or cover costs of health plans that included abortion

⁵¹ United States Roll Call Votes 108th Congress—1st Edition (Mar. 13, 2003), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=108&session=1&vote=00051#state.

⁵² United States Roll Call Votes 108th Congress—2nd Edition (Mar. 25, 2004), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=108&session=2&vote=00063.

⁵³ Pema Levy, *This Is the Only Recent Time Jeff Sessions Voted to Expand Health Care Coverage*, Mother Jones (Nov. 19, 2016), <http://www.motherjones.com/politics/2016/11/senator-sessions-voted-expand-health-care-coverage-fetuses>.

⁵⁴ United States Senate Roll Call Votes 109th Congress—2nd Edition (Sept. 29, 2006), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=00263.

access.⁵⁵ Sen. Sessions has voted to defund Planned Parenthood and called on Attorney General Loretta Lynch to open an investigation about Planned Parenthood.⁵⁶

The Freedom of Access to Clinic Entrances Act (commonly referred to as the “FACE Act”) protects access to reproductive health services and criminalizes acts of physical force, threats of physical force, or physical obstructions to block access to reproductive health services as well as intentional damage or destruction of a reproductive health facility.⁵⁷ The Attorney General has the right and the responsibility to initiate federal criminal prosecutions under the FACE Act, as well as civil actions.⁵⁸

In light of Sen. Sessions’ positions on abortion access and the responsibilities of the Attorney General, we respectfully urge the Committee to question Sen. Sessions with regard to the following:

- **Will you comply with the FACE Act and protect access to reproductive health facilities? Will you protect the safety of the clinics?**
- **Do you intend to use the resources of the Department of Justice to initiate an investigation of Planned Parenthood?**
- **Given longstanding Supreme Court precedent on the constitutionality of abortion as defined by *Roe v. Wade* and continuing through *Whole Woman’s Health v. Hellerstedt*, would you defend the constitutionality of abortions?**

The Role of the Attorney General and the Department of Justice

In addition to the specific issue areas enumerated above, we believe it is appropriate to probe the nominee’s views on how the Attorney General should make decisions and exercise prosecutorial discretion. We respectfully request that members of the Committee question the nominee with respect to the following:

First, on July 21, 2009 Sen. Sessions published an op-ed in the *Fort Wayne Journal Gazette* entitled “Supreme Court Must Not Show Empathy in Rulings.” In it he wrote, “Empathy-based rulings, no matter how well-intentioned, do not help society but imperil the legal system that has been so essential to our liberties and so fundamental to our way of life.” As the nation’s top law enforcement officer and as the head of the Department of Justice, the Attorney General has the authority to exercise prosecutorial discretion.

- **Do you believe that empathy has a role in determining which cases to bring, and which laws to enforce zealously?**

⁵⁵ United States Senate Roll Call Votes 110th Congress—2nd Edition (Feb. 26, 2008), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=2&vote=00030.

⁵⁶ Bradford Richardson, *Sessions Urged to Investigate Planned Parenthood if He Succeeds Lynch as Attorney General*, Washington Times (Nov. 22, 2016), <http://www.washingtontimes.com/news/2016/nov/22/jeff-sessions-planned-parenthood-investigation-urg/>.

⁵⁷ 18 U.S.C. § 248 (1994).

⁵⁸ *Id.*

Second, in a speech Sen. Sessions gave on the Senate floor, he quoted Professor Van Alstyne of Duke University, who said of the Constitution, "If you respect the document, you will enforce it, the good and bad parts. You will enforce the parts you do not agree with, if you love, respect and revere the Constitution."⁵⁹

- **Are there parts of the Constitution with which you disagree? Are there parts of the Constitution with which you disagree that you would refuse to enforce as Attorney General?**

We know you share our view of the importance of the Senate's "advise and consent" role in the nomination process and we very much appreciate your leadership in promoting the important views expressed in this letter. We trust that the nominee's answers to Committee members' questions on these areas of interest and concern will help in the Committee's overall evaluation of Sen. Sessions for the important position of United States Attorney General.

Sincerely,

Marvin D. Nathan

Marvin D. Nathan
National Chair

Jonathan A. Greenblatt

Jonathan A. Greenblatt
CEO and National Director

⁵⁹ Jeff Sessions, "Under God," Floor Statements (Jun. 26, 2002), <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=A3AF7243-7E9C-9AF9-784D-C587FDF755E7>.



ARMENIAN ASSEMBLY OF AMERICA

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January 9, 2017

The Honorable Chuck Grassley
Chairman
The Honorable Patrick Leahy
Ranking Member
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

As you prepare to consider the nomination of your colleague, Senator Jeff Sessions, to serve as the Attorney General of the United States, we would like to call your attention to several issues of concern, particularly as it relates to the undue influence of foreign governments on America's democratic institutions and the need to fully enforce the Foreign Corrupt Practices Act (FCPA) and ensure compliance of the Foreign Agents Registration Act (FARA).

As highlighted in a January 3, 2017 *Bloomberg News* article entitled "Azeri Oil Money Got a Pass From This Ethics Committee," the columnist writes: "In May and June, 2013, a delegation of 11 U.S. Congress members and 32 congressional staff members visited Baku, the capital of Azerbaijan, to attend a conference called 'U.S.-Azerbaijan: Vision for the Future.' It was ostensibly funded by two non-profit groups, from which the U.S. legislators and their staff were allowed to accept travel. The OCE [Office of Congressional Ethics] found, however, that the nonprofits received the money for the trip from the Azerbaijani state-owned oil company, Socar, and one of the groups -- paid \$750,000 by Socar -- had been set up just one month prior to the conference. While in Baku, all the U.S. legislators received 'rugs of various sizes and value' as gifts, and some legislators and staffers also got crystal tea sets and silk scarves."

All Americans are deeply troubled by such reported activities, which constitute a flagrant disregard for the law and strike at the core of our constitutional government through blatant foreign influence peddling. This is especially disconcerting given that Azerbaijan's President Ilham Aliyev is the recipient of the Organized Crime and Corruption Reporting Project's first ever "Person of the Year" award.

A crude recent example of Azerbaijan's strategy to influence United States policy was its attempt to buy influence through the Azerbaijan Embassy hosting a Hanukkah event at the Trump Hotel in Washington, DC, which many organizations boycotted. The Aliyev regime is also engaged in this type of foreign influence buying to distract from its efforts to continue violating its ceasefire agreements with the Republics of Armenia and Nagorno Karabakh - to avoid democracy and human rights issues there by eliminating the Christian Armenians. Azerbaijan's activities in the United States come at a time when the Aliyev regime continues to deprive its citizens of basic human rights and freedoms. Last fall, Human Rights Watch reported that the Azerbaijani government has renewed its vicious crackdown on critics and independent

groups. Per this report, "Arrests in Azerbaijan increased sharply as activists and other citizens spoke out about the economic downturn, currency devaluation, and inflation in early 2016, and ahead of a September constitutional referendum that expanded presidential powers, Human Rights Watch found."

Azerbaijan, rather than relent, continued to repress freedoms through changes to its criminal code, of which then Helsinki Commission Chairman Representative Chris Smith (R-NJ) stated last month, "Make no mistake, anyone imprisoned under the new provisions of Azerbaijan's criminal code – which make online 'insults' of the president a punishable offense – will be a political prisoner. These new provisions clearly violate international human rights standards and Azerbaijan's OSCE [Organization for Security and Co-operation in Europe] commitments."

Azerbaijan's caviar diplomacy is also amply documented in the December 2016 European Stability Initiative (ESI) report, wherein expensive watches, jewelry, computers, and large sums of money, among other gifts, were provided to several politicians from a number of countries in Europe. ESI states that "the ease with which democratic institutions and safeguards can be undermined has emerged as a fundamental threat to European democracy."

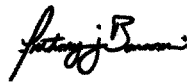
At a time when the U.S. is investigating Russia's attempts to influence America's election process, we must do all we can to safeguard America. As such, we are also concerned about emails discovered on WikiLeaks in which there is correspondence among campaign staffers discussing the legality of accepting donations from foreign governments, such as Azerbaijan, by FARA registrants. Such revelations are deeply troubling.

The Justice Department has brought some cases involving Azerbaijan through the FCPA, but much more is needed. According to the "Azeri Oil Money Got a Pass From This Ethics Committee" article in *Bloomberg News*, Azerbaijan continues to shell out over \$45,000 monthly to the Podesta Group, of which the columnist states "It's hard to tell whether it's this creativity and generosity or any real U.S. strategic interest that makes the U.S. overlook the country's brutal dictatorship. A combination of both is likely: Without the 'caviar diplomacy,' Azerbaijan might be considered too small to defy declared U.S. values and principles for its sake."

We prefer not to think that Azerbaijan's retention of the Podesta Group at hundreds of thousands of dollars per year to lobby for Azerbaijan is preventing such investigations. When it comes to the integrity of America's Constitution, the rule of law and our governance process, we must ensure that the law is duly enforced and that any attempt by foreign governments and their agents are roundly condemned and promptly prosecuted.

Thank you for your attention to this matter.

Sincerely,



Anthony Barsamian
Co- Chair, Board of Trustees



Van Z. Krikorian
Co- Chair, Board of Trustees



AFNA

Association of Federal Narcotics Agents
www.affna.org

January 16, 2017

The Hon. Charles Grassley
Chairman
Committee on the Judiciary
Washington DC 20510

Dear Chairman Grassley:

On behalf of the Association of Federal Narcotics Agents, representing approximately 1300 former Drug Enforcement Administration Agents, Task Force Officers, Diversion Investigators, Analysts and employees, we are writing to support the swift confirmation of Senator Jeff Sessions as the next Attorney General of the United States. Senator Sessions has an exemplary record of service while serving as the U.S. Attorney and as the State Attorney General for Alabama. His accomplishments as a prosecutor have repeatedly demonstrated his commitment to law enforcement and public safety. His political experience will allow him to gain bipartisan support to forge agreements to curb drug trafficking, drug abuse, pharmaceutical diversion, violent crime and drug legalization. American law enforcement is looking for leadership from Washington, and we turn to you for that leadership by moving Senator Sessions' nomination swiftly through the confirmation process.

Sincerely,

Jim Craig
President, Association of Federal Narcotics Agents



January 9, 2016

Chairman Chuck Grassley
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
United States Senate

Dear Chairman Grassley and Ranking Member Feinstein,

The Bill of Rights Defense Committee/Defending Dissent Foundation is a national civil liberties organization dedicated to fulfilling the promise of the Bill of Rights for all people, with a special emphasis on protecting the right of political expression in order to create a participatory democracy. ***We are writing to urge you to reject Senator Jeff Sessions' nomination for Attorney General.***

The Attorney General is the nation's most powerful law enforcement official, responsible for overseeing the protection of federal civil and Constitutional rights of everyone in the United States. Unfortunately, Senator Sessions has a decades long track record of disregard for civil liberties and the rights of people of color, immigrants, and LGBTQ people as a US Senator, Alabama Attorney General, and Assistant United States Attorney.

Throughout his career, Mr Sessions has not demonstrated a commitment to ensuring that the promise of the Bill of Rights is fulfilled ***for everyone in America.*** He has consistently proved himself unwilling to support essential Constitutional protections, and has instead worked to deny fundamental rights to whole swaths of Americans based on their identities..

We strongly urge you to reject Mr. Sessions' nomination.

This Committee Rejected Mr Sessions Nomination to the Federal Judiciary, All of Those Reasons Similarly Disqualify Him From Serving as Attorney General

In 1986, this committee considered Mr. Sessions' nomination for federal District Court judge. His nomination was rejected in part due to a number of troubling and racially insensitive comments. These include a statement that Sessions had been ok with the Ku Klux Klan until he discovered that its members "smoked pot." Sessions freely conceded to making this statement, but stated that it was a joke. Sessions also was reported to have made statements about the American Civil Liberties Union and NAACP for being "un-American" and "communist inspired" for having tried to force "civil rights down the throats of the people."

While these statements were uttered over thirty years ago, Mr. Session's "has fought against civil rights at every turn" in the intervening years, according to former Justice Department Civil Rights Division lawyers. Barring clear evidence that Sessions has truly reversed these problematic views, any issues that precluded him from being confirmed to the federal judiciary precludes his confirmation as Attorney General.

As no such evidence exists, we urge you to reject Mr. Sessions

As an Assistant US Attorney Mr. Sessions Was Involved in Troubling Prosecution of Three Civil Rights Activists

Mr. Sessions' prosecution in 1985 of three civil rights workers helping African Americans in Alabama register to vote raises alarms. His role in this prosecution is one of many reasons he was rejected by the Judiciary Committee in 1986, but we believe this incident warrants special attention.

Before the Voting Rights Act, in many parts of the southern United States few, if any, African-Americans were registered voters due to racially motivated barriers erected to their registration. This dramatically changed after Congress enacted new federal legislation dedicated to protecting the right to vote. As a result, not only did many African-Americans become voters, but African-Americans were elected to office and for the first time majority African-Americans communities were able to elect their own representatives.

Vital to this was the role of civil rights activists, both those who organized for voting rights, and those who subsequently helped the Voting Rights Act have meaning by actively registering voters. One such activist was Albert Turner, who had worked closely with Dr. Martin Luther King, marched for voting rights in Selma, and then became well known for registering voters and helping elderly voters file absentee ballots.

In 1984, FBI agents hid behind bushes at a post office and waited for Turner to drop off absentee ballots, which they then seized. FBI agents also rounded up a number of elderly, African-American voters interrogating them and calling them to testify before a grand jury.

Mr. Sessions brought 29 charges against Turner, his wife, Evelyn Turner, and a third activist named Spencer Hogue. Of these charges, nearly half of them were dismissed by a judge for

lack of evidence. The jury took less than three hours to acquit the civil rights workers of the charges not dismissed by the presiding judge.

This baseless prosecution of civil rights activists is deeply troubling. Law enforcement should never be used to carry out political retaliation nor should public officials engage in racially based voter suppression. The prosecution of three civil rights workers in Marion County, Alabama has elements of both and thus we urge this committee to reject Mr. Sessions nomination.

As Alabama Attorney General, Mr. Sessions Violated the First Amendment Rights of Students, Both Because of the Viewpoints They Espoused and their Perceived Sexual Orientation

As Alabama Attorney General, Mr. Sessions authored an opinion barring student organizations focused on LGBTQ issues, such as the Gay Straight Alliance or Gay Lesbian Bisexual Alliance, from receiving state funding. Mr. Sessions opinion stated, "an organization that professes to be comprised of homosexuals and/or lesbians may not receive state funding or use state-supported facilities to foster or promote those illegal, sexually deviate activities defined in the sodomy and sexual misconduct laws."

Shortly after Mr. Sessions issued his opinion, the Alabama state legislature passed a statute with the same intent. After the statute passed, Session issued a "letter opinion" to the University of South Alabama informing them that the relevant statute prohibited them from providing funding to the student group Gay Lesbian Bisexual Alliance. The Gay Lesbian Bisexual Alliance filed a lawsuit and a federal judge found both the Alabama statute and its application by Sessions to the Gay Lesbian Bisexual Alliance violated the First Amendment.

While Mr. Sessions was not responsible for the Alabama state legislature passing an unconstitutional statute, but he did apply it in an unconstitutional way to the Gay Lesbian Bisexual Alliance and he did issue an opinion reaching the same general conclusions prior to the enactment of the statute.

These actions show a deep lack of reverence for the First Amendment. It is a well established part of First Amendment jurisprudence that the government cannot seek to penalize individuals or groups because of the viewpoint of their speech. Mr. Sessions, using his authority as Alabama Attorney General not only deprived LGBTQ student organizations of their First Amendment rights because of their political viewpoint, he also did so due to the perceived sexual orientation of the student club members.

Mr. Sessions has throughout his career been an opponent of LGBTQ rights, which in and of itself is enough to disqualify him as Attorney General. But, the fact that he used his authority as Alabama Attorney General to deny LGBTQ individuals their First Amendment rights shows an even deeper antipathy to civil liberties. For this reason, we urge this committee to reject Mr. Sessions' nomination.

As a Senator, Mr. Sessions Has Supported some of the Worst Deprivations of Civil Liberties Associated with the War on Terror and the War on Drugs

Mr. Sessions' time in the Senate continues the pattern he established as a US Assistant Attorney and Alabama Attorney General, in that he has continued to show a deep hostility to civil liberties. While Mr. Sessions' legislative record includes a number of troubling votes, we are deeply concerned by his failure to oppose torture. He was one of only nine members of the US Senate to vote against a 2005 amendment barring cruel, inhuman, and degrading treatment of detainees in US custody. In, 2015 Sen. Sessions again voted against torture prohibitions, when he voted against holding agents at the Federal Bureau of Investigation and the Central Intelligence Agency to the same standards of interrogation laid out in the US Army Field Manual.

Torture is one of the most severe deprivations of civil liberties imaginable. It violates the Constitution, as well as, the laws of armed conflict, which have been incorporated into US domestic law. Federal statutory law explicitly criminalizes and provides punishment for torture in violation of the laws of international armed conflict. It is unacceptable for the country's chief law enforcement officer, who not only oversees the FBI which conducts interrogations, but also would be responsible for prosecuting violations of federal law, such as torture, to not have a strong stance in opposition to torture. Furthermore, it is unfathomable for anyone to suggest that a law enforcement agency, like the FBI, should have lower standards for the safeguarding of civil liberties in interrogations than the United States Armed Forces.

In addition to staking out an extreme position in failing to rigorously oppose torture, Senator Sessions has always taken extreme positions on surveillance. He has expressed the point of view that library records do not require special privacy protections from the government and has rigorously opposed safeguarding other types of private information held by third parties, such as banking records, from unjustified law enforcement surveillance.

Mr. Sessions also continues to embrace a number of antiquated views about the War on Drugs. Republican and Democrat, right and left, lawmaker and citizen alike are starting to question both the futility and the pernicious effects of the War on Drugs. Mr. Sessions, however, has largely remained out of step with the times and continues to cling to policies recognized as relics of a bygone era.

In 32 states, citizens have exercised the sovereignty that is granted them under a democracy by casting their ballots in favor of decriminalization or legalization of medical or recreational marijuana. Mr. Sessions has made it clear that he opposes such moves and has in the past, and he has called for the vigorous enforcement of federal marijuana laws. He has voted against reducing the sentences of nonviolent drug offenders and has continued to support civil asset forfeiture. It is the Attorney General's duty to enforce the nation's law and determine the priorities for federal law enforcement. As a result it is not appropriate to confirm an Attorney

General who rejects the bipartisan consensus about reforming our drug laws to make them more just and to prevent the abuse of civil liberties.

Mr. Sessions has staked out a number of extreme positions on both the War on Terror and War on Drugs, positions that not only run afoul of the Constitution's protections of civil liberties, but put him at odds with members of both parties. As a result, we urge to you to reject Mr. Sessions' nomination.

Mr. Sessions' Nomination Must Be Rejected

Our Constitutional system of government recognizes that robust protection of civil liberties is essential to defending democracy at home. The Attorney General of the United States is both the chief law enforcement officer of the country, a position of authority that has a tremendous capability to impact civil liberties, and is responsible for enforcing laws protecting the rights of all Americans. Mr. Sessions' position on civil liberties is not a mystery, he has a decades long record of both opposing measures to safeguard civil liberties and actively violating them himself. Equally disturbing, Mr. Sessions has demonstrated an unwillingness to support the Constitutional rights of all Americans.

For all the reasons outlined above, we strongly urge you to reject Mr. Sessions as Attorney General.

Sincerely,

Sue Udry
Executive Director
Bill of Rights Defense Committee
& Defending Dissent Foundation

Chip Gibbons
Policy & Legislative Counsel
Bill of Rights Defense Committee
& Defending Dissent Foundation

cc: Members of the Senate Judiciary Committee



Major County Sheriffs' Association

Sheriff Michael J. Bouchard
 Vice President – Government Affairs
 Oakland County Sheriff's Office
 1200 North Telegraph – Building 38 East
 Pontiac, MI 48341
 (248) 858-5001 mbouchard@mcsheriffs.com

November 18, 2016

Senator Jeff Sessions
 326 Russell Senate Office Building
 Washington, DC 20510

Dear Senator Sessions,

As Vice President of Government Affairs for the Major County Sheriffs' Association (MCSA), I would like to congratulate you on your selection to be the 84th Attorney General of the United States. Your service and knowledgeable experience within the field of criminal justice makes you a uniquely qualified candidate and will undoubtedly serve you well.

Expected to lead the U.S. Department of Justice on issues from tackling complex organized crime and cyber-threats, to sophisticated fraud and terrorism, the Attorney General of the United States requires not only a strong command of all justice concerns, but the ability to work cooperatively and closely with a broad community of law enforcement agencies and leaders across the country. Within the current Administration, there has been a continued pattern of making critical decisions affecting the law enforcement community without adequate stakeholder consultation. Issues range from the acquisition of military surplus equipment to immigration enforcement and asset forfeiture.

You have continued to be a strong advocate for law enforcement and we sincerely thank you for your hard work and commitment to public safety. As an association of elected sheriffs representing our nation's largest counties with populations of 500,000 people or more, serving over 100 million Americans, we seek to be a positive source of ideas and solutions and you have been a reliable and valuable partner of the MCSA.

Again, congratulations. I look forward to engaging with you as we work collectively to protect our communities and follow the rule of law.

Very Respectfully,

A handwritten signature in cursive script that reads "Michael J. Bouchard".

Michael J. Bouchard, Sheriff, Oakland County (MI)
 Vice President – Government Affairs, Major County Sheriffs' Association



January 6, 2017

The Honorable Charles E. Grassley
Chairman
Senate Committee on the Judiciary
Dirksen Senate Office Building 224

The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary
Dirksen Senate Office Building 152

Dear Chairman Grassley and Ranking Member Feinstein:

Boys & Girls Clubs of America would like to share its commendation of Senator Jeff Sessions.

Senator Sessions' relationship with the Boys & Girls Clubs transcends his political career and he has consistently demonstrated the importance of mentoring at-risk youth. Before becoming Senator, Jeff Sessions served on the board of the Mobile, Alabama Boys & Girls Club. In Alabama, Boys & Girls Clubs of America serves 42,850 youth at 76 Club sites and plays a key role helping those at greatest risk. In 1999, Senator Sessions hosted then-Attorney General Ashcroft at an Alabama club highlighting for the Attorney General the critical role Clubs play through the Department of Justice's youth mentoring program. Together with Senator Sessions, we have advocated for the importance of youth development programs focused on at-risk youth.

For more than 155 years, Boys & Girls Clubs have served young people from challenging circumstances – in every State – helping them develop the skills and abilities to become productive, caring, and responsible citizens. As part of our mission, Boys & Girls Clubs annually serve nearly 4 million kids at over 4,200 Clubs nationwide and around the world on U.S. military installations. We achieve our mission through innovative Club programming that focuses on Academic Success, Good Character and Citizenship, and Healthy Lifestyles.

As our National Youth Outcomes Initiative Report has found, 85% of our Club members, in the 9th through 12th grades, abstain from using alcohol compared to the national average of 65%. Additionally, Club members in 5th through 12th grades who attend a Club at least once a week, the study found that bullying occurs 10% below the national average given the Clubs' safe environment. Though much remains to be done to address the needs of the Nation's at-risk youth, our results demonstrate the positive impacts Clubs make in the lives of its members. When these impacts are combined with the fact that, for every \$1 invested, Boys & Girls Clubs return \$9.60 in current and future earnings, it is a powerful combination.

We appreciate your consideration of our views.

Sincerely,

James L. Clark
President and CEO

The Honorable Dianne Feinstein
United States Senate
Washington DC 20510

The Honorable Kamala Harris
United States Senate
Washington DC 20510

January 2, 2017

Dear Senators Feinstein and Harris,

The California Down Syndrome Advocacy Coalition (CDAC) would like to share with you our concerns about President-elect Trump's proposed Attorney General, Senator Jeff Sessions. CDAC is a partnership of parents and active Down syndrome organizations across the state of California who advocate on behalf of people with Down syndrome and their families.

One of our main goals is to promote meaningful access to educational opportunities for people with Down syndrome. Thanks to the hard work of many passionate advocates—parents, educators, legislators, and other stakeholders—the Individuals with Disabilities Education Act (IDEA) protects vulnerable students such as those with Down syndrome by ensuring that they have the right to a free and appropriate public education in the least restrictive environment, which is presumed to be a general education setting with appropriate supports. Based on remarks Sessions made on the Senate floor in 2000, we are concerned that as Attorney General, Senator Sessions might not support IDEA in the way that Congress intended it.

In his May 18, 2000, speech, Sessions indicated support for children who “have a hearing loss, or a sight loss, or if they have difficulty moving around, in a wheelchair, or whatever” being accommodated in a mainstream classroom. However, he went on to share numerous examples of students with emotional or behavioral challenges, who he claimed could not be disciplined because they were “special ed.” Sessions expressed at that time his feeling that IDEA made the jobs of teachers and administrators difficult by providing loopholes by which students with IEPs could not be disciplined in the same way as students without IEPs—in fact, he called it the “single most irritating problem for teachers throughout America today.”

While we certainly understand the need for teachers and administrators to be able to maintain an effective teaching environment, we are concerned that Sessions may be painting with a very broad brush and unnecessarily discounting an incredibly important piece of disability law. A great many students with IEPs do not have significant emotional or behavioral challenges—no more so than any typically developing child. And for *all* students with disabilities, it is clearly stated in the most recent text of IDEA that Congress found “almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by...having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible...[and] providing...aides and supports in the regular classroom, to such children, whenever appropriate...[and] providing incentives

for...positive behavioral interventions and supports...to address the learning and behavioral needs of such children.”

Further, the text of IDEA goes on to say that if a child’s behavior is determined not to be a manifestation of that child’s disability, “the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities.” In cases in which the behavior *is* found to be a manifestation of the disability, IDEA discusses how the student’s educational team can best address the concerns and what steps may be taken to remedy the problem.

In short, Sessions’ argument appears to have taken a relatively small subset of students—those with disabilities who also happen to have significant behavior challenges—and used that population segment to argue against a law that actually *does* account for such circumstances and, perhaps even more importantly, protects the rights of approximately 6.5 million students in America’s public schools—about 13 percent of all public school students, according to the National Center for Education Statistics.

Sessions’ remarks were made more than a decade ago, and we certainly recognize that his views on education may have evolved over the years. But we humbly ask that you please consider his historical views on students with disabilities when deciding whether to confirm his appointment as Attorney General. Please ask Senator Sessions about his current views on IDEA and other disability-related legislation. Ask him if he’s aware of the vast body of research indicating the success of IDEA since its inception in 1975. Ask him how he plans to use his position as Attorney General to uphold the rights of vulnerable student populations served under our nation’s federal disability laws.

We have made so much progress in disability law over the past decades, and none of us wants to see students’ disability rights lessened or stripped away under an Attorney General for whom they are not a priority.

With respect and thanks,

Kelly Kulzer-Reyes and Cathleen Small, co-chairs of the California Down Syndrome Advocacy Coalition





California State Sheriffs' Association
Organization Founded by the Sheriffs in 1894

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M. Carmen Green
Executive Director
Catherine M. Coyne
Deputy Executive Director
Martin J. Mayer
General Counsel
Nick Warner
Policy Director
Cory Salzillo
Legislative Director

December 20, 2016

The Honorable Jeff Sessions
 United States Senator
 326 Russell Senate Office Building
 Washington, DC 20510
 Fax: 202-224-3149

**Subject: CSSA Support of Nomination and Confirmation as
 United States Attorney General**

Dear Senator Sessions:

On behalf of the California State Sheriffs' Association (CSSA), which represents the 58 elected Sheriffs of California, we write to convey our support of your nomination and confirmation as United States Attorney General.

It is clear from your service in the U.S. Senate that you place a high priority on upholding the rule of law, supporting our nation's military and law enforcement, and requiring the utmost integrity of yourself and those that serve with you. The Sheriffs of California anticipate that your experience will be an effective asset for our country as United States Attorney General.

Thank you and please don't hesitate to contact us if we can be of further assistance to you regarding this matter.

Respectfully,

Donny Youngblood, CSSA President Gregory J. Ahern, Chair-CSSA Political Action Committee
 Sheriff, Kern County Sheriff, Alameda County

DHY/GJA/cmc

cc: Vice President-Elect Michael Pence, President-Elect's Transition Team
 The Honorable Dianne Feinstein, United States Senator
 Jonathan Thompson, Executive Director – National Sheriffs' Association
 Michael Ferrence, Executive Director – Major County Sheriffs' Association
 California Sheriffs
 Carmen Green, CSSA Executive Director
 Cory M. Salzillo, CSSA Legislative Director
 Nick Warner, CSSA Policy Director
 Usha Mutschler, CSSA Legislative Representative

CALMca.org

Citizens Against Legalizing Marijuana

RECEIVED DEC 19 2016

December 9, 2016

The Honorable Patrick Leahy
 Ranking Member, Committee on the Judiciary
 United States Senate
 Washington, DC 20510 **Re: Nomination of Senator Sessions to be Attorney General of the U.S.**

Dear Senator Leahy,

Congress will soon be addressing the nominations of President-Elect Trump. One will be that of Attorney General. We write to express our strong support for Senator Jeff Sessions for that position. Senator Sessions' exemplary record during his long career in public service speaks to the leadership and steadfast dedication he would bring to the Department of Justice.

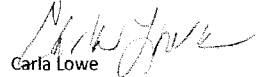
CALM is an all-volunteer citizen group whose goal is to prevent the legalization of marijuana because of the damage it is causing to our children and communities. Our representatives in more than 50 cities in California have been stymied by the current Administration which has chosen not to enforce existing federal drug laws. This defiance of federal law has led to expanded growing, transporting and distribution of the highly potent, long acting, mind altering, addictive drug in the guise of "medicine."

In our work with local law enforcement in communities throughout California to address the myriad problems that commercialization of marijuana has created, we see and hear their frustration with the lack of support from the federal level. We need this support to defeat those who are spending millions of dollars promoting the illegal use of marijuana solely for huge profits at the expense of our children, communities and Country.

We desperately need a strong voice from the Attorney General, and commensurate action from the Department of Justice, to stop and reverse this currently out of control situation in California. Recently twenty-five million dollars from out-of-state drug promoters was spent to pass Proposition 64 that further legalizes marijuana. The Statewide effort to defeat Prop 64 led by law enforcement, was only able to raise 2 million dollars to try to counteract the lies of the legalizers. Huge money bought the vote.

There is no doubt that Senator Sessions would be that voice. He knows the damage the drug culture has inflicted on our Country, and he has the skills and passion to lead this monumental effort that will once again put us in conformance with Federal Law and International Drug Treaties.

Most sincerely,



Carla Lowe
 Founder, Co-chair
 Citizens Against Legalizing Marijuana

P.O. Box 2995 Carmichael CA 95608 Phones: Northern CA 916 708 4111 Southern CA 619 990 7480

Citizens Against Legalizing Marijuana, (CALM), is an all-volunteer Political Action Committee dedicated to defeating any effort to legalize marijuana in California.

Campaign ID# 1326759



CITY OF WEST HOLLYWOOD

CITY HALL
8300 SANTA MONICA BLVD.
WEST HOLLYWOOD, CA
90069-6216
TEL: (323) 848-6460
FAX: (323) 848-6562

TTY: For hearing impaired
(323) 848-6496

CITY COUNCIL

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Councilmember

January 9, 2017

The Honorable Charles Grassley, Chair
United States Senate Committee on the Judiciary
United States Senate

The Honorable Dianne Feinstein, Ranking Member
United States Senate Committee on the Judiciary
United States Senate

Via Fax: (202) 225-9102

CONCERNS OVER THE NOMINATION OF SENATOR JEFF SESSIONS, (R-ALABAMA)

Dear Chair Grassley and Ranking Member Feinstein:

I write to you on behalf of the City Council of the City of West Hollywood and the West Hollywood community to express our serious concerns about the nomination of Senator Jeff Sessions, (R-Alabama). Our City Council has been entrusted by our community members to preserve the City's core values and principles of equality, respect and support for people, and responsibility for the environment.

Senator Sessions' nomination to lead the United States Department of Justice (USDOJ) is particularly disturbing. As you know, Senator Sessions has been accused of cultural insensitivity against African American people, and these allegations proved to be of considerable weight that prevented him from being appointed as a federal judge. In addition, Senator Sessions has demonstrated contempt for undocumented and skilled immigrants.

The City Council is also concerned about Mr. Sessions' past and current stances as it relates to equal treatment under the law of the LGBT community. Senator Sessions voted against the Employment Non-Discrimination Act, or ENDA—legislation to end workplace discrimination against LGBT people. Not only has Sessions opposed laws barring anti-LGBT employment discrimination, he even refused to adopt a voluntary nondiscrimination pledge saying his office would not discriminate against LGBT Senate staffers.





**CITY OF
WEST HOLLYWOOD**

The Honorable Charles Grassley, Chair
The Honorable Dianne Feinstein, Ranking Member
United States Senate Committee on the Judiciary
January 9, 2017
Page Two of Two

Senator Sessions strongly opposed the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, which extended federal hate crimes protections to people who are attacked because of their sexual orientation, gender identity, or disability.

LGBT people, especially transgender women of color, are the most likely targets of hate violence in America today; yet Senator Sessions argued on the floor that there was no need for the federal government to prosecute perpetrators. The bill passed despite his opposition, but Sessions would be in charge of enforcing it as attorney general. If he fails to pursue charges for hate crimes against LGBT people, he could deny vulnerable victims their rights, effectively nullifying the law.

The West Hollywood City Council respectfully calls on you and your colleagues to properly and carefully weigh in on Senator Sessions' qualifications and background.

If you have any questions or need additional information, please feel free to contact me.

Very truly yours,

Lauren Meister,
MAYOR

cc: Members of the United States Senate Committee on the Judiciary
Hon. Kamala Harris, U.S. Senator (CA)
Hon. Adam Schiff, U.S. Representative, CA-28th District
Members of the California Congressional Delegation
Hon. Jerry Brown
Hon. Richard Bloom, AD-50
Hon. Ben Allen, SD-26
Honorable members of the West Hollywood City Council



January 5, 2017

The Honorable
United States Senate
Washington, D.C. 20510

Dear Senator,

On behalf of the hundreds of thousands of Americans we represent, we ask that you vote to confirm Senator Jeff Sessions as the next Attorney General of the United States.

Sen. Sessions is a man of integrity with years of experience serving the American people. His impartial application of the law makes Sen. Sessions a champion of unbiased justice. His defense of civil rights, criminal justice reform, and general promotion of the fair rule of law has earned him bipartisan political support as well as endorsements from multiple national law enforcement organizations for his nomination to Attorney General. Sen. Sessions is more than qualified to ensure justice for all Americans.

- **40 years of public service**
- **Defender of civil rights and criminal justice reform**
- **Endorsed by nine national law enforcement associations**
- **Bipartisan support for his confirmation**

Years of Service

Sen. Sessions has faithfully served his country throughout his life, ranging from military to civil service. After graduating from law school, he spent 13 years in the Army Reserves, where he attained the rank of Captain during a time he describes as one of the most rewarding of his life. While serving in the reserves, Sen. Sessions also began serving in a civil capacity as the appointed Assistant United States Attorney for the Southern District of Alabama. He later served as the United States Attorney for the Southern District of Alabama and the Attorney General of Alabama.

Since being elected to the Senate, Sen. Sessions has been a member of the Senate Judiciary Committee for 20 years.

With over 18 years of prosecutorial experience, Sen. Sessions has the practical legal experience crucial to successfully serving as Attorney General.

Defender of Civil Rights

Sen. Sessions repeatedly demonstrates his firm belief in equal justice under the law. He oversaw and personally contributed to the investigation, prosecution, and execution of Henry Hays, the son of the head of the Alabama KKK, for murdering Michael Donald, a 19-year-old African-American man.

Hays is the only known member of the KKK to be executed in the 20th century for murdering an African-American.¹

As United States Attorney for the Southern District of Alabama, Sen. Sessions was instrumental in ensuring the case stayed in state instead of taking it up as a federal case, because Alabama had the death penalty. Sen.

Sessions' involvement in carrying out justice for Michael Donald came full circle when, as Attorney General of Alabama, he defeated Hays's final appeal ensuring he would receive the death penalty.

This was not the only time Sen. Sessions made history defending civil rights. As U.S. Attorney for Alabama's Southern District, he brought the first anti-voter suppression lawsuit in the history of the Department of Justice in *U.S. v Conecuh County*.² He also worked on litigation in multiple Alabama counties to switch their electoral system for county commission and local board of education from at-large elections to a district-based system that strengthened the voice of African-Americans in those counties.³

Sen. Sessions went beyond fighting for equality on the school boards to promoting the full integration of schools in Mobile 10 years after the county had consented to desegregate schools. Acting on behalf of the United States and with the support of the NAACP, Sen. Sessions took this issue to court and won.⁴

Bipartisan Criminal Justice Reform

Sen. Sessions' equal application of the law has earned him respect from people on both sides of the political aisle. He is known for working with members of the Democratic Party on legislation, including criminal justice reform. Sessions worked alongside Sen. Ted Kennedy (D-Massachusetts) to confront the problem of prison rape. Sen. Sessions stated, "We both agree that punishment for a criminal defendant should be set by a judge and should not include sexual assault."⁵ He also worked with Sen. Dick Durbin (D-Illinois) to pass the Crack-Cocaine Fair Sentencing Act of 2010 that sought to balance the disparity between penalties for crack cocaine versus powder cocaine.

This legislation unanimously passed the Senate.

Protector of Everyday Americans

Sen. Sessions has gone toe-to-toe against special interests, scorning the political pressure, to protect everyday Americans. Rather than making headlines, Sessions has taken the political risk to ensure women and children who are victims of domestic violence are helped and protected. He opposed legislation that purported to help victims of domestic violence, because in reality, much of the money never left the big organizations that were supposed to help the women and children across America who need protection. Instead, he supported the Hutchison-Grassley substitute amendment, which would have increased oversight on the grant money and allocated more money to go directly to helping victims.⁶

Sen. Sessions believes it is more important to solve problems than to close your eyes and write a check.

Justice is blind. It does not weigh money or political capital when making a decision.

Sen. Sessions has demonstrated a clear ability to address the core of a problem and only accept solutions that go to the root cause, instead of dealing out political platitudes.

Equal Justice under the Law

People who get to know or work with Sen. Sessions recognize he is, as the late Sen. Arlen Specter (D-Pennsylvania) described, "egalitarian" in his application of the rule of law. Alabama Democratic state senator for Montgomery, Quinton Ross, Jr., has worked with Sen. Sessions for over 20 years. He issued a press release stating his belief that, as Attorney General, Sen. Sessions would be unbiased in his application

of the law and accessible to his constituents. Sen. Ross stated, "We've spoken about everything from Civil Rights to race relations, and we agree that as Christian men our hearts and minds are focused on doing right by all people."⁷

The execution of justice requires trust among all parties involved in protecting the rule of law. At least nine national law enforcement organizations have endorsed the nomination of Sen. Sessions to be the next Attorney General of the United States. America should take note when groups such as the Fraternal Order of Police, the AFL-CIO International Union of Police Association, and National Sheriff's Association, among others, voice full-throated support for Sen. Sessions' nomination.

The American people deserve an Attorney General who will fight for justice for everyone, who has a proven track record of not just defending, but promoting equal protection under the law.

Sen. Sessions has that trust and support; he is more than qualified to serve the American people as Attorney General. Vote "yes" for Sen. Sessions' confirmation, and give the people the Attorney General they deserve.

Sincerely,

Penny Young Nance
CEO and President
Concerned Women for America Legislative
Action Committee

Andrea Lafferty
President
Traditional Values Coalition

Eunie Smith
Acting President
Eagle Forum
President, Eagle Forum of Alabama

Gary L. Bauer
President
American Values

Susan A. Carleson
Chairman/CEO
American Civil Rights Union

Morton Blackwell
Chairman
The Weyrich Lunch

Dan Schneider
Executive Director
American Conservative Union

Gerry Johnston
Founder/CEO
Women for Democracy in America, Inc.

Mat Staver, Esq.
Founder and Chairman
Liberty Council

Elaine Donnelly
President
Center for Military Readiness

Lewis K. Uhler
President
National Tax Limitation Committee

Willes K. Lee
President
National Federation of Republican Assemblies

Judson Phillips
 Founder
 Tea Party Nation
 TPN News

Tom Kilgannon
 President
 Freedom Alliance

Steven W. Mosher
 President
 Population Research Institute

Timothy Head
 Executive Director
 Faith and Freedom Coalition

Larry Cirignano
 Children First Foundation

Rick Manning
 President
 Americans for Limited

Tom McClusky
 Vice President of Government Affairs
 March for Life Action

Frank J. Gaffney,
 President and CEO,
 Center for Security Policy

The Honorable J. Kenneth Blackwell
 Distinguished Fellow
 American Civil Rights Union

Allen Roth
 President
 Secure America Now

Stephen Stone
 President
 Renew America
 Editor
 RenewAmerica.com

Dick Patten
 President
 American Business Defense Council

Congressman Steve Stockman
 Former U.S. Representative
 Texas 9th District

Michael J. Bowen
 CEO
 Coalition for a Strong America

Phillip L. Jauregui
 President
 Judicial Action Group

Robert K. Fischer
 Meeting Coordinator
 Conservatives of Faith

E. Everett Bartlett
 President
 Stop Abusive and Violent Environments

Ron Robinson
 President
 Young America's Foundation

Ron Pearson
 President
 Pearson & Pipkin

Nadine Maenza
 Executive Director
 Patriot Voices

James L. Martin
Founder/Chairman
60 Plus Association

Terry T. Campo, Esq.
YR Alumni Network, Inc

Ryan Bomberger
Chief Creative Officer
The Radiance Foundation

Curt Levey
President
Committee for Justice

ENDNOTES

¹ "Sessions broke the back of the KKK in Alabama..." *Yellowhammer News*, November 20, 2016, accessed at <http://yellowhammernews.com/politics-2/sessions-broke-back-xxx-alabama-now-media-wants-think-hes-racist/> on December 8, 2016.

² *United States v. Conecuh County*.

³ U.S. District Court for the Southern District of Alabama - 667 F. Supp. 786 (S.D. Ala. 1987) August 13, 1987.

⁴ *Davis v. Board of Sch. Comm'rs of Mobile County*.
402 U.S. 33 (1971)

⁵ "President Bush Signs Legislation Sponsored By U.S. Sen. Jeff Sessions to Reduce Prison Rape," Press Release, September 4, 2003, accessed at <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=89BF93FD-7E9C-9AF9-7BEE-CA9F2EA6B128> on December 16, 2016.

⁶ On the Hutchison Amendment (No. 2095) to the Violence Against Women Reauthorization Act of 2011, as accessed at http://www.senate.gov/legislative/LIS/roll_calls/roll_call_vote_cfm.cfm?congress=112&session=2&vote=00086#position

^{7a} "Democratic leader in Alabama Senate praises Jeff Sessions," *AL.com*, December 7, 2016, accessed at http://www.al.com/news/birmingham/index.ssf/2016/12/democratic_leader_in_alabama_s.html on December 16, 2016.



COALITION ON HUMAN NEEDS

1129 Connecticut Avenue, NW • Suite 512 • Washington, DC 20036 • 202.223.2532 • Fax 202.223.2538 • www.hn.org

January 10, 2017

The Honorable Charles Grassley
Chair, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senators Grassley and Feinstein:

On behalf of the Coalition on Human Needs, I am writing to express our opposition to the nomination of Senator Jefferson Sessions for Attorney General. The mission of the Coalition on Human Needs is to advocate to meet the needs of low-income and vulnerable people. African Americans, Latinos, immigrants, people with disabilities, ex-offenders, LGBTQ people, and single mothers are among those disproportionately likely to be poor. In addition, certain religious minorities, most recently including Muslims, are vulnerable to illegal discrimination and exclusion. The Attorney General of the United States must enforce the Constitution and the laws of this nation to ensure that those among us with the least power and money, and who may be most likely to experience discrimination and crimes of hate, are protected. We regret that Senator Sessions' long record includes repeated examples of his willingness to target rather than protect the most vulnerable.

Voting Rights: The Attorney General must vigorously enforce our laws to protect the right to vote. Senator Sessions instead, as U.S. Attorney for the Southern District of Alabama in the mid-1980's, brought to trial an unsupportable case against three African American community activists for voter fraud, which was quickly rejected by jurors. The prosecution targeted members of the Perry County Civic League, a nonprofit organization that assisted poor, rural, and elderly residents with food, medical, education and other needs. The voting assistance provided by the defendants was authoritatively judged to be legal. Attorney Sessions instead asserted that assistance to voters, despite being voluntarily sought, was illegal. In the words of then defense-team member Deval Patrick, the presiding Judge in the trial, Emmett Cox, at the

outset "...rejected that theory as contrary to settled law and the Constitution." The power of the federal government must not be used to intimidate low-income communities of color or anyone else seeking to exercise their right to vote through unwarranted prosecution, but that is exactly what then U.S. Attorney Sessions did. His more recent comments that the Voting Rights Act is "intrusive" suggest a continued unwillingness to enforce the laws to protect our most sacred right.

Disability Rights: We ally ourselves with the letter from members of the advocacy community on behalf of people with disabilities recently sent to you, which detailed nominee Sessions' history in opposing protections and services for people with disabilities. As Alabama's Attorney General, he fought to eliminate consent decrees related to Alabama's treatment of children with mental illness and intellectual and developmental disabilities within its child welfare and mental health/developmental disabilities systems. As Senator, he has criticized the implementation of the Individuals with Disabilities Education Act (IDEA), voted against ratification of the Convention on the Rights of Persons with Disabilities (strongly supported by former Senator Bob Dole) and against the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (which included crimes motivated by the victim's disability as hate crimes).

Criminal Justice Reform: There is now growing bipartisan support for reducing sentences, in particular for drug offenses, and for providing more supports and assistance for those returning to communities from the criminal justice system. Senator Sessions has opposed initiatives to shorten sentences, including a thus far successful effort to block the Sentencing Reform and Corrections Act, sponsored by Senators Grassley, Lee, and Cornyn, among others. We urge you to study the report released by the Brennan Center: [Analysis: Sen. Jeff Sessions's Record on Criminal Justice](#) for much documentation. The report details his shifting of prosecutorial resources away from violent crime and towards drug offenses while U.S. Attorney. The nation needs a significant commitment to expanded treatment for substance use, not a return to costly and ineffectual prosecution and incarceration.

A critical part of criminal justice reform is better oversight of police practices. The Brennan report cites the Justice Department's report last August on Baltimore, MD's police department, which found "a pattern of violations of residents' rights, particularly in poor, predominantly black neighborhoods." Similarly, the Justice Department has investigated the police in Ferguson, Missouri and found patterns of bias, leading to a consent decree with the department for training of its officers to avoid the use of force and to overhaul the municipal court system to reduce the use of municipal criminal justice fines. Senator Sessions has been highly critical of consent decrees, calling them "one of the most dangerous, and rarely discussed, exercises of raw power" in a forward to a 2008 [Alabama Policy Institute paper](#). The Justice Department ought to be a force to redress the unjust exercises of raw power within police departments against vulnerable communities. Senator Sessions appears to be intent on rolling back the positive role the Justice Department has recently played.

Immigration Reform: Senator Sessions has opposed bipartisan efforts to enact immigration reforms. The Attorney General above all should recognize that justice suffers in this country if immigrant members of our community are denied reasonable access to the protections of law. The Attorney General should vigorously enforce laws protecting workers and protecting against municipal targeting of immigrants for minor violations in order to collect fees and fines. Instead of seeking a reasonable solution, Senator Sessions would leave immigrants vulnerable and would in so doing compromise the rights of all workers.

The Attorney General of the United States, in order to ensure that all Americans enjoy equal treatment and protection under the law, must be forceful and affirmative in combatting discrimination by race, gender, religion, immigrant status, disability, or poverty. As noted, Senator Sessions has instead throughout his career sought to deny protections to these vulnerable groups. He has in addition appeared to support a ban on Muslims entering the U.S., has even questioned whether grabbing a woman's private parts would be considered sexual assault and opposed the 2014 reauthorization of the Violence Against Women Act.

We respectfully urge you to consider these and more disturbing aspects of Senator Sessions' record and hope that the Judiciary Committee and the Senate will oppose his nomination.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Deborah Weinstein", with a long, sweeping horizontal line extending to the right.

Deborah Weinstein
Executive Director

**Communications Workers of America**Chris Shelton | *President***Legislative Department**Shane Larson | *Director*

January 9, 2017

The Honorable Chuck Grassley
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of the 700,000 members and officers of the Communications Workers of America (CWA), I am writing you in strong opposition to the confirmation of Sen. Jeff Sessions to serve as Attorney General of the United States.

Sen. Sessions's lengthy public record is totally inconsistent with the qualities that are needed in the Attorney General. The Department of Justice's mission is to enforce the laws of the United States in a way that protects the rights of all people without prejudice or discrimination, yet Sen. Sessions has a demonstrated record of unfair treatment on the basis of race, national origin, gender, and sexual orientation, all while showing a complete disinterest in protecting the rights of working people.

Sen. Sessions's outright hostility toward voting rights alone renders him unfit to serve as Attorney General. In particular, as U.S. Attorney, Sen. Sessions attempted to prosecute voting rights activists working to increase African-American registration and turnout. He has subsequently voiced strong support for discriminatory voter ID laws and for the Supreme Court's 2013 ruling in *Shelby County v. Holder* that gutted the Voting Rights Act. Monumental work has been done to combat our nation's history of discrimination regarding the right to vote, and we need an Attorney General who will build on those efforts, not one who will make it even harder for Americans to exercise this fundamental constitutional right.

More generally, Sen. Sessions has endorsed views that show that he believes certain groups are not entitled to equal protection under the law. For instance, he supported a constitutional amendment banning same-sex marriage, opposed reauthorization of the Violence Against Women Act in 2013, proposed legislation effectively denying unaccompanied minors access to legal counsel in our immigration courts, and made positive statements about the Ku Klux Klan.


Additionally, Sen. Sessions has repeatedly shown a willingness to deny workers and consumers their day in court so as to protect too-big-to-fail banks and other large corporations, raising significant concerns about his commitment to equal access to our justice system. For example, he has been a longtime advocate for the use of "forced arbitration," in which companies include policies in employment and consumer contracts that prevent workers and consumers from contesting contractual breaches in court. In fact, in 2000, Sen. Sessions argued against the proposed Civil Rights Procedures Protection Act, which would have barred forced arbitration

clauses in cases concerning employment discrimination, by saying that it "could expose businesses to large jury verdicts."

Meanwhile, as a member of Judiciary Committee, Sen. Sessions has shown exceedingly little interest in addressing financial fraud committed by large banks, as he skipped hearings in 2010 and 2011 on financial fraud, as well as a hearing in 2012 on lending discrimination and foreclosure abuses. Instead, Sen. Sessions has focused on maintaining draconian sentencing policies for petty crimes and opposed meaningful overhaul of the criminal justice system.

In short, it is clear that Sen. Sessions does not believe in equal justice under the law. Therefore, I ask that you oppose his nomination for Attorney General. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane Larson", with a stylized flourish at the end.

Shane Larson
Legislative Director
Communications Workers of America (CWA)



December 21, 2016

The Honorable Chuck Grassley
Chairman
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of Community Anti-Drug Coalitions of America (CADCA) and our more than 5,000 coalition members, of which 18 are in the state of Alabama, I would like to express how extremely pleased we are that Senator Jefferson Beauregard Sessions, III has been nominated by the Trump administration to be the next Attorney General, and chief law enforcement official for our country.

CADCA supports Senator Sessions nomination because he has been a strong proponent of a balanced approach to drug policy across the supply/demand reduction split. Senator Sessions understands the importance of a comprehensive response to the drug issues facing our nation, that includes education, prevention, intervention, treatment, recovery support, as well as effective law enforcement and interdiction strategies. As the leading prevention organization in the country, CADCA has seen this firsthand, working with Senator Sessions to support the Drug-Free Communities Program, a critical component of our country's drug prevention infrastructure that utilizes local communities to solve local problems.

CADCA believes Senator Sessions knowledge, expertise, and experience dealing with the complex issues facing our country will serve him well as the United States' chief law enforcement official. CADCA looks forward to working alongside the President and Senator Sessions to protect and build safe, healthy and drug-free communities throughout America. We thank you for scheduling a confirmation hearing for Senator Sessions' nomination and urge a swift vote as soon as possible.

Sincerely,

Arthur T. Dean
Major General, U.S. Army, Retired
Chairman and CEO

Sue R. Thau
Public Policy Consultant

Building Drug-Free Communities

Community Anti-Drug Coalitions of America
625 Slaters Lane, Suite 300, Alexandria, VA 22314
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Congress of the United States
Washington, DC 20515

January 9, 2017

The Honorable Charles Grassley
 Chairman
 Senate Committee on the Judiciary
 135 Hart Senate Office Building
 Washington, D.C. 20510

The Honorable Patrick Leahy
 Ranking Member
 Senate Committee on the Judiciary
 437 Russell Senate Building
 Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy:




As the Chairs of the Congressional Tri-Caucus – composed of the Congressional Black Caucus, the Congressional Asian Pacific American Caucus, and the Congressional Hispanic Caucus – we write to express our deep concerns about the nomination and possible confirmation of Senator Jeff Sessions to serve as the 84th Attorney General of the United States. Senator Sessions has an alarming record that is of great concern to the communities of color we represent, from his views on race issues to his resistance towards improving our broken immigration system and restoring the right to vote.

In 1986, President Reagan nominated Sessions, then a young U.S. attorney from Mobile, Alabama, as a U.S. District Judge for the Southern District of Alabama. Due to serious concerns regarding his insensitivity on issues of race, Sessions ultimately became only the second nominee in 50 years to be rejected by the Senate Judiciary Committee. Despite the fact that a Republican-controlled Judiciary Committee deemed Sessions too regressive on issues of race and civil rights to serve as a district court judge, President-elect Trump has nominated Sessions to serve as Attorney General. The nomination of Sessions as the top law enforcement official in the country makes it clear that the concerns expressed by communities of color have not been heard.

Throughout his decades-long career in public service, Senator Sessions has found himself on the wrong side of countless issues that are vital to the well-being of the people and communities we represent. He has opposed essential components of the Voting Rights Act. He has served as an obstacle to criminal justice reform and a vocal proponent of the disastrous War on Drugs. He has also led the charge to deny equitable funding to public schools in Alabama, and demonstrated his resistance to advancing LGBTQ rights and women's rights by opposing the repeal of "Don't Ask Don't Tell" as well as efforts to ensure that women receive equal pay for equal work. He has opposed both our current legal immigration laws and efforts to reform our broken immigration system. On immigration, Senator Sessions does not only support a ban on Muslim immigrants, but opposes even our legal immigration system. He has implied that Syrian refugees fleeing war are "terrorists", and has also attacked policies that support limited English proficient Americans. Even more concerning is the fact that Sessions does not even believe in upholding the concept of birthright citizenship, which is ingrained in our 14th Amendment.

As Senator Sessions moves through the confirmation process, much will be made of his track record on issues of justice, equality, and civil rights. Many will debate the question of whether Sessions is or is not a racist. While this is a very important question that warrants consideration, it is ultimately a question for which there will be no definitive answer. What can be said definitively is that Senator Sessions, in a career spanning more than three decades in public service, has advocated for and in some cases implemented policies that are in direct conflict with the values of the Congressional Tri-Caucus, its members, and the people we represent. There is no doubt that Senator Jeff Sessions is unfit to lead a department he has long railed against, and that he will advance an agenda that will do great harm to citizens, immigrant communities, and people of color. We strongly urge the Senate Judiciary Committee to vote no on his nomination and instead advance an Attorney General who champions civil rights protections for all Americans.

Sincerely,

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| CEDRIC RICHMOND | JUDY CHU | MICHELLE LUJAN |
| Member of Congress | Member of Congress | GRISHAM |
| Chair, Congressional Black Caucus | Chair, Congressional Asian Pacific American Caucus | Member of Congress |
| | | Chair, Congressional Hispanic Caucus |

JUDICIARY COMMITTEE
 SUBCOMMITTEES:
RANKING MEMBER
 COURTS, INTELLECTUAL PROPERTY
 AND THE INTERNET
 CONSTITUTION AND CIVIL JUSTICE
 TRANSPORTATION AND
 INFRASTRUCTURE COMMITTEE
 SUBCOMMITTEES:
 HIGHWAYS AND TRANSIT
 RAILROADS, PIPELINES AND HAZARDOUS MATERIALS
 ASSISTANT WHIP



Congress of the United States
House of Representatives
 Washington, DC 20515

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January 6, 2017

The Honorable Chuck Grassley
 Chairman
 Senate Judiciary Committee
 United States Senate
 Washington, DC 20510

The Honorable Dianne Feinstein
 Ranking Member
 Senate Judiciary Committee
 United States Senate
 Washington, DC 20510

Dear Chairman Grassley, Ranking Member Feinstein, and Members of the Senate Judiciary Committee:

Even before President-elect Donald Trump takes office, he has become embroiled in numerous scandals involving conflicts of interest stemming from his personal and family-associated business ties.¹ Mr. Trump's continued refusal to divest his assets and place them in a blind trust, or even completely disclose them, means that nearly every official and unofficial action he or his family takes will be tainted with suspicion. We face a situation where, without Mr. Trump addressing his conflicts of interest or taking the necessary steps to provide transparency and separate himself from any potential ethical misconduct, we cannot be certain that American interests are safe from subjugation or subversion. It is, therefore, vital that we can be assured the Department of Justice, which is charged with investigating conflicts of interest and enforcing the laws that prohibit them, has complete independence in this matter, and is able and willing to be aggressive in rooting-out any such corruption.

As you consider the nomination of Senator Jeff Sessions as Attorney General, I strongly urge you to raise these important questions regarding Mr. Trump's conflicts of interest and ascertain how Senator Sessions, as our country's top law enforcement officer and head of the Justice Department, intends to address these outstanding concerns and guarantee compliance with the law. If his responses fail to satisfy these concerns, I hope you will reject his nomination.

¹ See, e.g., Larry Buchanan & Karen Yourish, *The Array of Conflicts of Interest Facing the Trump Presidency*, N.Y. TIMES (Dec. 14, 2016), <http://www.nytimes.com/interactive/2016/12/01/us/politics/trump-conflict-of-interests.html>; Jeremy Venook, *Donald Trump Won't Divest From His Business Before Entering Office*, THE ATLANTIC (Dec. 16, 2016); Jill Disis, *Three Ways Donald Trump Already Faces a Conflict of Interest*, CNNMONEY (Dec. 15, 2016); Drew Harwell, *On the day Trump said he'd clarify his business dealings, his conflicts of interest look thornier than ever*, WASH. POST (Dec. 15, 2016).

Ethics experts from both sides of the political aisle agree: without complete disclosure and divestiture, Mr. Trump's administration will be ethically compromised from the start.² His foreign entanglements alone present a particularly grave danger to the nation,³ not to mention the potential for Mr. Trump and his associates to use, or appear to use, the Presidency for their own personal gain. While he has taken modest steps in recent weeks attempting to resolve certain conflicts, including closing his charitable foundation and terminating projects in several foreign countries,⁴ these half-measures cannot solve the fundamental conflict posed by his continued ownership interest in his businesses, or his children's management of those businesses. As noted in a recent letter to Mr. Trump from 29 scholars, good-government organizations, and former elected officials from across the ideological spectrum, he "cannot serve the country as president and also own a world-wide business enterprise, without seriously damaging the presidency."⁵

From the moment he takes the Oath of Office, President-elect Trump will likely be in violation of numerous federal conflict-of-interest laws, as well as of the emoluments clause of the U.S. Constitution.⁶ That is why it is vital that any nominee for Attorney General, commit to an independent investigation of Mr. Trump's conflicts, as well as the enforcement of whatever laws are determined to be violated.

Senator Sessions has recognized the need to eliminate his own financial conflicts of interest, and, reportedly, is taking steps to divest from certain assets.⁷ He must, in turn, demand a similar degree of accountability from the President of the United States, who, at minimum, should adhere to similar ethical and transparent standards.

Senator Sessions' nomination raises many other important concerns, including his troubling history with race⁸ and his extreme views on immigration,⁹ among others. All of these should be thoroughly explored. However, I hope you will also rigorously question him about the enforcement of our laws and the need to protect the integrity of our public institutions. Does Senator Sessions intend to investigate President-elect Trump's many conflicts of interest, and will he enforce the law as appropriate?

² Richard Painter & Norman Eisen, A Trump presidency would be ethically compromised, *Wash. Post* (Sept. 20, 2016).

³ Norman L. Eisen, Richard Painter, & Laurence H. Tribe, THE EMOLUMENTS CLAUSE: ITS TEXT, MEANING, AND APPLICATION TO DONALD J. TRUMP, The Brookings Institution (Dec. 16, 2016).

⁴ See Eric Lipton and Maggie Haberman, *Denying Conflict, Trump Family Tries to Resolve Potential Problems*, N.Y. TIMES (Dec. 24, 2016).

⁵ Letter from Ambassador (ret.) Norm Eisen, chief White House ethics lawyer, 2009-2011, Richard Painter, chief White House ethics lawyer, 2005-2007, et al to President-elect Donald J. Trump (Jan. 2, 2017), available at <http://www.democracy21.org/wp-content/uploads/2017/01/Letter-to-Trump-conflicts-of-interest-1-2-17.pdf>.

⁶ See *id.*; Memorandum from the Congressional Research Service, Jack Maskell, Legislative Attorney, American Law Division, *Conflict of Interest and "Ethics" Provisions That May Apply to the President* (Nov. 22, 2016), available at http://democrats-judiciary.house.gov/sites/democrats-judiciary.house.gov/files/wysiwyg_uploaded/CRS%20Memo.President%20Conflict%20provisions.pdf.

⁷ Todd Ruger, *Sessions Plans to Divest Some Investments as AG*, ROLL CALL (Dec. 14, 2016).

⁸ Matt Apuzzo, *Specter of Race Shadows Jeff Sessions, Potential Trump Nominee for Cabinet*, N.Y. TIMES (Nov. 16, 2016).

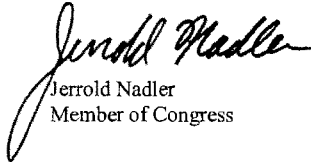
⁹ Seung Min Kim, *Immigration hard-liner Sessions could execute crackdown as AG*, POLITICO (Nov. 29, 2016).

The Department of Justice has a long and distinguished history of independence from the President, and adherence to the rule of law. As you consider Senator Sessions' nomination to lead the Department, you will have the unique opportunity to determine if he is truly committed to these values. Unless he makes clear that he will order a thorough and independent investigation of Mr. Trump's conflicts of interest, and commits to pursuing any violations of law that are uncovered, he should be deemed unfit for the office of Attorney General, and his nomination should be rejected.

Despite requests from Democrats on both the House Judiciary Committee and the House Oversight and Government Reform Committee to investigate President-elect Trump's financial conflicts of interest,¹⁰ the House of Representatives has taken no action on this matter. I hope you will take the opportunity presented from Senator Sessions' confirmation hearings to begin the process of ensuring that Mr. Trump's finances are transparent and adhere to the highest ethical standards.

As a senior member of the House Judiciary Committee, I look forward to working with you on a bicameral and bipartisan basis to ensure that the president is beholden only to the American people.

Sincerely,



Jerrold Nadler
Member of Congress

¹⁰ Letter from House Committee on the Judiciary Democrats to the Honorable Bob Goodlatte, Chairman, House Committee on the Judiciary (Nov. 30, 2016), available at https://democrats-judiciary.house.gov/sites/democrats.judiciary.house.gov/files/wysiwyg_uploaded/President%20Conflicts%20Letter.pdf; letter from House Committee on Oversight and Government Reform to the Honorable Jason Chaffetz, Chairman, House Committee on Oversight and Government Reform (Nov. 28, 2016), available at https://www.washingtonpost.com/news/powerpost/wp-content/uploads/sites/47/2016/11/2016-11-28.EEC-et-al-to-Chaffetz-re-Trump-Conflict-of-Interests_0.pdf?tid=a_inl.



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January 6, 2017

The Honorable Charles E. Grassley
 U.S. Senate Judiciary Committee
 224 Dirksen Senate Office Building
 Washington, D.C. 20510

The Honorable Dianne Feinstein
 U.S. Senate Judiciary Committee
 152 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

"The most sacred of the duties of government [is] to do equal and impartial justice to all its citizens." --Thomas Jefferson, as quoted by the United States Department of Justice

In the description of its history, the Department of Justice ("Department" or "DOJ") explains to America that it views as its "guiding principle" the responsibility, as stated by Thomas Jefferson, to "do equal and impartial justice to all its citizens." As "the world's largest law office and the chief enforcer of federal laws," the Department plays a critical role in our nation's ongoing progress toward equal and impartial justice, helping to realize principles embedded in the U.S. Constitution and reflected in a long list of federal laws that help enforce constitutional guarantees.

DOJ executes this charge through its 60 agencies and components, including such notable divisions as the Civil Rights Division, the Office of Violence Against Women, the Executive Office for Immigration Review, the Federal Bureau of Investigation, and the Office of Legal Counsel. In order to carry out the Department's critical mission, it is axiomatic that the Attorney General—the head of DOJ—must have a deep commitment to the principles of liberty, equality, and fairness at the Constitution's core, a history of respecting substantive fundamental rights, and a demonstrated willingness to respect the Constitution and its values, whatever his or her own policy preferences, or those of the President. These values are important, as they will guide the Attorney General in exercising one of his greatest powers—determining what issues, laws, regulations, and policies will receive the attention and support of the Department of Justice. As "the People's lawyer," the Attorney General must rise above partisan politics and, with independent fortitude and objectivity, enforce the Constitution and the rule of law fairly, even if that means standing up to the President himself.

President-elect Donald Trump has announced his intention to nominate Senator Jefferson Sessions of Alabama as Attorney General. Senator Sessions's long record, however, demonstrates that he is not fit for this position and cannot be trusted to execute the mission of the Department of Justice. His extreme views, at times defying the fundamental protections written in the text and underscored by the history of the Constitution, demonstrate an unwillingness to respect the rights of all persons as guaranteed by our national charter and run counter to the important mission of the Department of Justice. We focus here on six of the areas in which Sessions's record is particularly troubling: civil rights, women's rights, immigrants' rights, criminal justice, national security, and independence and executive accountability to the rule of law. In each of these areas, Senator Sessions has turned a blind eye to fundamental constitutional principles that ensure liberty and equality for all and prevent abuse of power by the government.

1. CIVIL RIGHTS

The Civil Rights Division of the Department of Justice is one of our nation's most powerful governmental entities responsible for combating discrimination in all walks of life and ensuring our Constitution's promise of equality for all. The Division is charged with enforcing federal statutes that prohibit discrimination on the basis of race, sex, disability, religion, and national origin.¹ This includes investigating abuses and seeking relief in cases involving discrimination in the areas of education, credit, employment, housing, public accommodations and facilities, federally funded programs, and voting. It also includes protecting the rights of prisoners, mentally and physically disabled persons, and senior citizens. Notably, the Division recommends observer and examiner activities, and reviews and approves regulatory changes proposed by all federal executive branch agencies as they pertain to civil rights. For women, people of color, people with disabilities, low income people, incarcerated people, abortion providers, victims of police brutality, and immigrants, the Civil Rights Division is of critical importance.

Given his record, Senator Sessions is the wrong person to be put in charge of an agency that is responsible for working to end discrimination; indeed, if confirmed, he would be far more likely to further entrench discrimination in America by ignoring systemic examples of it and by undercutting laws enacted and programs put into place to fight it. Sessions has a long, public record of hostility to the Constitution's protections of liberty and equality for all. In 1986, a Republican-dominated Senate Judiciary Committee rejected President Reagan's nomination of Jeff Sessions to be a federal district court judge—an extremely rare rejection—because of Sessions's history of racial insensitivity—a history underscored by witnesses who gave direct testimony to the Committee. Alabama Senator Howell Heflin, who had initially strongly backed Sessions's nomination, eventually voted against Sessions's confirmation because he had "reasonable doubts" Sessions could be "fair and impartial" on the bench.

While the actions at the center of those events took place several decades ago, Sessions's record since then, examples of which are discussed below, indicates that he is not *now* qualified to be put in charge of enforcing our country's civil rights laws, laws enacted to reinforce the Reconstruction Amendments that, among other things, wrote guarantees of equality for all persons into our Constitution. When Sessions became a U.S. Senator, representing the people of Alabama, he swore to "support and defend the Constitution of the United States... [and] bear true faith and allegiance to the same." Yet, over the course of his Senate career, Sessions has taken actions that would undermine our enduring charter; he has denied that racial discrimination in voting exists in the South, voted to limit democratic participation, voted to deny civil rights to members of the LGBTQ community, and voted to undercut efforts to empower people with disabilities. Sessions has a long record of hostility toward voting rights, and a DOJ led by an Attorney General Jeff Sessions could not be counted on to ensure that the right to vote—a right protected by more parts of the Constitution than any other right—is actually enjoyed by all citizens.

¹ The Civil Rights Division of the Department of Justice enforces the Civil Rights Acts of 1957, 1960, 1964, and 1968, as amended; the Voting Rights Act of 1965, as amended; the Equal Credit Opportunity Act, as amended; the Fair Housing Act of 1968 and the Fair Housing Amendments Act of 1988; Executive Order 12250 (inter alia, Title VI, Title IX, and Section 504 of the Rehabilitation Act of 1973, as amended); the Civil Rights of Institutionalized Persons Act; the Freedom of Access to Clinic Entrances Act; the Police Misconduct Provision of the Violent Crime Control and Law Enforcement Act of 1994; the Trafficking Victims Protection Act of 2000; and Section 102 of the Immigration Reform and Control Act of 1986, as amended. In addition, the Division is charged with all departmental responsibilities under the Americans with Disabilities Act of 1990.

- While U.S. Attorney for the Southern District of Alabama, Sessions displayed a lack of willingness to protect the rights of all as required by the Constitution. During his district court nomination hearings in 1986, then-U.S. Attorney Sessions told the Senate Judiciary Committee that the Voting Rights Act was “a piece of intrusive legislation.” In fact, the Voting Rights Act of 1965 made the promise of the Fifteenth Amendment, which guarantees the right to vote regardless of “race, color, or previous servitude,” tangible for many African Americans living in the Jim Crow South. Also during the hearings, it came to light that Sessions had called an African American colleague “boy,” while calling civil rights organizations like the NAACP “un-American” and “Communist-inspired,” claiming that they were trying to “force civil rights down the throats of people who were trying to put problems behind them.” Sessions also called Jim Blacksher, a white civil rights lawyer who had filed many voting rights and other civil rights suits, a “disgrace to his race.” In 1985, U.S. Attorney Sessions brought fraud and conspiracy charges against civil rights activists—including Albert Turner, a former aide to Martin Luther King, Jr., who was known as “Mr. Voter Registration”—who had lawfully mailed absentee ballots on behalf of elderly African American voters. Sessions’s investigators hid behind bushes to monitor the civil rights activists, seized the ballots from the mail, and then forced elderly African American voters to travel hundreds of miles to testify before a grand jury. Following a criminal trial, the jury quickly acquitted all the defendants of the charges brought by Sessions.
- In the years since his failed district court nomination, Sessions has impeded efforts to eradicate discriminatory policies that make voting difficult for non-white citizens. In 2006, Sessions was one of the Republican Senators who, despite voting to renew the preclearance requirement of the Voting Rights Act, signed an unusual Senate Judiciary Committee report (published after the vote in the Senate) strongly suggesting that the Act was unconstitutional. In 2013, Sessions cheered the Supreme Court’s 5-4 decision in *Shelby County v. Holder*, gutting a key provision of the Voting Rights Act, calling it “good news, I think, for the South.” He further claimed that “Shelby County never had a history of denying the vote, certainly not now. There is racial discrimination in the country, but I don’t think in Shelby County, Alabama, anyone is being denied the right to vote because of the color of their skin. It would be much more likely to have those things occur in Philadelphia, Chicago, or Boston.” Likewise, Sessions claimed that “if you go to Alabama, Georgia, North Carolina, people aren’t being denied the vote because of the color of their skin.” In 2014, Sessions opposed efforts to modernize the Voting Rights Act’s coverage formula struck down in *Shelby County*. Sessions claimed that “[t]o pass a law in the U.S. Congress that provides penalties only to some states and not to others can only be justified for the most extraordinary circumstances. And the justification no longer exists.”
- While denying that racial discrimination in voting still exists in the South, Sessions maintains that in-person voter fraud is a serious problem that requires states to be able to make it harder for people to vote, despite the overwhelming evidence showing how rare in-person voter fraud is.
- Sessions has also supported policies that limit access to voting. In 2007, Sessions voted to require voters nationwide to present photo identification in order to cast their ballot, despite the fact that voter ID laws make it harder for the poor, the elderly, and people of color to be able to vote. In 2002, he opposed legislation that would have granted ex-felons the right to vote, arguing that “I don’t think American policy is going to be better informed if we have a bunch of felons in the process.”

- Harkening back to Sessions's statement revealed at his 1986 hearing that the NAACP was "un-American," Sessions in 2015 made the astonishing statement that those working to take down public displays of the Confederate battle flag were seeking to "delegitimize the fabulous accomplishments of our country."
- As a Senator, Sessions has advocated for positions that would have denied members of the LGBTQ community equal citizenship status on various fronts. In 2006, he voted to invoke cloture and move to a vote on a constitutional amendment to ban same-sex marriage. In 2009, he opposed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, which among other things extended federal hate crime protections to people victimized because of their sexual orientation, gender, gender identity, or disability. In 2010, he voted against the repeal of "Don't Ask, Don't Tell," the policy that banned gay men and lesbians from serving openly in the military. In 2013, Sessions voted against the Employment Non-Discrimination Act, which would prohibit employment discrimination on the basis of sexual orientation or gender identity. In 2015, Sessions voted against an amendment that ensures same-sex couples have access to Social Security and veterans benefits. Later that year, he also voted against an amendment that would have prohibited public schools from discriminating against any student on the basis of sexual orientation or gender identity.
- Sessions's record reflects a lack of commitment to equal access to education. As a Senator, he has criticized federal laws providing special education for students with disabilities, calling them perhaps the "single most irritating problem for teachers throughout America today," and "very sincerely" suggested that accommodations for students with disabilities are "a big factor in accelerating the decline in civility and discipline in classrooms all over America." In 2003, Sessions voted against an amendment attempting to increase funding for Hispanic education programs. A year later, Sessions voted against an amendment that would increase funding for educating students with disabilities.
- During the 2009 Senate Judiciary Committee hearing on the nomination of Sonia Sotomayor to the U.S. Supreme Court, Sessions "seemed to question whether Hispanics were overrepresented among judges." In fact, Hispanics and other people of color are woefully underrepresented in the federal judiciary. Additionally, as a member of the Senate Judiciary Committee, Sessions has repeatedly attacked federal judicial nominees who have been affiliated with or worked for the American Civil Liberties Union, claiming they have an "ACLU gene" that disqualifies them, for "[t]he ACLU is not mainstream in its positions." In fact, the ACLU works to defend and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States.

2. WOMEN'S RIGHTS AND REPRODUCTIVE FREEDOM

The Department of Justice is responsible for enforcing several laws that protect the rights of women and guarantee that they are treated as equal citizens, as the Constitution requires. The Civil Rights Division, for example, enforces anti-discrimination laws on the basis of sex, including laws prohibiting sex discrimination in employment. Also, the Special Litigation Section of the Civil Rights Division enforces the civil protections of the Freedom of Access to Clinic Entrances Act of 1994 (FACE), which protects abortion clinics, places of worship, their staff, and visitors from harassment and/or violence. FACE authorizes the Attorney General to seek injunctive relief, damages, and civil penalties against those who violate that statute. Abortion clinic violence remains a threat across the country, and women continue to rely on law enforcement to keep clinics accessible so they can obtain necessary health care. In addition, DOJ has a component dedicated to reducing violence against women—the

Office on Violence Against Women—which develops policy, protocols, and guidelines to strengthen services to victims of domestic violence, dating violence, sexual assault, and stalking.

Senator Sessions's record demonstrates his clear opposition to protecting women's fundamental rights and equal citizenship. As shown below, he has opposed legislative efforts that would help end pay discrimination, support women's bodily autonomy, and support survivors of violence. Sessions's consistently extreme views and actions related to women and women's rights indicate that he cannot be trusted to lead an agency responsible for the enforcement of laws vindicating women's equal citizenship.

- Sessions voted in 2009 against the Lilly Ledbetter Fair Pay Act, which amended Title VII of the Civil Rights Act of 1964 to help ensure that women who are paid less than men for the same work can obtain legal remedies for this discrimination.
- In 2000 and again in 2005, Sessions voted to allow perpetrators of violence or harassment at reproductive health clinics to evade financial responsibility for their illegal activities. He also voted in 2015 against a measure establishing a fund for clinic security and women's health services.
- Even though the right to an abortion is, as the U.S. Supreme Court has consistently recognized, guaranteed by the U.S. Constitution, Sessions is a fierce opponent of that right. If he were to be confirmed as Attorney General, the right to access abortion and abortion clinics would be imperiled. Sessions has said "that *Roe v. Wade* and its descendants represent one of the worse, colossally erroneous Supreme Court decisions of all time" and that "sanctity of life begins at conception." Sessions twice voted against resolutions in support of *Roe v. Wade* and in 1997, 1998, 1999, and 2003, he voted in favor of the Federal Abortion Ban (also known as the so-called Partial-Birth Abortion Ban), which criminalized some abortion services, penalizing doctors with up to two years in prison. In 2004, Sessions voted for the Unborn Victims of Violence Act, which grants legal status to an embryo or fetus. In 2015, he voted for cloture to proceed with a vote on a nationwide ban on abortion at 20 weeks. And in 2007, 2008, and 2009, Sessions voted to codify the "unborn child" regulation that allows states to make an embryo or fetus—but not a pregnant woman—eligible for health care coverage.
- Sessions has voted consistently to make accessing abortion all but impossible for low-income people. In 1997, 1998, 1999, 2000, 2002, and 2003, he voted to deny servicewomen in our Armed Forces the right to use their own private funds for abortion care at military treatment facilities. In 1997 and 1999, he voted to ban federal employees from choosing health insurance that includes coverage of abortion care. In 1997 he voted to block low-income people from getting abortion care in most cases. In 2011 he voted to prevent the District of Columbia from using its own tax revenues to provide funding for abortion care to Medicaid-eligible recipients. In 2008, he voted to recodify the Hyde Amendment for all Indian Health Service clinics. In 2015, Sessions voted to impose the Hyde Amendment on human-trafficking survivors and voted to reiterate the Amendment in a bill reforming Medicare and reauthorizing the Children's Health Insurance Program. And in 2009, he voted to deny abortion coverage to women under the Affordable Care Act. In keeping with his goal of making it difficult, if not impossible, for people to access abortion, Sessions voted in 1998, 2006, 2008, and 2013 in favor of imposing a complex national patchwork of parental-notification of abortion laws. Also, in 2009, he supported making anti-choice crisis pregnancy centers, which mislead, misinform, harass, and intimidate pregnant people, expressly eligible for federal funding. The discriminatory funding of other

methods of family planning to the exclusion of abortion has the practical effect of taking this fundamental right away from significant classes of people in a manner that cannot be squared with the Fourteenth Amendment's guarantees of equal protection and citizenship.

- In 2013, Sessions voted against reauthorization of the Violence Against Women Act. In 2014, he voted against a bill that would have provided more protection to military personnel who have been sexually assaulted, removing prosecution of such crimes from the military chain of command. Considering such votes, it may not be surprising that during the recent presidential election campaign, Sessions expressed doubt that the disgusting act described in Trump's comments about women (that he can "Grab them by the p---y") constitutes sexual assault. Understanding the basic definition of sexual assault is deeply disqualifying in a candidate to lead the Department of Justice.

3. IMMIGRANTS' RIGHTS

The Justice Department plays an important role in our country's immigration system, and the Attorney General has considerable influence over how the government's power to detain and charge undocumented immigrants is exercised.

The Department's Executive Office for Immigration Review (EOIR) administers our nation's immigration courts by conducting immigration court proceedings, reviewing immigration court proceedings, and holding administrative hearings. Immigration judges determine whether individuals the government is trying to deport have a legal basis to remain in the country. Administrative hearings involve employer sanctions, anti-discrimination provisions, and document fraud under the Immigration and Nationality Act. EOIR appoints the judges who preside over immigration and administrative cases, and overseas appeals of deportation orders. The Attorney General may fire sitting immigration judges and replace them with judges he finds more suitable. As a result, the Attorney General has great power over how our nation's immigration laws are interpreted and are enforced. For example, who qualifies for asylum under U.S. law is a determination over which the Attorney General and the judges he appoints have purview.

The Department's Office of Immigration Litigation (OIL) oversees all civil immigration litigation and coordinates national immigration matters before the federal district and circuit courts. Such matters may include detention, employment-based immigration, denaturalization, or terrorism-related immigration issues. OIL can influence how the government handles appeals of its actions, and it represents and advises government agencies on a wide range of matters related to the immigration system. Through OIL, the Attorney General determines the government's willingness to defend challenges to its interpretations of immigration law. For example, during the Administration of President George W. Bush, the "expedited removal" of undocumented immigrants decreased dramatically after the Justice Department "became frustrated with having to defend the government from charges that immigration enforcement officers were abusing their authority." Given his record, an Attorney General Sessions might be willing to dedicate OIL's time to defending such a policy and reviving this problematic practice.

Other divisions of DOJ can also play an important role in ensuring the fair application of our nation's immigration laws. For example, the Civil Division successfully sued the state of Arizona when the state passed S.B. 1070, which attempted to preempt the federal government's jurisdiction over immigration policy, disrupted federal enforcement priorities and resources, and ignored some of the humanitarian concerns of the Obama Justice Department. And the Civil Rights Division won a civil rights

lawsuit against former-Sheriff Joe Arpaio of Maricopa County, Arizona. An Attorney General who supports worksite raids might be less inclined to act as a check against members of local law enforcement who carry out their duties with the same anti-immigrant zeal as Sheriff Arpaio did.

It is apparent from Sessions's record that he would be that sort of Attorney General who would set civil liberties aside to execute an anti-immigrant agenda. As Chair of the Senate Judiciary Subcommittee on Immigration and the National Interest, Sessions has long enjoyed a platform from which to spout his extreme views on immigration. His record is firmly anti-immigrant, and particularly anti-immigrants of color. As Attorney General, Sessions would be able to effectuate many of his policy positions through the Attorney General's power to appoint immigration judges and power to modify, adjust, and decide how our immigration law is implemented. Sessions's consistent and extreme views suggest he would be neither fair nor impartial regarding our nation's immigrants, legally present or otherwise. For example:

- Sessions has called for the end of birthright citizenship, in direct contradiction to the plain text of the U.S. Constitution. Sessions has spoken out against immigrants of all kinds: he wrote an op-ed in *The Washington Post* decrying skilled immigration, has consistently spoken out against accepting refugees from war zones, and supports the President-elect's proposal to impose a "temporary" ban on immigration from majority-Muslim countries. Sessions has attempted to justify a ban on Muslim immigrants by claiming they "don't have a constitutional right to come to America" and the President may deny "any class of persons who may pose a threat to us."
- Sessions has supported "vetting" prospective immigrants by asking questions about their religion, claiming, "We need to use common sense with the who-what-where of the threat. It is the toxic ideology of Islam." In 2015, Sessions was one of only four Senators on the Senate Judiciary Committee to vote against a symbolic measure expressing the sense of the Senate that "the United States must not bar individuals from entering the United States based on their religion, as such action would be contrary to the fundamental principles on which this Nation was founded." Sessions rejected the idea that immigrants have rights at all, describing those rights as "so-called."
- In 2013, Sessions voted against the Senate's bipartisan immigration reform bill that would have toughened border security while giving more protections to undocumented individuals already in the country. After the measure passed in the Senate, Sessions published the "Immigration Handbook for the New Republican Majority" to aid House colleagues in defeating the House version.
- Sessions has threatened sanctuary cities with prosecution, a promise on which he could make good if he were confirmed as Attorney General.
- Sessions also has "longstanding and extensive ties to both anti-immigrant and anti-Muslim extremist groups."
 - One of these groups, the Federation for American Immigration Reform (FAIR), has been named as a hate group by the Southern Poverty Law Center since 2007. Sessions regularly attends an annual FAIR event and in 2007 was the keynote speaker at an advisory board meeting where he was awarded FAIR's Franklin Society award.

- Another such group, the Center for Immigration Studies (CIS), has called immigrants “Third-World gold-diggers,” postulated that Haiti is “so screwed up because it wasn’t colonized long enough,” and that “being hung, drawn and quartered is probably too good for [President Barack Obama].” Sessions participated in a CIS panel discussion in 2006, spoke at one of its teleconferences in 2013, and spoke at one of its 2016 receptions.
- In 2012, Sessions put into the Congressional Record a congratulations on the 15th anniversary of NumbersUSA, a xenophobic organization dedicated to keeping immigration to the U.S. as low as possible, claiming it saves the environment and combats poverty. Roy Beck, the founder and executive director of that organization, has spoken twice to the white nationalist Council of Conservative Citizens, whose online propaganda influenced Charleston shooter Dylann Roof, and has referred to Black people as a “retrograde species of humanity.”
- The David Horowitz Freedom Center attempts to “combat[] the efforts of the radical left and its Islamist allies to destroy American values and disarm this country as it attempts to defend itself in a time of terror.” In 2014, the Center gave Sessions its Daring the Odds: The Annie Taylor Award. Sessions also attended the Center’s “Restoration Weekend” in 2003 and 2013.
- In 2015, the anti-Muslim hate group, the Center for Security Policy (CSP), awarded Sessions its Keeper of the Flame award. CSP released a report last year calling for a ban on Muslim immigration.

4. CRIMINAL JUSTICE

The Department of Justice plays an extremely broad and critical role in our nation’s criminal justice system. Among other things, it is responsible for enforcing more than 5000 federal laws dealing with such varied problems as organized crime, drug trafficking, white-collar crime, cybercrime, and much more. At the heart of this work are the Department’s Criminal Division and the 93 United States Attorneys throughout the country, appointed by the President. Among their responsibilities, these attorneys prosecute criminal cases brought by the federal government. Together, the Criminal Division and U.S. Attorneys determine who will be charged for federal crimes and face the full power of the U.S. government in court. They can also recommend to judges the length of sentences guilty defendants should serve. The Attorney General plays an important role here through “charging memos,” which set the guidelines that federal prosecutors follow in deciding what charges to bring and the length of sentences for which to advocate.

In addition to prosecuting federal offenders, DOJ also has the power to investigate local law enforcement agencies accused of a “pattern or practice” of violating civil rights. Among its other responsibilities, the Special Litigation Section of the Civil Rights Division (SLS) helps protect the civil rights of the institutionalized and the rights of people who interact with local law enforcement—both prisoners and communities at large. Recently, SLS found that the Baltimore Police Department has engaged in a pattern or practice of unlawful stops, searches, and arrests that disproportionately harm African Americans and that it has engaged in a pattern or practice of excessive force and discrimination against people with mental health disabilities. In 2015, SLS issued a report regarding the Ferguson, Missouri Police Department, finding that both the “police and municipal court practices systematically violate[d] the First, Fourth and Fourteenth Amendments.” Especially in the wake of high-profile

shootings and killings of unarmed Black people by local police, it is imperative that the Department continue to use its power to investigate law enforcement in order to help determine how to address police brutality. Senator Sessions, however, has made clear that he believes such much-needed investigations are an abuse of federal authority.

For this and other reasons, including Senator Sessions's disrespect for basic constitutional principles of due process and equality, he is the wrong person to be put in charge of and set priorities for a Department charged with bringing to bear the awesome power of the federal government to prosecute and punish. For example,

- In 2016, Sessions mocked efforts to reform the criminal justice system, particularly the Obama Administration's clemency toward federal prisoners serving excessively long sentences, as well as DOJ's role in the reforms. He has frequently cited a rise in crime for his positions, though the crime rate is actually down. Sessions is a vocal opponent of the bipartisan effort to end mandatory minimum sentencing for drug crimes, a practice that disproportionately harms African Americans. Sessions has been a vocal skeptic of recent DOJ efforts to make the criminal justice system less punitive, especially toward people accused of violating drug laws that have a disproportionate impact on people of color.
- During a 2015 Senate Judiciary Committee hearing on "The Need to Reform Asset Forfeiture," Sessions made clear his disregard for procedural due process, arguing the process "is not wrong," especially since, he claimed, the program mostly takes money from people who have "done nothing in their lives but sell dope."
- In 2008, Sessions described DOJ consent decrees, which provide an efficient and effective means of achieving long-term reform of institutions that have been engaging in illegal, often discriminatory, practices as "an end run around the democratic process." Consent decrees have been particularly helpful in fighting systemic discrimination perpetrated by local police departments.
- Sessions doubted the impartiality of a 2015 federal judicial nominee, Paula Xinis, insinuating that she would not be sufficiently pro-police because she was a Public Defender, representing indigent clients, and particularly because her firm represented Freddie Gray's family in a wrongful death civil suit against the City of Baltimore. She was not involved in the case.
- In August 2016, DOJ announced that the Bureau of Prisons, a subdivision responsible for the administration of the federal prison system, would phase out the use of private, for-profit prisons, after an inspector-general report found deficiencies in safety, security, and the protection of inmates' rights. While campaigning in June, Trump said, "I do think we can do a lot of privatizations and private prisons. It seems to work a lot better." POLITICO Influence reported in October that GEO Group, one of the largest private prison corporations, hired two former aides to Sessions to "to advocate on federal government use of contract correctional facilities." Since the increase in privatized prisons in the 1980's, the constitutionality of such prisons has come into question. Sessions's judgment regarding prison administration is suspect, given his blessing the use of chain gangs while Attorney General of Alabama.

5. NATIONAL SECURITY

The Department of Justice also plays a role in promoting our nation's security. The Federal Bureau of Investigation ("FBI"), whose director reports to the Attorney General, conducts domestic

surveillance as part of carrying out its law enforcement responsibilities. The National Security Division ("NSD") combats domestic and international terrorism and other threats to national security, such as espionage and sabotage. Of note, the Oversight Section of NSD oversees the foreign intelligence, counterintelligence and other national security activities of the United States intelligence community to ensure compliance with the Constitution, statutes and Executive Branch policies.

Courts have identified potential constitutional infirmities in some of the government's use of electronic surveillance methods in criminal investigations. As a Senator, Sessions has supported broad surveillance powers for use by both domestic law enforcement agencies and U.S. intelligence services; as Attorney General, Sessions would be able to roll back several of the restrictions on surveillance imposed by the Obama Administration. Sessions's record indicates that he cannot be trusted to respect constitutional limits on abuse of power by the government. For example:

- In 2015, Sessions voted against Senator John McCain's bipartisan amendment reaffirming the prohibition of torture.
- In 2006 and 2010, Sessions voted to extend the Patriot Act's roving wiretaps to remove the need to obtain a court warrant for wiretapping abroad.
- Sessions has claimed that the President has the authority to allow the NSA to wiretap conversations involving foreign countries in order to protect national security and that there should be no restrictions on that power.
- In 2013, Sessions opposed reforms to the Foreign Intelligence Surveillance Act, which included increasing transparency in the Foreign Intelligence Surveillance Court and halting bulk metadata collection.
- In 2016, Sessions unsuccessfully proposed an amendment to the Electronic Communications Privacy Act that would have required technology companies to turn over sought-after data without a warrant if federal, state, or local law enforcement agencies merely declared that an emergency existed.

6. MAINTAINING INDEPENDENCE AND HOLDING THE EXECUTIVE ACCOUNTABLE TO THE RULE OF LAW

One of the most important components of the Department of Justice is the Office of Legal Counsel ("OLC"), which provides legal advice to the Executive Branch on constitutional and other legal questions, and reviews all proposed executive orders to ensure that they comply with existing law. Therefore, it is critically important that OLC, and DOJ as a whole, have leaders who not only have respect for the Constitution and the rule of law, but also the independence to stand up to the President if he or another Executive Branch official is contemplating engaging in unconstitutional or illegal activity. As Senator Sessions himself said during the Judiciary Committee's hearings on the nomination of Judge Michael Mukasey to be Attorney General:

"[T]he Attorney General has got to say no to the President if he wants to do something, just like a good corporate lawyer has to tell the CEO sometimes, 'We can't do it that way, Mr. CEO' or 'Mr. President, you can do it this way, but you can't do it that way.' And then you've got to be able to articulate and defend the legitimate actions of your President, the head of the executive branch."

Senator Sessions's record indicates that he would fail his own test for Attorney General. Among other things, he lacks the necessary respect for fundamental constitutional principles to be trusted to serve as a check against any President, let alone one who, as a candidate, proposed if elected to engage in conduct that would violate the Constitution and has thus far proven unwilling to take steps to address the constitutional violations posed by his business holdings. His record raises serious concerns that Sessions would be willing to set the Constitution aside in order to rubber stamp unconstitutional proposals that further the Administration's agenda, regardless of their legal compliance.

These serious concerns are further heightened by Sessions's extremely close ties to the President-elect, which provide reason to doubt that he would bring the necessary impartiality to the job of Attorney General. Notably, Sessions was the first sitting U.S. Senator to endorse the President-elect; he was brought into the campaign, stumped for Trump before the election, served as a close advisor throughout, and was a co-chair of the transition team. It is not a leap to fear that Sessions would be unable or unwilling to distance himself from the President in order to provide dispassionate and independent counsel should the President propose to violate the law. Indeed, Sessions chose to side with the President-elect over the rule of law when Sessions claimed it was "a stretch" to call Trump's "grab them by the p---y" claims sexual assault.

Additionally, Sessions's disturbing silence in the face of extremely troubling aspects of Trump's candidacy, such as Trump's promises to take actions that would violate the civil liberties of American Muslims, and his silence about the fact that Trump is on a collision course with the Emoluments Clauses, cast a further doubt on his independence, and whether he would place his loyalty to Trump over the rule of law.

CONCLUSION

Senator Sessions himself, during the confirmation hearing for Attorney General Loretta Lynch, stated that:

"The Senate must never confirm an individual to [Attorney General] who will support and advance... scheme[s] that violate[] our Constitution and eviscerate[] established law and Congressional authority. No person who would do that should be confirmed. And we don't need to be apologetic about it. ... We have a duty to this institution, and to the American people not to confirm someone who is not committed to those principles but rather who will continue to violate them."

We agree with that test for confirmation. And applying that test to Senator Sessions, it is clear that he does not satisfy it. Sessions's record over the span of decades flies in the face of the critical mission of the Department of Justice—to ensure "*fair and impartial* administration of justice for all Americans." Over the course of his career, Sessions has worked to obstruct civil and human rights, deny women their autonomy and dignity, limit immigration through a racial or religious test, advance criminal justice policies that negatively affect communities of color, and support security measures that would violate civil liberties.

The Constitution must be the Attorney General's guide as he advises the President and enforces federal law, and he must read and apply it in whole to ensure its promises reach everyone in America, regardless of income, complexion, gender, or status. It is the responsibility of the Department of Justice to ensure that the Constitution's guarantees are upheld and enjoyed equally by all persons. Sessions's positions on a range of issues—positions that have been consistent over decades—make clear that he is not qualified to lead the Department in fulfilling those responsibilities.

We realize that when the Committee is considering one of its own colleagues, there may be a tendency to engage in some amount of senatorial courtesy. But that tradition cannot substitute for the careful and objective scrutiny required of the record of anyone nominated to the position of United States Attorney General. For the reasons stated herein, upon such review, the Committee should conclude that Senator Sessions is not fit to hold that position, and should not forward his nomination to the full Senate.

Sincerely,



Elizabeth B. Wydra
President

cc: All Members, Senate Judiciary Committee



**COUNCIL for
CITIZENS
AGAINST
GOVERNMENT
WASTE**

Thomas A. Schatz, *President*
1100 Connecticut Ave., N.W., Suite 650
Washington, D.C. 20036
ccagw.org

January 9, 2017

U.S. Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley,

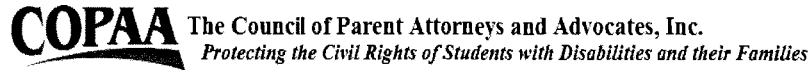
Your committee will soon consider the nomination of Sen. Jefferson Beauregard Sessions, III (R-Ala.) to become Attorney General of the United States. On behalf of the more than one million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I strongly support Sen. Sessions' confirmation to this post.

Sen. Sessions has long been an advocate for combatting waste, fraud, abuse, and mismanagement in the federal government. Since he first took office in 1997, Sen. Sessions has achieved a lifetime rating of 97 percent with CCAGW. More impressively, he was a "Taxpayer Super Hero" in 2014, when he achieved a perfect 100 percent voting record. Sen. Sessions is a learned constitutional scholar, with a profound understanding of the proper role of the federal government and the limits by which it should be bound.

Sen. Sessions, a leader with great integrity, is the right choice to lead the U.S. Department of Justice, and I urge you to vote for his confirmation. All votes on Sen. Sessions' nomination will be among those considered for CCAGW's 2017 *Congressional Ratings*.

Sincerely,

Tom Schatz



January 5, 2017

U.S. Senate Judiciary Committee

Dear Senator:

The Council of Parent Attorneys and Advocates (COPAA) writes today to express our strong opposition to the nomination of Senator Jeff Sessions as the U.S. Attorney General (AG). COPAA's opposition is rooted in Senator Sessions' 30-year track record in the U.S. Senate, as Attorney General for the state of Alabama, and as an Assistant U.S. Attorney. He has compiled a longstanding and consistent record, including public statements, policy proposals, and other various actions that serve to discriminate against the rights and dignity of children and adults with disabilities. We urge you reject this nomination.

The Attorney General must be a fair arbiter of justice and enforce the nation's laws without prejudice. Equal educational opportunity is a cornerstone of democracy, and our laws confer important rights to students with disabilities to assure that each child can succeed. We oppose the confirmation of Senator Sessions as Attorney General because his record is rife with:

- **Scapegoating children with disabilities.** Senator Sessions has erroneously blamed children with disabilities as the cause for the lack of funding and inadequate teacher training in public schools by stating on the Floor of the Senate that "the special treatment for certain children [with disabilities] are a big factor in accelerating the decline in civility and discipline in classrooms all over America."ⁱ
- **Criticizing the need to provide resources to students with disabilities.** He has called it "sad" that schools "have to obey" Individualized Education Programs (IEPs) that outline the goals, supports, services and accommodations that are intended to help students with disabilities achieve alongside their peers.ⁱⁱ
- **Stereotyping students with disabilities.** Senator Sessions has labeled students with disabilities as "the most dangerous ones..."ⁱⁱⁱ when in fact, children and adults with disabilities are far more likely than their non-disabled peers to be victims of violence. Today, children with disabilities represent 12 percent of the student population (age 6-21), yet 67 percent of students with disabilities are subjected to physical restraint in school.^{iv}
- **Promoting segregation of children with disabilities.** Senator Sessions has said, "these children should be put in an alternative setting where the disability could be dealt with."^v He made this statement at a time when the State of Alabama was under a federal consent decree requiring the state to address significant disparities in the identification and placement of students of color with disabilities in separate classrooms serving only students with disabilities.^{vi}
- **Fighting against community integration.** As Alabama Attorney General, Jeff Sessions fought against a consent decree that committed the State of Alabama to community integration and independence for children and adults with disabilities. Because of Sessions' actions, Alabama significantly retreated in providing treatment to children and adults with mental health needs, hindering the ability of these individuals to live in the community and in the cases of children, to live with their families.^{vii}

The Attorney General has the duty to enforce the law and, as head of the Department of Justice (DOJ), the responsibility to guide the administration of justice across the United States. For children with disabilities in our nation's public schools, the role of the AG and the actions of the DOJ are critical to ensuring that the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973, and the Individuals with

Disabilities Education Act (IDEA) are fully complied with by states, private entities, and school districts. Since 1975, the Individuals with Disabilities Education Act (IDEA) has required schools to provide a free appropriate public education in the least restrictive environment to children with disabilities. Because of the IDEA and its many important protections, along with the bipartisan support of the federal general education law, the Elementary and Secondary Education Act of 1965 now known as The Every Student Succeeds Act (ESSA), more students with disabilities than ever are graduating high school.^{viii}

Attached to this letter are a small sampling of stories we have collected from our members demonstrating the impact the IDEA has had on the lives of children with disabilities throughout the nation. What these stories show is that the IDEA has worked effectively in two ways. First, it has led to more fulfilled, more meaningful lives for thousands of students. Second, it has enabled thousands of individuals to live and work independently, thereby reducing the level of public resources needed to support them as adults. The monies we spend on special education are repaid many times over by substantially reducing the amount of demand for governmental support of adults with disabilities.

Senator Sessions' disdain for special education and opposition to community integration of individuals with disabilities is at odds with the laws, inconsistent with our nation's commitment to supporting individuals with disabilities, and will lead to far higher societal costs in the future. Because of this, COPAA asks the Senate Judiciary Committee to vote to reject this nominee and, thereby, signal to the country that now is the time to eradicate systemic oppression for students with disabilities, their families and for our society and economy.

Thank you for consideration of our request and recommendation.

Sincerely,



Denise Marshall
Executive Director

cc: Chairman Lamar Alexander,
Ranking Member Patty Murray

COPAA is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals. COPAA members nationwide work to protect the civil rights and secure excellence in education on behalf of the 6.5 million children with disabilities in America. COPAA's mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning, as well as full participation in his or her community.

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ⁱ Floor Statement, Education Discipline and IDEA (2000), available at <http://www.sessions.senate.gov/public/index.cfm/2000/5/education-discipline-and-idea>.

ⁱⁱ 146 Cong. Rec. 6997 (2000).

ⁱⁱⁱ 145 Cong. Rec. 10,154 (1999).

^{iv} Civil Rights Data Collection 2013-2014, U.S. Department of Education, retrieved at: <http://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

^v 147 Cong. Rec. 21,895 (2001).

^{vi} See: Consent Decree, *Lee v. Macon*, Civil Action No. 70-T854, Doc. No. 127 (Aug. 30, 2000 M.D. Ala.)

^{vii} See: *R.C. v. Hornsby and Wyatt By & Through Rawlins v. Poundstone*.

^{viii} 63% of students with disabilities graduate from high school as compared to 82 percent of students without disabilities, National Center on Education Statistics, 2013-2014, at http://nces.ed.gov/ipeds/data/ACGR_RE_and_characteristics_201314.asp

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- **Bruce**, 19 and from South Carolina struggled, suffered and was bullied relentlessly throughout school. When Bruce was unable to keep up at school, he suffered trauma and self-esteem issues from low expectations due to his inability to read. The fact is that Bruce is incredibly bright, and with persistence, relentless efforts of his parents and educators, and the right services and supports for his dyslexia – he graduated high school and has entered college this past fall.
 - **Mariano** from California has an Individualized Education Program (IEP) and is working hard in high school to fulfill his goal to play and conduct for the New York Philharmonic Orchestra -- and to be a Music and History Professor.
 - **Dennis**, a student in Georgia, was failing most of his classes year after year, yet the district determined he did not qualify for special education. It was not until Dennis was 18 years old that anything changed because his parents filed for due process. The settlement agreement, which enabled Dennis to learn to read and to learn a trade, led to gainful employment after graduation. Due process protections enabled Dennis to have educational success as well as function independently in our society as an employed adult.
 - **Isabel**, a student in Iowa with multiple disabilities and significant social and emotional needs, was making progress in a regular classroom with supplementary services and a Behavior Intervention Plan.^{viii} Upon moving to a new state, the new school district placed her in a segregated special education classroom, despite her parents' requests for more integration. Additionally, school personnel used physical force, restraint, and prolonged periods of isolation and seclusion to address her behavioral issues in violation of her IEP and Behavior Intervention Plan. A federal judge found that the school violated her rights. By the time the case was decided, Isabel and her family had moved to California. Isabel did very well in the new general education environment with the proper related services and supports. Initially, traumatized from the seclusion and restraint, she was very timid and afraid. It took quite some time to get Isabel to come out of her shell and be able to learn and benefit from her education.
 - **Blair**, a young woman from Pennsylvania, who with accommodations and the support of her service dog, graduated high school and is currently a junior at York College. She is a Public Relations major with a minor in Nonprofit Management.



January 9, 2017

Chairman Chuck Grassley
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
United States Senate

Dear Chairman Grassley and Ranking Member Feinstein,

Dēmos, a national, non-partisan public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy, submits this letter in strong opposition to the confirmation of Senator Jefferson B. Sessions (R-AL) to be the 84th Attorney General of the United States.

Dēmos' name means "the people." It is the root word of democracy, and it reminds us that in America, the true source of our greatness is the diversity of our people. Our nation's highest challenge is to create a democracy that truly empowers people of all backgrounds, so that we all have a say in setting the policies that shape opportunity and provide for our common future. Examination of Senator Sessions' decades-long record in public life reveals a pattern of hostility to these values and to the very civil rights laws that he would be responsible for enforcing which disqualifies him from serving in the office of Attorney General.

As the Leadership Conference on Civil and Human Rights has written:

Senator Sessions has a 30-year record of racial insensitivity, bias against immigrants, disregard for the rule of law, and hostility to the protection of civil rights that makes him unfit to serve as the Attorney General of the United States. In our democracy, the Attorney General is charged with enforcing our nation's laws without prejudice and with an eye toward justice. And, just as important, the Attorney General has to be seen by the public – every member of the public, from every community – as a fair arbiter of justice. Unfortunately, there is little in Senator Sessions' record that demonstrates that he would meet such a standard.¹

The Senate's rejection of then-U.S. Attorney Jeff Sessions for an appointment as a United States District Judge for Alabama in 1986 creates a heavy presumption against Senator Sessions' fitness to serve in the much more important post of Attorney General of the United States. The evidence of Mr. Sessions' hostility to civil rights at that time included his criticism of groups such as the NAACP and American Civil Liberties Union as "un-American" for "trying to force

¹ Open Letter To The United States Senate, Leadership Conference on Civil and Human Rights, December 1, 2016 (available at <http://www.civilrights.org/press/2016/coalition-opposes-sessions.html>).



civil rights down the throats of people who were trying to put problems behind them.” When asked about rumors that a federal judge in Alabama had referred to a white lawyer as a “traitor to his race” because of his representation of black clients, Mr. Sessions responded “Well, maybe he is” – as confirmed by testimony before the Senate by J. Gerald Hebert, then an attorney in the Civil Rights Division of the U.S. Department of Justice, to whom Mr. Sessions made these remarks.²

As U.S. Attorney in Alabama, Mr. Sessions also improperly sought to prosecute three African-American voting rights activists, including Albert Turner, who risked his life on the Edmund Pettus Bridge with John Lewis on the infamous Bloody Sunday march in Selma, Alabama, which directly led to the passage of the Voting Rights Act of 1965.³ Mr. Sessions abused his powers as a U.S. Attorney in Alabama to charge Mr. Turner and his colleagues with multiple counts of federal crimes, every one of which was rejected by the jury that heard the case, resulting in complete acquittal on all charges. The evidence heard by the Senate in 1986 –which was Republican-controlled – resulted in Mr. Sessions’ being turned down by the Senate Judiciary Committee. This was only the second instance of such a rejection in nearly 50 years.⁴

Since his election to the U.S. Senate in 1996, instead of overcoming the record of his hostility to civil rights and voting rights protections, Senator Sessions has unfortunately continued to reinforce it. As Senator Patrick Leahy (D-VT) has observed:

When I pushed in 2009 to advance the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, a bill championed by [then-Senator Edward M.] Kennedy, it was Sessions who sought to derail it. He asserted at a Judiciary Committee hearing on the bill that he was ‘not sure women or people with different sexual orientations face that kind of discrimination.’⁵

By opposing this critical law for fighting hate crimes, and also denying the very reality of such discrimination and hate crimes, Senator Sessions has disqualified himself from serving in the office that bears the chief responsibility for protecting our most vulnerable citizens from such crimes. This aspect of his record should be particularly disqualifying in light of the fact that over

² J. Gerald Hebert, “Why I told the Senate that Jeff Sessions thought civil rights groups were ‘Un-American’”, Washington Post, November 22, 2016 (available at https://www.washingtonpost.com/posteverything/wp/2016/11/22/my-testimony-about-jeff-sessions-racist-remarks-kept-him-from-becoming-a-judge/?utm_term=.2f0b290d3ca9).

³ Ari Berman, “The first senator to endorse Donald Trump is a longtime opponent of civil rights,” The Nation, February 29, 2016 (available at <https://www.thenation.com/article/the-first-senator-to-endorse-donald-trump-is-a-longtime-opponent-of-civil-rights/>).

⁴ See *supra* n. 2.

⁵ Senator Patrick Leahy, “Jeff Sessions: An Extremist Then and Now,” Boston Globe, January 8, 2017 (available at <https://www.bostonglobe.com/opinion/columns/2017/01/08/jeff-sessions-extremist-then-and-now/PAuCCurFRbxoQlpHEGgTQL/story.html>).



1,000 new hate incidents have been reported in our country in the month following the November election.⁶

Senator Sessions also has maligned the Voting Rights Act of 1965 – the passage of which cost the lives and bodies of countless of our nation’s heroes – people such as James Chaney, Andrew Goodman, and Michael Schwerner, who were murdered in Mississippi for their work on behalf of voting rights for African Americans in Mississippi, and Congressman John Lewis (D-GA), whose head still bears the scars of the beating he received at the Edmund Pettus Bridge in 1965, in a non-violent march to ask for the right to vote for blacks in Alabama and across the South.

In callous disregard of this history, and what it cost to achieve the right to vote for African Americans and other dispossessed people in our country, Senator Sessions praised the Supreme Court ruling in *Shelby County v. Holder* (2013) that gutted a key part of the Voting Rights Act of 1965 – consistent with his long-held view that the Voting Rights Act is “intrusive” in its efforts to protect eligible voters of color.⁷

Because of our mission to create a democracy that truly empowers people of all backgrounds, Dēmos is also particularly troubled by Senator Sessions’ record on immigrants and immigration, and his stated desire to defy the U.S. Constitution in order to carry out his anti-immigrant agenda. The Attorney General of the United States has a key role in immigration enforcement and adjudication. Senator Sessions has a record that displays unacceptable bias against immigrants which disqualifies him from serving as Attorney General.

One clear example of this is Senator Sessions’ public position questioning the Constitution’s protection of birthright citizenship. He has suggested that people who are born in the United States should not be considered U.S. citizens if their parents were citizens of another country at the time.⁸

This position directly conflicts with the U.S. Constitution, which the Attorney General is uniquely responsible for obeying and enforcing. The Citizenship Clause of the 14th Amendment states: “All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”⁹ Senator Sessions’ position questioning this clear constitutional command directly undermines his fitness to serve as Attorney General.

⁶ Southern Poverty Law Center, Hatewatch: Update: 1094 Bias-related Incidents in the Month Following the Election, December 16, 2016 (available at <https://www.splcenter.org/hatewatch/2016/12/16/update-1094-bias-related-incidents-month-following-election>)

⁷ See *supra* n. 3.

⁸ Statement of the American Immigration Lawyers Association, Submitted to the Committee on the Judiciary of the U.S. Senate, January 10, 2017 (available at http://www.aiala.org/advo-media/whats-happening-in-congress/congressional-updates/aiala-statement-for-senate-judiciary-hearing-?framed_parent_url=http://www.aiala.org/takeaction&frame_is_responsive=true).

⁹ U.S. Const., Amend. XIV, Sec. 1.



As noted by the American Association of Immigration Lawyers:

The Citizenship Clause makes clear that citizenship based on place of birth is a fundamental right inextricably tied to our liberty and equal rights, and that each person is born equal with no disadvantage or exalted status arising from the circumstance of their parentage. Any restrictions on the rights of citizenship guaranteed in the 14th Amendment would offend this country's most sacred values and Constitutional principles. Sen. Sessions has proposed re-establishing the very same discriminatory exclusion that the 14th Amendment was intended to remedy[.]¹⁰

Senator Sessions also has articulated anti-immigrant bias in many other ways. As noted by Asian Americans Advancing Justice (AAJC), "Senator Sessions has emerged as the lead anti-immigration voice in the United States Senate over the course of his 20-year tenure."¹¹ He has supported President-elect Trump's proposal to ban people from entering the United States based on their religious affiliations as Muslims and has received awards from anti-Muslim organizations and spoken at their events, including the David Horowitz Freedom Center and the Center for Security Policy.¹² AAJC also reports that Senator Sessions has maintained a close relationship with the Federation for American Immigration Reform (FAIR), which is labeled a hate group, and has received FAIR's Franklin Society award for his anti-immigrant leadership.¹³

In addition, a critically important function of the Attorney General is to ensure that everyone in the Administration, from the president on down, is abiding by the rule of law. President-elect Donald J. Trump has authoritarian tendencies, a troubling array of conflicts of interest, and according to experts, will be in violation of the U.S. Constitution the moment he assumes office,¹⁴ which makes the role of the Attorney General as the top enforcer of the law even more important. The Attorney General oversees the Department of Justice' Office of Legal Counsel, which is supposed to provide the President with independent legal advice and hold the Administration accountable by enforcing laws against government abuse, including appointing a special prosecutor if necessary. Senator Sessions is not the right person to carry out those responsibilities. As People for the American Way has pointed out:

Sessions was the first U.S. Senator to back Trump in his bid for the presidency and bought into the campaign whole hog. He served as a close advisor, coached Trump on his VP pick, used a top aid to help craft Trump's stance on immigration, and took the public

¹⁰ *Id.*

¹¹ Asian Americans Advancing Justice, "The Facts on Senator Jeff Sessions," January 2017 (available at <http://advancingjustice-aaajc.org/sites/default/files/2017-01/Sessions%20Fact%20Sheet%20Affiliation%20-%20Final.pdf>).

¹² *Id.*

¹³ *Id.*

¹⁴ Norman Eisen, Richard Painter and Laurence Tribe, "The Emoluments Clause: Its Text, Meaning and Application to Donald J. Trump," December 16, 2016 (available at <https://www.brookings.edu/research/the-emoluments-clause-its-text-meaning-and-application-to-donald-j-trump/>).

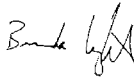
Dēmos

ALL EQUAL LAY AND AN
EQUAL CHANCE FOR ALL

position that grabbing a woman's genitals is not sexual assault....Session's political loyalty to Trump and his insider status with the campaign raise serious questions about whether he can faithfully serve as "the people's lawyer," not Trump's, in the face of thorny and inevitable ethics issues.¹⁵

In sum, Senator Sessions' record opposing civil rights and expressing deep insensitivity on issues of racial justice, civil rights and immigrant rights, including his rejection of constitutional and legal requirements for which he would bear enforcement responsibility as Attorney General, disqualifies him from confirmation to this critical position. His hostility to civil rights, voting rights, racial justice and immigrant inclusion are not a distant relic of his past but have continued to mark his public record up to the present day. In addition, there are serious doubts that Senator Sessions will exercise the independent judgment that is needed in the role of Attorney General of the United States. Dēmos strongly urges the Committee to oppose Senator Jeff Sessions for Attorney General of the United States.

Respectfully submitted,



Brenda Wright
Vice President, Policy and Legal Strategies
Dēmos

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¹⁵ Arn Pearson, "Will Attorney General Jeff Sessions and the Department of Justice Drain Donald Trump's Swamp?" Salon, December 15, 2016 (available at <http://www.salon.com/2016/12/15/will-attorney-general-jeff-sessions-and-the-department-of-justice-drain-donald-trumps-swamp/>).

The Honorable Charles Grassley
 The Honorable Dianne Feinstein
 United States Senate Committee on the Judiciary
 Dirksen Senate Office Building
 Washington, D.C. 20510

January 9, 2017

Dear Chairman Grassley and Ranking Member Feinstein:

My name is Denisse Rojas Marquez and I am one of the estimated 11 million undocumented immigrants residing in the United States. I am also a recipient of the Deferred Action for Childhood Arrivals (DACA) program. I am writing in strong opposition of the nomination of Senator Jeff Sessions for the position of Attorney General of the United States. I would like to share with you my personal story to demonstrate why Mr. Sessions' nomination would be detrimental to hard-working immigrants like myself.

I consider myself an "undocumented American"; the United States has been my home for over twenty-six years. I am also a proud Mexican, Californian, and now New Yorker. I am currently studying medicine at the Icahn School of Medicine at Mount Sinai (one of the premier medical schools in the country) and two and a half years away from becoming an MD, after which I intend to work as a doctor in underserved communities here in the United States. As you can imagine, my journey hasn't been easy: paying for college with no access to government financial aid, commuting over an hour each way to school, and the emotional tolls of feeling invisible, living in fear, and an extreme sense of isolation were just some of the obstacles I faced on a daily basis. However, with my family's unwavering support, trusted mentors, and scholarship and academic programs, I earned my Bachelor of Arts degree in Biology and Sociology from UC Berkeley in 2012. Among my proudest achievements in college was participating in a genetics lab where my research team and I discovered a molecular process in plants not previously identified which earned us publication in *Science*, one of the world's top academic journals.

After college, I yearned to realize my dreams of becoming a physician, to be a healer for my community. The path to how I would get there was unclear, and so, with much creativity and community support, I co-founded a national organization, called Pre-Health Dreamers, to support other undocumented students like myself that have aspirations of becoming health professionals. Among our successes was engaging with dozens of medical schools and health professional programs to open their doors to undocumented students, and co-sponsoring legislation in California to expand eligibility for professional licenses to individuals regardless of their immigration status. For three years after college I was advocating, lobbying, and writing in support of undocumented students through Pre-Health Dreamers. A personal triumph arrived when I became the first of two undocumented students to attend the Icahn School of Medicine at Mount Sinai and received a \$100,000 scholarship for my personal and academic achievements. For my successes as a New American and potential to make distinctive contributions to American society, I was awarded the Paul and Daisy Soros Fellowship for New Americans for up to \$90,000 for graduate study in April of 2016. And just last week, I was selected from among 15,000 applicants for the Forbes '30 Under 30' list in the Education category for being co-founder of Pre-Health Dreamers and creating more equity in education. After my departure to medical school, Pre-Health Dreamers continues to help over 700 undocumented students across the country under new leadership.

When DACA arrived in 2012, it was a relief to so many, like myself, who could continue their educational endeavors, resume their careers or even let themselves dream of becoming health professionals. It felt surreal when my DACA approval came in the mail. Needless to say, without DACA, I would not have been able to enter medical school nor been able to receive my numerous awards and distinctions. Though I have devoted myself to my studies and activities outside the classroom, DACA was the answer that lifted the ceiling to my educational and career ambitions. I can now truly amount to anything I set myself to do. But without DACA or a long-term immigration remedy, I will not be able to practice as a doctor. DACA has allowed for the significant economic and social incorporation of undocumented persons into American society and has only served to benefit communities nationwide.

My successes are rooted in the values my family instilled in me growing up. Leaving Mexico with less than a high school education, my mother, in America, discovered that education was the key to prosperity and thus learned English, attained a high school equivalency diploma, and eventually, a nursing degree. Watching her study chemistry into the night while providing for my siblings and me and balancing many other responsibilities taught me hard work, determination, and resiliency. My father, who has worked in a variety of trades from the service industry to manufacturing and construction, taught me that the two most important ingredients for success are humility and creativity. My father also taught me devotion to community: as a truck driver for over 10 years, he has developed new infrastructure for communities by helping create roads, bridges, and buildings; he loves America more than anyone I know. My older brother, eight years my senior, has torn down walls for me to pursue my own education. He graduated from San Jose State University as a computer software engineer in 2003 at a time when attending college as an undocumented person was nearly impossible. He has taught me to think outside the box, to take the road less traveled, and to never take no for an answer. My older sister, my other half, has paved my path. She always pushed herself in school, and I followed her example. She aspired to attend UC Berkeley, it became my goal as well. She dreamed of becoming a doctor, I made it my own dream. She is now a researcher at UC Berkeley, with a Master of Public Health degree from UC Davis, and conducts research to combat obesity in Latino communities and other public health crises. Her view of the world has transformed my own, and inspires me to better the health of communities in need.

Unfortunately, my family and I have been tangled in an immigration system that has led to the separation of my family. In 1996, an attorney mishandled our immigration case, which resulted in a deportation order in 2001. We waited many years for an immigration reform to pass and fix our situation, but having lost hope, my brother in 2007 and later my mother in 2012 and father in 2014, left the U.S. to immigrate to Canada for a secure life where they could be fully incorporated as citizens. My mother, in particular, was in urgent need of medical attention and was denied health insurance in the United States. In Canada, my mother eventually received the surgery she needed. Though it was the hardest decision my mother ever made, leaving her two daughters not knowing when we would reunite again, the decision was clear: staying in U.S. would essentially have meant being denied the opportunity to live. I have decided to stay in this country because my dreams and aspirations continue to be in the United States and are made possible with the benefits DACA confers. I desire to transform healthcare systems and make quality healthcare available to all persons. There is no other place I call "home."

My family's experiences highlight the need for an immigration system that is just and humane for all hard-working families like my own. In many instances, Senator Jeff Sessions has expressed extreme anti-immigrant sentiments. His appointment as Attorney General would be devastating to millions of individuals like myself, who only desire to be fully participating members of society. Without fair and just solutions to our immigration system, my future as a physician and the aspirations and livelihood of millions of undocumented immigrants are in jeopardy. For these reasons, I strongly urge the Senate Judiciary Committee to reject the nomination of Senator Jeff Sessions for the position of Attorney General of the United States.

Respectfully,

Denisse Rojas Marquez

January 10, 2017

The Honorable Charles Grassley
Chair
Judiciary Committee
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Judiciary Committee
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senators Grassley and Feinstein:

On behalf of the undersigned national advocacy organizations representing the interests of millions of people with disabilities, we write to express our strong opposition to the nomination of Senator Jeff Sessions to be Attorney General of the United States. Based on our review of Senator Sessions' record throughout his career, we have serious reservations about his commitment to adequately and fairly protect the rights of all Americans, including people with disabilities. As such, we ask that you and the other Committee members vote against his confirmation.

Senator Sessions' record reveals an alarming and consistent opposition to protection of the rights of people with disabilities. His apparent hostility to disability rights is especially concerning given the Justice Department's critical role in protecting the rights of people with disabilities through its enforcement of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, and its work with the Department of Education to enforce the Individuals with Disabilities Education Act (IDEA). In recent years, the Department's enforcement of the ADA's integration mandate has dramatically improved lives by ending the needless institutionalization of tens of thousands of people with disabilities and providing them the chance to live and receive services in their own homes and communities and to obtain competitive integrated employment through supported employment services rather than languishing in sheltered workshops. The Department's Disability Rights Section has also ensured that people with disabilities have access to governmental and recreational facilities and services across the country; receive instruction, services, and accommodations needed for equal educational opportunity in both K-12 and higher education; are able to vote at accessible polling places; and fully enjoy their parental and family rights.

Before his election to the Senate, during his two years as Alabama's Attorney General, Senator Sessions fought to eliminate two historic consent decrees protecting people with disabilities. These decrees, entered by Alabama following litigation challenging the state's child welfare system and its system of services for people with mental illness and intellectual and

developmental disabilities, each reformed a major service delivery system for people with disabilities. One reformed the state's child welfare system, which too often removed children with mental disabilities from their parents and placed them in institutional settings instead of providing effective services enabling them to stay in their homes and communities.¹ The other reformed state's mental health and developmental disabilities services agency, which needlessly placed thousands of individuals with mental illness and intellectual and developmental disabilities in institutions rather than in community settings.² In addition, Sessions challenged a court order finding that the state's school funding system violated the state constitution in part because it deprived students with disabilities who lived in poor districts of the services and supports they needed to succeed in school, such as ramps allowing physical access to school buildings and sufficient numbers of qualified special education teachers.³

As a Senator, Sessions has made statements suggesting a lack of commitment to protecting the rights of children with disabilities. Senator Sessions said that implementation of the IDEA, which requires schools to provide a free appropriate public education to students with disabilities, is "hurting public education," is "the single most irritating problem for teachers throughout America today," and is "a big factor in accelerating the decline in civility and discipline in classrooms all over America."⁴ He has also endorsed the segregation of students with disabilities, stating that many of these children should be "put in an alternative setting where the disability could be dealt with."⁵ And he has promoted troubling and unfounded stereotypes about people with disabilities, stating that students with mental disabilities "may often be the most dangerous ones, the ones most likely to come back in, say, six months from now and kill some innocent child in a classroom or shoot their teacher."⁶

Senator Sessions also suggested that Congress lacked the authority to lift states' sovereign immunity to lawsuits under the ADA, leaving victims of state-sponsored discrimination on the basis of their disabilities without full remedies.⁷

More recently, he voted against ratification of the Convention on the Rights of Persons with Disabilities, rejecting the plea of former Senator Bob Dole to approve this treaty that ensures basic protections for people with disabilities around the world.⁸ He also voted against the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, which expanded the federal hate crime law to include crimes motivated by the victim's disability.⁹ As last week's brutal

¹ See *R.C. v. Nachman*, 969 F. Supp. 682 (M.D. Ala. 1997).

² See *Wyatt v. Poundstone*, 892 F. Supp. 1410 (M.D. Ala. 1995).

³ See Brief and Argument of Appellants, *James v. Alabama Coalition for Equity*, Nos. 1950240, 1950241 (Ala. Oct. 6, 1995), 1995 WL 17961142; Opinion of the Justices, 624 So. 2d 107, 142 (Ala. 1993).

⁴ 146 Cong. Rec. 6995-97 (2000).

⁵ 147 Cong. Rec. 21,895 (2001).

⁶ 145 Cong. Rec. 10,154 (1999).

⁷ See 151 Cong. Rec. S6250 (daily ed. June 9, 2005); *Confirmation Hearing on the Nomination of John G. Roberts, Jr. to Be Chief Justice of the United States: Hearing Before the S. Comm. on the Judiciary*, 109th Cong. 218 (2005), <https://www.congress.gov/108/chr/shrg89324/CHRG-108shrg89324.htm>. During Justice Roberts' confirmation hearing, Sessions also praised "healthy trends in re-establishing that there's some limit to the reach of the commerce clause," raising additional concerns about his views on the scope of Congress's authority to enact civil rights legislation. *Id.*

⁸ 158 Cong. Rec. S7379 (daily ed. Dec. 4, 2012).

⁹ 155 Cong. Rec. S10,669 (daily ed. Oct. 22, 2009).

attack of a man with a mental disability in Chicago demonstrates,¹⁰ people with disabilities often face devastating violence, perpetrated upon them because they have a disability. Senator Sessions' opposition to protections from such violence is disturbing.

Senator Sessions' record could not be clearer, and supports our fears that, if confirmed as Attorney General, he would set back the Department's progress in protecting the rights of individuals with disabilities. Thus, we urge you to vote against his confirmation as Attorney General.

Sincerely,

American Association of People with Disabilities

Association of University Centers on Disabilities

Autistic Self Advocacy Network

Center for Public Representation

Disability Rights Education and Defense Fund

Judge David L. Bazelon Center for Mental Health Law

National Association of Rights Protection and Advocacy

National Council on Independent Living

United Spinal Association

¹⁰ See Mark Berman & Derek Hawkins, *Hate Crime Charges Filed After "Reprehensible" Video Shows Attack on Mentally Ill Man in Chicago*, Wash. Post (Jan. 5, 2017), https://www.washingtonpost.com/news/morning-mix/wp/2017/01/05/4-in-custody-after-group-beats-disabled-man-on-facebook-live-while-shouting-anti-trump-profanities-chicago-police-say/?utm_term=.2cf7d459c37b.



January 9, 2017

Chairman Chuck Grassley
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
United States Senate

Dear Chairman Grassley and Ranking Member Feinstein,

The Drug Policy Alliance urges you to reject the nomination of Jeff Sessions for Attorney General. His record suggests he will use his power as Attorney General to undermine state marijuana laws he disagrees with, including undermining the laws of 15 states represented by members of the Judiciary Committee. Sessions also strongly opposes criminal justice reform, and if confirmed as Attorney General would likely be a major obstacle to passing bipartisan sentencing reform and civil asset forfeiture reform.

29 states have enacted a medical marijuana law (including ten states represented by members of the Judiciary Committee).¹ An additional 16 states, including six states represented by members of the Judiciary Committee, have legalized CBD oils,² a non-psychoactive component of marijuana that has shown effectiveness in managing epileptic seizures that afflict children. Eight states have voted to legalize, tax, and regulate marijuana like alcohol, including California.³

Jeff Sessions has said “good people don’t smoke marijuana”, disparaging the tens of millions of Americans who have used marijuana, including the last three presidents. He has criticized the Justice Department’s guidance respecting state marijuana laws, and even opposes marijuana for medical use. If confirmed as Attorney General Sessions could increase marijuana arrests and prosecutions, threaten state officials, and undermine the ability of local agencies to regulate marijuana.

While Senator Sessions played a significant role in passing the 2010 Fair Sentencing Act (and we praised his role at the time) Sessions usually opposes sentencing and criminal justice reform. He was the chief opponent of 2016 bipartisan efforts to reduce sentences for drug offenses. He has been critical of the Justice Department’s guidelines around sentencing that were designed to limit harsh sentencing and reserve mandatory minimums for major offenders.

¹ Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Washington.

² Alabama, Delaware, Florida, Georgia, Iowa, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin.

³ Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington.

Sessions also opposes “any” reform of civil asset forfeiture, a process that allows government agencies to seize money and property without having to charge anyone with a crime. The proceeds usually line the agency’s budget. It is very likely that forfeiture reform would have passed Congress last year if it wasn’t for behind-the-scenes opposition from the Obama Justice Department. The Obama Justice Department also tried to lobby state legislatures not to pass forfeiture reform (most notably California). Sessions would likely continue DOJ opposition to sensible reform.

Over the last decade a bipartisan consensus has emerged that drug use should be treated more as a health issue and less as a criminal justice issue. Unfortunately, Sessions still favors hardline drug law enforcement approaches over emphasizing treatment and rehabilitation. He will likely escalate the failed war on drugs, at the expense of sensible reforms.

In recent years, dozens of states have reformed their marijuana laws. Dozens of states have also enacted sentencing reforms, including California, Delaware, Illinois, Louisiana, Nebraska, North Carolina, South Carolina, Texas and Utah. In the last year alone, California, Florida, Montana and New Mexico reformed their asset forfeiture laws. Jeff Sessions is a threat to this progress.

The power of the Attorney General is vast, and largely unchecked. The Attorney General sets the Justice Department’s priorities, influences the type of cases U.S. Attorneys bring and don’t bring, controls the flow of grants and forfeiture revenue to local and state law enforcement agencies, and puts pressure on policymakers. Jeff Sessions could use this power to undermine state authority and oppose federal reforms. The Judiciary Committee should reject him.

Sincerely,

Bill Piper

Senior Director, Office of National Affairs

Pat Edington

551 Church Street
Mobile, AL 36602
Cell Phone: 251.554.2880

January 6, 2017

Senator Dianne Feinstein
Ranking Member
Senate Judiciary Committee
SH-331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

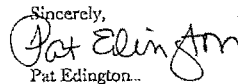
I am writing to you in support of Senator Jeff Sessions for the position of Attorney General. Though Jeff and I have usually been on opposite sides of the political divide, I have known him for approximately 40 years, and while we have had our policy differences, I know his instincts are fundamentally humane and just. Indicative of Jeff's basic instincts, he participated in last year's 50th anniversary of the Selma to Montgomery March. In fact, I marched next to him over the Selma bridge during that commemoration. Similarly, he led the effort to desegregate the Mobile Lions Club in the mid-1980s, well before he had any political aspirations. As I say, we don't always agree, but he is a decent human being who acts on his conscience.

While we have been together on a number of occasions, I doubt you would recall, given how many people you meet constantly. In way of background, I served on the DNC for thirteen years, as well as serving as the Democratic Party's Vice-Chair in Alabama. In fact, I recall very vividly your kind hospitality when I was serving on the 1984 site selection committee for the Democratic Convention. You were most gracious in hosting us at your house. You were particularly kind to my then thirteen year old daughter. Most recently, in terms of my political activity, I worked on the Clinton campaign, and I was Hillary's largest Alabama fundraiser. In other words, I am not a Democrat in name only.

I truly hope our Party will not make this vote on party lines, but instead vote on the man. If so, I wanted you to be aware of what those who know him best think, even those on our side of the political divide.

I very much appreciate your consideration of my views.

With continued good wishes, I remain

Sincerely,

Pat Edington

cc: Senator Patrick J. Leahy
Senator Richard J. Durbin
Senator Sheldon Whitehouse
Senator Amy Klobuchar

Senator Al Franken
Senator Christopher A. Coons
Senator Richard Blumenthal
Senator Mazie Hirono

epic.org

ELECTRONIC PRIVACY INFORMATION CENTER

January 9, 2017

Senator Chuck Grassley, Chairman
Senator Dianne Feinstein, Ranking Member
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Dear Chairman Grassley and Ranking Member Feinstein:

We write to you regarding the nomination of Senator Jeff Sessions to become the next Attorney General of the United States. The Electronic Privacy Information Center (EPIC) was established in 1994 to focus public attention on emerging privacy and civil liberties issues.¹ Over the years, EPIC has pursued a wide range of matters with Attorneys General of both Democratic and Republican administrations and we have frequently submitted statements to this Committee.²

Although EPIC takes no position for or against the nominee, a careful examination of Senator Sessions' record regarding the privacy rights of Americans raises serious questions about his selection as Attorney General.

Senator Sessions has Supported the Warrantless Surveillance of the American People.

Senator Sessions has consistently supported warrantless surveillance of the American people, which is contrary to our Constitutional heritage and the plain text of the Fourth Amendment. He called President George W. Bush's warrantless wiretapping program "a reasonable assertion of executive power."³ He voted against the 2015 USA FREEDOM Act,⁴

¹ EPIC, *About EPIC* (2016), <https://epic.org/epic/about.html>.

² See, e.g., EPIC v. FBI, 865 F. Supp. 1 (D.D.C. 1994) (concerning FBI director wiretapping surveys); EPIC v. DOD, 241 F. Supp. 2d 5 (D.D.C. 2003) (concerning the Total Information Awareness program); EPIC v. FBI, 72 F. Supp. 3d 338 (D.D.C. 2014) (concerning the agency's "Next Generation Identification" program); The Future of Drones in America: Law Enforcement and Privacy Considerations: Hearing Before the S. Comm. on the Judiciary, 113th Cong. 7-8 (2013) (statement of Amie Stepanovich, EPIC); Letter from EPIC to the S. Comm. on Judiciary (Sept. 9, 2005), <https://www.epic.org/privacy/justices/roberts/0905letter.pdf> (concerning the nomination of Roberts, J., to the Supreme Court).

³ <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=EF0E3EF3-7E9C-9AF9-7929-CE644CD56A2E>.

⁴ 161 Cong. Rec. S3444 (daily ed. June 2, 2015).

which was broadly supported by the Senate and which ended the NSA's bulk collection of the domestic telephone records of American telephone customers.⁵ He opposed Apple in its dispute with the FBI over forced iPhone decryption.⁶ He supported the use of secret National Security Letters (NSLs) in the 2005 Patriot Act reauthorization, saying that the NSL standard, which requires no judicial approval, was actually "too high."⁷ This raises troubling concerns about his willingness to comply with the requirements of the Fourth Amendment and ensure adequate oversight for the extraordinary surveillance powers of the federal government.

Senator Sessions failed to support bipartisan efforts to modernize the Electronic Communications Privacy Act (ECPA). In fact, he sought to amend ECPA to require internet service providers and telephone companies to monitor the contents of their subscribers' communications. Under existing law, service providers are allowed to disclose the contents of communications to law enforcement in emergency situations.⁸ Senator Sessions argued in 2013 that these disclosures should be mandatory—a standard that could create an affirmative duty for service providers to monitor communications or risk liability.⁹

Senator Sessions has also promoted measures that would make it easier to track Americans within the United States. In 1996, Senator Sessions co-sponsored an amendment to the Illegal Immigration Reform and Immigrant Responsibility Act "to facilitate information sharing between federal and local law enforcement officials related to an individual's immigration status."¹⁰ He also supported measures to expand the collection of the unique biometric identifiers of Americans. Senator Sessions proposed amendments to the 2004 Intelligence Reform and Terrorism Prevention Act (IRTPA) that would have removed the sunset provisions in the Patriot Act and required fingerprints to be included on all U.S. passports.¹¹

Senator Sessions has favored methods of mass surveillance that have since been discredited. He wrote in 2006 that the Section 215 bulk metadata program, now discontinued, "yielded invaluable intelligence that has helped prevent attacks and uncovered terrorist plots."¹² But the Privacy and Civil Liberties Oversight Board (PCLOB) found that "the Section 215 program has shown minimal value in safeguarding the nation from terrorism."¹³ The PCLOB

⁵ EPIC, *Senate Passes FREEDOM Act, Ends NSA Bulk Collection* (June 2, 2015), <https://epic.org/2015/06/senate-passes-freedom-act-ends.html>.

⁶ Chris Strohm, *Apple-FBI Row Spurs Senate Bill on Encrypted Data Access*, Bloomberg (Feb. 23, 2016), <https://www.bloomberg.com/politics/articles/2016-02-23/apple-fbi-row-spurs-senate-move-to-force-encrypted-data-access>.

⁷ USA Patriot And Terrorism Prevention Reauthorization Act of 2005—Conference Report, 151 Cong. Rec. S13560 (Dec. 14, 2005).

⁸ 18 U.S.C. § 2702(b)(8).

⁹ S. Rep. No. 113-34, at 12–19 (2013).

¹⁰ 108 S. Amdt. 1138, <https://www.congress.gov/amendment/110th-congress/senate-amendment/1158>.

¹¹ 103 Cong. Rep. S10239–41 (daily ed. Oct. 1, 2004) (proposing S. Amdts. 3780, 3871, 3872).

¹² <http://www.nationalreview.com/article/418675/why-should-terrorists-be-harder-investigate-routine-criminals-jeff-sessions>.

¹³ Privacy and Civil Liberties Oversight Board, *Report on the Telephone Records Program Conducted Under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence*

could not identify “a single instance involving a threat to the United States in which the program made a concrete difference in the outcome of a counterterrorism investigation.”

Senator Sessions has shown a Disregard for Privacy and Free Speech Rights.

The freedom of Americans to explore a wide range of political, religious, and cultural views is central to our Constitutional heritage. Yet, in 2005 hearings on oversight of the Patriot Act, Senator Sessions mocked the concerns of librarians who opposed government access to library borrower records, calling their views “almost amusing” and comparing them to “Woodstock myths”:

Now, they complain, and [Attorney] General Gonzales notes that perhaps the most controversial part is the part about the libraries. That is almost amusing. I mean, some of the things that have come out of the national Library Association, in my view, have been utterly extreme. It sounds like Woodstock myths, out of Woodstock or something.¹⁴

In the same hearing, FBI Director Robert Mueller correctly stated, “We are sensitive to the concerns of the Library Association. . . . And so the balance is fairly struck, I believe, in terms of the desire of librarians and others to protect the sanctity of the library.” Yet Senator Sessions made it clear that he had a different opinion about the privacy of Americans who obtain information from public libraries:

Senator SESSIONS. A library does not have any sanctity. Why does a library have sanctity that your medical records do not have?

Director MUELLER. Well, a number of areas have been looked upon as being special.

Senator SESSIONS. They think it is sanctified, I will admit. I just disagree that it deserves special protection.¹⁵

To be clear about the significance of this exchange: this was the nominee to be the next Attorney General of the United States telling the Director of the FBI that he was wrong to be concerned about the privacy of Americans who seek information from libraries.

Senator Sessions has Opposed Oversight of Government Surveillance.

Contrary to the essence of balance of powers, Senator Sessions has sought to limit oversight of the surveillance programs that he simultaneously seeks to expand. For example, he

Surveillance Court 15 (2014), https://www.pclob.gov/library/215-Report_on_the_Telephone_Records_Program.pdf.

¹⁴ Oversight of the USA PATRIOT Act: Hearings before the S. Comm. on the Judiciary, 109th Cong. 27 (2005).

¹⁵ *Id.* at 28.

sought to strip out key oversight provisions in the law that created the Office of the Director of National Intelligence and the PCLOB. Those recommendations were made specifically by the 9/11 Commission and anticipated the problems that would subsequently emerge. Senator Sessions sought to eliminate privacy and civil liberties officers from intelligence community agencies.¹⁶ Senator Sessions also tried to strip the PCLOB of subpoena power and the authority to supervise agency programs, effectively hamstringing the Board's ability to conduct effective oversight.¹⁷

It is vital that the nominee make clear his support for effective oversight across the federal government.

Senator Sessions Opposes Government Transparency.

Our democratic form of government relies on transparency and the ability of citizens to understand the decisions that the government takes on our behalf. As James Madison once said:

A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.¹⁸

This year open government advocates celebrated the 50th anniversary of the Freedom of Information Act with passage of the FOIA Improvement Act of 2016. The FOIA Improvement Act "ensure[s] that future administrations place an emphasis on openness and transparency."¹⁹ One of the Act's hallmarks is a sunset provision that limits the government's ability to withhold draft documents.

Senator Sessions questioned the sunset provision out of a concern "that 'full and frank communication' may be chilled by the knowledge that all such communications could become a matter of public record."²⁰ It is clear, however, that the Justice Department has cited FOIA exemptions to withhold legal memos²¹ that should never be kept secret. The Committee should determine whether Senator Sessions still favors this form of "secret law." Also concerning is

¹⁶ 108 S. Amdt. 3801, <https://www.congress.gov/amendment/108th-congress/senate-amendment/3801/text>.

¹⁷ 108 Cong. Rec. S10047-48 (daily ed. Sept. 30, 2004) (statement of Sen. Dick Durbin).

¹⁸ Letter from James Madison to W.T. Barry (Aug. 4, 1822), in 9 *The Writings of James Madison* 103 (Gaillard Hunt, ed. 1910).

¹⁹ Patrick Leahy, *Leahy, Cornyn Bill Strengthening FOIA Passes Senate Unanimously* (Mar. 15, 2016), <https://www.leahy.senate.gov/press/leahy-cornyn-bill-strengthening-foia-passes-senate-unanimously>.

²⁰ S. Rep. No. 114-4, at 16 (2015).

²¹ Brief of *Amici Curiae* EPIC and Seven Open Government Organizations in Support of Appellants and Urging Reversal, *N.Y. Times v. U.S. Dep't of Justice*, 756 F.3d 100 (2d Cir. Apr. 22, 2013) (No. 13-0422-cv), <https://epic.org/amicus/foia/new-york-times/EPIC-et-al-Amici-Brief.pdf>.

Senator Sessions' 2004 proposed amendment that sought to eliminate the PCLOB's public reporting and public hearing requirements.²²

In the years ahead, Americans will face growing threats to their privacy rights, their civil rights, and the freedoms established in the Constitution of the United States. The Attorney General of the United States must safeguard the public in a manner consistent with the rule of law and our Constitutional heritage.

We are not certain that Senator Sessions is the right person to be next Attorney General of the United States. His support for government surveillance of the American people and his opposition to oversight of the government are at odds with our country's longstanding commitments to privacy, civil liberties, and open government. Especially at a time when Americans have opposed the expansion of warrantless surveillance,²³ we ask the Senate Judiciary Committee to exercise great care in ensuring that the next Attorney General will safeguard the freedoms valued by the American people.

We appreciate your consideration of EPIC's views, and we would welcome the opportunity to provide additional information to the Committee.

Sincerely,

Marc Rotenberg
EPIC President and Executive Director

Alan Butler
EPIC Senior Counsel

Catriona Fitzgerald
EPIC Policy Director

James T. Graves
EPIC Law and Technology Fellow

²² 108 S. Amdt. 3801, <https://www.congress.gov/amendment/108th-congress/senate-amendment/3801/text>.

²³ George Gao, *What Americans Think About NSA Surveillance, National Security and Privacy*, PEW RESEARCH CTR. (May 29, 2015), <http://www.pewresearch.org/fact-tank/2015/05/29/what-americans-think-about-nsa-surveillance-national-security-and-privacy/>.



ADVANCING FAITH, FAMILY AND FREEDOM

January 10, 2017

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feinstein,

On behalf of the Family Research Council (FRC) and the hundreds of thousands of families we represent, I urge you to support the nomination of Alabama Senator Jeff Sessions for the position of Attorney General of the United States of America.

Senator Sessions has a record that reflects an understanding and respect for the rule of law and the God-given, government-secured rights of all Americans. Senator Sessions' experience as U.S. Attorney for the Southern District of Alabama, Attorney General for the State of Alabama, and a United States Senator with key roles on various committees, including the Senate Judiciary Committee, will be invaluable at the Department of Justice.

The Department of Justice has a recent history of disregard and selective enforcement of the law, wasteful, politically-motivated litigation, and undermining states' rights and responsibilities under the Constitution. Senator Sessions will restore at the Department of Justice a respect for the constitutional and proper role of the federal government and a respect for the rule of law. We believe Senator Sessions will work to enforce the law as it is written and apply it even-handedly to ensure justice for all.

Senators Sessions' nomination has garnered bipartisan support from diverse backgrounds including many of his colleagues in the Senate, key African-American leaders, like Gerald Reynolds and Quinton Ross, the Fraternal Order of Police, multiple former U.S. Attorneys General and Deputy Attorneys General, the National District Attorneys Association, and others.

Family Research Council joins in this support and we respectfully urge you to work toward the confirmation of Senator Sessions as U.S. Attorney General.

Sincerely,

David Christensen
Vice President of Government Affairs

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

1100 Connecticut Avenue NW • Suite 900 • Washington, DC 20036

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 Retirement Director
 STAN SCHWARTZ
 General Counsel
 LAWRENCE BERGFER
 Public Affairs Officers
 JASON BRITTEL
 NIKKI CANNON

November 28, 2016

The Honorable Mitch McConnell
 Majority Leader
 United States Senate

The Honorable Chuck Schumer
 Minority Leader
 United States Senate

Dear Majority Leader McConnell and Minority Leader Schumer:

On behalf of the Federal Law Enforcement Officers Association (FLEOA), I am writing to you in support of the anticipated nomination of the Honorable Jeff Sessions for the position of United States Attorney General. As the president of the largest non-partisan professional association representing federal officers, I am confident that any non-partisan evaluation of Senator Sessions' credentials will yield unanimous favorable results.

It is critically important that the Attorney General serve as the unwavering guardian of the rule of law, and I can't think of a finer candidate than Senator Sessions to fulfill that position. Contrary to any critical utterances regarding an alleged comment made by Senator Sessions in the past, his actions have defined him as a principled man of honor. He has served with distinction as a United States Attorney, and has honored the principles of our founding fathers through his service on the Senate Judiciary Committee. Senator Sessions has earned the respect and confidence of law enforcement nationwide, and he is the right leader to serve as our nation's top law enforcement officer.

Senator Sessions has demonstrated a strong commitment to protecting both those who serve in law enforcement and the American citizenry. His work on critical legislation such as the Rafael Ramos and Wenjian Liu National Blue Alert Act, and the Electronic Communications Privacy Act demonstrate Senator Sessions' commitment to keeping all Americans safe. FLEOA completely concurs with the views expressed by Senator Sessions regarding the mythology of sentencing reform. His methodical approach of following the rule of law and not the trumpet of bluster is truly commendable.

In the spirit of unity, and in recognition of the volatile threats our country faces, we hope the Senate can rise above any partisan bickering and come together in support of the anticipated nomination of Senator Sessions as the next Attorney General. He is a true patriot and legal scholar, and the right person to lead our nation's law enforcement components.

Should you desire additional input or testimony from FLEOA, we stand ready to support Senator Sessions and aid you in your deliberations.

Respectfully,

Nathan Catura

Nathan Catura

FLEOA National President

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FAIR is a nonprofit public interest organization working to end illegal immigration and to set levels of legal immigration that are consistent with the national interest

FAIR

FEDERATION FOR AMERICAN IMMIGRATION REFORM

January 5, 2017

The Honorable Chuck Grassley, Chairman
 United States Senate
 Judiciary Committee
 Washington, D.C. 20510

The Honorable Dianne Feinstein, Ranking Member
 United States Senate
 Judiciary Committee
 Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein,

On behalf of the Federation for American Immigration Reform (FAIR) and its nearly 1.5 million members and supporters nationwide, I am writing to express my unconditional support for Senator Jeff Sessions's candidacy for Attorney General and urge the Judiciary Committee to advance his nomination for full Senate confirmation. Senator Sessions has a solid understanding of the Constitution and has spent his entire career fighting for and defending the rule of law. I cannot imagine a better pick for Attorney General.

As you know, the Attorney General is our country's top attorney that carries the important task of upholding the rule of law and administering justice in a fair and impartial manner. The most important issue the next Attorney General needs to address is combatting the nearly 300 sanctuary cities who defy federal immigration law by shielding dangerous criminal aliens. Inexcusably, both of President Obama's Attorneys General have refused to use their authority to hold these jurisdictions accountable.

Tragically, the cost of inaction has been the senseless deaths of innocent Americans, including most notably Kate Steinle. The continued presence of sanctuary jurisdictions is a clear threat to national security, public safety, and the rule of law. As Attorney General, Senator Sessions would put an end to the flagrant violation of federal immigration law by these sanctuary jurisdictions across the nation.

With nearly two decades of leadership on immigration, Senator Sessions's expertise in this area is unmatched. As a Senator, he has ardently supported immigration reform that serves our national interests and protects the American people. In particular, Senator Sessions has been a consistent protector of all American workers,

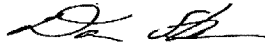


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 www.FAIRus.org

including poor, minority, and white collar, championing policies that focus on American jobs.

Clearly, if confirmed, Senator Sessions would be one of the most qualified Attorneys General our country has ever had. His emphasis on law and order will restore the American people's confidence in the Department of Justice. The American people deserve an Attorney General like Senator Sessions that will enforce our laws. I urge the Judiciary Committee to quickly pass his nomination out of Committee so that the Senate can promptly vote to confirm Senator Sessions as the next Attorney General of the United States.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Stein', with a stylized flourish at the end.

Dan Stein
President



FEMINIST MAJORITY FOUNDATION

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January 6, 2017

Chairman Chuck Grassley
Committee on the Judiciary
United States Senate

Ranking Member Dianne Feinstein
Committee on the Judiciary
United States Senate

Dear Chairman Grassley and Ranking Member Feinstein,

On behalf of the Feminist Majority Foundation, a national organization dedicated to women's equality, reproductive health, and non-violence, I write to express strong opposition to the nomination of Senator Jeff Sessions for Attorney General of the United States. Senator Sessions' long and concerning record in public life demonstrates that he is both unqualified and unfit to serve as the chief enforcement officer of the nation's civil rights, criminal justice, and anti-discrimination laws.

As the head of the Department of Justice, the U.S. Attorney General is charged with ensuring that our nation's laws are enforced and applied fairly to protect the rights and dignity of all people. The position requires not only legal expertise, but also the unwavering ability to enforce the laws with integrity and impartiality, free from extremism, bias, and prejudice. The ability of an Attorney General to be fair-minded and to understand the impact of discrimination on the daily lives of ordinary people is especially important for those individuals and communities who face discrimination because of their sex, race, religion, gender identity, sexual orientation, disability, or other identities.

Unfortunately, Senator Jeff Sessions' record on women's and civil rights illustrates that he does not possess these qualifications and is therefore unfit to serve as Attorney General. In particular, the Feminist Majority Foundation has serious concerns regarding Senator Sessions' record with respect to violence against women, reproductive rights, anti-abortion violence, racial justice, and immigrant rights.

Violence against Women

Passed in 1994, the Violence Against Women Act (VAWA) was the first piece of federal legislation to specifically address domestic violence and sexual assault as crimes and to provide federal funding to improve local responses to violence against women, including training and resources for law enforcement and judges. Congress has reauthorized VAWA three times: in 2000, 2005, and 2013, when provisions were added to ensure that all survivors, including Native American women and college students, could access services, regardless of their sexual orientation, gender identity, or immigration status.

VAWA was groundbreaking in its unequivocal recognition of gender-based violence as a crime, and the law has undoubtedly saved lives. Since 1994, yearly domestic violence rates have dropped, the number of people killed by intimate partner violence has gone down, and survivors of gender-based violence, including sexual assault, have had better access to services, including legal assistance, crisis intervention, shelter, and support.ⁱ

Still, there is more to do. Recent data shows that one in five women in the U.S. has been raped in her lifetime, including one in five college students,ⁱⁱ and one in three women has been a victim of some form of physical violence by an intimate partner.ⁱⁱⁱ Women in the U.S. are also more vulnerable to stalking. Over 19 million women in the U.S. have been stalked in their lifetime, the majority (60.8 percent) by current or former intimate partners.^{iv}

The Department of Justice has sole jurisdiction over enforcing federal statutes criminalizing violence against women and other forms of gender-based violence. In order to protect the right of all people to be free from this type of violence, the Department must engage in vigorous enforcement of the law. **Yet, Senator Jeff Sessions has not been steadfast in condemning violence against women.** Only months ago, when it was politically expedient, Senator Sessions called it “a stretch” to characterize then-candidate Donald Trump’s comments about grabbing women’s genitals without their consent as sexual assault.^v Sessions’ failure to identify non-consensual, abusive sexual touching as assault, at least when committed by a powerful man, raises grave concerns about his ability to apply the law impartially. Sessions’ remark also calls into question his willingness to be a champion against the continuing epidemic of violence against women in this country.

In addition to enforcing federal criminal laws, the Department of Justice, through its Office on Violence Against Women, also administers critically needed programs to strengthen state and local law enforcement efforts to address gender-based violence and funds programs for survivors. **Yet, in 2013, Senator Jeff Sessions voted against reauthorizing and expanding the Violence Against Women Act to immigrant women, Native American women, and college students.** That year, VAWA reauthorization passed in the Senate by a 78-22 vote, with bipartisan support.^{vi} Senator Sessions was in the clear minority of legislators who voted to prevent survivors from accessing services and to make it easier for perpetrators of violence to avoid justice.

Reproductive Rights

Senator Sessions has unfailingly opposed women’s reproductive health and rights for the entirety of his career in the Senate. With respect to the constitutionally protected right to abortion, Sessions called *Roe v. Wade* a “colossally erroneous” decision, and has repeatedly and unsuccessfully tried to undermine the right to abortion through legislation.^{vii} Sessions voted multiple times in support of fetal rights legislation designed to further restrict women’s ability to access abortion. He also supported legislation that would ban abortion at 20-weeks, a policy numerous federal courts have blocked for being unconstitutional.^{viii}

Sessions' contempt for women's reproductive health and rights, however, is not limited to abortion. Sessions has voted repeatedly to eliminate Title X family planning funding, which provides birth control, cancer screenings, and other healthcare services to millions of women, and has voted consistently to defund Planned Parenthood health centers.

Senator Sessions' position on women's reproductive health and rights puts him well outside of the mainstream as evidenced by the support Sessions has received from anti-abortion extremist Troy Newman, President of Operation Rescue. In a press release, Newman said that Operation Rescue "could not be happier about the selection of Sen. Jeff Sessions as the next Attorney General."^x

Under Newman's leadership, Operation Rescue engaged in a seven-year campaign of intimidation and harassment against Wichita, Kansas abortion provider Dr. George Tiller, who was murdered—in his church—in 2009 by a self-proclaimed Operation Rescue participant Scott Roeder. Newman has publically disavowed violence against abortion providers and claims not to know Roeder, but Operation Rescue continues to employ Cheryl Sullenger as its Senior Vice President. Sullenger previously served two years in prison for conspiring to bomb an abortion clinic in San Diego. Her name and phone number were found on the dashboard of Roeder's car when police arrested Roeder for the murder of Dr. Tiller.

Newman was also a founding board member of the anti-abortion group Center for Medical Progress and reportedly served as an advisor to the group's deceptive and malicious video campaign against Planned Parenthood. The false and derogatory claims made against Planned Parenthood were roundly debunked by investigations in twelve states that found no evidence of wrongdoing by the healthcare provider.

Sessions' positions on abortion and birth control do not reflect either our constitutional principles or prevailing public opinion. His dogged attempts to gut *Roe v. Wade* and restrict access to reproductive health care raise serious concerns about his ability to separate personal ideology from the job at hand. That Sessions may be aligned with Newman only raises further concerns about Sessions' willingness and desire to defend and uphold the constitutional right to abortion and the federal Freedom of Access to Clinic Entrances Act (FACE).

Anti-Abortion Violence

More specifically, the Feminist Majority Foundation has concerns regarding Sessions' commitment to protecting abortion providers, patients, and others from anti-abortion violence.

Since 1977, there have been at least 11 murders, 26 attempted murders, 42 bombings, 185 arsons, and thousands of criminal activities directed at abortion providers.^x In 2014, one in five women's health clinics in the United States experiences severe anti-abortion violence, including blockades, clinic invasions, bombings, arson, chemical attacks, physical violence, stalking, gunfire, bomb threats, arson threats, or death threats.^{xi} Reports of threats and violence against abortion providers, however, have increased since then.^{xii} In the first half of 2016, the number

of clinics experiencing severe violence and threats increased to 34.2 percent.^{xiii} The need for an Attorney General who will prioritize holding individuals who commit these acts of violence accountable is therefore extremely critical.

The Department of Justice is responsible for enforcing the Freedom of Access to Clinic Entrances Act (FACE), 18 U.S.C. § 248, which prohibits individuals from using violence and intimidation to prevent individuals from accessing reproductive health services. In addition, the Department houses the National Task Force on Violence Against Health Care Providers, which has played an important role in addressing and preventing anti-abortion violence.

Sessions' record, however, does not demonstrate that he would prioritize the Task Force, even with the increase in anti-abortion violence, or that he would work to vigorously prosecute anti-abortion crime and hold perpetrators accountable. For example, **Sessions has voted against legislation designed to promote clinic safety,^{xiv} and has repeatedly voted against a measure to prevent convicted perpetrators of violent crimes against abortion providers from filing for bankruptcy to avoid paying resulting fines.^{xv}**

Racial Justice

In 1986, a Republican-controlled Senate Judiciary Committee rejected then-U.S. Attorney Sessions' nomination to be a federal district court judge after hearing evidence concerning Sessions' alarming civil rights record and history of making racially-charged statements. This record included the misguided prosecution of three African-American voting rights activists on numerous charges, all of which were promptly rejected by a jury, as well as statements calling the NAACP "un-American" and warning an African-American colleague to be careful about what he said "to white folks."^{xvi}

Sessions' record on civil rights since 1986 continues to be alarming. Sessions has called the Voting Rights Act, passed to protect African-Americans' right to vote, "a piece of intrusive legislation," and he has continued to minimize voter suppression tactics in the South, saying in 2013, "if you go to Alabama, Georgia, North Carolina, people aren't denied the vote because of the color of their skin."^{xvii} Yet, a panel of the U.S. Court of Appeals for the Fourth Circuit found in 2016 that provisions of North Carolina's 2013 voter identification laws were designed to do just that.^{xviii} Sessions' flippancy attitude concerning the voting rights of African-Americans continues to pose grave concerns for his ability to defend against voter suppression efforts, whether directed specifically at African-Americans or other groups.

The Department of Justice also plays an important role in helping to ensure that law enforcement agencies respect the nation's civil rights laws. This role is especially critical at this time in our nation's history when we are actively grappling with high levels of police violence against African-Americans and poor relationships between certain minority communities and police. It is imperative that the Department of Justice continue to prioritize its work to promote better community policing strategies and hold law enforcement agencies accountable for civil rights violations. Sessions, however, has been critical of the Department for investigating law

enforcement agencies accused of misconduct and a “pattern or practice” of violating civil rights, condemning consent decrees that mandate police reform.^{xix}

LGBTQ Rights

Sessions also has a troubling record on protecting the rights of LGBTQ individuals. Sessions supported a constitutional amendment to ban same-sex marriage and opposed repeal of “Don’t Ask Don’t Tell.” He was also an original co-sponsor of a bill, introduced last year, that would allow individuals, businesses and nonprofit organizations to circumvent federal protections for LGBTQ couples and families under the guise of protecting religious liberty.^{xx}

The Department of Justice is responsible for prosecuting hate crimes, including those against LGBTQ people, yet Senator Sessions did not feel LGBTQ individuals needed this protection. Instead, **Sessions vigorously opposed the 2009 Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act.** His opposition is particularly concerning given that the Attorney General must sign off on all criminal hate crimes prosecutions, and LGBTQ individuals are more likely to experience hate crimes than individuals from any other group.^{xxi}

Immigration

The Department of Justice is responsible for the Executive Office for Immigration Review, which adjudicates immigration cases, as well as the Office of Immigration Litigation and the Office of Special Counsel for Unfair Immigration-Related Employment Practices, which investigates and prosecutes certain forms of employment discrimination based on nationality or citizenship status.

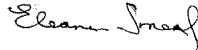
The public must be able to count on the Attorney General to treat immigrants to the United States fairly under the law, yet **Senator Sessions has long associated with advocacy groups that promote anti-immigrant and anti-Muslim rhetoric**, calling into question his ability to carry out this role effectively. In particular, the Feminist Majority Foundation shares concerns raised by several immigrant rights groups about Senator Sessions’ relationship with David Horowitz, of whom he has spoken favorably, and the David Horowitz Freedom Center, a group designated an anti-Muslim extremist group by the Southern Poverty Law Center. We also share concerns regarding Sessions’ relationship to several anti-immigration groups founded by John Tanton, an activist who has promoted white nationalist ideas.^{xxii}

Conclusion

The Attorney General of the United States plays a special role in advancing civil rights and ensuring access to justice. Thirty years ago, then-U.S. Attorney Sessions failed as a nominee for a federal district judgeship because of concerns regarding his ability to protect civil rights and apply the law fairly, without personal or political bias. As the Judiciary Committee considers his nomination of now-Senator Jeff Sessions to take on the responsibility of the Attorney General, each Committee member must ask what, in Sessions’ long record of public life, suggests that he

is now prepared to enforce our nation's civil rights laws. A review of his record demonstrates that on the core issues of women's rights, reproductive health and rights, racial justice, and immigration, Senator Sessions' views have not changed. The Feminist Majority Foundation must therefore object to the nomination of Senator Jeff Sessions for U.S. Attorney General.

Sincerely,



Eleanor Smeal
President

¹ Stacy Teicher Khadaroo, *In US, A Decline in Domestic Violence*, *Christian Science Monitor*, (Aug. 26, 2014), <http://www.csmonitor.com/World/Progress-Watch/2014/0826/In-US-a-decline-in-domestic-violence>

² National Sexual Violence Resource Center, *Statistics About Sexual Violence*, http://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-pack_statistics-about-sexual-violence_0.pdf

³ National Coalition Against Domestic Violence, *National Statistics*, <http://ncadv.org/learn-more/statistics>

⁴ *Ibid.*

⁵ Laura Bassett, *GOP Senate Says Grabbing a Woman's Genitals Is Not Sexual Assault*, *Huffington Post*, (Oct. 11, 2016), http://www.huffingtonpost.com/entry/jeff-sessions-trump-sexual-assault_us_57fb902e4b068ecb5e06988

⁶ Violence Against Women Reauthorization Act of 2013, S. 47, 2/12/13.

⁷ Steven Ertelt, *President-Elect Donald Trump Names Pro-Life Sen. Jeff Sessions His Attorney General*, *LifeNews.com*, (Nov. 18, 2016), <http://www.lifenews.com/2016/11/18/president-elect-donald-trump-names-pro-life-sen-jeff-sessions-his-attorney-general/>

⁸ Imani Gandhi, *20-Week Abortion Bans: Still Unconstitutional After All These Years*, *Rewire*, (May 12, 2015), <https://rewire.news/article/2015/05/12/20-week-abortion-bans-still-unconstitutional-years/>

⁹ Operation Rescue, *We Stand Ready to Assist Attorney General-Designate Sessions in Prosecuting Planned Parenthood*, 11/18/16.

¹⁰ National Abortion Federation, *2015 Violence and Disruption Statistics* (April 2016), <http://prochoice.org/wp-content/uploads/2015-NAF-Violence-Disruption-Stats.pdf>

¹¹ Feminist Majority Foundation, 2014 National Clinic Violence Survey (Jan. 2015), <http://www.feminist.org/rights/pdf/2015NCAPsurvey.pdf>

¹² See *supra*, note viii.

¹³ Feminist Majority Foundation, 2016 National Clinic Violence Survey (to be released in late January 2017).

¹⁴ Motion to table Murray amendment to H.R. 3762, 12/3/15.

¹⁵ Schumer amendment to Bankruptcy Reform Act, S. 265, 2/2/00; Bankruptcy Reform Act, H.R. 2415, 12/7/00; Schumer amendment to Bankruptcy Reform Act, S. 256, 3/8/05.

¹⁶ Ari Berman, *Jeff Sessions, Trump's Pick for Attorney General, Is a Fierce Opponent of Civil Rights*, *The Nation*, (Nov. 18, 2016), <https://www.thenation.com/article/jeff-sessions-trumps-pick-for-attorney-general-is-a-fierce-opponent-of-civil-rights/>

¹⁷ *Ibid.*

¹⁸ North Carolina NAACP v. McCrory, U.S. Circuit Court of Appeals for the Fourth Circuit (July 29, 2016).

¹⁹ Eli Hager, Alysia Santo and Simone Weichselbaum, *8 Ways Jeff Sessions Could Change Criminal Justice*, *The Marshall Project*, (Nov. 18, 2016), <https://www.themarshallproject.org/2016/11/18/8-ways-jeff-sessions-could-change-criminal-justice?ref=hp-1-122#j21xp2IN>

²⁰ First Amendment Defense Act, S. 1598, 6/17/15.

²¹ Haeyoun Park & Iaryna Mykhalysyn, *L.G.B.T. People Are More Likely to be Targets of Hate Crimes Than Any Other Minority Group*, *The New York Times* (Jun. 16, 2016),

http://www.nytimes.com/interactive/2016/06/16/us/hate-crimes-against-lgbt.html?_r=0

January 6, 2017

The Honorable Charles E. Grassley
Chairman
U.S. Senate Committee on Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
U.S. Senate Committee on Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of the members Local 32BJ of the Service Employees International Union (SEIU), I am writing to express our absolute opposition to the President-elect's nomination of Senator Jeff Sessions (R-AL) to be the Attorney General of the United States. Based off of Sen. Sessions' racially insensitive public statements and opposition to restoration of the Voting Rights Act, we strongly urge you to vote against Mr. Sessions' nomination when the matter comes before the Senate Judiciary Committee in the 115th Congress.

The task of the Attorney General is the head of the Department of Justice and chief law enforcement officer of the Federal Government--Mr. Sessions' history of racial insensitivity makes him unfit to serve as Attorney General. In 1986, when then-U.S. Attorney Sessions was nominated by former President Ronald Reagan to serve as a judge on the U.S. District Court for the Southern District of Alabama, the Republican-controlled Senate was presented with compelling evidence that then-U.S. Attorney Sessions had a deeply troubling record as an opponent of civil rights enforcement, a champion of voter suppression tactics targeting African Americans, and a history of making racially-insensitive statements. Senator Sessions' record included warning an African-American colleague to be careful about what he said "to white folks," and speaking favorably about the Ku Klux Klan, as well as his prosecution of three African-American voting rights activists on dozens of charges that were promptly rejected by a jury.¹

Senator Sessions has also closely aligned himself with groups such as NumbersUSA, the Federation for American Immigration Reform, and the Center for Immigration Studies, all three of which were founded by John Tanton, who held white nationalist beliefs and called for the preservation of a "European-American majority." Senator Sessions has also received awards from the David Horowitz Freedom Center and Frank Gaffney's Center for Security Policy, two organizations designated as anti-Muslim hate groups by the Southern Poverty Law Center. Such associations with white-nationalist groups and anti-Muslim groups raise serious concerns about potential biases with Sessions possibly at the helm of the Justice Department. Americans should be protected by their government, not threatened by it, and Senator Sessions' nomination only makes communities of color feel further isolated by the incoming administration.

¹ Lena Williams, "Senate Panel Hands Reagan First Defeat on Nominee for Judgeship," *New York Times*, June 6, 1986, at <http://www.nytimes.com/1986/06/06/us/senate-panel-hands-reagan-first-defeat-on-nominee-for-judgeship.html>
<https://www.washingtonpost.com/news/the-fix/wp/2015/06/23/the-gops-stunningly-rapid-political-shift-on-the-confederate-flag/>.

When it comes to voting rights, Senator Sessions has been a vocal opponent of the expansion of voting rights in states, and has fought against attempts to increase turnout in minority communities. In 1985, he tried but failed to prosecute three voting rights activists who were working to increase African-American registration and turnout. Senator Sessions has also voiced strong support for restrictive voter ID laws that have disenfranchised many otherwise eligible voters, even continuing to support such laws after his own state shut down locations where voters of color could get identification cards. He has also called the Voting Rights Act “intrusive” as it seeks to protect eligible minority voters, and praised the Supreme Court ruling in *Shelby County v. Holder* (2013) that gutted a key part of the Voting Rights Act of 1965 which protected voters in states like his from laws that would restrict their access to the polls. Senator Sessions does not have the record of someone to be entrusted with the protection of voting rights for all Americans.

In conclusion, Senator Sessions’ publicly documented remarks and associations, as well as his stance on voting rights, prove he is unfit to be the top law enforcement official in the nation. Confirming Senator Sessions as Attorney General would be counter to the goals and purpose of the Department of Justice, and would stoke fear in the hearts of many Americans he’d be sworn to protect.

We therefore respectfully ask that you reject Senator Sessions’ nomination for Attorney General of the United States, and instead call upon the President-elect to put forth a nominee that values Americans from all backgrounds and will protect their rights as citizens of the United States.

Sincerely,

Hector Figueroa
President, 32BJ SEIU

Statement for the Record
Senate Judiciary Committee Nomination Hearing – January 10, 2017

**STATEMENT FOR THE RECORD OF
MAJOR IAN FISHBACK, US ARMY (RET.)
BEFORE THE
SENATE JUDICIARY COMMITTEE
JANUARY 10, 2017**

THE IMPERATIVE TO PREVENT DETAINEE TORTURE

Chairman Grassley, Ranking Member Feinstein, Members of the Committee, thank you for the opportunity to share my views with you.

I am writing regarding Senator Sessions' record on torture and other detainee abuse and mistreatment.

I am a graduate of the United States Military Academy at West Point. From 2001-2010 I served as an officer in the paratroopers and Special Forces. From 2012-2015 I served as an instructor at West Point and I am currently completing a PhD in Political Science at the University of Michigan.

In September 2005, while serving as a Captain in the U.S. Army Infantry, I sent a letter to Senator John McCain, asking him to provide our men and women in uniform with clear standards for the lawful and humane treatment of detainees captured in what was then being called the "Global War on Terror." I only wrote to the Senator after I had spent 17 months seeking clarification of these standards through my chain of command and had come up short.

As I mentioned in my letter, during my time serving in Iraq and Afghanistan, I and troops under my command witnessed numerous instances of prisoner abuse including death threats, beatings, interrogators breaking detainees' bones, exposure to elements, extreme forced physical exertion, hostage-taking, stripping, sleep deprivation, degrading treatment, and even murder.

This treatment ran contrary to the training I received at West Point, which made it clear that such practices are clearly prohibited by the Geneva Conventions. The lack of clear standards for our troops in the field on the proper treatment of detainees in U.S. control had left the door open for these violations to occur and even more worryingly, to continue.

I am extremely grateful to Senator McCain for responding to my appeal for specific guidelines for detainee treatment by sponsoring the 2005 Detainee Treatment Act. This measure explicitly barred cruel, inhuman and degrading treatment of prisoners in U.S. custody and required all military interrogations to follow the protocols of the Army Field Manual. It was passed by this chamber in an unprecedented show of bipartisan support, with a vote of 90-9.

When I fought in Iraq and Afghanistan, I fought for a country that has deeply rooted values and ideals that have shaped this nation and positioned it as a global leader on human rights and the rule of law. These values and ideals, which are enshrined in the Declaration of Independence and the Constitution, are ones that this nation should steadfastly abide by and wield as our most powerful weapon in the fight against terrorists.

Statement for the Record

Senate Judiciary Committee Nomination Hearing -- January 10, 2017

I have heard it said that given ISIS does terrible things to the people it captures, the United States should similarly be permitted to mistreat detainees in our custody. The same things were said of al Qaeda over a decade ago and my response to these claims remains the same: When did ISIS and al Qaeda become any type of standard by which we measure the morality of the United States?

To say that the United States should be held to a higher standard than ISIS and al Qaeda is undeniable. We ought to hold ourselves to a higher standard with pride.

The thought that Senator Sessions might once again sanction the un-American, immoral, and illegal treatment of detainees if he were to become Attorney General, shakes me to my core.

Senator Sessions was one of the nine senators who voted against the Detainee Treatment Act. He has also publicly defended waterboarding, saying in 2008 that it would be "unwise" to "say [waterboarding] would never be done again."

In 2015 Senator Sessions was one of only 21 senators to vote against the McCain-Feinstein anti-torture amendment to the National Defense Authorization Act for the fiscal year 2016. This legislation extended the reach of Senator McCain's 2005 Detainee Treatment Act by requiring all U.S. government departments and agencies to comply with the interrogation guidelines in the Army Field Manual.

Senator Sessions' record on the issue of humane treatment of detainees in U.S. custody and his consistent opposition to efforts to stem abuse are deeply concerning.

In closing, I wish to repeat something I said in my letter to Senator McCain in 2005: If we abandon our ideals in the face of adversity and aggression, then those ideals were never really in our possession. I would rather die fighting than give up even the smallest part of the idea that is "America."

I still hold true to those words.

Thank you for the opportunity to share my views with you.

Enclosure: Copy of letter to Senator John McCain dated September 16, 2005

Statement for the Record
Senate Judiciary Committee Nomination Hearing – January 10, 2017

Dear Senator McCain:

I am a graduate of West Point currently serving as a Captain in the U.S. Army Infantry. I have served two combat tours with the 82nd Airborne Division, one each in Afghanistan and Iraq. While I served in the Global War on Terror, the actions and statements of my leadership led me to believe that United States policy did not require application of the Geneva Conventions in Afghanistan or Iraq. On 7 May 2004, Secretary of Defense Rumsfeld's testimony that the United States followed the Geneva Conventions in Iraq and the "spirit" of the Geneva Conventions in Afghanistan prompted me to begin an approach for clarification. For 17 months, I tried to determine what specific standards governed the treatment of detainees by consulting my chain of command through battalion commander, multiple JAG lawyers, multiple Democrat and Republican Congressmen and their aides, the Ft. Bragg Inspector General's office, multiple government reports, the Secretary of the Army and multiple general officers, a professional interrogator at Guantanamo Bay, the deputy head of the department at West Point responsible for teaching Just War Theory and Law of Land Warfare, and numerous peers who I regard as honorable and intelligent men.

Instead of resolving my concerns, the approach for clarification process leaves me deeply troubled. Despite my efforts, I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I am certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage-taking, stripping, sleep deprivation and degrading treatment. I and troops under my command witnessed some of these abuses in both Afghanistan and Iraq.

This is a tragedy. I can remember, as a cadet at West Point, resolving to ensure that my men would never commit a dishonorable act; that I would protect them from that type of burden. It absolutely breaks my heart that I have failed some of them in this regard.

That is in the past and there is nothing we can do about it now. But, we can learn from our mistakes and ensure that this does not happen again. Take a major step in that direction; eliminate the confusion. My approach for clarification provides clear evidence that confusion over standards was a major contributor to the prisoner abuse. We owe our soldiers better than this. Give them a clear standard that is in accordance with the bedrock principles of our nation.

Some do not see the need for this work. Some argue that since our actions are not as horrifying as Al Qaeda's, we should not be concerned. When did Al Qaeda become any type of standard by which we measure the morality of the United States? We are America, and our actions should be held to a higher standard, the ideals expressed in documents such as the Declaration of Independence and the Constitution.

Others argue that clear standards will limit the President's ability to wage the War on Terror. Since clear standards only limit interrogation techniques, it is reasonable for me to assume that supporters of this argument desire to use coercion to acquire information from detainees. This is morally inconsistent with the Constitution and justice in war. It is unacceptable.

Statement for the Record
Senate Judiciary Committee Nomination Hearing – January 10, 2017

Both of these arguments stem from the larger question, the most important question that this generation will answer. Do we sacrifice our ideals in order to preserve security? Terrorism inspires fear and suppresses ideals like freedom and individual rights. Overcoming the fear posed by terrorist threats is a tremendous test of our courage. Will we confront danger and adversity in order to preserve our ideals, or will our courage and commitment to individual rights wither at the prospect of sacrifice? My response is simple. If we abandon our ideals in the face of adversity and aggression, then those ideals were never really in our possession. I would rather die fighting than give up even the smallest part of the idea that is "America."

Once again, I strongly urge you to do justice to your men and women in uniform. Give them clear standards of conduct that reflect the ideals they risk their lives for.

With the Utmost Respect,

-- **Capt. Ian Fishback**

1st Battalion,

504th Parachute Infantry Regiment,

82nd Airborne Division,

Fort Bragg, North Carolina



The Voice of a Nation:
Every State United for Equal Justice

"In Memory of Victims Everywhere"

27552 Rolling Wood Lane
San Juan Capistrano, CA 92675
(949) 496-4647 (949) 496-5100
MOVE@COX.NET www.FORCE100.org

December 9, 2016

The Honorable Chuck Grassley
Chairman
United States Senate
135 Hart Building
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
United States Senate
437 Russell Senate Office Building
Washington, DC 20510

RE: Supporting Senator Jeff Sessions for Confirmation as 84th
Attorney General of the United States

Dear Senators Grassley and Leahy:

Representing MOVE (Memory of Victims Everywhere) and FORCE 100, we are writing to express our endorsement of Senator Jeff Sessions to serve as our next U.S. Attorney General. We urge the Senate Judiciary Committee to promptly confirm the nomination.

Our organizations were founded in 1989 as a grass-roots organization working to ensure that existing victims' rights laws are enforced and encourage new legislation to further protect the rights of crime victims and improve public safety, with emphasis on what takes place on the state and national levels. The organizations are made up of members who are champions for the rule of law and fight for the rights of law-abiding citizens. Our efforts are to support victims of violent crime, in court and out, and to ensure passage of laws that will strengthen the position of victims in the eyes of the law. FORCE 100 was brought into existence for the purpose of pursuing a U.S. Constitutional Amendment and is made up of a Chairman, Co-Chairman and volunteers from every state.

Our personal experience of enduring the murders of our only son Scott in 1982, followed by the murders of our brother and sister-in-law, auto racing legend, Mickey Thompson and his wife Trudy, in 1988, taught us that victims are forever damaged by our justice system.

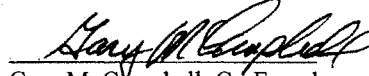
We believe Mr. Sessions would bring his work of more than 40 years in public service and his long and distinguished career in the criminal justice field, to the position of U.S. Attorney General. He was a prosecutor for nearly 15 years and has worked with Democrats and Republicans to support criminal justice reform legislation. Mr. Sessions is committed to the rule of law, which is important to an organization such as ours. He has fought for the rights of those who are the innocent victims of violent crime. Senator Sessions has a stellar career, academic credentials and achievements which make him the best person to serve as our next Attorney General.

Our organizations seek to bring equal justice for all Americans who may become and are victims of crime. We enthusiastically endorse Mr. Sessions for Attorney General of the United States. In addition, our members are diverse and from all walks of life. We have fought for tough-on-crime measures, regardless of race, and seek to bring justice to all individuals who are victims of crime.

MOVE and FORCE 100 support and endorse Mr. Sessions' confirmation without reservation as our next U.S. Attorney General.

Sincerely,


Hon. Collene Campbell, Founder


Gary M. Campbell, Co-Founder

December 12, 2016

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick Leahy
Ranking Member, Committee on the Judiciary
United States Senate
437 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Member, Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Re: Senator Jeff Sessions

Dear Senators Grassley, Leahy, and Feinstein:

We are former Assistant Attorneys General of the Department of Justice. We write in strong support of the nomination of Jeff Sessions to serve as the Attorney General of the United States.

We have interacted with Senator Sessions in his role as a member of the Judiciary Committee and/or are otherwise familiar with his reputation within the law enforcement community. Senator Sessions has a long and distinguished record of experience within law enforcement. Senator Sessions served for twelve years as the United States Attorney for the Southern District of Alabama, for two years as the Attorney General of Alabama, and for two years as an Assistant United States Attorney.

In his tenure as both a Senator and a United States Attorney, Senator Sessions has demonstrated a commitment to the rule of law, and to the even-handed administration of justice. Senator Sessions was a co-sponsor of the Fair Sentencing Act, which aimed to reduce racial disparity in sentencing, as well as a bill to award Rosa Parks the Congressional Gold Medal. As United States Attorney, Senator Sessions worked to obtain the successful capital prosecution of the head of the Alabama Ku Klux Klan for the 1981 murder of Michael Donald, an African-American teenager.

December 12, 2016
Page 2

The career prosecutor sent from the Civil Rights Division of the Department of Justice in Washington to Alabama to try the case against Donald's killers, Barry Kowalski (who also successfully prosecuted the Rodney King case), was quoted recently about the level of support he received from then United States Attorney Sessions in prosecuting the case. Kowalski said that United States Attorney Sessions "couldn't have been more supportive of making sure we got convicted the murderers of the last black man who was lynched by the Klan." Kowalski added that "[a]t a time when many U.S. Attorneys in the South were not always welcoming to the Civil Rights Division, Jeff Sessions was. Jeff had the vision and the courage and the desire to do right."

We believe that Senator Sessions, if confirmed, will bring this same courage and desire to do right to his tenure as Attorney General. We are pleased to endorse his nomination and do so without reservation.

Respectfully Submitted,

THE FOLLOWING INDIVIDUALS HAVE SIGNED THIS LETTER IN THEIR INDIVIDUAL CAPACITIES – PRIOR LISTED AFFILIATIONS ARE NOTED SOLELY FOR THE PURPOSE OF IDENTIFYING THEIR RELEVANT BACKGROUND OR PROFESSIONAL EXPERIENCE

R. Alexander Acosta
Assistant Attorney General
Civil Rights Division (2003-2005)

Viet D. Dinh
Assistant Attorney General
Office of Legal Policy (2001-2003)

Grace Chung Becker
Acting Assistant Attorney General
Civil Rights Division (2007-2008)

Alice S. Fisher
Assistant Attorney General
Criminal Division (2005-2008)

Steven G. Bradbury
Acting Assistant Attorney General and
Principal Deputy
Office of Legal Counsel (2005-2009)

Matthew W. Friedrich
Acting Assistant Attorney General
Criminal Division (2008-2009)

Daniel J. Bryant
Assistant Attorney General
Office of Legislative Affairs (2001-2003)
Office of Legal Policy (2003-2005)

Nathan J. Hochman
Assistant Attorney General
Tax Division (2008-2009)

Charles J. Cooper
Assistant Attorney General
Office of Legal Counsel (1985-1988)

Charles A. James
Assistant Attorney General
Antitrust Division (2001-2002)

December 12, 2016
Page 3

Kelly A. Johnson
Acting Assistant Attorney General
Environment and Natural Resources
Division (2005)

Gregory G. Katsas
Assistant Attorney General
Civil Division (2008-2009)

Wan J. Kim
Assistant Attorney General
Civil Rights Division (2005-2007)

William E. Moschella
Assistant Attorney General
Office of Legislative Affairs (2003-2006)

Eileen J. O'Connor
Assistant Attorney General
Tax Division (2001-2007)

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel (1981-1984)

R. Hewitt Pate
Assistant Attorney General
Antitrust Division (2003-2005)

James F. Rill
Assistant Attorney General
Antitrust Division (1989-1992)

J. Patrick Rowan
Assistant Attorney General
National Security Division (2008-2009)

Thomas L. Sansonetti
Assistant Attorney General
Environmental and Natural Resources
Division (2001-2005)

Ronald J. Tenpas
Assistant Attorney General
Environmental and Natural Resources
Division (2007-2009)

Kenneth L. Wainstein
Assistant Attorney General
National Security Division (2006-2008)

Christopher A. Wray
Assistant Attorney General
Criminal Division (2003-2005)

Cc: The Hon. Mitch McConnell, Majority Leader
The Hon. Charles Schumer

December 5, 2016

The Honorable Charles E. Grassley
United States Senate Committee on the Judiciary
Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Diane G. Feinstein
United States Senate Committee on the Judiciary
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

The signers of this letter served in the Department of Justice in the positions listed next to their names and, in connection with that service, came to know Senator Jeff Sessions through his oversight of the Department as a member of the Judiciary Committee or in his work as U.S. Attorney for the Southern District of Alabama. All of us worked with him; several of us testified before him during his service on your Committee. All of us know him as a person of honesty and integrity, who has held himself to the highest ethical standards throughout his career, and is guided always by a deep and abiding sense of duty to this nation and its founding charter.

Based on our collective and extensive experience, we also know him to be a person of unwavering dedication to the mission of the Department—to assure that our country is governed by the fair and even-handed rule of law. For example, Senator Sessions has been intimately involved in assuring that even as the Department combats the scourge of illegal drugs, the penalties imposed on defendants do not unfairly impact minority communities. He has worked diligently to empower the Department to do its part in defending the nation against those intent on destroying our way of life, adhering throughout to bedrock legal principles and common sense.

Senator Sessions' career as a federal prosecutor also has provided him with the necessary institutional knowledge, expertise, and deep familiarity with the issues that confront the Department, insofar as it is an army in the field. As the United States Attorney for the Southern District of Alabama, Senator Sessions worked hard to protect vulnerable victims, particularly children. He carried this commitment to the Senate, where he championed legislation to provide the Department with the tools it needs to fight online child pornography, to close rogue internet pharmacies that have contributed to the opioid epidemic, and to end sexual assault in prison.

Senator Sessions' career, both as a United States Attorney and as a Senator, well prepares him for the role of Attorney General. In sum, Senator Sessions is superbly qualified by temperament,

1003

intellect, and experience, to serve as this nation's chief law enforcement officer. We urge his swift confirmation.

Sincerely,

John D. Ashcroft
Attorney General, 2001-2005

William P. Barr
Attorney General, 1991-1993
Deputy Attorney General, 1990-91

Alberto R. Gonzales
Attorney General, 2005-2007

Edwin Meese, III
Attorney General, 1985-1988

Michael B. Mukasey
Attorney General, 2007-2009

Mark R. Filip
Deputy Attorney General 2008-2009

Craig S. Morford
Deputy Attorney General, 2007-2008 (Acting)

Paul J. McNulty
Deputy Attorney General 2006-2007

George J. Terwilliger III
Deputy Attorney General 1991-1993

Larry D. Thompson
Deputy Attorney General, 2001-2003

CC: Members of the U.S. Senate Committee on the Judiciary

The Honorable Mitch McConnell
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Schumer
322 Hart Senate Office Building
Washington, D.C. 20510

December 5, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader, 115th Congress
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member, Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Senator Jeff Sessions to be Attorney General of the United States

Dear Leader McConnell, Senator Schumer, Chairman Grassley, and Ranking Member Leahy:

As you prepare for the upcoming Congress and for the impending nominations of President-elect Trump's Cabinet members, we write to express our strong support for the nomination of Senator Jeff Sessions to be Attorney General of the United States. Senator Sessions' exemplary record during his long career in public service speaks to the leadership and sober dedication he would bring to the Department of Justice.

As former government officials involved in the development and administration of the United States' drug policies, we understand the importance of a Department of Justice that is committed to the just and fair enforcement of the laws that Congress has written. In this respect, Senator Sessions would make an excellent Attorney General. His distinguished career as a prosecutor, including as the Reagan-appointed U.S. Attorney for the Southern District of Alabama and as Attorney General of Alabama, earned him a reputation as a tough, determined professional who has been dedicated to the appropriate enforcement of the rule of law. His exemplary record of service in law enforcement demonstrates that he is a protector of civil rights and defender of crime victims.

Senator Sessions brought that same dedication to his service in the Senate. As an example of his fair-minded approach to tough law enforcement, he, together with Senator Durbin, passed the bipartisan Fair Sentencing Act, which increased fairness in sentencing by reducing the disparity in crack cocaine and powder cocaine sentences, while also strengthening penalties for serious drug traffickers. His prudent and responsible approach is exactly what the Department of Justice needs to enforce the law, restore confidence in the United States' justice system, and keep the American people safe. We support the nomination of Senator Sessions to be Attorney General of the United States, and we ask you to do the same.

Respectfully,



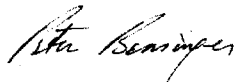
William J. Bennett
Director of National Drug Control Policy
March 1989 – December 1990



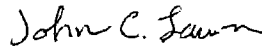
Robert Martinez
Director of National Drug Control Policy
March 1991 – January 1993



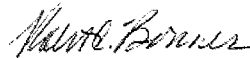
John P. Walters
Director of National Drug Control Policy
December 2001 – January 2009



Peter B. Bensinger
Administrator
Drug Enforcement Administration
February 1976 – July 1981



John C. Lawn
Administrator
Drug Enforcement Administration
July 1985 – March 1990



Robert C. Bonner
Administrator
Drug Enforcement Administration
August 1990 – October 1993



Karen Tandy
Administrator
Drug Enforcement Administration
July 2003 – November 2007



Michele Leonhart
Administrator
Drug Enforcement Administration
December 2010 – May 2015

January 6, 2017

The Honorable Charles E. Grassley
Chairman, United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member, United States Senate
Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

Re: Confirmation of Senator Jeff Sessions for Attorney General of the United States

Dear Chairman Grassley and Ranking Member Feinstein:

We write in our individual capacities, as former staff members of the U.S. Senate Committee on the Judiciary, to express our strong support for Senator Jeff Sessions' nomination to be the 84th Attorney General of the United States.

While serving together on the Committee, we often clashed with one another on policy issues of national importance. Today, however, we are united in our agreement that Senator Sessions is a man of great character, integrity, and fidelity to our nation who is worthy of your affirmative vote and a swift confirmation.

We were privileged to witness firsthand the operations of the Committee over the past two decades, during some of the Senate's most consequential debates. We observed Senator Sessions up close, behind closed doors, and when no cameras were present. In those moments, we came to know Senator Sessions as a gentleman and a dedicated public servant. The man we proudly worked alongside always displayed kindness, decency, and humility. He has been a credit to the greatest traditions of the Senate and the Judiciary Committee, and we have no doubt he will bring this same strength of character to the Office of the Attorney General.

We can further attest that his commitment to the rule of law is unwavering and his patriotism unquestionable. Through his words and deeds, Senator Sessions has demonstrated a deep respect for the United States Department of Justice, its mission, and its people. We are confident that, as Attorney General, he will maintain independence from political influence and seek justice on behalf of all citizens, without fear or favor.

Finally, and perhaps most importantly, we can affirm that Senator Sessions displays an unfailing allegiance to the Constitution. He understands the significance of the structural safeguards in our founding charter, including the separation of powers among the three branches of the federal government. We trust that, once confirmed, Senator Sessions will direct the Justice Department to exhibit the appropriate respect for the legislative branch and its constitutional responsibilities.

Thank you for considering our views and for your own dedication to the Senate and to the Committee we had the distinct honor of serving.

Sincerely,

The Honorable Charles E. Grassley
The Honorable Dianne Feinstein
January 6, 2017
Page 2 of 11

Kimberly K. Anderson
Fmr. Legislative Counsel to Sen. Jeff Sessions (R-AL)

Brooke Jones Bacak
Fmr. Chief Counsel to Sen. Tom Coburn (R-OK)
Fmr. Counsel to Sen. Jeff Sessions (R-AL)

Wendy F. Baig
Fmr. Counsel to Sen. Jeff Sessions (R-AL)

M. Miller Baker
Fmr. Counsel to Sen. Orrin Hatch (R-UT)

Zina Bash
Fmr. Counsel to Sen. John Cornyn (R-TX)

Amy Blankenship
Fmr. Legislative Counsel to Sen. Jeff Sessions (R-AL)
Fmr. Counsel to Sen. Sam Brownback (R-KS)

Matthew Boyden
Fmr. Counsel-Detailee to Sen. Jeff Sessions (R-AL)

Nicholas Bruno
Fmr. Law Clerk to Sen. John Cornyn (R-TX)

Tiffany A. Cissna
Fmr. Legal Assistant to Sen. John Cornyn (R-TX)

Tyler S. Clarkson
Fmr. Law Clerk to Sen. John Cornyn (R-TX)

Manus Cooney
Fmr. Staff Director & Chief Counsel to Sen. Orrin Hatch (R-UT)

The Honorable Charles E. Grassley
The Honorable Dianne Feinstein
January 6, 2017
Page 3 of 11

Catherine Crane
Fmr. Law Clerk to Sen. John Cornyn (R-TX)

Randy Cubriel
Fmr. Law Clerk to Sen. John Cornyn (R-TX)

Jared Culver
Fmr. Legislative Counsel to Sen. Jeff Sessions (R-AL)

Alexander Dahl
Fmr. Deputy Staff Director & Senior Counsel to Sen. Orrin Hatch (R-UT)

James A. D'Cruz
Fmr. Law Clerk to Sen. John Cornyn (R-TX)

Makan Delrahim
Fmr. Staff Director & Chief Counsel to Sen. Orrin Hatch (R-UT)

Suzzette R. H. DeMers
Fmr. Counsel to U.S. Senate Committee on the Judiciary

Mark Disler
Fmr. Chief Counsel to Sen. Orrin Hatch (R-UT)

Michael Dougherty
Fmr. Legislative Counsel to Sen. Jon Kyl (R-AZ)

Steven J. Duffield
Fmr. Chief Counsel to Sen. John Kyl (R-AZ),
Republican Policy Committee

Louis Dupart
Fmr. Chief Counsel to Sen. Mike DeWine (R-OH)

The Honorable Charles E. Grassley
The Honorable Dianne Feinstein
January 6, 2017
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The Honorable Dianne Feinstein
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Fmr. Counsel to the U.S. Senate Committee on the Judiciary

Philip Zimmerly
Fmr. Legislative Counsel to Sen. Jeff Sessions (R-AL)

December 16, 2016

The Honorable Charles Grassley
Chairman, United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member, United States Senate
Committee on the Judiciary
437 Russell Senate Office Building
Washington, DC 20510

The Honorable Diane Feinstein
United States Senator, United States Senate
Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

Re: Confirmation of Senator Jeff Sessions for Attorney General of the United States

Dear Chairman Grassley, Ranking Member Leahy, and Senator Feinstein:

We, the signatories below, are all former United States Attorneys - serving under Presidents Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, George H.W. Bush, Bill Clinton, George W. Bush and Barack Obama - who write to support the confirmation of Senator Jeff Sessions as Attorney General of the United States.

As former U.S. Attorneys, we are in a unique position to evaluate the qualifications of Senator Sessions to serve as our nation's Attorney General. United States Attorneys are the top-ranking federal law-enforcement officials of their jurisdictions, tasked with setting enforcement priorities, building trust with the communities they serve, and protecting the public while respecting federalism, the separation of powers, and the individual rights enshrined in the Constitution. It is not an easy job, but it is one in which Senator Sessions excelled.

Senator Sessions' record reflects his priorities clearly, and none of his work as U.S. Attorney was more impactful than his sustained effort to eliminate segregation in rural Alabama and break the back of the Alabama Klan. In addition to bringing and supporting civil rights cases to fight against voter suppression and school segregation, Senator Sessions supported the investigation into the brutal murder of an African American teenager, Michael Donald. His efforts, in coordination with state authorities, ensured that the perpetrator - the son of the Alabama Klan's leader - received a capital sentence. Sessions' office also prosecuted an accomplice in that case, who pled guilty and received a life sentence, the maximum penalty available in federal court at the time. These successful prosecutions helped the victim's mother win a \$7 million lawsuit against the Klan, effectively crippling it as a political organization within Alabama.

Senator Sessions served for a remarkable twelve years as U.S. Attorney. His lengthy tenure alone is impressive given the burdens of the job, which we well know. Senator Sessions' conspicuous service to the law and all citizens has continued as a United States Senator. In his work as a leader on the Senate Judiciary Committee, he has espoused a consistent understanding of the Constitution, a commitment to the rule of law, and an unwavering respect for the mission of the Department of Justice.

During his 41 years of public service, Senator Sessions has proved to be a leader of strong principles and firm beliefs. His support for the 25-year extension of the Civil Rights Act in 2006

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is evidence of this. He also has proved to be a leader who appreciates positions that differ from his own and who learns from the scrutiny that comes with public life. His openness to different thinking and other worldviews is evidenced by the recent statements in support of his nomination from colleagues across the political spectrum and his support for Eric Holder's nomination as Attorney General in 2009.

As former U.S. Attorneys, we worked with and for many Attorneys General, each different, each with his or her own unique strengths. We have no doubt that Senator Sessions can do the job well, bringing to this critically important office his own unique and extraordinary strengths of courage, humility, experience, and an inviolable promise to treat all people equally under the law.

We strongly urge you to support his confirmation.

Honorable R. Alexander Acosta
 United States Attorney, Southern District of Florida
 2005-2009

Honorable A. Brian Albritton
 United States Attorney, Middle District of Florida
 2008-2010

Honorable Tom Ashcraft
 United States Attorney, Western District of North
 Carolina
 1987-1993

Honorable John Malcolm Bales
 United States Attorney, Eastern District of Texas
 2009-2016

Honorable Robert Balfe
 United States Attorney, Western District of Arkansas
 2004-2009

Honorable Stanford O. Bardwell, Jr.
 United States Attorney, Middle District of Louisiana
 1981-1986

Honorable David B. Barlow
 United States Attorney, District of Utah
 2011-2014

Honorable Michael A. Battle
 United States Attorney, Western District of New York
 2005-2007

Honorable Steven Michael Biskupic
 United States Attorney, Eastern District of Wisconsin
 2002-2009

Honorable John L. Brownlee
 United States Attorney, Western District of Virginia
 2001-2008

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 The Honorable Diane Feinstein
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 United States Attorney, Southern District of Texas
 1977-1980

Honorable Leura Garrett Canary
 United States Attorney, Middle District of Alabama
 2001-2011

Honorable Michael W. Carey
 United States Attorney, Southern District of West
 Virginia
 1987-1993

Honorable James C. Cissell
 United States Attorney, Southern District of Ohio
 1978-1982

Honorable John E. Clark
 United States Attorney, Western District of Texas
 1975-1977

Honorable Thomas Colantuono
 United States Attorney, District of New Hampshire
 2001-2009

Honorable Colm F. Connolly
 United States Attorney, District of Delaware
 2001-2009

Honorable D. Michael Crites
 United States Attorney, Southern District of Ohio
 1986-1993

Honorable Richard Cullen
 United States Attorney, Eastern District of Virginia
 1991-1993

Honorable Bud Cummins
 United States Attorney, Eastern District of Arkansas
 2001-2006

Honorable Margaret Person Currin
 United States Attorney, Eastern District of North Carolina
 1988-1993

Honorable E. Bart Daniel
 United States Attorney, District of South Carolina
 1989-1992

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 1988-1993

Honorable James R. Dedrick
 United States Attorney, Eastern District of Tennessee
 2005, 2007-2010
 United States Attorney, Eastern District of North Carolina
 1993

Honorable James W. Diehm
 United States Attorney, District of Virgin Islands
 1983-1987

Honorable Stephen D. Easton
 United States Attorney, District of North Dakota
 1990-1993

Honorable Ronald F. Ederer
 United States Attorney, Western District of Texas
 1989-1993

Honorable Troy A. Eid
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Honorable W. Hickman Ewing
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 1981-1991

Lawrence D. Finder
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 1993

Honorable Fred Foreman
 United States Attorney, Northern District of Illinois
 1990-1993

Honorable H.S. Garcia
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 2002-2006

Honorable Catherine L. Hanaway
 United States Attorney, Eastern District of Missouri
 2005-2009

Honorable Rodger A. Heaton
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Honorable Daniel K. Hedges
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 1981-1985

Honorable Thomas B. Heffelfinger
 United States Attorney, District of Minnesota
 1991-1993, 2001-2006

Herbert H. Henry
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Honorable Stephen B. Higgins
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 1990-1993

Honorable Philip N. Hogen
 United States Attorney, District of South Dakota
 1981-1991

Honorable George Holding
 United States Attorney, Eastern District of North Carolina
 2006-2011

Honorable Roscoe C. Howard, Jr
 United States Attorney, District of Columbia
 2001-2004

Honorable William D. Hyslop
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 1991-1993

Honorable David C. Iglesias
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 2001-2007

Honorable Frank Keating
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 1981-1983

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Honorable William A. Kolibash
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 1981-1993

Honorable P. Raymond Lamonic
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 1986-1994

Honorable John Earnest Lamp
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 1986-1993, 2001-2006

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 1982-1993

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 1981-1983

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Honorable William W. Mercer
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 1981-1988

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 2004

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 1982-1988

Honorable Kevin J. O'Connor
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Honorable R. Lawrence Steele
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Honorable Jay B. Stephens
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 United States Attorney, District of New Jersey
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Honorable Michael James Sullivan
 United States Attorney, District of Massachusetts
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Honorable Johnny Sutton
 United States Attorney, Western District of Texas
 2001-2009

Honorable Don J. Svet
 United States Attorney, District of New Mexico
 1992-1993

Honorable Jeffrey A. Taylor
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Friends Committee on
National Legislation
A Quaker Lobby in the Public Interest

January 6, 2017

Chairman Chuck Grassley
U.S. Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

Ranking Member Dianne Feinstein
U.S. Senate Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

As you prepare the confirmation hearings for the nomination of Senator Sessions to serve as the next Attorney General of the United States, I write to express the concerns of our non-partisan, 74-year-old Quaker lobby in the public interest. We are particularly eager to understand how Senator Sessions will carry out the responsibilities of the nation's top law enforcement officer given the policy positions he has expressed and supported in the past. To assist you and your staff in preparing for these hearings, we've outlined three specific areas we hope you will explore with Senator Sessions.

Religious Freedom and Refugees

As a faith community, we are very concerned that Senator Sessions' past statements suggest a troubling disregard for religious freedom and a high tolerance for religious discrimination. Working against the peaceful coexistence of all faiths in this country, Senator Sessions has promoted fear of Muslims through broad generalizations, false accusations, and misleading statements. Despite ample evidence to the contrary, he has repeatedly perpetuated the myth that refugees from Muslim-majority nations are likely to commit acts of terrorism in the United States.¹ He has also implied—without evidence of any kind—that refugees' "cultural background" makes them prone to committing honor killings. He has even indicated that young Muslim children—including both immigrants and US-born citizens—should be viewed as potential terrorist threats.²

¹ <http://www.judiciary.senate.gov/meetings/oversight-of-the-administrations-fy-2017-refugee-resettlement-program>

² <http://www.sessions.senate.gov/public/index.cfm/2015/12/sessions-cruz-to-obama-admin-release-immigration-history-of-san-bernardino-attackers>

Underscoring these statements, Mr. Sessions has also fostered close ties with the Center for Security Policy³ and the David Horowitz Freedom Center⁴, both of which spread hateful misinformation about the Muslim faith. Baseless generalizations about diverse groups of people fuel fear, discrimination, and hatred; support the notion that an entire people or culture should be held liable for individuals' crimes; and go against the fundamental principles that our nation's highest legal officer is bound to protect. Given the clearly-documented rise in anti-Muslim hate crimes in this country over the past year, this kind of rhetoric should be considered a potential incitement to violence and hateful criminal activity.⁵

Senator Sessions has also used false claims and unfounded generalizations to bolster his criticisms of the U.S. Refugee Resettlement Program, an essential program through which our government responds to humanitarian obligations by welcoming refugees fleeing violence and persecution. Senator Sessions has argued for a shutdown or a substantial reduction of refugee resettlement in the United States. He also supports factoring refugees' religious identity into decisions about their admissions, particularly in the case of Muslims coming from the Middle East and has expressed openness to barring the entry of all Muslims to the United States.⁶

Racial Discrimination in the Criminal Justice System and Voting Rights

Racial inequity runs through the entirety of the criminal justice system and access to the ballot box. Those strains present themselves through disproportionate use of force and deadly force nationally by police in communities of color; state legislatures creating barriers to citizen access to the constitutional right to vote; and excessive mandatory minimum sentencing laws that shatter the lives of millions and their families. Senator Sessions has been a staunch opponent to reforms to the criminal justice system to correct these deep systemic inequities.

Senator Sessions is on record saying that the work of enforcing the Voting Rights Act is "intrusive." Investigating discriminatory voting laws and gerrymandering by state legislatures is an important function of the Attorney General's office. The Fourth Circuit has called a recent package of bills enacted in North Carolina as targeting minorities with almost surgical precision. Defending access to the right to vote is an essential position for the Attorney General. Ensuring that we protect access to the ballot box is not only pivotal to upholding the Constitution, but inherent to our very democracy.

³ <http://www.centerforsecuritypolicy.org/2015/10/22/center-celebrates-sen-jeff-sessions-and-adm-james-ace-lyons/>

⁴ <http://www.horowitzfreedomcenter.tv/2013/02/22/senator-jeff-sessions/>

⁵ <https://www.splcenter.org/hatewatch/2016/11/14/anti-muslim-hate-crimes-surged-last-year-fueled-hateful-campaign>

⁶ <http://www.judiciary.senate.gov/hearings/watch?hearingid=869072F5-5056-A066-6038-B6AABBA33C07>

There have been nearly 1,000 instances of police-involved shootings resulting in death nationwide last year alone. Many more cases of excessive force and profiling by police exist throughout communities of color in the United States. There are over 18,000 police jurisdictions and creating fair reforms to address the complex problems of implicit bias and use of force policies demands concerted attention. The office of the Attorney General has been engaged with many police departments in vitally important pattern and practice investigations as well as consent decrees to commit to the long and arduous work of correcting these systemic flaws. Senator Sessions has called these investigations anti-democratic and "a violation of civil rights" indicating that the efforts to reduce and eliminate bias and inappropriate use of force across law enforcement will not be a high priority.

Senator Sessions would also have power to set agency policy over hundreds of federal prosecutors' offices. The nominee for Attorney General has expressed moral judgements against the people most harmed by the public health crisis of drug addiction. Most troubling for us has been Senator Sessions' opposition and active work against modest reforms to excessive mandatory minimum sentences focused on these very same low-level nonviolent drug offenders. Given Senator Sessions' past positions advocating for the expansion of mandatory minimums for low-level drug offenses and non-criminal immigration violations, we encourage Senators to ask how the nominee will be able to oversee the integrity of our justice system. A one-size-fits-all approach to punishment does not serve our communities well.

Immigration

Senator Sessions has consistently advocated for a wholesale reduction of lawful immigration and suggested that immigrants, new Americans, and limited-English speakers are unable to fully integrate into American communities. In his tenure in Congress, he has voted against legislation that would provide a pathway to citizenship or lawful status, or would increase certain visas. The Attorney General has broad powers over how to enforce and uplift existing immigration laws to best serve American communities. Given his past opposition to immigration, we are concerned that Senator Sessions will have difficulty implementing immigration laws and overseeing immigration courts in a fair and balanced way.

In past statements, Senator Sessions has also consistently advocated a "narrowing of the conditions of asylum" and introduced legislation that proposed to curtail rights for individuals who express a credible fear of persecution, particularly children. The U.S. has an international human rights obligation to protect individual migrants who have a well-founded fear of persecution if they return to their home country, and it is imperative that the incoming Attorney General defend this protection.

In February 2016, Senator Sessions proposed legislation to "close a loophole that allows [children] to have their asylum claim heard twice, instead of just once," despite current legislation providing children a non-adversarial adjudication of their asylum claim by an asylum

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officer prior to review by an immigration judge. As Attorney General how would he ensure the sanctity of due process for asylum seekers?

The Attorney General should be dedicated to the proper use of prosecutorial and judicial discretion for all individuals navigating the justice system, citizens and noncitizens alike. The Senate has a duty to ensure that our nation's next Attorney General intends to discharge his or her duties in accordance with the law, our Constitution, and the core principles of freedom, equal protection, and justice. We expect Senators to bear this responsibility in mind while considering the nomination of Sen. Jeff Sessions.

Thank you for your attention to these concerns about justice and equality.

Sincerely,

A handwritten signature in black ink that reads "Diane Randall". The signature is written in a cursive, flowing style.

Diane Randall
Executive Secretary

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January 10, 2017

Honorable Charles E. Grassley
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Dear Mr. Chairman:

Commencing in 1997 I had the honor of serving as Attorney General for the Government of Puerto Rico. In the same year Alabama Attorney General Jeff Sessions began his career in the U.S. Senate.

As the chief law enforcement officer of a domestic American jurisdiction with over 3.5 million U.S. citizens, I coordinated local and federal civil and criminal justice policies, programs, litigation, prosecutions and investigations with the U. S. Department of Justice and the U.S. Congress. At the time Puerto Rico was a U.S. jurisdiction with a larger population more heavily impacted than more than half the 50 states by international and domestic drug and human trafficking, unlawful migration by U.S. border violators, as well as the entire host of interstate civil and criminal matters. For two years, I chaired our local HIDTA with very positive success in limiting criminal drug activity in the Caribbean.

During that period and later I learned again and again that Jeff Sessions may be a former U.S. Attorney and Attorney General from Alabama, but he has a truly comprehensive and all-inclusive national vision of an American justice system that better serves all people in all communities in every corner of our great country. His intellectual honesty and moral integrity was demonstrated every time he applied his unsurpassed mastery legal and governing principles to federal legal issues in or relating to his fellow Americans in Puerto Rico.

Whether the parties were the powerful or the weak, the wealthy or the poor, those accused of crimes or the victims of crime, from the beginning and in the years since, as I have worked for justice in federal relations with Puerto Rico - as America's last large and populous territory - without exception we know him to be a man of good will, good

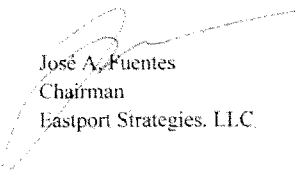
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conscience and total devotion to liberty and justice for all under the Constitution and rule of law.

Senator Sessions has shown more interest, concern, compassion and leadership regarding the well-being of 3.5 million Hispanic Americans in Puerto Rico, who remain disenfranchised and without equal participation in economic recovery due to territorial status, than many of those who falsely accuse him of failure to recognize the diversity of America. He always treated us as if we were neighbors from Alabama, and we look forward to welcoming him as Attorney General back home in Puerto Rico. In this new and important role he will be charged with approving any definitions that will be included in Puerto Rico's upcoming decolonizing status referendum under P.L. 113-76, and insure that the laws and Constitution of the U.S. are faithfully adhered to.

Without reservation I support his confirmation, without delay, so he can begin what I know will be one of the most distinguished tenures of any Attorney General in our nation's history.

Cordially,



José A. Fuentes
Chairman
Eastport Strategies, LLC

STEPHEN GILLERS

Elihu Root Professor of Law
New York University School of Law
40 Washington Square South
New York, NY 10012
212 998 6264

January 6, 2017

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Grassley and Feinstein:

In connection with the nomination of Senator Jeff Sessions to be Attorney General of the United States, I have been asked to address the factual findings of Alabama State Judge James S. Garrett, dated July 16, 1997, in the case of *State of Alabama v. TIECO, Inc.* I have also been asked to explain the effect of *United States Steel, LLC ["USX"] v. TIECO, Inc.*, 261 F.3d 1275 (11th Cir. 2001), on the credibility of Judge Garrett's findings.

Since 1978, I have taught both legal ethics and evidence at New York University School of Law and am qualified to speak about doctrines in both fields. My resume can be found on the law school's website.

In sum, the Garrett opinion is the most scathing criticism of a prosecutorial office I have read in the nearly 40 years I have been teaching legal ethics. It describes an office that is oblivious to the constitutional and ethical rules that govern prosecutors. I also conclude that the subsequent Eleventh Circuit's opinion has no effect on the credibility of Judge Garrett's factual findings about the behavior of the office of the Alabama Attorney General.

In my academic life, especially in conjunction with the publication of my casebook on legal ethics, now in its tenth edition, I have read many court opinions criticizing lawyers or law firms. Conservatively, I would say that I have read more than 2000 such opinions since 1978, probably closer to 2500 opinions. The vast majority of

these opinions criticize individual lawyers. Occasionally, a court will criticize a private law firm. Rarely will a court criticize an entire prosecutorial office. I have never read an opinion critical of any law office that is as harsh as Judge Garrett's opinion censuring the office of the Attorney General of Alabama. I quote his findings in part:

Based on the totality of circumstances in this case including; 1) the Attorney General's repeated refusals and failures to produce exculpatory evidence; 2) the Attorney General's repeated denials of the very existence of exculpatory evidence subsequently discovered by the Defendants; 3) the flagrant disregard of the constitutional rights of those accused; 4) the completely incredible and deceptive testimony of so many witnesses this Court treated as officers of the court (some of whom were either assistants or agents for the Attorney General); and 5) the very patterns of prosecutorial misconduct which exist in this case, this Court can only conclude it is dealing with either intentional and deliberate misconduct or conduct so reckless and improper as to constitute conscious disregard for the lawful duties of the Attorney General and the integrity and dignity of this Court and this Judge.

Senator Sessions was Alabama's Attorney General when all or nearly all of the underlying events took place. The man who headed the office described in the Garrett opinion is unqualified to be United States Attorney General.

What effect did the Eleventh Circuit's opinion have on the credibility of the Garrett opinion? None. The claim that the Circuit Court's ruling means that Judge Garrett's factual findings are unreliable misreads the Circuit Court's ruling and misunderstands the law of evidence and the rule against hearsay.

Hearsay is an out of court statement offered in court for its truth. Historically, all hearsay has been "presumed unreliable" (as the USX court noted) and therefore inadmissible unless there is an exception to the hearsay rule for the particular statement. The presumption of unreliability says nothing at all about the credibility of any particular hearsay statement. Some hearsay statements are highly credible but nonetheless inadmissible against a party who has not had a chance to confront them. It is a matter of fairness *to that party*. By presuming that a hearsay statement is unreliable and, therefore, inadmissible, we protect the interest of a party who will never have had a chance to cross-examine the statement.

The Garrett opinion referred to factual allegations contained in a memorandum submitted by TIECO's counsel. It "incorporates [the memorandum's] statement of facts as a basis for the findings and conclusions as contained in this order" dismissing the prosecution. It is common for a trial judge to request proposed findings of fact from counsel and to adopt them as the judge deems appropriate in light of the record.

In the subsequent federal litigation between TIECO and USX, the district court admitted Judge Garrett's opinion and the memorandum of TIECO's counsel against USX.

Judge Garrett's opinion was hearsay when admitted in the federal case against USX. The memorandum of TIECO'S counsel was also hearsay. So USX faced hearsay within hearsay. There was no hearsay exception that would have allowed the admission of this evidence in the federal case. So the historical presumption of unreliability was not overcome. USX was not a party in *State of Alabama v. TIECO*. So it never had a chance to contest this proof there. If in the federal case USX's lawyers had objected to the admission of Judge Garrett's opinion on hearsay grounds, their objection would have been upheld.

But USX's lawyers did not object on hearsay grounds. As a result, they waived a hearsay objection. They did object on another ground. They asked the trial judge to exclude Judge Garrett's opinion (and the incorporated memorandum of TIECO's counsel) as unfairly prejudicial to USX and misleading to the jury. A trial judge is empowered to exclude even relevant evidence for these reasons, but the trial judge here declined to do so. The Circuit Court held that this was an abuse of discretion. It held that although the Garrett opinion could not be excluded on hearsay grounds – because there was no hearsay objection – the presumed unreliability of all hearsay also made the evidence unfairly prejudicial and misleading in TIECO'S case against USX.

It is important to understand what the Eleventh Circuit did *not* say. It did *not* say that Judge Garrett's findings of fact, incorporating counsel's memorandum, were inaccurate or unreliable *as against the State of Alabama*. It did *not* question the record support for Judge Garrett's factual findings. Unlike USX, the State of Alabama *did* have the opportunity to challenge the evidence before Judge Garrett and had failed to do so. Judge Garrett's findings were and still are reliable against the office about which they were made – the office of the Attorney General of Alabama, which prosecuted the case against TIECO. Nothing in the opinion of the Eleventh Circuit changes that.

Sincerely yours,

A handwritten signature in cursive script that reads "Stephen Gillers". The signature is written in dark ink and is positioned above the printed name.

Stephen Gillers



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LANI GUINIER
Bennett Boskey Professor of Law

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January 11, 2017

The Honorable Charles Grassley, Chairman
The Honorable Dianne Feinstein, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Nomination of Hon. Jefferson Beauregard Sessions III as Attorney General

Dear Chairman Grassley and Ranking Member Feinstein:

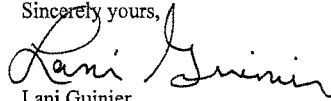
I am submitting the attached chapter (ch. 7 of my book *Lift Every Voice: Turning a Civil Rights Setback into a New Vision of Social Justice*) in connection with the nomination of Senator Jeff Sessions as Attorney General of the United States. I ask that this chapter be entered into the Senate Judiciary Committee's official record. I write to share my perspective on an important aspect of Senator Sessions's background, based on my direct experience with him when he was the U.S. Attorney for Alabama's Southern District.

From 1981 to 1988 I served as an Assistant Counsel and head of the Voting Rights Program at the NAACP Legal Defense Fund, and in 1985 I was on the team, together with Deval Patrick and others, that represented Spencer Hogue and Albert and Evelyn Turner in Mr. Sessions's prosecution of the so-called Perry County Three. This is a case that was brought in the wake of the historic Jesse Jackson presidential campaign, a time when black voter activism had been rapidly increasing, in a place that had a tragic history of voter suppression and exclusion. This context would have been evident to anyone who lived in Alabama at that time. I wrote the attached chapter in 1995 from my recollections of the case, my notes on that time period, and conversations with individuals who had been present in Alabama at that time. The description of the events in my book is, to the best of my knowledge, an accurate portrayal of what occurred.

While this case is now more than thirty years in the past, it continues to be foundationally important for understanding the challenges facing rural black voters in Alabama. Mr. Sessions's attempted prosecution of the Perry County Three contributed to an atmosphere of voter intimidation in Alabama, effectively continuing the disenfranchisement of many rural black

voters. Mr. Sessions's decision to prosecute this case in the first place reveals, at the very least, a failure to respect the voting rights of black people, which is deeply inappropriate in a nominee for such an important position.

Sincerely yours,

A handwritten signature in cursive script that reads "Lani Guinier". The signature is written in black ink and is positioned above the printed name.

Lani Guinier
Bennett Boskey Professor of Law

Enc.



Condoleezza Rice
*Thomas and Barbara Stephenson
 Senior Fellow on Public Policy,
 the Dorrington Professor in Global
 Business and the Economy*

January 9, 2017

Senator Chuck Grassley
 United States Senate Committee on the Judiciary
 224 Dirksen Senate Office Building
 Washington D.C. 20510-6050

Mr. Chairman and members of the Committee:

I am sorry that I cannot be with you today but thank you for allowing me join Senator Shelby in the introduction of Senator Jeff Sessions who has been nominated by the President-Elect to serve as our nation's next Attorney General. It is a great honor to put this statement before you on behalf of Senator Sessions, a fellow Alabamian and a person who I admire greatly.

I have known Senator Sessions since the early days of the Bush Administration and he has been a friend ever since. His character and leadership are reinforced by his respect for the extraordinary Constitution handed down to us by our Founders. He is a man who is committed to justice and knows that law and order are necessary to guarantee freedom and liberty.

Senator Sessions has been a tireless champion for the people of Alabama serving as one of its Senators for over 20 years. He has also served as a federal prosecutor, the Alabama State Attorney General, and as a member of your distinguished Committee.

Honorable Senators, one of the original four cabinet positions created by our Founders was that of Attorney General. They believed that those who governed would value justice. But they also knew that justice would prevail because Americans could exercise and secure their rights through the judicial system. Protection of the rule of law and reigning in the arbitrary power of the State is at the core of democratic stability. And there is no more important role than Attorney General in assuring fealty to those principles. Senator Sessions has devoted his life to public service and to the protection of our core values. He will be diligent on behalf of all Americans and their rights.

I would like to close on a personal note. Senator Sessions and I were born not too many years apart in the state of Alabama at a time when America was not living up to its high-minded principles. Our state was a place of prejudice and injustice against the descendants of slaves. We, as a country, have worked hard and long to deal with our original birth defect of slavery and its aftermath. We have made progress but there is more to do. I respectfully say to you that those of us who lived through that dark time are among those most committed in deep and fundamental ways to overcoming it.

Senator Chuck Grassley
January 9, 2017
Page 2



Senator Sessions has worked hard to heal those wounds. He spearheaded the effort to award the Congressional Gold Medal to one of my personal heroes, Rosa Parks; he worked with Senator Booker to award the Congressional Gold Medal to the Foot Soldiers of the Civil Rights Movement in Selma; and he continually supports the commemoration of the 1961 Freedom Riders.

I know that Senator Sessions will uphold the laws of our great country and will work to ensure that every person here in the United States is given the voice that is deserved.

I am honored to support Senator Sessions today.

Mr. Chairman and members of the committee, thank you for holding today's confirmation hearing and thank you for your continued service to our great country.

Sincerely,

Condoleezza Rice

January 9, 2017

Dear Chairman Grassley and Ranking Member Feinstein:

I write to highlight for the committee Sen. Jeff Sessions' indispensable role in working with the late Sen. Ted Kennedy (D-MD), Rep. Bobby Scott (D-VA), and me to pass the landmark Prison Rape Elimination Act (PREA) of 2003. With his leadership and support, the bill passed both the Senate and House without objection and was signed into law by President George W. Bush. PREA stands as a testament to Sen. Sessions' commitment to justice for all Americans, and advocacy for the "least of these."

I believe that Sen. Sessions, like me, was moved by the passionate advocacy of the late Chuck Colson in support of this effort. In his capacity providing prison ministry in the years following his own federal sentence, Colson understood the devastating impact of sexual assaults against women, men and children in detention. Thanks to his efforts and a coalition of advocacy organizations on the right and left, Sen. Sessions was able to author this bill and secure Senate support and passage.

Nearly 15 years since its enactment, the standards established under PREA and the resources provided to state and local systems to support the implementation of the standards are changing lives and preventing an untold number of sexual assault in jails, prisons, and other confinement facilities at the federal, state and local levels. Today, 11 states are in full compliance with the standards, and another 41 states and territories are working towards successful implementation. This is a remarkable step forward in the effort to end the scourge of sexual assault in prisons.

As Attorney General, Sen. Sessions will enter office at an important moment where most states are on the cusp of coming into compliance with the law he authored. I can think of no better example to highlight his commitment to justice and his capacity to better protect all Americans.

Sincerely,

Congressman Frank R. Wolf (ret.)
1981-2014

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THE HON. JOSEPH I. LIEBERMAN
SENIOR COUNSEL
UNITED STATES SENATOR, RETIRED

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LOS ANGELES

January 6, 2017

Honorable Charles E. Grassley
Chairman
Senate Judiciary Committee
United States Senate
224 Dirksen Office Building
Washington, DC 20510

Honorable Dianne Feinstein
Ranking Member
Senate Judiciary Committee
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Chuck and Dianne,

First, let me wish you both a Happy New Year and a productive First Session of the 115th Congress.

I am writing in regards to the nomination of Senator Jeff Sessions to be Attorney General of the United States which is now before your Committee.

Jeff and I served together in the U.S. Senate for sixteen years. A review of our voting records will show that he and I disagreed on many issues, but that did not stop us from working together when we agreed, nor did it get in the way of us becoming personal friends.

One of the most important collaborations, Jeff and I had was on the Heroes Act (Public Law No. 109-13) which expanded death benefits for the families of fallen combat personnel from \$12,000 to \$100,000 and increased the Servicemen's Group Life Insurance (SGLI) from \$250,000 to \$400,000.

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP

In the many conversations and interactions we had over the years, I always found Jeff to be an honorable and trustworthy person, a smart and good lawyer, and a thoughtful and open minded listener.


Do I agree with everything he has ever said or done? Of course not. But I don't agree with everything anyone I know has ever said or done, including myself. Most people change during their lives, learning from experience, and therefore deserve to be judged on the totality of their life's work, with greater weight given to more recent behavior.

During my twenty-four years in the Senate, when I had to decide whether to advise and consent to a controversial Presidential nomination, I tried to remember that the question was not whether I would nominate that person, because that is the President's singular right and responsibility. The question is whether I could conclude that the nominee would carry out the responsibilities of the particular office for which he was nominated at that particular time. Perhaps, Jeff applied similar standards when in 2009 he decided to vote to confirm President Obama's nomination of Eric Holder to be Attorney General.

Senator Jeff Sessions has now been nominated by President-elect Trump to be our next Attorney General. Based on my personal knowledge of the nominee, I believe that he will be a principled, fair, and capable Attorney General. If I were in the Senate today, I would vote "aye" on his nomination.

With every good, personal wish.

Sincerely,


Joseph I. Lieberman
Senior Counsel
United States Senator, Retired

THANKS



**Judge Louis J. Freeh, Former Director
Federal Bureau of Investigation**

Honorable Charles E. Grassley, Chairman

Honorable Dianne Feinstein, Ranking Member

Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

December 20, 2016

Dear Chairman Grassley and Ranking Member Senator Feinstein:

I am very delighted to add my strong recommendation in support of my friend and former colleague, Senator Jeff Sessions, who has been designated by President-Elect Donald Trump to be Attorney General of the United States. I have known Jeff since 1989 when we worked together as fellow prosecutors on one of the most important civil rights cases investigated and prosecuted by the United States Department of Justice, in conjunction with the State of Alabama. Our paths crossed again when I served as director of the Federal Bureau of Investigation (1993-2001), and Senator Sessions continued his distinguished public service in Washington, DC, and as a member of your Judiciary Committee.

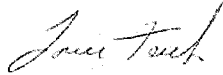
I have served and interacted with Senator Sessions for over 25 years, and have always been greatly impressed with his commitment to the rule of law, his fair and balanced prosecutorial judgment, and his personal dedication to protecting civil rights. Most importantly, I can attest to his unwavering personal integrity and devotion to public service. As a federal and state prosecutor for over 17 years, with hands-on experience gained only on the 'front lines' by career professionals, combined with his fair and balanced good judgment and integrity, I believe that Jeff will be an outstanding Attorney General for the Nation.

In 1989, federal Judge Robert Vance of the Eleventh Circuit and NAACP leader Robbie Robinson were murdered by separate mail bombings in Alabama and Georgia, respectively. These horrific assassinations, together with additional attempted bombings and racist letter threats of more killings and mayhem, had a devastating impact on the entire administration of justice across the country, particularly in Alabama and Georgia. Every federal judge in the Circuit received death threats from the bomber and all were placed under US Marshal protection. Similarly, the entire civil rights leadership in the southeast United States was victimized by fear of more threatened, terrorist attacks. Then Attorney General Richard Thornburg assigned me to the case and one of the first fellow prosecutors I met was then US Attorney Jeff Sessions, serving in the Southern District of Alabama. Jeff and his office were key decision-makers in formulating and implementing the investigative strategy which ultimately led to the arrest and conviction of Walter Moody for these murders. Throughout our work together, I was struck with Jeff's fierce determination to solve these civil rights murders, which so gravely impacted the rule of law and the guarantee of civil rights in America. After I became FBI director and Jeff was the Alabama Attorney General, we again collaborated together and Moody was tried and sentenced under the Alabama capital offense statutes for murder.

As FBI director, I was later privileged to work with you and your Senate colleagues, including Senator Sessions. As I observed and worked with Jeff on a broad variety of justice-related matters (both criminal and civil), he was always totally prepared, accessible and willing to consider all aspects of a complicated issue before deciding. When he did make decisions, they were always fair and clearly the product of much thought and reflection. In sum, it was a privilege to work with Senator Sessions and his Senate staff during my 8 years as director. I have great respect and affection for him. Very importantly, I can also say that the men and women (AUSAs, FBI Agents, Alabama State Troopers and Sheriffs) who served with Jeff during his 17-year career as a prosecutor, share my feelings of respect and admiration.

I am very pleased to give the Committee my very highest personal and profession recommendations for Jeff's confirmation as Attorney General.

Respectfully,

A handwritten signature in cursive script, appearing to read "Louis Freeh".

Louis J. Freeh

CC: Senator Jeff Sessions

1045

Sue Bell Cobb
Alabama Supreme Court Chief Justice (Ret.)
837 Williamsburg Drive
Pike Road, Alabama 36064

The Hon. Chuck Grassley
Chairman
U.S. Senate Committee of the Judiciary II
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Dear Chairman Grassley:

In 1981, I became one of the youngest judges in the State of Alabama at the age of 25. That same year, Deputy U.S. Attorney Jeff Sessions became the U.S. Attorney for the Southern District of Alabama, having been appointed by President Reagan. Not long after my appointment and election to a full term as the District Judge of Conecuh County, I met Jeff Sessions.

I was honored to be invited by Jeff to speak at the educational seminars that he hosted for all law enforcement in the Southern District of Alabama. Although it has now been decades since those conferences, I believe my assigned topic was domestic violence or juvenile justice. Thus began a lifetime of interaction with my friend, Jeff Sessions.

Having served as a trial judge for 12 years, I decided to run my first statewide race for a seat on the Alabama Court of Criminal Appeals. As the Democrat Party's nominee, I found myself on the campaign trail with the Republican nominee for Attorney General, Jeff Sessions. We were then as we are now, members of different parties, but always willing to assist each other as we attempted to constantly do the right thing for the people of our beloved state.

As a result of our elections in 1994, we both moved to Montgomery. General Sessions' job was to run the People's law firm, the Attorney General's Office of Alabama. I was elected as one of five criminal appellate judges who reviewed the appeals and filings in criminal cases of The Attorney General's Office. This was work in which he was able to apply his extensive experience as the Southern District 's top prosecutor and I drew upon my years spent on the trial bench.

Timeliness of rulings is important in the justice system, but it is essential in criminal cases. Huge backlogs in our state's forensics department had become a major factor in delay in the resolution of criminal charges. These delays injured both the State and individual defendants. Senator Sessions responded to this important issue by authoring the Paul Coverdell National Forensics Sciences Improvement Act of 2000. Sen. Sessions proved that he understood that "justice delayed is justice denied".

I was honored to be the first woman elected as Chief Justice of the Alabama Supreme Court in 2006. One of my major priorities during my tenure as Chief Justice was reform of our sentencing laws and practices. This emphasis was due to our unfortunate standing as the state with the most overcrowded and least funded prison system in the nation. Expansion of Model Drug Courts became a major focus. Sen. Sessions has continually demonstrated his understanding of the need for and his support for these data driven sentencing options which save lives and tax dollars. He has always responded when I called; party boundaries were never a consideration or factor in his decision.

It is for these reasons and many more that I write to offer my endorsement and support of the nomination of Sen. Jeff Sessions for Attorney General of The United States.

With warmest regards, I am

Most Sincerely,

Sue Bell Cobb

MICHAEL HOROWITZ
1205 CREST LANE
McLEAN, VIRGINIA 22101

December 21, 2019
WASHINGTON, D.C.

Re: Sessions Confirmation Hearings

Senator Chuck Grassley, Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Senator Dianne Feinstein, Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Dear Senators Grassley and Feinstein:

Intense disagreement is a hallmark of vibrant democracies, all the more so after elections as passionate as the one we've just had. For this reason, and at times like now in particular, democracies must take special care to avoid the use of character assassination and misinformation in place of meaningful policy debate.

I am writing to the Committee because the line between debate and slander is being grievously crossed in the case of the Sessions nomination.

My name is Michael Horowitz and I currently serve as President of 21st Century Initiatives, a think tank focused on the promotion of domestic and international human rights. As such, I have played leadership roles in the drafting, left-right coalition building and passage of such laws as the International Religious Freedom Act, the Trafficking Victims Protection Act, the North Korea Human Rights Act, the Sudan Peace Act and, of special importance to this letter, the Prison Rape Elimination Act. I have also engaged in a lifetime of active opposition to racial discrimination in all of its forms -- an effort including time spent teaching the first racially integrated classes at the University of Mississippi Law School. (While there, I taught a civil rights law course and actively recruited students from all-black colleges, and was attacked and threatened by the state's most virulent racists, including such Klan activists as Byron de la Beckwith, the murderer of Medgar Evers.)

From these and similar experiences, I have developed a useful sensitivity to bigotries and bigots, to racism and racists, and to people who genuinely care about the vulnerable and oppressed and those who offer them little but lip service.

From my time in Mississippi and during my service as OMB General Counsel during the Reagan administration, I have also had much experience with persons willing to subordinate rule of law principles to policy and political preferences, and leaders committed to rule-of-law governance.

Based on that background, and based on having worked with Senator Sessions during the time it took to enact and enforce the Prison Rape Elimination Act – legislation for which he was the prime Senate sponsor -- I can unqualifiedly state that any charges against him of racism or indifference to the needs of the vulnerable are maliciously or, at best, blindly false.

How lucky our prison reform coalition was to have Senator Sessions as our leader:

- He played a key role in crafting a strong bill able to bypass the political landmines which had long blocked the passage of all prison reform legislation – doing so, I saw, out of deep concern about the evils and effects of prison rape and violence;
- Despite the fact that Senator Ted Kennedy led the fight against his confirmation as a Federal Circuit judge, Senator Sessions enthusiastically embraced him as the prime cosponsor of his bill, and worked to pass it in cordial, respectful and effective partnership with Senator Kennedy;
- Senator Sessions was implacable in taking on and overriding the Bush Justice Department's opposition to the bill;
- He likewise took on the Obama Justice Department's failure to issue timely prison rape elimination standards, and its effort to construe a Sessions provision barring the issuance of prison performance standards that imposed substantial costs as barring standards that imposed nominal costs -- a construction that would have gutted the bill;
- He took on strong criticism from many conservatives, and from nearly all state prison officials, who alleged that his bill was an intrusive Federal intervention in state affairs – a charge first

negated by his bill's focus on effective reform strategies that imposed no significant costs and created no bureaucracies;

- Of special significance, Senator Sessions cited the Supreme Court's decision *Farmer v. Brennan* to critics who argued that his bill was inconsistent with his strongly professed belief in principles of federalism. He noted *Farmer's* holding that deliberate indifference to the rape of a transsexual prisoner violated the Cruel and Inhuman Punishment provision of the Constitution, thus creating a constitutional right and a Federal duty to see that *Farmer*-like conduct was eliminated. In so doing, Senator Sessions displayed a strong determination to follow the law wherever it led and to take political heat from his supporters for doing so. (I predict that, in the tradition of our best Attorneys General, Senator Sessions will at times disappoint his Executive Branch colleagues by ruling that the law does not permit them to engage in policy actions that they – and he – would otherwise favor);
- By his concern for the well-being of vulnerable prisoners and his attentiveness to the concerns of all coalition members, Senator Sessions played a key role in keeping our broad coalition together. The remarkable character of that coalition is indicated a partial list of its members:

Amnesty International
 Concerned Women for America
 Focus on Family
 Human Rights Watch
 Institute for Religion and Democracy
 La Raza
 Mennonite Church
 NAACP
 National Association of Evangelicals
 Open Society Forum of the Soros Foundation
 Penal Reform International
 Religious Action Center of Reform Judaism
 Salvation Army
 Southern Baptist Convention
 Stop Prison Rape
 United Methodist Church

- Senator Sessions' leadership helped create previously non-existent bipartisan, religious-secular trust on prison reform issues and has played a key role in making possible the left/right prison reform alliances that now exist;
- Critically, and as time has told, Senator Sessions' PREA bill has been extraordinarily effective in bringing about prison reform and in holding federal, state and local prison officials accountable for failures to take significant steps to eliminate prison rape.

Based on my experience with human rights issues and as an life-long opponent of racial discrimination -- and having seen Senator Sessions in action -- I believe it clear that:

- there is not a racially biased bone in his body;
- he respects and complies with the law, wherever it leads;
- political pressure will not cause him to do otherwise; and that
- his personable manner and respect for those he disagrees with is joined with a principled determination to make the law an instrument that serves persons who badly need its protections.

Senator Sessions is a political conservative with whose policy views many can honorably disagree. At the same time, any attempt to describe him as in any way biased against any minority group disserves the country and should discredit those who say so. I therefor hope that Senator Sessions' decency and integrity will make his confirmation hearings a turning point event that produces bipartisan condemnation of "basket of deplorables" efforts to substitute character assassination for the merits-based policy debates that the country -- and its minority members most of all -- so badly need.

Respectfully submitted,



Michael Horowitz

cc: Senator Jeff Sessions

1051



HUMAN
RIGHTS
CAMPAIGN®

January 9, 2017

The Honorable Charles Grassley
Chairman, Senate Judiciary Committee
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member, Senate Judiciary Committee
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of the Human Rights Campaign's more than 1.5 million members and supporters nationwide, I write to express our strong opposition to the nomination of Senator Jeff Sessions to serve as the United States Attorney General. As the nation's largest organization advocating for the civil rights of lesbian, gay, bisexual, transgender, and queer (LGBTQ) people, we are deeply concerned by Senator Sessions' lengthy record of promoting discrimination and marginalization of LGBTQ people and his consistent disregard for Constitutional principles protecting our community. Over more than three decades in public life, Senator Sessions has unapologetically used his position of power to target LGBTQ people and to deny our right to equal justice under the law.

As Attorney General, Senator Sessions would be charged with enforcing some of the nation's most critical civil rights laws protecting the LGBTQ community including the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. While in Congress, Senator Sessions worked to defeat passage of this law, arguing that the bill would merely prosecute "thought crimes." In the face of rising violence against LGBTQ people, Senator Sessions consistently argued that LGBTQ people should be denied protection under federal hate crimes laws. Senator Sessions also opposed expanding protections under the Violence Against Women Act to protect LGBTQ victims of violence under the most recent VAWA reauthorization. Given Senator Sessions' longstanding hostility towards federal actions to protect and prevent violence against LGBTQ people, we are deeply troubled that he would be in the position to enforce these laws that he committed years of his life to defeating.

In addition to enforcing these laws that explicitly protect LGBTQ people from violence, the Office of Attorney General plays a critical role in the enforcement of other civil rights laws that many LGBTQ people have come to rely upon including Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Affordable Care Act. Numerous federal courts and agencies including the Department of Justice have concluded that in many circumstances LGBTQ people should receive protection from discrimination under the sex discrimination provisions included in these laws. These protections have proven to be an essential tool in combatting the invidious discrimination in employment, education, and healthcare that continue to plague our community.

In enforcing these laws the Department of Justice has not only provided increased protection for LGBTQ people, but has held states violating federal law accountable – an essential role of the federal government. For example, the Department brought a lawsuit against the state of North Carolina following passage of House Bill 2, charging violations of federal laws including the Violence Against Women Act, Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. It is imperative that the incoming Attorney General exhibit a sincere commitment to full enforcement of these laws and to maintaining this interpretation in all Departmental litigation. Senator Sessions' longstanding opposition to federal nondiscrimination provisions designed to provide legal protections for LGBTQ people including the Employment Non Discrimination Act (ENDA) raise serious concerns regarding his willingness to continue comprehensive enforcement of existing statutes.

We are also concerned by Senator Sessions' public dismissal of the use of consent decrees by the Department of Justice to enforce civil rights laws and to ensure access to justice for vulnerable communities. For the LGBTQ community, consent decrees have served as a valuable tool to address harassment and discrimination of LGBTQ children and youth in schools. In partnership with the Department of Education, the Department of Justice has worked collaboratively with school districts to address school environments or policies that violate the law. One of the most notable examples of the use of consent decrees on behalf of LGBTQ students is in the Anoka-Hennepin School District in Minnesota. The Department of Justice pursued this consent decree after federal investigation revealed unchecked bullying, harassment, and intimidation of students perceived to be LGBTQ and at least 8 suicides of bullied students.

In addition to consent decrees, the Department of Justice has been committed to serving vulnerable LGBTQ youth and has taken tangible steps to ensure all students have access to an equal education free from bullying or violence. In May of this year the Department of Justice joined the Department of Education in publishing guidance for school districts to ensure that transgender students will be treated with dignity in public and federally funded schools. A federal judge issued an injunction in August halting enforcement of this guidance after a number of states – including Senator Sessions' state of Alabama – filed a suit challenging it. It is critical that the Department of Justice continue to defend this much needed guidance and continue to provide information to schools and administrators on the front lines. Senator Sessions record of

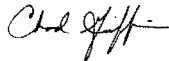
attacking and demeaning LGBTQ people, including students while Attorney General of Alabama, is truly alarming. He has done nothing to show that he will be the true defender that vulnerable LGBTQ students need and deserve.

Throughout his lifetime in public service, Senator Sessions has repeatedly attacked the LGBTQ community at every opportunity. He has not only voted against critical civil rights victories for our community including the repeal of "Don't Ask, Don't Tell," the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and VAWA reauthorization, but has devoted significant portions of his career to ensuring that LGBTQ people are denied equal rights and are publicly characterized as "dangerous" and as "threats" to the American way of life.

In Congress, Senator Sessions refused to accept the Supreme Court's decision in *Lawrence v. Texas*, which found that state laws criminalizing same-sex relationships violated the U.S. Constitution. In fact, he used this foundational civil rights decision as evidence for the need for an amendment that would enshrine discrimination into the Constitution itself. He co-sponsored the Federal Marriage Amendment, which would have created a federal definition of marriage excluding same-sex couples and prohibiting any state from legalizing same-sex marriages.

Given this unchallenged record of opposition to any law designed to protect LGBTQ Americans, Senator Sessions is unfit to serve as our Attorney General and the Senate should reject his nomination. He has not proven that he can be trusted to enforce our nation's civil rights laws faithfully and fully. The Office of Attorney General is too critical to our community and to our nation to hand its leadership over to someone who has committed his life to dismantling the very principles of equal justice and fairness that serve as its foundation.

Sincerely,



Chad Griffin
President

Darlene Hutchinson

P.O. 240624 | Montgomery, AL | 36124

334.450.5851

DFWeditor@aol.com

January 8, 2017

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member, Committee on the Judiciary
United States Senate
Washington, DC 20510

RE: Confirmation of Senator Jeff Sessions as U.S. Attorney General

Dear Senators Grassley & Leahy:

I write today to express my wholehearted support for Senator Jeff Sessions as our nation's next Attorney General.

I have been a volunteer crime victims' advocate nearly 25 years, including 15 years in the State of Alabama. In 1995, while Senator Sessions served as our state's Attorney General, we were successful in passing a landmark Crime Victims' Rights Act, a complex piece of legislation that outlines numerous rights granted to victims in Alabama. This legislative victory followed the ratification in November 1994 of a state Constitutional Amendment guaranteeing crime victims the right to be informed, present and heard at all crucial stages of criminal proceedings. I was deeply involved in these initiatives, and we were pleased that more than 80% of Alabama voters approved the Victims' Constitutional Amendment.

The early and mid-1990s were pivotal years in the evolution of victims' rights and victims' services nationwide, and Alabama was among the states waking up to the realization that victims *should* matter in the criminal justice system. Senator Sessions has been supportive of these efforts, as well as assuring the rights of crime victims on a federal level.

I'm am too familiar with how victims were once neglected by the criminal justice system. On Thanksgiving Day 1987, my life changed in an instant when a man I had never seen before abducted me at gunpoint from a small-town post office in south Alabama. I was a 20-year-old college student 400 miles from my parents in Florida, and I was absolutely horrified. The kidnapper tied and blindfolded me and took me to a residence. I was certain he would eventually kill me. But by the grace of God, I was able to escape on the second day.

He was arrested within 6 days, and 10 months later the local prosecutor decided to plea the case down to one charge of kidnapping and one charge of rape and offer a 20-year sentence – the minimum in Alabama for a crime of this nature. Later, I learned the offender would be eligible for parole in 7 years. It was a crime that would affect me the rest of my life – one that could have potentially ended my life if I had not escaped – and the punishment was far too lenient. I had no say in the matter. To add insult to injury, the prosecutor and judge handled the plea and sentencing 4 hours before the set time to apparently accommodate the schedule of the defense attorney. I had spent 16 terrorizing hours with this criminal and I wanted to hear him admit his guilt. But the victim's role was insignificant in 1987-88, and the court system re-victimized me that day.

Soon, I developed a determination to do my part to fix a broken, callous system.

*Senators Grassley & Leahy
January 8, 2017
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In 1989, I completed my degree in journalism, and have enjoyed a rewarding career in publishing and communications, but I am committed to helping victims understand the criminal justice system into which they are thrown, and I strive to fix the inadequacies that still exist. It is important that victims know their rights, and be involved in the criminal proceedings on the level they choose. As a U.S. Senator, Jeff Sessions has supported funding that provides essential services to victims of crime, and protects the rights of these survivors, and he's been an advocate on restitution issues to help make victims more whole.

Some years I have donated 1,000 volunteer hours to assist victims of violent crime – as I accompany survivors to court and/or hearings, research and improve policy and legislation, speak publicly on issues related to the criminal justice system, and organize support groups and events. Over the years, I have helped hundreds of survivors affected by homicide, child abuse, robbery, burglary, assault and many other crimes. For 10 years I was a trained/certified advocate for 2 rape crisis centers (one in Alabama, and one in Texas). As a former prosecutor, Senator Sessions understands how important it is for investigators and prosecutors to have the tools necessary to seek justice, and he has led the charge to improve forensics testing and help reduce the backlogs at crime labs nationwide.

And Senator Sessions has consistently stood in the gap to support our most vulnerable victims, as he's advocated for the reauthorization of the Victims of Child Abuse Act to fund children's advocacy centers across the country. Additionally, he's fought to protect children from internet pornography, and track down fugitive sex offenders. Further, he was among the supporters of the Survivors' Bill of Rights Act of 2016 to help those affected by sexual assault.

A Task Force commissioned by President Ronald Reagan in 1982 traveled from state to state, interviewing survivors of violence, as well as criminal justice professionals and service providers. In their final report, the Task Force concluded that the justice system quite often overlooked and neglected victims. While we have made great strides since 1982, I believe we can accomplish so much more for survivors of violence and to ensure public safety with Senator Jeff Sessions as our Attorney General.

In his many years of public service, he has demonstrated integrity, fairness and leadership, as well as a dedication to the rule of law and the pursuit of justice.

We need a bold Attorney General in 2017 who will stand with victims, law enforcement and prosecutors across the United States to make our land a safer place for everyone. We need an Attorney General who will expand on the accomplishments of President Reagan's 1982 Task Force. I believe that man is Senator Jeff Sessions and I support his nomination without reservation.

Best regards,



Darlene Hutchinson

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January 17, 2017

The Honorable Charles E. Grassley
 The Honorable Dianne G. Feinstein
 United States Senate Committee on the Judiciary
 Dirksen Senate Office Building
 Washington, D.C. 20510

Re: Innocence Project Statement Opposing the Nomination of Senator Jefferson Sessions for Attorney General of the United States

Dear Chairman Grassley and Ranking Member Feinstein:

The Attorney General of the United States is the nation's highest ranking law enforcement officer and as the leader of the Department of Justice is responsible for dozens of agencies charged with enforcing and protecting civil rights and liberties. To succeed in this important role, the Attorney General must put partisan views aside and commit to upholding the Constitution while also respecting all stakeholders in the legal system including prosecutors, defense counsel, law enforcement, victims, and defendants alike. To be qualified to be the Attorney General, regardless of his or her political orientation, the nominee must have a record of public service that demonstrates fair and equal consideration for all Americans.

Mr. Sessions' record as a State Attorney General, United States Attorney, and Senator in dealing with the problem of wrongful conviction is troubling and we fear that the important progress that the nation has made in addressing this problem will be lost. For the past twenty-five years, in both Republican and Democratic administrations, while there might have been differences in emphasis, the Justice Department has supported programs that recognize the right to post conviction DNA testing, reform of police practices that contribute to wrongful conviction, and the need to improve the forensic sciences.

Mr. Sessions has consistently evaluated innocence protections through a narrow lens advocating for efficiency at the expense of the wrongfully convicted and finality at the expense of safety and justice. While his voting record includes ultimate support for innocence legislation, he has fought to limit the breadth of innocence protections in those bills. More telling, his public statements suggest he is

Benjamin N. Cardozo School of Law, Yeshiva University

Innocence Project, Inc.
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distrustful of the motives of defense attorneys, offended by judges who call attention to prosecutorial misconduct, and seemingly unmoved by the fact that forensic evidence traditionally used by prosecutors could be, based on new scientific developments, inaccurate. We believe these views are outside the mainstream.

Wrongful convictions reveal the flaws in the criminal justice system, including a range of human causes and systemic failures, from false confessions to prosecutorial misconduct to the reliance on forensic techniques that have not been proven reliable. Similarly, the 349 DNA exonerations show that black people are far more likely than white people to be wrongly convicted, exposing the same racial inequality that permeates the criminal justice system.

Reforming the system to protect against future injustices is core to our mission. This nation needs an Attorney General who is willing to see each of these errors as an opportunity for improvement and who will support reforms to prevent future wrongful convictions, thereby enhancing public safety. The criminal justice system is complex and its challenges are many. In our nation's constant struggle to achieve a fairer, more accurate, and more effective system of justice, the next Attorney General must recognize these challenges and be prepared to take them on with an open mind, a commitment to scientific principles, and a proven record for treating everyone fairly and equally. Senator Sessions' troubling record on innocence, criminal justice and civil rights and liberties suggests that he will not. For these reasons, we oppose his nomination as Attorney General of the United States and urge the Senate not to confirm.

Sincerely,

A handwritten signature in cursive script, reading "Peter Neufeld".

Peter J. Neufeld
Co-Founder & Co-Director

A handwritten signature in cursive script, reading "Barry C. Scheck".

Barry C. Scheck
Co-Founder & Co-Director

A handwritten signature in cursive script, reading "Meryl Schwartz".

Meryl Schwartz
Deputy Executive Director



**International Association of
Chiefs of Police**

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Nashville, TN

**General Chair of the Midsize Agencies
Division**

Paul Williams
Chief of Police
Springfield Police Department
Springfield, MO

Parliamentarian

Ronell Serpas, Ph.D.
Professor of Practice
Loyola University
New Orleans, LA

**Executive Director / Chief Executive
Officer**

Vincent Talucci
Alexandria, VA

December 29, 2016

The Honorable Chuck Grassley
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of the International Association of Chiefs of Police (IACP), I am pleased to inform you of our support for the nomination of Senator Jeff Sessions to be the next Attorney General of the United States. The IACP believes that Senator Sessions' years of service have clearly proven that he has the qualifications and experience necessary to be an effective leader of the U.S. Department of Justice.

Throughout his career, Senator Sessions has demonstrated an unyielding commitment to justice and to upholding the rule of law. His experience as a United States Attorney, the Alabama Attorney General, and a United States senator have provided him with opportunities to work closely with law enforcement agencies and gain a unique understanding of the challenges and the complexities agencies face daily in safeguarding the citizens they are sworn to protect.

The IACP has interacted with Senator Sessions on several criminal justice-related issues over the years, particularly in his roles as senator and as a member of the U.S. Senate Committee on the Judiciary. Senator Sessions has always conducted himself in a professional manner, making a point to listen to all sides of an issue to ensure a careful, thorough understanding.

The IACP recently had the opportunity to meet with Senator Sessions after his nomination was announced to gain a better understanding of the law enforcement and criminal justice priorities that he would hope to accomplish as the next Attorney General. This meeting clearly demonstrated Senator Sessions' qualifications, and his commitment and dedication to successfully fostering and enhancing crucial partnerships across the criminal justice spectrum.

The IACP urges the Judiciary Committee and the members of the United States Senate to confirm Senator Sessions' nomination in a timely fashion.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald W. De Lucca". The signature is fluid and cursive, with a large, stylized initial "D".

Donald W. De Lucca
President



January 9, 2017

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

Senate Committee on the Judiciary
U.S. Senate
Washington, D.C. 20510

Dear Chairman Grassley, Ranking Member Feinstein, and Members of the Committee on the Judiciary,

We, the undersigned organizations, write concerning the nomination of Senator Jefferson Sessions as the United States Attorney General. We urge you to use the confirmation hearings to clarify Senator Sessions' commitment to upholding rule of law, including by supporting and enforcing anti-corruption measures, and measures to ensure accountability for human rights harms, including those committed by corporations.

The U.S. government has a longstanding commitment to promoting and protecting human rights, including through its membership in the UN Human Rights Council in 2016¹ and its

¹ *United States Election to the Human Rights Council*, U.S. DEP'T OF STATE (Oct. 28, 2016), <https://www.state.gov/secretary/remarks/2016/10/263798.htm>.

endorsement of the UN Guiding Principles on Business and Human Rights (UNGPs), a seminal development in recognizing corporations' human rights responsibilities. The Department of Justice plays a crucial role in ensuring the realization of such commitments by enforcing existing laws and administering justice fairly and impartially, however powerful and wealthy the defendant may be.

When corporations commit wrongdoings that have human rights impacts, they very rarely are held to account. Such corporate impunity has a pernicious effect on our society as it denies justice to victims of the crime, weakens the rule of law, and creates an uneven playing field for law-abiding businesses. The Department of Justice is tasked with "seek[ing] just punishment for those guilty of unlawful behavior."² This should include prosecution of human rights crimes, including when such violations of law are committed by corporations.

Eradicating corrupt businesses practices abroad is an essential step to protecting human rights and ensuring corporate accountability. Experts have recognized that where corruption is widespread, human rights are subject to abuse.³ One of the key laws in combatting corruption abroad is the Foreign Corrupt Practices Act (FCPA) which bars American businesses from making corrupt payments to foreign officials and engaging in financial fraud. Unlike other areas of the law, FCPA enforcement has been rigorous and proven effective in punishing corrupt business actors while promoting economic growth by ensuring a fair and competitive business environment.

Senator Sessions has recognized the need for corporate accountability and the current prosecution gap. He has made comments expressing a desire for ending corporate impunity. During a 2010 confirmation hearing for the U.S. deputy attorney general, James Cole, Senator Sessions identified Cole's prosecution record on corporate crimes as one of his main areas of concern. Senator Sessions raised doubts on the "dangerous" philosophy of not charging companies criminally out of the concern for collateral damage to the shareholders and employees. He said, "Normally, I was taught if they violated a law, you charge them. If they didn't violate the law, you don't charge them."⁴

It is critical for the United States to maintain a leadership role on human rights and the Attorney General to commit to upholding such principles.

As such, we urge you to use the confirmation process to clarify Senator Sessions' views and commitments to the following:

² *About DOJ*, U.S. DEP'T OF JUST., <https://www.justice.gov/about> (last visited Jan. 8, 2017).

³ See International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection*, 23 fn. 33 (2009) (quoting Committee on Economic, Social and Cultural Rights as stating that "states face serious problems of corruption, which have negative effects on the full exercise of rights covered by the ... [ICESCR]" and quoting the Committee on the Rights of the Child as stating that it "remains concerned at the negative impact corruption may have on the allocation of already limited resources to effectively improve the promotion and protection of children's rights, including their right to education and health") (internal citations omitted).

⁴ *Hearing, Nomination Of James Michael Cole, Nominee To Be Deputy Attorney General, U.S. Department Of Justice*, U.S. SENATE JUDICIARY COMMITTEE 98-99 (Jun. 15, 2010), <https://www.judiciary.senate.gov/imo/media/doc/CHRG-111shrg64377.pdf>.

If confirmed as the U.S. Attorney General,

- 1) Will Senator Sessions ensure effective prosecution of corporate human rights abuses as a key priority of the Department of Justice, and ensure U.S. compliance with international obligations? What steps will he take to ensure that law enforcement have sufficient resources, training, and political support to take on corporate wrongdoers?
- 2) Will Senator Sessions continue rigorous enforcement of the FCPA and dedicate the same or even elevated resources to this area of law? Through which steps?
- 3) The Human Rights and Special Prosecutions Section (HRSP) within the Department of Justice was established in 2010 to investigate and prosecute cases against human rights violators and other international criminals. Will Senator Sessions continue to support, with resources, time, and commitment, the HRSP? Through which steps?

We are thankful for your consideration, and look to you to safeguard the United States' commitment to upholding rule of law, including by supporting and enforcing anti-corruption measures, and measures to ensure accountability for human rights harms, including those committed by corporations.

Sincerely,

Amazon Watch

Coalition of Immokalee Workers

EG Justice

FIDH

Global Witness

Greenpeace USA

The International Corporate Accountability Roundtable (ICAR)

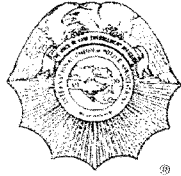
International Rights Advocates

Mercy Investment Services

Northwest Coalition for Responsible Investment

Project on Organizing, Development, Education, and Research (PODER)

Tri-State Coalition for Responsible Investment



**INTERNATIONAL UNION
OF POLICE ASSOCIATIONS
AFL-CIO**

THE ONLY UNION FOR LAW ENFORCEMENT OFFICERS

SAM A. CABRAL
International President
HUGH CAMERON
International Secretary-Treasurer

November 21, 2016

The Honorable Jeff Sessions
United States Senate
Washington, D.C. 20510

Dear Senator Sessions:

First, congratulations on your nomination to be our next Attorney General. You can count on the men and women of the International Union of Police Associations, AFL-CIO, to be solidly in support of you.

We are well aware of your long history of supporting the fine men and women who provide for the public's safety. Your military history along with your tenure as an Alabama State's Attorney and State Attorney General give us great confidence in your proven judgment and integrity so demanded for this august position of public trust. We are also aware of and grateful for your leadership in the Senate. We know that you have a long history of supporting the laws that both protect the nation's police, and those that allow them to better protect and serve the public.

We know that you will demand excellence and professionalism from America's law enforcement communities, while at the same time, we are confident that you will be solidly behind them as they face ever increasing dangers from the unhinged few.

We look forward to working with you and your staff in your new position and also anticipate participating in the efforts to confirm your nomination.

Very Respectfully,

Samuel A. Cabral
International President



J. Gorman Houston, Jr.
Writer's Direct Dial: 334-834-4414
17 JAN 12 PM 2:47
FEINSTEIN
WASHINGTON, D.C.

December 13, 2016

The Honorable Charles E. Grassley, Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

The Honorable Diane Feinstein, Ranking Member
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Dear Chairman Grassley and Ranking Member Feinstein:

I write in support of the nomination of Senator Jeff Sessions to the office of Attorney General of the United States. I have been blessed to know Senator Sessions for many years as a friend, lawyer, Alabama Attorney General, and United States Senator. He is an outstanding, honorable and most qualified individual.

On November 21, 2016, Thomas J. Sugrue published an op-ed styled, "Jeff Sessions' Other Civil Rights Problem," in the New York Times that I believe unfairly criticized Senator Sessions regarding the so-called "equity funding" case. Before my retirement, I served as an associate justice on the Alabama Supreme Court that decided four appellate matters arising from that case. I also served as Senior Associate Justice and then Chief Justice when the Chief Justice was removed for not following a federal court order. In my decades of public service, I have seen public officials who did and who did not adhere to the rule of law.

With respect to the equity funding case, public schools are often funded with local property taxes, leaving poorer counties with less funding than more affluent counties. Numerous groups filed lawsuits throughout the United States to ask courts to raise taxes or change spending to provide poorer schools with more funds.

Unmentioned in Mr. Sugrue's article is how often these equity funding lawsuits were lost and why. Champions of judicial taxing and spending first tried the U.S. Supreme Court. They lost in *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973), which held that reliance on property taxes to fund public schools does not violate the Equal Protection Clause of

The Honorable Charles E. Grassley
 The Honorable Diane Feinstein
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the U.S. Constitution even if it causes disparities in funding between districts. Encouraging local control over schools bears a rational relationship to a legitimate state interest.

Next, the equity funding advocates filed suits in state court systems. Of the States that did not settle, a number held that taxing and spending questions were for the legislatures to decide, not the courts. See *Marrero v. Commonwealth*, 709 A.2d 956, 965-66 (Pa. Comm. Ct. 1998) (“These are matters which are exclusively within the purview of the General Assembly’s powers, and they are not subject to intervention by the judicial branch of our government.”), *aff’d*, *Pennsylvania Ass’n of Rural and Small Schools v. Ridge*, 737 A.2d 246 (Pa. 1999); *Committee for Educational Rights v. Edgar*, 672 N.E.2d 1178, 1196 (Ill. 1996) (“[T]he process of [school funding] reform must be undertaken in a legislative forum rather than the courts.”); *Coalition for Adequacy and Fairness in School Funding v. Chiles*, 680 So. 2d 400, 408 (Fla. 1996) (holding that plaintiffs failed to demonstrate “an appropriate standard for determining ‘adequacy’ that would not present a substantial risk of judicial intrusion into the powers and responsibilities of the legislature.”); *School Administrative District No. 1 v. Commissioner*, 659 A.2d 854 (Maine 1995) (rejecting argument that disparities in school funding resulted in an inadequate education); *City of Pawtucket v. Sundlin*, 662 A.2d 40 (R.I. 1995) (holding school funding statutes did not violate state constitution); *Coalition for Equitable School Funding v. State*, 811 P.2d 116 (Ore. 1991) (rejecting equity funding arguments based on state constitution); *Kukor v. Grover*, 436 N.W.2d 568 (Wis. 1989) (holding state education funding system did not violate state constitution); see generally Joy Chia & Sarah A. Seo, *Battle of the Branches: The Separation of Powers Doctrine in State Education Funding Suits*, 41 Columbia J. L. & Social Problems 125 (2007).

In this legal environment, two lawsuits were filed in Montgomery County, Alabama, in 1990, to challenge the legality of Alabama’s property tax funding system for local schools. On March 31, 1993, the trial court ruled that Alabama’s school funding violated the State Constitution. The trial court’s order generated three appeals and an advisory opinion request to the Supreme Court of Alabama. Jeff Sessions became Attorney General of Alabama in 1995 and filed briefs in the case that was decided in 1997. Ultimately, the Alabama Supreme Court agreed with Attorney General Sessions’ arguments in *Ex parte James*, 836 So. 2d 813 (Ala. 2002), when it dismissed the equity funding case, explaining:

This Court “shall *never* exercise the legislative and executive power, or either of them; to the end that it may be a government of laws and not of men.” Ala. Const. 1901, § 43 (emphasis added). In Alabama, separation of powers is not merely an implicit “doctrine” but rather an express command; a command stated with a forcefulness rivaled by few, if any similar provisions in constitutions of other sovereigns. Amendment 582 to the Alabama Constitution of 1901 reflects this State’s adherence to this command by effectively nullifying any “order of a state court, which requires disbursement of state funds, . . . until the order has been approved by a simple majority of both houses of the Legislature.” Compelled by the weight of this command and a concern for judicial restraint, we

The Honorable Charles E. Grassley
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 Page 3

hold (1) that this court's review of the merits of the still pending cases commonly and collectively known in this State, and hereinafter referred to, as the "Equity Funding Case," has reached its end, and (2) that, because the duty to fund Alabama's public schools is a duty that – for over 125 years – the people of this State have rested squarely on the shoulders of the Legislature, it is the Legislature, not the courts, from which any further redress should be sought. Accordingly, we hold that the Equity Funding Case is due to be dismissed.

Ex parte James, 836 So. 2d 813, 815 (Ala. 2002). In short, Attorney General Sessions' legal argument for his client, the State, rested on the bedrock legal principle, consistent with the U.S. Supreme Court and the courts of numerous other States, that taxing and spending are the powers vested in the legislature, not in the courts.

As an aside, the trial judge who entered the March 31, 1993 order ran for the Alabama Supreme Court and "appearing at an event to be publicly honored by a party to the pending litigation. In April 1993, prior to the Remedy Plan [the trial judge] attended the State [Parents Teachers Association ('PTA')] 1993 annual convention in Huntsville, Alabama . . . a party plaintiff/defendant and State Superintendent of Education, introduced [the trial judge], read excerpts from his Liability Order, . . . to the standing ovation of the crowd . . . [The] Association actively campaigned for the proposed remedy plan to be implemented." *Ex parte James*, 713 So. 2d 869, 875 (Ala. 1997). The trial judge recused himself before the Court entered its 1997 decision.

Mr. Sugrue might be right in stating that Alabama's schools have funding problems. Many state school systems do. But he is wrong in his critique of Jeff Sessions. Attorney General Sessions did his duty by defending his State, advocating consistent with the binding Constitution of his State, and arguing for the basic American proposition that elected legislators levy taxes and spend tax revenues, not courts. That dedication to the rule of law will serve him well as the Attorney General of the United States.

Sincerely,



J. Gorman Houston, Jr.

Nov. 20, 2016

Chairman Chuck Grassley
 Ranking Member Dianne Feinstein
 Honorable Members of the U.S. Senate Committee on the Judiciary
 United States Senate
 Washington, DC 20510

Dear Chairman Grassley, Ranking Member Feinstein and Honorable Members:

I am writing to ask you to support the nomination of Senator Jeff Sessions (R-AL) as 84th Attorney General of the United States. Senator Sessions has served on the U.S. Senate Committee on the Judiciary for 20 years, and has one of the strongest historical understandings of how the Department of Justice works, its jurisdiction, its challenges and issues to date. When I was working as a Senate counsel for the Judiciary Committee from 1996-1998 for Sen. Jon Kyl (R-AZ), Sen. Sessions was a junior member of the Judiciary Committee.

It would not be until 2013 I would have the honor of working with Sen. Sessions as a Special Counsel, and it is about that experience I wish to inform you. In short, it was an honor and privilege serving Sen. Sessions. I believe his deep experience, commitment to public service and the rule of law, honesty, fortitude, and willingness to stand for what he believes best serves the American people and institutions of government, make him an unparalleled candidate for Attorney General. These subsequent paragraphs will explain why.

When the Senate Judiciary Committee began consideration of the *Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S.744)*, Sen. Sessions and Sen. Grassley jointly requested I testify to the national and border security implications (Title I) of the bill based upon my extensive history of providing policy guidance on border, counterterrorism and identity security to Congress as a former 9/11 Commission counsel. Upon conclusion of that testimony in April 2013, Sen. Sessions asked that I join his staff temporarily as a Special Counsel during consideration of S. 744. I did so, and it is based on that 2013 experience that I write in support of the nomination of Sen. Sessions for Attorney General.

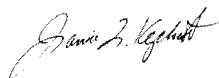
S. 744 was a colossal and complex bill, with 1,200 pages and over 270 sections, all implicating different facets of immigration law. Staff had less than two weeks for full review and analysis of the legislation prior to the beginning of the full Senate Judiciary markup. In addition to the actual bill itself, there were dozens of proposed amendments that also required analysis as well as proposed amendments by Sen. Sessions. As staff, we were hard pressed to provide all we needed to Sen. Sessions in a timely manner; there were to be no shortcuts nor political expediency.

The result was that Sen. Sessions became the spearhead for judicious, conscientious review of every single provision of the proposed bill. He required understanding of not only the language but the ramifications of sections of the provisions. Behind closed doors, there was no hint of political obstructionism, playing the party line, nor glossing over important details to make a political point. Instead, Sen. Sessions sought to understand simply (1) the proposed language; and (2) what the effect of that language would be on the American worker, on immigration law, and on national security. On a personal level, Sen. Sessions treated all his staff, and me, with the utmost kindness and respect. Sen. Sessions delved deep, he asked good questions, and he

required of his staff that they be objective and thorough in their responses. Sen. Sessions expected alot from his staff, but only because he worked harder than we did.

I believe that Sen. Sessions is a truly honorable man who has only the public service of his country at heart, and has the experience and dedication to our justice system as few do today. Sen. Sessions has done everything it takes to be qualified for the position of Attorney General; he deserves your support.

Sincerely,

A handwritten signature in black ink, appearing to read "Janice L. Kephart". The signature is fluid and cursive, with the first name "Janice" being more prominent.

Janice L. Kephart

Former Counsel to Sen. Jon Kyl (R-AZ), Senate Judiciary Committee

Former Counsel, 9/11 Commission

Former Special Counsel to Sen. Jeff Sessions, Senate Judicairy Committee

January 9, 2017

The Honorable Chuck Grassley, Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein, Ranking Member
United States Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

Members of the United States Senate Committee on the Judiciary

Dear Chairman Grassley, Senator Feinstein, and Members of the Committee:

I am writing to urge you, out of respect for the American values enshrined in the Constitution, not to confirm Sen. Jeff Sessions to be Attorney General of the United States. I am also well aware of the fact that the Republican Majority of this honorable Committee may confirm Sen. Sessions after an incomplete and less than thorough hearing which will compromise its moral authority in our legislative system.

But as a grateful patriot citizen I must voice my concerns, timely and loudly, on behalf of our beloved nation that the Civil Rights progress we have made thus far is threatened by this nominee for the office of the chief law enforcement officer of our nation.

I also write to you as a citizen of the United States of America, a country that welcomed me when I chose to make it my home. I love this country deeply and am grateful for the freedom and opportunities it has given to me and my family. I am also an attorney who reveres the rule of law, and most especially the United States Constitution. It is out of respect for our constitutional values, and not out of any personal disrespect for Sen. Jeff Sessions, that I am urging you not to confirm Mr. Sessions as U.S. Attorney General.

People around the world look to our Constitution with envy. They are inspired by its promise of equal protection of the law to everyone – not just people from powerful families, or a favored ethnic group or religious community. During the past 50 years, the United States has taken many significant steps to make sure that equal protection of the law is not just a promise, but a reality. That is especially true for one of the most cherished rights we enjoy as U.S. citizens, the right to vote. Protecting this sacred right is one of the most important responsibilities of the Attorney General, and that is one reason this position cannot be entrusted to Mr. Sessions.

I wish to say emphatically that this is about a principle that, like the Constitution, is bigger than politics and partisanship. The last time Mr. Sessions was before the Senate as a nominee – in that case to be a federal judge – Republicans held the majority in the Senate and on the Judiciary Committee. They rejected Mr. Sessions in part because he used the power of his office as a U.S. Attorney to prosecute community activists who helped poor and elderly people exercise their right to vote. Fortunately, the courts rejected Mr. Sessions' efforts, but it is hard to understand, much less accept, his actions.

Sadly, Mr. Sessions has not demonstrated a greater understanding that the right to vote should transcend partisan interests. He has harshly criticized the national Voting Rights Act, which as Attorney General he would be charged with enforcing, and supported states that have done away with procedures designed to help people vote. There is no constitutional principle or American value that is strengthened by making it harder for some Americans, especially those who are already disadvantaged, to exercise their right to vote.

Another threat to the American ideal is violence and intimidation directed against ethnic and religious minorities. There have been hundreds of such incidents in the weeks since the presidential election. The bigotry at the root of these incidents is a threat to individual lives and families and to a society grounded in the constitutional values of equality and pluralism. It is shocking to even consider that at this very moment

our Department of Justice would be led by someone who has cultivated close relationships with organizations that promote racial and religious divisiveness and hostility toward immigrants, as Mr. Sessions has.

I am also a Muslim American who cherishes the First Amendment's guarantee of religious liberty. There is nothing that demonstrates the American ideal more than our country's commitment to religious freedom for all people. And that is another reason that Mr. Sessions cannot be entrusted with the office of Attorney General.

Mr. Sessions has defended proposals that would single Muslim immigrants out for discriminatory treatment on the basis of their religious beliefs. He has happily accepted awards from the most intensely anti-Muslim organizations and groups that spread the vile falsehood that Muslims cannot be loyal Americans. That is not the American Way.

My son, US Army Captain Humayun Khan, was a living rebuke to such bigotry. He gave his life in service to this country, earning a Purple Heart and the Bronze Star for his heroism. He, like the people of every gender, ethnicity, and religion whose bodies rest in Arlington National Cemetery, which include FIVE Muslim Soldiers, swore an oath to protect the Constitution.

One central constitutional value, something that sets the United States apart from so many countries, is the freedom of individuals to organize, to speak out on behalf of their values, and to dissent against official wrongdoing. It is this freedom that allows me to make my case to you. Mr. Sessions has denounced anti-war protesters and described the NAACP and the ACLU as un-American, which indicates he does not understand patriotic dissent or value the role that these organizations play in upholding our constitutional values.

I urge you to think beyond partisan politics as you consider this nomination. Thirty years ago, a bipartisan group of senators rejected Mr. Sessions' nomination to be a federal judge. His record since then does not give us any reason to believe that those senators were in error. Mr. Sessions has confirmed their concerns and raised additional ones. For example, unlike the vast majority of his Republican and Democratic Senate colleagues, he voted against a law that would prohibit the U.S. military from engaging in torture, something that violates our very sense of decency and humanity as well as our commitment to the rule of law.

I am one citizen expressing his voice. But my concerns are shared by many others, including people who have dedicated their lives to protecting constitutional rights, and more than 1200 law school professors.

The most minimal standard for leading the Department of Justice must be a demonstrated commitment to pursuing justice for all Americans. Mr. Sessions fails to meet that standard. Americans deserve better. In conclusion, I appeal to this honorable committee to reject Sen. Sessions' nomination to be the chief law enforcement officer of our country.

Respectfully,

A handwritten signature in black ink that reads "Khizr Khan." The signature is written in a cursive, flowing style.

Khizr M. Khan
Charlottesville*, Virginia

*World Class City of Thomas Jefferson.



National Alliance to
End Sexual Violence



2000 M STREET NW • SUITE 750
WASHINGTON, DC 20036
www.knowyourIX.org

January 6, 2016

Via electronic mail to [REDACTED]

Chairman Chuck Grassley
Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

Ranking Member Dianne Feinstein
Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of survivors of sexual assault, domestic violence, and stalking, we are writing to express our firm opposition to the confirmation of Senator Jefferson B. Sessions III (R-AL) as the 84th United States Attorney General.

Founded in 2013, Know Your IX is a youth-led organization that aims to empower students to end sexual and dating violence in their schools. The National Alliance to End Sexual Violence is the voice in Washington for the 56 state and territorial sexual assault coalitions and 1300 rape crisis centers working to support survivors and end sexual violence. Through our networks, we work with thousands of survivors of gender-based violence across the country, and we know firsthand how critical the work of our Justice Department—and the Attorney General charged with leading the Department's Office of Violence Against Women and the Educational Opportunities Section of the Civil Rights Division—is to survivors seeking justice, support, and healing. We are deeply troubled by the nomination of Sen. Sessions as Attorney General. During his tenure as a U.S. Senator, Sen. Sessions has not only failed to lead in the fight against gender-based violence, but often stood on the opposing side.

Gender-based violence remains a widespread and urgent problem in America today. Every year, more than ten million people are physically abused by an intimate partner in the United States. One in five women in the United States will experience rape during her lifetime.¹ Fighting gender-based violence is a core responsibility of the Attorney General. As advocates working every day to end this violence, we have carefully evaluated Sen. Sessions' record and concluded that he is not qualified to fulfill that role.

In particular, we are deeply concerned about Sen. Sessions's public statements and actions on the following:

¹ *National Statistics*, NATIONAL COALITION AGAINST DOMESTIC VIOLENCE, <http://ncadv.org/learn-more/statistics> (last visited Jan. 6, 2017).

Failure to Condemn Sexual Assault

During the 2016 campaign, the *Washington Post* released a 2005 recording in which then-candidate Donald Trump admitted to grabbing women's genitals without consent—and boasted that his fame allowed him to avoid accountability. When asked about these tapes, Sen. Sessions not only failed to denounce President-Elect Trump's actions, he explicitly stated that he did not “characterize that as sexual assault,” adding, “that’s a stretch.”²

To be clear: “grabbing” anyone by the genitals without their consent is sexual assault. Sen. Sessions’s statements about sexual assault are at odds with the very definitions of sexual assault used by the Department he has been nominated to lead and the laws he has been nominated to enforce.³ The Justice Department defines sexual assault as “any type of sexual contact or behavior that occurs without the explicit consent of the recipient.”⁴ In denying that forcibly groping women is not sexual assault, Sen. Sessions revealed his misunderstanding of gender-based violence and indifference to the harms survivors experience when their bodily integrity is violated by assault.

The Department of Justice has jurisdiction over cases of gender-based violence, including sexual assault that occurs on Native American reservations, sexual assault and domestic violence in the District of Columbia, and stalking that occurs across state lines. Understanding law and policy related to sexual assault is a core qualification to lead the Department; Senator Sessions’ dismissive statements about a clear example of sexual assault suggest that he is unfit to do so.

Opposition to the Violence Against Women Act

The Violence Against Women Act (VAWA) is the bedrock of our national response to the crisis of sexual assault, domestic violence, dating violence, and stalking. It is the first and only comprehensive federal legislation written to address gender-based violence. We are deeply troubled by Sen. Sessions’ opposition to the bipartisan effort to reauthorize VAWA in 2013.

The grant programs authorized by VAWA provide life-saving services for survivors of gender-based violence, funding rape crisis centers, domestic violence shelters, and prevention programs across the United States. It provides victims of domestic violence fleeing across state lines the ability to retain custody, enables enforcement of protection orders across state lines, requires prevention education in higher education to end campus sexual assault, creates programs to address violence against women with disabilities, protects survivors from unfair eviction on the basis of their status as victims of gender-based violence, creates legal assistance programs for

² Danielle Paquette, *It’s not clear if Jeff Sessions thinks grabbing a woman by the crotch is sexual assault*, WASH. POST (Nov. 18, 2016), https://www.washingtonpost.com/news/wp/2016/11/18/its-not-clear-if-trump-attorney-general-sessions-thinks-grabbing-a-woman-by-the-crotch-is-sexual-assault/?utm_term=.e622e8b814b2.

³ See 18 U.S.C. §2244 (defining sexual assault as “the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person”).

⁴ See *Sexual Assault*, U.S. DEPT. JUST., (Apr. 1, 2016), <https://www.justice.gov/ovw/sexual-assault>.

victims, and ensures immigrant survivors have the opportunity to pursue justice. Without VAWA, many survivors would be unable to seek help in the wake of violence, and many more women and girls would be at acute risk of sexual assault, domestic violence, and stalking.

VAWA is particularly important to students, who face high rates of gender-based violence.⁵ The Campus Sexual Violence Elimination (SaVE) Act, which was passed as part of the 2013 VAWA reauthorization, increases transparency on campus about incidents of sexual violence, guarantees student victims' rights, sets standards for disciplinary proceedings, and requires campus-wide prevention education programs. This Act, alongside student activism and strong federal enforcement, has helped transform how schools address gender-based violence.

The Justice Department's Office on Violence Against Women (OVW) plays a vital leadership role in national efforts to address and end this violence. VAWA created OVW and today underpins its essential work: OVW administers 24 grant programs authorized by 1994 Violence Against Women Act and subsequent legislation. The Attorney General is tasked with leading OVW and the national fight to end gender-based violence. It is imperative that whoever fills this critical role understand the profound importance of the Violence Against Women Act in that fight.

Yet in 2012, Sen. Sessions joined a small group of legislators in opposing VAWA reauthorization, putting these essential programs, and countless survivors, at risk. The Senator instead supported a watered-down version of the Act that stripped protections for LGBT and Native American survivors—despite the fact that both groups face staggeringly high rates of gender-based violence.⁶ Senators from both sides of the aisle, and women across the nation, united behind a VAWA reauthorization to protect all victims. Yet Sen. Sessions still refused to support the bipartisan reauthorization bill and voted against its reauthorization, jeopardizing the safety of millions of victims and their families.

As advocates, services providers, and survivors, we know firsthand that the Violence Against Women Act saves lives; we believe that opposition to its reauthorization is inexcusable.

Hostility to Educational Civil Rights

The Educational Opportunities Section of the Civil Rights Division plays a key role in protecting students' ability to access education, in part by assisting the Department of Education in enforcing civil rights law in schools, including Title IX of the 1972 Education Amendments. Title IX prohibits sex-based discrimination in federally-funded educational programs and requires institutions to address campus sexual violence.⁷

⁵ See CHRISTOPHER P. KREBS ET AL., THE CAMPUS SEXUAL ASSAULT (CSA) STUDY: FINAL REPORT at 6-3 (2007), <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>.

⁶ See THE WHITE HOUSE COUNCIL ON WOMEN AND GIRLS, RAPE AND SEXUAL ASSAULT: A RENEWED CALL TO ACTION 9-10 (2014), https://www.whitehouse.gov/sites/default/files/docs/sexual_assault_report_1-21-14.pdf.

⁷ See Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 § 901(a), 86 Stat. 235, 373 (codified at 20 U.S.C. § 1681(a)(2012)).

Throughout his career, Sen. Sessions has fought the educational civil rights he would now be tasked with enforcing. For instance, he attacked the bipartisan Individuals with Disabilities in Education Act (IDEA), which was passed to ensure that disabled students could access public education alongside their able-bodied peers.⁸ Sen. Sessions characterized the law itself—rather than discrimination against disabled students—as an “irritating problem” and “really unacceptable”.⁹

Given his comments excusing sexual assault and his vote against the Campus SaVE Act, we are particularly concerned with Sen. Sessions’s apparent lack of commitment to addressing gender violence in schools. For too long, gender-based violence in our nation’s schools has been swept under the rug, impeding victims’ access to education and frustrating Title IX’s equality mandate.

One in five women, as well as many men and gender nonconforming students, will experience sexual violence during their time in college.¹⁰ This violence often limits, or outright precludes, victims’ ability to learn. Many survivors go to great lengths to avoid their perpetrators on campus, skipping shared classes,¹¹ or avoiding shared extracurriculars. Without support and accommodation, formerly successful students watch their grades drop as they struggle to participate in, or even attend, their classes.¹² Still other survivors report withdrawing from their classes or universities as a result.¹³ These effects are often exacerbated when a perpetrator remains on campus or when schools fail to support victims in the wake of violence.

Because gender-based violence jeopardizes victims continued access to education, courts have long recognized that schools receiving federal funding are required by Title IX to address

⁸ See Valerie Strauss, *Trump’s pick for attorney general once linked special education law to ‘decline in civility’ in classrooms*, WASH. POST (Dec. 2, 2016), https://www.washingtonpost.com/news/answer-sheet/wp/2016/12/02/sen-sessions-once-linked-special-education-law-to-decline-in-civility-in-classrooms/?utm_term=.d4dfa0d62b8a.

⁹ *Id.*; see also *Education Discipline and IDEA*, THE OFFICE OF SENATOR JEFF SESSIONS, <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=a7977b1d-7e9c-9af9-753e-8f3a8b3b43fb> (last visited Jan. 6, 2016).

¹⁰ See KREBS, *supra* note 5, at 5-3.

¹¹ See Rebecca Marie Loya, *Economic Consequences of Sexual Violence for Survivors: Implications for Social Policy and Social Change* 96 (June 2012) (unpublished Ph.D. dissertation, Brandeis University) (on file with Know Your IX) (quoting a legal services provider stating that “Probably like 95% of the time, students will skip class for one reason or another. And, I mean, the reasons are because the perp’s in the class, because the perp’s friends are in the class, because, sometimes schoolwork just gets to be too much, again in the aftermath of the assault. Sometimes, they’ve come out to the professor as a survivor, and the professor hasn’t . . . been particularly supportive, so they won’t go back to the class. Sometimes it’s because they know that on their way to the class, they’ll see the perp because of their schedules or whatever. Sometimes they might be in different majors with different course studies, but they’ll have like a 101 class together, so that something will intersect, so they’ll stop going to the 101 class. So they won’t stop their studies on their own plane, but they’ll stop the ones that intersect with the perp”).

¹² See Cari Simon, *On Top of Everything Else, Sexual Assault Hurts the Survivors’ Grades*, WASH. POST: POST EVERYTHING (Aug. 6, 2014), <https://www.washingtonpost.com/posteverything/wp/2014/08/06/after-a-sexual-assault-survivors-gpas-plummet-this-is-a-bigger-problem-than-you-think>.

¹³ *Id.*

campus violence and address its effects.¹⁴ Unfortunately, as students have made clear time and time again, too few schools live up to their legal obligations.¹⁵

In recent years, the Department of Justice, alongside the Department of Education, has taken great strides in combating gender-based violence in schools, releasing key guidance documents clarifying schools' legal obligation to promptly and equitably respond to reports of sexual assault, intervening in litigation against schools, and ensuring that the Title IX rights of college students are robustly enforced.

Safe and equitable schools depend on an Attorney General who is committed to maintaining the Department's progress towards ending gender-based violence and ensuring that all students can pursue their education free from discrimination, harassment, and violence. Sen. Sessions's demonstrated hostility to educational civil rights, combined with his failure to condemn sexual violence, raises serious questions about his fitness to oversee the Educational Opportunities Section as Attorney General.

* * *

As Attorney General, Sen. Sessions would be tasked with fairly enforcing the laws that allow survivors of violence to seek justice, without bias on the basis of race, national origin, religion, sexual orientation, gender identity, or disability. This is particularly important because women of color, LGBTQ people, and people with disabilities face extremely high rates of gender-based violence and uniquely severe barriers to reporting assault and accessing accommodations.¹⁶ Therefore, we are deeply concerned by Sen. Sessions's long record of racially-insensitive statements and hostility towards civil rights. As Attorney General of Alabama, Sen. Sessions led a false and baseless prosecution of African-American civil rights activists;¹⁷ he has disparagingly

¹⁴ See e.g., *Gebser v. Lago Vista Indep. Sch. Dist.* 524 U.S. 274, 292 (1998) (tasking the Department of Education with "administering and enforcing Title IX, see 20 U.S.C. § 1682").

¹⁵ See Tyler Kingkade, *Harvard Forced Sexual Assault Victim to Live By Abuser, Lawsuit Claims*, HUFFINGTON POST (Feb. 17, 2016), <http://huff.to/1oqH9is>; U.S. Department of Education Releases List of Higher Education Releases List of Higher Education Institutions with Open Title IX Sexual Violence Investigations, U.S. DEP'T EDUC., (May 1, 2014), <http://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-ix-sexual-violence-investigations>; Walter Bogdanich, *A Star Player Accused, and a Flawed Rape Investigation*, N.Y. TIMES (Apr. 16, 2014), <http://www.nytimes.com/interactive/2014/04/16/sports/errors-in-inquiry-on-rape-allegations-against-fsu-jameis-winston.html>

¹⁶ See ERIKA HARRELL, CRIMES AGAINST PERSONS WITH DISABILITIES, 2009-2012 – STATISTICAL TABLES (2014), <https://www.bjs.gov/content/pub/pdf/capd0912st.pdf>; BLACK ET AL., THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY (NISVS): 2010 SUMMARY REPORT (2011), https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf; BLACK ET AL., THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY (NISVS): 2010 FINDINGS ON VICTIMIZATION BY SEXUAL ORIENTATION (2011), https://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf.

¹⁷ See Ari Berman, *Jeff Sessions, Trump's Pick for Attorney General, Is a Fierce Opponent of Civil Rights*, THE NATION (Nov. 18, 2016), <https://www.thenation.com/article/jeff-sessions-trumps-pick-for-attorney-general-is-a-fierce-opponent-of-civil-rights/>.

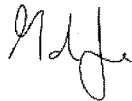
called the Voting Rights Act a “piece of intrusive legislation”¹⁸ and civil rights organization like the NAACP “un-American”.¹⁹ When Sen. Sessions was nominated for federal judgeship in 1985, his Justice Department colleagues testified under oath that Mr. Sessions repeatedly referred to an African-American attorney as “boy” and told him to “be careful what you say to white folks”.²⁰ Sen. Sessions even once joked about thinking the KKK were “okay”.²¹ He is a longtime opponent of LGBTQ rights²² and has closely associated himself with organizations founded by white supremacist John Tanton.²³

We respect the Senate’s responsibility to give due consideration to nominees put forth by the President of the United States and to ensure Sen. Sessions has a fair hearing before the Senate and the nation. We urge you to carefully and fully consider Sen. Sessions’s record on violence against women and girls as part of this process, and the critical role of the Attorney General in the ongoing project of ensuring survivors in the United States can access their educations, medical care, housing, and justice. At a time when this country has begun to acknowledge the pervasiveness of sexual assault, we can neither turn our backs on survivors, nor ignore the essential role our leaders play—through both their words and actions—in preventing it. We believe that a fair assessment of Sen. Sessions’s record on violence against women and girls will yield the same conclusion we have reached: Sen. Sessions’s record is disqualifying.

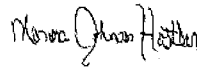
Thank you for your consideration and your commitment to ending gender violence in our country.

If you have any questions, please contact Mahroh Jahangiri at mahroh@knowyourix.org.

Sincerely,



Mahroh Jahangiri
Executive Director
Know Your IX



Monika Johnson Hostler
President
National Alliance to End Sexual Violence

¹⁸ *Id.*

¹⁹ See Matt Apuzzo, *Specter of Race Shadows Jeff Sessions, Potential Trump Nominee for Cabinet*, N.Y. TIMES (Nov. 18, 2016), http://www.nytimes.com/2016/11/17/us/politics/specter-of-race-shadows-jeff-sessions-potential-trump-nominee-for-cabinet.html?_r=0.

²⁰ *Id.*

²¹ *Id.*

²² See Trudy Ring, *AG Pick Jeff Sessions Got a Zero on HRC’s Scorecard*, THE ADVOCATE (Nov. 18, 2016), <http://www.advocate.com/politics/2016/11/18/ag-pick-jeff-sessions-got-zero-hrcs-scorecard>.

²³ See Stephen Piggott, *Jeff Sessions: Champion of Anti-Muslim and Anti-Immigrant Extremists*, THE SOUTHERN POVERTY LAW CENTER, <https://www.splcenter.org/hatewatch/2016/11/18/jeff-sessions-champion-anti-muslim-and-anti-immigrant-extremists> (last visited Jan. 6, 2017).



Hon. Mitch McConnell, Maj. Leader
U.S. Senate
S230 US Capitol
Washington, DC 20510

Hon. Charles Schumer, Min. Leader
U.S. Senate
S221 US Capitol
Washington, DC 20510

Hon. Chuck Grassley, Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Hon. Dianne Feinstein, Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

January 9, 2017

**RE: LETTER FROM LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW
IN OPPOSITION TO SENATOR JEFFERSON SESSIONS' NOMINATION TO SERVE
AS ATTORNEY GENERAL OF THE UNITED STATES**

Dear Leader McConnell, Leader Schumer, Chairman Grassley, and Senator Feinstein:

We, the undersigned members of the Board of Directors and Trustees of the Lawyers' Committee for Civil Rights Under Law, write to present our statement regarding the nomination of Senator Jefferson Sessions to serve as Attorney General of the United States. This statement is endorsed as well by several Board members of our affiliates in Boston, Chicago, Denver, Jackson, Los Angeles, Philadelphia, San Francisco and Washington, D.C., whose names follow the statement. Since its creation in 1963, at the urging of President John F. Kennedy, the Lawyers' Committee for Civil Rights Under Law has been devoted to the recognition and enforcement of civil rights in the United States.

While we have seen significant progress in our nation, the challenges of unlawful discrimination remain. Recognizing the Attorney General's critical role in civil rights enforcement and the central role that the Department of Justice plays in our democracy, the Lawyers' Committee has evaluated the record of Senator Sessions to determine if the nominee's record demonstrates a commitment to upholding and enforcing the Constitution and civil rights laws, ensuring equal justice under the law and promoting the rule of law. We enclose a written statement which summarizes the result of our review. Our key conclusions are set forth below.

Voting Rights Act

One of the core priorities of the Lawyers' Committee for Civil Rights Under Law is ensuring compliance with the Voting Rights Act of 1965. Senator Sessions' political career demonstrates hostility towards the principles underlying federal civil rights laws, such as the Voting Rights Act, that spans over thirty years.¹

In response to the U.S. Supreme Court's 2013 decision in *Shelby County, Alabama v. Holder* which gutted Section 5 of the Voting Rights Act, Senator Sessions stated, "if you go to



Alabama, Georgia, North Carolina, people aren't being denied the vote because of the color of their skin." However, the ongoing work of the Lawyers' Committee indicates otherwise. Indeed, we have filed several voting rights lawsuits in all three states in the past year alone.¹²³⁴ While Senator Sessions voted in favor of reauthorizing the expiring provisions of the Voting Rights Act in 2006, during his 1986 confirmation hearing, Senator Sessions described the Act as a "piece of intrusive legislation." This disdain for one of our nation's most important federal civil rights laws is particularly problematic at a moment in which we continue to see ongoing voting discrimination and voter suppression across our country.

The Lawyers' Committee knows the reality of voting discrimination and voter suppression all too well having filed more than a dozen such cases in 2016 alone. Our nation requires an Attorney General who recognizes the existence of voting discrimination and who will use the Voting Rights Act as a tool to confront it. There is no evidence in Senator Sessions' record that suggests he would bring any meaningful commitment to attacking voting discrimination.

Pattern or Practice Investigations of Police Departments

In a new report issued by the Justice Department on January 4, 2017, confirmed that there are currently 18 open agreements in pattern or practice policing cases, including 14 court-enforced consent decrees. In the introduction to a 2008 paper published by the Alabama Police Institute, Senator Sessions condemned such investigations and consent decrees as an abuse of federal authority.⁵ "Consent decrees have a profound effect on our legal system as they constitute an end run around the democratic process," he wrote. This statement suggests that Senator Sessions will not carry forward the critical work of the Justice Department in this area and may abandon the violations addressed by the 18 existing agreements. Such a result would dismantle years of work to restore constitutional policing practices at offending law enforcement agencies across the country.

Hate Crimes

Senator Sessions fiercely opposed the 2009 Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. The Act extended federal hate crime protections to people victimized because of their sexual orientation, gender or gender identity, or disability. The law mandates that the Attorney General – or a designee – sign off on all criminal prosecutions brought under the Act. But, we have seen a significant uptick in the number of hate crimes and hate-inspired incidents across the country in the last several weeks of 2016. This moment requires an Attorney General who brings a deep commitment to aggressive enforcement of our nation's laws addressing hate to

¹ *NAACP v. State of Ala.*, 2:16-cv-00731 (M.D. Ala. 2016).

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⁴ *N. Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

⁵ <http://www.alabamapolice.org/wp-content/uploads/API-Research-Consent-Decrees.pdf>



help turn the tide on this pattern of growing hostility and intolerance. Senator Sessions' record raises grave concerns that he would bring such commitment to the job.

Opposition to Federal Civil Rights Legislation

On a range of civil rights matters, Senator Sessions has consistently and often stood opposed. In 2013, Senator Sessions voted against the 2013 reauthorization of the Violence Against Women Act. In 2013, Senator Sessions opposed the bipartisan immigration reform that passed the Senate. In 2009, Senator Sessions voted against the Lilly Ledbetter Fair Pay of 2009. In 2006, Senator Sessions supported a federal constitutional amendment to ban same-sex marriage. In 2002, Senator Sessions voted against a bill that would have expanded the definition of hate crimes to incorporate acts committed because of a victim's sex, sexual orientation or disability and permit the federal government to help states prosecute hate crimes even if no federally protected action was implicated. In 1997, Senator Sessions co-sponsored the Civil Rights Act of 1997, a bill which would have eliminated affirmative action by the federal government in connection with federal contracts, employment, or other programs by the activities.

Conclusion

The nation needs an Attorney General who has a record of supporting civil rights laws and the principles underlying them, and taking actions that demonstrate this commitment. Unfortunately, the record demonstrates that Senator Sessions does not have the commitment to upholding and enforcing the Constitution and civil rights laws, ensuring equal justice under the law and promoting the rule of law. His confirmation would place at the head of the Justice Department a person, who will not be a vigorous force in promoting the cause of equal justice under law to which this nation has long been committed.

Respectfully,

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cc: Senate Judiciary Committee

January 9, 2017

Chairman Grassley, Ranking Member Feinstein, and Members of the Senate Judiciary Committee,

I write to you on behalf of Lawyers for Good Government (L4GG), a coalition of more than 120,000 lawyers, law professors, law school deans, paralegals, law students, and activists, regarding the nomination of Senator Jeff Sessions to be the next Attorney General of the United States.

Lawyers for Good Government members are committed to civil liberties, human rights, and a government that protects the life, liberty, and happiness of all Americans. For that reason, we believe the next Attorney General - who will be the top law enforcement officer in the United States - must be someone who can be trusted to:

- protect civil rights, democratic institutions, the rule of law, and judicial independence;
- safeguard Constitutional rights; and
- remain sufficiently independent to prosecute criminal acts including those that may implicate the President of the United States.

We urge the Senate Judiciary Committee to conduct a thorough investigation of the nominee, and carefully consider the issues raised by those who have concerns about this selection.

As you have made clear, the Committee has a "critical role in providing oversight of the Department of Justice and the agencies under the Department's jurisdiction, including the Federal Bureau of Investigation, and the Department of Homeland Security . . ."¹

Your review of the nominee to be the next Attorney General of the United States may be one of your most critical decisions concerning the rule of law and the next Administration.

Below are some of the issues the Senate Judiciary Committee must address when considering the nomination of Senator Jeff Sessions.

¹ United States Senate Committee on the Judiciary, "Jurisdiction," <https://www.judiciary.senate.gov/about/jurisdiction>

Civil Rights

The right to equal treatment under the law is a cornerstone of our American system of justice. The battle for equal justice for minority groups in this country is not over. The Attorney General must be vigilant in investigating and prosecuting discrimination in housing, education, employment, treatment by law enforcement, hate crimes, or wherever it appears in our society.

Before voting to confirm, the Senate should be assured that the nominee will give the protection of civil rights the highest priority.

Voting Rights and Free and Fair Elections

The right to participate in the election of our political leaders is central to our democratic form of government.

A core responsibility of the Attorney General is to enforce the Voting Rights Act and remove obstacles to voter participation, such as Voter ID requirements. The Attorney General also must ensure that elections are not interfered with by foreign powers.

Before voting to confirm, the Senate should be assured that the nominee will faithfully uphold the Voting Rights Act, oppose state measures to establish burdensome voting requirements, fully investigate allegations that foreign powers have interfered with U.S. elections (including hacking and exposing private communications), and report the findings to the American people.

Criminal Justice Reform

Incarceration rates in the United States are far beyond those of any other democratic government in the world. The impact of criminal sentencing falls disproportionately upon people of color and those in low-income communities.

Before voting to confirm, the Senate should be assured that the nominee will address criminal justice reform issues to ensure equal justice for all and prevent over-criminalization, including fully investigating allegations of civil rights violations by local law enforcement agencies and prosecuting appropriate cases.

Women's Rights

Our country has made meaningful progress over the past several decades with respect to women's rights, and the protection of women's rights (including the right to bodily integrity and autonomy, the right to be free from sexual violence, and the right to equal pay and equal opportunity) must continue to be a national priority.

Before voting to confirm, the Senate should ensure that the nominee will defend the rights of women in this country and enforce laws regarding discrimination, rape, sexual assault, domestic abuse, and stalking.

Disability Rights

Over the past several decades, milestones such as the Americans with Disabilities Act, the Individuals with Disabilities in Education Act, and the regulations enforcing the *Olmstead v. L.C.* decision have transformed the lives of people with disabilities in this country. The rights granted by these laws have helped restore dignity to a population that has been marginalized and faced extreme discrimination throughout history, increased access and acceptance for people with disabilities, and provided a much-needed boost to millions of Americans who rarely receive equal or inclusive treatment.

Before voting to confirm, the Senate must ensure that the nominee will defend people with mental, emotional, physical, sensory and other disabilities by ensuring that the ADA, IDEA, and other laws are enforced to their full extent, and that the rights of persons with disabilities are not diminished, ignored, or denied.

LGBTQ Rights

Our country has made enormous progress in recent years, recognizing the fundamental right of all people to love who they wish and to make a family life as they choose. This hard-won progress has come at enormous cost and we cannot let our country move backward.

The Attorney General must act forcefully against those who commit hate crimes, and must defend the fundamental rights of members of the LGBTQ community against those who seek to deny those rights.

Before voting to confirm, the Senate should be assured that the nominee will defend the rights of those in the LGBT community.

Religious Freedom

The First Amendment defends the right of all people to enjoy the free exercise of their religious beliefs and prohibits the establishment of any state religion. But many people in the United States now have reason to fear that the government will discriminate against them merely for their religious views.

Before voting to confirm, the Senate should be assured that the nominee will defend the religious freedoms of all people.

Government Accountability: Freedom of Information Act and Privacy Act

For more than forty years, the United States has relied on two laws to ensure the transparency of government and the privacy of those about whom the government gathers personal information. Both the Freedom of Information Act (FOIA) and the Privacy Act enjoy strong bipartisan support. The Attorney General has a central responsibility for enforcing both laws.

The Attorney General must not place obstacles before those who seek access to government information, and at the same time, must ensure that personal information is safeguarded and used only for appropriate purposes.

Before voting to confirm, the Senate should be assured that the nominee will maximize disclosure under FOIA, avoiding unnecessary delay and litigation, while safeguarding the personal data retained by the government.

Conflicts of Interest

Among the most difficult but essential tasks of the Attorney General is to enforce the rule of law, including against elected officials. No one in the United States is above the law - and conflicts of interest, if ignored, will have a corrosive effect on our democratic government and the rule of law.

Before voting to confirm, the Senate should be assured that the nominee will fully investigate and prosecute conflicts of interest, even if they implicate members of the same political party as the nominee and/or the offices of the President, Congress, and the Supreme Court. On this point, there can be no backing down. If the nominee indicates any reluctance or hesitancy on this point, we will urge you to oppose the nomination.

Thank you for considering our views.

Sincerely,

Traci Feit Love, Founder
Lawyers for Good Government



Hon. Mitch McConnell, Maj. Leader
U.S. Senate
S230 US Capitol
Washington, DC 20510

Hon. Charles Schumer, Min. Leader
U.S. Senate
S221 US Capitol
Washington, DC 20510

Hon. Chuck Grassley, Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Hon. Dianne Feinstein, Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

January 9, 2017

**RE: LETTER FROM LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW
IN OPPOSITION TO SENATOR JEFFERSON SESSIONS' NOMINATION TO SERVE
AS ATTORNEY GENERAL OF THE UNITED STATES**

Dear Leader McConnell, Leader Schumer, Chairman Grassley, and Senator Feinstein:

We, the undersigned members of the Board of Directors and Trustees of the Lawyers' Committee for Civil Rights Under Law, write to present our statement regarding the nomination of Senator Jefferson Sessions to serve as Attorney General of the United States. This statement is endorsed as well by several Board members of our affiliates in Boston, Chicago, Denver, Jackson, Los Angeles, Philadelphia, San Francisco and Washington, D.C., whose names follow the statement¹. Since its creation in 1963, at the urging of President John F. Kennedy, the Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) has been devoted to the recognition and enforcement of civil rights in the United States.

While we have seen significant progress in our nation, the challenges of unlawful discrimination remain. Recognizing the Attorney General's critical role in civil rights enforcement and the central role that the Department of Justice plays in our democracy, the Lawyers' Committee has evaluated the record of Senator Sessions to determine if the nominee's record demonstrates a commitment to upholding and enforcing the Constitution and civil rights laws, ensuring equal justice under the law and promoting the rule of law. We enclose a written statement which summarizes the result of our review. Our key conclusions are set forth below.

Voting Rights Act

One of the core priorities of the Lawyers' Committee for Civil Rights Under Law is ensuring compliance with the Voting Rights Act of 1965. Senator Sessions' political career

¹Affiliate organizations include: Public Counsel; The Public Interest Law Center; Colorado Lawyers' Committee; The Lawyers' Committee for Civil Rights and Economic Justice; The Lawyers' Committee for Civil Rights of the San Francisco Bay Area; Chicago Lawyers' Committee for Civil Rights Under Law, Inc.; Mississippi Center for Justice; and the Washington Lawyers' Committee for Civil Rights and Urban Affairs.



demonstrates hostility towards the principles underlying federal civil rights laws, such as the Voting Rights Act, that spans over thirty years.¹

In response to the U.S. Supreme Court's 2013 decision in *Shelby County, Alabama v. Holder* which gutted Section 5 of the Voting Rights Act, Senator Sessions stated, "if you go to Alabama, Georgia, North Carolina, people aren't being denied the vote because of the color of their skin." However, the ongoing work of the Lawyers' Committee indicates otherwise. Indeed, we have filed several voting rights lawsuits in all three states in the past year alone.²³⁴⁵ While Senator Sessions voted in favor of reauthorizing the expiring provisions of the Voting Rights Act in 2006, during his 1986 confirmation hearing, Senator Sessions described the Act as a "piece of intrusive legislation." This disdain for one of our nation's most important federal civil rights laws is particularly problematic at a moment in which we continue to see ongoing voting discrimination and voter suppression across our country.

The Lawyers' Committee knows the reality of voting discrimination and voter suppression all too well having filed more than a dozen such cases in 2016 alone. Our nation requires an Attorney General who recognizes the existence of voting discrimination and who will use the Voting Rights Act as a tool to confront it. There is no evidence in Senator Sessions' record that suggests he would bring any meaningful commitment to attacking voting discrimination.

Pattern or Practice Investigations of Police Departments

A new report issued by the Justice Department on January 4, 2017 confirmed that there are currently 18 open agreements in pattern or practice policing cases, including 14 court-enforced consent decrees. In the introduction to a 2008 paper published by the Alabama Police Institute, Senator Sessions condemned such investigations and consent decrees as an abuse of federal authority.⁶ "Consent decrees have a profound effect on our legal system as they constitute an end run around the democratic process," he wrote. This statement suggests that Senator Sessions will not carry forward the critical work of the Justice Department in this area and may abandon the violations addressed by the 18 existing agreements. Such a result would dismantle years of work to restore constitutional policing practices at offending law enforcement agencies across the country.

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Senator Sessions fiercely opposed the 2009 Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. The Act extended federal hate crime protections to people victimized because of their sexual orientation, gender or gender identity, or disability. The law mandates that

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the Attorney General – or a designee – sign off on all criminal prosecutions brought under the Act. But, we have seen a significant uptick in the number of hate crimes and hate-inspired incidents across the country in the last several weeks of 2016. This moment requires an Attorney General who brings a deep commitment to aggressive enforcement of our nation's laws addressing hate to help turn the tide on this pattern of growing hostility and intolerance. Senator Sessions' record raises grave concerns that he would bring such commitment to the job.

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Conclusion

The nation needs an Attorney General who has a record of supporting civil rights laws and the principles underlying them, and taking actions that demonstrate this commitment. Unfortunately, the record demonstrates that Senator Sessions does not have the commitment to upholding and enforcing the Constitution and civil rights laws, ensuring equal justice under the law and promoting the rule of law. His confirmation would place at the head of the Justice Department a person, who will not be a vigorous force in promoting the cause of equal justice under law to which this nation has long been committed.

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 Ekow N. Yankah
 Judy Yun

Denver, CO
 New York, NY
 Denver, CO
 Irvine, IL
 Denver, CO
 Los Angeles, CA
 Columbus, OH
 Philadelphia, PA
 New York, NY
 Berkeley, CA
 Atlanta, GA
 St. Louis, MO
 Chicago, IL
 Denver, CO
 Philadelphia, PA
 New York, NY
 Philadelphia, PA

cc: Senate Judiciary Committee

**The Leadership Conference
on Civil and Human Rights**

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December 1, 2016

**AN OPEN LETTER TO THE UNITED STATES SENATE
Civil and Human Rights Organizations Oppose Confirmation of Jeff Sessions**

Dear Majority Leader McConnell, Democratic Leader Reid, Chairman Grassley, and Ranking Member Leahy:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations committed to promote and protect the civil and human rights of all persons in the United States, and the 144 undersigned organizations, we are writing to express our strong opposition to the confirmation of Senator Jefferson B. Sessions (R-AL) to be the 84th Attorney General of the United States.

Senator Sessions has a 30-year record of racial insensitivity, bias against immigrants, disregard for the rule of law, and hostility to the protection of civil rights that makes him unfit to serve as the Attorney General of the United States. In our democracy, the Attorney General is charged with enforcing our nation's laws without prejudice and with an eye toward justice. And, just as important, the Attorney General has to be seen by the public – every member of the public, from every community – as a fair arbiter of justice. Unfortunately, there is little in Senator Sessions' record that demonstrates that he would meet such a standard.

In 1986, when then-U.S. Attorney Sessions was nominated by former President Ronald Reagan to serve as a judge on the U.S. District Court for the Southern District of Alabama, the Republican-controlled Senate upheld its constitutional duty, undertaking a careful and comprehensive review of his record at that time. The Judiciary Committee was presented with compelling evidence that then-U.S. Attorney Sessions had a deeply troubling record as an opponent of civil rights enforcement, a champion of voter suppression tactics targeting African Americans, and a history of making racially-insensitive statements. This record included warning an African-American colleague to be careful about what he said "to white folks," and speaking favorably about the Ku Klux Klan, as well as his prosecution of three African-American voting rights activists on dozens of charges that were promptly rejected by a jury.¹

As you know, the Attorney General is our nation's highest law enforcement official, with a particular responsibility to protect the civil and human rights of all Americans. The Leadership Conference opposes Senator Sessions' nomination to become Attorney General, in part, because of the previous record we have cited. However, it would be a grave mistake to assume that our opposition is based only on incidents prior to his judicial nomination.

Officers
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Julie L. Lichten
National Partnership for
Women's Equality
Vice Chairs
Jacobine Pitt
National Congress of American Indians
Thomas A. Swartz
National American Legal
Education and Educational Fund
Hilary Shelton
NAACP
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Jo Ann Jenkins
AARP
Treasurer
Lee A. Saunders
American Federation of State,
County & Municipal Employees
Board of Directors
Helen Berger
American Association of
People with Disabilities
Cornellis E. Brooks
NAACP
Kaiser Family
Foundation Committee for
Civil Rights Under Law
U.S. Education Alliance
National Education Association
Marcy D. Greenberger
National Women's Law Center
Craig Smith
Human Rights Campaign
Walter Wigglesworth
League of Women Voters of the
United States
Mary Kay Henry
Service Employees International Union
Mexican American
Aguilar
Shirley Gill
NAACP Legal Defense and
Educational Fund, Inc.
Michael B. Reagan
People for the American Way
Samuel E. Hays
American-Arab
Anti-Discrimination Committee
Hani Moten
National Urban League
Nile Mose
Asian American Advancing Justice
AAJC
Janet Murray
National Council of La Raza
Debra Nade
National Partnership for
Women & Families
Terry O'Hall
National Organization for Women
Robin Jordan Fisher
Religious Action Center
Orlando Jackson
Anthony Romero
American Civil Liberties Union
Shanna Smith
National Fair Housing Alliance
Richard L. Trumbull
APC-CO
Ramon Vega-Sanchez
American Federation of Teachers
Dennis Williams
International Union, UAW
William Yoshino
Japanese American Citizens League
**Policy and Enforcement
Committee Chair**
Michael L. Goodman
Anti-Defamation League
President & CEO
Vicki J. Henderson
Executive Vice President & COO
Karen McGill Lawson



Indeed, the following are examples of his actions as a Senator over the past 20 years that raise very disturbing questions about his fitness to serve as Attorney General:ⁱⁱ

Voting Rights: In addition to his failed 1985 prosecution of three voting rights activists who were working to increase African-American registration and turnout, Senator Sessions has voiced strong support for restrictive voter ID laws that have had the effect of disenfranchising many otherwise eligible voters, called the Voting Rights Act “intrusive” as it seeks to protect eligible minority voters, and praised the Supreme Court ruling in *Shelby County v. Holder* (2013) that gutted a key part of the Voting Rights Act of 1965. This is hardly the record of someone to be entrusted with the protection of voting rights for all Americans.

Association with White Nationalist and Hate Groups regarding Immigration Policy: Senator Sessions has been a fierce opponent of comprehensive immigration reform, referring to a bipartisan 2007 bill as “terrorist assistance.” He has closely associated himself with NumbersUSA, the Federation for American Immigration Reform, and the Center for Immigration Studies, all three of which were founded by John Tanton, who held white nationalist beliefs and called for the preservation of a “European-American majority.” Senator Sessions has also received awards from the David Horowitz Freedom Center and Frank Gaffney’s Center for Security Policy, two organizations designated as anti-Muslim hate groups by the Southern Poverty Law Center.

Hate Crimes and LGBT Rights: Senator Sessions opposed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, even though a unanimous Supreme Court had long ago upheld a similar state law in *Wisconsin v. Mitchell* (1993). This is particularly disturbing at a time when there have reportedly been more than 700 hate incidents committed in the weeks since the election. The next Attorney General must recognize that hate crimes exist, and vigorously investigate them.

In addition, on LGBT rights, Senator Sessions supported a constitutional amendment to ban same-sex marriage. He also opposed the repeal of “Don’t Ask Don’t Tell.”

Women’s Rights: Senator Sessions has consistently opposed legislation to advance women’s rights, notably opposing multiple efforts to address the pay gap, to protect women’s access to reproductive health services, which disproportionately affect low-income women and women of color, and to address the scourge of violence against all women. Specifically, Senator Sessions opposed the Lilly Ledbetter Fair Pay Act of 2009,ⁱⁱⁱ enabling women to file ongoing pay discrimination claims, and has voted multiple times against consideration of the Paycheck Fairness Act.^{iv} Senator Sessions also opposed Title X funding legislation, which supports contraception, breast cancer screening and other health services for low-income women. In addition, Senator Sessions repeatedly voted to defund Planned Parenthood, and in 2014, he voted against S.2578^v to fix the *Hobby Lobby* decision by prohibiting employers from denying coverage of any health care service, such as contraception, required under federal law. Senator Sessions also opposed the reauthorization of the Violence Against Women Act in 2013,^{vi} and when then-candidate Donald Trump was revealed in a 2005 video to have made comments bragging about physically forcing himself on women, Senator Sessions declined to condemn the remarks, even questioning whether the comments described sexual assault.^{vii}



Criminal Justice Reform: Though Senator Sessions was a longtime supporter of eliminating sentencing disparities between crack and powder cocaine offenses, he has since been an ardent supporter of maintaining draconian mandatory minimum sentences. Recently, Senator Sessions helped to block broad-based, bipartisan efforts to reduce sentences for certain nonviolent drug offenses. He also opposed the President's initiative to address disparities and restore fairness to the justice system through the use of his constitutionally granted executive clemency power.^{viii} He criticized the Department of Justice's Smart on Crime Initiative, which has focused on prosecuting fewer but "more serious" drug cases and over the last three years, has contributed to a 20 percent reduction in overcrowding in the federal Bureau of Prisons.^{ix} Finally, Senator Sessions condemned the Department of Justice's use of its powers to investigate law enforcement agencies accused of misconduct and a "pattern or practice" of violating civil rights, calling consent decrees that mandate reform following these investigations "an end run around the democratic process."^x

Failing to Protect our Communities from Pollution and Climate Change: Climate change and environmental degradation disproportionately affect low-income families and communities of color. Senator Sessions has a long record of voting against protections for our clean air, water, and climate. Among his many anti-environmental votes, in 2015 he voted for the resolution to kill the clean power plan^{xi} and for the Barrasso bill^{xii} to deny protections for streams that provide drinking water for 113 million Americans. In 2012, he supported a resolution that would roll back protections from toxic mercury.^{xiii} America needs and deserves an Attorney General who will take into account the health and safety of all communities. Senator Sessions is not qualified in this regard and cannot be counted on to protect our air, water, and climate.

Rights of People with Disabilities: Senator Sessions opposed efforts to implement Alabama's obligation to provide community-based services to individuals with disabilities who were needlessly institutionalized. In addition, he called the Individuals with Disabilities Education Act's requirements to include children with disabilities in mainstream education "the single most irritating problem for teachers throughout America today" and "a big factor in accelerating the decline in civility and discipline in classrooms all over America."^{xiv} This opposition to integration and inclusion is extremely concerning given the active role that the Justice Department plays in enforcing the Americans with Disabilities Act to enable people with disabilities to live independent lives, be full participants in their communities, and to be educated in neighborhood schools and regular classrooms. Senator Sessions also opposed ratification of the Convention on the Rights of Persons with Disabilities.

These aspects of Senator Sessions' record are among those that led The Leadership Conference to believe that he should not be confirmed as our next Attorney General. At the very least, these issues must be fully aired and deliberated before each Senator makes a final decision with respect to his nomination—otherwise, the Senate's constitutional duty to provide "advice and consent" would be reduced to a mere farce.

Given Senator Sessions' record and public statements, the burden should be on him to prove to the Judiciary Committee, the Senate, and the American people – especially to communities of color and



immigrant communities -- that he can be trusted with the tremendous power of the U.S. Justice Department to enforce our nation's civil rights and immigration laws with integrity, fairness, and a sense of justice.

The burden on Senator Sessions is not to prove that he is not a "racist." For the record, The Leadership Conference has never made such an allegation, as we do not claim to know what has been in his heart when he has taken the actions and made the statements we have described above. Nevertheless, we believe those actions and statements are themselves disqualifying.

This is notwithstanding our recognition that Senator Sessions' record does include some positive actions. For example, the Southern Poverty Law Center, while expressing opposition to his confirmation, acknowledged that he was helpful in the Center's successful effort to sue and bankrupt the Ku Klux Klan following its role in the 1981 lynching death of Michael Donald. The Leadership Conference also worked with Senator Sessions in an effort that culminated in the passage of the Fair Sentencing Act of 2010, which reduced racial disparities in federal cocaine sentencing provisions. While these actions are noteworthy, they do not change our conclusion that Senator Sessions' overall record is too troubling for him to be confirmed as Attorney General.

The collegiality that ordinarily governs Senate decorum is no substitute for, and must not supersede, the Senate's profoundly important duty to vigorously and fairly review each nominee who comes before it. We believe that based on this review, there can be only one conclusion: Senator Sessions is the wrong person to serve as the U.S. Attorney General.

Thank you for your consideration of our views. If you would like to discuss this matter further, please contact Wade Henderson, President and CEO, or Nancy Zirkin, Executive Vice President, at (202) 466-3311.

Sincerely,

The Leadership Conference on Civil and Human Rights
 9to5, National Association of Working Women
 Advancement Project
 Advocates for Youth
 AFL-CIO
 Alliance for Justice
 American Association for Access, Equity and Diversity (AAAED)
 American Baptist Women's Ministries
 American Federation of State, County and Municipal Employees
 American Federation of Teachers
 American Humanist Association
 American-Arab Anti-Discrimination Committee
 Americans for Democratic Action (ADA)
 Americans United for Change



Americans United for Separation of Church and State
 America's Voice Education Fund
 Asian & Pacific Islander American Health Forum
 Asian American Legal Defense and Education Fund (AALDEF)
 Asian American Psychological Association
 Asian Americans Advancing Justice - AAJC
 Asian and Pacific Islander American Vote (APIA Vote)
 Asian Pacific Institute on Gender-Based Violence
 Association of Asian Pacific Community Health Organizations
 Association of University Centers on Disabilities
 Bend The Arc Jewish Action
 Black Women's Roundtable
 Black Youth Vote!
 Bus Federation
 Campaign for the Fair Sentencing of Youth
 Center for American Progress
 Center for APA Women
 Center for Community Change Action
 Center for Health and Gender Equity (CHANGE)
 Center for Human Rights and Global Justice, NYU School of Law
 Center for Law and Social Policy (CLASP)
 Center for Responsible Lending
 Center for Women's Global Leadership, Rutgers University
 Center on Reproductive Rights and Justice at UC Berkeley School of Law
 Coalition for Disability Health Equity
 Coalition of Labor Union Women
 Communications Workers of America
 Constitutional Accountability Center
 Council of Parent Attorneys and Advocates
 CREDO
 Demand Progress
 Demos
 Disability Rights Education and Defense Fund
 Earthjustice
 Equal Justice Society
 Equal Rights Advocates
 Fair Elections Legal Network
 Family Equality Council
 Farmworker Justice
 Feminist Majority
 FIRM (Fair Immigration Reform Movement)
 Four Freedoms Forum
 Global Justice Clinic, NYU School of Law



GLSEN
 Human Rights Campaign
 IAWRT_USA (International Association of Women in Radio and TV)
 Immigrant Legal Resource Center
 In Our Own Voice: National Black Women's Reproductive Justice Agenda
 Institute for Science and Human Values
 Japanese American Citizens League
 Judge David L. Bazelon Center for Mental Health Law
 Laotian American National Alliance
 Latino Victory Project
 LatinoJustice PRLDEF
 League of United Latin American Citizens
 Legal Voice
 MALDEF
 MomsRising.org
 MoveOn.org
 Muslim Advocates
 NAACP
 NAACP Legal Defense and Educational Fund, Inc.
 NARAL Pro-Choice America
 National Abortion Federation
 National Action Network Washington Bureau
 National Advocates for Pregnant Women
 National Alliance for Partnerships in Equity (NAPE)
 National Alliance to End Sexual Violence
 National Asian American Pacific Islander Mental Health Association
 National Asian Pacific American Families Against Substance Abuse
 National Asian Pacific American Women's Forum
 National Association of Human Rights Workers
 National Association of Social Workers
 National Black Justice Coalition
 National CAPACD
 National Center for Law and Economic Justice
 National Center for Lesbian Rights
 National Center for Transgender Equality
 National Coalition on Black Civic Participation
 National Council of Asian Pacific Americans (NCAPA)
 National Council of Asian Pacific Islander Physicians
 National Council of Jewish Women
 National Council of La Raza (NCLR)
 National Council on Independent Living
 National Domestic Violence Hotline
 National Education Association



National Employment Law Project
 National Employment Lawyers Association
 National Fair Housing Alliance
 National Federation of Filipino American Associations
 National Hispanic Media Coalition (NHMC)
 National Korean American Service & Education Consortium (NAKASEC)
 National Latina Institute for Reproductive Health
 National Law Center on Homelessness & Poverty
 National Lawyers Guild
 National LGBTQ Task Force Action Fund
 National Network for Arab American Communities
 National Organization for Women
 National Partnership for Women & Families
 National Queer Asian Pacific Islander Alliance (NQAPIA)
 National Urban League
 National Women's Political Caucus
 NETWORK Lobby for Catholic Social Justice
 OCA - Asian Pacific American Advocates
 People For the American Way
 Planned Parenthood Federation of America
 PolicyLink
 Positive Women's Network - USA
 Prison Policy Initiative
 Project Vote
 Public Advocates Inc.
 Public Citizen
 Raising Women's Voices for the Health Care We Need
 SEIU
 Sierra Club
 Sikh American Legal Defense and Education Fund
 Southeast Asia Resource Action Center (SEARAC)
 Southern Poverty Law Center
 The Campaign Legal Center
 The National Council on Independent Living
 The Trevor Project
 The Voting Rights Institute
 Transformative Justice Coalition
 United Church of Christ, Justice and Witness Ministries
 United Food & Commercial Workers International Union
 Voices for Progress
 Voting Rights Forward
 Women Employed
 Women Enabled International



Women's Intercultural Network (WIN)
World Without Genocide
YWCA USA

ⁱ Lena Williams, "Senate Panel Hands Reagan First Defeat on Nominee for Judgeship," *New York Times*, June 6, 1986, at <http://www.nytimes.com/1986/06/06/us/senate-panel-hands-reagan-first-defeat-on-nominee-for-judgeship.html>
<https://www.washingtonpost.com/news/the-fix/wp/2015/06/23/the-gops-stunningly-rapid-political-shift-on-the-confederate-flag/>.

ⁱⁱ U.S. Senate Roll Call Votes 111th Congress - 1st Session at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00014

ⁱⁱⁱ U.S. Senate Roll Call Votes 113th Congress - 2nd Session at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=2&vote=00262

^{iv} U.S. Senate Roll Call Votes 113th Congress - 2nd Session at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=2&vote=00228

^v U.S. Senate Roll Call Votes 113th Congress- 1st Session at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=1&vote=00019

^{vi} Sean Sullivan, "Trump supporter Sen. Jeff Sessions reportedly said behavior Trump described in 2005 video is not sexual assault," *The Washington Post*, Oct. 10, 2016 at <https://www.washingtonpost.com/news/post-politics/wp/2016/10/10/trump-supporter-sen-jeff-sessions-reportedly-said-behavior-trump-described-in-2005-video-is-not-sexual-assault/>

^{vii} "President Obama's Unprecedented Commutations of Violent Drug, Gun Felons will inflict long-term harm on the Nation," *Press Statement of Senator Jeff Sessions*, Aug. 5, 2016 at <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=98A3011F-B35C-4223-92F4-857A5EC3E47F>

^{viii} "Federal Inmate Population Declines," *Federal Bureau of Prisons*, Oct. 4, 2016, at https://www.bop.gov/resources/news/20161004_pop_decline.jsp.

^{ix} Eli Hager, Alysia Santo and Simone Weichselbaum, "8 Ways Jeff Sessions Could Change Criminal Justice," *The Marshall Project*, Nov. 18, 2016, at <https://www.themarshallproject.org/2016/11/18/8-ways-jeff-sessions-could-change-criminal-justice?ref=hp-1-122#j2J1xp2lN>

^x U.S. Senate Roll Call Votes 114th Congress - 1st Session at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00306

^{xi} U.S. Senate Roll Call Votes 114th Congress - 1st Session at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00295

^{xii} U.S. Senate Roll Call Votes 112th Congress - 1st Session at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=112&session=2&vote=00139

^{xiv} Floor Statement, Education Discipline and IDEA (May 18, 2000), available at <http://www.sessions.senate.gov/public/index.cfm/2000/5/education-discipline-and-idea->.



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 Elizabeth Kristan
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 Henry Hewitt
 Cecilia Kim
 Ruth Silver Taube
 Daniela Urban
 Richard Zirin
 Diane L. Webb
Chief Program Officer and General Counsel
 Joan Messing Graff
President

January 5, 2017

Chairman Chuck Grassley
 Senate Judiciary Committee
 United States Senate

Ranking Member Diane Feinstein
 Senate Judiciary Committee
 United States Senate

Dear Chairman Grassley and Ranking Member Feinstein:

We write to express our strong opposition to the confirmation of Senator Jefferson B. Sessions as Attorney General of the United States. Legal Aid at Work is a nonprofit providing free legal services across California to low-income workers facing unlawful discrimination, unpaid wages and other injustices.

Given Senator Sessions' long and consistent record of hostility to civil and workers' rights, we believe he is unfit to serve as the nation's chief law enforcement officer. In 1986, a bipartisan majority of the Senate Judiciary Committee rejected him for a district court judgeship based on compelling evidence that he opposed civil rights enforcement, supported voter suppression tactics targeting African Americans, and had a history of making racially insensitive statements. Nothing in his record since then has demonstrated he has changed to become fit to serve as a fair arbiter of justice and protect the civil rights of all.

Senator Sessions has supported a constitutional amendment to ban same-sex marriage and associated closely with white nationalist and hate groups regarding immigration policy. And he has accepted awards from organizations designated as anti-Muslim hate groups by the Southern Poverty Law Center.

He has consistently opposed:

- legislation to protect the rights of workers, including the Lilly Ledbetter Fair Pay Act, the Employment Non-Discrimination Act, and measures to raise the minimum wage;
- protections for people with disabilities;
- repeal of the "Don't Ask Don't Tell" policy;

-
- efforts to advance women's rights; and
 - investigations by the Department of Justice of law enforcement agencies accused of misconduct and civil rights violations; he has called consent decrees that mandate reform "an end run around the democratic process."

For these reasons, we believe Senator Sessions is unqualified to serve as Attorney General of the United States, and we urge you to oppose his confirmation.

Yours truly,

A handwritten signature in cursive script, appearing to read "Joan Graff".

Joan Graff
President
Legal Aid At Work

January 9, 2017

The Honorable Charles E. Grassley
The Honorable Dianne G. Feinstein
United States Senate Committee on the Judiciary
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

We submit this letter in connection with the nomination of Senator Jeff Sessions for the position of Attorney General of the United States. We urge you to reject his nomination because he is ethically unfit to undertake the weighty role of the country's chief law enforcement officer.

We are law professors who have decades of experience as teachers of legal ethics in numerous law schools around the country. Many of us focus our scholarship on lawyers' ethics in the criminal justice system. Some of us served as prosecutors or defense attorneys in state or federal courts prior to our current positions. Some of us continue to litigate trial and appellate criminal cases in law school clinics. All of us strive to uphold the integrity of the legal profession and to inculcate the significance of the values of honesty, trustworthiness, and moral character in those we educate and train to be lawyers.

As Attorney General of Alabama, a position analogous to, if less powerful than, that of the nation's chief prosecutor, Senator Sessions demonstrated that he lacked the fundamental qualities required for the job. Our conclusion is based upon our knowledge, training, experience, scholarship, and relevant ethics rules and standards, as well as the judicial opinions of the Circuit Judge of Jefferson County and the 11th Circuit Court of Appeals. We have also reviewed the letter of Professor Bennett Gershman submitted to this Committee that details the facts underlying Senator Sessions' handling of that case as the Attorney General of Alabama.¹

¹ Letter of Professor Bennett Gershman to Honorable Charles Grassley and Dianne Feinstein, January 6, 2017.

As more fully set forth in Professor Gershman's letter, in 1995, the Office of the Alabama Attorney General investigated and prosecuted TIECO, an industrial equipment sales company, and a number of its employees, in what it publicly proclaimed to be the case of the "greatest magnitude that the Attorney General's Office had undertaken in the last twenty-five years."² In a stunning dismissal of all ten indictments, Judge James S. Garrett, Circuit Judge of Jefferson County, Alabama, excoriated the Office of the Attorney General. The Court held that "the misconduct of the Attorney General in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this Court....³ The misconduct is so pronounced and persistent that it permeates the entire atmosphere of this prosecution and warrants a dismissal of these cases."⁴

Among the facts cited by the Court to support this conclusion were the following:

- (1) "the Attorney General's repeated refusals and failures to produce exculpatory evidence";⁵
- (2) "the Attorney General's repeated denials of the very existence of exculpatory evidence subsequently discovered by the Defendants";⁶
- (3) "the flagrant disregard of the constitutional rights of those accused";⁷
- (4) "the completely incredible and deceptive testimony of so many witnesses this Court treated as officers of the court (some of whom were either assistants or agents for the Attorney General)";⁸
- (5) "the Attorney General's refusal and/or failure to comply with the previous discovery orders issued by this Court";⁹ and
- (6) the "apparent changing of evidence."¹⁰

In describing the misconduct, the court made clear that the listed misconduct was "only a summary" of some of the misconduct in the case.¹¹

In an uncommon conclusion for any court, Judge Garrett said that "this Court can only conclude it is dealing with either intentional and deliberate misconduct or conduct so reckless and

² Opinion of James S. Garrett, Circuit Judge of Jefferson County, Alabama, *State of Alabama v. TIECO, et al.*, Case No. CC-96-2961 (July 16, 1997) at 4 (hereinafter cited as "Op.>").

³ Op. at 2.

⁴ Op. at 13.

⁵ Op. at 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Op. at 11.

¹⁰ Op. at 13.

¹¹ Op. at 13.

improper as to constitute conscious disregard for the lawful duties of the Attorney General and the integrity and dignity of this court and this Judge.”¹²

Judge Garrett contrasted the shocking conduct of the Attorney General’s Office in *TIECO* with cases of prosecutorial misconduct based upon a single failure to produce exculpatory evidence or other lesser misconduct. According to the Court, the poor system of supervision and management within Attorney General Sessions’ office contributed to the pervasive misconduct in *TIECO*.¹³

Upon examination of the detailed facts in this case, we concur with Professor Gershman’s conclusion that “Senator Sessions, as the chief law enforcement officer in the State of Alabama, together with his assistants and investigators, engaged in a pattern of flagrant, willful and repeated misconduct, which undermined the integrity of the criminal justice system, harmed the reputation of entities and individuals who were wrongfully accused of criminal conduct, and violated the ethical and constitutional duties of a prosecutor to serve the cause of justice fairly, and the administration of criminal law with dignity and respect.”¹⁴

The *TIECO* case, one of the last cases prosecuted by Senator Sessions as a state attorney general, is a most pointed example of how Senator Sessions might administer justice as Attorney General of the United States.

The integrity and legitimacy of our country’s legal system depend upon the ethical leadership of those in positions of authority. The Attorney General is this country’s chief “Minister of Justice.” Senator Sessions has demonstrated that he is unqualified for this role.

Respectfully,

Cheryl Bader
Associate Clinical Professor of Law
Fordham University School of Law*

Vincent M. Bonventre
Justice Robert M. Jackson Distinguished Professor of Law
Albany Law School

David N. Cassuto
Professor of Law
Elisabeth Haub School of Law at
Pace University

¹² Op. at 2.

¹³ Op. at 4-6.

¹⁴ Letter from Bennett Gershman at 11-12.

Elizabeth Chambliss
Professor of Law & Director, NMRS Center
on Professionalism
University of South Carolina School of Law

Kami N. Chavis
Professor of Law and Associate Dean of Research
and Public Engagement
Wake Forest University School of Law

Liz Ryan Cole
Professor of Law
Vermont Law School

George W. Conk
Senior Fellow
Stein Center for Law & Ethics
Fordham Law School

Angela J. Davis
Professor of Law
Washington College of Law
American University

Anthony Davis
Lecturer in Law
Columbia Law School

Peter L. Davis
Associate Professor of Law Emeritus
Touro Law School

Lawrence Fox
Crawford Lecturer in Law and Director
of the Ethics Bureau
Yale Law School

Jill Friedman
Associate Dean
Pro Bono & Public Interest Program
Rutgers Law School

Barbara S. Gillers
Adjunct Professor of Law
New York University School of Law

Cynthia Godsoe
Associate Professor of Law
Brooklyn Law School

Lissa Griffin
James D. Hopkins Professor of Law
Elisabeth Haub School of Law at
Pace University

Peter A. Joy
Henry Hitchcock Professor of Law
Washington University in St. Louis

Richard Klein
Professor of Law
Touro Law School

Theo Liebmann
Clinical Professor of Law
Maurice A. Dean School of Law at Hofstra University

Lynn Mather
SUNY Distinguished Service Professor Emerita
University at Buffalo School of Law

Vanessa Merton
Professor of Law
Elisabeth Haub School of Law at
Pace University

James G. Milles
Professor of Law
University at Buffalo School of Law

Ronald C. Minkoff
Association of Professional Responsibility Lawyers, Past President
Former Adjunct Professor of Law

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Hofstra University

Marjorie Silver
Professor of Law
Touro Law School

Abbe Smith
Professor of Law and Co-Director of the E. Barrett Prettyman
Fellowship Program
Georgetown School of Law

Ellen Yaroshefsky
Professor of Law and Legal Ethics
Maurice A. Deane School of Law
Hofstra University

Steve Zeidman
Professor of Law
City University of New York School of Law

Richard Zitrin
Lecturer in Law
Hastings College of Law
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*Affiliations are listed for identification purposes only.

1110

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JAMES S. LIEBMAN
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January 9, 2017

Hon. Charles Grassley, Chairman
Hon. Dianne Feinstein, Ranking Member
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Re: Nomination of Hon. Jefferson B. Sessions III to the position of Attorney General

Dear Chairman Grassley and Ranking Member Feinstein:

I have been asked by the NAACP Legal Defense Fund to respond to Christian Adam's Jan. 4, 2017 letter to the Committee regarding Jefferson B. Sessions' direction of the 1985 prosecution of Albert and Evelyn Turner and Spencer Hogue, Jr. (the last of whom I represented in the case while serving as a staff attorney for the Legal Defense Fund).

In a separate filing with the Committee, I have been listed among law professors who oppose Mr. Sessions' appointment as Attorney General. I signed the law professors' letter because of policies Mr. Sessions promotes that I believe are insufficiently hospitable to important constitutional and civil rights of the American people. I leave to the Committee to determine the effect of the *Turner* and *Hogue* prosecution on Mr. Sessions' fitness to be Attorney General. My purpose in writing this letter is to describe the facts of the 1985 prosecution as I observed them to be and as a federal magistrate, judge, and jury found them to be at the time.

Mr. Adams played no part in the *Turner/Hogue* case, and his letter omits or misstates important information about it. To be sure, Mr. Adams makes a number of unobjectionable points about the importance of the integrity of American elections and the evil of outside interference with the right of American voters to decide for themselves what the outcome of elections should be. He illustrates his points by reference to a case he brought in regard to a different Alabama county involving entirely different actors and actions from those in the *Turner/Hogue* case. I will limit this letter to two aspects of Mr. Sessions' handling of the *Turner/Hogue* prosecution that I believe are not in dispute and yet are not mentioned or accurately reflected in Mr. Adams' letter:

Jerome L. Greene Hall

435 West 116th Street

New York, NY 10027

1. It was the stated position of Mr. Sessions' office and staff throughout the prosecution of the Turners and Mr. Hogue that *any* assisted change in any absentee ballot, including a change that the voter in question *asked a third party to make* and/or to which that voter *consented*, was illegal by virtue of the assisted alteration itself. As I reported in my testimony to this Committee on March 19, 1986 (Appendix 1 to this letter), Mr. Sessions' staff repeatedly conveyed this view to the court and to me and other defense lawyers on the case. More importantly, agents representing Mr. Sessions' office so informed elderly and infirm African-American absentee voters when first confronting them in their homes with the allegation that alterations to their ballots—alterations they later testified in court were made at their request and with their consent—constituted voter fraud or other illegality either by them or by the Turners and Mr. Hogue. The view of the law taken by Mr. Sessions and his staff at the time is contrary to the Voting Rights Act of 1965 as amended in 1982, which, as Mr. Adams acknowledges in his letter, recognizes "the right of voters to receive assistance." Upon applying the correct law, the trial judge in the case dismissed a substantial number of the allegations of fraud in the indictment Mr. Sessions had brought. And when appropriately instructed on the law, the jury of seven African-American and five white citizens promptly acquitted the Turners and Mr. Hogue of the remaining counts based upon the testimony of the voters in question—under oath and subject to cross-examination by Mr. Sessions and his staff—that they desired and consented to the changes made on their ballots.
2. In elections in Perry County, Alabama around the time of the events alleged in this indictment, it was common for both white and black voters—indeed, for as many as one-third of those of both races casting ballots, many of whom were elderly and infirm—to cast their votes by absentee ballot. It was also common for competing political groups who promoted the election of mainly white and mainly black candidates to assist voters in casting absentee ballots. As my 1986 testimony, and the attached Motion to Dismiss that I assisted in drafting and filing in the case documents (Appendix 2 to this letter), there was substantial evidence of actual voter fraud on the part of a competing political group of white individuals who supported the election of white candidates—evidence that was much stronger than any alleged against the Turners and Mr. Hogue. And the white candidates supported by this competing political group actually won the election, defeating the candidates whom the Turners and Mr. Hogue had supported. Yet Mr. Sessions and his staff took no steps to investigate or prosecute those other actors even when presented with this evidence in court.

Providing one among many examples of the relevant evidence of voter fraud by members of this group is the following passage from my written testimony to this Committee in 1986:

[A]lthough the absentee ballots of many patrons of a senior citizens center in Uniontown, Alabama were moved and signed in the same color felt-tip pen with what appears on its face – and expert handwriting analysis confirmed – was the same handwriting, that of Andrew Hayden [the leader of the competing political group supporting white candidates], who also witnessed each of those

ballots, and although all those ballots were identically voted for the same white-supported slate and simultaneously mailed to the Perry County Clerk, Mary Auburtin, from Montgomery, Alabama, scores of miles away, none of the patrons of the center were ever questioned by Mr. Sessions' investigators. When some of the alleged voters were questioned by defense investigators, the answers clearly demonstrated that some had no idea for whom they had voted, and none had any recollection of signing the form necessary to apply to vote absentee. [Exhibit TT, pp. 2-4; esp. [voter] M. E.].

Even more curious, at least three of the ballots witnessed by Mr. Hayden and his employees and voted for the white slate showed on their faces that they were "witnessed" two days after they were supposedly voted and mailed in by the voters, and, indeed, a day after they were "received" by the office of the county clerk, Mary Auburtin – notwithstanding the requirement that the ballot be witnessed simultaneously with the voter's marking and signing the ballot. [Exhibits OO-RR.] Not only did Ms. Auburtin's office officially count these facially fraudulent votes for the white slate, but Mr. Sessions thereafter failed to inquire of any of the 3 alleged voters about how Mr. Hayden and his employees came to witness the ballots days after they were supposedly voted.

Revealing how seriously a federal magistrate took the issue of whether Mr. Sessions' office had engaged in improper selective prosecution of blacks for alleged crimes left uninvestigated and uncharged despite equal or stronger evidence in the case of white actors is the following passage from the same testimony:

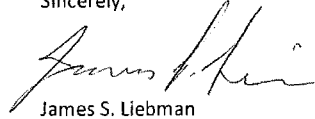
... After considering the selective-prosecution papers filed by defendants in this case, and conducting a day long hearing on the matter, the United States Magistrate for the Southern District of Alabama concluded that defendants had satisfied the first prong of their burden to get a hearing on selective prosecution by producing credible evidence in this record that, in bringing the Turner/Hogue indictment, "the Government [– Mr. Sessions' office –] was activated by constitutionally impermissible motives such as racial . . . discrimination." Second, the Magistrate found that "[t]here is credible evidence adduced by the Defendants that a number of absentee ballots cast in Perry County in September 1984, contained irregularities related to candidates marking, witnessing, attestation, and mailing; . . . that the preparation of some of these ballots likely was connected with voter assistance activity carried out by groups in Perry County which are led by whites; and . . . that these ballot irregularities have not been investigated, nor the individual apparently connected with the ballots prosecuted [by Mr. Session's office]." [May 24, 1985 Recommendations of the Magistrate, at 3; see also id. at 6, 8.]

Finally, I must take issue with Mr. Adams' statements implying that the Turners, Mr. Hogue, and other individuals in Perry County, Alabama were illegally "harvesting and often casting absentee ballots on behalf of African-American voters," actions he claims were not "a noble civil rights endeavor" but instead "activities [that] steal votes by stripping the will of the voter

away and giving it to a corrupt political enterprise" (page 1). This is a rash statement as applied to the Turners and Mr. Hogue, and it is patently unproven and untrue. Although Mr. Sessions so alleged in an indictment—albeit based on the improper view that any assisted change in an absentee ballot, including one the voter desired and to which he or she consented, is illegal—the facts are that (1) the trial judge dismissed many of the counts in that indictment as so lacking in evidence that they couldn't be taken to the jury, and (2) the jurors unanimously rejected all of the counts that were brought to them and acquitted the defendants. Indeed, as the *New York Times* reported today, Senator Sessions himself recently "co-sponsored legislation awarding Alabama's civil rights marchers and Rosa Parks Congressional Gold Medals"—marchers who included one of the defendants in the 1985 prosecution, Albert Turner.¹ Evidently, in sponsoring this prestigious award for Mr. Turner along with others, Mr. Sessions has accepted the judgment of the federal court and jury in the case that the allegations against Mr. Turner, his wife, and Mr. Hogue were at the very least untenable and unproven. On behalf of my former client, I would ask the same courtesy from Mr. Adams who never bothers to mention that the people he accuses were relieved of many of the charges by the court and acquitted of the rest by a unanimous multi-racial jury of twelve Alabama citizens.

Thank you for the opportunity to submit this letter.

Sincerely,



James S. Liebman

¹ Sharon LaFraniere & Matt Apuzzo, *Jeff Sessions, a Lifelong Outsider, Finds the Inside Track*, N.Y. TIMES, Jan. 8, 2017.



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November 22, 2016

The Hon. Charles Grassley
Chairman
Committee on the Judiciary
Washington, D.C. 20510

The Hon. Dianne Feinstein
Ranking Member
Committee on the Judiciary
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of the Major Chiefs Association, representing the largest metropolitan regions of our Nation, we are writing to support a swift confirmation for Senator Jeff Sessions to be the next Attorney General of the United States.

Senator Sessions has a storied record of service to our Nation and our justice system. While serving first as U.S. Attorney for Alabama, and later as State Attorney General, he became a nationally recognized spokesman for American law enforcement. His exemplary accomplishments as a prosecutor represent a broad range of cases that have repeatedly demonstrated his steadfast commitment to public safety.

As a Senator, Jeff Sessions has been an unwavering champion for measures to address violent crime and drug abuse in the communities we are sworn to serve. He has reached across the aisle and shown a bipartisan balance, forging agreements with the opposition and thus serving the common good.

We will count on him to support the top priorities of American policing. New measures to protect police from violent assaults must be considered, including Federal prosecution of those who would prey upon the men and women who bravely serve the public every day.

American law enforcement has always looked to you for leadership and we again turn to you to move the nomination of Jeff Sessions quickly through the confirmation process.

Sincerely,

J. Thomas Manger
Chief of Police
Montgomery County Police Department
President, Major Cities Chiefs Association



Major County Sheriffs' Association

Sheriff Michael J. Bouchard
Vice President – Government Affairs
Oakland County Sheriff's Office
1200 North Telegraph – Building 38 East
Pontiac, MI 48341
(248) 858-5001 mbouchard@mcsheriffs.com

January 6, 2017

Chairman Chuck Grassley
135 Hart Senate Office Building
Washington, DC 20510

Ranking Member Diane Feinstein
331 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein,

As Vice President of Government Affairs for the Major County Sheriffs' Association (MCSA), I write to express our support for the nomination of Senator Jeff Sessions as the 84th Attorney General of the United States. His service and knowledgeable experience within the field of criminal justice makes him a uniquely qualified candidate.

Expected to lead the U.S. Department of Justice on issues from tackling complex organized crime and cyber-threats, to sophisticated fraud and terrorism, the Attorney General of the United States requires not only a strong command of all justice concerns, but the ability to work cooperatively and closely with a broad community of law enforcement agencies and leaders across the country. Within the current Administration, there has been a continued pattern of making critical decisions affecting the law enforcement community without adequate stakeholder consultation. Issues range from the acquisition of military surplus equipment to immigration enforcement and asset forfeiture.

Senator Sessions has been a strong advocate for law enforcement and we greatly appreciate his hard work and commitment to public safety. As an association of elected sheriffs representing our nation's largest counties with populations of 500,000 people or more, serving over 100 million Americans, we seek to be a positive source of ideas and solutions and Senator Sessions has been a reliable and valuable partner of the MCSA.

The MCSA urges the Committee and members of the Senate to swiftly confirm Senator Sessions' nomination so we may continue to collectively work to protect our communities and follow the rule of law.

Very Respectfully,

A handwritten signature in black ink that reads "Michael J. Bouchard".

Michael J. Bouchard, Sheriff, Oakland County (MI)
Vice President – Government Affairs, Major County Sheriffs' Association

January 10, 2017

The Honorable Chuck Grassley
Chairman
U.S. Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
U.S. Senate
224 Dirksen Senate Office Building
Washington, DC 20515

Dear Chairman Grassley and Ranking Member Feinstein:

We write to express our deep concerns about the record of President-elect Trump's nominee for Attorney General of the United States, Senator Jeff Sessions (R-AL). We urge a thorough vetting of Senator Sessions' policy positions, especially those that we believe will be detrimental to the country's progress towards becoming more inclusive and our cities' efforts to create strong and safe communities.

Diversity is rapidly increasing in our cities, in part, due to immigration. We believe this growth and integration in our communities promotes a more vibrant economy and life for all our citizens. However, with changing demographics, we must also work to promote and encourage trust between the public and law enforcement. Senator Sessions' legislative record lacks a commitment to these goals, and to upholding civil rights for all. And, as a result, we question whether Senator Sessions can fairly lead an agency charged with protecting the constitutional and civil rights of rights of all Americans.

Senator Sessions has consistently opposed bipartisan efforts to reform our immigration policies despite his consistent criticism of the status quo. Moreover, he opposes any path to citizenship for people illegally brought to the U.S. as children by their parents, known as Dreamers. Additionally, Senator Sessions has also aligned himself with several anti-immigration groups, such as NumbersUSA.

Given Senator Sessions' history and the critical issues under the Department of Justice's jurisdiction, we believe that Senator Sessions is unable to fairly enforce our nation's laws and will not work to advance justice and equality. We encourage you to oppose Senator Sessions nomination to serve as Attorney General of the United States.

Sincerely,

Mayor Edward B. Murray
Seattle, Washington

Mayor Edwin Lee
San Francisco, CA

Mayor Betsy Hodges
Minneapolis, Minnesota

Mayor Sly James
Kansas City, Missouri

Mayor Bill Bell
Durham, North Carolina

Mayor Toni Harp
New Haven, Connecticut

1117

Mayor Leon Rockingham, Jr.
North Chicago, Illinois

Mayor McKinley Price
Newport News, Virginia

Mayor William Johnson
Holly Hill, South Carolina

Mayor Mario Avery
Fairburn, Georgia

Mayor Jacqueline Goodall
Forest Heights, Maryland

Mayor Harold Thompson
Union, South Carolina

Mayor Beverly Young
Village of Vandalia, Michigan

Mayor Wayne M. Messam
Miramar, Florida



MICHIGAN SHERIFFS' ASSOCIATION

EDUCATIONAL SERVICES, INC.

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Terrence L. Jungel
CEO/Executive Director

John McGlinchey
Of Counsel

Ben Bodkin
Legislative Representative

December 20, 2016

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

Dear Senator Grassley:

The Michigan Sheriffs' Association is the oldest law-enforcement association in Michigan, established in 1877. It is not the custom of the Michigan Sheriffs' Association to involve ourselves in the national political process or presidential appointments. While we are very non-partisan, we are certainly pro law-enforcement.

Toward that end, we feel compelled to send a letter of support for the pending nomination of Senator Jeff Sessions for the United States Attorney General position. His service, knowledge, experience and dedication in the field of criminal justice makes him uniquely qualified to lead that agency.

The complicated matters that come before the United States Department of Justice cannot be overstated and the very security of each man, woman and child in this country is under their care.

The men and women of law enforcement who place their lives on the line every day in defense of their communities need the support of the United States Attorney General. We believe that we will get that support from Senator Jeff Sessions. He has not only been a strong advocate for law enforcement; but, he has been a strong advocate for victims as well, which we both strive to serve.

I believe working together, we can make this country much safer and more secure with our combined efforts.

THE MICHIGAN SHERIFFS' ASSOCIATION- WORKING WITH YOU FOR YOU.

SINCE 1877... Michigan's Oldest Law Enforcement Organization



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Please know we offer our strongest endorsement and encourage his confirmation as the United States 84th Attorney General.

Feel free to contact me if you have any questions or if I can be of any further assistance.

Respectfully,

Terrence L. Jungel
CEO/Executive Director
Michigan Sheriffs' Association

TLJ:ad

cc: Breanna Bock-Nielsen
MSA Board of Directors
Sheriff Bouchard

THE MICHIGAN SHERIFFS' ASSOCIATION- WORKING WITH YOU FOR YOU.

SINCE 1877... Michigan's Oldest Law Enforcement Organization

1120

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RICHARD J. MINOR
DISTRICT ATTORNEY
THIRTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY

December 10, 2016

The Honorable Chuck Grassley
Chairman
United States Senate
135 Hart Building
Washington, D. C. 20510

The Honorable Patrick Leahy
Ranking Member
United States Senate
437 Russell Senate Office Building
Washington D.C. 20510

RE: Letter of Support for Jefferson Sessions, III
For Confirmation as 84th Attorney General of the United States

Dear Senators Grassley and Leahy:

I wanted to write to express my support for Attorney General nominee Jefferson Sessions, III. I urge the Senate Judiciary Committee to confirm the nomination of Jefferson Sessions by President Elect Donald Trump to serve as our next Attorney General. I urge the Committee to confirm Jefferson Sessions, III, during your hearings on January 10-11, 2017.

I first met Sen. Sessions during my last quarter at Auburn University in 1990 when I applied for a criminal justice internship within the U.S. Attorneys Office in Mobile, AL. After my interview, U.S. Attorney Sessions allowed me to become the first college intern to serve within his office. The next year, he allowed me to return upon completion of my first year of law school. In 1995, Alabama Attorney General Jeff Sessions hired me as an Assistant Attorney General to work in the Criminal Trials Division of the Alabama Attorney General's Office. His one decision in 1990 allowed me to view the criminal justice system from a prosecutor's perspective of equal justice for all. For the last twenty-three years (23), I have tried to emulate the prosecutor and man, Jefferson Sessions.

Just as I have dedicated my life to public service, Senator Sessions has dedicated his life to public service and continues to have an exemplary career. He received his J.D. degree from the University of Alabama in 1973 and he received his B.A. degree from Huntingdon College in 1969. Senator Sessions served in the United States Army Reserve from 1973 to 1986 attaining the rank of Captain. Sen. Sessions served with distinction during his first employment with the Department of Justice, as an Assistant United States Attorney for the Southern District of Alabama. Two years later in 1981, President Ronald Reagan nominated Sen. Sessions to serve as the United States Attorney for Alabama's Southern District. Sen. Sessions served with distinction for twelve (12) years as United States Attorney before being elected Alabama Attorney General in 1995, serving as the state's chief legal officer and top law enforcement officer until 1997, when he entered the United States Senate.

As I begin my third term as District Attorney of the Thirtieth Judicial Circuit (Alabama), I can think of no better person to be called the Chief Law Enforcement Officer of the United States. That person is my friend, my mentor, and the sole reason I pursued becoming a career prosecutor . . . Jefferson Sessions, III. Without any reservation, I strongly support Jefferson Sessions, III, as our next United States Attorney and urge the Committee to do so as well.



Richard J. Minor
District Attorney
Thirtieth Judicial Circuit

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January 9, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
S230 U.S. Capitol
Washington, D.C. 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
S221 U.S. Capitol
Washington, D.C. 20510

The Honorable Charles Grassley
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C. 20510

**Re: The Nomination of Jefferson Beauregard Sessions III to be
Attorney General of the United States**

Dear Leader McConnell, Leader Schumer, Chairman Grassley, and Senator
Feinstein:

The NAACP Legal Defense & Educational Fund, Inc. ("LDF") submits this
letter and attached report in strong opposition to the nomination of Senator
Jefferson Beauregard Sessions III to be Attorney General of the United States.

As the nation's top law enforcement official, the position of Attorney General
is one of unparalleled power within the Executive Branch and has profound

implications for civil rights. The Attorney General has the principal responsibility for enforcing the nation's civil rights laws, including challenging practices that violate the constitutional requirement of "equal protection under the laws," and violations of federal civil rights statutes. The Attorney General must "ensure the fair and impartial administration of justice to all Americans."

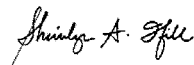
Because of this responsibility, it is essential that any nominee's record on civil rights is thoroughly and closely scrutinized before confirmation to this position of extraordinary public trust. To that end, LDF has prepared a detailed report on Sessions' civil rights record throughout his legal and political career, particularly with respect to racial justice. As shown in the report, Sessions' record renders him unfit to serve as Attorney General.

The question before this Committee is whether Senator Jeff Sessions is fit to be the chief enforcer of the nation's civil rights laws. The record amassed during the entirety of Senator Sessions' career reveals that he has not shown a commitment to the principles of racial equality and justice, and support for the civil rights laws which, as Attorney General, he would be charged with upholding. From his actions as U.S. Attorney for the Southern District of Alabama in the 1980s, to his actions as Attorney General of Alabama in the 1990s, to his twenty-year career as a United States Senator, Senator Sessions' record demonstrates hostility to the values of equality and justice, and to the core civil rights statutes and legal principles that he would be charged with enforcing as Attorney General.

For these reasons and those set forth in the attached report, LDF opposes the confirmation of Senator Sessions to serve as the 84th Attorney General of the United States. Any fair and objective assessment of Senator Sessions' record demonstrates that he is neither qualified nor prepared to vigorously enforce the nation's civil rights laws.

Thank you for considering this report. If you have any questions, please contact Todd A. Cox, Director of Policy or Kyle Barry, Policy Counsel Associate at 202-682-1300.

Sincerely,



Sherrilyn A. Ifill

President & Director Counsel



National Association of
Assistant United States Attorneys
Safeguarding Justice for All Americans

January 9, 2017

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The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Office Building
Washington, DC 20510-6050

Re: Nomination of Senator Jeff Sessions

Dear Chairman Grassley:

The National Association of Assistant United States Attorneys (NAAUSA) is pleased to add its voice to the chorus of law enforcement and community groups supporting the nomination of Senator Jeff Sessions to be the 84th Attorney General of the United States. Senator Sessions is a man of great integrity who possesses the experience, disposition, and intellect necessary to lead the Department of Justice. Indeed, it would be difficult to find a person who is more qualified to be the next Attorney General than Senator Sessions.

Throughout his distinguished career as a prosecutor, private practitioner, and legislator Senator Sessions has demonstrated a dedication to the rule of law and a commitment to justice. He is a proven leader who knows the inner-workings of the Department of Justice and understands the critically important role it plays in the American legal system. As a former Assistant United States Attorney and presidentially appointed United States Attorney, Senator Sessions has spent time in the trenches prosecuting violent criminals, drug traffickers, and fraudsters. He appreciates the tremendous challenges that Assistant United States Attorneys—the backbone of the Department of Justice—face on a daily basis. And, Senator Sessions has seen firsthand the destruction that crime causes for victims, their families, and society at large. It is, therefore, no surprise that Senator Sessions has spent much of his legal and political career fighting to make our communities safer.

As you are undoubtedly aware, after decades of declining crime we now find ourselves in the midst of a crime wave. Violent crime is increasing in many parts of the country, heroin is ravaging our cities and small towns, and terrorism remains a constant threat. In order to effectively address those issues, the Department of Justice must be led by a smart, aggressive, respected, and experienced leader. Senator Sessions fits the bill perfectly. NAAUSA urges his prompt confirmation and looks forward to working with Senator Sessions to protect innocent Americans from those who seek to cause harm.

Thank you for your time and consideration.

Respectfully submitted,

Steven H. Cook
President



PRESIDENT EMERITUS
Hon. Edward R. Roybal*

PRESIDENT

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District Deputy Executive, TX

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California State Senator

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Councilor, City of Los Angeles, AZ
President, National Hispanic Council of School Board Members

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State Member, Fort Worth, Texas
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EXECUTIVE DIRECTOR

Mr. Arturo Vargas

January 11, 2017

Senator Charles Grassley
Senate Judiciary Committee Chair
135 Hart Senate Office Building
Washington, DC 20510

Senator Dianne Feinstein
Senate Judiciary Committee Ranking Member
331 Hart Senate Office Building
Washington, DC 20510

Senator Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

Senator Charles E. Schumer
Senate Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

Dear Senators:

On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) and NALEO Educational Fund, we write to urge you to reject the nomination of Senator Jefferson Sessions to serve as U.S. Attorney General. On the basis of his statements and actions as a lawyer and a public official, our organizations conclude that as Attorney General, Sen. Sessions would significantly impair the federal government's legally-mandated efforts to ensure fair treatment and equal opportunity for historically underrepresented communities.

NALEO is a non-partisan membership organization committed to ensuring that the nation's more than 6,100 Latino elected and appointed officials are effective advocates for the communities they serve. NALEO Educational Fund is the nation's leading 501(c)(3) non-profit, non-partisan organization that facilitates full Latino participation in the American political process, from citizenship to public service. Our organizations provide national leadership on key issues that affect Latino participation in our political process, including immigration and naturalization, voting rights, election reform, the Census, and the appointment of qualified Latinos to top executive and judicial

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positions. Our Board members and constituency include Republicans, Democrats and Independents.

I. Enforcement of Civil Rights Protections

Among the many important duties of the U.S. Attorney General, two that are of heightened concern to our organizations are oversight of the Civil Rights Division's enforcement of non-discrimination protections, and of the Executive Office for Immigration Review (EOIR). The Attorney General has significant discretion to define priorities for U.S. Attorneys and Department of Justice (DOJ) staff who ensure adherence to the Voting Rights Act (VRA), the Civil Rights Act, and other statutory guarantees of equal protection. These laws give federal legal officers authority to challenge discrimination which they have used over the past 50 years to greatly increase the opportunities available to members of racial, ethnic, and linguistic minority groups. For example, according to the Census Bureau, just 37.5% of Hispanic adults voted in the 1972 Presidential election, the last to take place before Congress added protections for Latino voters to the VRA in 1975. In subsequent years, Latino voter turnout has been on an upward trajectory, reaching 49.9% of eligible voters in the 2008 Presidential election, and potentially higher in November 2016.

The Attorney General also exercises broad discretion over the immigration court system, and possesses extraordinary authority to choose and advise immigration judges, and even overrule their decisions. EOIR decides the fate of hundreds of thousands of individuals each year. It also administers programs of critical importance to immigrants and their families, such as the Legal Orientation Program that helps people who cannot afford an immigration lawyer understand the adjudication process. The Attorney General leads the DOJ in enforcing recent Supreme Court decisions which have set forth limits on states' and localities' involvement in immigration enforcement, and in advising law enforcement agencies at all levels of government on the extent of their authority and obligations under federal immigration laws. In exercising these powers, the Attorney General deeply affects the lives and livelihoods of many immigrants and their American families and home communities.

Sen. Sessions' actions and votes over the course of his career in public service indicate that as Attorney General, he would direct the DOJ to act in ways that threaten the progress Latinos have achieved toward equality in the electoral arena and full civic participation. Sen. Sessions has expressed skepticism of the vigorous enforcement of federal anti-discrimination laws. He lauded the Supreme Court's 2013 VRA-weakening decision in *Shelby County v. Holder* as "good news," though it has paved the way for adoption of voting law changes that have thus far impaired more than one million eligible Latino voters' access to the ballot. Sen. Sessions commented that he did not "think in Shelby County, Alabama, anyone is being denied the right to vote because of the color of their skin." Senator Sessions made these comments even though the DOJ found that two municipalities in the County had enacted annexations and redistricting plans which diminished African Americans' electoral influence within the decade immediately preceding the *Shelby* case.

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Sen. Sessions has opposed and voted against legislation to expand protections of equal treatment of women, LGBT individuals, and people with disabilities. He also championed legislation that would have prohibited government from providing services in languages other than English, and the Department of Housing and Urban Development from using federal funds to enforce affirmative fair housing protections.

It is particularly troubling that Sen. Sessions is alleged to have personally perpetrated and expressed tolerance for discriminatory behavior toward groups of Americans on the basis of their race, ethnicity, and religion. In sum, if confirmed, he is likely to prevent DOJ employees from faithfully performing their crucial duty to challenge and eliminate racial, ethnic, and other unjust disparities that continue to impede Latinos and other underrepresented communities from making invaluable contributions to our nation's prosperity and security.

II. Immigration Policy

Sen. Sessions' actions and statements concerning immigration policy belie a hostility toward many members of the Latino community in the United States that is unacceptable to our organizations, and that should counsel strongly against his confirmation to oversee important aspects of our justice system. Sen. Sessions advocates reduction in both authorized and unauthorized immigration, and has embraced anti-immigration organizations grounded in white nationalist beliefs. He opposes recognition of the American citizenship of every person born in our country, even though the Constitution has been understood for more than 150 years to grant equal protection and citizenship to all who are native-born. He has voted against the Dream Act and comprehensive immigration reform efforts undertaken during the George W. Bush and Obama Administrations.

Senator Sessions has displayed particular antipathy toward Latino immigrants, making public statements such as, "Fundamentally, almost no one coming from the Dominican Republic to the United States is coming because they have a skill that would benefit us and that would indicate their likely success in our society." Sen. Sessions' record of broad opposition to immigrants' presence ignores the immense benefits that immigration brings to our nation, and minimizes the potential negative consequences of reducing legal immigration or ineffectively toughening enforcement.


Over the course of our nation's history, Latinos have made enormous progress toward equal participation and representation in government, and yet systemic inequity endures. As our population and electorate have become more diverse, some policymakers have responded by adopting new voting restrictions that disproportionately impair underrepresented voters' access to the ballot. As it has become increasingly apparent that our immigration policies are both central to our success as a nation and ill-equipped to meet contemporary needs, some have championed draconian, punitive approaches that would imperil our identity as a country that welcomes immigrants who are committed to our values and prepared to work hard for personal success and for the advancement of the United States. We cannot afford for our premier law enforcement agency to be led by an Attorney General who will refuse to use its power to further equality, and to advocate fair immigration policies that balance and serve the best interests of all

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Americans. For this reason, we urge you to reject Sen. Sessions' nomination to this critical position.

Should you have any questions, please contact Laura Maristany, the NALEO Educational Fund's Washington, DC office director at 202-360-4182 or at lmарistany@naleo.org. Thank you for your consideration of our recommendation.

Sincerely,



Pauline Medrano
NALEO President



John Duran
NALEO Educational Fund Chairman

cc: Members of the Senate Judiciary Committee
Congressional Hispanic Caucus
Congressional Hispanic Conference



NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

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December 22, 2016

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WILLIAM J. JOHNSON, CAE
Executive Director and
General Counsel

Senator Charles Grassley
Chair, Judiciary Committee
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Senator Dianne Feinstein
Ranking Member, Judiciary Committee
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein,

On behalf of the National Association of Police Organizations (NAPO), and the more than 240,000 law enforcement officers we represent across the United States, I am writing to advise of your our wholehearted support for the nomination of Senator Jeff Sessions for United States Attorney General. Senator Sessions has been a voice for law enforcement on many issues facing our community as a Senator and member of the Judiciary Community. His experience and ability to work closely with law enforcement and the criminal justice community are invaluable qualities for the next Attorney General.

NAPO is a coalition of police units and associations from across the United States that serves to advance the interests of America's law enforcement officers. Founded in 1978, NAPO now represents more than 1,000 police units and associations, 241,000 sworn law enforcement officers, and more than 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement.

From his time as a United States Attorney to being elected Alabama Attorney General to his current position as a United States Senator, Senator Sessions has been a strong advocate for criminal justice issues and has shown a unique understanding of the needs of the law enforcement community. Through the years working with him, Senator Sessions has earned the trust and respect of the rank-and-file officers NAPO represents. He has supported many of our priority issues including increasing penalties for those who harm or target for harm law enforcement officers, ensuring state and local law enforcement have access to lifesaving gear and equipment, and increasing protections for child victims of abuse.

Senator Sessions has shown his full support of the law enforcement community and we believe he will serve our nation well as the next United States Attorney General. Therefore, we urge the Committee to support the nomination of Senator Jeff Sessions. Please feel free to contact me at (703) 549-0775 if there is anything I or our organization can do in further support of Senator Sessions for this position.

Sincerely,

William J. Johnson, Esq., CAE
Executive Director

Cc: Members, Judiciary Committee, United States Senate



National Association of State Directors of Special Education, Inc.

225 Reinekers Lane, Suite 420, Alexandria, VA 22314
Tel: 703/519-3800 Fax: 703/519-3808 www.nasdse.org

January 9, 2017

The Honorable Chuck Grassley
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

The National Association of State Directors of Special Education (NASDSE) writes to express concerns with the nomination of Senator Jefferson Sessions (R-AL) to be the next Attorney General of the United States.

NASDSE is the national nonprofit organization that represents the state directors of special education, the IDEA Part B data managers and the IDEA 619 coordinators in the states, the District of Columbia, the federal territories, the Freely Associated States and the Department of Defense Education Agency.

Our concerns stem from his record regarding students with disabilities. He has called the Individuals with Disabilities Education Act's requirements to include children with disabilities in mainstream education "the single most irritating problem for teachers throughout America today" and "a big factor in accelerating the decline in the civility and discipline in classrooms all over America."¹ This opposition to integration and inclusion is problematic given the active role that the Justice Department plays in enforcing the Americans with Disabilities Act to enable people with disabilities to live independent lives, be full participants in their communities, and to be educated in their neighborhood schools and general education classrooms.

These issues must be fully deliberated before each Senator makes a final decision with respect to his nomination.

Thank you for the opportunity to provide comments. Please feel free to contact NASDSE's Director of Government Relations, Nancy Reder at nancy.reder@nasdse.org if you have any questions about our comments.

Sincerely,

Theron (Bill) East, Jr.

Theron (Bill) East, Jr., Ed.D.
Executive Director

¹ Floor Statement, Education Discipline and IDEA (May 18, 2000), available at <http://www.sessions.senate.gov/public/index.cfm/2000/5/education-discipline-and-idea->



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January 10, 2017

The Honorable Chuck Grassley
Chair
Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
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Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
333 Hart Senate Office Building
Washington, DC 20510

Re: United States Attorney General

Dear Senators Grassley and Feinstein and Members of the Judiciary Committee:

I am writing on behalf of the National Association of Women Lawyers ("NAWL"). NAWL is the oldest national organization devoted to the interests of women lawyers. Founded in 1899, NAWL has a long history of serving as an educational forum and an active voice for the concerns of women in the legal profession.

As Americans and as lawyers we cherish the rule of law and the peaceful transfer of power to a new administration after each election. The confirmation process is critical to that process. As the highest ranking attorney in the United States and the person who will be entrusted to ensure the rights of all Americans, the Senate must require all appointees for the position of United States Attorney General to provide full and complete answers to its Questionnaire. Otherwise we deprive our citizens, through the powers vested in their representatives, the right to ensure that the person entrusted as the defender of their rights is worthy of their trust.

NAWL adds its voice in support of the concerns raised by the National LGBT Bar, the National Asian Pacific American Bar Association, the National Bar Association, and Hispanic National Bar Association aimed at ensuring that the Senate has a complete and accurate record as it considers the nomination of Senator Jefferson Sessions to serve as Attorney General. NAWL also calls upon you to ensure that the person ultimately confirmed to fill this important office is committed to preserving and protecting the hard-fought rights that have been established for all of our citizens.

Respectfully yours,

Leslie Richards-Yellen
President

Hon. Mitch McConnell, Maj. Leader
U.S. Senate
S230 US Capitol
Washington, DC 20510

The Hon. Charles Schumer, Min. Leader
U.S. Senate
S221 US Capitol
Washington, DC 20510

Hon. Chuck Grassley, Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Hon. Dianne Feinstein, Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

January 10, 2017

**RE: THE NATIONAL BAR ASSOCIATION'S OPPOSITION TO SENATOR
JEFFERSON SESSIONS' NOMINATION TO SERVE AS ATTORNEY
GENERAL OF THE UNITED STATES**

Dear Leader McConnell, Leader Schumer, Chairman Grassley, and Senator Feinstein:

On behalf of the National Bar Association (NBA), I write to express our opposition to the nomination of Senator Jefferson Sessions to serve as Attorney General of the United States.

The NBA is the nation's oldest and largest national association of predominantly African-American lawyers, judges, educators and law students. Throughout history, it has served as the nation's legal conscience. Today, the NBA has 84 affiliate chapters throughout the United States and affiliations in Canada, the United Kingdom, Africa, and the Caribbean. It represents a professional network of more than 60,000 lawyers, judges, educators and law students.

As head of the Department of Justice and the nation's top law enforcement official, the position of Attorney General is one of unparalleled power within the Executive Branch and has profound implications for civil rights. The Attorney General must "ensure the fair and impartial administration of justice to all Americans," through zealous monitoring and enforcement of constitutional and statutory rights. Since its inception in 1925, the NBA has been at the forefront of the fight to "protect the civil and political rights of the citizens and residents of the United States." Thus, the nominee's record on civil rights is of the utmost importance in our evaluation of his qualifications to serve as Attorney General of the United States.

Our review of Senator Sessions' record included legislative votes; his statements on civil rights issues and organizations that advocate for civil rights; his record as a federal prosecutor; votes and statements on nominations; and testimony submitted during the 1986 Judiciary Committee hearing on his nomination to become a district court judge. Below we summarize the most compelling and troubling aspects of his public record.

Senator Sessions' 1986 Failed Federal Judicial Nomination

President Ronald Reagan nominated then-Alabama Attorney General Jeff Sessions to serve as a judge on the U.S. District Court for the Southern District of Alabama in 1986. At that time, President Reagan had already appointed approximately 200 judges throughout the federal system, and Republicans constituted the majority of the U.S. Senate Judiciary Committee. Senator Sessions became only the second judicial nominee in fifty years to not be recommended for confirmation. Two Republicans, including Arlen Specter, voted against him. His fellow senator from Alabama, Howell Heflin, also voted against him, citing, "reasonable doubts" over Sessions' ability to be "fair and impartial."¹

Marion Three. In 1985, during his tenure as U.S. Attorney for the Southern District of Alabama, Sessions pressed charges against eight residents from Greene and Perry counties, accusing them of altering absentee ballots. Of the accused, seven of eight were African American. Among the group were longtime civil rights activist Albert Turner, of the Southern Christian Leadership Conference, his wife Evelyn Turner, and fellow activist Spencer Hogue – later known as the Marion Three – who had long conducted voter registration drives throughout rural Black Belt counties, aiming to boost registration rates among poor and elderly African Americans. Turner became known as "Mr. Voter Registration," and was credited with the African American community's gain of political control in many counties in the Alabama Black Belt. On the basis of highly questionable evidence of an effort by the Marion Three and others to commit voter fraud, then-U.S. Attorney Sessions dispatched dozens of FBI agents to repeatedly visit homes of rural black residents. The countless hours of interrogation yielded only 14 allegedly tampered ballots out of more than 1.7 million ballots cast statewide in the 1984 election. When brought to trial for the alleged crimes, Federal District Judge Emmett Cox dismissed 50 counts against the defendants due to lack of evidence and all the remaining counts resulted in an acquittal by the jury. The approach of Senator Sessions in this case is particularly troubling in the context of repeated claims of "voter fraud" when the overwhelming evidence is that there are but a handful of such cases around the country. Furthermore, this type of misguided, politically motivated and overzealous prosecution exhibited by Sessions creates a climate of mistrust and undermines the democratic process U.S. Attorneys are supposed to protect. In the past few Presidential elections, unsubstantiated claims of "voter fraud" and resulting actions by self-proclaimed "voter integrity" activists have not only had chilling effects upon communities of color, but have served to create more barriers to the ballot. As challenges to the electoral process have evolved, the Justice Department has served as a backstop to protect all citizens, particularly those in vulnerable communities and traditionally disenfranchised. Consequently, it is of the utmost importance that the next Attorney General be fair-minded and trusted by the entire country in evaluating these claims.

Racially Insensitive Statements. During the confirmation hearing, the Senate Judiciary Committee heard testimony that Senator Sessions had made a series of remarks that were racially insensitive and/or hostile to the support of civil rights.

¹ Goldman, Sheldon (1999). *Picking Federal Judges*. Yale University Press. p. 309. ISBN 9780300080735.

Then-Attorney General Sessions' former deputy, Thomas Figures testified before the Senate Judiciary Committee that Sessions told him to be careful about what he said "to white folks" after Figures got into a heated argument with a white colleague. Figures also testified that then-Attorney General Sessions called him "boy" on multiple occasions. Figures also testified that then-Attorney General Sessions joked about the Ku Klux Klan, saying he thought its members were "okay, until he learned that they smoked marijuana." The NBA interviewed Mr. Figures in the month prior to the hearing, where he again stated the same allegations he made during the confirmation hearing.²

Then-Attorney General Sessions' colleague J. Gerald Hebert, who was a Justice Department lawyer, also testified that Sessions told him the NAACP and ACLU were "un-American" and "Communist-inspired." Hebert also testified that then-Attorney General Sessions said a white attorney who represented black clients might be a disgrace and that the NAACP and ACLU did more harm than good by trying to force civil rights "down the throats of people."

Senator Sessions Legislative Record as Senator

Senator Sessions was elected to the United States Senate in 1996. Over the past 20 years, he has developed a voting record that further demonstrates his hostility towards the support of civil rights.

- In 2015, Senator Sessions supported the Stop Sanctuary Policies and Protect Americans Act, which would have prohibited sanctuary jurisdictions from receiving federal grant money.³
- In 2013, Senator Sessions voted against the 2013 reauthorization of the Violence Against Women Act.⁴
- In 2013, Senator Sessions opposed the bipartisan immigration reform bill that passed the Senate.⁵
- In 2013, Senator Sessions supported an amendment to the Employer Non-Discrimination Act of 2013.⁶
- In 2012, Senator Sessions did not support The Convention on the Rights of Persons with Disabilities.⁷

² National Bar Association May 1986 letter to the Senator Joseph Biden.

³ <https://www.congress.gov/bills/114th-congress/senate-bill/2146>

⁴ <https://www.govtrack.us/congress/bills/113/s47/text>

⁵ http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=1&vote=00168

⁶ <https://www.congress.gov/amendment/113th-congress/senate-amendment/2013>

⁷ <https://www.congress.gov/treaty-document/112th-congress/7/>

- In 2011, Senator Sessions opposed the reauthorization of the Violence Against Women Act of 2012.⁸
- In 2010, Senator Sessions voted against a motion for cloture on a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.⁹
- In 2009, Senator Sessions voted against the Lilly Ledbetter Fair Pay Act of 2009.¹⁰
- In 2006, Senator Sessions supported a federal constitutional amendment to ban same-sex marriage.¹¹
- Although, Senator Sessions voted with a unanimous Senate to reauthorize the Voting Rights Act of 1965, he has criticized the landmark civil rights law as "intrusive," and he later agreed with the Supreme Court's 2013 decision, *Shelby County, Alabama v. Holder*, which struck down key provisions of the law.
- In 2002, Senator Sessions voted against a bill that would have expanded the definition of hate crimes to incorporate acts committed because of a victim's sex, sexual orientation or disability and permit the federal government to help states prosecute hate crimes even if no federally protected action was implicated.¹²
- In 1997, Senator Sessions co-sponsored the Civil Rights Act of 1997, a bill which would eliminate affirmative action by the federal government in connection with federal contracts, employment, or other programs by the activities.¹³

The Federal Judiciary

No African American from Alabama has ever served as a judge on the United States Court of Appeals for the 11th Circuit. Earlier this year, President Obama nominated NBA member Judge Abdul Kallon to serve on the 11th Circuit. If confirmed he would have become the first African American federal court of appeals judge from Alabama. However, even though the vacancy on the Court of Appeals was declared a judicial emergency and Judge Kallon was previously confirmed to his district judgeship by unanimous consent,¹⁴ Senator Sessions refused to support the nomination. Furthermore,

⁸ <https://www.congress.gov/bills/112th-congress/senate-bill/1925/text>

⁹ <https://www.congress.gov/bills/111th-congress/senate-bill/3772>

¹⁰ http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=00163

¹¹ http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=00163

¹² http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00147

¹³ <https://www.govtrack.us/congress/bills/105/s950/text>

¹⁴ <http://www.uscourts.gov/judges-judgeships/judicial-vacancies/judicial-emergencies>

of the six federal judicial vacancies in Alabama, three of them have been vacant since 2013 and are deemed judicial emergencies. As a former Attorney General, Senator Sessions possesses first-hand knowledge of the impact these judicial vacancies have on the administration of justice and historically marginalized communities. However, for the past three years Senator Sessions has simply refused to submit potential nominees for consideration. His willingness to leave these seats unfilled demonstrates an intentional undermining of the federal judiciary and abuse of the administration of justice.

Given the Justice Department's critical role in evaluating judicial nominees and advising the President on nominations for Article III judgeships, we are not convinced that Senator Sessions is committed to ensuring that the judiciary is a true representation of the communities it serves.

Conclusion

In our democracy, the Attorney General is charged with enforcing our nation's laws without prejudice and with an eye toward justice. Senator Sessions has a 30-year record of racial insensitivity, disregard for the rule of law, and hostility to the protection of civil rights which makes him unfit to serve as the Attorney General of the United States. For these reasons and many more, the NBA opposes his nomination to serve as s Attorney General of the United States.

A handwritten signature in black ink that reads "Kevin Judd". The signature is written in a cursive, flowing style with a large, prominent "K" and "J".

President, National Bar Association



January 9, 2016

Senator Chuck Grassley
Chairman, Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

Senator Dianne Feinstein
Ranking Member, Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Grassley & Ranking Member Feinstein,

On behalf of the National Center for Learning Disabilities (NCLD), which represents the 1 in 5 individuals with learning and attention issues, I write to respectfully share our concerns regarding the nomination of Senator Jeff Sessions for Attorney General of the United States. I urge you to address these and seek clarification of the Senator's positions during the upcoming nomination hearing.

For the last 40 years, NCLD has worked to improve the lives of the 1 in 5 with learning and attention issues, which are brain-based difficulties that cover a wide range of challenges children may face in school, at home and in the community, including trouble with reading, writing, math, organization, concentration, listening comprehension, social skills, motor skills or a combination of these. NCLD's mission is to empower parents and young adults, transform schools and advocate for equal rights and opportunities. NCLD has a long history of ensuring that individuals with learning and attention issues, including those with learning disabilities, have access to the same opportunities for success as their peers.

Enforcement of the laws impacting individuals with disabilities, including the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act (IDEA), is key to safeguarding their civil rights. These laws protect individuals from discrimination by public entities and in public programs and ensure they get the critical supports they need. Since these laws have been in place, the Department of Justice (DOJ) has performed the essential function of investigating complaints and enforcing compliance. In states that have relegated students with disabilities to separate and subpar schools, the DOJ has stepped in. In situations where students with disabilities were denied access to college or career opportunities, the DOJ has acted. Moreover, for years, states, schools, service providers, and others have relied on the DOJ to offer guidance, technical assistance, and robust collaboration with the U.S. Department of Education's Office of Civil Rights that furthers the intent of the law – full inclusion of individuals with disabilities. Our society needs a strong DOJ to protect individuals in their schools and communities.

NCLD has serious concerns about Senator Sessions' commitment to upholding these laws. In particular, we are deeply troubled by some of his past comments which reflect a misunderstanding of disability and a willingness to blame individuals for actions resulting from their disability. In one statement, the Senator repeatedly suggested that the IDEA – the very law that allows students with disabilities to be educated in our public schools and receive the special education services they need – is "a big factor in accelerating the decline in civility and discipline in classrooms all over America," is the reason "we have

children we cannot control," and is "the single most irritating problem" in our nation's schools.¹ Statements like this demonstrate a callous disregard for the challenges facing individuals with disabilities and the core purpose of special education. Based on comments like these, we question his ability to appropriately enforce civil rights laws.

Moreover, in contrast to the sentiments he expressed, our federal civil rights laws have allowed millions of children with disabilities to receive diplomas, achieve their goals, and enter the workforce leading full and productive lives. A strong commitment to the letter and spirit of these laws has lifted our expectations for students with disabilities and made our society more inclusive and accepting of all people. It is essential for the U.S. Attorney General to continue to defend these laws and signal to our nation that historically disadvantaged communities – like individuals with disabilities – are a valuable part of our society.

During the nomination hearing and in his written responses, NCLD, the parents and educators we represent, and the disability community will be looking to Senator Sessions to:

1. Denounce his previous discriminatory statements about students with disabilities;
2. Affirm his commitment to protecting individuals with disabilities and assure the public that the rights of individuals with disabilities are important and will be a priority for the DOJ; and
3. Share clear and specific steps that he will take to work with the disability and civil rights communities to ensure their voices are heard and their concerns addressed.

Thank you for considering our opinions and we encourage you to raise these issues in the hearing. Parents, educators and the community will be interested to hear Senator Sessions discuss his commitment to civil rights and legal protections for individuals with disabilities. If you have any questions or concerns or if we can be of more assistance as you prepare, please feel free to contact our Vice President, Chief Policy & Advocacy Officer, Lindsay Jones (ljones@ncl.org).

Sincerely,



Mimi Corcoran
President & CEO
National Center for Learning Disabilities

cc: Members of the Senate Judiciary Committee

¹ Sessions Floor Statement, May 18, 2000. "Education Discipline and IDEA." Available at: <http://www.sessions.senate.gov/public/index.cfm/2000/5/education-discipline-and-idea->



NATIONAL CENTER FOR LESBIAN RIGHTS

 WASHINGTON DC
 1500 H Street, NW, Suite 540
 Washington DC 20005

January 17, 2017

The Honorable Charles Grassley
 Chairman
 U.S. Senate Committee on the Judiciary
 224 Dirksen Senate Office Building
 Washington, D.C., 20510

The Honorable Dianne Feinstein
 Ranking Member
 U.S. Senate Committee on the Judiciary
 152 Dirksen Senate Office Building
 Washington, D.C., 20510

Dear Chairman Grassley and Ranking Member Feinstein:

We at the Center for Lesbian Rights write to oppose the nomination of Jefferson B. Sessions as Attorney General of the United States. The National Center for Lesbian Rights strives to protect the equality and freedom of the LGBT community, and Senator Sessions' long public record reflects positions that threaten our nation's fundamental commitments to the principles of equal protection and fairness for all.

The Attorney General is tasked with enforcing the laws of the United States, including the constitutional requirements of equal protection and due process and federal civil rights statutes to ensure the fair and impartial administration of justice for all persons. Throughout his time in public life, Senator Sessions has taken positions that call into question his commitment to enforce those protections vigorously, especially on behalf of those who are most vulnerable to discrimination and disenfranchisement.

Senator Sessions' Opposition to Robust Enforcement of the Voting Rights Act

Our nation has a long and troubling history of denying and impeding the rights of Black voters, who have been subjected to repeated efforts to prevent their equal participation in the most fundamental of all democratic rights. Since the U.S. Supreme Court's decision striking down a critical provision of the Voting Rights Act, state legislators in a number of states have once again embarked upon shameful new efforts to enact restrictions deliberately designed to deter Black voters.

Especially in light of this deeply alarming development, we are troubled by Senator Sessions' prosecution of three civil rights activists for voter fraud in Alabama in 1985, and his subsequent statements promoting unsupported concerns about voter fraud. We are equally troubled by Senator Sessions' refusal to state his clear opposition to contemporary efforts to deny Black persons equal voting rights. As many other organizations, elected officials, scholars, and civil rights organizations have stated, no person with Senator Sessions' demonstrated lack of commitment to robustly enforcing equal voting rights should hold the office of Attorney General of the United States.

Senator Sessions' Opposition to Equality for LGBT People

We also oppose Senator Sessions' nomination because of his long record of opposition to basic legal and social equality for LGBT persons. Senator Sessions supported laws denying same-sex

couples the fundamental freedom to marry¹ and condemned the Supreme Court's decision in *Obergefell v. Hodges* in harsh terms.² While many other elected officials have also opposed marriage equality, few have voiced their opposition in such strident terms or indicated such deep-seated disdain for the Supreme Court's recognition that LGBT persons have an equal right to marry. As representatives of the LGBT community, we are deeply concerned that Senator Sessions lacks a commitment to enforcing that decision, especially in the face of efforts by some elected state officials to undermine and chip away at the equal treatment of married same-sex and opposite-sex couples.

Our concerns are amplified by Senator Sessions' history with respect to other LGBT issues. At every opportunity, Senator Sessions has reiterated his opposition to the inclusion of LGBT persons on equal terms in the central institutions of our democracy. He opposed the repeal of Don't Ask, Don't Tell, stating that it is a mistake not to believe the repeal would "have a corrosive impact on the men and women in the military."³ He similarly opposed the Shepard-Byrd Hate Crimes Prevention Act, which addressed hate crimes motivated by the victim's race, gender, gender identity, or sexual orientation, stating that the law was not "compelled by the facts that are happening in America today."⁴

As Alabama Attorney General in 1996, Senator Sessions used his position to pressure university officials to cancel the Southeastern Lesbian, Gay, Bisexual College Conference from meeting at the University of Alabama, based on a state law that made it illegal for public universities to fund groups promoting "actions prohibited by the sodomy and sexual misconduct laws."⁵ In a disturbing display of official intimidation, Senator Sessions wrote a letter to the university president, stating that the conference violated state law and urging its cancellation. Shortly thereafter, a federal district court struck down Alabama's state law as unconstitutional. Senator Sessions' actions in this matter demonstrated an alarming willingness to use his public office as Alabama's chief law enforcement official to target pro-LGBT association and speech and to endorse a blatantly far-fetched and improper application of an already unconstitutional law to intimidate a disfavored minority.

Most recently, Senator Sessions has co-sponsored the First Amendment Defense Act,⁶ which would create sweeping new exceptions to our nation's civil rights statutes, primarily in order to permit businesses to discriminate against LGBT persons.⁷

Senator Sessions' Views on Immigration and Religious Minorities

Senator Sessions has also demonstrated a lack of commitment to protecting the equality and human rights of immigrants and religious minorities. In the Senate, Senator Sessions has emerged as one of the most anti-immigration lawmakers in our nation's history, voicing extreme positions that reinforce negative stereotypes of immigrants as a threat to our national

¹ Floor Statement, Sen. Sessions on the Marriage Protection Amendment, June 6, 2006.

² Houston Chronicle, "In wake of gay marriage decision, Cruz pushes 'retention' elections for Supreme Court justices," (July 22, 2015).

³ Floor Statement, Sessions Speaks On The Defense Authorization Bill, Sept. 21, 2010.

⁴ Floor Statement, Sessions Expresses Concern about the Hate Crimes Act, July 20, 2009.

⁵ *Gay, Lesbian, Bisexual Alliance v. Jeff Sessions*, 917 F. Supp. 1558 (1996).

⁶ S. 1598 Co-Sponsors, <https://www.congress.gov/bills/114th-congress/senate-bill/1598/cosponsors>

⁷ Human Rights Campaign, First Amendment Defense Act, <http://www.hrc.org/resources/first-amendment-defense-act> (last visited Jan. 16, 2017).

interest. In 2016, Senator Sessions referred to Islam as a “toxic ideology” and voted against a Senate resolution stating that the U.S. should not use religion tests as a determining factor in immigration decisions.⁸ These positions demonstrate not only an unwarrantedly negative view of those seeking refuge and opportunity in this country, but also a dangerous view of our constitution’s protections for religious liberty.

Senator Sessions’ History of Opposition to a Just Criminal Justice System

Senator Sessions has a well-documented record of opposing bipartisan reforms widely acknowledged by leaders in both parties as critical to improving the fairness of the U.S. criminal justice system. While Senator Sessions supported reducing the sentencing disparity between crack and powder cocaine offenses, he opposed retroactive application of that adjustment, which is critical to addressing the acknowledged unfairness of the prior law (including its severely disparate impact on persons of color), and also sought to weaken the law’s correction of the disparity despite its continuing imposition of unfairly disparate penalties. Senator Sessions also continues to support draconian mandatory minimum sentences, despite their documented ineffectiveness and racially disparate impact. Recently, he opposed a bipartisan attempt to reduce unnecessarily long federal prison sentences for nonviolent offenses by helping to block the Sentencing Reform and Corrections Act, which was supported by Republican leadership.

Unlike a number of Senator Sessions’ Republican colleagues, he supports “civil asset forfeiture,” which enables law enforcement to take property from a person before they are accused of a crime. Additionally, Senator Sessions does not support the Department of Justice’s initiative to focus on fewer but “more serious drug offenses,” which has helped to reduce the federal prison population. Finally, Senator Sessions has criticized the Department of Justice for its investigations into allegations of police misconduct and a “pattern or practice” of violating civil rights. These actions cast serious doubt on Senator Sessions’ commitment to ensuring a criminal justice system that treats individuals fairly and equally.

Senator Sessions’ Lack of Support for Women’s Equality and Opposition to the Fundamental Right to Procreative Freedom

Senator Sessions has consistently opposed legislation seeking to ensure equality for women, including multiple efforts to ensure equal pay for equal work (including the Lilly Ledbetter Fair Pay Act of 2009⁹), measures to protect women’s access to reproductive health services, and policies to address violence against women. He has voiced consistent opposition to women’s constitutionally protected right to abortion, amassing one of the Senate’s most consistent and extreme records on this issue—including voting to entirely eliminate the Title X family planning program and contraceptive access despite the devastating impact such a measure would have on women’s health and well-being.

⁸ Rebecca Shabad, *In Rebuke Of Donald Trump, Senate Panel Rejects Religion-Based Bans*, CBS News (Dec 10, 2015, 4:13 PM) <http://www.cbsnews.com/news/in-rebuke-of-donald-trump-senate-panel-says-u-s-must-not-ban-people-based-on-religion-muslims/>.

⁹ 556 Cong. Rec. 155, 16 (2009).

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When considered as a whole, Senator Sessions' track record of opposition to many of our nation's landmark civil rights statutes and judicial precedents casts serious doubt on his commitment to enforce these fundamental protections. For these reasons, we oppose the nomination of Senator Jeff Sessions as Attorney General of the United States.

Sincerely,

National Center for Lesbian Rights



Charles B. Wang International
Children's Building
699 Prince Street
Alexandria, VA 22314-3175
U.S.A.

Telephone 703.224.2150

Facsimile 703.224.2122

www.missingkids.com

www.cybertipline.com

Other Offices
California
Florida
New York
Texas

December 15, 2016

The Honorable Jeff Sessions
United States Senate
326 Senate Russell Building
Washington, DC 20510

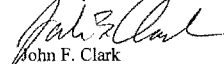
Dear Senator Sessions,

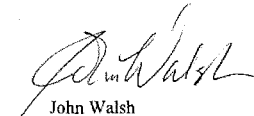
On behalf of the National Center for Missing & Exploited Children (NCMEC), we are writing to congratulate you on your nomination by President-elect Donald Trump to be our nation's next Attorney General.

As you know, NCMEC was created as a private, non-profit organization in 1984 and designated by Congress to serve as the national clearinghouse on issues related to missing and exploited children. NCMEC provides services to families, private industry, law enforcement, victims, and the general public to assist in the prevention of child abductions, the recovery of missing children, and the provision of services to combat child sexual exploitation. We are proud of the strong partnership NCMEC has with the Department of Justice, and we look forward to continuing that work.

As always, thank you for your strong support of the Center and the families and children we serve. We look forward to meeting with you once you are at the Department.

Sincerely,


John F. Clark
President and CEO


John Walsh
Founder and Board Member



Charles B. Wang International
Children's Building
699 Prince St.
Alexandria, VA 22314-3175
U.S.A.

Telephone 703-224-2150

Fax 703-224-2122

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Other offices
California
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New York
Texas

December 22, 2016

The Honorable Charles Grassley
Chairman, Committee on Judiciary
U.S. Senate
Washington, D.C. 20510

The Honorable Dianne Feinstein
Committee on Judiciary
U.S. Senate
Washington, D.C. 20510

Dear Chairman Grassley and Senator Feinstein:

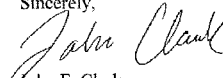
As the Senate Judiciary Committee meets to consider the nomination of Senator Jeff Sessions to be the 84th U.S. Attorney General, I am writing in support of his nomination. During his tenure in the Senate, Senator Sessions has worked with us at the National Center for Missing & Exploited Children (NCMEC) on a variety of child safety issues and concerns, including the Adam Walsh Act.

As you know, NCMEC is a private, non-profit organization that for over 32 years has been designated by Congress to serve as the national clearinghouse on issues related to missing and exploited children. NCMEC provides services to families, private industry, law enforcement, victims, and the general public to assist in the prevention of child abductions, the recovery of missing children, and the provision of services to combat child sexual exploitation.

NCMEC works in partnership with the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) on issues related to missing and exploited children. In order to fulfill our mission to serve some of our nation's most vulnerable children, it is imperative that the Department and OJJDP have strong leaders, like Senator Sessions, in place.

Thank you for considering our views as you begin the confirmation process and for your ongoing commitment to the safety of our nation's children and families. We look forward to working with you in the 115th Congress.

Sincerely,


John F. Clark
President and CEO



January 9, 2016

Dear Senate Judiciary Committee Member:

On behalf of more than one million transgender Americans, the National Center for Transgender Equality writes to express our strong opposition to the nomination of Senator Jeff Sessions for Attorney General. The position of Attorney General is one of central importance to the protection of fundamental freedoms and the rule of law, and the rush to confirm such a divisive and extreme nominee on an incomplete record is deeply disturbing.

The mission of the Department of Justice (DOJ) is to ensure fair and impartial administration of justice for all Americans, including people of all races, nationalities, and religions, women, people with disabilities, and lesbian, gay, bisexual, and transgender Americans. The Department's many responsibilities have an especially profound impact on the lives of vulnerable communities such as transgender Americans. In a national survey of transgender adults, one in six (16%) who had been employed in the last year reported losing a job because they were transgender. More than three-quarters (77%) of those who were out or perceived as transgender as K-12 students reported some form of discrimination, and a stunning 17% reported the mistreatment was so bad that they changed schools or dropped out. Most disturbingly, nearly one in ten transgender Americans (9%) reported being the victim of a hate-motivated physical attack in the last year. In sum, transgender Americans face persistent discrimination and violence in their daily lives and, like other Americans, rely on the Justice Department to play a key role in protecting their basic rights and freedoms.

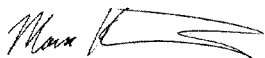
Unfortunately, Sen. Sessions has shown through his record, statements, associations, and temperament, as to whether he is prepared to fully and fairly carry out this critical role in our government. This alarming record is exemplified by, but certainly not limited to, the disturbing past statements and prosecutorial decisions that previously led the Senate to reject Sessions for a federal judgeship, as well as the outrageous statement just weeks ago that grabbing a woman's genitals without consent is not sexual assault. We are also deeply concerned by Senator Sessions' long and continuing courting and elevating nativist and white supremacist organizations and advocates, including his close relationship with and praise of the so-called "platform of the alt-right," Breitbart Media. Sessions has steadfastly refused to criticize even the ugliest and most openly racist rhetoric of anti-immigrant and anti-Muslim extremists he has associated with—even while he has never hesitated to lambast judicial nominees with any past associations with civil rights groups. This apparent double standard, along with numerous other concerns that have been raised about Session's record, underscores the need for a careful and thorough vetting of this nominee.

Sessions has also been a vocal opponent of equality for LGBT Americans for decades. As Alabama Attorney General, Sessions worked to stop an LGBT student group from holding a conference at the University of Alabama. Sessions said he would "do everything I can to stop that conference" because of what he called LGBT people's "sexually deviate activities"—an effort a federal court ruled unconstitutional. In the Senate, Sessions has consistently opposed even the most basic legal protections

for LGBT Americans, including the 2009 Hate Crimes Prevention Act and protections for LGBT survivors to access victims' services under the Violence Against Women Act—both of which he would be responsible for enforcing as Attorney General.

The work of the Attorney General will have a profound impact on the lives, fundamental freedoms, and dignity of millions of Americans. The Attorney General is charged ensuring equal justice for all and safeguarding civil rights. Because of his long history of extremism, intolerance, and disturbing remarks and associations, Senator Sessions has disqualified himself from this position. We strongly the Committee to reject him, as it did in 1986.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mara Keisling', with a stylized flourish at the end.

Mara Keisling
Executive Director

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NCBL

**National Conference of Black Lawyers
D.C. Chapter
60 L Street NE #1018
Washington, DC 20002**

January 16, 2017

The Honorable Chuck Grassley, Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Confirmation of Senator Jefferson Sessions as United States Attorney General

Dear Senator Chuck Grassley,

The National Conference of Black Lawyers (NCBL) is composed of lawyers, law students and legal workers throughout the United States, U.S. Virgin Islands and Canada who have worked to protect the Constitutional and Human Rights of Black people since its founding in 1968. The D.C. Chapter includes people who reside and work in the District of Columbia. Unfortunately, because D.C. is not a state, we do not have a senator to whom we can copy this message. We are, therefore, copying this letter to, among others, our non-voting representative, The Honorable Eleanor Holmes Norton, who has represented D.C.'s interests well despite her lack of a vote.

We supported the letter sent to you on January 9, 2017 by the National Bar Association, Hispanic National Bar Association, National Asian Pacific Bar Association, and, National LGBT Bar Association. It appears, however, that their reasoned request that you delay the hearings on Senator Jefferson Sessions' confirmation for United States Attorney General has been denied as the hearings began on January 10 and continued through January 11. We join others, therefore, in urging you to reject the nomination of Senator Jefferson Sessions for the position of Attorney General of the United States.

Senator Sessions' history suggests that he will be unable to fulfill the responsibilities of this office to enforce the Constitution of the United States and the laws passed under the Constitution that protect the civil and human rights of African descendants, other people of color and minorities, immigrants and women.

In 1986, the Republican-controlled Senate Judiciary Committee, in a bipartisan vote, rejected President Ronald Reagan's nomination of then-U.S. Attorney Sessions for a federal judgeship, due to statements Sessions had made that reflected prejudice against African Americans. His record since 1986 supports a conclusion that despite his self-serving statements before the Senate Judiciary Committee on January 10, he continues to exhibit prejudice toward black people, as well as other people of color; and, this prejudice cannot but influence his decisions as United States Attorney General. Indeed, nothing in Senator Sessions' public life since 1986 has convinced us that he is a different man than the 39-year-old attorney who was deemed too racially insensitive by a Republican-controlled Judiciary Committee to become a federal district court judge.

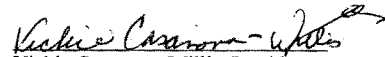
Senator Sessions sought a sentence of 254 years for the Marion 3 (Albert Turner, Evelyn Turner, and, Spencer Hogue) in a prosecution for voter fraud that was an affront to the Voting Rights Act and to those for whom the act was passed – blacks who had been disenfranchised by laws in Alabama that denied them a voice in the state's civic life. When given the opportunity in 2016 to apologize to Evelyn Turner when she was invited to Washington, DC to be honored as a foot soldier in the Civil Rights Movement, he attempted to speak with her; yet he offered no apology.

In his years as a Senator from Alabama he has consistently voted against civil rights legislation that would protect the interests of African descendants, other people of color, women and immigrants. He neither supported the Voting Rights Act in 1985 when he prosecuted the Marion 3, nor as a Senator when he had the opportunity to ensure that key provisions of the Voting Rights Act were extended. He voted against the extension of the Violence Against Women's Act. His recent testimony blatantly contradicts his past actions and words. Yet, we know that the best predictor of a person's future actions is their prior actions. Senator Jefferson Sessions' past words and deeds leave but one conclusion: he does not support the civil and human rights of the marginalized in this country as protected by the United States Constitution.

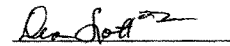
To confirm Senator Sessions' nomination as United States Attorney General would be an outward expression of disdain for the interests and well-being of black people as well as other

marginalized groups. Senator Jefferson Sessions will not fairly enforce our nation's laws and promote justice and equality in the United States. The NCBL and its D.C. chapter urge you, for the reasons stated herein, to reject his nomination as an affront to the rights of the most marginalized in the United States.

Sincerely,


Vickie Casanova-Willis, President
National Conference of Black Lawyers


Adjda A. Aiyetoro


Dea Lott

Conveners, NCBL DC Chapter

cc: The Honorable Eleanor Holmes Norton
United States House of Representatives
2136 Rayburn
Washington, DC 20510

The Honorable Dianne Feinstein, Ranking Member
United States Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer, Minority Leader
United States Senate
S221 U.S. Capitol
Washington, DC 20510

The Honorable Mitch McConnell, Majority Leader
United States Senate
S230 U.S. Capitol
Washington DC 20510



1201 16th St., N.W. | Washington, DC 20036 | Phone: (202) 833-4000

Lily Eskelsen García
President

Rebecca S. Pringle
Vice President

Princess R. Moss
Secretary-Treasurer

John C. Stocks
Executive Director

January 9, 2017

United States Senate
Committee on the Judiciary
Washington, DC 20510

Dear Senator:

On behalf of the three million members of the National Education Association and the students they serve, we wish to express our strong opposition, based on the totality of his record, to Senator Jeff Sessions nomination to be U.S. Attorney General. As the Committee begins its hearing process, we note that in both his home state of Alabama and the U.S. Senate, Sessions has fought against equitable funding for public schools, opposed rights for students with disabilities, and undermined additional civil rights across a range of issues.

Specifically, Sessions has played a lead role in:

- **Defeating a landmark lawsuit to ensure equitable funding of public schools, *Alabama Coalition for Equity, Inc. v. Hunt*.** Before Sessions became attorney general of Alabama, a trial court found that extreme disparities in funding among wealthy and poor schools led to school conditions so inequitable they violated the state constitution—for example, schools in poor districts were dangerous, dilapidated, and infested with insects; lacked teachers, librarians, social workers, nurses, and counselors; and could not afford any art, music, or science instruction. After he became attorney general of Alabama, Sessions got the state to reverse course and revive its challenge to the lawsuit, ultimately prevailing on a technicality. Decades later, Alabama's schools continue to face unequal funding, deep racial disparities, and desegregation orders—54 school districts are under desegregation orders today. Yet Sessions has signaled that he would end these protections, claiming that the orders are “an end run around the democratic process” (Alabama Policy Institute, *Consent Degrees in Institutional Reform Litigation: Strategies for State Legislatures*, 2008).
- **Denouncing the Individuals with Disabilities Education Act (IDEA).** This landmark law, which has enjoyed bipartisan support for decades, has made it possible for millions of students with disabilities to move out of institutions and into classrooms, including those with intellectual and learning disabilities. Yet Sessions claims, without evidence, that IDEA has “accelerat[ed] the decline in civility and discipline in classrooms all over America” (*Congressional Record*, Vol. 146: S3573, May 8, 2000). He believes that only students with physical disabilities should have equal access to a public school education—students, who in his words, “have a hearing loss, or a sight loss, or if they have difficulty moving around in a wheelchair” (*Congressional Record*, Vol. 147: S11518, Nov. 7, 2001). Nowhere does he

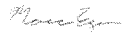
acknowledge that IDEA also covers students with learning, social, and emotional disabilities even though the law itself says, “The term ‘child with a disability’ means a child ... with mental retardation ... speech or language impairments ... serious emotional disturbance ... autism, traumatic brain injury ... or specific learning disabilities” (Pub L. 105-17, 111 Stat. 43 (1997), *codified as amendment at* 20 USC. § 1401(3)(A)(i)).

- **Undermining civil rights across a range of issues.** Sessions admitted that he had called the Voting Rights Act an “intrusive piece of legislation” at the Senate Judiciary Committee’s 1986 hearing on his nomination for a federal judgeship. Another witness testified that he had also described the NAACP and ACLU as “un-American” and “Communist-inspired” organizations that “forced civil rights down the throats of people.” As attorney general of Alabama, Sessions asserted that LGBT student groups were criminals precisely because they advocated for lesbian, gay, bisexual, and transgender Americans. After a federal court ruled that his attack on LGBT groups was a “naked” violation of the First Amendment, Sessions vowed “to do everything I can to stop” an LGBT conference at a public university, and was again rebuked by a federal court. (*Gay Lesbian Bisexual Alliance v. Sessions*, 1996).

It is the duty of the U.S. Attorney General to enforce the federal laws that govern equity and segregation in public schools, including Title IV and Title VI of the Civil Rights Act, the Equal Educational Opportunities Act, the Individuals with Disabilities Education Act, Title II of the Americans with Disabilities Act, and Section 504 of Rehabilitation Act. Senator Sessions’ record in these areas is deeply disturbing, especially in light of the ongoing harassment, intimidation, and violence against students based on race, religion, gender, gender identity, sexual orientation, and disability.

As you prepare for a hearing and a vote, we strongly urge you to oppose the nomination of Senator Jeff Sessions as U.S. Attorney General.

Sincerely,



Marc Egan
Director of Government Relations



**NATIONAL
IMMIGRATION
FORUM**

Practical Solutions for Immigrants and America

January 9, 2017

Dear Senator:

The National Immigration Forum has a series of questions regarding Sen. Jeff Sessions' nomination as Attorney General. We are concerned regarding his longstanding opposition to broad immigration reform, and skepticism toward legal immigration, such as toward visa programs for workers in STEM and high-tech fields. Based on our work with local law enforcement officials across the country, we also have questions regarding Sen. Sessions' support for policies that impart immigration enforcement responsibilities on state and local law enforcement.

Accordingly, as the Senate Judiciary Committee considers the nomination, we urge you to consider the following questions:

- 1) How would Sen. Sessions ensure that individuals in our immigration court system receive their day in court and ensure that families and children fleeing violence in their home countries receive due process? Is he committed to ensuring that those with valid asylum claims receive their day in court?
- 2) Would Sen. Sessions enforce civil rights and anti-discrimination laws on behalf of immigrants discriminated against on the basis of immigration status or national origin?
- 3) How would Sen. Sessions intervene if individual states were to take constitutionally suspect actions that harm immigrants? Will a Justice Department led by Sen. Sessions intervene if a state passes a law like Arizona's SB 1070, key provisions of which the Supreme Court found unconstitutional?
- 4) What does Senator Session believe is the appropriate role for local law enforcement in enforcing federal immigration laws? Does he plan to change federal grant requirements to local law enforcement agencies or other policies to require local law enforcement agencies to assist in enforcing federal immigration laws?

We urge the Committee to probe deeply into these issues as it considers the nomination.

Sincerely,

Ali Noorani
Executive Director



**NATIONAL NARCOTIC OFFICERS' ASSOCIATIONS'
COALITION**

455 Massachusetts Avenue NW, Box 112, Washington, DC 20001

www.natlnarc.org

November 20, 2016

Donald J. Trump
President-Elect of the United States
New York, NY

Dear President-Elect Trump,

The National Narcotic Officers' Associations' Coalition (NNOAC), representing more than 50,000 law enforcement officers across America, commends your intent to nominate Senator Jeff Sessions to be Attorney General of the United States. We will urge the Senate to promptly consider and confirm the nomination.

While we know that a strong economy starts with safe communities where innovators, workers, and consumers can thrive, we also know that drug traffickers, foreign drug cartels, and violent criminal gangs are flooding our communities with dangerous drugs that are putting our citizens - especially our young people - at great risk. The costs in lives and tax dollars are staggering, evidenced by the more than 40,000 Americans killed each year as a result of drug overdoses. The explosive epidemic of heroin and opioids has made the situation worse. Thousands more are injured or killed in violent disputes over turf where these poisons are sold. Every place those terrible things occur is a place that is less likely to see economic growth.

Senator Jeff Sessions understands these realities to his core. He understands the costs and consequences of drug trafficking and the resultant abuse, addiction, and violence that has been devastating to many cities, especially in some of our most vulnerable and impoverished communities. He has spent most of his life making a difference on these issues. He has long supported an overall policy approach that resulted in historic reductions in violent crime, property crime, and drug abuse rates from the mid-1980s through the late 2000s.

Unfortunately, as our some of our nation's leaders shifted the focus away from strategies that worked to keep Americans safe, we have begun to see backsliding with drug use and abuse rates increasing as legalization and decriminalization movements have picked up steam. Violent crime in many cities is spiking. The amount of illegal drugs including methamphetamine, cocaine, heroin, and synthetics coming across our borders is increasing. And the number of Americans dying from overdoses has reached unprecedented levels, which we should all find unacceptable in such a great nation.

The NNOAC represents men and women on the front lines of protecting our citizens and our communities from drug trafficking and the addiction and violent crime it causes. We enthusiastically support the nomination of Senator Sessions because we have witnessed the effectiveness of the strategies he has supported throughout his career. We are hopeful that, under his leadership, the Department of Justice will refocus on those strategies that have worked to drive down violent crime and drug use and abuse. That means reaffirming support for partnerships between federal, state, local, tribal, and territorial law enforcement agencies through strengthened and refocused grant programs including the Byrne Justice Assistance Grant program. It means reinvigorating criminal intelligence, information sharing, and deconfliction efforts through the Regional Information Sharing Systems (RISS) program. It means enforcing the federal Controlled Substances Act in all parts of the United States. It means embracing - rather than vilifying - multi jurisdictional task forces that enable law enforcement collaboration against threats to our communities, and providing access to proven leadership training like the Center

for Task Force Training (Centf) Program. It means ensuring that law enforcement agencies can obtain electronic evidence when they get a warrant pursuant to the U.S. Constitution. It means protecting asset forfeiture laws that help law enforcement to cripple and dismantle profitable drug trafficking and organized criminal enterprises. And it means maintaining tough penalties for drug trafficking offenses and not giving the worst offenders a break.

In short, as narcotic officers and law enforcement officers who are sworn to protect our fellow citizens, it is well past time that we refocus our efforts to do just that. Senator Sessions has a record of supporting effective law enforcement. As he is formally nominated, the NNOAC will actively support and encourage his prompt confirmation to help get us back on track so we can get back to the business of protecting our citizens and communities from the damage and carnage left in the wake of drug traffickers and violent criminals, something that will be sure to improve the environment for job creation and economic growth.

During the course of his service to our nation, Senator Sessions has demonstrated his commitment to upholding the rule of law, while ensuring the protection of our constitutional rights, which are the backbone of our democracy. We support Senator Sessions and will ask that the Senate promptly confirm his nomination.

Respectfully,



Bob Bushman
President
National Narcotic Officers' Associations' Coalition

National
Religious
Broadcasters

1 Massachusetts Ave NW
Suite 333
Washington, DC 20001
Phone: 202-543-0073
Fax: 202-543-2649

www.nrb.org
info@nrb.org

Christian
Communicators
Impacting
the World



January 9, 2017

The Honorable Chuck Grassley
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley:

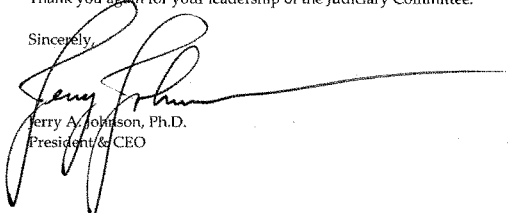
As President and CEO of the National Religious Broadcasters (NRB), I write to thank you for moving swiftly to facilitate consideration of the nomination of U.S. Senator Jeff Sessions to be Attorney General of the United States. I wholeheartedly support this nomination and I urge his approval by the Judiciary Committee and confirmation by the entire Senate.

Senator Sessions is a man of strength, integrity, and principle. After his years of experience in public service, particularly as a U.S. Attorney, Alabama Attorney General, and his distinguished service in the Senate, he is well suited to lead the U.S. Department of Justice and to make certain it stays true to its mission of enforcing the law, ensuring public safety, and upholding the constitutional rights and liberties of all.

I am also grateful for Senator Sessions respect for faith and love of family. At his core, he is a good and honorable citizen – one whom we can trust to be true to the Constitution and to embrace our nation's founding principles of life, liberty, and the pursuit of happiness.

Thank you again for your leadership of the Judiciary Committee.

Sincerely,


Jerry A. Johnson, Ph.D.
President & CEO



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

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LAWRENCE G. KEANE
 SENIOR VICE PRESIDENT
 & GENERAL COUNSEL

January 9, 2017

The Honorable Chuck Grassley
 224 Dirksen Senate Office Building
 Washington, DC 20510

Dear Mr. Chairman:

The National Shooting Sports Foundation (NSSF) is the trade association for the firearms, ammunition, hunting and recreational shooting sports industry. On behalf of our nearly 13,000 members, we write to express our strong support for the nomination of Senator Jeff Sessions as the 84th Attorney General of the United States.

For more than 40 years, Senator Sessions has honorably served his country. Whether in uniform, from the bench, or as a Member of Congress, he has respected and upheld the rule of law. Without question, we can expect no different from him as U.S. Attorney General.

The last eight years were fraught with continuous attacks on our Second Amendment liberties. As evidenced by Senator Sessions' tireless efforts to protect the rights of law-abiding citizens, including through his staunch support of the passage of the Protection of Lawful Commerce in Arms Act, we are confident those days will now remain days of the past. We are hopeful that under a Trump Administration, and with Senator Sessions as the chief law enforcement officer in the country, criminals will be taken off our streets, justice will be served, and the firearms and ammunition industry will no longer be under attack.

Just as Senator Sessions has stood up and fought for manufacturers and sellers of lawful items, on behalf of our membership nationwide, NSSF stands up in strong support of Senator Sessions and urges all members of your committee and the entire distinguished body to vote in favor of President-elect Donald Trump's nomination of Senator Jeff Sessions as the next U.S. Attorney General.

Thank you for your hard work and efforts to protect one of America's most important traditions.

Sincerely,

Lawrence G. Keane

cc: Members of the United States Senate Committee on the Judiciary

NSSF IS THE TRADE ASSOCIATION FOR AMERICA'S FIREARMS INDUSTRY.
 OUR MISSION: TO PROMOTE, PROTECT AND PRESERVE HUNTING AND THE SHOOTING SPORTS.



National Task Force to End
Sexual & Domestic Violence

Dear Member of the Judiciary Committee:

We, the steering committee of the National Task Force to End Sexual and Domestic Violence (NTF), a coalition of national, tribal, state, and local leadership organizations and individuals advocating on behalf of victims of sexual assault, domestic violence, dating violence and stalking, write to express our opposition to Senator Jeff Sessions' nomination for Attorney General of the United States of America. We have arrived at this position based upon a review of his record as a state and federal prosecutor, during which he applied the law unevenly, and as a U.S. Senator, during which he supported laws that would afford only some members of our society equal protection of the law. The role of Attorney General requires a demonstrated commitment to providing *equal protection under the law*—particularly to people who face discrimination because of their race, religion, gender, gender identity, sexual orientation, disability or other identities. We respectfully submit that Senator Sessions' record speaks for itself and that his history of differential application of the law carries with it the potential to harm victims and survivors of gender-based violence, particularly survivors from historically marginalized communities. Thirty years ago, this Committee rejected Senator Sessions' nomination to the federal bench due to well-justified concerns regarding his problematic record on civil rights and troubling history of making racially insensitive statements. These aforementioned concerns, combined with his equally troubling comments on the nature of sexual assault and other concerns raised below, make Senator Sessions an unqualified choice to serve as U.S. Attorney General.

The position of Attorney General of the United States of America, created by the Judiciary Act of 1789, bears the responsibility of representing the United States in all legal matters in which the country has an interest.^[1] Chief among those interests is the affording of equal protection under our criminal, civil and civil rights laws to all members of our society. Under 28 U.S.C. §503, the President's appointment of an Attorney General must be with the "advice and consent of the Senate." The process ensures that the person holding the post of Attorney General is one fit for such duty, a person with the intellectual, moral and steadfast ethical capacity to uphold the laws and interests of the United States and to apply the laws equally to all members of society.

Failure to Speak Up for Victims of Violence and Discrimination

A threshold qualification for the position of Attorney General is a deep understanding of the laws s/he is sworn to uphold. Of critical relevance are Senator Sessions' recent comments on the nature of sexual assault in response to the release of a 2005 video in which President-Elect Donald Trump describes grabbing women's genitalia without their consent. When asked whether he would characterize the behavior described by President-elect Trump as sexual assault, Senator Sessions responded, "I don't characterize that as

sexual assault. I think that's a stretch. I don't know what he meant --." [2] Federal statutes enacted prior to Senator Sessions' tenure as U.S. Attorney for the Southern District of Alabama criminalize "abusive sexual conduct." [3] The applicable definition for conduct prohibited by 18 U.S.C. §2244 is clearly stated: "the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person." [4] Thus, the Senator is either unaware that abusive sexual contact is illegal under federal law, or he feigned ignorance of the laws he was sworn to uphold as an officer of the court for the sake of political expedience.

The Department of Justice has the exclusive authority to enforce the United States' criminal statutes, including 18 U.S.C. §2244. The Department of Justice also has exclusive jurisdiction over the prosecution of domestic and sexual violence in the District of Columbia [5], most sexual assaults perpetrated in Indian Country, and concurrent jurisdiction over domestic violence offenses committed in Indian Country. Any candidate for Attorney General of the United States, particularly a former U.S. Attorney, should possess a thorough understanding of the legal definition of sexual assault under federal law and under the laws of the jurisdictions in which the Office of the U.S. Attorney has prosecutorial responsibility. The National Task Force has worked collectively for decades to ensure that legal definitions in the U.S. Code and under state and local laws make it absolutely clear that sexual assault is a crime. The job of the Attorney General is to enforce the law without fear or favor. Thus, we expect the Attorney General to enforce federal laws addressing sexual assault without introducing nonexistent ambiguity, because of the perpetrator's identity. Senator Sessions' cavalier statement about sexual assault leaves us fearful that he will not vigorously prosecute sexual assault crimes, a practice unbecoming of the nation's chief law enforcement officer.

Additionally, Senator Sessions' poor history with respect to fighting for fairness and equity has us justifiably concerned that he will not step in to vindicate the rights of survivors of campus sexual assault and other victims of discrimination. The Justice Department has jurisdiction to enforce a myriad of civil rights statutes, including Title VI of the Civil Rights Act of 1964 [6] and Title IX of the Education Amendments of 1972 [7]. These statutes bar discrimination in education based on race, color and national origin and sex (respectively) by educational institutions that receive federal funding. [8] On college and university campuses alone, we know that 20 percent of women are victimized by sexual assault. [9] Absent an Attorney General's commitment to ensuring that educational institutions root out bias and violence and hold perpetrators accountable, victims of discrimination, harassment or violence based on sex, race and/or national origin will be unable to pursue their education in an atmosphere of educational equity. Teachers surveyed since the election have described thousands of incidents of "bigotry and harassment," stemming from incidents involving "racist, xenophobic or misogynistic comments," and/or "derogatory language directed at students of color, Muslims, immigrants, and people based on gender or sexual orientation." [10] It is imperative that the person nominated to the position of Attorney General possess a demonstrated record of work and support for these impacted communities, including people of color, immigrants, Muslims and religious minorities, members of the LGBT community, and people with disabilities.

Regrettably, Senator Sessions' career is replete with actions taken and statements made in opposition to equitable educational access. While Attorney General of Alabama, Senator Sessions fought equitable educational access for poor, minority and disabled students in Alabama even after being ordered by a federal court to remedy the yawning financial disparities between Alabama's richest (and whitest) and poorest school districts.[11] Additionally, his mischaracterization of the Individuals with Disabilities in Education Act as creating "special treatment for certain children," and being responsible for "accelerating the decline of civility and discipline in classrooms across America," is appalling.[12] In light of these remarks, we are concerned not only about the Senator's willingness to use the civil rights statutes to protect survivors of both campus sexual assault and other forms of harassment and violence in the education context, but also his commitment to ensuring equal access and safety under certain programs in the Violence Against Women Act for victims of sexual and domestic violence who have disabilities.

Fair Application of Law

We have additional concerns regarding the Attorney General's role with respect to the fair, even and unbiased application of the law. Victims and survivors come from all racial or ethnic backgrounds, faith practices, sexual orientations, and gender identities: 33.5% of multiracial women have been raped, as have 27% of American Indian and Alaska Native women, 15% of Hispanic, 22% of Black, and 19% of White women.[13] Additionally, 53.8% of multiracial women and 39.3% of multiracial men experience intimate partner physical violence, intimate partner sexual violence and/or intimate partner stalking in their lifetimes, as do 46.0% of American Indian and Alaska Native women, 45.3% of American Indian and Alaska Native men, 19.6% of Asian and Pacific Islander women (data for Asian and Pacific Islander men is not available), 43.7% of Black women, 38.6% of Black men, 37.1% of Hispanic women, 26.6% of Hispanic men, 34.6% of White women and 28.2% of White men.[14] We know firsthand that many survivors from vulnerable populations hesitate to contact law enforcement or do not trust the court system to address their victimization because they fear, based on prior experience, that any justice system response may not help them. We expect anyone who serves as Attorney General to create a Justice Department accessible to all; the 5th and 14th Amendments of the U.S. Constitution demand no less.

Senator Sessions' well-documented prosecutorial record[15], as U.S. Attorney for the Southern District of Alabama and as Attorney General for the State of Alabama, demonstrate his propensity to inequitably apply the law to the disadvantage of historically marginalized populations. Senator Sessions' history leads us to question whether he will vigorously seek to ensure that all victims and survivors of gender-based violence, particularly vulnerable populations and those at the margins of society, have access to vitally needed services and legal protections.

Senator Sessions' Opposition to Protections for the Immigrant and LGBT Communities

We are concerned that the positions that Senator Sessions has taken on immigration and LGBT individuals pose grave threats to vulnerable victims of gender-based violence. His

consistent support of immigration policies that increase the barriers to safety for undocumented victims of sexual and domestic violence victims pushes immigrant victims further into the shadows and harms families and communities by allowing perpetrators (batterers and rapists) to abuse, traffic and assault with impunity. During the consideration of two major comprehensive immigration reform bills, as well on various other occasions, Senator Sessions has sponsored amendments and stand-alone legislation to limit the availability of critical safety net assistance for immigrants and increase barriers to protections from abuse and exploitation by penalizing local jurisdictions that fail to engage in immigration enforcement activities. He has made no subsequent statement that indicates that he would rethink these punitive policy positions were he to be confirmed.

His failure to support, and sometimes active opposition to, progress and protections for the LGBT community leave us gravely concerned that if confirmed, he would not stand up for the rights of the LGBT community generally, and particularly with respect to LGBT victims of violence. He opposed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, which is of particular concern as we witness a spike in harassment of minorities and bias crimes over the last several months. Additionally, he supported a constitutional amendment to ban same-sex marriage. He also opposed the repeal of “Don’t Ask Don’t Tell.” Senator Sessions’ record sends the message to marginalized survivors that their experiences will not be understood, nor will their rights be protected, if he is confirmed as the Attorney General.

Opposition to the Violence Against Women Act

We are also concerned that the nominee voted against the Violence Against Women Act (VAWA) Reauthorization of 2013. Seventy-eight out of one hundred senators supported the bipartisan bill; Senator Sessions was in the distinct minority. The 2013 Act addresses the gaps in law that were uncovered through outreach to and surveys of programs and service providers and domestic and sexual violence victims themselves.

Our analysis revealed that many survivors were not able to access services and justice to the extent they needed. Of particular note, we found that LGBT survivors often lacked access to justice and support based on their gender identity or their sexual orientation. We also learned of the deplorable lack of access to justice faced by survivors of domestic violence and sexual assault on tribal lands. VAWA 2013 included provisions that removed one of many barriers that prevent access to justice for American Indian and Alaska Native domestic violence survivors. The 2013 statute’s provisions expand and ensure that immigrant survivors can access VAWA protections, allowing survivors to come out of the shadows, help hold batterers and abusers accountable, and enable law enforcement to protect community safety. VAWA 2013’s goal of ensuring equal protection of the law was rejected by Senator Sessions, who cast the bill’s advancements toward inclusion and equal protection as political maneuvering and, in that light, voted against the bill. The Attorney General is tasked with ensuring that VAWA’s protection and programs are available and accessible to all. Senator Sessions’ opposition to the VAWA protections and his prosecutorial record leave us gravely concerned that he would not vigorously or consistently apply these protections.

Conclusion

The 14th Amendment provides the inalienable right that every person receive equal protection under the law.[16] Senator Sessions' senate record of strenuous objection to protections for historically marginalized populations, coupled with his record of selective prosecutions, demonstrate his unwillingness to protect marginalized victims' access to justice and disqualify him from holding the position of Attorney General of the United States, a position charged with the responsibility of securing justice for all. Selective application of the law and outward hostility towards victims of sexual and domestic violence in historically marginalized populations has a chilling effect on their willingness and ability to seek services and protection. It drives sexual violence, domestic violence, dating violence and stalking underground, something we have made great strides to avoid. The Attorney General of the United States must be an individual committed to protecting the inalienable right of equal protection under the law to *all* within United States' jurisdiction. Moreover, his minimizing comments about the nature of sexual assault call into question his dedication to enforcing the law and providing justice to victims of this serious crime.

In short, we oppose Senator Sessions' confirmation as Attorney General of the United States and we ask you, as a member of the Senate Judiciary Committee, to ask him direct questions regarding the concerns raised in this letter, and to advise the President, pursuant to the prescription of 28 U.S.C. §503, that Senator Sessions' is unqualified to hold this post.

Yours truly,

The National Task Force to End Sexual and Domestic Violence

[1] See 28 U.S.C. §§ 516, 519.

[2] The Weekly Standard, "Jeff Sessions: Behavior Described by Trump in 'Grab Them By the P---y' Tape Isn't Sexual Assault," (October 10, 2016). Retrieved from http://www.weeklystandard.com/jeff-sessions-behavior-described-by-trump-in-grab-them-by-the-p-y-tape-isnt-sexual-assault/article/2004799?custom_click=rss

[3] 18 U.S.C. §2244.

[4] 18 U.S.C. §2246(3).

[5] Within the District of Columbia, §22-3001(9) defines sexual contact, applicable to the sexual abuse statutes §22-3002 through 22-3006, as "the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person."

[6] 42 U.S.C. §2000d

[7] 20 U.S.C. §1681

[8] See 34 C.F.R. §100.8 (permits a failure to comply with Title VI that cannot be resolved informally to be referred to the Department of Justice for enforcement); 28 C.F.R. §54.605 (which adopt the investigative, compliance and enforcement provisions of Title VI for application to Title IX).

[9] Fisher, B.S., Cullen, F.T., & Turner, M.G. (2000) *The Sexual Victimization of College Women: National Institute of Justice, Bureau of Justice Statistics*.

[10] New York Magazine, "Ninety Percent of Teachers Say Trump's Win Has Had a Negative Effect in Classrooms," (November 29, 2016) Retrieved from <http://nymag.com/the-cut/2016/11/90-percent-of-teachers-say-trumps-win-is-bad-for-students.html>

- [11] New York Times, "Jeff Sessions' Other Civil Rights Problem, (November 21, 2016), Retrieved from http://www.nytimes.com/2016/11/21/opinion/jeff-sessions-other-civil-rights-problem.html?_r=0
- [12] See [http://www.sessions.senate.gov/public/index.cfm/2000/5/education-discipline-and-idea-](http://www.sessions.senate.gov/public/index.cfm/2000/5/education-discipline-and-idea)
- [13] Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M.R. (2011). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
- [14] Ibid.
- [15] See transcript of the 1986 Senate Judiciary hearing on the nomination of Jeff Sessions for US District Court Judge for the Southern District of Alabama
- [16] U.S. Const. amend. XIV §1; U.S. Const. amend. V; *Bolling v. Sharpe*, 347 U.S. 497 (1954).



**National
Urban League**

*Empowering Communities.
Changing Lives.*

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January 9, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Schumer
Democratic Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Leader McConnell, Leader Schumer, Chairman Grassley, and Ranking Member Feinstein:

As President and CEO of the National Urban League, and on behalf of its 88 affiliates in 36 states and the District of Columbia, we call upon members of this committee and the entire Senate to reject the nomination of Senator Jefferson Sessions as the next Attorney General of the United States. A review of his past and current record on civil and human rights reveals that, as this nation's top law enforcement official, Senator Sessions would preside over an unprecedented rollback of racial justice, immigration policy, LGBTQ rights and gender equality, among other hard-fought for gains in the American struggle towards equality for all its citizens.

In 1986, when President Ronald Reagan nominated Sessions as the then United States Attorney for the Southern District of Alabama for a federal judgeship, his bid for the lifetime appointment was promptly derailed by the Republican-controlled Senate Judiciary Committee as a result of sworn testimony that pointed to a disturbing pattern of racist actions and comments. For his alarming and distressing comments, Senator Sessions became the second man in half a century to be rejected by the Senate Judiciary Committee.

As United States Attorney for the Southern District of Alabama, Sessions repeatedly demonstrated animus towards African-Americans and civil rights. The Justice Department's J. Gerald Hebert testified that Sessions claimed that the NAACP and the ACLU were "communist inspired" and "un-American" organizations "because they forced Civil Rights down the throats of people." Thomas Figures, an African-American prosecutor who worked under Sessions, testified that Sessions said the Ku Klux Klan – an organization known for racists and violent behavior – was "okay" until he learned they smoked marijuana. Figures also testified that Sessions called him "boy" and told him to "be careful what you say to white folks." As U.S. Attorney, Sessions used his power to bring baseless fraud prosecutions against civil rights activists in Alabama because those activists were helping African-American voters complete absentee ballots. A jury acquitted all three defendants of all charges, in deliberations that lasted only a few hours. But the chilling effect on voting rights activists was substantial.

Senator Sessions' record over the years speaks volumes on his hostility toward civil and human rights where he has repeatedly opposed legislation that would make our nation more

equal and more just, including many statutes that as Attorney General he would be responsible for enforcing. For example, Senator Sessions:

- Called the Voting Rights Act, a "piece of intrusive legislation." And, when the Supreme Court in *Shelby County v. Holder* struck down Section 5 of the Voting Rights Act, making it easier for states and localities to implement racially discriminatory voting laws, Sessions applauded the ruling and opposed efforts to update the law.
- Voted against the Shepard-Byrd Hate Crime Act, which extended Federal hate crimes protections to women, LGBT people, and people with disabilities – hate crimes protections that the Department of Justice now enforces.
- Opposed critical laws that protect persons with disabilities, including criticizing the Individuals with Disabilities Education Act and blaming federal protections for children with disabilities for "accelerating the decline in civility and discipline in classrooms all over America." Sessions said that federal laws that are designed to ensure children with disabilities can receive an equal education "may be the single most irritating problem for teachers throughout America today."
- Strongly opposed allowing undocumented immigrants to apply for temporary work authorization, and voted against the DREAM Act, which would have provided a way for immigrants who came to the United States as children to earn their citizenship
- Voted against the reauthorization of the Violence Against Women Act, which protects women from domestic violence, dating violence, and sexual assault.
- Voted against the Lilly Ledbetter Fair Pay Act, which seeks to ensure equal pay for equal work.

Additionally, and most disturbing, are the recent revelations that Senator Sessions has close ties to extremist, white nationalist organizations.ⁱⁱ A review by People For the American Way's Right Wing Watch demonstrates that Sessions has strong ties to Breitbart, a white nationalist media organization that its former head, Stephen Bannon, has called a "platform for the Alt-Right." Bannon has called Senator Sessions "one of the intellectual, moral leaders of this populist, nationalist movement in this country." Sessions has praised Breitbart, saying that "your writers get it, every day they find new information that I use repeatedly in debate on the floor of the Senate because it's highlighting the kind of problems that we have. And nobody else is doing it effectively, it's just not happening, so to me it's like a source. And we consistently find your data to be accurate and hold up under scrutiny."

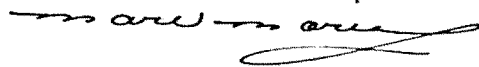
Senator Sessions has even disrespected the Senate and its constitutional responsibility to provide advice and consent where he has not made a good faith effort to complete his Senate Judiciary Committee questionnaire.ⁱⁱⁱ He has omitted decades of information, including numerous controversial interviews and speeches related to white nationalist groups. In addition to these omissions, Senator Sessions provided misleading and inaccurate information regarding his litigation experience, including exaggerating the role that he played in civil rights litigation in Alabama in the past.^{iv} Sessions made up a civil rights enforcement history when, in truth, he is one of the biggest opponents of civil rights in the Senate.

Never in recent memory has a nominee for U.S. Attorney General faced such united and widespread opposition from a wide spectrum of concerned individuals, civil rights activists and

organizations, including a group of more than 1,100 distinguished professors of law who sent a letter to Congress urging the rejection of his nomination, stating that "Nothing in Senator Sessions' public life since 1986 has convinced us that he is a different man than the 39-year-old attorney who was deemed too racially insensitive to be a federal district court judge."

The Attorney General is one of the most important positions in the entire Federal government. The Justice Department has the responsibility to vigorously enforce some of our nation's most critical laws; to protect the rights and liberties of all Americans; and to serve as an essential independent check on the excesses of an Administration. The evidence is overwhelmingly clear that Senator Sessions is unfit to serve as chief enforcer of civil rights laws. We join the rest of the civil rights and legal community and all defenders of equal rights in asking the Senate Judiciary Committee and the entire United States Senate to reject the nomination of Senator Sessions as our next Attorney General.

Respectfully,



Marc H. Morial
President and CEO

Cc: Members of the Senate Judiciary Committee

ⁱ <http://www.naacpldf.org/files/about-us/Deval-L-Patrick-Letter-re-Sessions-AG-Nom-1-3-17.pdf>

ⁱⁱ http://www.huffingtonpost.com/marge-baker/jeff-sessions-relationshi_b_13941372.html

ⁱⁱⁱ <http://www.pfaw.org/press-releases/2016/12/sessions-updated-questionnaire-still-shockingly-incomplete-groups-call-sena-0>

^{iv} https://www.washingtonpost.com/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4ddffa6-d0fa-11e6-a783-cd3fa950f2fd_story.html?utm_term=.400ca1d1d2a7



January 9, 2017

VIA EMAIL

Re: *Nomination of Sen. Jefferson B. Sessions III to be Attorney General of the United States*

Dear Senator:

On behalf of the National Women's Law Center (the "Center"), an organization that has advocated on behalf of women and girls for forty-five years, we write in strong opposition to the confirmation of Senator Jefferson ("Jeff") B. Sessions III to be Attorney General of the United States.

As the nation's chief law enforcement official, the Attorney General is responsible for enforcing federal laws, including laws of the utmost importance to women, such as Title VII, Title IX, the Freedom of Access to Clinic Entrances Act (FACE), the Violence Against Women Act (VAWA), the Voting Rights Act (VRA), and the Fair Housing Act (FHA), as well as core constitutional protections, including the Equal Protection Clause and the right to privacy. The Department of Justice, led by the Attorney General, also enforces federal hate crime laws, which create enhanced criminal penalties for crimes that target victims based on gender, race, sexual orientation and disability, among other bases. Consequently, the Attorney General has a profound impact on the legal rights and very futures of women across this country.

Senator Sessions' record demonstrates that he has a deep hostility to carrying out core responsibilities of the office to which he has been nominated. His over thirty years in public office have established a consistent, incontrovertible hostility towards a broad swath of women's rights and civil rights that, if he is confirmed, would undermine the very purpose of the Department of Justice. For example:

- **Sen. Sessions has taken positions hostile to the rights of survivors of sexual assault.** He voted against the 2014 reauthorization of the Violence Against Women Act.¹ He also voted to block the Military Justice Improvement Act,² which would have increased protections from sexual assault for military members and would have removed the decision to prosecute sexual assault from the chain of command and placed it in the hands of trained, independent military prosecutors. Indeed, when a 2005 tape in which Donald Trump described sexually assaulting and harassing women was released in October 2016, Sen. Sessions stated that he wasn't even sure that grabbing a woman by

¹ *Ala. Senator Opposes Violence Against Women Act*, WSFA (2013), <http://www.wsfa.com/story/21202399/ala-senator-opposes-violence-against-women-act>.

² S. 1752 – MILITARY JUST. IMPROVEMENT ACT OF 2013 – KEY VOTE, <http://votesmart.org/bill/17609/46979/443/military-justice-improvement-act-of-2013#.WD3v0b1rLcs> (last visited Jan. 6, 2017).

her genitals constitutes sexual assault.³

- **Sen. Sessions has explicitly attacked the legal validity of *Roe v. Wade* and shown hostility to women's right to reproductive health care, including abortion.** He has described *Roe v. Wade* as one of the worst, "colossally erroneous Supreme Court decisions of all time." And he has repeatedly opposed legislation providing women access to reproductive care, including abortion⁴ and contraception.⁵ Further, Sen. Sessions has opposed funding that would help protect abortion clinics from harassment and violence.⁶
- **Sen. Sessions has consistently opposed laws protecting women's right to equal pay and equal opportunity.** He voted against the Lilly Ledbetter Fair Pay Act⁷ and the Paycheck Fairness Act. He also voted against a bill that would give women-owned businesses more access to government contracts for construction projects.⁸
- **Sen. Sessions has a long record of opposing bedrock civil rights protections.** In 1986, before becoming a Senator, Sen. Sessions' nomination to be a federal judge was rejected by the Senate Judiciary Committee, which cited his prior history of hostility to basic civil rights protections. The evidence presented was stark. There was even testimony that he had called the NAACP and the ACLU "un-American" and "Communist-inspired"⁹ and during the hearing Sen. Sessions stated that the Voting Rights Act was a "piece of intrusive legislation." His opposition to the Voting Rights Act continued once he became a Senator. Sen. Sessions opposed legislative efforts to restore and update the Voting

³ Danielle Paquette, *It's Not Clear if Jeff Sessions Thinks Grabbing a Woman by the Crotch is Sexual Assault*, THE WASH. POST (Nov. 18, 2016), <https://www.washingtonpost.com/news/wp/2016/11/18/its-not-clear-if-trump-attorney-general-sessions-thinks-grabbing-a-woman-by-the-crotch-is-sexual-assault/>.

⁴ See, e.g., Press Release, Child Custody Protection Act (Sept. 10, 1998), available at <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=ADB00577-7E9C-9AF9-79F9-98D660DCB8A1>.

⁵ See e.g., U.S. SENATE ROLL CALL VOTES 111TH CONGRESS – 1ST SESSION, VOTE 396, https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00396 (last visited Jan. 6, 2017); S. 1292 – DEFUND OBAMACARE ACT OF 2013 – COSPONSORS, <https://www.congress.gov/bills/113/congress/senate-bill/1292/cosponsors> (last visited Jan. 6, 2017); Press Release, Sessions Backs House Effort to Defund Obamacare (Sept. 20, 2013), available at <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=3CD6748A-F4AD-8C54-16D2-95C49FBF6018>.

⁶ U.S. SENATE ROLL CALL VOTES 114TH CONGRESS – 1ST SESSION, VOTE 311, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00311 (last visited Jan. 6, 2017).

⁷ S. 181 (111TH): LILLY LEDBETTER FAIR PAY ACT OF 2009, <https://www.govtrack.us/congress/votes/111-2009/s14> (last visited Jan. 6, 2017).

⁸ Neha Thirani Bagri, *Trump's Choice for Attorney General Has Done Some Really Awful Things to Try to Set Back Women's Rights*, QUARTZ MEDIA (Nov. 19, 2016), <http://qz.com/841443/jeff-sessions-womens-rights-record/>.

⁹ J. Gerald Herbert, *Why I Told the Senate that Jeff Sessions Thought Civil Rights Groups Were 'Un-American'*, THE WASH. POST (Nov. 22, 2016), https://www.washingtonpost.com/posteverything/wp/2016/11/22/my-testimony-about-jeff-sessions-racist-remarks-kept-him-from-becoming-a-judge/?utm_term=.8210ec707661.

Rights Act, after the Supreme Court's decision in *Shelby County v. Holder*.¹⁰

- **Sen. Sessions has regularly opposed antidiscrimination protections for LGBTQ individuals.** He opposed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act,¹¹ which added violence based on bias against gender, sexual orientation, gender identity and disability to federal hate crimes legislation. Sen. Sessions voted for an amendment to the Violence Against Women Act that would have removed protections for LGBTQ individuals,¹² and voted against the final bill that included those protections.¹³ He voted for a constitutional amendment that would define marriage as between one man and one woman.¹⁴ He voted for an amendment to the Employment Non-Discrimination Act that would have gutted protections against employment discrimination based on sexual orientation and gender identity by exempting religiously affiliated employers from the law.¹⁵
- **Sen. Sessions has been a leading voice in Congress arguing against immigration reform that includes a path to citizenship for undocumented immigrants, and is in favor of drastically reducing legal immigration.** In his two decades in the Senate, Sen. Sessions has opposed every single immigration bill that included a path to citizenship,¹⁶ and has also sought to limit the number of legal immigrants entering the country.¹⁷

¹⁰ Mary Troyan, *Sessions Opposes Update to the Voting Rights Act*, THE MONTGOMERY ADVISOR (June 25, 2014), <http://www.montgomeryadvertiser.com/story/news/2014/06/25/sessions-opposes-update-voting-rights-act/11364929/>. See also Mary Troyan, *Sessions' Career Shows Mixed Record on Voting Rights Act Support*, USA TODAY (Nov. 24, 2016), <http://www.usatoday.com/story/news/politics/2016/11/24/sessions-senate-career-shows-mixed-record-voting-rights-act-support/94303120/> (describing Sen. Sessions' opposition to the Voting Rights Act as Alabama Attorney General and as during his freshman term as a Senator).

¹¹ Press Release, Sessions Expresses Concerns About the Hate Crimes Act (July 20, 2009), available at <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=a8247be2-d851-bebf-9a8a-02a497fd6f1b>.

¹² *Congressional Scorecard: Measuring Support for Equality in the 112th Congress*, HUMAN RIGHTS CAMPAIGN 6 (2013), http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/112thCongressionalScorecard_2012.pdf.

¹³ Sunnive Brydum, *Why We Can't Afford to "Wait and See" How Trump Dismantles LGBT Rights*, RELIGION DISPATCHES (Dec. 2, 2016), <http://religiondispatches.org/why-we-cant-afford-to-wait-and-see-how-trump-dismantles-lgbt-rights/>.

¹⁴ Scott Keyes & Shannon Greenwood, *For GOP Senate Candidates, Banning Same-Sex Marriage in the Constitution Has Lost Its Appeal*, THINK PROGRESS (June 6, 2014), <https://thinkprogress.org/for-gop-senate-candidates-banning-same-sex-marriage-in-the-constitution-has-lost-its-appeal-a3dd24c4e153#.xmcm14lw1>.

¹⁵ Chris Johnson, *Sessions Tapped as AG Despite Anti-LGBT Views, Charges of Racism*, THE WASHINGTON BLADE (Nov. 18, 2016), <https://www.washingtonblade.com/2016/11/18/trump-taps-sen-sessions-for-ag-despite-racist-anti-lgbt-reputation/>.

¹⁶ Suzanne Gamboa, *Latinos Blast Trump's AG Pick Jeff Sessions Over Race, Immigration*, NBC NEWS (Nov. 18, 2016), <http://www.nbcnews.com/news/latino/latinos-blast-trump-s-ag-pick-jeff-sessions-over-race-n685951>.

¹⁷ Amber Phillips, *10 Things to Know About Sen. Jeff Sessions, Donald Trump's Pick for Attorney General*, WASH. POST (Nov. 18, 2016), https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/10-things-to-know-about-sen-jeff-sessions-donald-trumps-pick-for-attorney-general/?utm_term=.bd3a3e9b88da.

Sen. Sessions' record of hostility to the key laws that he would be charged with enforcing raises serious concerns that, under his leadership, enforcement of key legal protections for women, people of color, LGBTQ people, and immigrants by the Department of Justice would be ignored at best, but more likely challenged and undermined. Women seeking to exercise their right to basic health services and health care providers could be at risk; women asserting their right to equal pay could face new hurdles; women subjected to domestic abuse and sexual assault could lose Justice Department protection; immigrants could face government harassment and prosecution; victims of police misconduct could be abandoned; those seeking to exercise their right to vote under the Voting Rights Act could confront a Department that is an adversary; those facing hate crimes could lose confidence in the Department's prosecution of the perpetrators. The consequences are great and the dangers to the pursuit of justice in our country grave, should Sen. Sessions be confirmed.

Although the publicly available record amply demonstrates why Sen. Sessions' nomination should be rejected, it should be noted that the record before the Senate Judiciary Committee is incomplete. Sen. Sessions failed to include hundreds of speeches, interviews, and op-eds in the questionnaire that he initially submitted to the Committee. And even his supplements are seriously deficient. Every nominee for any confirmable position should be required to provide complete information, but given the special obligation of the Attorney General as the chief law enforcement officer of the land, it is essential that the Committee – and the public – have before them a full and complete record upon which to evaluate Sen. Sessions' nomination, and that he be held to the requirements of the law. In fact, Sen. Sessions asserted previously that the omission of important documents from a nominee's questionnaire could be considered a legal violation and at the least warranted delaying the nominee's confirmation hearing – and that is certainly the case here.¹⁸ Given the serious gaps in information provided here, delaying the hearing until the gaps are filled is imperative.

In conclusion, given Sen. Sessions' record, the public can have no confidence that, as Attorney General, he would fairly enforce the bedrock laws and constitutional protections that secure equality, fairness, and opportunity in this country. Consequently, the Center strongly opposes the confirmation of Senator Jefferson B. Sessions III to be Attorney General of the United States and urges the Senate Committee on the Judiciary to reject his nomination.

Sincerely,

¹⁸ Brian Montopoli, *Republicans Attack Judicial Nominee Goodwin Liu for Omissions*, CBS NEWS (Apr. 6, 2010), <http://www.cbsnews.com/news/republicans-attack-judicial-nominee-goodwin-liu-for-omissions/>.

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Marcia Greenberger

Marcia Greenberger
Co-President

Nancy Duff Campbell

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 NEW YORK
CITY BAR

JOHN S. KIERNAN
PRESIDENT
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January 6, 2017

Via Regular Mail and Facsimile
The Honorable Chuck Grassley
Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building,
Washington, D.C. 20510-6050

The Honorable Dianne Feinstein
Ranking Member
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building,
Washington, D.C. 20510-6050

**Nomination of Sen. Jefferson B. Sessions III
for Attorney General**

Dear Senator Grassley and Senator Feinstein:

I submit this letter on behalf of the New York City Bar Association ("City Bar"), a voluntary bar association founded in 1870 and having over 24,000 members, to offer comments on the nomination of Senator Jefferson B. Sessions III to serve as Attorney General of the United States.

While the City Bar regularly reviews and provides public assessments of the qualification of candidates to become judges in New York City federal, state and local courts, the New York Court of Appeals and the United States Supreme Court, the City Bar has never developed and communicated a public evaluation of whether a nominee for a Cabinet position is qualified for that position. We acknowledge that the Senate should afford the President substantial deference in the selection of Cabinet members when exercising its Constitutional function of advice and consent. At the same time, the Attorney General occupies a special position as the nation's top law enforcement officer, and the City Bar's mission centrally embraces advancement of the rule of law and the fair administration of justice, especially by those who are entrusted with important public responsibilities.

In light of the characteristics of Sen. Sessions' candidacy set forth in this letter, the City Bar believes it is appropriate to urge the Judiciary Committee to pursue such searching inquiry regarding Sen. Sessions' record and views as is necessary to confirm his commitment to preserving and advancing the rule of law, enforcing the law (including legislation or judicial decisions with which he disagrees), and protecting the rights of individuals who lack the power

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
42 West 44th Street, New York, NY 10036-6689 www.nycbar.org

01/06/2017 7:54PM (GMT-05:00)

to protect themselves. These inquiries should be predicated on the position – which the City Bar believes the Judiciary Committee shares – that whole-hearted commitment to these values is an essential component of a candidate's qualification to serve as Attorney General of the United States.

After an extensive review of the materials provided in Sen. Sessions' responses to the nominee questionnaires for his current candidacy and his 1986 candidacy for a federal district court judgeship, as well as other materials identified through research into his record as a public servant, the City Bar respectfully urges that the Judiciary Committee's review of Sen. Sessions' candidacy should include searching inquiry into a number of subjects:

I. The Apparent Incompleteness of Sen. Sessions' Questionnaire Responses

As the Judiciary Committee has recognized, the questionnaire responses submitted by a candidate for a position requiring Senate confirmation are important sources of information for review of that candidacy. Questions have been raised as to the completeness of Senator Sessions' questionnaire responses, submitted on December 9, 2016¹ and supplemented on December 23,² with respect to potentially important information concerning his public remarks and writings.³

While the generation of complete questionnaire responses after decades in public life as a U.S. Senator, State Attorney General and United States Attorney is undoubtedly a significant undertaking, we submit that it is appropriate, and even essential, for the Judiciary Committee to insist on receipt of comprehensive questionnaire responses. Some of the information that would be provided in a complete response to the questionnaire may not be publicly available by other means. Senator Sessions himself has asserted strong positions about the importance of completeness in questionnaire responses and the strength of the adverse inferences that should follow from incompleteness, including in connection with review of the judicial candidacies of Justice Sonia Sotomayor⁴ and California Supreme Court Justice Goodwin Liu when he was being considered for a position on the U.S. Court of Appeals for the Ninth Circuit.⁵

The importance of ensuring that the Judiciary Committee's vote is fully informed and based on as complete a record as possible argues strongly for postponing the closing of Sen. Sessions' confirmation hearings and a vote on his nomination until the Committee can confirm that all information that appears obtainable has been supplied. Rigor in collecting a complete record appears particularly warranted because Sen. Sessions' actions and statements in

¹ <https://www.judiciary.senate.gov/imo/media/doc/Sessions%20SJC%20Questionnaire%20F.pdf>

² <https://www.judiciary.senate.gov/imo/media/doc/Sessions%20SJC%20Questionnaire%20-%202nd%20Supplement.pdf>; <http://www.judiciary.senate.gov/download/supplemental-appendix-12a>; <http://www.judiciary.senate.gov/download/supplemental-appendix-12b>; <http://www.judiciary.senate.gov/download/supplemental-appendix-12c>

³ Sen. Sessions Belatedly Supplements His Senate Judiciary Questionnaire- But Dozens of Items Still Missing and Records for Two Decades Still Largely Absent (December 30, 2016 Report by National Council of Asian Pacific Americans, People for the American Way, and Alliance for Justice), available at <http://www.afl.org/wp-content/uploads/2016/12/Second-Sessions-Memo.pdf>

⁴ http://blog.afl.com/spotnews/2009/06/washington_us_sen_jeff.html

⁵ <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/07/AR2010040703034.html>

connection with his 1986 candidacy for a federal judgeship led the Judiciary Committee to the extremely rare step of a vote disapproving the presentation of his candidacy to the full Senate, and because certain statements and actions reflected in the incomplete currently available record present reasons for inquiry into the firmness of Sen. Sessions' commitment to enforcing certain areas of the law.

II. Questions Presented by One of Sen. Sessions' Questionnaire Responses

Sen. Sessions' response to Section 15 of his questionnaire, asking him to describe the ten most significant matters he "significantly handled," identifies four civil rights cases dating from before 1986 that he did not mention when he was asked the same question in Section 18 of his 1986 questionnaire: *United States v. Conecuh County*, *Davis v. Board of School Commissioners of Mobile County*, *United States v. Dallas County Commission*, and *United States v. Marengo County Commission*.⁶ Because it appears that Sen. Sessions may have listed these cases at least in part in an effort to demonstrate his record of commitment to enforcing the civil rights laws, and because others involved in these cases have publicly asserted that Sen. Sessions had no substantive involvement in the cases,⁷ it appears appropriate for the Judiciary Committee to inquire about these matters sufficiently to enable it to understand fully what role Senator Sessions may have played in these cases and what relevance his citation of them may have to his candidacy.

III. Statements and Actions by Sen. Sessions Warranting Inquiry

Over the course of Sen. Sessions' long career as a public servant, he has made many statements about what he believes the law should provide. The City Bar does not believe that statements advocating change in the law – even highly politicized ones – will generally support a finding that a candidate for Attorney General lacks the critical qualification of the required commitment to the rule of law. But at least some of the statements in which Sen. Sessions

⁶ <https://www.judiciary.senate.gov/imo/media/doc/Sessions%20SJC%20Questionnaire%20F.pdf> at 16, 18, 24, 26; *United States v. Conecuh County*, CV 83-1201-H (S.D. Ala. June 12, 1984); *Davis v. Board of School Commissioners of Mobile County*, CV 3003-63-H (S.D. Ala.) (describing how a consent decree was entered after nearly a decade of litigation and citing to *Davis v. Board of Sch. Comm'rs of Mobile Cnty.*, 1986 U.S. Dist. LEXIS 27519, at *2-3 (S.D. Ala., Mar. 27, 1986) which states that the consent decree was adopted in 1982); *United States v. Dallas County Commission*, CV 78-578-H (S.D. Ala.) (describing litigation pending since 1978 that culminated in appellate decisions in 1988 in Dallas, 850 F.2d 1430 (11th Cir. 1988) and 850 F.2d 1433 (11th Cir. 1988)); *United States v. Marengo County Commission*, CV 78-474-H (S.D. Ala.) (describing litigation involving decisions including an appeal in *United States v. Marengo Cnty. Comm'n*, 731 F.2d 1546, 1572 (11th Cir. 1984)).

⁷ For example, with respect to Dallas County, the lead DOJ Civil Rights Division attorney handling the case has stated, "He never filed anything in the Dallas County case that he wrote. Usually, the civil rights division filed the briefs and wrote them. His name would have been included in the CRD draft, which is standard operating procedure." <https://www.theatlantic.com/politics/archive/2016/12/which-schools-did-jeff-sessions-desegregate/509867>. Similarly, with respect to Davis, a former Civil Rights Division attorney who worked on the case has stated, "My recollection is that Sessions had very little to do with it. He was the U.S. attorney, he was probably on the pleading, but I don't remember him playing a major role in it." <https://www.theatlantic.com/politics/archive/2016/12/which-schools-did-jeff-sessions-desegregate/509867>. Sen. Sessions' supplemental questionnaire described his role in these cases as "to provide support for the Department of Justice, Civil Rights Division, attorneys." <https://www.judiciary.senate.gov/imo/media/doc/Sessions%20SJC%20Questionnaire%20-%20Supplement.pdf>. Following Sen. Sessions' supplemental submission, Civil Rights Division attorneys who handled three of the four cases stated in an op-ed that Sen. "Sessions had no substantive involvement in any of" these three cases. https://www.washingtonpost.com/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4d4dffa6-d0fa-11e6-a783-ed3fa950f2fd_story.html?utm_term=.2f3237cb3949

indicated his disagreement with existing law, as Sen. Sessions has framed them, justify rigorous inquiry into Sen. Sessions' commitment to enforcing the law and energetically advancing all the protections that existing law affords even if he disagrees with the law. That inquiry appears to be warranted in at least the following areas:

- Senator Sessions has stated that, "In reality, federal courts are threatening our political institutions, not vice-versa. The federal courts have usurped one political issue after another. Abortion, homosexual rights, school busing, racial preferences, term limits, criminal procedure."⁸ His expression of this view warrants rigorous inquiry into his commitment to enforcing and supporting the judicial decisions he has criticized even though he disagrees with them.
- Although he has acknowledged the effectiveness of the Voting Rights Act, Senator Sessions also has criticized the law as "an intrusive piece of legislation." That statement warrants inquiry into his commitment to enforcing this law.⁹
- Senator Sessions opposed the Shepard-Byrd hate crime law and the Violence Against Women Act,¹⁰ and has criticized laws providing for efforts to mainstream special education students as "a big factor in accelerating the decline in civility and discipline in classrooms all over America" and "the single most irritating problem for teachers throughout America today."¹¹ While opposition to passage of these laws reflects the nature of political debate and does not by itself present disqualification issues, these positions warrant inquiry into his current commitment to vigorously enforcing these laws as passed.
- Senator Sessions has commented about immigrants from the Dominican Republic as follows:

Fundamentally, almost no one coming from the Dominican Republic to the United States is coming here because they have a provable skill that would benefit us and that would indicate their likely success in our society. They come in because some other family member of a qualified relation is here as a citizen or even a green card holder. That is how they get to come. They are creating a false document to show these are relatives or their spouses and they are married when it is not so.¹²

⁸ <http://www.fed.soc.org/publications/detail/reflections-on-judicial-independence>

⁹ Hearings on the Nomination of Jefferson B. Sessions III at 30-31, available at <https://www.scribd.com/document/15090183/Sessions-Hearing-Transcripts>; <http://talkingpointsmemo.com/dc/why-trump-s-choice-of-jeff-sessions-as-ag-is-alarming-voting-rights-advocates>

¹⁰ <http://www.buffingtonpost.com/bryan-levin-jd/trumps-attorney-general-nominee-was-b-13080004.html>; http://www.senate.gov/legislative/113/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=1&vote=00019

¹¹ <http://www.forbes.com/sites/tarahmelle/2016/11/29/would-special-education-rights-be-safe-with-jeff-sessions-as-u-s-attorney-general/#45f68be45dd8>

¹² <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=ae49e505-7e2c-2a02-731c-006d27095530>

These statements justify inquiry into Sen. Sessions' commitment to combating and treating as legally intolerable racial stereotyping and all forms of discrimination based on race, national origin or other legally protected points of difference.

IV. Follow-Up Questions from Sen. Sessions 1986 Judicial Nomination

The public record does not identify all the reasons why the Senate Judiciary Committee took the rare step of voting not to approve the presentation of Sen. Sessions' candidacy for a district court judgeship to the full Senate in 1986. Reports of these hearings suggest, though, that factors in the decision included the presence of accusations that Sen. Sessions had made racially offensive remarks on several occasions and had acted improperly in prosecuting unsuccessful claims of voter fraud against African-American civil rights workers in *United States v. Turner*. While the City Bar believes that Sen. Sessions' denials of having made the asserted statements and the passage of 30 years since those confirmation hearings should prevent that 1986 record from determining the outcome of the current confirmation process, the seriousness of the issues presented at the time – sufficient to provide an extremely rare rejection by this Committee – appears to warrant inquiry into whether Sen. Sessions categorically repudiates today, as improper and intolerable, the remarks and actions ascribed to him in the 1986 confirmation hearings.

Thank you for your attention to this important matter.

Respectfully yours,



John S. Kiernan
President, New York City Bar Association

CC:
Hon. Richard Blumenthal
Hon. Christopher A. Coons
Hon. John Corryn
Hon. Ted Cruz
Hon. Dick Durbin
Hon. Jeff Flake
Hon. Al Franken
Hon. Kirsten Gillibrand
Hon. Lindsey Graham
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Hon. Amy Klobuchar
Hon. Patrick Leahy
Hon. Michael S. Lee
Hon. Charles Schumer
Hon. Thom Tillis
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January 4, 2017

The Honorable Chuck Grassley
 Chairman, Senate Judiciary Committee
 United States Senate
 135 Hart Senate Office Building
 Washington, D.C. 20510

The Honorable Dianne Feinstein
 Ranking Member, Senate Judiciary Committee
 United States Senate
 331 Hart Senate Office Building
 Washington, D.C. 20510

Re: Nomination Of Senator Sessions To Serve As Attorney General Of The United States

Dear Chairman Grassley and Senator Feinstein:

I write to endorse, enthusiastically, the nomination of Senator Jeff Sessions to serve as Attorney General of the United States. I urge the Senate to confirm Senator Sessions as promptly as possible.

I have known Senator Sessions, personally and professionally, for decades. I also have served in two Administrations in the Department of Justice, as Assistant Attorney General for the Office of Legal Counsel in the Reagan Administration and as Solicitor General of the United States in the George W. Bush Administration. My federal government service also includes being a member of the President's Privacy and Civil Liberties Oversight Board and, during the Obama Administration, a member of the Council of the Administrative Conference of the United States and the President's Commission on White House Fellowships. Based on these experiences, I am confident that Senator Sessions possesses the character and all the qualities necessary to be the Attorney General for all Americans.

Senator Sessions has repeatedly demonstrated the judgment and calm temperament that are necessary to this important position. He is himself a former official with the Department, and his knowledge of the Department, and his enthusiasm for its people, mission and values, will help ensure that he can lead the Department successfully.

GIBSON DUNN

The Honorable Chuck Grassley
The Honorable Dianne Feinstein
January 4, 2017
Page 2

Senator Sessions will emphasize fairness in the Department, making sure that he has gathered the necessary facts from those in a position to know, and that he has consulted appropriately with those who are affected by the Department's operations. He will listen, and he will lead with integrity.

Of course, Senator Sessions also has a track record as a successful prosecutor, and during his tenure in the Senate he worked to help law enforcement and prosecutors fight crime. He has worked with Senators of both parties, including the late Senator Kennedy and Senator Durbin, on issues involving incarceration and sentencing.

Senator Sessions is a man of outstanding integrity and moral character, who has demonstrated respect for the Constitution and laws of the United States and for his country and fellow citizens.

Further, Senator Sessions understands the difference between serving as a legislator, and serving in the Executive Branch. He will vigorously enforce the laws Congress enacts. He will defend the Constitution, and protect the rule of law. Having served as a prosecutor at both the federal and state levels, he will respect principles of federalism in law enforcement, and work well with states that need federal resources and expertise to address local law enforcement issues.

As a lawyer who has devoted years of effort to litigating and vindicating the civil rights of our fellow gay, lesbian and transgender citizens, I recognize that people of good faith can disagree on legal issues. Such honest disagreements should not disqualify them from holding public office. In particular, I have no reservations about Senator Sessions' ability to handle these issues fairly, and in accordance with the law and to protect the civil rights of these and all of our citizens.

If confirmed, Senator Sessions will bring his integrity, work ethic, legal knowledge and experience to his new role at the Department. He will serve our Nation with distinction.

Please do not hesitate to contact me if you have any questions.

Respectfully,



Theodore B. Olson



Ajit Pai
Commissioner

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

January 11, 2017

The Honorable Charles Grassley
The Honorable Dianne Feinstein
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Dear Chairman Grassley and Ranking Member Feinstein:

I write in support of President-Elect Donald J. Trump's nomination of Senator Jeff Sessions to serve as Attorney General of the United States.

I had the honor of working for Senator Sessions between 2003 and 2004 as Deputy Chief Counsel on the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, which Senator Sessions chaired. At the time, many complicated, controversial matters came before us, such as national security legislation, judicial nominations, constitutional issues, and more. Senator Sessions approached each matter in a thoughtful way. He always wanted to know the facts and the law before rendering a reasoned judgment. Senator Sessions was, and is, a superb senator: honorable, faithful to the Constitution and laws of the United States, and deeply committed to equal justice and the rule of law.

I would note as well that his management style would be well-suited to lead a large agency like the Department of Justice. During my tenure, he hired highly qualified staff, he outlined for them his general principles and policy priorities, and he delegated substantial authority to them to implement those principles and priorities. I have no doubt that he would be an effective manager of the numerous Justice Department offices that would be subject to his supervision.

Last but certainly not least: Senator Sessions is a good man. He approaches life with good cheer and an even temper. He treats everyone, even those who might vigorously disagree with him, with dignity and respect. He consistently takes an interest in the careers and families of those who work for him. (A quick anecdote: soon after I started working for him, my parents came to Washington. On the spur of the moment, they asked if they could meet the Senator. Despite the Senator's busy schedule, he took 40 minutes to sit with them and talk about everything from politics to the American Dream that drew them to the United States. I cannot overstate how impressed they were by his generous spirit and proud they were that he was my boss.) And he has long employed a diverse staff of attorneys—during my tenure, his staff consisted of an African-American man, two women, and me, a first-generation Indian-American.

I support Senator Sessions' nomination to be Attorney General without reservation. The Department of Justice and the American people will benefit from his leadership. I hope the Senate confirms him promptly.

Sincerely,

Ajit V. Pai
Commissioner,
Federal Communications Commission

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Deval L. Patrick
200 Clarendon St., 38th floor
Boston, MA 02116

January 3, 2017

Hon. Charles Grassley, Chairman
Hon. Dianne Feinstein, Ranking Member
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Re: Nomination of Hon. Jefferson B. Sessions III to the position of Attorney General

Dear Chairman Grassley and Ranking Member Feinstein:

At the request of Committee Counsel Tiffith, I am submitting these written comments in connection with the nomination of Senator Jeff Sessions to the position of Attorney General of the United States. I apologize to the Committee and to the nominee that I cannot be there to offer my comments in person, but long-planned travel overseas will keep me from attending the upcoming hearings.

In years past, I have worked closely and, I believe, respectfully with both of you and many of the members of your Committee. For those Members with whom I am not familiar, my background is as an attorney, business executive and public official. In addition to being a partner in two business law firms, I was a staff lawyer at the NAACP Legal Defense Fund in New York in the early 1980s. I served in the first term of the Clinton administration as Assistant Attorney General for Civil Rights. I have also served as an executive and general counsel for two Fortune 50 companies and as the two-term Governor of Massachusetts. I currently lead an impact investing fund in Boston, where I live with my wife of more than 30 years.

I write to shed light on an important aspect of Mr. Sessions' record, to which I can attest from personal experience. In 1985 I was part of the defense team in the federal criminal voting fraud prosecution of three African-American community activists (the so-called "Perry County Three") in Alabama. With colleagues from the Legal Defense Fund, I represented defendant Spencer Hogue. That prosecution was led by the then-United States Attorney for the Southern District of Alabama Jeff Sessions. I have not had direct contact with Mr. Sessions since that time.

Hon. Charles Grassley, Chairman
 Hon. Dianne Feinstein, Ranking Member
 January 3, 2017
 Page Two

That case was thoroughly litigated twice: once in the Federal District Court in 1985 and again before this Committee in 1986 when Mr. Sessions was nominated for a federal judgeship. There is no need to litigate it again. My objection is not that Mr. Sessions lost that case. It was that he undertook to bring it at all.

The theory of Mr. Sessions's case was that it is a federal crime for someone to help someone else to vote or to advise them how they should vote -- even if and when they ask for such help. At the outset of the trial, the presiding judge -- Judge Emmett Cox, a Reagan appointee to the district court, subsequently elevated to the Eleventh Circuit -- rejected that theory as contrary to settled law and the Constitution. Mr. Sessions proceeded to trial on that theory anyway. The jury unanimously acquitted each of the defendants on all counts.

Pursuing that case was an act of extraordinary quasi-judicial activism. Voting is a civic and even sacred right in our country. Extending it to black voters in the Alabama Black Belt was a significant national challenge. Making access real -- through the Voting Rights Act, and countless acts of civil disobedience -- represents an equally significant national triumph. Courts have recognized that, while the ballot is officially secret, citizens have the right to seek assistance -- as informal as asking one's spouse how to vote or as formal as conforming to the designated slate of a political party or advocacy group. To use prosecutorial discretion to attempt to criminalize voter assistance is wrong and should be disqualifying for any aspirant to the Nation's highest law enforcement post.

There were other troubling aspects about the manner in which Mr. Sessions pursued this case. First, while absentee ballots were used widely and to great effect by white voters and their advocates within his jurisdiction, Mr. Sessions investigated only the use by black voters and only where white incumbents were losing political ground. Second, the prosecution focused on the Perry County Civic League, a service and community organization whose main activities were helping poor, rural and often elderly residents with food, education, medical and other needs on whose meetings Mr. Sessions authorized the FBI to eavesdrop. Third, though most of the 20 government witnesses were old and frail, and had only achieved access to the ballot in their elder years, the prosecution loaded them onto a bus under armed federal, state and local police guard and drove them 160 miles to Mobile for grand jury testimony, causing many observers to conclude there was a concerted campaign to intimidate susceptible witnesses into believing that voter assistance was illegal. And finally, though Mr. Sessions had a reputation for plea bargaining criminal cases, many involving violence, he was adamant in refusing to consider a deal in this one.

For 30 years I have viewed the prosecution of the Perry County Three as a cautionary tale. I believe it demonstrates what can happen when prosecutorial discretion is unchecked, when regard for facts is secondary to political objectives. What can happen is that the rule of law is imperiled. In a republic based on law, this is not the kind of risk any of us should accept in our attorney general.

Hon. Charles Grassley, Chairman
 Hon. Dianne Feinstein, Ranking Member
 January 3, 2017
 Page Three

Donald Trump was not my candidate, but he is my President-elect. While I do not expect to agree with him on every appointment or policy choice, I believe it would be irresponsible and unpatriotic to oppose everything he does even before he does it. For the peace and prosperity of the country, I pray for the President-elect, just as I have for President Obama and his predecessors.

I also believe that, within bounds of basic preparedness and qualifications, presidents should have the team of their choosing. That should be as true for the President-elect as it has been for most presidents and as it should have been for President Obama.

With that context, I wish nevertheless to express one additional concern about this appointment.

Our Nation needs a healing.

The tenor and divisiveness of the recent presidential campaigns -- whether one cheered or grieved the outcome -- discouraged many Americans. The dysfunction and hyper-partisanship of the federal government in the years before the campaigns has contributed to the public's frustration. Meanwhile, all over the country hate crimes assaults against black and brown citizens, against women, against immigrants are on the rise. Like it or not, intentional or not, the recent election cycle seems to have given some in our country the view that they have permission to treat other Americans as lesser because of the color of their skin or the free exercise of their religion. If America is to be what the Founders committed her to be, if we are to be the land of liberty and justice for all, this kind of behavior cannot be sanctioned or encouraged -- directly or indirectly.

This Committee shares responsibility for setting the right tone. Thirty years ago, because it was widely understood and appreciated that his appointment to the bench would raise a question about this Committee's commitment to a just, fair and open justice system, Mr. Sessions's nomination was withdrawn on a bi-partisan basis. I respectfully suggest to you that this moment requires similar consideration and a similar outcome. At a time when our Nation is so divided, when so many feel so deeply that their lived experience is unjust, Mr. Sessions is the wrong person to place in charge of our justice system.

Thank you for your consideration.

Respectfully,





January 5, 2017

The Honorable Mitch McConnell, Maj. Leader
United States Senate
S230 US Capitol
Washington, DC 20510

The Honorable Charles Schumer, Min. Leader
United States Senate
S221 US Capitol
Washington, DC 20510

The Honorable Chuck Grassley, Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein, Ranking Member
United States Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

Dear Leader McConnell, Leader Schumer, Chairman Grassley, and Senator Feinstein:

On behalf of People For the American Way (PFAW) and our hundreds of thousands of members across the country, I am writing to oppose the nomination of Senator Jefferson Sessions to become Attorney General of the United States. The Attorney General is not the President's lawyer but the "people's lawyer," responsible for exercising independent judgment in enforcing our laws on counterterrorism, civil rights, and many more critical areas. Senator Sessions' record makes clear that he is not qualified to fulfill that role and should not be confirmed.

The last time a Republican-controlled Senate considered Senator Sessions' nomination to a position of responsibility, when he was nominated to a federal district court seat in 1986, he was rejected because of his disastrous record on civil rights. His record over the last 30 years, including his close association with Breitbart News, a self-proclaimed platform for the white nationalist alt-right, makes clear that the Senate's judgment at that time was correct. Senator Sessions has continued to demonstrate that he is an outlier on these and other issues, which are central to the role of Attorney General. As *The New York Times* concluded, making Senator Sessions our Attorney General — in light of his "dogged animus to civil rights," his opposition to laws he would be responsible to enforce, and his resistance to fixing our immigration system and other problems — would be "an insult to justice."

At the outset, as Ranking Member Feinstein has pointed out, holding confirmation hearings on the currently scheduled dates of January 10 and 11 is entirely inappropriate in light of the gaping holes in Senator Sessions' response to the questionnaire he received from the Senate Judiciary Committee. Even after several attempts to supplement his answers, the record he has provided remains woefully incomplete. He has failed to provide information on decades of speeches, interviews, writings, and other materials similar to the type of information that, as a Senator, he demanded of nominees before hearings took place. The failure to provide such information, he wrote in 2010, is itself "potentially disqualifying", and he even suggested it could subject a nominee to criminal prosecution. In addition, since President-Elect Trump has delayed the date by which he will explain how he will deal with personal conflict of interest issues until after the hearings are complete, Senators cannot possibly ask Senator Sessions how he would deal with these issues as Attorney General. The hearings clearly should be postponed.

Despite the incomplete record, it is clear based on what we do know that Senator Sessions will not be able to fulfill the important responsibilities of our nation's next Attorney General. He will not be an effective and reliable check on the extremism of this Administration and a defender of justice and the rule of law for all Americans. His own shameful record on race, gender, disability, LGBT status, and immigration makes clear he is unable to protect the rights and liberties of all Americans.

Our nation's Attorney General must have a commitment to fairness and equal opportunity, and to enforcing laws that ban discrimination or crimes based on race, gender, and other grounds. But as more than 150 civil rights and other groups have written, Senator Sessions has a "30-year record of racial insensitivity" and "hostility to the protection of civil rights," including racist statements when he was an Alabama prosecutor. The fact that Senator Sessions has maintained a close relationship with Breitbart News, a far-right platform for the white nationalist alt-right that was run until recently by Trump strategist Stephen Bannon, in and of itself is disqualifying. That platform has showcased extreme and disturbing claims, such as blaming feminism for mass shootings, claiming that birth control "makes women unattractive and crazy," defending white nationalist alt-right leaders as "intellectuals," and referring to a conservative commentator as a "renegade Jew." The site featured stories that showcased what it called "Black Crime" in an effort to smear African Americans and—shortly after the racially motivated murder of nine churchgoers at an African American church in Charleston, South Carolina—ran an article entitled "Hoist It High And Proud: The Confederate Flag Proclaims A Glorious Heritage."

Despite this appalling record, Sessions has given at least 18 interviews to Breitbart's radio programs and seven exclusive interviews to its print journalists, and his office provided Breitbart with exclusive first access to at least a dozen statements and documents. These numbers bolster what Politico reported in a June profile of Stephen Miller, who was Sessions' communications director before leaving to work for the Trump campaign and who will soon have a top role in the Trump White House. Politico reported that when he was working for Sessions, Breitbart was Miller's "preferred media ally" and that he frequently fed leads to the site's reporters, and organized "a weekly Friday happy hour for Sessions and Breitbart staffers." Sessions himself told Bannon in 2015 that Breitbart was "the absolute bright spot" in coverage of the struggling middle class. "You get it," he said, "your writers get it, every day they find new information that I use repeatedly in debate on the floor of the Senate because it's highlighting the kind of problems that we have. And nobody else is doing it effectively, it's just not happening, so to me it's like a source. And we consistently find your data to be accurate and hold up under scrutiny."

Senator Sessions has also associated himself with other extremist groups. For example, in 2014, he received an award from the anti-Muslim David Horowitz Freedom Center and specifically praised its leader, even though Horowitz has claimed that all Muslim-American associations are "fronts for the Muslim Brotherhood," called House Democratic Leader Nancy Pelosi a "Jew-hating b*tch" on Twitter, and claimed amidst protests of police violence that there is "no community that's more racist in America than the black community". In 2015, Sessions accepted the "Keeper of the Flame" award from the Center for Security Policy, the group run by anti-Muslim conspiracy theorist Frank Gaffney, saying that the Center "fights for America every day." Gaffney was the driving force behind smears against Hillary Clinton aide Huma Abedin, also promoted by Horowitz, that Senator John McCain called "an unwarranted and unfounded attack on an honorable woman, a dedicated American and a loyal public servant." He also claims that there is an Islamist attempt to seize control of the conservative movement, alleging that conservative activist Grover Norquist is an agent of the Muslim Brotherhood, saying that former GOP Senator Chuck Hagel acted like an "Iranian agent," and accusing New Jersey Governor Chris Christie of "misprision of treason" because he appointed a Muslim lawyer to be a judge. He once claimed that a Missile Defense Agency logo was evidence of "official U.S. submission to Islam."

Other specific areas of concern about Senator Sessions' record include:

Voting rights: Senator Sessions has an extremely troubling history on voting rights, including a much-criticized and unsuccessful voter fraud prosecution and vote suppression tactics when he was a prosecutor in Alabama, and opposition to voting rights protections as a Senator. This record includes racist comments as well as comments antagonistic to civil rights such as allegedly calling a white civil rights attorney "a disgrace to his race" and, as recently as 2010, complaining that too many of President Obama's judicial nominees had "ACLU DNA." We have serious concerns that as Attorney General under Trump, Sessions would not only cut back substantially on DOJ's positive voting rights role but that he would also pursue harmful claims of alleged voter fraud and attempt to force states to purge more voters from their rolls.

Equal educational opportunity: In addition to the Department of Education, the Attorney General and DOJ play an important role in providing guidance and enforcing federal laws and rules that prevent discrimination and improper discipline, harassment and isolation of students based on race, national origin, religion, gender and gender identity, disability, and special education needs. Senator Sessions' record, however, is cause for deep concern. As Alabama Attorney General, he strongly opposed a state court ruling, later upheld on appeal, that found serious inequities and inadequacies in funding for poor and minority schools. A recent review found little evidence to back up his supporters' claims that he actively supported school desegregation efforts in Alabama. As Senator, he criticized laws providing special education for students with disabilities, calling them perhaps the "single most irritating problem for teachers across America today," and leading to serious concern about whether he would effectively enforce those laws as Attorney General. And given his virulent anti-LGBT record, Sessions is considered likely to withdraw DOJ guidance and litigation seeking to protect the rights of transgender students.

Other Gender and LGBT issues: One of the Attorney General's key responsibilities is enforcing criminal and other laws that protect against violence and other misconduct aimed at women and the LGBT community. But as Senator, Sessions fought against hate crime protection for LGBT people and we have grave concerns that he is likely to neglect or abandon the responsibility to enforce hate crimes laws. He was one of only 22 Senators who opposed the reauthorization of the Violence Against Women Act in 2013, he voted against the Lilly Ledbetter Fair Pay Act, and during the campaign he tried to defend Mr. Trump's own reported assaults on women, leading to serious concerns about Sessions' willingness to perform DOJ's role in that area.

Immigration: The Attorney General and DOJ have important functions concerning our nation's immigration laws. These include appointment of administrative immigration judges and appeals board members who decide most deportation and related cases, setting criteria for asylum, deciding on enforcement priorities, and more. Sessions' extreme record on immigration, however, has been well documented. He has supported Trump's campaign immigration promises, including stepped up deportation, limiting or banning immigration by Muslims, and building a wall between the US and Mexico, and has voted against bipartisan comprehensive immigration reform. Moreover, particularly given his close association with virulently anti-immigrant groups as noted above, we fear Sessions could well refuse to take action against school systems that refuse to serve children of undocumented immigrants, especially in light of his opposition to the Constitution's guarantee of birthright citizenship.

Civil Liberties: Both in his role as the nation's chief prosecutor and as the official to whom the FBI reports, the Attorney General also plays a key role with respect to national security. The FBI, as well as Republicans and Democrats, have made clear that effective protection of national security consistent

with the rule of law means that waterboarding and torture should not be pursued in terrorism investigations. Senator Sessions clearly disagrees, and has voted against bipartisan proposals to ban such tactics. Sessions has also opposed efforts to curb overly aggressive electronic surveillance of Americans, as demonstrated by his opposition to bipartisan reform of the Patriot Act that was supported by the NSA itself. Sessions as Attorney General could produce an extremely troubling reversal in this area for the DOJ.

In short, Senator Sessions' record makes clear his continued disregard for the rights of the American people and the rule of law. He is unfit to serve as our nation's Attorney General, and the Senate should again reject his nomination.

Sincerely,

A handwritten signature in black ink, appearing to be 'Michael Keegan', with a stylized, elongated horizontal stroke at the end.

Michael Keegan
President & CEO

January 6, 2017

Chairman Chuck Grassley
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
United States Senate

Dear Chairman Grassley and Ranking Member Feinstein,

We write on behalf of 70 reproductive health, rights, and justice organizations in strong opposition to the nomination of Senator Jeff Sessions to serve as United States attorney general. Given his long record of hostility towards reproductive rights and his alignment¹ with extreme anti-abortion organizations, we firmly believe that Senator Sessions is not capable of fair and impartial action as attorney general. His long-held bias will negate his ability to oversee Department of Justice obligations to protect without prejudice the constitutional right to abortion, as well as the patients and providers of reproductive health care.

Since 1977, there have been 11 murders, 26 attempted murders, 42 bombings, 185 arsons, and thousands of incidents of criminal activities directed at abortion providers. In 2015, there was a dramatic increase in hate speech, death threats, attempted murder, and murder.²

Especially at this time, the importance of the Department of Justice, and specifically the leadership of the attorney general, in helping to stem the tide of violence against abortion providers cannot be overemphasized.

The Department of Justice is charged with investigating and prosecuting federal crimes targeting abortion providers, and thus impacts the safety of abortion providers and their patients more than any other agency. Specifically, the attorney general is responsible for enforcing the Freedom of Access to Clinic Entrances (FACE) Act which, when enforced, has a clear impact on the number of violent acts directed against clinics and providers.³ The attorney general also oversees the work of the critical National Task Force on Violence Against Health Care Providers.⁴ The attorney general has discretion and authority regarding resources and staffing, and can decide whether to pursue FACE cases, in addition to what level of priority the Task Force takes within the Department of Justice.

Senator Sessions' record indicates that he is not fit to carry out these responsibilities as the Attorney General of the United States. His prior actions lead us to believe that protecting abortion providers from violence will not be a priority for a Department of Justice directed by Senator Sessions. In fact, he has voted against protecting abortion providers from violence.⁵ Senator Sessions voted repeatedly to reject an amendment put forth by Senator Schumer that would have prevented perpetrators of violent crimes against abortion providers and clinics from evading fines resulting from convictions by filing for bankruptcy.⁶ Sessions' votes amount to excusing criminals and indicate his low prioritization of safety issues when they impact abortion

providers and their patients. Additionally, in 2015 Sessions voted against an amendment to create a “Women’s Health Care and Clinic Security and Safety Fund” that would ensure enhanced safety measures and provisions for reproductive health providers and clinics.⁷

Senator Sessions’ long history of opposition to women’s health is reason for concern for all who value the safety of women’s health providers and their patients. Sessions has made it clear that he opposes abortion access, repeatedly voting against resolutions in support of *Roe v. Wade*, the landmark Supreme Court decision guaranteeing women’s constitutional right to decide to have an abortion. In fact, he has described the precedential case by saying “I firmly believe that *Roe v. Wade* and its descendants represent one of the worse [sic] colossally erroneous Supreme Court decisions of all time. It was an activist decision... it was a Court that decided to politically impose their will. Good law should prevail.”⁸ Among his many anti-abortion votes are multiple votes for the Unborn Victims of Violence Act, a law that grants separate legal status to an embryo or fetus⁹, and for a measure banning medically appropriate abortion care as early as 20 weeks without an adequate exception to protect a woman’s health.¹⁰

Sessions has consistently opposed reproductive health, rights, and justice, voting 86 times against these critical issues during his 20 years in the Senate.¹¹ This includes voting to eliminate the essential Title X family planning program¹², which provides millions of women with health care services.¹³ He has repeatedly voted against contraceptive access, including voting to defund Planned Parenthood health centers and/or other family-planning clinics¹⁴, voting for measures purporting to address the Zika crisis but which included restricted access to contraception¹⁵, and repeatedly voting to defund the United Nations Population Fund (UNFPA), an organization that provides family planning services for the world’s poorest women.¹⁶

The Attorney General, as head of the U.S. Department of Justice, is directly responsible for carrying out the President’s constitutional charge to “take care” that the laws of the United States are faithfully executed. While Senator Sessions may understand that his responsibility would be to execute the laws as they are, and not as he might wish them to be, the extreme positions that have been a driving and overriding theme of his public career cause concern that he could use the vast powers of Attorney General to endanger the constitutional guarantees and hard-won federal laws that form core legal protections for women’s ability to exercise their reproductive rights.

The next United States attorney general cannot be allowed to promote his extreme personal ideology over enforcing the law and holding criminals to account. Senator Sessions’ hostility to abortion and troubling record on civil rights disqualifies him for a cabinet level appointment. We strongly urge you to oppose Senator Jeff Sessions for attorney general.

Sincerely,

30 for 30 Campaign
Access Reproductive Care-Southeast
Advocates for Youth
Black Women's Health Imperative
California Latinas for Reproductive Justice
Catholics for Choice

Center on Reproductive Rights and Justice at UC Berkeley
 Civil Liberties and Public Policy Program
 Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)
 Desiree Alliance
 Eastern Massachusetts Abortion Fund
 Feminist Majority Foundation
 Forward Together
 Freedom From Religion Foundation
 Gender Justice
 If/When/How: Lawyering for Reproductive Justice
 Institute for Science and Human Values
 International Women's Health Coalition
 Jane Fund of Central Massachusetts
 Jewish Women International (JWI)
 Legal Aid at Work (formerly Legal Aid Society-Employment Law Center)
 Legal Voice
 Lift Louisiana
 Lilith Fund
 Mabel Wadsworth Center
 Methodist Federation for Social Action
 Muslims for Progressive Values
 NARAL Pro-Choice America
 National Abortion Federation
 National Asian Pacific American Women's Forum
 National Black Justice Coalition
 National Center for Lesbian Rights
 National Council of Asian Pacific Americans
 National Council of Jewish Women
 National Council of Jewish Women - St. Louis
 National Council of Jewish Women- Columbus
 National Council of Jewish Women- Essex County
 National Council of Jewish Women- Ohio State
 National Council of Jewish Women- Rockland County
 National Council of Jewish Women- Seattle Section
 National Council of Jewish Women Washington State Policy Advocacy Network
 National Health Law Program
 National Immigration Law Center (NILC)
 National Latina Institute for Reproductive Health
 National LGBTQ Task Force Action Fund
 National Network of Abortion Funds
 National Partnership for Women & Families
 National Women's Health Network
 National Women's Law Center
 New Voices for Reproductive Justice
 Nursing Students for Sexual & Reproductive Health (formerly Nursing Students for Choice)
 Physicians for Reproductive Health

Planned Parenthood Federation of America
 Population Connection Action Fund
 Population Institute
 Positive Women's Network - USA
 Raising Women's Voices for the Health Care We Need
 Religious Institute
 Reproductive Health Access Project
 Sexuality Information and Education Council of the U.S. (SIECUS)
 SisterReach
 SisterSong: National Women of Color Reproductive Justice Collective
 Tewa Women United
 Texas Equal Access Fund
 The Interfaith Alliance of Colorao
 Unitarian Universalist Women's Federation
 URGE: Unite for Reproductive and Gender Equity
 Virginia NOW
 Women's Medical Fund, Inc. (WI)
 WV FREE (West Virginia Focus: Reproductive Education and Equality)

¹ In Operation Rescue's press statement announcing its endorsement of Senator Sessions, the group's president Troy Newman states "I have worked on projects with Sen. Sessions in the past and know him to be an experienced prosecutor and a principled pro-life advocate with a reputation for honesty."

² 2015 Violence and Disruption Statistics: A dramatic escalation in hate speech, threats, and violence, National Abortion Federation, (April 2016), <http://prochoice.org/wp-content/uploads/2015-NAF-Violence-Disruption-Stats.pdf>

³ Department of Justice, Freedom of Access to Clinic Entrances & Places of Religious Worship, <https://www.justice.gov/crt-12>

⁴ Department of Justice, National Task Force on Violence Against Health Care Providers,

<https://www.justice.gov/crt/national-task-force-violence-against-health-care-providers-0>

⁵ Schumer amendment to Bankruptcy Reform Act, S.265, 2/2/00; Bankruptcy Reform Act, H.R.2415, 12/7/00;

Schumer amendment to Bankruptcy Reform Act, S.256, 3/8/05.

⁶ Maura Reynolds, Abortion Debate Still Tangled in Bankruptcy Bill, *Los Angeles Times*, (Feb. 28, 2015),

<http://articles.latimes.com/2005/feb/28/nation/na-bankrupt28>

⁷ Motion to table Murray amendment to H.R.3762, 12/3/15.

⁸ Veronica Neffinger, Trump Offers Attorney General Position to Sen. Jeff Sessions, *Christian Headlines.com*, (Nov. 18, 2016), <http://www.christianheadlines.com/blog/trump-offers-attorney-general-position-to-sen-jeff-sessions.html>

⁹ Unborn Victims of Violence Act, H.R.1997, 3/25/04.

¹⁰ Motion to invoke cloture on the motion to proceed on H.R.36, 9/22/15.

¹¹ NARAL Pro-Choice America, Congressional Record on Choice, 1997-2016.

¹² FY'11 Continuing Resolution, H.R.1, 3/9/11.

¹³ *Id.*

¹⁴ Vitter amendment to Labor, Health Human Services, and Education Appropriations Act, H.R.3043, 10/18/07;

FY'11 Continuing Resolution, H.R.1, 3/9/11; Enrollment Resolution to FY'11 Continuing Resolution,

H.Con.Res.36, 4/14/11; Motion to invoke cloture on S.1881, 8/3/15; motion to invoke cloture on H.J.Res.61,

9/24/15; motion to table Murray amendment to H.R.3762, 12/3/15; Collins amendment to Restoring Americans'

Healthcare Freedom Reconciliation Act, H.R.3762, 12/3/15.

¹⁵ Motion to invoke cloture on the conference report for H.R.2577, 6/28/16; motion to invoke cloture on the

conference report for H.R.2577, 7/14/16; motion to invoke cloture on the conference report for H.R.2577, 9/6/16.

¹⁶ Conference report of the Foreign Affairs Reform and Restructuring Act, H.R.1757, 4/28/98; Brownback amendment to Department of State, Foreign Operations, and Related Programs Appropriations Act, H.R.2764, 9/6/07; FY'11 Continuing Resolution, H.R.1, 3/9/11.

1191

Gerald A. Reynolds
1381 S. 4th Street
Louisville, KY 40208

November 28, 2016

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

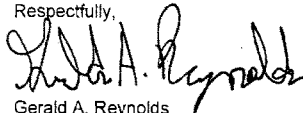
Dear Chairman Grassley and Ranking Member Feinstein:

I am very pleased to support the nomination of the Honorable Jeff Sessions for Attorney General of the United States. Senator Sessions has a distinguished record of public service that demonstrates his love of country, his commitment to the rule of law and his dedication to equality of opportunity for all Americans. His forty years of dedicated service—as a military officer in the U.S. Army Reserves, U.S. Attorney for Alabama's Southern District, Attorney General for the State of Alabama and now a leader in the U.S. Senate—make him eminently qualified to be America's chief law enforcement officer.

I came to know Senator Sessions personally when I was nominated by President Bush to be Assistant Secretary for Civil Rights at the Department of Education in 2001. Exhibiting his characteristic graciousness, the Senator lent his expertise and that of his staff to assist me in preparing for my own confirmation hearing before the Senate Committee on Health, Education, Labor and Pensions. During my discussions with Senator Sessions and his staff, it was clear the senator has a strong interest in ensuring our nation's antidiscrimination laws are vigorously enforced. Senator Sessions is a man of great character and integrity with a commitment to fairness and equal justice under the law. Based on these qualities, his deep knowledge of the Department of Justice from his time with the U.S. Attorney's office and his decades of service on the Judiciary Committee, I have no doubt that he will be guided solely by fidelity to the Constitution and the laws of our great country.

I am honored to give him my highest personal and professional recommendation.

Respectfully,

A handwritten signature in black ink, appearing to read "Gerald A. Reynolds". The signature is fluid and cursive, with the first name "Gerald" being the most prominent.

Gerald A. Reynolds
cc: Senator Jeff Sessions

1192

Frank Ricci
46 Chimney Sweep Rd
Wallingford Ct 06492
ricci@local825.org
(203) 285-4907

January 7, 2017

Honorable Charles E. Grassley
Chairman
Senate Judiciary Committee
United States Senate
224 Dirksen Office Building
Washington, DC 20510

Honorable Dianne Feinstein
Ranking Member
United States Senate
Senate Judiciary Committee
331 Hart Senate Office Building
Washington, DC 20510

RE: Support of Senator Jeff Sessions Nomination

Dear Chairmen, Ranking Member and Committee Members,

As a point of reference I was the prevailing lead plaintiff in the landmark Supreme Court Case *Ricci v. DeStefano*. In that capacity I have testified before the U.S. Senate Judiciary Committee at the conformation hearings regarding Associate Justice Sonia Sotomayor's nomination as an Associate Justice of the United States Supreme Court. I am a noted author and I have lectured at the Reagan Library. I currently serve as a Contributing Editor for Fire Engineering Magazine and the Union President of New Haven Connecticut Fire Fighters. I have appeared in a PBS series on the U.S. Constitution and I have served as an expert witness in court cases concerning fire strategy and tactics, hazardous material emergencies and promotional practices.

This is the third time I have provided written testimony before your Honorable Committee. The last time I testified I supported President Obama's nomination of United States District Judge Victor A. Bolden. Judge Bolden represented the City of New Haven in *Ricci v. DeStefano*. Despite being adversaries I did not draw unfair conclusions based off political differences and conjecture, I evaluated the totality of Judge Bolden's record and my personal interactions with him. Judge Bolden is honorable and demonstrated a fidelity to the law. He is a consummate professional who serves with integrity. These are the same qualities demonstrated by Senator Jeff Sessions.

Honorable Charles E. Grassley
Chairman
January 7, 2017
RE: Support of Senator Jeff Sessions Nomination
Page 2

I am confident that as Attorney General, Senator Jeff Sessions will serve with distinction and he will place the law above all else. Senator Sessions understands that he must uphold the law and ensure our Constitution is followed. He knows, and through his actions has demonstrated, that civil rights are for all Americans and that the cost of our democracy is vigilance.

I am disheartened to see the baseless political attacks on Senator Sessions concerning civil rights. I have, and continue, to experience these kinds of attacks since prevailing at the United States Supreme Court. To hear individuals and associations claim racism and racial insensitivity in an attempt to discredit his distinguished record of public service is disingenuous. The mere inference, without hard proof, that he would deprive an individual of their rights based off race is reprehensible.

When racism exists it should be rooted out, however, labeling a man because some disagree with his politics only serves to downplay the serious nature of that claim. Individuals and associations crying wolf, after relying on conjecture and feelings undermines our political process. President John Adams captured this sentiment best when he was defending British Soldiers as an attorney before the Revolution by stating, "Facts are stubborn things." Merit must transcend partisan race politics. Race politics and personal attacks only serve to distract and silence those who disagree with their political positions.

I believe that Senator Jeff Session will be a credit to America. He is a principled man who believes in the promises contained in The Declaration of Independence and the sacrifice of our Civil War. He will stand for all Americans as the top law enforcement official for the United States of America. He comes to this position with vast experience and credentials. It is an honor to offer my support for his nomination to the position of Attorney General of the United States of America.

Sincerely,

Frank Ricci

Frank Ricci



ONE UNIVERSITY DRIVE
ORANGE, CALIFORNIA 92666
WWW.CHAPMAN.EDU

Ronald D. Rotunda
*The Doy & Dee Henley Chair and
Distinguished Professor of Jurisprudence*
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www.ronaldrotunda.com

January 6, 2017

The Honorable Chairman Charles E. Grassley
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

VIA EMAIL:

Dear Sen. Grassley:

Introduction. You have asked us, Ronald D. Rotunda,¹ and W. William Hodes,² for our expert opinion on the significance today of an ethics complaint leveled against Senator Jeff

¹ Ronald D. Rotunda is the Doy & Dee Henley Chair and Distinguished Professor of Jurisprudence at Chapman University, the Dale E. Fowler School of Law. See, www.ronaldrotunda.org. His current resume is attached at the end of this Opinion Letter.

² W. William Hodes is Professor Emeritus of Law at Indiana University, and President of the William Hodes Law Firm. See www.hodeslaw.com. His current resume is attached at the end of this Opinion Letter.

Professor Rotunda is a coauthor of, **Legal Ethics: The Lawyer's Deskbook on Professional Responsibility**, which the ABA co-publishes with Thomson Reuters (ABA Thomson-West & ABA, 14th ed. 2016), a one-volume treatise on Legal Ethics, updated annually. He is also a coauthor of the most widely-used course book on Legal Ethics, **Problems and Materials on Professional Responsibility** (Foundation Press, St. Paul, MN. 12th ed. 2014)(*Unabridged Edition*), and **Problems and Materials on Professional Responsibility** (Foundation Press, St. Paul, MN. 12th ed. 2014)(*Abridged Edition*).

Professor Hodes is the coauthor (with Geoffrey C. Hazard, Jr., and Peter R. Jarvis) of **The Law of Lawyering** (Wolters, Kluwer, 4th ed. 1985, 2014), one of the leading treatises on legal ethics and related issues in the United States, which is updated twice annually.

Sessions approximately a quarter-century ago. We have read the material discussed herein and have evaluated the charges.

For simplicity, we present our conclusion first, and then explain in more detail how we reached it.

Conclusion. Almost a quarter century ago,³ when Senator Sessions was the Attorney General of Alabama, lawyers for a company that had been criminally indicted sought dismissal of the charges in part on the grounds of prosecutorial abuse (that was not described in factual detail). Although the trial court adopted that allegation (*verbatim*) as part of its dismissal order, the Alabama State Ethics Commission and the Alabama State Bar each separately investigated the matter, and both found, unanimously,⁴ that there was insufficient evidence to find any ethics violation against General Sessions (who had already been elected to the U.S. Senate at that point).

In addition, when related civil litigation continued in federal court between the company and the customer it had been accused of defrauding, the United States Court of Appeals for the Eleventh Circuit found that because the statement of the Alabama state court judge was little more than a convenient adoption of a party's argument, it was "particularly unreliable and misleading"—so much so that admitting it into evidence in the federal district court trial was an abuse of the (federal) trial court's discretion that required reversal.

In our view, the contemporaneous actions of two Alabama state agencies and the Eleventh Circuit demonstrate clearly that the mere nonspecific allegations of a party, uncritically adopted by a state court judge and rejected by the state agencies with jurisdiction over ethics complaints, cannot possibly have any bearing on Senator Sessions's ethical standing today. A supposed blot on one's record that has been so thoroughly debunked is no blot at all.

³ The whistle blower alleging fraud by Tieco first raised his charges in May, 1995, *U.S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275, 1281 (11th Cir., Aug. 17, 2001).

In addition to the criminal case in state court, there was extensive litigation in federal court, because USX and Tieco sued each other. See, e.g., *USX Corp. v. TIECO, Inc.*, 189 F.R.D. 674 (N.D. Ala., Nov. 09, 1999), affirmed in part, vacated in part, reversed in part by *U.S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275 (11th Cir. Aug. 17, 2001), rehearing and rehearing *en banc* denied, *U.S. Steel LLC v. Tieco, Inc.*, 277 F.3d 1381 (11th Cir. Nov. 8, 2001). Related cases include, *USX Corp. v. TIECO, Inc.*, 929 F.Supp. 1455 (N.D. Ala., June 21, 1996); *USX Corp. v. TIECO, Inc.*, 929 F.Supp. 1460 (N.D. Ala., June 21, 1996); *USX Corp. v. TIECO, Inc.*, 227 F.R.D. 680 (N.D. Ala., Sep. 01, 2004), affirmed by, *USX Corp. v. Tieco, Inc.*, 132 Fed. Appx. 237 (11th Cir. May 16, 2005).

⁴ The Disciplinary Commission of the Alabama State Bar, ASB No. 98-116(A), dismissed the ethics charges on Feb. 16, 2000. Those charges were brought on April 16, 1998. The Alabama Ethics Commission dismissed the ethics charges on July 10, 1996.

Factual background.

In 1995, a whistleblower from a company called Tieco, Inc. informed United States Steel, LLC (USX) that Tieco was receiving payment for goods not delivered. USX took the information to the Office of the Attorney General of Alabama, which sought and obtained a search warrant and eventually a criminal indictment against Tieco after demonstrating probable cause.

The Attorney General's Office voluntarily dismissed some counts in the indictment, and Tieco then moved to dismiss the remaining counts, alleging prosecutorial misconduct, among other things. The state trial judge granted the motion, copying *verbatim* key passages from court papers that Tieco's lawyers had drafted. There was no appeal from the dismissal order, but the issue of prosecutorial abuse was thoroughly litigated in related civil litigation in federal court and in two state disciplinary proceedings. As described below, the Eleventh Circuit found the allegations to be "particularly unreliable and misleading," while the state agencies both unanimously found insufficient merit in the allegations and dismissed the ethics complaints.

The Alabama criminal case aside, USX sued Tieco civilly in federal court, under the Racketeer Influenced and Corrupt Organizations Act (RICO). Tieco counterclaimed, asserting claims under 42 U.S.C. §1983 for violation of its due process rights, and under state law for malicious prosecution. The federal trial court permitted Tieco to introduce the earlier Alabama state court order (that included language taken *verbatim* from Tieco's own filings), and the jury awarded Tieco \$7.2 million on its counterclaims.

The Eleventh Circuit unanimously reversed the jury verdict in Tieco's favor. Even looking at the record in the light most favorable to Tieco, there could be no §1983 claim, the Court said, because the criminal prosecution, although eventually dismissed, was supported by probable cause.⁵

The Court then turned to the Alabama trial judge's order that dismissed the criminal case, which Tieco had introduced in its civil case in federal court. The Eleventh Circuit said that the criminal trial judge had simply adopted "a statement of facts prepared by TIECO in connection with its motion to dismiss the indictment. Not surprisingly, the statement of facts is quite favorable to Appellees [Tieco] and relied upon heavily by Appellees in their brief to this Court."⁶ Again,

⁵ See 261 F.3d 1275, 1289-90. USX cooperated with the criminal investigation by the state attorney general's office into the actions of equipment vendor Tieco. That resulted in criminal charges being brought, but that did not violate Tieco's due process rights, and thus could not support a §1983 claim against the steel company because the vendor had no substantive due process right to be free from a criminal prosecution (even though ultimately successful) that was supported by probable cause. "Thus, no violation of procedural due process could have occurred." 261 F.3d 1290 (footnote omitted).

⁶ 261 F.3d 1275, 1286.

according to the Eleventh Circuit, the trial judge merely repeated Tieco's memorandum "*in toto*,"⁷ – a memorandum "that neatly conformed to Appellees' allegations"⁸ The trial judge had said (quoting the lawyers representing Tieco), "[T]he misconduct of the [AG] in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this Court."⁹

That was a damning statement, to be sure, but the Eleventh Circuit Court of Appeals found that it was "particularly unreliable and misleading." Moreover, introducing it in the federal trial required the Circuit Court to reverse. The Alabama trial court's statement, said the Eleventh Circuit,

"*was particularly unreliable and misleading. Although the statement of facts was presented to the jury as Judge Garrett's finding, it was prepared entirely by Appellee's counsel. In effect, the admission of the statement of facts permitted counsel to testify on his client's behalf, without being cross-examined. Further, the statement of facts was intended to exculpate TIECO, and thus, it was self-serving and unreliable. . . . unfairly prejudicial and misleading.*"¹⁰

Introducing this "particularly unreliable and misleading" statement of the Alabama trial judge was serious error. "The district court *abused its discretion* in admitted Judge Garrett's opinion."¹¹

In addition to its involvement in the civil litigation in federal court, in May 1996 Tieco filed an ethics complaint against then Attorney General Jeff Session, while he was running his first Senate campaign. The Alabama State Ethics Commission investigated the Tieco charges, which were buttressed by the trial judge having copied them in his opinion. The Commission held a hearing, heard witnesses, and heard argument. But, as later related by the Eleventh Circuit, "On July 10, 1996, the Commission concluded there were insufficient facts to find the AG had violated

⁷ 261 F.3d 1275, 1286 (emphasis in original). The judge's opinion "adopted *in toto* a memorandum of facts prepared by TIECO in connection with its motion to dismiss the indictment."

⁸ 261 F.3d 1275, 1286.

⁹ 261 F.3d 1275, 1286.

¹⁰ 261 F.3d 1275, 1287 (emphasis added), citing *United States v. Reme*, 738 F.2d 1156, 1168–69 (11th Cir.1984).

¹¹ 261 F.3d 1275, 1288 (emphasis added).

Alabama ethics laws."¹² Indeed, the Alabama State Ethics Commission found *unanimously* (5 to 0) that then Attorney General Sessions had not violated Alabama ethics laws.

Tieco's counsel also filed a complaint against Attorney General Sessions with the Alabama State Bar. Once again, Tieco relied on the state court order, which Tieco had largely drafted and the state judge had copied, *in haec verba*. The State Bar dismissed that complaint as well.

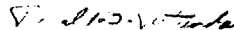
Ultimately, the historical record shows only that Tieco and its lawyers filed one charge after another, attacking the office of the Attorney General of Alabama, various lawyers connected with it, and also then General Sessions. But the historical record also shows that the charges remained unsubstantiated, and ultimately went nowhere.

Some media sources have suggested that these charges were well founded, or that Senator Sessions failed to disclose them to your Committee. As to the latter, we have been informed that disclosure was made in materials that the Committee has not yet released, but have no independent knowledge on that score. As to the former, it is our experience that it is much easier to *file* charges than to make them stick. It is not uncommon, unfortunately, for disgruntled opposing parties or clients to file ethics complaints that do not hold up under scrutiny.

Whether Tieco's long-ago allegations were made in good faith, or made in bad faith as a tactical ploy, is of no moment today. What is significant is that the charges were looked at and rejected decades ago by the courts and state agencies. Your Committee should have no concern, in our opinion, about any ethical violations said to have arisen out of the Tieco matter.

If you have further questions, please do not hesitate to contact us.

Sincerely,



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rrotunda@chapman.edu



W. William Hodes, Esq.
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¹² 261 F.3d 1275, 1284.

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January 7, 2017

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member, Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Re: Hearings on Attorney General Sessions

Dear Chairman Grassley and Ranking Member Feinstein:

The undersigned have spent considerable effort over many years in analyzing issues of prosecutorial power, discretion, and alleged misconduct. One issue that has come to our attention relates to the scathing July 16, 1997 judicial opinion regarding conduct of the Alabama Attorney General's office in *State v. Tieco, et. al.* Senator Jeff Sessions, the Attorney General nominee, was the Attorney General whose office's conduct was the subject of the Court's opinion. The Alabama Circuit Court, ruling on a motion to dismiss charges by defendants in 10 related cases, granted the motion and in the first paragraph of its opinion wrote:

The Defendants have presented extensive evidence of serious and wholesale prosecutorial misconduct by the Office of the Attorney General, its attorneys, investigators and agents, throughout the initiation, investigation and prosecution of this case. The Attorney General has failed to rebut this evidence, other than through argument, which was at times misleading, or made in the hope or expectations that they were true and accurate and it was later determined that they were neither, the Attorney General has failed to present a case in its defense. The Court finds that even having been given every benefit of any doubt, *the misconduct of the Attorney General in this case*

far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this Court. (Opinion at 1-2, emphasis added).

Your Committee can easily review the instances of misconduct cited by the Court, so that there is no need for us to review their specifics in this letter. But, the potential importance of the Circuit Court decision even 20 years later is that Attorney General Sessions' office brought more than two hundred charges against Tieco, Inc. and certain individuals, and as a result of voluntary dismissals of five cases and the Circuit Court's decision to dismiss all ten indictments pending before it meant that not a single charge remained for trial against any defendant.* We are unaware of any other case in which so vast an array of wrongdoing was alleged, and every single charge was dismissed. Senator Sessions is now nominated to head the largest prosecutor's office in the United States, and we believe it is important for the Senate to assure itself that the Department of Justice will operate at the highest level of integrity and investigate and deal appropriately with any misconduct by federal prosecutors.

Even a well run prosecutor's office can discover that some overly aggressive lawyers have engaged in misconduct, and that does not mean that an Attorney General or District Attorney has done anything wrong. But, if misconduct is continuing and flagrant, there is reason to question the leadership of an office.

The number of instances of misconduct cited by the Circuit Court and their seriousness justifies in our view a careful examination of then-Attorney General Sessions' role in the initiation, investigation and prosecution of the *Tieco* case. Senator Sessions should have a full opportunity to respond to the Circuit Court's opinion and to offer explanations for the actions of the Alabama Attorney General's office, especially since he had been elected to the Senate prior to the issuance of the Circuit Court's opinion and was not in a position to decide whether to seek reconsideration of the decision or to appeal it.

* We recognize that the Circuit adopted the findings suggested by defense counsel, after carefully reviewing them and finding that they were supported by the evidence, and that the United States Court of Appeals for the Eleventh Circuit in a related civil case, *United States Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275 (11th Cir. 2001), criticized such wholesale reliance and suggested that the Circuit Court's adoption of the findings resulted in statements in the Circuit Court opinion that were "particularly unreliable and misleading." *Id.* at 1287. But, the Eleventh Circuit failed to identify any specific statement in the Circuit Court opinion that was either unreliable or misleading. The Senate has the opportunity to make its own decision on the accuracy and reliability of the Circuit Court's opinion and on its importance to Senator Sessions' candidacy as Attorney General of the United States.

We respectfully suggest that the Senate is well justified in asking Attorney General nominee Sessions questions relating to the *Tieco* case and that any nominee for Attorney General of the United States should welcome an opportunity to answer them in order to demonstrate that the Department of Justice would be in the hands of a responsible steward should the nominee be confirmed. The specific questions that we suggest are these:

- (1) How closely did then Alabama Attorney General Sessions pay attention to the investigation, charging and prosecution of the *Tieco* case, given the number of charges brought by his office against both the company and individuals and the importance of the case as announced in press releases by the Office?
- (2) Was then Alabama Attorney General Sessions aware that the *Tieco* case was initiated by a competitor of Tieco that might have sought a competitive advantage by having the Attorney General's office investigate Tieco, and if so, what precautions were taken to assure that the Attorney General's office would make an independent determination as to the validity and appropriateness of any charges it considered bringing? Can the nominee cite any other case in which there was such cooperation between the Attorney General's office and a private party and in which the Attorney General (a) personally approved the payment of expenses for an analysis of a target's records and (b) agreed with the private company that it would reimburse the Attorney General's office for the costs of the analysis? Was this an attempt to make it appear in the criminal cases that the Attorney General's office actually was paying for the analysis and to conceal who actually was responsible for paying?
- (3) Was the timing of the indictments against the Tieco defendants affected by the fact that there was an ethics complaint made against the Attorney General's office?
- (4) Did then-Attorney General Sessions receive during the time frame of the Tieco investigation a \$5,000 campaign contribution from the law firm representing the competitor company that had brought the complaint against Tieco to the Attorney General's office, and if so, was it appropriate for General Sessions to accept the contribution while his office was closely cooperating with the private company?
- (5) During the Tieco time frame did Attorney General Sessions name as a Special Assistant Attorney General the lawyer representing the private company that brought the Tieco complaint to the Attorney General's office, and if so, was it appropriate to do so even if the Special Assistant was not assigned to the Tieco matter?

Our experience is that when a court sanctions a prosecutor or prosecutor's office and those sanctioned believe the court erred in doing so, the sanctioned party typically seeks judicial relief in the form of a motion to reconsider or an appeal. One of the most remarkable facts with respect to *Tieco* is that despite the dismissal of all ten indictments, the Alabama Attorney General's office did not appeal. Presumably

the decision whether or not to appeal would have been made by the successor Attorney General, William Pryor, now Judge Pryor. The Senate might find it useful to seek to determine why no appeal was taken. Did this mean that then-Attorney General Pryor agreed with the findings of the Circuit Court?

We trust that the Senate shares our belief that the Department of Justice should be led by men and women of unquestioned integrity who will insist that everyone in the Department uphold the highest standards of professional conduct. The *Tieco* case raises a concern about whether then-Attorney General Sessions established the highest standards of integrity and professional responsibility and held his lawyers to account for them.

None of us has any personal knowledge of the facts surrounding the *Tieco* matter. We hope the Senate will want our suggested questions answered in order to meet its own high standards with respect to the confirmation process. We appreciate the opportunity to communicate with the Committee.

Respectfully submitted,

/s/Stephen A. Saltzburg

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Former Dep. Assistant AG
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January 6, 2017

United States Senate Judiciary Committee
Senator Charles Grassley, Chairman
Senator Dianne Feinstein, Ranking Member
224 Dirksen Senate Building
Washington, D. C. 20510-6050

RE: Confirmation Hearing for U.S. Senator Jeff Sessions as U.S. Attorney General

Dear Senator Grassley and Senator Feinstein:

I wish to submit my testimony in opposition to the confirmation of U.S. Senator Jeff Sessions for Attorney General of the United States of America.

As an attorney, Alabama state senator, and community leader, I have had firsthand experience with Senator Jeff Sessions as a U.S. Attorney, as an Alabama Attorney General, and as a U.S. Senator. My experiences convince me that Senator Sessions cannot do justice as U.S. Attorney General, the top person over the entire United States Department of Justice.

In the late seventies and early 1980s, Perry County, Alabama was a majority Black county. However, White candidates were winning elections by voting absentee ballots for dead and other ineligible persons. Black leaders strongly complained to law enforcement about these violations. Albert Turner and others traveled to Washington, D.C. to complain directly to U.S. Attorney General Edwin Meese and other high-ranking Justice Department officials. They were informed that nothing could be done and that Blacks would have to learn to use the absentee voting process. I was directly involved in these efforts, as an attorney and as a community leader.

When African Americans began to win elections through effective and legal use absentee voting, White leaders began to complain about the Blacks' use of absentee ballots. Jeff Sessions, as U.S. Attorney for the Southern District of Alabama, immediately responded to the complaints of Whites with a full-blown investigation. I was the initial and coordinating attorney in these matters relating to the investigation.

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Letter in opposition to Jeff Sessions confirmation – page 2 of 3

In 1985, numerous Black voters were placed on a bus parked at the spot where the shooting of Jimmie Lee Jackson occurred in February 1965. This shooting and subsequent death had triggered the momentous Bloody Sunday March and the historic Selma-to-Montgomery March, events that led to the enactment of the 1965 Voting Rights Act. As the bus was being loaded to go to Mobile to for its occupants of Black voters to testify before a grand jury, numerous law enforcement officers were present and openly armed with all kinds of visible weapons.

Despite the fact there was a federal courthouse 30 miles away in Selma, the U.S. Attorney's Office required these potential witnesses to travel 168 miles to Mobile and stay overnight. The massive armed law enforcement contingent that had been present in Perry County escorted the bus to Mobile. This was maximum intimidation directed by U.S. Attorney Jeff Sessions. Any person who misuses law enforcement through these kinds of tactics should not be a U.S. Attorney, much less the Attorney General of the United States of America.

Three Perry County citizens – Albert Turner, Evelyn Turner, and Spencer Hogue – were indicted. After they were released on bond, U.S. Attorney Jeff Sessions moved to revoke Albert Turner's bail. During the bail revocation hearing for Albert Turner, massive armed law enforcement was again present. This extended, massive intimidation was designed to frighten Black voters. If U.S. Attorney Sessions abused his power to quash voting and civil rights in his former position, which he did, he certainly cannot be entrusted with the highest law enforcement position in the nation.

A massive number of charges were lodged against these three Perry County citizens. As I recall, there were more than 70 counts. At trial, the witnesses, who had been so thoroughly intimidated by the 168-mile trip, overnight stay in Mobile, and the presence of massive openly armed law enforcement, simply told the truth. A jury of Alabama citizens unanimously exonerated Albert Turner, Evelyn Turner, and Spencer Hogue.

The Senate Judiciary Committee hearing before which I testified in 1986 brought out numerous racial incidents directly involving Jeff Sessions including his saying that the NAACP and other associations were "un-American organizations." He called a Black lawyer in his office "boy" and said that he should "be careful how he talked to White people." He also said a White lawyer who worked with African Americans on civil rights issues "may be a traitor to his race."

Thomas Figures, who worked U.S. Attorney's office under Jeff Sessions and who testified against Jeff Sessions at the federal confirmation hearing in 1986, was subsequently indicted by Jeff Sessions in early 1990s. Figures personally told me and others that the indictment was solely in retaliation for his testifying against Sessions at the 1986 hearing. Figures was fully exonerated by a jury of his peers. The misuse of the power of the federal government as U.S. Attorney demonstrates that U.S. Senator Jeff Sessions cannot do justice as Attorney General of the United States of America.

As an Alabama state senator, I also have experience with Jeff Sessions when he served as Attorney General for the State of Alabama. On various occasions as Alabama Attorney General, Sessions used his position to prevent African Americans from achieving justice. This includes his actions to kill an effort to secure districts for the Alabama Supreme Court, the Court of Civil Appeals, and Court of Criminal Appeals instead of the partisan statewide election system Alabama still utilizes. Sessions also used his position to strongly oppose efforts to secure fair and equitable funding for public education in Alabama. At every turn, Sessions has strongly opposed equal rights.

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Letter in opposition to Jeff Sessions confirmation – page 3 of 3

More recently, I have interacted with Sessions in his role as United States Senator. Last year, I and others flew to Washington, D.C. to ask Senator Sessions to remove his opposition to the proposed nominations of several African American attorneys to the federal bench. Sessions did not budge. In the 20 years that Jeff Sessions has served in the United States Senate, only one African American attorney has been confirmed to the federal bench in Alabama and he replaced retiring African American Federal District Judge U.W. Clemon. Moreover, as a member of the Senate Judiciary Committee, Jeff Sessions opposed confirmation of any judicial candidate who had any history whatsoever of working for civil rights.

There is nothing in U.S. Senator Jeff Sessions record to show that he has changed for the better. In fact, his continuing actions reinforce his long-standing opposition to justice for African Americans and other minorities. I pray that this Committee will consider this and other testimony about Jeff Sessions positions and actions throughout his career, which are contrary to justice, and decline to confirm Jeff Sessions as Attorney General for the United States of America.

Respectfully Submitted,

Hank Sanders

Hank Sanders
Alabama State Senator

HS/gjp

cc: The Honorable Mitch McConnell, Majority Leader
United States Senate
S230 US Capitol
Washington, DC 20510

cc: The Honorable Charles Schumer, Minority Leader
United States Senate
S221 US Capitol
Washington, DC 20510

1207

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January 9, 2017

Honorable Chuck Grassley
Chairman
Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
UNITED STATES SENATE
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Re: Sessions Nomination for Attorney General

Dear Mr. Chairman and Madam Ranking Member:

I am writing because I have information of which I have personal knowledge which I feel compelled to share with the Committee as it considers the important task of confirming Senator Jeff Sessions to the position of Attorney General of the United States. The Department of Justice is one of our most important federal agencies, not only in the process of keeping our streets safe but also in safeguarding and nurturing our voting rights, civil rights, civil liberties, equal opportunity and the cause of justice in America.

Let me start by informing you of who I am and what my background is before I presume to tell this Committee anything. I am a lawyer in Birmingham, Alabama. I received my undergraduate degree from The University of Alabama, and, like Jeff Sessions, received my law degree from The University of Alabama School of Law. In between, I received a masters degree in speech communication from The University of North Carolina. Immediately after law school, I was in private practice in Birmingham with a large, full service firm, doing civil litigation. In 1978, I became a White House Fellow and spent a year as a Special Assistant to Vice President Walter Mondale in the Carter Administration. After that, I went to the Hill, where I served as Counsel to Senator Howell Heflin's Sub-committee on Jurisprudence and Governmental Relations of the Senate Judiciary Committee. Shortly thereafter, Senator Heflin became Chairman of the Select Committee on Ethics, the first freshman in seventy-six years to chair a Senate committee, and he moved me over to that Committee to be counsel, shortly after which we began the ABSCAM investigation into Senator Harrison Williams of New Jersey.



Honorable Chuck Grassley
 Honorable Dianne Feinstein
 January 9, 2017
 Page Two

After three years with the Ethics Committee, I worked in the Washington office of RCA as Director of Corporate Issues. RCA groomed me to be its Washington Vice-President, and sent me to the Stanford Graduate School of Business where I graduated from the Stanford Executive Program. I returned to Washington, but before I could assume the job of Vice-President of RCA, General Electric acquired RCA. After a brief stint in the GE Washington office, Senator Heflin was named as one of eleven senators on the Iran-Contra Committee. Each of the eleven Senators got to name one lawyer to serve as Associate Counsel to the Committee, which I did. During the Iran-Contra investigation, I was responsible on the Senate Committee for the Pentagon, which involved both the sale of arms to Iran and Contra-support activities in Central America. After our hearings were completed and our report issued, our Staff Director returned to her prior job. Senator Daniel Inouye, Chairman, asked me to stay on and become Staff Director, which I did for eight months. My charge from Senator Inouye was three-fold: one, to place all of the staffers who were not able to return to their prior jobs; two, to deal with the Independent Counsel, Judge Walsh, by transmitting to his office deposition transcripts and documents for the criminal investigation; and three, to index, archive and transmit to the National Archives more than 300,000 documents, most of which were classified and some of which were highly classified.

When I worked on the Iran-Contra Committee regarding the Pentagon's involvement, I worked closely with Senator Sam Nunn, a member of the committee. At the time, Senator Nunn chaired the Armed Services Committee. After our work with Iran-Contra was completed, he asked me to become Special Counsel to the Senate Armed Services Committee, during which time I conducted a classified study into how the Pentagon oversees its involvement in Special Access Programs and manages covert military operations. I submitted that study to Senator Nunn and Ranking Member John Warner, then I returned home to Alabama. I was honored while on the Hill to have worked under Howell Heflin, Daniel Inouye, and Sam Nunn, and to have worked with the Vice Chairs or Ranking Members, Malcom Wallop, Ted Stevens, and Warren Rudman.

When I returned to Birmingham, I engaged in the private practice of law, which I have done continuously since 1988. I have had my own law firm since April of 1995. In my practice, I specialize in plaintiff's employment law. I represent people mistreated in the work place: women who have been grabbed and groped, employees called the "N" word, denied promotion because of their age, made fun of because of their disability, or retaliated against because they took Family and Medical Leave. I practice primarily in Federal District Court, where I have tried dozens of jury trials in all three of Alabama's federal districts, and have argued before the 11th Circuit more than half a dozen times.

I am listed in Best Lawyers in America, and Alabama Super Lawyers, which for the last seven years has included me as one of the Top Fifty lawyers in the state. I am honored to be a Fellow of the American College of Trial Lawyers. I include mention of these things not to impress anyone but to

Honorable Chuck Grassley
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 Page Three

establish some credibility for what I am about to address. I love the institution of the Senate. It is the world's most deliberative body. I am also passionate about the cause of justice, for which reason I offer the following information of which I have personal knowledge.

Judge Alex Howard, of Alabama's Southern District, was ready to slow down. A Reagan appointee to the Federal bench, he didn't want a Democratic President to appoint his replacement. He waited to see whether Senator Bob Dole would defeat President Clinton in the 1996 election. When Dole lost, Howard decided he didn't want to wait four more years. In December of 1996, he took senior status, thereby creating a vacancy.

The 1996 election determined more than that Judge Howard would take senior status; it also determined how his predecessor would be selected.

In 1996, U.S. Senator Howell Heflin of Alabama, a Democrat, retired. Former Alabama Attorney General and U.S. Attorney for the Southern District of Alabama, Jeff Sessions, won the Republican nomination to replace Heflin, and defeated the Democratic nominee. In January of 1997, Sessions was sworn in. Alabama's other Senator, Richard Shelby, had already switched parties (having been elected as a Democrat in 1986), giving Alabama two Republican Senators. In a state in which there was no Democratic Senator to vet nominees and forward names to the White House, the Clinton White House requested that the political establishment in each such state create a patronage committee to deal with federal appointments.

That was done in Alabama. As Chair of President Clinton's Alabama Campaign, both in 1992 and 1996, I was a member, as was Joe Turnham, our State Party Chairman; Birmingham Mayor Richard Arrington; Millport Mayor Barbara Bobo; Congressman Earl Hilliard; prominent trial lawyer Larry Morris; Dr. Joe Reed, Chairman of the Alabama Democratic Conference, Alabama's oldest black political group; and Dr. Yvonne Kennedy, a state legislator and President of Bishop State Community College. We convened in early 1997 to consider a replacement for Judge Howard. Consensus quickly emerged that it was time to desegregate the Southern District. The Southern District, headquartered in Mobile, where Sessions had been U.S. Attorney, had never had an African-American U.S. District Judge, Federal Magistrate Judge, U.S. Attorney, or U.S. Marshall.

The Northern District, headquartered in Birmingham, had an African-American District Judge, U.W. Clemon, and U.S. Marshall, Bill Edwards. The Middle District had an African-American District Judge, Myron Thompson, and two female African-American Magistrate Judges, Vanzetta Penn McPherson and Delores Boyd. Clemon and Thompson were Carter appointees to the bench.

Honorable Chuck Grassley
 Honorable Dianne Feinstein
 January 9, 2017
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We vetted and sent to the White House not one name, but five: all African-American lawyers or sitting state court judges. We would let the President choose which name to send to the Senate.

But nothing happened. Senator Sessions, who had wrangled an assignment to the Judiciary Committee, let the White House know of his opposition to all five candidates. Back stage maneuvering took place, and lobbying, all to no avail. Sessions refused to signal approval for any candidate.

After a long and frustrating period, I was with Senator Sessions in the President's Box in Tuscaloosa at a University of Alabama football game. Our private conversation had as its sole topic the filling of the Southern District vacancy. I argued, politely and respectfully, until I was blue in the face. Sessions would not relent. Finally, out of frustration, I said calmly but firmly, "Jeff, it doesn't work this way. Our guy won the election. We get to name the federal judge." He replied, "I'm sorry, but I can't live with any of those people whose names ya'll sent up." So I said, "Fine. Give us another name. Name an African-American lawyer or state court judge anywhere in the state you would find acceptable." He refused.

The reader might say, "Yes, but he wanted qualified nominees, and there were none." Assuming, without accepting, that there were no qualified African-American candidates in the Southern District, one need only look to the Northern or Middle Districts to find a bevy of able lawyers and judges.

In Tuscaloosa, there was John England, a State Circuit Judge, and Bryan Fair, a constitutional law professor at The University of Alabama. In Birmingham, there was Ken Simon, who had practiced with an insurance defense firm in Mobile, then was a White House Fellow in Washington where, in the Reagan Administration, he worked as a Special Assistant to Attorney General William French Smith. Upon returning to Alabama, Simon was a Circuit Judge in Birmingham before becoming a partner at Bradley Arant, the largest law firm in the state. There was also Ralph Cook, a former Circuit Judge in Bessemer, former Dean of the Miles College School of Law, and a Justice on the Alabama Supreme Court. Or Frank James, a former law professor at The University of Alabama, who was a partner at Baker Donelson, a full-service establishment firm, or LaVeeda Battle, a Howard Law graduate who at the time served on the National Board of the Legal Services Corporation.

One could have looked to the Middle District where two very qualified Magistrate Judges sat, Vanzetta Penn McPherson and Delores Boyd, either of whom would have served with distinction in the Southern District.

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 Honorable Dianne Feinstein
 January 9, 2017
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Could this be done? There was ample precedent. At the very time we were seeking to replace Judge Howard in the Southern District, a senior judge on that bench was the Honorable Virgil Pittman, a Lyndon Johnson appointee, who had been on the Etowah County Circuit Court bench in Gadsden, Alabama, in the Northern District, at the time of his appointment. In the Middle District, the Honorable Frank M. Johnson sat with distinction for many years, having been U.S. Attorney in the Northern District at the time of his appointment by President Eisenhower.

This list is by no means exhaustive. Suffice it to say there were competent and credentialed African-American candidates whose judicial temperament qualified them for the Federal bench. Precedent existed to move a lawyer or state court judge from another district. Sessions would have none of it.

The sad story, the most frustrating thing I have ever been involved with professionally, is that for the entire four years of Bill Clinton's second term as President, that federal judicial seat sat empty.

Our committee finally softened on the noble notion of desegregating the Southern District. We wanted a Democratic judge appointed. We flew to Washington and met with Clinton's Chief of Staff, John Podesta. While we were still desirous of having an African-American confirmed, we floated another name, Donald Briskman. A respected Mobile lawyer who practiced regularly in Federal Court, handling both civil and criminal matters, Briskman had chaired the Clinton reelection campaign in 1996 for Alabama's 2nd Congressional District. Sessions opposed Briskman. Whether it had anything to do with the fact that Donald Briskman was Jewish, I'll never know.

Was Sessions' resistance to an African-American on the Federal bench in Alabama twenty years ago an isolated matter? The evidence suggests otherwise.

On October 26, 2013, Judge Joel Dubina, the Chief Judge of the 11th Circuit, took senior status, creating a vacancy on the 11th Circuit. Because Dubina was from Alabama, this vacancy was an Alabama slot.

As in 1996, there was no Alabama Democratic Senator. With the blessing of Congresswoman Terri Sewell, the only Democrat in the Congressional delegation, last February, Obama sent the name of U.S. District Judge Abdul Kallon to the Senate. Kallon was an Obama appointee to the Northern District bench. Nothing happened. A year has gone by. Still nothing happened. Sessions made it known that he wanted either of two other Federal District Judges, both white, and would not support Kallon. Was Kallon qualified? His undergraduate degree was from Dartmouth, he graduated from the University of Pennsylvania Law School, and had clerked for Federal District Judge U.W. Clemon. After his clerkship, his private practice experience consisted of sixteen years as a lawyer at Bradley

Honorable Chuck Grassley
Honorable Dianne Feinstein
January 9, 2017
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Arant, the premier establishment law firm in Alabama (and also the largest). That seat sits vacant today, more than three years later.

Myron Thompson, the first African-American Judge in the Middle District since reconstruction, took senior status on August 22, 2013. Congresswoman Sewell wanted Thompson replaced by an African-American, and sent to the White House the name of Herman N. "Rusty" Johnson, a Cumberland School of Law professor since 2010 who had been in private practice for eight years. Johnson's credentials were impeccable: B. A. in economics from Duke, masters in international affairs from Columbia, and a law degree from Columbia University School of Law. He had clerked for Judge Thompson, the judge he sought to replace, then clerked for Judge Martha Craig Daughtrey on the Sixth Circuit Court of Appeals. He had also been a Peace Corps Volunteer in Mali.

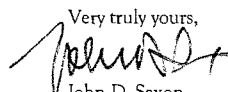
Sessions would have none of it. That seat also sits vacant, three and a half years later.

Jeff Sessions has a problem in elevating African-Americans to the Federal bench. The 1996 Southern District experience is no aberration. Sessions' reluctance to elevate competent African-American lawyers, judges or professors to the Federal bench in Alabama continues to this day.

The Senate should carefully examine whether someone with Sessions' questionable record on race should be this nation's chief law enforcement officer.

I view the position of Attorney General as one of the three most important in any President's cabinet. Secretaries of State and Defense help keep us safe and on decent relations with the community of nations. The Attorney General helps protect and preserve our rights and liberties as American citizens. He or she ensures justice, seeks to enforce the laws for all Americans, to insure and protect equal opportunity and fundamental fairness for all Americans, to protect their sacred right to vote, and to help elevate to our federal courts men and women who are competent people of integrity, fairminded and with proper judicial temperament. I seriously question whether Senator Sessions should be confirmed to such a position.

I stand ready to provide such additional information as the Committee may desire, or to answer your questions. Respectfully submitted.

Very truly yours,

John D. Saxon

JDS/erl

1213

DATE: January 8, 2017

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member, Committee on the Judiciary
United States Senate
Washington, DC 20510

RE: Support for Sen. Jeff Sessions as U.S. Attorney General

Dear Senators Grassley & Leahy:

In 1975 when I pinned on my badge as a new officer with the Montgomery (Ala.) Police Department, we didn't talk much about "domestic violence." Actually, all services for crime victims were sorely lacking. Throughout my 40-year career in law enforcement, we've made considerable progress for victims of domestic violence and other crimes, but there is still so much to do. **But I applaud the nomination of Senator Jeff Sessions as U.S. Attorney General, as he has consistently supported victims of crime and held offenders accountable.**

I was proud to help create and lead MPD's Domestic Violence Bureau, and upon my retirement in 2010 I became the founding Executive Director of Alabama's first "One Place" Family Justice Center in Montgomery. Under one roof, we knew we could better serve local residents who have suffered from domestic violence, sexual assault, child abuse and/or elder abuse. And now for the past 2 years, I've worked as a consultant helping agencies improve how they respond to crime victims and investigate violent offenses.

These efforts on a local level are greatly enhanced by partners in Congress like Senator Jeff Sessions, who have assisted us with necessary funding and by enacting tough laws that allow us to properly investigate and prosecute dangerous felons. Senator Sessions has led on important issues, such as:

- * Increased VOCA and VAWA funding to enhance services to survivors of domestic and sexual violence.
- * The improvement of forensic testing to assist in the investigation and prosecution of crimes.
- * The reauthorization of the Victims of Child Abuse Act to support children's advocacy centers.
- * Protecting children from internet pornographers, and tracking down fugitive sex offenders.
- * The Comprehensive Addiction & Recovery Act in 2016 to address opioid addictions.

Relying on his vast background as a federal prosecutor and Alabama's Attorney General, Senator Sessions has also cautioned Congress and the President about the weakening of criminal laws, stating that the "unprecedented commutations of violent drug and gun felons will inflict long-term harm on the nation."

I am also grateful to Senator Sessions for his steadfast support of law enforcement. Recently he said: "The alarming spike in violence directed against the men and women entrusted with ensuring the safety and order of our society must be stopped." We owe so much to our first responders who protect and serve and consistently go beyond the call of duty.

For these and many other reasons, again, I offer my unequivocal support for the confirmation of Senator Jeff Sessions as the next U.S. Attorney General, and I look forward to his leadership at the Department of Justice.

Sincerely,



Retired Lieutenant Steve M. Searcy
9618 Chobham Court
Pike Road, Alabama 36064
Dycuffs1@aol.com

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POLICE DEPARTMENT, CITY OF NEW YORK

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OFFICE OF THE PRESIDENT

EDWARD D. MULLINS

January 5, 2017

The Honorable Charles Grassley
Chairman,
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member,
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Senator Feinstein:

I am writing on behalf of the more than 13,000 members of the Sergeants Benevolent Association of the New York City Police Department to advise you of our strong support for the nomination of Senator Jeff Sessions to be the next Attorney General of the United States. We thank you for promptly scheduling Senator Sessions' confirmation hearing, and hope that he will be approved by the Committee and the full Senate as expeditiously as possible.

Senator Sessions is perhaps one of the most highly qualified individuals ever selected to serve as U.S. Attorney General. He will bring to the office a unique perspective on the U.S. Department of Justice shaped by his years of service as both a federal and state prosecutor and by the key role he has played in providing oversight of the Department as a Member of the Judiciary Committee. Just as important, Senator Sessions has demonstrated a commitment to equal justice under the law and the proper functioning of the criminal justice system. As a union representing law enforcement officers, over the years the SBA has worked as both an ally and a respectful opponent of Senator Sessions. This experience has shown us that Senator Sessions is a man of unquestionable integrity devoted to the rule of law and the best interests of our nation. It is for these reasons and many others that we believe Senator Sessions is the absolute right choice to serve as America's chief law enforcement officer.

On behalf of the membership of the Sergeants Benevolent Association, thank you in advance for your consideration of our views in this matter. We hope that you will support the confirmation of this eminently qualified public servant, and swiftly move his nomination through the Committee. Please do not hesitate to contact me, or our Washington Representatives Andrew Siff and Chris Granberg at (202) 457-7756, if we can be of any further assistance.

Sincerely,

Ed Mullins

Ed Mullins
President

CC: Members, Committee on the Judiciary, United States Senate





January 9, 2017

The Honorable Chuck Grassley
Chairman
Senate Judiciary Committee
United States Senate

The Honorable Dianne Feinstein
Ranking Member
Senate Judiciary Committee
United States Senate

Re: Attorney General Nomination

Dear Chairman Grassley and Ranking Member Feinstein:

As the largest Sikh American civil rights organization in the United States, the Sikh Coalition respectfully requests that the Senate Judiciary Committee make the following inquiries of Senator Jeff Sessions while reviewing his nomination to serve as Attorney General:

1. **Hate Crimes** - In a Trump Administration, will the U.S. Department of Justice continue to vigorously prosecute hate crimes, including anti-Sikh hate crimes, under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 (the "Matthew Shepard Act")?
2. **School Bullying** - In a Trump Administration, will the U.S. Department of Justice continue to hold school districts accountable under the Civil Rights Act of 1964 for failing to protect students, including Sikh American students, against bullying, harassment, and physical violence?

Sikh Americans, especially those who wear turbans and maintain uncut hair in accordance with their faith, have experienced an avalanche of hate crimes in the post-9/11 environment. For example, on August 5, 2012, a neo-Nazi gunman massacred six worshippers and permanently injured several others, including a law enforcement officer, at a gurdwara (Sikh house of worship) in Oak Creek, Wisconsin.

In cases where state and local officials lack the capacity or expertise to investigate and prosecute these attacks as hate crimes, the U.S. Department of Justice serves as a critical backstop to ensure that victims receive the fullest measure of justice.¹

¹ See, e.g., Press Release, U.S. Department of Justice, "Washington State Man Pleads Guilty to Federal Hate Crime in Attack on Sikh Man," (Jun. 27, 2013), available at <https://www.justice.gov/opa/pr/washington-state-man-pleads-guilty-federal-hate-crime-attack-sikh-man>

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SIKH COALITION
www.sikhcoalition.org

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f: 212.208.4811

Western Region Office
39855 Hastings Street, Suite 210
Fremont, CA 94538
t: 510.659.0900
f: 510.659.0903

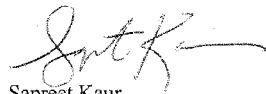
Washington DC Office
PO Box 11259
Washington, DC 20008
t: 202.747.4944
f: 202.330.5574

Even our children are being attacked. According to Sikh Coalition research, a majority of observant Sikh students that we surveyed in four cities nationwide were bullied and harassed because of their religion, with some even experiencing physical violence.²

In cases where state and local school officials ignore these problems and students have no other recourse, the Educational Opportunities Section at the U.S. Department of Justice has intervened to ensure that students enjoy a safe and healthy learning environment.³

We note with appreciation that our engagement with the U.S. Department of Justice began during the Bush Administration shortly after the inception of the Sikh Coalition in 2001 and continued unabated during the Obama Administration. We hope this engagement will remain strong in the coming years, with no deterioration in the agency's enforcement of civil rights laws, including the Matthew Shepard Act and the Civil Right Act of 1964, and no diminution in its commitment to protecting the civil rights of all Americans.

Sincerely,



Sapreet Kaur
Executive Director
The Sikh Coalition

cc: Members of the Senate Judiciary Committee

² See Sikh Coalition, "Go Home Terrorist": A Report on Bullying of Sikh American School Children (2014), available at <https://issuu.com/thesikhcoalition/docs/go-home-terrorist/3>

³ See, e.g., Press Release, U.S. Department of Justice, "Department of Justice Reaches Settlement to Resolve Complaints of Religious Harassment at Charter School in DeKalb County, Georgia," (May 7, 2013), available at <https://www.justice.gov/opa/pr/departments-justice-reaches-settlement-resolve-complaints-religious-harassment-charter-school>

1217



RECEIVED DEC 16 2016

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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December 16, 2016

The Honorable Chuck Grassley
Chairman, Senate Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member, Senate Committee on the Judiciary
United States Senate
437 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy,

As the chief legal officers of our respective states, we write to express our unqualified support for the nomination of Senator Jeff Sessions for Attorney General of the United States. The challenges we face often cross state lines, and it is imperative that we have as our nation's chief law enforcement officer someone who has the experience, the knowledge, and the principles to work with us to meet those challenges. No one is more qualified to fill that role than Sen. Sessions.

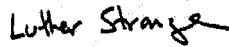
Sen. Sessions has stood in our shoes before. As the U.S. Attorney for the Southern District of Alabama for twelve years and a former Attorney General of Alabama, he understands the needs of federal, state, county, and local prosecutors and law enforcement officers within our jurisdictions. He will bring that knowledge to bear as he crafts federal policy that will help us to enforce the law. And Sen. Sessions has first-hand experience as a prosecutor. He has faced the challenges of balancing justice with fairness and the rule of law with individual freedom, qualifications that make him well suited to his new role.

Of course, Sen. Sessions is no stranger to us. Many of us have worked with him during his time serving on the very same Senate Judiciary Committee that now considers his nomination. His leadership on important policy matters has been invaluable. For example, his efforts to reduce the unfair disparity in drug sentencing is well known. He introduced the first bipartisan drug sentencing reform act in 2001, and he worked tirelessly to bring Senators from both sides of the aisle together to support it. That hard work paid off. The Fair Sentencing Act of 2010, which he co-authored and co-sponsored with Ranking Member Leahy and Sen. Durbin and which President Obama signed into law, has not only saved the federal government millions of dollars and reduced sentences for non-violent offenders, it has set a standard for fairness in sentencing that our states have sought to emulate. We need that kind of thoughtfulness, discretion, and leadership at the helm of the Department of Justice.

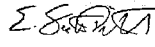
Few positions are more important than our nation's attorney general. The person who fills that role is not only charged with keeping our streets safe, but upholding the legal principles that are the bedrock of our republic. Sen. Sessions has proven over a long and distinguished career that he has the character to serve as United States Attorney General for all Americans. We urge his confirmation.

The Honorable Chuck Grassley
 The Honorable Patrick Leahy
 December 16, 2016
 Page 2

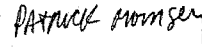
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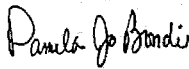
Luther Strange
 Attorney General
 State of Alabama



Scott Pruitt
 Attorney General
 State of Oklahoma



Patrick Morrisey
 Attorney General
 State of West Virginia



Pam Bondi
 Attorney General
 State of Florida



Bill Schuette
 Attorney General
 State of Michigan



Sean Reyes
 Attorney General
 State of Utah



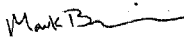
Jeff Landry
 Attorney General
 State of Louisiana



Adam Paul Laxalt
 Attorney General
 State of Nevada



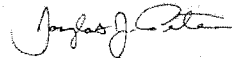
Marty Jackley
 Attorney General
 State of South Dakota



Mark Brnovich
 Attorney General
 State of Arizona



Curtis Hill
 Attorney General-Elect
 State of Indiana



Doug Peterson
 Attorney General
 State of Nebraska



Alan Wilson
 Attorney General
 State of South Carolina

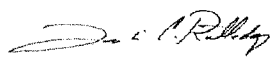


Tim Fox
 Attorney General
 State of Montana



Wayne Stenehjem
 Attorney General
 State of North Dakota

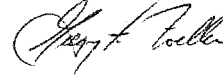
The Honorable Chuck Grassley
The Honorable Patrick Leahy
December 16, 2016
Page 3



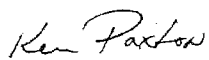
Leslie Rutledge
Attorney General
State of Arkansas



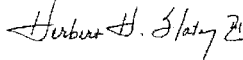
Chris Carr
Attorney General
State of Georgia



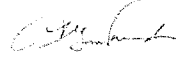
Greg Zoeller
Attorney General
State of Indiana



Ken Paxton
Attorney General
State of Texas



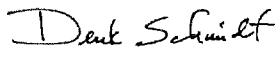
Herbert Slatery
Attorney General
State of Tennessee



Lawrence Wasden
Attorney General
State of Idaho



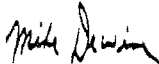
Brad Schimel
Attorney General
State of Wisconsin



Derek Schmidt
Attorney General
State of Kansas



Josh Hawley
Attorney General-Elect
State of Missouri



Mike DeWine
Attorney General
State of Ohio


The Bus Federation

333 SE 2nd Ave. Portland, OR 97214
503-736-2501 | matt@busfederation.com

January 9, 2017

Chair Charles E. Grassley
U.S. Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Dianne Feinstein
U.S. Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

The Bus Federation writes today in strong opposition to the nomination of Senator Jefferson Beauregard Sessions III as Attorney General of the United States. The Attorney General and Department of Justice are charged first and foremost with protecting the safety of Americans while ensuring that our civil rights are respected. Senator Sessions' record as a prosecutor and Senator makes clear that his priorities would threaten the health and livelihoods of millions of Americans, weaken our commitment to civil rights, turn a blind eye to very real public safety threats, and dedicate federal resources to harassing Americans for activities that enjoy widespread popular support.

The Bus Federation writes in opposition as a voice of younger Americans. Our organization supports and scales the work of local organizations, building a movement of young people, by young people, and for all people. We represent a network of local young people's organizations from Seattle, Washington to Miami, Florida.

As nonpartisan young voter mobilization experts, we have assisted millions of young Americans to register and vote over the past decade. Our work serves Republicans, Democrats, and unaffiliated voters to ensure that young Americans have a voice in our great democracy. Based on this experience, we believe the people of the United States would greatly suffer under an Attorney General as openly hostile to voting rights as Senator Sessions. From calling the Voting Rights Act a "piece of intrusive legislation," to using his power as U.S. Attorney to lead a jury-rejected prosecution of Alabama civil rights leaders for leading voter registration drives, Senator Sessions's career indicates an inclination to use his power to disenfranchise voters rather than protect their rights. This would be an extraordinary break from American tradition and values, as the Department of Justice has served as the last line of defense for voting rights under Republican and Democratic presidents alike.

Despite a self-professed belief in states' rights, Senator Sessions has demonstrated hostility toward the rights of many states to govern themselves without interference from the federal Department of Justice, particularly as it concerns cannabis-related laws. A number of states, driven by popular sentiment at the polls, have moved to legalize and regulate cannabis for recreational or medicinal purposes. As laws have changed and the federal government has indicated a tolerant approach to shifts in state policy driven by popular demand, a number of individuals and businesses have established personal or


The Bus Federation

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commercial cannabis activity. Due to his belief that “good people don’t smoke marijuana”, Senator Sessions has made myriad public statements giving strong indication that he will pursue actions to target these individuals and businesses, strip billions of dollars out of our states’ economies, come between doctors and their patients, and go against overwhelming public opinion.

Equally unsettling is Senator Sessions’s cavalier, and even encouraging attitude toward extrajudicial government infringement on the constitutionally protected rights of American citizens. Senator Sessions is arguably the US Senate’s foremost defender of civil asset forfeiture, a process by which an individual’s property may be seized on suspicion that the property is connected to a crime. The action requires no conviction in a court of law and puts the burden of proof on individuals in a way that is firmly out-of-step with fundamental traditions of our legal system. Senator Sessions stated in 2015 that he is “very unhappy” with criticism of the practice, that it’s “not wrong” and that “95%” of victims of civil asset forfeiture have “done nothing with their lives but sell dope.” Given the important role of the Department of Justice in encouraging and supporting best practices in law enforcement, Senator Sessions’s support for this deeply unfair program should trouble every American.

Despite advances in policy and practice, the United States has a long ways to go in pursuit of ending sexual assault and partner violence. We find deeply inappropriate Senator Sessions’ glib remarks about sexual assault. His rejection of the Violence Against Women Act (VAWA) reauthorization in 2013 raises additional questions regarding his commitment to protecting the safety of all Americans.

Finally, Senator Sessions has defined his career in opposition to immigration of all kinds, ranging from vitriolic attacks on undocumented immigrants to regular insistence that the United States curtail legal immigration. Many in our nation have waited decades for the Congress to set credible policy on immigration. Senator Sessions himself has been a major barrier to adoption of popular, coherent, bipartisan immigration reforms. If confirmed, his record indicates that he will dedicate significant federal resources to breaking up families and initiating costly, needless fights with state and city governments in the US.

Based on this record, we strongly urge you to oppose Senator Jeff Sessions for attorney general.

Sincerely,

Matthew Singer
Executive Director, The Bus Federation

CC: Members of the U.S. Senate Judiciary Committee



Houston Chris Borreca
 Dallas Partner
 Austin Janet L. Horton
 Partner

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 Houston, Texas 77027-7528

December 2, 2016

The Honorable Chuck Grassley
 Chairman
 Committee on the Judiciary
 United States Senate
 Washington, DC 20510

The Honorable Patrick Leahy
 Ranking Member
 Committee on the Judiciary
 United States Senate
 Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

We are several of the founding members of Thompson & Horton, a law firm that represents many educational institutions throughout the state of Texas. We advise clients regularly in the area of compliance with federal and state laws pertaining to special education. Today we learned of several recent news stories carried in national magazines and websites, describing opposition to the appointment of Senator Jeff Session to the post of Attorney General on the basis of Senate floor statements he made in 2000 relative to laws serving students with disabilities. The stories inaccurately described certain floor comments from Senator Sessions which were made during the last reauthorization of the Individuals with Disabilities Education Act. The actual remarks made by Senator Sessions are attached as Exhibit A to this letter. These stories, we believe, are taken completely out of context and do not reflect the actual circumstances of the Senate testimony nor even the testimony itself.

We worked on behalf of many school districts during this general time to insure that lawmakers clearly understood the details of the law and the impact it had upon classroom environments.¹ Our clients voiced a common concern regarding the impact of one provision in the law pertaining to the discipline of students with disabilities. The law at that time, Section 615(k)(7)(C) of P.L. 105-17, passed in 1997, resulted in many instances where students who violated a school's code of conduct remained in their current educational setting if they challenged the disciplinary consequences through the law's provision for a due process hearing, a situation known as "stay-put." This was true even if the child's behavior had been determined not to have been a manifestation of his or her disability by their IEP team. Often times this time period of "stay-put" lasted months, even years, following the offense as it was required during the pendency of the hearing and any appeals. As a result, many students with disabilities who committed code of conduct offenses (which, again, were unrelated to their disability) were never actually removed to disciplinary placements but remained in their regular classroom on the

¹ At that time, the authors were affiliated with the law firm of Bracewell and Patterson in Houston, Texas.

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basis of the legal challenge to the disciplinary placement. Senator Sessions' testimony was made in the context of the issue of this application of "stay-put" to disciplinary placements and this aspect of the law at the time. This provision in the law at the time often led to exactly the types of situations described by Senator Sessions in the cited testimony.

Senator Edward Kennedy and other members of the HELP committee saw the problem with such an approach and replacement language was written that placed the evidentiary burden back onto the party challenging the discipline. The law was changed in 2004, P.L. 108-446, and now requires that, during a parent's appeal, the child shall remain in the interim alternative educational setting chosen by the IEP team pending the hearing officer's decision or until the time period for the disciplinary action expires. The law requires that the child still be provided an appropriate education during the time spent in the alternative disciplinary placement. Importantly, the law still allows for a parent to challenge that placement via an expedited hearing.

The remarks reported in news stories are, in our opinion, misrepresentative and do not reflect the reality of the law or context of the time period when the law was being reauthorized between 2000 and 2004. We write, on our own accord and with actual knowledge of the circumstances and law surrounding the cited remarks, to ensure an accurate depiction of the comments referenced.

Sincerely,

Thompson & Horton LLP


 Christopher P. Borreca


 Janet L. Horton

CPB/JLH/bg
 Enclosure

cc: Members of the Committee on the Judiciary

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Mr. SESSIONS. Mr. President, I want to share some additional thoughts with the members of the Senate and those watching what we can do to improve education in America.

I believe in public education. I have taught and my wife has taught in public schools. I say that to express how deeply I care about it. We have been active in PTA as our kids have gone forward. We want to improve the system. We want to make learning occur more regularly. We want to help teachers. I believe in American teachers. They are some of the finest in the world. They are well trained. They give their hearts and souls to it, only to be frustrated by regulations, paperwork, and discipline problems resulting from mandated rules passed by this Congress.

I am going to share some thoughts today, and those in education in any state of America will know what I am saying is true. They will have heard these kinds of examples time and time again. But the vast majority of Americans will not believe it; they will not believe these things occur.

Over 25 years ago, for example, we passed a federal disabilities act. It was designed to mandate to school systems and require that they not shut out disabled kids from the classroom and that they be involved in the classroom. If they have a hearing loss, or a sight loss, or if they have difficulty moving around, in a wheelchair, or whatever, the school system must make accommodations for them. They would be mainstreamed. They would not be treated separately.

That was a good goal, a goal from which we should not retreat. I hope no one interprets what I say today as a retreat from that goal. But in the course of that time, we have created a complex system of federal regulations and laws that have created lawsuit after lawsuit, special treatment for certain children, and that are a big factor in accelerating the decline in civility and discipline in classrooms all over America. I say that very sincerely.

Teachers I have been talking to have shared stories with me. I have been in 15 schools around Alabama this year. I have talked to them about a lot of subjects. I ask them about this subject in every school I go to, and I am told in every school that this is a major problem for them. In fact, it may be the single most irritating problem for teachers throughout America today.

It was really brought to my attention a little over a year ago when a longtime friend, District Attorney David Whetstone, in Baldwin County, Alabama, called me about a youngster in the school system classified as having a disability. It is called "emotional conflict." He was emotionally conflicted. He could not, or would not, behave. An aide would meet him in the morning at his home, get on the bus with him, and go to school, sit through the class all day, and ride home on the school bus with him. This student was known to curse principals and teachers openly in the classroom. Because he was a disabled student, he could not be disciplined in the normal way. The maximum ten-day suspension rule—and 45 days is the maximum a child can be disciplined under this federal law and then they are back in the classroom. One day, he attacked the school bus driver on the way home. The aide tried to restrain him. He then attacked the aide. District Attorney Whetstone told me, "I was never more stunned when I talked to school officials and they told me this is common in our county."

We have children we cannot control because of this federal law. He came to Washington, and we sat up in the gallery and talked about it. I respect David Whetstone and his views. He said this cannot be. I began to ask around, is this true? As a matter of fact, this very incident was focused on in Time Magazine. There was a full-page story about it called "The Meanest Kid in Alabama," and 60 Minutes did a story about it because it is, unfortunately, so common around the country.

What can we do about it? I began to ask leaders in education around the state. The state superintendent: "Absolutely, it is one of the biggest problems we have." I talked to Paul Hubbard, head of the teachers union in Alabama: "Absolutely, it is a big problem." "I am tired," he said in the newspaper recently, "of children cursing my teachers in the classroom and nothing being done about it."

Then we began to talk to teachers, principals, and school board superintendents. They talked about the lawyers and the complicated regulations with which they deal. It is really unacceptable. Teachers who have been trained with masters' degrees in special education to deal with these children have also overwhelmingly told me this is not a healthy thing, that we are telling special children with physical disabilities, or disabilities as defined by the federal law, that they don't have to adhere to the same standards other children do. Right in the classroom, we create, by federal law, two separate standards for American citizens. You can say to one child: You can't do this, you are out of school. But we can say to another children: You can do it, and you are only out 10 days, or maybe 45 days, and then you are back in the classroom. That is not defensible.

I want to share some of the letters I began to receive from teachers who care about this problem and want me and you and the members of this Congress to do something about it. I believe we can. I hope it will be part of the debate this year in our political arena. Maybe we can make some progress with it.

First, I want to mention that when Congress passed the IDEA—Individuals with Disabilities Education Act—in 1975, we committed to pay the states, whom we were requiring to do it—we require these states to meet these standards. We agreed to pay 40 percent of the cost. We have never paid more than 15 percent of the cost. It has been below 10 percent in most years. We had testimony in the Health, Education, Labor, and Pensions Committee, of which I am a member, from a superintendent in Vermont who testified to our committee that 20 percent of the cost of the school system in his county is for special education children. This is a major factor in education today. Let me share some stories with you about this.

An experienced educator in Alabama shared these thoughts with me in a letter:

"We have a student who is classified emotionally conflicted, learning disabled, and who has attention deficit disorder. While this student has been enrolled, students, teachers, and staff have been verbally threatened with physical harm. Fits of anger, fighting, and outbursts of verbal abuse have been commonplace. Parents and students have expressed concern over the safety of their children due to the behavior of this young man. Teachers have also become extremely apprehensive toward the presence of the student due to his explosive behavior. His misbehavior has escalated to the point that the instructional process of the entire school has been jeopardized."

Here is another one:

"I have taught for 25 years. I plan to continue teaching, but the problems with discipline are getting out of hand. We are not allowed to discipline certain students. Any student labeled as "special needs" must be accommodated, not disciplined. A student recently brought a gun to my school. He made threats to students and teachers which he claims were jokes. I was one of those teachers. This student has been disruptive and belligerent since I first encountered him in the ninth grade. Now, he is a senior. After bringing a gun to school, he was given another "second chance." He should have been expelled. What is his handicap? He has a problem with mathematics. While this may be an extreme situation, it is not isolated."

Still reading from the letter:

"Teachers are told to handle discipline in the classroom. The government has taken most of the teachers' rights away; our hands are tied."

This is a letter from a young teacher in a small town of about 25,000 in Alabama. This is a story by which I think anybody would be moved:

"As a special educator of six years, I consider myself 'on the front lines' of the ongoing battles that take place on a daily basis in our nation's schools. I strongly believe that part of the 'ammunition' that fuels these struggles are the 'right' guaranteed to certain individuals by IDEA '97. The law, though well-intentioned, has become one of the single greatest obstacles that educators face in our fight to provide all of our children with a quality education delivered in a safe environment. There are many examples that I can offer firsthand. However, let me reiterate that I am a special educator. I have dedicated my life to helping children with special needs. It is my job to study and know the abilities and limitations of such children. I have a bachelor's degree in psychology, a masters degree in special education, and a Ph.D. in good old common sense. No where in my educational process have I been taught a certain few "disabled" students should have a "right" to endanger the right to an education of all other disabled and nondisabled children. It's nonsense; it's wrong; it's dangerous; and it must be stopped."

There is no telling how many instructional hours are lost by teachers in dealing with behavior problems. In times of an increasingly competitive global society it is no wonder American students fall short. Certain children are allowed to remain in the classroom robbing the other children of hours that can never be replaced.

There is no need to extend the school day. There is no need to extend the school year. If politicians would just make it possible for educators to take back the time that is lost on a daily basis to certain individuals there is no doubt we would have a better educated students.

It is even more frustrating when it is a special education child who knows and boasts "they can't do anything to me" and he is placed back in the classroom to disrupt it day after day, week after week.

It is clear that IDEA '97 not only undermines the educational process it also undermines the authority of educators. In a time when our profession is being called upon to protect our children from increasingly dangerous sources our credibility is being stripped from us.

I am sure you have heard the saying: The teachers are scared of the principals, the principals are scared of the superintendents, the superintendents are scared of the parents, the parents are scared of the children, and the children are scared of no one. And why should they be?

I have experienced the ramifications of the "new and improved" law firsthand. I had one child attempt to assault me—he had been successful with two other teachers. He was suspended for one day. I had another child make sexual gestures to me in front of the entire class. Despite the fact that every child in my class and a majority of the children in the school knew of it, I was told by my assistant principal that nothing could be done because "these special ed kids have rights."

I literally got in my car to leave that day, but my financial obligations to my family and my moral responsibilities to the children I had in my class kept me there.

The particular child I spoke about frequently made vulgar comments and threats to my girls in my class on every opportunity he had when there was no adult present. Fortunately, the girls, also special ed, could talk to me about it. Unfortunately, they had to put up with it because "nothing could be done."

I know of a learning disabled child who cut a girl in a fight. The learning disabled child and her parents then attempted to sue the school system because the child was burned when she grabbed a coffee pot to break it over the other child's head. I know of another specific incident where three children brought firearms to school. The two "regular" children were expelled. The special education student was back to school the following week.

I fully expect that you and your colleagues in Washington will do what it takes to take our schools back from this small group of children who feel it is their right to endanger the education of every other child in school. As my grandmother said, "right is right and wrong is wrong" and to enable this to continue is just wrong.

She does have a right to expect members of this Congress to confront this issue and not allow it to continue. This is a letter from a town in Alabama with a population of 20,000, or so, from another special education teacher.

"As a special educator teacher for 27 years, may I applaud your efforts to make special education students as accountable as any other student for any behavior they exhibit while in school. I fully support the idea that just because they are students in need of special education services that it in no way diminishes their ability to tell right from wrong. When teachers and administrators cannot provide some type of appropriate punishment, then the students are taught that their behavior has no consequences. Just the other day, we had a student, who had been offered detention to avoid missing school time, he responded that they could just go ahead and suspend him because he was not going to come to school on Saturday and that it was not going to hurt his grades because 'he' was allowed to make up all the work. When students find out about this 'loophole' then they often feel they have free reign to do or say whatever they feel and that there is nothing that anyone can do."

He is correct about that. This is a federal law. We provide 7 percent of the cost of education in America. But we don't hesitate to mandate these kinds of rules in every school system in the country.

There federal rules often make teaching very difficult, and it penalizes the students who come to school to try and improve themselves.

He is teaching a class of special education students, and wants all of them to learn. Many of them are there trying to learn, and they find it more difficult because of these rules.

I feel that for the best interest of the students and of the entire education population, changes in this policy must take place.

Mr. President. I don't want to disrupt the system. But I have some more comments that I am prepared to make.

This is a letter from a small town in Alabama.

"Due to the federal rules and the situation they create, I cannot spend time in my class discussing a lesson. I do not do something to tantalize the students, they become disruptive. I can no longer simply explain a concept. I now must spend over half my time disciplining the disruptive students. I am no longer a teacher, I am a threatened and battered baby-sitter who is not allowed to do her job. Give us back our classrooms and our schools. Give the teacher the right to have these disruptive students removed. Please help us."

This is a letter from an assistant principal.

"I am an assistant principal in Alabama. I taught middle school before taking this administrative position. As a teacher I saw a 'small picture' of the problem, as an administrator I see a much 'larger picture.' You have chosen a much-needed, but difficult battle. Most of the special education students are wonderful (emphasis added) unfortunately, a few are literally destroying the public education process in our country. We are teaching them that they have excuses not to follow rules or obey laws, then we act shocked when violence occurs. Now, perhaps more than ever in our history, we need to teach our children right from wrong and that there will be consequences for their actions. Instead we develop more and more excuses for unacceptable, sometimes criminal behavior. Thank you for anything you can do to help save our children, as well as our country's future."

I have a letter from a student in a good school system in Alabama.

"I would like to let you know I agree with changing the section on IDEA law. I am in high school and I know how difficult it is for you to learn if there is disruption in the classroom. I think if there is a student who does not want to learn, they should be put in an alternative school or separate class."

Amen, young student. I agree.

Another student from an average town in Alabama.

"I'm seeing more and more teachers getting out of education because of the ridiculous lawsuits by special education students."

We are losing good teachers today in America. If you check around, one of the biggest reasons is frustration over their inability to maintain discipline in the classroom. Talk to them about it. In most schools, that is a real problem. It is hurting public education. These laws don't apply to private schools. Teachers in private schools don't have these problems and are able to be more effective in creating a learning atmosphere. In a way, it hurts our ability to maintain public education as a competitive enterprise. We need to make sure what we do in Congress does not make it more difficult for our teachers to teach. First, do no harm.

The letter continues,

"We have been told to give the parents whatever they want. They have individual education plans for each student. A lot of times, that is very helpful. But they have become almost contracts with the parents, and schools have to obey them to the letter of the law. There are frequently lawsuits over whether the school is following the IEP, the individual education plan. It is sad.

We have been told if they sue us we are going to lose. Because of this, special education students are suffering and so are those students around them. They can disrupt class at will and take away from the education of the majority of the students. Often they do less, and even no work, and we are told to pass them anyway."

Then he makes an interesting point:

"When these students leave school and enter the real world, they will not have things given to them as they do in school. They will not be prepared to function as a regular citizen should be. As a parent, I fear for my son's safety in school. He has already had one confrontation with a special needs child. The disabled student assaulted my child. In self-defense, my son hit the student back. The student was known to get into fights. My son was hauled off to the police station. His grades suffered. The special ed student could go on repeatedly assaulting, with very little consequence. As you can see, this is both an emotional and professional issue for me. I am glad you are aware of the large problem our educational system is having. I hope something can be done before it gets worse. We will see the repercussions for years to come if we don't change this system."

Another letter from a teacher:

" I have over 30 years experience as a teacher, principal, federal program coordinator, and school superintendent. I am greatly concerned about the future of public education in this country. IDEA has given local superintendents grief beyond description. First, in 1975, the law was first passed, Congress promised to pick up 40 percent of the cost to operate the program, and according to figures I have seen, 10 percent has been the norm since then. Second, this has made every system fair game, with litigation costs consuming more than education dollars. While our system is small, we have had to deal with a number of weapons cases in the last few years. Two of the cases students were caught with weapons they admit they accidentally left in their vehicles coming to school grounds from target shooting. The first boy was expelled one year. He never returned to school to graduate. According to him, the situation was just too embarrassing. Although the second boy was in the exact same position as the first, having accidentally left the weapon in his car, instantly we were told he was a special education student and has an IEP. He was then assigned to an alternative school for 45 days and is now back in our school. Both of these young men were not troublemakers at school. Senator, it is impossible to explain to the family of the first student that their son was deserving of more punishment. Think about that."

This family is now bitter toward me and toward the American system because they, in grave error, believe that all Americans have the same legal right and they were unaware that Congress now decides what rights we are entitled to hold as American citizens. As said in *Animal Farm*: All are equal, but some are more equal than others.

The second student's handicap does not prevent him from knowing right from wrong. I'm sorry that I'm old fashioned and believe we should be teaching all students to be responsible for their behavior. We should be helping them develop good decision-making skills, not telling them that you are not responsible for your behavior and that there will be no consequences, or minimal consequences, regardless of your behavior.

I became a teacher in 1965 and I do not remember hearing of gun shootings prior to 1975 when Congress began telling ten percent of our students you are not responsible.

I think these teachers make a point. It is a matter we need to give careful consideration to, not overreact, not undermine the great principles of the Disabilities Act Program. But at the same time, we need to say that a child is not allowed to commit crimes, to disrupt classroom, to curse teachers, principals and students, and abuse them and do so with impunity.

I thank the Chair for the time and yield the floor.

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January 6, 2017

Senator Grassley
Chairman, Committee on Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Feinstein
Ranking Member, Committee on Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

Dear Sir or Madam:

I graduated from Harvard Law School in 1969. My husband is a 1970 graduate of Harvard Law School. We returned to the South in 1971, filled with hope and a commitment to build a New South. We organized several institutions and events including the Campaign for a New South, the Alabama New South Coalition, two museums and the Bridge Crossing Jubilee, among other organizations and institutions. The Bridge Crossing Jubilee is an national celebration of the right to vote. We worked closely with Albert Turner and other civil rights leaders to secure and advance voting rights.

In spite of the victories that flowed from the Voting Rights Act, efforts to suppress the voting rights of African American citizens persisted. Yet, we did not anticipate that Jeff Sessions, the U.S. Attorney in 1984, would maliciously target voting right activists in the Alabama Black Belt for prosecution and removal from the political scene. Albert Turner had effectively organized the Perry County Civic League to address the fear that kept most African Americans from even trying to register to vote in Perry County. His bold leadership caught the attention of Dr. Martin Luther King, who appointed him as State Director of SCLC (Southern Christian Leadership Conference). Albert called upon Attorney General Robert Kennedy to help crack what seem to be an impenetrable wall that blocked Black citizens from voting booths. He responded by sending

Nicholas Kazenbach, who personally oversaw the registering of 300 Black voters in Perry County in 1963. By contrast, Lowndes County did not have a single Black registered voter before the Voting Rights Act was passed in 1965.

Marion, Alabama, was the ideal place for Jeff Sessions to initiate his witch hunt. His mission was painfully reminiscent of the successful efforts of white supremacists to generate fear to rob Black men of the political success achieved during the Reconstruction Era of American History. Back then, Klan violence was allowed and encouraged to achieve the disenfranchisement of Black men. Jeff Sessions recognized that the same goal could be achieved through the prosecution of effective Black leaders. Albert Turner was the most effective and well-known Black community leader in the Alabama Black Belt.

As a member of the legal team that represented Albert Turner, his wife, Evelyn and Spencer Hogue, I witnessed firsthand the frivolous cases against them. In my 15 years of practice at that time, I had never known an integrated jury to find a Black citizen not guilty on criminal charges. The verdict to free the Marion 3 of more than 100 criminal counts was unprecedented. Following the exoneration of the Marion 3, five citizens from nearby Greene County were also exonerated. The only white person indicted, who was also acquitted, was a close ally of the Black community. I also represented her.

For the past 25 years, my husband, Senator Hank Sanders, and I have assumed the leadership in organizing the "Bloody Sunday" March re-enactment every year. It is the largest annual celebration of the right to vote in the nation. In 2015, Senator Jeff Sessions attended the celebration along with President Obama and over 100,000 people from all over the nation. Sessions' attendance at the Commemoration is not evidence of a changed heart. His consistent attacks on voting rights and civil rights is evident of the agenda he demonstrated in the 80s. When he met Evelyn Turner face to face last year at a congressional ceremony to honor foot soldiers of the movement, he offered no regrets or apology for his efforts to imprison her and her husband for the remainder of their lives.

Ms. Turner, now 80 years old, still suffers from the emotional scars of that "persecution". I had to urge her to give an affidavit to the Committee and to give interviews to the media. She said she relives the terrible ordeal each time she remembers and vocalizes that memory. Unfortunately, her son, Albert Turner, Jr., is more committed to political opportunism than truth. He was in college, removed from Session's witch hunt to persecute his parents in 1985. On my radio show, his mother, Ms. Evelyn Turner, stated that her son was "brainwashed". When asked by a CNN reporter how she compared Robert Kennedy, (who assisted her husband in 1963), with Jeff Sessions, she said "It's like comparing God with the Devil."

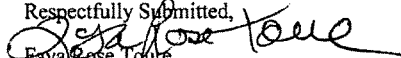
I write to encourage the Committee to reject the appointment of Jeff Sessions for his past and current white supremacist views and actions. He was appointed by a man who embraces the same views that dominated the old South. I also represented Shirley Sherrod in the Black Farmers

case. Ms. Sherrod was falsely accused by the founder of Breitbart News for racist actions against a white farmer. This allegation proved to be false after Ms. Sherrod was dismissed from her job.

President-Elect Trump has selected Stephen Bannon, a Chairman of the Breitbart News Network, as his Senior Advisor, which demonstrates his agenda in selecting Jeff Sessions as Attorney General. Jeff Sessions, however, is in a more dangerous position to shake and even dismantle the foundation of our democracy. Equal justice for all is an essential part of that foundation.

Last week, a white judge in Selma, Alabama expressed his grave concern that a Black District Attorney and Police Chief arranged and allowed a young Black emotionally disturbed young man to remain in jail for a year and a half for a crime he did not commit. Ultimately, it is not the color of the skin or one's political persuasion that will determine who will get justice. America's democracy depends on the character and strength of men and women who can dispense justice without regard to race, gender, class, age or religious affiliation. The highest law enforcement office must embody that character and strength if America's fragile democracy is to survive and thrive.

Senator Jeff Sessions will make America "great again" for the Confederate South and people who do not believe that justice should be for all. America's era of lawless and unjust treatment of some of her children and citizens of color cannot be returned. Keep Senator Sessions in the U.S. Senate.

Respectfully Submitted,

 Faya Rose Touré
 Civil Rights Attorney



THE OFFICE OF THE COMMISSIONER

Honorable Albert F. Turner

Commissioner, District 1
P.O. Box 933
Marion, AL 36756

Office: (334) 683-2200
Cell: (334) 850-2475
Email: adeca12@hotmail.com
Website: www.commissioneralbertturner.com

Committees
E-911, Chairman
Finance, Chairman
Contract Review
Legislative, Chairman
Personnel, Chairman
Solid Waste, Chairman

A lot has been said about Senator Jeff Sessions and his record on issues related to race - some of it distorted and unfair. Some of these statements have included references to matters with which I have a very personal connection. My family and I have literally been on the front line of the fight for civil rights my whole life. And while I respect the deeply held positions of other civil rights advocates who oppose Senator Sessions, I believe it is important for me to speak out with regard to Senator Sessions personally.

First, let me be clear: Senator Sessions and I respectfully disagree on some issues. That won't change when he is the Attorney General of the United States. And I expect that there will be times as it is with all politicians when we will legitimately disagree and I will be required by my conscience to speak out. I look forward to those constructive debates if necessary. However, despite our political differences, the Senator and I share certain Alabama and American values, including a love for our State, its people and our Country.

I have known Senator Sessions for many years, beginning with the voter fraud case in Perry County in which my parents were defendants. My differences in policy and ideology with him do not translate to personal malice. He is not a racist. As I have said before, at no time then or now has Jeff Sessions said anything derogatory about my family. He was a prosecutor at the Federal level with a job to do. He was presented with evidence by a local District Attorney that he relied on, and his office presented the case. That's what a prosecutor does. I believe him when he says that he was simply doing his job.

I believe that he is someone with whom I, and others in the civil rights community can work if given the opportunity. I believe that he will listen, as he has in the past, to the concerns of my community. More than most I am very familiar with him. I believe he will be fair in his application of the law and the Constitution; as such I support his nomination to be the next Attorney General of the United States.

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I encourage the civil rights community to engage in constructive dialogue with Senator Sessions concerning the protection of voting rights for African Americans and other minorities, gun control, senseless killings and strengthening Constitutional protections for all Americans. I stand ready to work with Senator Sessions as he becomes our Country's Attorney General, and offer to him my willingness to help him in any way I might be of service.

Sincerely,

Albert F. Turner

Albert F. Turner

1234

January 4, 2017

Senator Grassley
Chairman, Committee on Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Feinstein
Ranking Member, Committee on Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

Dear Sir or Madam:

My name is Evelyn Hatch Turner. I live in Marion, Alabama. I was married to Albert Turner, who was the Field Director for Dr. Martin Luther King in the state of Alabama in the 1960s. In 1963, Albert Turner took the leadership in organizing the Perry County Civic League. We organized out in the woods because we were afraid to meet in town. Black people were mistreated throughout the county. The police chief and the high sheriff were brutal. Fear was used to keep black people in their place. Everything in Perry County was segregated. And only a few Black people were allowed to register to vote. A white "well to do" citizen had to vouch for a black person in order for the person to register. We couldn't even enter the front door of the courthouse. We had to go around the back. We couldn't serve on juries or serve in any electoral capacity. The Perry County Civic League was organized to fight for our rights as American citizens.

The Civic League wrote hundreds of letters to the Justice Department for help. Nicholas Kazenbach was sent by Attorney General Robert Kennedy. He also sent federal registrars down to the Marion post office. They worked in the basement. Consequently, 300 or so Black persons were registered to vote. In 1964, SCLC came to Perry County to help us. By 1965, a movement was underway in Perry County and throughout the Black Belt. The tragic death of Jimmy Lee Jackson happened in Marion at the Mack's Café. Jimmy Lee was trying to protect his grandparents and his mother. His death triggered the Selma to Montgomery March and Bloody Sunday. Albert Turner had led a night march to protect Rev. James Orange from being lynched. Albert also helped organized and lead the Selma to Montgomery March and was a victim along with Congressman John Lewis and others of unmitigated violence. Six months later, the Voting Rights Act was signed into the law by Lyndon Johnson.

It was still hard to elect black elected officials because of fraud, trickery and the fear of violent retaliation. Finally, Blacks began to be elected to public office. As black political power strengthened, resistance to that progress intensified. My husband, Albert Turner, continued to give the county strong leadership. In the early 1980s, Jeff Sessions, the Attorney General, focused on eliminating or minimizing black political power in the Alabama Black Belt, which is majority African American. The level of black voter participation in Perry County was the highest in the state and perhaps the nation. I believe that's why we were targeted. By arresting us, the plan was to discourage black people from voting. After the Civil War, Klan violence was used to strip black men of their voting rights. Arrest and jail was the new tactic and Jeff Session, I believe, was the architect and implementer. Albert, Spencer Hogue and I were arrested because of our successful political activism. Jeff Sessions made it clear: he wanted the maximum sentence for all of us. We were law abiding American citizens with no history of criminal activity. We became known as the Marion 3. In spite of jury racial bias at that time, an integrated jury found us not guilty on all counts. During the trial, citizens called to testify against us by Jeff Sessions, told stories of how Albert and the Civic League had saved them. We took people to the doctor, fed them when they needed food. We registered them to vote.

Last year, I and other were invited to Washington to be honored as foot soldiers of the movement. While there, Jeff Sessions attempted to speak to me. He did not attempt to apologize. I reminded him that he tried to give me, Albert Turner and Spencer Hogue 254 years in jail for trumped up charges. If he had changed, he would have expressed some regret for his malicious prosecution of the "Marion 3". I am now 80 years old. Albert died on April 13, 2000. Spencer Hogue died September 18, 2016. My dear Albert was willing to plead guilty for crimes he didn't commit to keep me from going to jail. I wouldn't let him do it. I knew we were innocent. I knew that Jeff Sessions was a leftover from days when violence and any other means was used to keep Black people from the ballot box. He failed then. But now, as Attorney General, he can use his power to negatively impact voting rights laws and voting rights activists across the nation. I am very troubled by his stance against civil rights in the more recent past. As a U.S. Senator, he supported no laws or causes which suggest that he has changed.

Initially, I refused to give interviews to the media about my Jeff Sessions experience. I was convinced by friends that our story must be told and preserved. After all of these years, my stomach still aches when I think of the pain he caused so many people. When I think of him as the Attorney General, I literally ache inside for America. He will not only be dangerous for African Americans but for freedom loving people, Black, Brown and White people throughout the world. I remember Assistant Attorney General Kazenbach as an honorable and just man. He was sent by Attorney General Robert Kennedy. It would be a great step backwards for our democracy to have Jeff Sessions serving in that same office as America struggles to strengthen its democratic goal of "Justice for All".


Evelyn Turner

1236



Equality at a Higher Frequency

The Office of Senator Dianne Feinstein
331 Hart Senate Office Building
Washington, D.C. 20510

To the Honorable Senator Dianne Feinstein,

We write to ask for your opposition to the nomination of Senator Jeff Sessions (R-AL) for Attorney General.

We write on behalf of UltraViolet, a powerful community of over one million people mobilized to fight sexism and expand women's rights, from politics and government to media and pop culture.

This community--which includes thousands of survivors of sexual assault and domestic abuse--deeply believes that Senator Jeff Sessions is unqualified to protect the rights of women.

We, like millions of Americans, are deeply concerned about Senator Sessions' record on civil rights. We are particularly concerned about his record on issues impacting women, especially issues involving sexual assault and ending violence against women. Specifically:

1. Senator Sessions' vote against reauthorizing the Violence Against Women Act of 2013, and whether he intends to enforce the programs in the legislation as Attorney General. We note your votes in favor of the Violence Against Women Act and its reauthorization. Given his comments in October stating that he did not know whether grabbing a woman sexually without her consent constitutes sexual assault, we have grave concerns about his intentions on this issue.
2. Senator Sessions' votes in 2014 and 2015 to block bipartisan legislation--the Military Justice Improvement Act--to curb the growing epidemic of sexual assault in the military, and question how women servicemembers can trust that as Attorney General, Sessions will treat sexual violence as the grave crime that it is. We note your votes in favor of cloture on this important legislation.

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Equality at a Higher Frequency

3. Senator Sessions' opposition towards making emergency contraception affordable and accessible—as you know, a critical health access issue for rape survivors.

4. Senator Sessions' repeated votes and rhetoric toward attempts to shut down abortion clinics, and whether he will use the powers of the Justice Department to protect the safety of women, particularly rape survivors, seeking abortion care. Specifically, his intentions on whether to continue the use of federal marshals and prosecutorial powers to protect patients and combat a rising wave of terrorism against clinics. We note your vote in favor of the Freedom of Access to Clinic Entrances Act.

If you have any questions, please contact Campaign Director Emma Boorboor via emma@weareultraviolet.org. Thank you for your consideration.

With appreciation,
Nita Chaudhary & Shaunna Thomas
Co-Directors, UltraViolet

Anton R. Valukas
353 N. Clark
43rd Floor
Chicago, IL 60654

RECEIVED DEC 23 2016

December 12, 2016

Re: Nomination of Senator of Jeff Sessions for Attorney General of the United States

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United State Senate
437 Russell Senate Building
Washington, DC 20510

The Honorable Diane Feinstein
United States Senator
Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Grassley, Ranking Member Leahy and United States Senator Feinstein:

I served as the United States Attorney for the Northern District of Illinois from April 1985 through November of 1989. During that period of time, I came to know – both personally and professionally – Senator Jeff Sessions who then served as the United States Attorney for Alabama's Southern District.

From my work with Senator Sessions, both on committees as well as in connection with some significant law enforcement investigations, I came to form an opinion as to the manner in which he handled the important responsibilities as the United States Attorney. Throughout the entire time that I knew him, I never saw anything which suggested that his commitment was other than to the community as a whole and to protect the public while recognizing the individual rights guaranteed to our citizens by the Constitution.

Throughout that period of time, I never saw or heard anything which suggested that he was in any way racially biased or unwilling to consider, accept and appreciate points of views that differed from his own.

The Honorable Charles Grassley
The Honorable Patrick J. Leahy
The Honorable Diane Feinstein
Page Two
December 12, 2016

I know that my view of Senator Sessions was shared by the many United States Attorneys who I dealt with during that period of time.

I submit this letter in the hopes that it will address certain issues which I have read have been raised about Senator Sessions and will assist you in your hearings concerning his confirmation.

Sincerely,

A handwritten signature in black ink, appearing to read 'ARV', with a stylized flourish extending to the right.

Anton R. Valukas

ARV/bjz

Cc: John Brownlee

January 9, 2017

Chairman Chuck Grassley
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
United States Senate

Dear Chairman Grassley and Ranking Member Feinstein:

We, the undersigned civil rights, advocacy, community, and interfaith groups, write to express our profound concern regarding President-elect Donald Trump's intention to nominate Senator Jefferson B. Sessions (R-AL) as the next Attorney General of the United States. Given his 30-year record on a number of issues impacting the communities we represent, as well as his association with known hate groups, we seriously question Senator Sessions' willingness to protect the rights of all Americans.

The Attorney General is charged with ensuring the fair and impartial administration of justice for all Americans. Throughout his public life, Senator Sessions has opposed the enforcement of civil rights laws and taken anti-immigrant and anti-LGBTQ positions. Among many other concerns, he recently expressed anti-Muslim views and defended the President-elect's call for a ban on Muslim immigration into the United States. Answering a question about a religion-based ban on *Meet the Press* last year, he brushed aside concerns that regulations targeting the adherents of a particular faith would plainly violate the First Amendment, stating: "There is no constitutional right to come to America if you possess an ideology that is dangerous."¹ Further underscoring his position, Senator Sessions was one of the few Senators who voted against a proposed amendment to existing legislation that would prevent a religious litmus test for people entering the country.

Alarming, Senator Sessions has also chosen to align himself with known anti-Muslim hate groups and their leaders. In 2014, he accepted an award from a group founded by David Horowitz, a leading anti-Muslim voice in this country. Mr. Horowitz founded the David Horowitz Freedom Center (DHFC) to combat "the efforts of the radical left and its Islamist allies to destroy American values and disarm this country as it attempts to defend itself in a time of terror."² Senator Sessions has attended several DHFC convenings of prominent anti-Muslim advocates, lawmakers, and journalists. When accepting the DHFC award, Mr. Sessions spoke of his admiration for Mr. Horowitz, and praised others who have previously been awarded. Previous award recipients include Pamela Geller, who

¹ Sam Kestenbaum, *Trump's Muslim Ban Has an Advocate in Attorney General Pick Jeff Sessions*, FORWARD, Nov. 18, 2016, <http://forward.com/news/354898/trumps-muslim-ban-has-an-advocate-in-attorney-general-pick-jeff-sessions/>.

² David Horowitz Freedom Center, *About*, <http://www.horowitzfreedomcenter.org/about>.

Chairman Chuck Grassley
 Ranking Member Dianne Feinstein
 Senate Judiciary Committee
 January 9, 2017
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leads her own anti-Muslim hate group and is considered one of the chief architects of the anti-Muslim movement in the United States.

In 2015, Mr. Sessions accepted an award from yet another anti-Muslim hate group, the Center for Security Policy (CSP) run by Frank Gaffney. Both CSP and Mr. Gaffney have played a significant role in fomenting anti-Muslim hate by promoting a dangerous and false narrative regarding the threat posed by the American Muslim community. As just one example, Mr. Gaffney infamously accused Muslim employees of the federal government of acting as agents of the Muslim Brotherhood. We also are troubled that Senator Sessions did not initially disclose the full extent of his connection with these organizations in his Senate Judiciary Questionnaire, which would have prevented the Senate from thoroughly examining this issue.

Now more than ever, it is critical for our nation's top law enforcement officer to uphold the law and administer justice fairly for every individual in this country, including American Muslims. This is particularly true given the divisive rhetoric that surfaced during the election cycle, and because so many members of the upcoming administration have demonstrated strong bias against Islam and Muslims. As described above, Senator Sessions has closely aligned with anti-Muslim hate groups, accepted their awards and accolades, and publicly praised their leadership. Senator Sessions' appointment will only embolden these groups and activists and serve to further fan the flames of anti-Muslim bigotry already burning in this country.

Thank you for considering our views. If you would like to discuss this matter further, please contact Madihha Ahussain by phone at 415-692-4932 or email at madihha@muslimadvocates.org.

Respectfully,

Alliance for Justice
 Americans United for Separation of Church and State
 Arab American Institute
 Asian Americans Advancing Justice - AAJC
 Bend the Arc Jewish Action
 Capital Area Muslim Bar Association
 Center for Media Justice
 Center for New Community
 Color Of Change
 Council of Islamic Organizations of Greater Chicago
 EmergeUSA
 Free Press
 Georgia Association of Muslim Lawyers
 The Interfaith Center of New York
 The Leadership Conference on Civil and Human Rights

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MoveOn.org Civic Action
 Muslim Advocates
 Muslim Bar Association of New York
 Muslim Community Network
 Muslim Justice League
 Muslim Public Affairs Council
 NAACP
 NAACP Legal Defense & Educational Fund, Inc.
 National Asian Pacific American Women's Forum
 National Council of Asian Pacific Americans
 National Council of Jewish Women
 National Council of La Raza (NCLR)
 National Immigration Law Center
 National LGBTQ Task Force Action Fund
 National Network for Arab American Communities
 National Religious Campaign Against Torture
 NIAC Action
 OCA - Asian Pacific American Advocates
 People For the American Way
 South Asian Bar Association of North America
 Southeast Asia Resource Action Center (SEARAC)
 Southern Poverty Law Center

January 9, 2017

Senator Charles Grassley, Chairman, Senate Judiciary Committee
 Senator Dianne Feinstein, Ranking Member, Senate Judiciary Committee

Re: Nomination for Attorney General of Senator Sessions

Dear Chairman Grassley and Ranking Member Feinstein:

We are writing to express our concerns about the privacy record of the President-Elect's nominee for Attorney General of the United States, Senator Jeff Sessions. Senator Sessions has been a leading proponent of expanding the government's surveillance of ordinary Americans at the expense of civil rights and civil liberties. He has spent his 20-year career in the Senate arguing for broad, often unchecked surveillance powers in intelligence investigations, even though those investigations pose unnecessarily invasive risks to privacy. Senator Sessions has staunchly defended the USA Patriot Act's most controversial and privacy invasive provisions, calling the Act "a restrained piece of legislation."¹ He has advocated for broader surveillance powers than the intelligence community (IC) itself has asked for and opposed the USA Freedom Act, which the IC supported.

Senator Sessions's own statements, excerpted below, demonstrate an inclination to gloss over differences between criminal and foreign intelligence investigations; a lack of respect for the right to privacy, freedom of speech, freedom of association, and freedom of the press; and a desire to use American companies to warrantlessly spy on Americans.

- I. Senator Sessions's record demonstrates an inclination to gloss over differences between criminal and foreign intelligence investigations.

Senator Sessions defended the USA Patriot Act, particularly bulk collection under Section 215 (which Congress outlawed once the program was exposed), as merely extending to intelligence agencies the same investigatory powers that law enforcement has in criminal investigations.

- "I believe everything in that bill [the USA Patriot Act] was consistent with then-existing criminal law techniques that were used every day by prosecutors in the counties of America, in the U.S. Attorney's Offices, which I was for almost 15 years. And I do not believe that there is anything there that we should be apologizing for."²

¹ *Oversight of the USA PATRIOT ACT: Hearings Before the S. Comm. On the Judiciary*, 109th Cong. 26–28 (2005).

² *Hearing on the Report of the President's Review Group on Intelligence and Communications Technologies Before the S. Comm. On the Judiciary*, 113th Cong. 28 (2014).

- “The Patriot Act basically is a restrained piece of legislation that focuses on a number of loopholes and gaps in our law. Many times situations arise . . . where the DEA can go out and issue administrative subpoenas in a drug case, the Food and Drug Administration can go into businesses and search everything in the business and get all kinds of documents, but an investigator investigating somebody trying to kill millions of Americans cannot do it. So what we did was try to give the same proven constitutional powers that existed in other investigations to people investigating terrorism and to break down the walls that had been created between intelligence agencies that made it far more difficult to share that information.”³
- “Most people would agree it should not be more difficult to investigate a terrorist plot than check fraud. As the National Academy of Sciences noted in its recent report, Section 215 of the Patriot Act simply ‘allow[s] the [Foreign Intelligence Surveillance Court] to require production of documents and other tangible things determined relevant to national security investigations, much like other courts do in criminal and grand jury investigations.’”⁴

This stance is particularly noteworthy because intelligence investigations pose special and extreme risks to privacy. They are secret, rarely if ever tested in court, and result in the collection of much more information. Because of these differences in the nature of investigations, it is appropriate that intelligence gathering authorities, such as Section 215 of FISA and national security letter provisions, are limited in scope and are subject to more oversight than the corresponding criminal authorities.

- II. Senator Sessions has repeatedly made statements and supported policies that devalue and erode freedoms of association and of the press.

Senator Sessions does not acknowledge the significant First Amendment and privacy interests in protecting library records from warrantless surveillance. From a Senate hearing transcript:

- Sessions: “You tell me a principled reason why you could subpoena someone’s medical records, their bank records, their telephone records, but not subpoena their library records. Is there one?”

Director Mueller: “I do not believe so....”

³ *Oversight of the USA PATRIOT ACT: Hearings Before the S. Comm. on the Judiciary*, 109th Cong. 28 (2005).

⁴ Jeff Sessions, *Why Should Terrorists be Harder to Investigate Than Routine Criminals*, National Review (May 20, 2015), <http://www.nationalreview.com/article/418675/why-should-terrorists-be-harder-investigate-routine-criminals-jeff-sessions>.

Sessions: "Thank you. And I know that they are entitled to every kind of constitutional protection, a library is, that anyone else is. But I do not think a library deserves a special protection over any other business. A library does not have any sanctity. Why does a library have sanctity that your medical records do not have? They think it is sanctified, I will admit. I just disagree that it deserves special protection."⁵

Senator Sessions opposed the USA Freedom Act, which ended the bulk collection of phone records by the NSA under Section 215 and was supported by the intelligence community. Director of National Intelligence James Clapper said that the USA Freedom Act "preserves the essential operational capabilities of the telephone metadata program and enhances other intelligence capabilities needed to protect our nation and its partners."⁶ Senator Sessions defended bulk collection of Americans' telephone records despite consistent evidence that the program never discovered or disrupted a terrorist plot. In doing so, Senator Sessions mischaracterized the dragnet collection of phone records under 215 as equivalent to the targeted collection of phone records with subpoenas in the criminal context.

- "A local district attorney can obtain [phone records] in a routine criminal case. . . . [by] issu[ing] a grand-jury subpoena But legislation known as the USA Freedom Act would prevent our intelligence officers from obtaining information in this manner *at all*. . . . In short, the USA Freedom Act would make it vastly more difficult for the NSA to stop a terrorist than it is to stop a tax cheat."⁷

Senator Sessions opposed a federal reporter's shield bill that would protect journalists from having to reveal their confidential sources when subpoenaed, and demonstrated that he believes government secrecy should trump the public's right to know about the government's activities.

- "This week, the Committee will consider legislation to shield journalists from being compelled to testify or produce any documents in investigations relating to certain protected information. I believe this information will do considerable—this legislation as written will do damage to our national security. There are reasons, very good reasons, that nations have to maintain a certain amount of secrecy, and I

⁵ *Oversight of the USA PATRIOT ACT: Hearings Before the S. Comm. On the Judiciary*, 109th Cong. 26–28 (2005).

⁶ Letter to Sen. Leahy and Sen. Lee from Loretta Lynch, U.S. Attny Gen., and James Clapper, Dir. Of Nat'l Intel. (May 11, 2015), <https://cdt.org/files/2015/05/DNI-AG-USA-FREEDOM-2015-Support-Letter.pdf>.

⁷ Sessions, *supra* note 4.

think we need to be aware of that, and I hope to ask you questions about that. . . . it is a very sensitive matter to inquire of a free news person in America It just almost is not done unless it has to be done for some very significant reason. *I am not sure that is always wise*, but I think to err has been on the side of protecting the media if there has been any error in recent years for the most part.”⁸

Senator Sessions questioned the validity of legal challenges to surveillance programs

- “And some private lawsuit out here against companies for millions of dollars, filed by lawyers who could be lawyers associated with groups associated with terrorism, is not the way to give oversight to a program like this, I don’t think. Would you agree with that?”⁹

III. Senator Sessions does not believe that Americans have a right to privacy in any sensitive information about them that companies store. He wants the government to be able to collect sensitive personal information from third parties without any privacy protections.

Senator Sessions takes an absolutist view of the third-party doctrine—that people have no expectation of privacy in any records held by third parties. This extreme view is in opposition to the evolving views of the Supreme Court. Justice Sotomayor’s widely cited concurring opinion in *United States v. Jones* questioned whether “it may be necessary to reconsider” the third-party doctrine, which is “ill suited to the digital age, in which people reveal a great deal of information about themselves to third parties in the course of carrying out mundane tasks.”¹⁰ Rather than advocating a role for Congress in filling the privacy gaps left by the third-party doctrine, Senator Sessions supports companies voluntarily turning over their customers’ personal information with no process and no notice.

- “[R]ecords held in a bank are not your records, they are the bank’s records. . . . Dragnet, Joe Friday and company. . . . used to go out to the motel and get the records to see if old Billy checked in. And they would give it to them. Now because of the laws and lawyers, banks and everybody often demand subpoena or some sort of official document before they will turn it over because they don’t want to be sued by somebody and have to defend the case whether they win or lose. But the principles are pretty much the same here. You have a diminished expectation of privacy [in] records held by independent third parties.”¹¹

⁸ *Oversight of the Federal Bureau of Investigation: Hearing Before the S. Comm. On the Judiciary*, 111th Cong. 4–10 (emphasis added).

⁹ 153 Cong. Rec. 15709, 15750 (2007).

¹⁰ *United States v. Jones*, 565 U.S. 417 (2012) (Sotomayor, J., concurring).

¹¹ *Reauthorizing the USA PATRIOT ACT: Ensuring Liberty: Hearing Before the Subcomm. On Admin. Oversight and the Courts*, S. Comm. On the Judiciary, 111th Cong. 27–28 (2009).

- “Now, there is a question about, under certain circumstances, the ability to forbid disclosure. It used to be banks and hotels and motels would produce documents and the agent or the local police detective would ask them not to tell the person because they were conducting an investigation, and they would not. My understanding from my experience in prosecuting is that more and more lawyers have told these banks and motels and other businesses that they can or should report any subpoena of the person’s record. And this could have a very damaging impact on a very sensitive investigation, could it not?”¹²

Senator Sessions supported immunity for third parties that violate the law in turning over records to the government without a proper court order, denigrated efforts to vindicate the rights of those whose records were turned over, and complained that those efforts caused a public debate.

- “So I do not know how we got to a place where we are supporting an effort by some to allow these companies, these good corporate citizens, to be sued. I know it is being driven by a lot of leftist, the ‘blame America first’ folks who seek to undo every single thing that is done to protect America from attack by foreign adversaries. They go through it. They attempt to find anything that can be complained about, and we end up having a big debate on these issues.”¹³

Senator Sessions sponsored an amendment to the Electronic Communications Privacy Act that would require companies to turn over records without a court order, or any oversight at all, when law enforcement claims there is an emergency, even when the company had determined there was none.

- “Law enforcement investigators, who have the training and experience in such matters, should be making the determination as to what constitutes an emergency situation—not an untrained employee of a service provider. An emergency exception that allows law enforcement professionals to determine the existence of an emergency and requires service providers to disclose the requested information is a potential fix that might help address some law enforcement concerns and might help recalibrate ECPA so that there is better balance between privacy and public safety.”¹⁴

¹² 153 Cong. Rec. 15709, 15750 (2007).

¹³ *Id.*

¹⁴ S. Rep. No. 113-34, at 12-19 (2013) (additional views from Grassley and Sessions).

1248

We urge you to carefully investigate Senator Sessions's record on privacy and seek assurances that he will not pursue policies that undermine Americans' privacy and civil liberties.

Sincerely,

Access Now
Alliance for Citizenship
American Association of Law Libraries
American Library Association
Amnesty International USA
Association of Research Libraries
Center for Democracy & Technology
Constitutional Alliance
Electronic Frontier Foundation
Liberty Coalition
National Bar Association
New America's Open Technology Institute
Restore the Fourth
Voting Rights Forward

cc: Members of the Senate Judiciary Committee



Victims & Friends United

P. O. Box 44587
Phoenix, AZ 85064
(602-651-1329)

December 8, 2016

The Honorable Chuck Grassley
Chairman
United States Senate
135 Hart Building
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
United States Senate
437 Russell Senate Office Building
Washington, DC 20510

**RE: LETTER OF SUPPORT for Jeff Sessions
For Confirmation as 84th Attorney General of the United States**

Dear Senators Grassley and Leahy:

On behalf of the members of *Victims and Friends United*, we write to express our endorsement of Senator Jeff Sessions to serve as our next U. S. Attorney General. We urge the Senate Judiciary Committee to promptly and impartially confirm the nomination.

Victims and Friends United was founded in 1992. It is a grass-roots organization that works to ensure that existing victims' rights laws are zealously enforced, and encourage the drafting of new legislation to further protect the rights of crime victims and improve public safety with an emphasis on what takes place on the state and national levels. The organization keeps track of judges and criminal justice professionals who are champions for the rule of law and fight for the rights of law-abiding citizens. The information has been published and distributed, with personal funds and is a contribution to all crime victims in memory of our daughter Louarna (who was murdered in 1979 by a gang member seeking to gain status in his gang by murdering the family member of a police officer).

Mr. Sessions began his work in public service in 1975. He has a long and distinguished career in the criminal justice field. He will be a strong law-and-order Attorney General. He was a prosecutor for nearly 15 years and has worked with Democrats and Republicans to support criminal justice reform legislation. Mr. Sessions is committed to the rule of law which is important to a group such as *Victims and Friends United* which has diligently fought for the rights of those who are the innocent victims of violent crime. Mr. Sessions has dedicated his life to public service, has a stellar career, academic achievements and the academic credentials which make him the best person to serve as our next Attorney General.

Although we (the founders) are Black, our organization is ethnically diverse and we seek to bring equal justice for all Americans who may become and are victims of crime. We whole-heartedly endorse Mr. Sessions for Attorney General of the United States. We have researched his background and could find no evidence that he is biased toward people of color. In addition we have members who are diverse

Victims & Friends - United we make a difference!

and from all walks of life. We have fought for tough-on-crime measures, regardless of race, and seek to bring justice to all individuals who are victims of crime. We seek justice based on the evidence not ethnicity, religion or political party affiliation.

Victims and Friends United, support and endorse Mr. Sessions' confirmation without reservation as our next U. S. Attorney General. We welcome the opportunity to answer (in person) any questions your Committee may have.

Sincerely,


John W. Gillis, Founder


Patsy J. Gillis, Co-Founder

1251



**Victims of Crime and Leniency
VOCAL Angel House
The Quenette Shehane Center**

P.O. Box 4449
Montgomery, Alabama 36103

State Office

1-800-239-3219
(334) 262-7197

December 5, 2016

The Honorable Chuck Grassley
Chairman
United States Senate
135 Hart Building
Washington, D. C. 20510

The Honorable Patrick Leahy
Ranking Member
United States Senate
437 Russell Senate Office Building
Washington D.C. 20510

RE: Letter of Support for Jefferson Sessions, III
For Confirmation as 84th Attorney General of the United States

Dear Senators Grassley and Leahy:

On behalf of the Board of Directors of Victims of Crime and Leniency of Alabama (VOCAL), I write to express our unanimous endorsement of Attorney General Nominee Jefferson Sessions, III. We strongly urge the Senate Judiciary Committee to immediately and fairly confirm the nomination of Jefferson Sessions by President Elect Donald Trump to serve as our next Attorney General. We urge the Senate to confirm Jefferson Sessions, III, immediately.

Founded in 1982 by Miriam Shehane, mother of Quenette Shehane. Quenette was brutally shot and murdered while going to buy salad dressing for a party on the campus of Birmingham Southern. As a result of Quenette's murder, VOCAL was organized to balance the scales of justice by giving crime victims rights rather than eroding the rights of an offender. VOCAL's originally focused on legislation to rectify the unequal scales of justice that our founder saw and lived from 1976 to 1982. During his time as U.S. Attorney, Alabama's Attorney General, and as a United States Senator, Jefferson Sessions, III, continued the fight to ensure victims within our state and our country found fair and equal justice.

Senator Sessions has dedicated his life to public service and continues to have an exemplary career. He received his J.D. degree from the University of Alabama in 1973

Non-Profit Organization

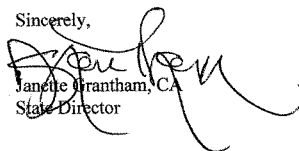
and he received his B.A. degree from Huntingdon College in 1969. Senator Sessions served in the United States Army Reserve from 1973 to 1986 attaining the rank of Captain. Sen. Sessions served with distinction during his first employment with the Department of Justice, as an Assistant United States Attorney for the Southern District of Alabama. Two years later in 1981, President Ronald Reagan nominated Sen. Sessions to serve as the United States Attorney for Alabama's Southern District. Sen. Sessions served with distinction for twelve (12) years as United States Attorney before being elected Alabama Attorney General in 1995, serving as the state's chief legal officer and top law enforcement officer until 1997, when he entered the United States Senate.

Throughout his career, Senator Sessions has led the fight to ensure victims found fair and equal justice while protecting all the citizens of our great state and nation. He co-sponsored legislation to reauthorize the Victims of Child Abuse Act, the Protecting Children from Internet Pornographers Act, and legislation to allow law enforcement to track down violent sexual predators and protect the vulnerable members of our nation. He has supported VOCA and VAWA funding to ensure violent domestic offenders are prosecuted to the fullest extent under our laws. In a fight dear to the hearts of our Board, Sen. Sessions has warned against the "unprecedented commutations" of violent offenders. These are just an indication of where Sen. Sessions' heart lies — justice for those who are victims of crime. Additionally, Sen. Sessions has a rock solid reputation of being an outstanding prosecutor, with impeccable character and integrity. He will serve this nation as the chief law enforcement officer whose decisions are driven by the U. S. Constitution and laws as passed by Congress.

Based on the foregoing, the Board of Directors of VOCAL, without any reservation, strongly support Sen. Jeff Sessions as our next United States Attorney General. The United States is at a pivotal moment in terms of the criminal justice system. We respectfully submit that the Department of Justice and our criminal justice system has never needed a more professional, intellectual and personally qualified individual to take the helm. The United States of America needs Sen. Sessions as Attorney General. Therefore, we urge his confirmation as soon as possible so that he can assume command of the Department of Justice on the first day of the Trump Administration.

The Board welcomes the opportunity to answer any questions that you may have and we thank you for your consideration.

Sincerely,


Janette Grantham, CA
State Director

1253

January 9, 2017

The Honorable Charles E. Grassley
United States Senate Committee on the Judiciary
Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Diane G. Feinstein
United States Senate Committee on the Judiciary
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

I submit this letter in support of the nomination of Senator Jeff Sessions as Attorney General of the United States.

Since the announcement of Senator Sessions' nomination, there has been extensive public discussion about his record in many areas, including immigration law, criminal prosecution and civil rights enforcement. Somewhat overlooked in that debate has been Senator Sessions' record as a supporter of our national security professionals and the surveillance and other investigative tools they need to protect our country against terrorists.

As a former Executive Branch official in the George W. Bush Administration – FBI General Counsel and Chief-of-Staff; United States Attorney; Assistant Attorney General for National Security; and Homeland Security Advisor for President Bush – I have been heavily involved both during and after my government service in the post-9/11 effort to provide the Intelligence Community with a strong yet measured set of surveillance and investigative authorities. Senator Sessions has played a key role in that effort and has distinguished himself as an effective and knowledgeable advocate for these authorities.

Senator Sessions has been centrally involved in the national security legislative debates of the past 15 years. In each of these debates, Senator Sessions drew on his extensive practical experience as line prosecutor and United States Attorney to pierce through the histrionics and misimpressions on both sides and center the debate on the two critical considerations in national security lawmaking – the need for the requested authority and the existence of sufficient safeguards to ensure it is used responsibly and in accordance with legal and constitutional requirements. In doing so, he has consistently demonstrated a clear recognition that strong investigatory powers require strong oversight, and that we must always balance our national security concerns with the need to protect privacy and civil liberties. Senator Sessions' clear-eyed perspective and his leadership in these debates were instrumental to the passage of those pieces of national security legislation – including the Patriot Act, the Patriot Act Reauthorization

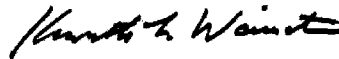
The Honorable Charles Grassley
The Honorable Diane Feinstein
January 9, 2017
Page 2

and the FISA Amendments Act – that have done so much to build our national defenses against the terrorists who wage war against us and our way of life.

With the rise of ISIS and the growing concern about homeland terrorist attacks, it is critical that our government officials provide that same clear-eyed leadership in the face of the looming terrorist threat. Based on his record as an effective champion of strong and measured surveillance authorities over the past 15 years, I am confident that Senator Sessions will provide that leadership as Attorney General of the United States.

Thank you for considering my observations about Senator Sessions and his strong national security record, and please do not hesitate to call upon me if there is any additional assistance I can provide.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth L. Wainstein". The signature is fluid and cursive, with the first name "Kenneth" and last name "Wainstein" clearly legible.

Kenneth L. Wainstein

December 2, 2016

To Whom It May Concern:

I am writing this letter of my personal support for Senator Jeff Sessions for United States Attorney General. As a long-time victim advocate since 1991, when my sister-in-law was raped and murdered, I have worked on behalf of victims in Tennessee, speaking out about injustice, and working to secure changes in a frustrating justice system. I have worked in the professional realm of victim advocacy since 1998 and co-founded Tennessee Voices for Victims, a state wide crime victim advocacy and crime prevention agency. I have a solid reputation with justice professionals and law enforcement in Tennessee as an advocate for victims and supporter for law enforcement. I have collaborated with law enforcement agencies across Tennessee on various projects relating to crime and justice, and I have served, and am serving, on numerous Commissions and Task Forces where I can represent the voice of the victim. (My bio is on my agency website at <http://tnvoicesforvictims.org/about/verna-wyatt/>).

As a victim of crime, as an advocate for victims for over 25 years, I know how vitally important the role of law enforcement is for providing the security, peace, and justice for our communities. Senator Session has proven he understands these critical issues time and again with legislation he both supported and helped pass. Over the last eight years, the danger to our men and women of law enforcement has dramatically increased due in large part from non-support from leaders at the top. Senator Sessions has demonstrated through legislation like "The Thin Blue Line Act" that he understands the importance of necessary respect and support for the men and women of law enforcement, who put their lives on the line every day to protect our citizens.

Senator Sessions has also proven through numerous legislative efforts that he understands the complicated dynamics of issues like domestic violence and child sexual abuse. He understands the needs of the victims of these crimes, and has worked to provide funding for healing from these crimes through VOCA funding and VAWA funding.

Senator Sessions understands that a core responsibility of the government is safety of the public. He has said the wise approach is to slow down and evaluate the trends before accelerating prison population decline. He knows that releasing offenders who are not accountable or rehabilitated only creates new victims.

Senator Sessions has a solid understanding of our drug epidemic and the pain of addiction. He has seen the problems of impaired driving. His legal and legislative experience have made him a perfect fit for this position, at this time in our country's history.

I wholehearted support Senator Jeff Sessions, and thank you for considering my support for his appointment as United States Attorney General.

Sincerely,



Verna Wyatt, Victim Advocate
Co-Founder of Tennessee Voices For Victims

Phone: 615-513-8707

Email: verna.wyatt@tnvoicesforvictims.org

The Honorable Chuck Grassley
The Honorable Dianne Feinstein
United States Senate Committee
on the Judiciary
United States Senate
Washington, D.C. 20510

January 10, 2017



YWCA USA
1020 19th Street NW, Suite
750,
Washington, D.C., 20036
P 202.467.0801
F 202.467.0802
ywca.org

Dear Chairman Grassley, Ranking Member Feinstein, and Members of the U.S. Senate Judiciary Committee,

On behalf of YWCA USA, I write to express our opposition to the nomination of Senator Jeff Sessions for Attorney General of the United States of America. As one of the oldest and largest women's organizations in the nation, serving over 2 million women, girls and families, YWCA USA is on a mission to eliminate racism, empower women, stand up for social justice, help families, and strengthen communities. We have been at the forefront of the most pressing social movements for more than 150 years — from voting rights to civil rights, from affordable housing to pay equity, from violence prevention to health care reform. Today, our 217 local associations in 47 states and the District of Columbia combine programming and advocacy in order to generate institutional change in three key areas: racial justice and civil rights, empowerment and economic advancement of women and girls, and health and safety of women and girls. Notably, YWCA is the largest provider of domestic violence services in the country.

YWCA USA has grave concerns about Mr. Sessions' record as a U.S. Senator and as a state and federal prosecutor with respect to survivors of domestic violence and sexual assault, and his record on civil rights. Senator Session's record demonstrates a profound lack of support for survivors of domestic violence and sexual assault: he opposed the Violence Against Women Reauthorization Act of 2013 and has promoted policies that harm immigrant victims and survivors. His record also demonstrates a history of undermining critical civil rights protections: he has promoted racially discriminatory laws and policies, and he voted against legislation that made targeted violence against LGBTQ people a hate crime.

We are also concerned by the significant omissions in Senator Sessions' responses to the committee's questionnaire. Proceeding with consideration of his nomination without more forthcoming and detailed responses to these questions leaves the American people without critical information needed to assess his commitment to protecting survivors of gender-based violence and

constituencies impacted by civil rights violations the Department of Justice is tasked with enforcing.

The written role of the Attorney General, as head of the Department of Justice and chief law enforcement officer of the Federal Government, is to represent the United States in legal matters, including affording equal protection under our criminal, civil and civil rights laws to all individuals within our society.¹ YWCA USA believes deeply that our nation needs an attorney general who will help restore faith in our justice system. We need a leader who will bring together members of local communities, law enforcement agencies, churches and civil rights organizations, and ensure that law enforcement agencies receive adequate training, document racial profiling incidents, and are held to high standards. In light of his record on equal opportunity, equal protection, and gender-based violence, we do not believe that Senator Jeff Sessions is that leader. We ask you, as a member of the Senate Judiciary Committee, to ask him direct questions regarding the concerns we have raised in this letter and to oppose his nomination as Attorney General.

Best Regards,



Dara Richardson-Heron, MD
CEO, YWCA USA



YWCA USA
1020 19th Street NW, Suite
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Washington, D.C., 20036
P 202.467.0801
F 202.467.0802
ywca.org

¹ 28 U.S.C. §§ 516, 519.

ALABAMA ETHICS COMMISSION**MINUTES****July 10, 1996****9th Floor, RSA Union Building
Montgomery, Alabama**

The Alabama Ethics Commission met on July 10, 1996, at 9:50 a.m., in the Public Service Commission Hearing Room on the 9th Floor of the RSA Union Building.

Present:**Absent:**

Honorable H. Dean Buttram, Jr., Chair
Honorable James T. Pursell, Vice Chair
Honorable Henry B. Gray, III, Member
Honorable Camille S. Butrus, Member
Honorable Helen Shores Lee, Member

E. J. (Mac) McArthur, Director
Hugh R. Evans, III, Assistant Attorney General
David Green, Special Agent
Charles Aldridge, Special Agent
Pennie Buckelew, Recording Secretary, Executive Assistant
Theresa Davis, Paralegal (during Opinion Review/Vote)

Reverend Scott Jordan, Ridgeview Baptist Church, Montgomery, Alabama gave the invocation.

Mr. Buttram introduced the Commissioners. Mr. Buttram then explained the procedures of the Alabama Ethics Commission.

Old Business:

Approval of the June 5, 1996 minutes.

Ms. Butrus moved to approve the minutes. Mr. Gray seconded the motion. Motion passed unanimously.

EX-1

Ethics Commission Meeting Minutes
July 10, 1996
Page six

of the Board does not vote, attempt to influence, or otherwise participate in the lease issue. Ms. Lee moved to adopt Opinion No. 96-71 and Mr. Gray seconded the motion. Motion passed unanimously.

The Ethics Commission recessed for 30 minutes for lunch.

The Ethics Commission went into Executive Session.

The Ethics Commission left Executive Session to publicly vote.

Holland Greer, Chairman, Lauderdale County Board of Education

Mr. Gray moved that Holland Greer having violated the Alabama Ethics Law, and pursuant to Section 36-25-27(b), Code of Alabama, 1975, Holland Greer having requested an Administrative Resolution and the same having been approved by the Honorable Steve Graham, District Attorney for the 11th Judicial Circuit, hereby moved that said motion be granted and the matter of Holland Greer be handled administratively as follows: that a fine in the amount of \$1,000.00 is ordered by the Commission and that said fine be paid to the Ethics Commission within 10 days. Ms. Lee seconded the motion. Motion passed unanimously.

The Ethics Commission went into Executive Session.

The Ethics Commission left Executive Session to publicly vote.

Edward McFadden, Chief Investigator, Attorney General's Office

Ms. Butrus moved that with regard to the complaint as filed against Mr. Edward McFadden, Chief Investigator, Attorney General's Office and based on the evidence as presented to this Commission, there currently exists insufficient facts to hold that Mr. Edward McFadden, Chief Investigator, Attorney General's Office has violated the Alabama Ethics Law and further moved that the case be closed. Mr. Gray seconded the motion. Motion passed unanimously (Mr. Pursell recused himself and therefore, was not present).

John Mulligan, Special Investigator, Attorney General's Office

Mr. Gray moved that with regard to the complaint as filed against Mr. John Mulligan, Special Investigator, Attorney General's Office and based on the evidence as presented to this Commission, there currently exists insufficient facts to hold that Mr. John Mulligan, Special Investigator, Attorney General's Office has violated the Alabama Ethics Law and further moved that the case be closed. Ms. Lee seconded the motion. Motion passed unanimously (Mr. Pursell recused himself and therefore, was not present).

Larry Miller, Special Investigator, Attorney General's Office

Ethics Commission Meeting Minutes
July 10, 1996
Page seven


Ms. Butrus moved that with regard to the complaint as filed against Mr. Larry Miller, Special Investigator, Attorney General's Office and based on the evidence as presented to this Commission, there currently exists insufficient facts to hold that Mr. Larry Miller, Special Investigator, Attorney General's Office has violated the Alabama Ethics Law and further moved that the case be closed. Mr. Gray seconded the motion. Motion passed unanimously (Mr. Pursell recused himself and therefore, was not present).

The Honorable Jeff Sessions, III, Attorney General, State of Alabama
Ms. Lee moved that with regard to the complaint as filed against the Honorable Jeff Sessions, III, Attorney General, State of Alabama and based on the evidence as presented to this Commission, there currently exists insufficient facts to hold that the Honorable Jeff Sessions, III, Attorney General, State of Alabama has violated the Alabama Ethics Law and further moved that the case be closed. Ms. Butrus seconded the motion. Motion passed unanimously (Mr. Pursell recused himself and therefore, was not present).

Adjournment

At 11:27 p.m. Ms. Lee moved to adjourn and Ms. Butrus seconded the motion. Motion passed unanimously (Mr. Pursell recused himself and therefore, was not present).

The next regularly scheduled meeting of the Commission is August 7, 1996.


H. Dean Buttram, Jr., Chair
E. J. "Mac" McArthur, Director
Pennie Buckelew, Recording Secretary

1261

BEFORE THE DISCIPLINARY COMMISSION
OF THE ALABAMA STATE BAR

Jefferson B. Sessions III

ASB No. 98-116(A)

FINAL DETERMINATION

The Disciplinary Commission of the Alabama State Bar in its duly assembled meeting of February 16, 2000, having reviewed the recommendation of the Office of General Counsel, hereby

**Accepts said recommendation that this matter be concluded with
a dismissal without further action**

pursuant to Rule 12 (c)(1), Alabama Rules of the Disciplinary Procedure

DISCIPLINARY COMMISSION
ALABAMA STATE BAR

By 
Chairman

Ex. 3



ALABAMA STATE BAR
THE DISCIPLINARY COMMISSION
TELEPHONE 334-269-1515
P.O. BOX 671
MONTGOMERY, AL 36101

FAX: 334/261-6311

DELIVERY ADDRESS:
415 DEXTER AVENUE
MONTGOMERY, AL 36104

April 16, 1998

Honorable Jeff B. Sessions
c/o Ms. Peggy Jeffreys
Executive Assistant
Office of Senator Jeff Sessions
495 Russell Senate Office Bldg.
Washington, D.C. 20510-0104

Re: ASB No. 98-116(A)

Dear Senator Sessions:

I am writing to advise that a formal investigative file has been opened based upon the enclosed Order and Opinion of Judge James S. Garrett, which was received in this office on or about July 16, 1997. After receipt of this Order and Opinion, the Office of General Counsel requested J. Mark White, attorney for one of the defendants, to provide this office with a copy of the defendants' "Memorandum in Support of Motions to Dismiss and/or Suppress" which statement of facts was adopted as part of Judge Garrett's order. A copy of the Memorandum in Support of Motion to Dismiss and/or Suppress was provided on or about July 31, 1997, and is enclosed for your reference as part of the complaint.

After review of the Memorandum in Support of Motions to Dismiss and/or Suppress and the hearing transcripts, the Office of General Counsel determined that you were possibly an "involved attorney."

No aspect of the complaint has been prejudged. The Disciplinary Commission has adopted a policy that lawyers are entitled to receive a copy of any complaint and entitled to respond in writing to the complaint.

Honorable Jeff B. Sessions, III
April 16, 1998
Page 2

Please review the enclosed documents and provide a written response thereto on or before June 1, 1998. In making your response, you should consider the following general allegations of misconduct and the following Rules of Professional Conduct:

Knowing use of unreliable information to obtain a search warrant

Material representations of fact in the affidavit used
to obtain the search warrant

Improper execution of the search warrant

Seizure of items outside the scope of the search
warrant

Allowed unauthorized persons to be present
during grand jury proceedings in violation of law
and/or court rules

Allowed nonlawyers to examine witnesses
testifying during grand jury proceedings

Allowed witnesses to provide unsworn testimony
during grand jury proceedings

Failure to comply with other requirements of law
and/or court rules during grand jury proceedings

Failure to keep records of grand jury proceedings
as required by law and/or court rules

Selective recollection of testimony during grand
jury proceedings

Improper use of criminal proceedings for personal
gain or benefit

Improper use of criminal proceedings and evidence
obtained therein for the benefit of third parties in
ongoing, related civil proceedings

Honorable Jeff B. Sessions, III
April 16, 1998
Page 3

Improper use of criminal proceedings and evidence
obtained therein as a defense to proceedings
before the Alabama Ethics Commission

Disclosure of indictments, evidence and/or action
of the grand jury in violation of law and/or court
rules

Presenting and obtaining indictments from the grand
jury with knowledge or reason to know that they were
not supported by probable cause or were otherwise
legally defective

Maintaining and prosecuting charges not supported
by probable cause

Failure to produce exculpatory evidence

Failure to comply with court orders and/or court rules

Misrepresentations to the court and others regarding
the existence of and character of discoverable
evidence

Deliberate lack of diligence or intentional ignorance
to avoid responsibilities regarding discovery imposed
by law, court order and/or court rules

Altering evidence or documents having potential
evidentiary value

Publication or release of NCIC information in
violation of law

Improper contact with witnesses and/or parties
represented by counsel

Lack of candor in testimony or statements made
as officers of the court during court proceedings

Honorable Jeff B. Sessions, III
 April 16, 1998
 Page 4

Lack of candor in investigative reports, affidavits,
 or other products of the criminal investigation

Representing conflicting interests

Disclosure of confidential information
 Use of confidential information to the disadvantage
 of a client and/or former client

Possible violations of the *Alabama Rules of Professional Conduct* as follows:

- 1.7 Conflict of Interest: General Rule
- 1.8 Conflict of Interest: Prohibited Transactions
- 1.9 Conflict of Interest: Former Client
- 1.10 Imputed Disqualification: General Rule
- 3.1 Meritorious Claims and Contentions
- 3.2 Expediting Litigation
- 3.3 Candor Toward the Tribunal
- 3.4 Fairness to Opposing Party and Counsel
- 3.8 Special Responsibilities of a Prosecutor
- 4.1 Truthfulness in Statements to Others
- 4.2 Communication With Person Represented by Counsel
- 4.3 Dealing With Unrepresented Person
- 4.4 Respect for Rights of Third Persons
- 5.1 Responsibilities of a Partner or Supervisory Lawyer
- 5.3 Responsibilities Regarding Nonlawyer Assistants
- 5.5 Unauthorized Practice of Law
- 8.4(a) Misconduct
- 8.4(c) Misconduct
- 8.4(d) Misconduct
- 8.4(g) Misconduct

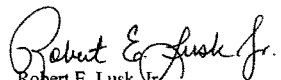
Your response need not be limited to the foregoing, but should include any and all information you deem necessary in order to adequately respond to any allegations that may apply or concern

1266

Honorable Jeff B. Sessions, III
April 16, 1998
Page 5

you, your conduct, or your knowledge of circumstances surrounding such conduct on the part of others.

Sincerely,


Robert E. Lusk, Jr.
Assistant General Counsel

REL/clr

Enclosure



ONE UNIVERSITY DRIVE
ORANGE, CALIFORNIA 92666
WWW.CHAPMAN.EDU

Ronald D. Rotunda
*The Doy & Dee Henley Chair and
Distinguished Professor of Jurisprudence*
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January 6, 2017

The Honorable Chairman Charles E. Grassley
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

VIA EMAIL:

Dear Sen. Grassley:

Introduction. You have asked us, Ronald D. Rotunda,¹ and W. William Hodes,² for our expert opinion on the significance today of an ethics complaint leveled against Senator Jeff

¹ Ronald D. Rotunda is the Doy & Dee Henley Chair and Distinguished Professor of Jurisprudence at Chapman University, the Dale E. Fowler School of Law. See, www.ronaldrotunda.org. His current resume is attached at the end of this Opinion Letter.

² W. William Hodes is Professor Emeritus of Law at Indiana University, and President of the William Hodes Law Firm. See www.hodeslaw.com. His current resume is attached at the end of this Opinion Letter.

Professor Rotunda is a coauthor of, Legal Ethics: The Lawyer's Deskbook on Professional Responsibility, which the ABA co-publishes with Thomson Reuters (ABA Thomson-West & ABA, 14th ed. 2016), a one-volume treatise on Legal Ethics, updated annually. He is also a coauthor of the most widely-used course book on Legal Ethics, Problems and Materials on Professional Responsibility (Foundation Press, St. Paul, MN. 12th ed. 2014)(*Unabridged* Edition), and Problems and Materials on Professional Responsibility (Foundation Press, St. Paul, MN. 12th ed. 2014)(*Abridged* Edition).

Professor Hodes is the coauthor (with Geoffrey C. Hazard, Jr., and Peter R. Jarvis) of The Law of Lawyering (Wolters, Kluwer. 4th ed. 1985, 2014), one of the leading treatises on legal ethics and related issues in the United States, which is updated twice annually.

Ex. 4

Sessions approximately a quarter-century ago. We have read the material discussed herein and have evaluated the charges.

For simplicity, we present our conclusion first, and then explain in more detail how we reached it.

Conclusion. Almost a quarter century ago,³ when Senator Sessions was the Attorney General of Alabama, lawyers for a company that had been criminally indicted sought dismissal of the charges in part on the grounds of prosecutorial abuse (that was not described in factual detail). Although the trial court adopted that allegation (*verbatim*) as part of its dismissal order, the Alabama State Ethics Commission and the Alabama State Bar each separately investigated the matter, and both found, unanimously,⁴ that there was insufficient evidence to find any ethics violation against General Sessions (who had already been elected to the U.S. Senate at that point).

In addition, when related civil litigation continued in federal court between the company and the customer it had been accused of defrauding, the United States Court of Appeals for the Eleventh Circuit found that because the statement of the Alabama state court judge was little more than a convenient adoption of a party's argument, it was "particularly unreliable and misleading"—so much so that admitting it into evidence in the federal district court trial was an abuse of the (federal) trial court's discretion that required reversal.

In our view, the contemporaneous actions of two Alabama state agencies and the Eleventh Circuit demonstrate clearly that the mere nonspecific allegations of a party, uncritically adopted by a state court judge and rejected by the state agencies with jurisdiction over ethics complaints, cannot possibly have any bearing on Senator Sessions's ethical standing today. A supposed blot on one's record that has been so thoroughly debunked is no blot at all.

³ The whistle blower alleging fraud by Tieco first raised his charges in May, 1995, *U.S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275, 1281 (11th Cir., Aug. 17, 2001).

In addition to the criminal case in state court, there was extensive litigation in federal court, because USX and Tieco sued each other. See, e.g., *USX Corp. v. TIECO, Inc.*, 189 F.R.D. 674 (N.D. Ala., Nov. 09, 1999), affirmed in part, vacated in part, reversed in part by *U.S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275 (11th Cir. Aug. 17, 2001), rehearing and rehearing *en banc* denied, *U.S. Steel LLC v. Tieco, Inc.*, 277 F.3d 1381 (11th Cir. Nov. 8, 2001). Related cases include, *USX Corp. v. TIECO, Inc.*, 929 F.Supp. 1455 (N.D. Ala., June 21, 1996); *USX Corp. v. TIECO, Inc.*, USX Corp. v. TIECO, Inc., 929 F.Supp. 1460 (N.D. Ala., June 21, 1996); *USX Corp. v. TIECO, Inc.*, 227 F.R.D. 680 (N.D. Ala., Sep. 01, 2004), affirmed by, *USX Corp. v. Tieco, Inc.*, 132 Fed. Appx. 237 (11th Cir. May 16, 2005).

⁴ The Disciplinary Commission of the Alabama State Bar, ASB No. 98-116(A), dismissed the ethics charges on Feb. 16, 2000. Those charges were brought on April 16, 1998. The Alabama Ethics Commission dismissed the ethics charges on July 10, 1996.

Factual background.

In 1995, a whistleblower from a company called Tieco, Inc. informed United States Steel, LLC (USX) that Tieco was receiving payment for goods not delivered. USX took the information to the Office of the Attorney General of Alabama, which sought and obtained a search warrant and eventually a criminal indictment against Tieco after demonstrating probable cause.

The Attorney General's Office voluntarily dismissed some counts in the indictment, and Tieco then moved to dismiss the remaining counts, alleging prosecutorial misconduct, among other things. The state trial judge granted the motion, copying *verbatim* key passages from court papers that Tieco's lawyers had drafted. There was no appeal from the dismissal order, but the issue of prosecutorial abuse was thoroughly litigated in related civil litigation in federal court and in two state disciplinary proceedings. As described below, the Eleventh Circuit found the allegations to be "particularly unreliable and misleading," while the state agencies both unanimously found insufficient merit in the allegations and dismissed the ethics complaints.

The Alabama criminal case aside, USX sued Tieco civilly in federal court, under the Racketeer Influenced and Corrupt Organizations Act (RICO). Tieco counterclaimed, asserting claims under 42 U.S.C. §1983 for violation of its due process rights, and under state law for malicious prosecution. The federal trial court permitted Tieco to introduce the earlier Alabama state court order (that included language taken *verbatim* from Tieco's own filings), and the jury awarded Tieco \$7.2 million on its counterclaims.

The Eleventh Circuit unanimously reversed the jury verdict in Tieco's favor. Even looking at the record in the light most favorable to Tieco, there could be no §1983 claim, the Court said, because the criminal prosecution, although eventually dismissed, was supported by probable cause.⁵

The Court then turned to the Alabama trial judge's order that dismissed the criminal case, which Tieco had introduced in its civil case in federal court. The Eleventh Circuit said that the criminal trial judge had simply adopted "a statement of facts prepared by TIECO in connection with its motion to dismiss the indictment. Not surprisingly, the statement of facts is quite favorable to Appellees [Tieco] and relied upon heavily by Appellees in their brief to this Court."⁶ Again,

⁵ See 261 F.3d 1275, 1289-90. USX cooperated with the criminal investigation by the state attorney general's office into the actions of equipment vendor Tieco. That resulted in criminal charges being brought, but that did not violate Tieco's due process rights, and thus could not support a §1983 claim against the steel company because the vendor had no substantive due process right to be free from a criminal prosecution (even though ultimately successful) that was supported by probable cause. "Thus, no violation of procedural due process could have occurred." 261 F.3d 1290 (footnote omitted).

⁶ 261 F.3d 1275, 1286.

according to the Eleventh Circuit, the trial judge merely repeated Tieco's memorandum "*in toto*,"⁷ – a memorandum "that neatly conformed to Appellees' allegations . . ."⁸ The trial judge had said (quoting the lawyers representing Tieco), "[T]he misconduct of the [AG] in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this Court."⁹

That was a damning statement, to be sure, but the Eleventh Circuit Court of Appeals found that it was "particularly unreliable and misleading." Moreover, introducing it in the federal trial required the Circuit Court to reverse. The Alabama trial court's statement, said the Eleventh Circuit,

"was *particularly unreliable and misleading*. Although the statement of facts was presented to the jury as Judge Garrett's finding, it was prepared entirely by Appellee's counsel. In effect, the admission of the statement of facts permitted counsel to testify on his client's behalf, without being cross-examined. Further, the statement of facts was intended to exculpate TIECO, and thus, it was *self-serving and unreliable*. . . unfairly prejudicial and *misleading*."¹⁰

Introducing this "particularly unreliable and misleading" statement of the Alabama trial judge was serious error. "The district court *abused its discretion* in admitted Judge Garrett's opinion."¹¹

In addition to its involvement in the civil litigation in federal court, in May 1996 Tieco filed an ethics complaint against then Attorney General Jeff Session, while he was running his first Senate campaign. The Alabama State Ethics Commission investigated the Tieco charges, which were buttressed by the trial judge having copied them in his opinion. The Commission held a hearing, heard witnesses, and heard argument. But, as later related by the Eleventh Circuit, "On July 10, 1996, the Commission concluded there were insufficient facts to find the AG had violated

⁷ 261 F.3d 1275, 1286 (emphasis in original). The judge's opinion "adopted *in toto* a memorandum of facts prepared by TIECO in connection with its motion to dismiss the indictment."

⁸ 261 F.3d 1275, 1286.

⁹ 261 F.3d 1275, 1286.

¹⁰ 261 F.3d 1275, 1287 (emphasis added), citing *United States v. Reme*, 738 F.2d 1156, 1168–69 (11th Cir.1984).

¹¹ 261 F.3d 1275, 1288 (emphasis added).

Alabama ethics laws."¹² Indeed, the Alabama State Ethics Commission found *unanimously* (5 to 0) that then Attorney General Sessions had not violated Alabama ethics laws.

Tieco's counsel also filed a complaint against Attorney General Sessions with the Alabama State Bar. Once again, Tieco relied on the state court order, which Tieco had largely drafted and the state judge had copied, *in haec verba*. The State Bar dismissed that complaint as well.

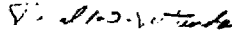
Ultimately, the historical record shows only that Tieco and its lawyers filed one charge after another, attacking the office of the Attorney General of Alabama, various lawyers connected with it, and also then General Sessions. But the historical record also shows that the charges remained unsubstantiated, and ultimately went nowhere.

Some media sources have suggested that these charges were well founded, or that Senator Sessions failed to disclose them to your Committee. As to the latter, we have been informed that disclosure was made in materials that the Committee has not yet released, but have no independent knowledge on that score. As to the former, it is our experience that it is much easier to *file* charges than to make them stick. It is not uncommon, unfortunately, for disgruntled opposing parties or clients to file ethics complaints that do not hold up under scrutiny.

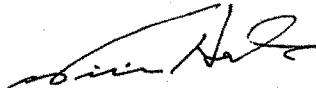
Whether Tieco's long-ago allegations were made in good faith, or made in bad faith as a tactical ploy, is of no moment today. What is significant is that the charges were looked at and rejected decades ago by the courts and state agencies. Your Committee should have no concern, in our opinion, about any ethical violations said to have arisen out of the Tieco matter.

If you have further questions, please do not hesitate to contact us.

Sincerely,



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¹² 261 F.3d 1275, 1284.



Statement of the American Immigration Lawyers Association

**Submitted to the
Committee on the Judiciary of the U.S. Senate**

Hearing on January 10, 2017

Nomination of Sen. Jeff Sessions for Attorney General

The American Immigration Lawyers Association (AILA) is the national association of immigration lawyers established to promote justice and advocate for fair and reasonable immigration law and policy. AILA has over 14,000 attorney and law professor members nationwide.

Senator Sessions' record as a U.S. senator and federal prosecutor raises serious concerns that he would be unwilling or unable to interpret the U.S. Constitution in a fair and neutral manner or exercise balanced judgment on immigration law as is required of the Attorney General. AILA urges the Senate Judiciary Committee to ask the following questions of Sen. Sessions and to insist on forthright responses demonstrating he would faithfully execute his duties consistent with the Constitution before voting to confirm him.

- Will Sen. Sessions uphold and defend the 14th Amendment to the Constitution and its guarantee that individuals born in the United States are entitled to citizenship regardless of their parentage, ethnicity, or race?
- Will Sen. Sessions guarantee that people facing removal will receive due process and a hearing before an impartial judge? Will he ensure that the immigration court system has adequate budget and resources to operate effectively and that it will be protected from political interference?
- Will Sen. Sessions uphold his duty as Attorney General to enforce civil rights and anti-discrimination laws, and commit to prosecuting states and localities that engage in practices such as the unconstitutional profiling, arrest and detention of immigrants? Will Sen. Sessions intervene to stop state legislation like Arizona's "show me your papers" law, SB 1070, struck down by the Supreme Court as unconstitutional?
- Will Sen. Sessions adopt a humane and reasonable approach to the young DREAMERS brought here as children who received protection under the DACA initiative and others who have lived here for years who have families and jobs but do not have legal status?

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Sen. Sessions has opposed the 14th Amendment's guarantee of birthright citizenship.

As the country's top lawyer and highest-ranking law enforcement official, the Attorney General (AG) has broad authority over the application and interpretation of immigration law as well as the fundamental responsibility to uphold and defend the Constitution. Startlingly, Sen. Sessions rejects the view that children born in this country are U.S. citizens, a direct challenge to the Constitution's fundamental protections under the 14th Amendment. He has proposed the extreme position that children born in the United States are not U.S. citizens if their parents were citizens or subjects of another country at the time of the child's birth.¹

The Citizenship Clause of the 14th Amendment states: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."² The Citizenship Clause makes clear that citizenship based on place of birth is a fundamental right inextricably tied to our liberty and equal rights, and that each person is born equal with no disadvantage or exalted status arising from the circumstance of their parentage.³ Any restrictions on the rights of citizenship guaranteed in the 14th Amendment would offend this country's most sacred values and Constitutional principles. Sen. Sessions has proposed re-establishing the very same discriminatory exclusion that the 14th Amendment was intended to remedy, and he should be called upon to disavow proposals to strip people born in the United States of the right to citizenship.

Sen. Sessions must pledge to ensure the immigration court system is given the resources it needs to operate effectively and is protected from political interference.

Our nation's immigration system cannot function effectively without a fair and efficient immigration court system that can manage the high volume of cases involving people seeking relief from removal. The Attorney General oversees the immigration court system, including the courts and the Board of Immigration Appeals (BIA). Immigration judges are chosen by the DOJ's Executive Office for Immigration Review, which also sets standards and instructions for how judges should interpret immigration law. The Obama administration recently hired 61 immigration judges, bringing the total to 294. But Congress has authorized 374 judge positions leaving 78 open slots. In addition many judges are expected to retire in the next few years. In short, as Attorney General he will have the opportunity to fill dozens of new judge positions.

¹ Katie Connelly, *Row over US-born Immigrant Children Heats Up*, BBC NEWS, Aug. 2010, <http://www.bbc.com/news/world-us-canada-10874090>; See also, Manu Raju and Scott Wong, *McCain backs Citizenship Hearings*, POLITICO, Aug. 2010, <http://www.politico.com/story/2010/08/mccain-backs-citizenship-hearings-040589>.

² U.S. Const. amend. XIV, § 1.

³ See, AILA: Really? Birthright Citizenship Is the 'Immigration' Issue Congress Wants to Take Up?, (Apr. 28, 2015), http://www.aila.org/advo-media/press-releases/2015/birthright-citizenship-issue-congress?utm_source=aila.org&utm_medium=InfoNet%20Search; Wendy Feliz, American Immigration Council, *Birthright Citizenship: What It Is and Why We Need to Preserve It*, <http://immigrationimpact.com/2015/08/21/birthright-citizenship-what-it-is-and-why-we-need-to-preserve-it/>.

In the past the immigration court system has been criticized for its lack of independence, particularly since it functions fully under the authority of the Attorney General. In 2007, an investigation was conducted regarding the political nature of hiring and firing decisions implemented by then-Attorney General Alberto Gonzales.⁴ The investigation resulted in a temporary freeze on the hiring of immigration judges and members of the BIA as well as the subsequent resignation of Mr. Gonzales.⁵ Sen. Sessions should pledge that he will protect the immigration court system from political and ideological interference.

Sen. Sessions must pledge to stop abusive civil rights violations against immigrants like those committed by Arizona Sheriff Joe Arpaio.

As a U.S. Attorney for the Department of Justice (DOJ) in Mobile, Alabama, Sessions used his position to wrongly prosecute African-American voting rights activists in Alabama's Black Belt. In 1985, he filed dozens of counts of voter fraud and related charges against Albert Turner, an advisor to Martin Luther King, Jr.; his wife, Evelyn; and a colleague, Spencer Hogue—known as the “Marion Three”—who were assisting elderly citizens with absentee ballots. The judge dismissed more than half of the charges for lack of evidence, and the jury acquitted the Marion Three of all remaining charges after only three hours of deliberation. The case is widely acknowledged as a gross abuse of prosecutorial authority. One year later, Sen. Sessions' nomination for a federal judgeship was rejected by the Senate at least in part due to his prosecution of the Marion Three.

A chief responsibility of the Department of Justice is to intervene and prosecute states and localities that engage in racial, ethnic or nationality-based profiling, arrest or detain immigrants without due process of law, or commit other violations of the Constitution or federal law. Yet Sen. Sessions has called for states and localities to enforce immigration law in an aggressive manner that will almost certainly result in the kind of harassment and civil rights abuses that the Department of Justice is charged with preventing.

For example, Sen. Sessions has called for expansive enforcement of federal immigration law by states and localities by giving them broad authority and responsibility for investigating, identifying, apprehending, and detaining individuals suspected of being undocumented. See the Homeland Security Enhancement Act (HSEA) of 2003, the HSEA Act of 2005 and the Michael Davis, Jr. and Danny Oliver in Honor of State and Local Law Enforcement Act (“Davis and Oliver Act”).⁶

⁴ An Investigation of Allegations of Politicized Hiring by Monica Goodling and Other Staff in the Office of the Attorney General, U.S. Dep't of Justice, July 28, 2008, <https://www.justice.gov/sites/default/files/opr/legacy/2008/07/28/goodling072408.pdf>.

⁵ Alberto Gonzales, Resignation Letter to President G. W. Bush, Apr. 26, 2007, <http://online.wsj.com/public/resources/documents/gonzales-08272007.pdf>.

⁶ Homeland Security Enhancement Act of 2003, S. 1906, 108th Cong. (2003); Homeland Security Enhancement Act of 2005, S. 1362, 109th Cong. (2005); Michael Davis, Jr. and Danny Oliver in Honor of State and Local Law Enforcement Act, S. 1640, 114th Cong. (2015).

Sen. Sessions has called for local law enforcement authorities to enforce federal immigration law with apparent disregard to constitutional protections. Under his Davis and Oliver Act, he would penalize localities whose law enforcement officials have chosen to detain noncitizens only where there is probable cause to detain. Courts have concluded that detention for longer periods violates the Constitution's right to due process.⁷ Rather than acknowledge that detainers must satisfy Constitutional requirements, Sen. Sessions' bill attempts to summarily cloak all federal immigration detainers with probable cause, as if the underlying facts have no bearing on the application of the Fourth Amendment. In short, Sen. Sessions' proposals call for states and localities to engage in practices that endanger the Constitution's fundamental protections. In addition, local law enforcement agencies inclined to commit such abuses will likely feel emboldened if Sen. Sessions becomes Attorney General, and the country would see increases in practices like those used by Sheriff Joe Arpaio who notoriously applied discriminatory tactics targeting immigrant communities. The Department of Justice Civil Rights Division initiated prosecution against Sheriff Arpaio for precisely these civil rights violations, and in October 2016, a federal judge found him in criminal contempt.

Our nation needs an Attorney General who is firmly committed to the defending the Constitution and enforcing our laws. Sen. Sessions should not be confirmed unless he pledges to enforce civil rights laws and explains how he will respond when state and local law enforcement agencies engage in such discriminatory practices. In addition, Sen. Sessions should pledge to act against states that pass "show me your papers" laws like Arizona's SB 1070 which was struck down by the Supreme Court⁸ as unconstitutional.

Sen. Sessions should pledge to adopt a humane policy regarding young DREAMERS granted DACA and others who have lived in the United States for years who have families and jobs but do not have legal status.

Sen. Sessions should be asked how he will handle the situation of those who have lived in the United States for years who still do not have legal status. In particular, 750,000 people have been granted temporary reprieve from removal under the Deferred Action for Childhood Arrivals initiative (DACA) and they are now at risk of losing deferred action. President-elect Trump has stated that we will rescind DACA as a program, but he has also indicated a softer position with respect to those who have already been granted DACA.

⁷ *Morales v. Chadbourne*, 793 F.3d 208, 215-16 (1st Cir. 2015). See also *Miranda-Olivares v. Clackamas Cnty.*, No. 3:12-CV-02317-ST, 2014 WL 1414305, at *10 (D. Or. Apr. 11, 2014) (holding that plaintiff's "continued detention [on an ICE detainer] exceeded the scope of the Jail's lawful authority over the released detainee, constituted a new arrest, and must be analyzed under the Fourth Amendment."); See *Arizona v. U.S.*, 132 S. Ct. 2492, 2509 (2012) (stating that, "Detaining individuals solely to verify their immigration status would raise constitutional concerns.") (citing *Arizona v. Johnson*, 555 U.S. 323, 333, 129 S.Ct. 781, 172 L.Ed.2d 694 (2009); *Illinois v. Caballes*, 543 U.S. 405, 407, 125 S.Ct. 834, 160 L.Ed.2d 842 (2005)).

⁸ *Arizona v. United States*, 567 U.S. ____, 132 S. Ct. 2492 (2012), available at <https://www.supremecourt.gov/opinions/11pdf/11-182b5e1.pdf>.

Sen. Sessions past views suggest he would actively pursue enforcement against anyone without legal status⁹ despite consistent public polling that shows that 75 percent of Americans support legalizing the status of the undocumented and similarly high support for protecting those granted DACA.¹⁰ For example, he has proposed legislation that would criminalize the undocumented and require their prosecution and incarceration. His Homeland Security Enhancement Act of 2003 would criminalize all immigration status violations by requiring those who are here without documentation to be prosecuted for a misdemeanor with a maximum sentence of one-year in prison. Similarly the Davis and Oliver Act would criminalize immigrants by authorizing the criminal prosecution and incarceration of any individual who is “unlawfully present.” These bills would result in thousands of arrests not only by federal immigration authorities but by the states and localities who would be empowered to enforce immigration law. In the 2013 debate on the comprehensive immigration reform bill, S.744, he offered amendments which would have eliminated or made unworkable the legalization program for the undocumented.

⁹ See Sen. Sessions’ HSEA Act of 2003 and Davis Oliver Act; Statement of Sen. Sessions, July 27, 2016, <http://www.sessions.senate.gov/public/index.cfm?n=news-releases&id=B762148D-BC48-46BF-899D-C74BEA14FC85>

¹⁰ Bradley Jones, *Americans’ Views of Immigrants Marked by Widening Partisan Generational Divides*, PEW RESEARCH CENTER, Apr. 15, 2016, <http://www.pewresearch.org/fact-tank/2016/04/15/americans-views-of-immigrants-marked-by-widening-partisan-generational-divides/>; Roberta Rampton, *Most Americans Support Obama’s Contested Immigration Plan: Poll*, REUTERS, Jan. 28, 2016, <http://www.reuters.com/article/us-usa-election-immigration-idUSKCN0V617V>.



The American-Arab Anti-Discrimination Committee

Statement for the Record on the

Nomination of Jeff Sessions to U.S. Attorney General

before the

U.S. Senate Judiciary Committee

Nominee Confirmation Hearing

January 10-11, 2016

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**To: Congressman Chuck Grassley, Chairman of Senate Judiciary Committee
Congresswoman Feinstein, Ranking Member of Senate Judiciary Committee**

Introduction

I am writing to you on behalf of the American-Arab Anti-Discrimination Committee (ADC), the country's only national Arab-American organization. ADC has a long history of supporting the human and civil rights of all Americans and opposing racism, discrimination and bigotry in any form. ADC was founded by former U.S. Senator James Abourezk in 1980. Today, ADC is the largest grassroots Arab-American civil rights and civil liberties organization in the United States. ADC is non-profit, non-sectarian, and non-partisan, with members in nearly every State of the United States. ADC routinely works with a broad coalition of national organizations to protect civil rights and advocate for racial justice issues related to profiling. ADC respectfully takes this opportunity to provide a statement for the record to U.S. Senate Judiciary Committee on Senator Jefferson Beauregard Sessions III nomination to serve as U.S. Attorney General.

Civil Rights

The U. S. Attorney General responsibility is to prosecute and enforcement the federal laws. The U.S. Attorney General also has a fundamental role in prosecution of civil rights laws to protect vulnerable and marginalized communities. These laws include but are not limited to the Civil Rights Act of 1964, the Matthew Shephard and James Byrd Jr. Hate Crimes Prevention Act, Religious Land Use and Institutionalized Persons Act, and Voting Rights Act were enacted to protect. Sessions is unqualified and not fit to lead the U.S. Department of Justice in enforcement of these civil rights and hate crime protections because he has actively worked throughout his career to undermine these protections.

Sessions has misused his authority to push misinformed policy on voter fraud. This policy has been used to enact voter ID bills that disproportionality impact African Americans, the disabled and elderly, and English-second language communities. Sessions does not support the Voting Rights Act and stated that this law, which he would be charged with enforcing, is "invasive."¹ In 1986, Sessions' nomination for a federal judgeship was denied due to exposure of incidents where he undermined civil rights protections. Sessions prosecuted three African American civil rights activists for voter fraud in Alabama in 1985, all of whom were acquitted of all charges. At

¹ Paul Blumenthal, *Jeff Sessions' Voting Rights Record Is So Bad That Common Cause Will Oppose Him*, HUFF POST, Jan. 5, 2017, http://www.huffingtonpost.com/entry/jeff-sessions-attorney-general-common-cause_us_586e7a4fe4b043ad97e20abe.



the same time he did not pursue cases of voter rights violations.² It is clear that Sessions has misused the law to intimidate a community. This flagrant abuse of professional ethics and authority is indicative of how Sessions will act when charged with the powers of the lead law enforcement agency in our country.

In 2009, Sessions adamantly opposed the Matthew Shephard and James Byrd Jr. Hate Crimes Prevention Act.³ Sessions voted no to passage of the Hate Crimes Prevention Act, which extended hate crime protections to people victimized because of their sexual orientation, gender or gender identity, or disability. Sessions' actions demonstrate that prosecution of hate crimes, enforcement of the Hate Crimes Prevention Act, and hate crimes reporting is not a priority. This is extremely problematic where underreporting and non-reporting of hate crimes under the Hate Crimes Statistics Act, and training law enforcement on hate crimes remains an issue. Concerns with hate crimes enforcement will only be exasperated under Sessions', especially where recent spikes in violence and hate crimes targeting the MASSA (Muslim, Arab, Sikh and South Asian) community, a community that he has attacked. Most troubling is Sessions' prior positive statement regarding the Ku Klux Klan,⁴ which is a designated hate and terrorist organization. A U.S. Attorney General cannot enforce hate crimes laws meanwhile expressing approval of the KKK.

Sessions' actions are reflective of a much larger problem where his personal views and opinions would outweigh his obligation to defend and protect the Constitutional and federal rights of all. Sessions is ill-equipped to enforce civil rights law to protect Arab Americans and communities of color. ADC fears that with Sessions as U.S. Attorney General, the U.S. Department of Justice will abandon the Office of Civil Rights' efforts to work with communities of color.

Law Enforcement

ADC lacks confidence in the ability of Sessions to perform the duties of the U.S. Attorney General. Part of the duties of the U.S. Attorney General is to conduct oversight of the Federal Bureau of Investigations, and ensure that government agencies are accountable to the law and are in compliance with the DOJ Guidance Against Use of Racial, National Origin, Ethnic, and Religious Profiling. In direct contradiction, Sessions has publicly supported the registration of Muslims and prohibiting immigration of Arabs and Muslims solely based on their

² Michelle Ye Hee Lee, *The facts about the voter fraud case that sank Jeff Sessions' bid for a judgeship*, WASHINGTON POST, Nov. 28, 2016, https://www.washingtonpost.com/news/fact-checker/wp/2016/11/28/the-facts-about-the-voter-fraud-case-that-sank-jeff-sessions-bid-for-a-judgeship/?tid=a_inl&utm_term=.a75749ab5146.

³ Eric Bradner, *First on CNN: Matthew Shepard's mother blasts Trump AG pick Sessions' votes on hate crimes law*, CNN POLITICS, Jan. 29, 2017, <http://www.cnn.com/2017/01/09/politics/matthew-shepard-jeff-sessions-hate-crimes/>.

⁴ See Michelle Ye Hee Lee, *Jeff Sessions' comments on race: For the record*, WASHINGTON POST, Dec. 2, 2016, https://www.washingtonpost.com/news/fact-checker/wp/2016/12/02/jeff-sessions-comments-on-race-for-the-record/?utm_term=.da982bf6d687.



identity.⁶ Sessions himself has directly propagated fear, anti-Arab sentiment, Islamophobia and political rhetoric against immigrant communities that only serves to further criminalize and securitize our communities.⁷ Sessions argues that the federal government should be able to use whatever criteria it wants to decide who can and cannot immigrate to the U.S.—and that includes using religion as a criteria.⁸ These actions are unacceptable for any government official, let alone a nominee for the U.S. Attorney General whom will have authority over the Executive Office of Immigration Review. Sessions' actions demonstrate his flagrant disregard to substantive due process, the guarantee of equal protection under the law for all, and protection for asylum seekers and refugees.

ADC has further reservations about Sessions' ability to reign in law enforcement excessive use of force, and misuse of surveillance tools in violation of the First, Fourth, and Fourteenth Amendments. During his time in Congress, Sessions has provided unconditional support for increases in funding to state and local law enforcement agencies, while failing to exercise any oversight mechanism to assess the use of such federal funding provided to them. In the face of rising and clear police brutality against communities of color, and excessive use of force, Sessions continued to defend the inconceivable actions of police officers use of militarized equipment and riot gear at peaceful protests.⁹ These actions are indicative of unfettered deference to law enforcement with no accountability even where such conduct is questionable.

Sessions vigorously opposed the USA Freedom Act, which put into place some modest reforms to surveillance programs, particularly the Foreign Intelligence Surveillance Court (FISC) warrant process and amicus curiae role.¹⁰ Namely, Sessions continues to support section 215 bulk collection under the Patriot Act despite the fact that: 1) section 215 gave the FBI and the NSA broad power to spy on innocent Americans without a warrant; and 2) the Privacy and Civil

⁶ Watch Chuck Todd Grill Sen. Jeff Sessions For Ten Minutes About His Support For Trump And His Anti-Islamic Rhetoric, From the June 15 edition of MSNBC's Meet The Press Daily, June 15, 2016, <http://mediamatters.org/video/2016/06/15/watch-chuck-todd-grill-sen-jeff-sessions-ten-minutes-about-his-support-trump-and-his-anti-islamic/210979>; Jennifer Butler and John McCullough, *If Sessions won't defend Muslims, he's wrong AG for religious freedom*, THE HILL, <http://thehill.com/blogs/pundits-blog/the-administration/313131-jeff-sessions-disqualifying-religious-freedom-track>.

⁷ Stephen Piggott, *Jeff Sessions: Champion of Anti-Muslim and Anti-Immigrant Extremists*, SOUTHERN POVERTY LAW CENTER, Nov. 18, 2016, <https://www.splcenter.org/hatewatch/2016/11/18/jeff-sessions-champion-anti-muslim-and-anti-immigrant-extremists>; see also Betsy Woodruff, *Trump Attorney General Pick Jeff Sessions Argued For A Religious Test To Ban Muslims*, THE DAILY BEAST, Nov. 19, 2016, <http://www.thedailybeast.com/articles/2016/11/19/trump-attorney-general-pick-jeff-sessions-argued-for-a-religious-test-to-ban-muslims.html>.

⁸ Sessions Delivers Remarks In Opposition To Global 'Right To Migrate' Amendment, Dec. 10, 2015, <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=186AEDE2-B813-4741-A1B1-C3759DFDD2C5>.

⁹ Ames Grawert, *Sen. Jeff Sessions' Record on Criminal Justice*, Brennan Center for Justice, <https://www.brennancenter.org/sites/default/files/analysis/SenatorJeffSessionsRecordonCriminalJustice.pdf>

¹⁰ Jeff Sessions, *Why Should Terrorists Be Harder to Investigate than Routine Criminals*, <http://www.nationalreview.com/article/418675/dont-hamper-nas-ability-stop-terrorist-attacks>.



Liberties Oversight Board finding that no single instance involving a threat to the United States in which bulk collection made a concrete difference in the outcome of a counter-terrorism investigation was identified. Sessions' record shows that he actually seeks to further reduce transparency and oversight of the intelligence community and FISC. Sessions' statements and actions are indicative of providing the FBI with such broad latitude and unchecked power of the J. Edgar Hoover era. Such unchecked power with mass surveillance, expansion of surveillance tools, abuse of the watch-list programs, and surveillance targeting of Arab and Muslim Americans is alarming.

Nomination Process Problematic

ADC has serious concerns on the ability of Congress to sufficiently vet Sessions' record to be able to make a well-informed decision on his nomination and fitness to be U.S. Attorney General. The Committee has yet to receive all documents, materials and information in response to the Committee's questionnaire. Prior nominee's confirmations demonstrate a requisite practice of a complete and full response to the Committee questionnaire prior to a vote on the nominee. Sessions' failure to provide a complete and full record in response to the Committee's requests and the Committee's questionnaire requires strict scrutiny and disqualification as the nominee.

The fairness of the nomination process is a legitimate concern that throws into jeopardy the entire hearing process and makes it more of a formality, rather than the constitutional duty of Congress to conduct oversight and ensure accountability on the Executive. The scheduling of the nomination hearing at virtually the same time as other nomination hearings and the limitations on witnesses makes it impossible to actually examine Sessions' records on key areas that the U.S. Attorney General will be charged with enforcing and/or intricately involved in including: immigration; civil rights, racial justice, and hate crimes; workers' rights; national security and civil liberties.

Conclusion

The U.S. Attorney General particularly has a responsibility, where the U.S. Department of Justice – Office of Civil Rights has to step in due to action and/or inaction by state and local entities in violation of federal law, and/or lack of resources in the state to adequately handle a federal civil rights violation. Sessions has not only disregarded civil rights and liberties protections but has actually engaged in pushing policies and direct actions that harm communities of color, and vulnerable marginalized communities.



Written Statement of Asian Americans Advancing Justice

To the Senate Judiciary Committee

For a Hearing on the Nomination of Jeffrey Beauregard Sessions III to be Attorney General

January 10 - 11, 2017

Asian Americans Advancing Justice writes to express our strong opposition to the nomination of Senator Sessions for Attorney General of the United States. Senator Sessions' poor record on civil and human rights¹ and close relationships with white supremacist and anti-Muslim organizations and people make him unqualified and inappropriate to be the chief law enforcement officer of the United States.

Asian Americans Advancing Justice (Advancing Justice) is a national partnership of five non-profit, non-partisan organizations that work to advance the human and civil rights of Asian Americans and Pacific Islanders (AAPIs) through advocacy, public policy, public education, and litigation. We are based in Washington D.C., Atlanta, Chicago, Los Angeles and San Francisco. While Asian Americans have been part of the fabric of American society for centuries, in recent years AAPIs have become the fastest growing minority group in the U.S. surpassing Latinos.² Today, 92% of Asian Americans are immigrants or the children of immigrants.³

In 1986, Senator Sessions' nomination for a federal judgeship was rejected by a Republican-controlled Senate due to racist statements he made as a US Attorney and the wrongful prosecution of Black civil rights activists for "voter fraud." Since that time, there has been little evidence that Senator Sessions has changed, only that he has learned to be more careful about the words that he uses. Instead, Sessions has allied himself with white supremacist organizations that seek to maintain the white and Christian majority in the U.S.

Sessions has consistently expressed his opposition to, and raised alarmist concern regarding, patterns of immigration post-1965 – a watershed year in which the United States dismantled its explicitly racist national origin quotas (including the remaining vestiges of the Chinese Exclusion Act of 1882) and finally allowed larger numbers of non-

¹ See The Leadership Conference on Civil and Human Rights organizational sign-on letter to Majority Leader McConnell, Democratic Leader Reid, Chairman Grassley, and Ranking Member Leahy dated Dec. 1, 2016.

Europeans into the U.S., creating the diversity we see in America today. Sessions has been the standard bearer for a nativist vision of America, sounding the alarm regarding the “unprecedented” percentage of the American population that is foreign-born⁴ – without regard for the fact that the current percentage is lower than during the late 1800s, when the foreign-born were overwhelmingly from Western Europe. Senator Sessions has also questioned birth-right citizenship, which is protected by the Constitution.

Senator Sessions has close relationships to white supremacist, anti-immigrant organizations – the Federation for American Immigration Reform (FAIR), the Center for Immigration Studies (CIS) and NumbersUSA – whose views he represents in the Senate are central to the dangerous resurgence of nationalism and scapegoating of immigrants that we are witnessing in this country. The FAIR founder, John Tanton, is a white supremacist who wrote in 1993, “I’ve come to the point of view that for European-American society and culture to persist requires a European-American majority, and a clear one at that.” Tanton also founded the Center for Immigration Studies, whose staff have been called as favorable witnesses in hearings that Sessions has presided over.⁵

Senator Sessions’ words and opinions echo the white supremacist views espoused by these organizations though in a somewhat more sanitized version. For example, Dan Stein, FAIR’s president, has stated that supporters of the 1965 Immigration and Nationality Act wanted to “retaliate against Anglo-Saxon dominance” and that the policy is causing “chaos and will continue to create chaos.”⁶ Senator Sessions has similarly bemoaned the last 40 years as a period of “record, uncontrolled immigration to the United States.”⁷

Senator Sessions has similar close relationships to anti-Muslim organizations and has supported a proposal to ban Muslims from entering the country. Sessions has received awards from anti-Muslim organizations and spoken at their events, including the David Horowitz Freedom Center and the Center for Security Policy.⁸ In 2015, Sen. Sessions accepted the “Keeper of the Flame” award from the anti-Muslim hate group the Center for

⁴ Senator Sessions’ full quote states, “Nearly 59 million immigrants have arrived in the United States since 1965 and currently constitute a near record 14% of the U.S. population – this is a, reaching the largest proportion in history and will surge beyond that 14% unless law in the United States is changed – we are really on an extreme unprecedented pattern of immigration into the United States, I think it’s unlike most established countries in the world.” Hearing: “The Impact of High Levels of Immigration on U.S. Workers” Senate Judiciary Committee, Subcommittee on Immigration and the National Interest (March 16, 2016) <http://www.judiciary.senate.gov/meetings/the-impact-of-high-levels-of-immigration-on-us-workers>.

⁵ The Southern Poverty Law Center, Jeff Sessions: Champion of Anti-Muslim and Anti-Immigrant Extremists (November 18, 2016), <https://www.splcenter.org/hatewatch/2016/11/18/jeff-sessions-champion-anti-muslim-and-anti-immigrant-extremists>.

⁶ *Id.*

⁷ A Memo For Republican Members From Sen. Jeff Sessions, *Immigration Handbook for the New Republican Majority*.

⁸ The Southern Poverty Law Center, Jeff Sessions: Champion of Anti-Muslim and Anti-Immigrant Extremists (November 18, 2016), <https://www.splcenter.org/hatewatch/2016/11/18/jeff-sessions-champion-anti-muslim-and-anti-immigrant-extremists>.

Security Policy, whose leader Frank Gaffney has asserted his belief in the conspiracy theory that President Obama is Muslim, writing "...there is mounting evidence that the president not only identifies with Muslims, but actually may still be one himself."⁹

Senator Sessions has indicated support for excluding Muslims from entering the United States as immigrants or refugees. At a 2016 hearing on the refugee resettlement program, Sessions said in regards to Syrian refugees that, "We have a right and a duty to favor the admission of immigrants who support and celebrate our pluralist western values... If we cannot ensure the adequate screening of any individual, we must not admit them to the United States. Period."¹⁰

Sessions has also given over a dozen radio interviews with Steve Bannon when he was with Breitbart News, a platform for white nationalists and other extreme right-wing groups. The former head of Breitbart, Steve Bannon has stated that "When two-thirds or three-quarters of the CEOs in Silicon Valley are from South Asia or from Asia, I think..." After a pause, he continued, "A country is more than an economy. We're a civic society."¹¹ Senator Sessions and Steve Bannon have expressed their mutual admiration for each other¹² and hold similar views on immigration policy. Additionally, Sessions' nomination was praised by Richard Spencer, president of the National Policy Institute and a leader of the white nationalist movement.¹³ These facts taken together indicate that Senator Sessions seeks to limit immigration to the U.S. in order to maintain a white and Christian majority in the U.S.

We also echo the concerns of our allies working to end domestic violence and sexual assault, who have raised serious doubts about Sen. Sessions' commitment to victims of such crimes. We are particularly concerned that Sen. Sessions opposed the most recent reauthorization of the Violence Against Women Act in 2013, against 78 of his Senate colleagues. Over its 22-year history, VAWA has provided a coordinated national response to domestic violence, dating violence, sexual assault and stalking, including critical provisions that protect immigrant women who are particularly vulnerable to abuse.

Senator Sessions affinity for white supremacist organizations and persons combined with his anti-civil rights record, and nativist vision of America make us seriously doubt that he would enforce civil rights in our communities or those of other communities of color, immigrants, women, people with disabilities, religious minorities or LGBT people. We

⁹ Frank Gaffney, *America's First Muslim President?*, The Washington Times (June 9, 2009) <http://www.washingtontimes.com/news/2009/jun/9/americas-first-muslim-president/>

¹⁰ Senate Judiciary Committee Hearing, "Oversight of Administration's FY 2017 Refugee Resettlement Program," 24:28 (September 28, 2016).

¹¹ https://www.washingtonpost.com/politics/how-bannon-flattered-and-coaxed-trump-on-policies-key-to-the-alt-right/2016/11/15/53c66362-ab69-11e6-a31b-4b6397e625d0_story.html?utm_term=.ebb60e661ac9

¹² Marge Baker, "Jeff Sessions' Relationship With Breitbart, 'The Platform' For The White Nationalist Alt-Right, Should Be Disqualifying," Huffington Post (Jan. 3, 2017) http://www.huffingtonpost.com/marge-baker/jeff-sessions-relationship_b_13941372.html.

¹³ David Weigel, "Alt-right leaders praise Sessions as attorney general pick" Washington Post (Nov. 19, 2016)

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strongly encourage you to oppose his nomination.



**Statement of the Brazilian Worker Center
Submitted to the United States Senate Committee on the Judiciary
Hearing on “Attorney General Nomination”**

January 10, 2017


Members of the Committee, we are the Brazilian Worker Center. Thank you for the opportunity to submit this statement for inclusion in the record for today’s hearing. The Brazilian Worker Center is a community organization that supports immigrants on issues of workplace rights and immigration. We work with the community, instructing them to execute their rights through organizing, advocacy, education, leadership, capacity building and civic participation. We join Brazilian and other immigrants helping them to organize against economic, social and political exclusion in order to create a more just society.

The Brazilian Worker Center urges all members of the United States Senate to oppose the nomination of Senator Jeff Sessions as U.S. Attorney General. Throughout his lengthy career, Senator Sessions has consistently dehumanized many of our communities including immigrants, people of color, women, Muslims, LGBTQ individuals and people with disabilities. Given his strong history of obstructing civil rights, Senator Sessions has proven that he is unfit to serve as Attorney General.

As the nation’s chief law enforcement officer, the Attorney General is charged with upholding the constitutional rights and protections of all people in the United States. Senator Sessions, however, has opposed the Voting Rights Act, which aims to ensure all Americans have an equal opportunity to participate in our democracy and instead prosecuted voting rights activists who tried to increase Black registration and turnout. He has opposed bipartisan efforts to reform the criminal justice system by reducing sentences and he opposes federal consent decrees with local law enforcement agencies designed to reduce police misconduct. Sessions has opposed hate crimes protections for members of the LGBTQ community, fought the reauthorization of the Violence against Women Act (VAWA) and supported a Muslim ban in the United States. In addition, Senator Sessions has closely aligned himself with anti-immigrant extremist groups like NumbersUSA and the Federation for American Immigration Reform, which are founded on white supremacist ideals. Senator Sessions, through his own record, has been one of the staunchest opponents of any proposals that would bring humanity to our country’s treatment of immigrants and has instead called for a massive border wall, mass deportations and the criminalization of immigrants. This record and these affiliations make Senator Sessions wholly unfit to prosecute hate crime and defend the civil rights of all persons in the US.

Congress has already determined that Senator Sessions does not meet the standards necessary to carry out a political appointment. In 1986, a Republican-led Senate Judiciary Committee rejected his nomination for a federal judgeship in Alabama because of his history of racist statements. Since then, Senator Sessions has continued his record of divisive hateful rhetoric. We urge Members of this Committee to uphold the values of our democracy and reject the nomination of Senator Sessions for Attorney General.

Sessions a distinguished public servant who will uphold the law

 thehill.com/blogs/pundits-blog/the-administration/313248-sessions-a-distinguished-public-servant-who-will-uphold

January 9, 2017



The Rule of Law is an indispensable cornerstone of the United States of America. It is often defined as the restriction of the arbitrary exercise of power by subordinating it to well-defined and established laws.

Throughout our country's history, and especially in recent times, we have seen that personnel has a profound effect our nation's policy. It is therefore essential that we choose our high ranking government officials based on their proven ability to respect and conform to our laws.

With that in mind, I was greatly encouraged to see that President-elect Donald TrumpDonald John TrumpFamily immigration detention centers could be at capacity within days: reportTrump likely to meet with Putin in July: reportDOJ requests military lawyers to help prosecute immigration crimes: report MORE will be nominating Senator Jeff SessionsJefferson (Jeff) Beauregard SessionsDOJ requests military lawyers to help prosecute immigration crimes: report Trump backs down in rare reversal Senate moving ahead with border bill, despite Trump MORE to be our next Attorney General.



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Jeff Sessions is an Eagle Scout who has honorably served as a U.S. Army Reserve JAG Captain, a federal prosecutor, the Attorney General of Alabama, and a member of the Senate

Judiciary Committee. He has continually demonstrated his ability and commitment to upholding the rule of law on every step of the way. Sessions' legal career began as a practicing attorney in his home state of Alabama. Following two-years of service as Assistant United States Attorney for the Southern District of Alabama, Sessions was nominated by President Reagan in 1981 and confirmed by the Senate to serve as the United States Attorney for Alabama's Southern District, a position he held for 12 years.



Sessions was elected Alabama Attorney General in 1995, serving as the state's chief legal officer and excelling in the enforcement of substantial civil rights cases.

In 1996, Sessions was elected to the United States Senate. During his time in the Senate, he has put substantial energy toward promoting law and order and empowering law enforcement officers and prosecutors to fairly and justly fight dangerous crime.

He sponsored legislation to shut down rogue internet pharmacies that distribute controlled substances without proof of identity, age, or prescription, and has supported cybercrime centers to fight the proliferation of online child pornography.

Together with the late Senator Ted Kennedy, Sessions authored the Prison Rape Elimination Act of 2003, which helped reduce and prevent sexual assault in prisons. In 2010, he joined with Senator [Dick Durbin](#) [Richard \(Dick\) Joseph Durbin](#) [Democrats protest Trump's immigration policy from Senate floor](#) [Live coverage: FBI chief, Justice IG testify on critical report](#) [Hugh Hewitt to Trump: 'It is 100 percent wrong to separate border-crossing families'](#) [MORE](#) to unanimously pass the Fair Sentencing Act, which increased fairness in federal drug sentencing while also providing tougher penalties for hardened drug traffickers.

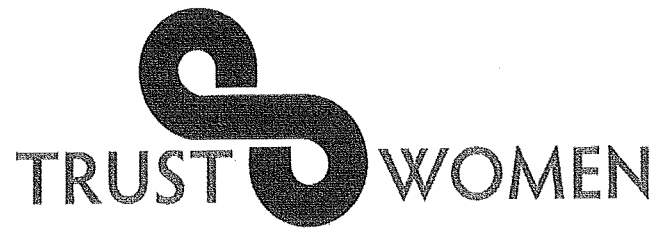


Most recently, as a senior member of the Senate Judiciary Committee, Sessions is a leading advocate of confirming federal judges who follow the law and do not legislate from the bench.

"Be prepared." It's the famous motto of the Boy Scouts, but it's also a key element of success for the best lawyers in our country. Jeff Sessions is an Eagle Scout, a highly experienced prosecutor and a distinguished public servant with a demonstrated commitment to upholding the rule of law. His nomination to become the next Attorney General of the United States is something we should all support.

Mark Brnovich is the Attorney General of Arizona. He previously served as an Assistant United States Attorney for the District of Arizona and as a Judge Advocate General (JAG) in the U.S. Army Reserve.

The views of Contributors are their own and are not the views of The Hill



Written Testimony of

Julie A. Burkhart
Trust Women Foundation
Founder and CEO

for a Hearing on
Attorney General Nomination

Submitted to the
U.S. Senate Judiciary Committee
January 10, 2017

Trust Women Foundation
PO Box 3222
Wichita, Kansas 67201
316.425.3215 office

10 January 2017

My name is Julie A. Burkhart, and I am the Founder and CEO of Trust Women Foundation, which operates reproductive health care clinics in Kansas and Oklahoma. Before founding Trust Women, I worked for eight years with Dr. George Tiller, who also had a health care facility that provided abortion care in Wichita, Kansas. I worked for him until he was assassinated the 31st of May 2009. I have also been the target of death threats, threats of bodily injury, bomb threats, harassment and other criminal activity for the work that I do and love.

I have spent the vast majority of my career, beginning while in the Midwest on summer breaks, working for women's reproductive access and rights. My induction into this line of work was during the 1991 Summer of Mercy, in which thousands of abortion opponents descended upon Wichita for months and blocked access to abortion clinics.

My personal and professional experience with anti-abortion crimes makes me deeply distressed about the nomination of Senator Sessions to become Attorney General. The Freedom of Access to Clinic Entrances Act (FACE Act), which is enforced by the Attorney General and the Department of Justice, was enacted to protect the very rights to which Sen. Sessions has expressed long-standing opposition. Sen. Sessions holds views that are extremely hostile to reproductive rights and, as a result, I fear he may be uncommitted to punishing wrongdoers through the FACE Act and may not direct federal law enforcement to protect people like me when needed.

In 2001, while working with Dr. Tiller, I learned that there was a 10-year anniversary planned for the 1991 Summer of Mercy. While monitoring the activities around this event, we became aware of threatening language being used by its promoters, including Operation Rescue. For example, the organizers asserted they would "Finish the Job," a reference to the attempted assassination of Dr. Tiller in 1993. This not-so-veiled threat led to Dr. Tiller's protection by the U.S. Marshals Service, as ordered by the U.S. Attorney General at that time.

The rhetorical violence directed at Dr. Tiller characterized him as a pariah in a community and state that had been his family's home for decades. In my view, the rhetoric was a factor that ultimately led to his assassination.

On May 31, 2009, my boss was fatally shot in the side of the head by anti-abortion extremist Scott Roeder. He was serving as an usher during Sunday morning service at his church, and was wearing body armor, as he had been doing since 1998. In response, Attorney General Eric Holder directed the U.S. Marshals Service to offer protection to other abortion providers across the country.

After the horror of Dr. Tiller's assassination, I experienced anger, disbelief and dread. It was a time when I felt that my safety and security were an illusion. The fact that Dr. Tiller was providing a constitutionally protected medical service was no protection for his life. The atmospherics leading up to the assassination were violent and toxic. And rather than taking responsible actions to discourage violence, the state attorney general and groups including Operation Rescue contributed to a lethal environment. I felt that collectively, and with the leadership of a government official, he had been assassinated to serve the need to make an example, once again, of a physician who provides abortion care. Dr. Tiller's death caused great

disillusionment with the political process and with our difficulty, as a society, to have civil discourse about complex issues. It was a time of feeling that tyranny had won in our country.

After much reflection, I decided to found an organization that would be dedicated to providing abortion access in the very part of the country where Dr. Tiller had been so vehemently harassed and murdered. After anti-choice activists learned of my plans to open our clinic in Wichita, the harassment and intimidation began. After purchasing the clinic building, David Leach, affiliated with the Army of God (an extremist anti-choice group), had a 45-minute phone conversation (recorded by prison officials) with Scott Roeder, the man who murdered Dr. Tiller. In that conversation, Leach expressed that by opening the clinic I had put a target on my back, and Scott Roeder agreed. They insinuated that someone might murder me as well.

There are other instances of threats against my life, which include: anti-choice people coming to my home to protest, carrying signs that say things such as, "Prepare to Meet Thy God" and "Where is your church?"—a direct reference to where Dr. Tiller was assassinated.

I have had fliers distributed throughout my neighborhood, asking people to "bring me to God." I have also received threats against my life via the mail and email.

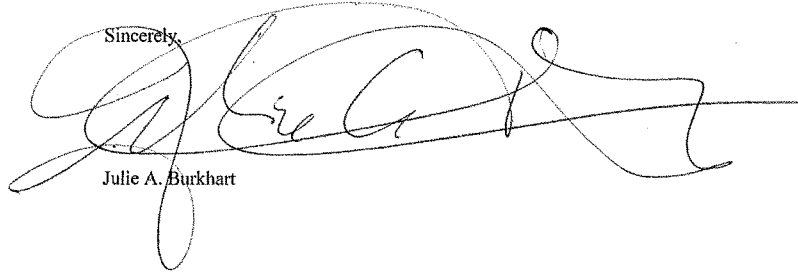
One of the most startling incidents occurred when Operation Rescue exploited false information they had received about our clinic, which, in turn, incited people to threaten my life. One such threat stated that someone should jump me and beat me to death. I was so struck with fear and a sense of helplessness and isolation that I purchased a firearm immediately after these threats began.

Additionally, anti-choice activists have disrupted our clinic operations numerous times and have placed undue stress on staff and patients. In November 2016, someone scaled our eight-foot wooden privacy fence and broke into the security vestibule and vandalized the clinic. Patients could not enter through the main entrance due to all of the broken glass and other debris. Employees were startled and unsettled by this act of violence, unsure as to what they may be walking in to. On another occasion, this past August, two bomb threats were made against the clinic. The person called twice and stated that he was going to blow the building up. The Wichita Police Department bomb squad, the U.S. Marshals Service and the FBI responded. People have trespassed onto the property during business hours, with the intent of disrupting our business. Protestors are at the clinic in Wichita five days a week for eight hours per day.

This past summer, the group Operation Save America staged the 25th Anniversary of the Summer of Mercy at the clinic. They also said that they were going to "finish the job" and defy the law due to their sole belief in God's law, which, in their view, trumps laws that govern civil society. The protest took place in July, but I began meeting with law enforcement as early as February of last year. Needless to say, we spent numerous hours planning for their demonstration. The City of Wichita took this seriously and prepared 100 officers who either stood watch or could respond to any acts of violence and aggression directed at the clinic or its staff. During the 10-day protest, I had four SWAT members, who were armed with automatic weapons, stationed right next door to my office. Even though the protest was peaceful, a fact for which I am grateful, it was unsettling to need so many law enforcement officers in and surrounding the clinic. It was a stark reminder that the business of reproductive health care is fraught with violence and danger.

I recount some of the security challenges I have faced because I depend on an engaged and committed Justice Department to protect the constitutional rights of patients who seek abortion care and medical professionals who provide that care. The Attorney General sets the agenda and tone of the Justice Department. Senator Sessions' record on abortion causes great concern that he will be indifferent or even hostile to women's health providers. We must not allow the leader of the Department of Justice to become an anti-choice operative with an agenda to undermine the constitutional right to safe abortion care.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie A. Burkhart', with a long horizontal flourish extending to the right.

Julie A. Burkhart

1/7/2017

Democratic leader in Alabama Senate praises Jeff Sessions | AL.com

Alabama

Democratic leader in Alabama Senate praises Jeff Sessions

By Mike Cason | mcason@al.com[Email the author](#) | [Follow on Twitter](#)

on December 07, 2016 at 12:42 PM, updated December 07, 2016 at 12:53 PM

The leader of the Democratic minority in the Alabama Senate says he and Sen. Jeff Sessions have worked well together and he expects Sessions to enforce the law fairly if he becomes U.S. attorney general.

While many **have spoken out against** President-elect Donald Trump's nomination of Sessions, Sen. Quinton Ross, D-Montgomery, said he looks forward to working with the Republican senator from Mobile if he is confirmed as AG.

Ross, a Mobile native, said he was a high school student in Pontiac, Mich., when Sessions **failed to win confirmation** for a federal judgeship in 1986. A Senate committee voted against Sessions after he was accused of making racist comments and being racially insensitive.

Sessions denied the accusations.

Ross said he has had a good working relationship with Sessions for 20 years.

"I have worked with Sen. Sessions on education policy and securing federal funding for our schools," Ross said in a press release. "Additionally, I have spent time with him at the Magic City Classic and at Heritage Barbershop in Montgomery. I know him personally and all of my encounters with him have been for the greater good of Alabama."

Ross said he has been in close personal contact with Sessions since Trump nominated Sessions.

"We've spoken about everything from Civil Rights to race relations and we agree that as Christian men our hearts and minds are focused on doing right by all people," Sen. Ross said.

"We both acknowledge that there are no perfect men, but we continue to work daily to do the right thing for all people."

JEFF SESSIONS TAPPED FOR TRUMP CABINET

Did Jeff Sessions block integration of south Alabama federal courts?

Attorney general pick Jeff Sessions has dueling images

No special election to replace Sessions; Bentley says move could save \$16 million

'Stop Jeff Sessions': Alabama NAACP president launches petition against AG nomination

Alabama NAACP leader on arrest following sit-in at Sessions' office: 'Is it worth it?'

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Why Jeff Sessions, a conservative attorney general, would be best for crime victims

By Paul G. Cassell, Steven J. Twist

Published December 14, 2016

FoxNews.com

As two crime victims' rights advocates and law professors, we welcome the announcement that President-elect Trump will nominate Alabama Senator Jeff Sessions to be the next attorney general of the United States.

Senator Sessions has a long and robust record of fighting for justice, and more specifically for enforceable victims' rights. If confirmed by the Senate, he will undoubtedly be a powerful voice for crime victims as the chief law enforcement officer of the United States.

Our enthusiasm about Senator Sessions stems from the fact that he was an early supporter of amending the U.S. Constitution to protect rights for crime victims.

This idea was first proposed by a Task Force assembled by President Ronald Reagan and later endorsed by Presidents Bill Clinton and George W. Bush.

The Victims' Rights Amendment was first introduced in Congress in 1996 by Senators Dianne Feinstein and Jon Kyl. Senator Sessions strongly advocated for the amendment and will be the country's first Attorney General to cast votes for amending the Constitution to give rights to crime victims.

In his support for the Amendment, much about the core of the man and his sense of justice is revealed. Senator Sessions strongly supported the Amendment because, as a Senate Judiciary Committee Report in which he joined, explained: "It is time to extend Federal constitutional recognition to those who are too often forgotten by our criminal justice system – the innocent victims of crime."

It is no exaggeration to say that Senator Sessions voted to open the doors of the courtroom to the parents of a murdered child during the trial of the accused murderer. He voted to let a woman who has been brutalized by rape tell the court about the impact of the crime on her life. And he voted to give a voice to the victims of domestic violence before decisions are made about releasing those accused of perpetrating violence against them.

The Senator's strong bipartisan record on behalf of crime victims does not end there. Senator Sessions crossed the aisle to work with Senator Feinstein to preserve restitution rights for crime victims and to provide stronger protections for victims of child abuse. He joined with the late-Senator Ted Kennedy to reduce sexual assaults in prison. He worked with Illinois Democratic Senator Dick Durbin to address sentencing disparities in federal drug laws and increase penalties for the most serious drug traffickers. And in many other ways, he fought against weakening the federal criminal laws whenever they posed an undue risk of creating even more victims of crime.

More impressive still is his courage as a prosecutor to take up the cause of pursuing justice for crime victims through the prosecution of their attackers.

He stood against headwinds of the Old South to prosecute KKK criminals in Alabama. He prosecuted Klansman Henry Francis Hays, son of Alabama Klan leader Bennie Hays, for abducting and killing Michael Donald, a black teenager.

As a prosecutor, Senator Sessions established a record as aggressive, but fair. He remained focused on the ethical duty to do justice.

We are excited about the prospect of an attorney general who sees the need for expanding rights and services for crime victims, and who has demonstrated the heart, the courage, and the leadership to head a Department of Justice that will ensure justice is pursued for all, including and especially for the crime victim.

Paul Cassell is a former federal judge and the Ronald N. Boyce Presidential Professor of Criminal Law at the S.J. Quinney College of Law at the University of Utah.

Steven Twist is an Adjunct Professor of Law at the Sandra Day O'Connor College of Law at Arizona State University.



**CWS Statement to the U.S. Senate Committee on the Judiciary Pertaining to the
Nomination of Senator Jeff Sessions for U.S. Attorney General
January 10 - 11, 2017**

As a 71-year old humanitarian organization representing 37 Protestant, Anglican, and Orthodox communions and 36 refugee resettlement offices across the country, Church World Service urges all Senators to oppose the nomination of Senator Jeff Sessions as U.S. Attorney General. Senator Sessions has consistently made dehumanizing comments about immigrants, refugees and minorities, and is not fit to serve in this position. We know from sacred texts across faith traditions that nations will be judged by how they treat the most vulnerable: the widow, the orphan, and the refugee, during trying times.

As the nation's chief law enforcement officer, the Attorney General is charged with upholding the constitutional rights and protections of all Americans – regardless of where they come from or which religion they practice. In contrast, Senator Sessions has called Islam a “toxic ideology,” implied that all persons from the Middle East are dangerous, and supported a “Muslim ban” in the United States. This type of hateful, xenophobic rhetoric has been met with increases in acts of hate, especially against our Muslim brothers and sisters. Senator Sessions has also opposed hate crime protections for LGBTI individuals, the reauthorization of the Violence Against Women Act (VAWA), and civil rights laws.

Senator Sessions has close ties to anti-immigrant and anti-Muslim extremist groups like the NumbersUSA, the Center for Security Policy, and Federation for American Immigration Reform, whose leaders regularly make racist statements and founded these groups on white supremacist ideals. As Attorney General, Senator Sessions will be responsible for prosecuting hate crimes, and his record on this issue ignores effective approaches to countering extremism, while galvanizing instances of hate against others. Senator Sessions has demonstrated a blatant disregard for the U.S. Constitution, and his appointment would undermine our nation's commitment to religious freedom and non-discrimination.

Immigrants and all newcomers contribute to our communities. Immigration is correlated with significantly higher employment growth and a decline in the unemployment rate, and immigrants have high business formation rates, creating successful businesses that hire immigrant and U.S. citizen employees. Yet, Senator Sessions has wrongfully argued that immigrants do not contribute to the United States -- a perspective that has been widely discredited, given that immigrants are vital assets to the U.S. economy and are an important part of the U.S. business community. On numerous occasions, he has stated that refugees and immigrants are unable to integrate, and has implied that people who are not currently fluent in English have less value. As we face the worst displacement crisis in recorded history with over 65 million displaced persons including over 21 million refugees around the world, it is critical that the United States demonstrate leadership in refugee protection and resettlement. The U.S. refugee resettlement program emphasizes early self-sufficiency through employment, and most refugees are employed within their first six months of arriving to the United States.

Throughout his career, Senator Sessions has failed to respect the dignity of all individuals and uphold our values of compassion, generosity, and welcome. Congress has already determined that Senator Sessions does not meet the standards necessary to carry out a political appointment. In 1986, a Republican-led Senate Judiciary Committee rejected his nomination for a federal judgeship in Alabama because of his history of racist statements. Since then, Senator Sessions has remained steadfast in his divisive, hateful rhetoric. He has supported attempts to curtail due process rights for asylum seekers, especially children, and expressed hostility toward U.S. legal obligations to screen arriving individuals for protection claims if the individual expresses a fear of return to their home country. Senator Sessions is simply not poised to ensure the U.S. government complies with basic, fundamental legal obligations and fulfills its commitment to protecting vulnerable populations.

We urge you to oppose the confirmation of Senator Sessions as Attorney General and to live up to our nation's values of compassion, hospitality, and welcome. We must carry on our nation's proud history of hospitality and moral leadership. Let us reflect the best of our nation by extending hospitality and affirming our collective, moral imperative to love our neighbor, welcome the sojourner, and care for the most vulnerable among us.



The Council of Parent Attorneys and Advocates, Inc.
Protecting the Legal and Civil Rights of Students with Disabilities and Their Families

**Testimony on: The Nomination of Senator Jeff Sessions as Attorney General
 Senate Judiciary Committee**

By: Denise Marshall, Executive Director

January 20, 2017

The Council of Parent Attorneys and Advocates (COPAA) respectfully submits testimony expressing our strong opposition to the nomination of Senator Jeff Sessions as the U.S. Attorney General (AG). As stated in our letter submitted to the Judiciary Committee on January 5, COPAA's opposition is rooted in Senator Sessions' 30-year track record in the U.S. Senate, as Attorney General for the state of Alabama, and as an Assistant U.S. Attorney. He has compiled a longstanding and consistent record, including public statements, policy proposals, and other various actions that serve to discriminate against the rights and dignity of children and adults with disabilities. The Attorney General must be a fair arbiter of justice and enforce the nation's laws without prejudice. Equal educational opportunity is a cornerstone of democracy and our laws confer important rights to students with disabilities to assure that each child can succeed. Again, we urge you to reject this nomination.

This testimony is intended to expand upon the several testimonials included in the January 5th letter **demonstrating the impact the IDEA has had on the lives of children with disabilities throughout the nation.** We hope the stories of real students will shed further light on why the role of the AG is vital to leading, supporting and ensuring that individuals with disabilities have access to the full protections of federal law – statutes that are intended to **enable thousands of individuals to live and work independently thereby reducing the level of public resources needed to support them as adults. The monies we spend on special education are repaid many times over by substantially reducing the number and need for governmental support of adults with disabilities.**

Stories: The Impact of Federal Law for Students with Disabilities

Josh is a high school student with Tourette Syndrome, Obsessive Compulsive Disorder (OCD), and learning disabilities. Despite his serious struggles and his parents' repeated requests for an individualized education program (IEP) under the Individuals with Disabilities Education Act (IDEA), the school district refused to provide any accommodations or services. Josh's difficulties in completing his assignments led him to stay up past midnight to complete homework, causing his anxiety to escalate and resulted in an explosion of both his physical ties and his OCD symptoms. Finally, his parents were driven to file for due process, resulting in a determination that Josh was eligible for special education services. The hearing officer ordered the district to provide Josh with an IEP and compensatory education. Josh went on to graduate from high school, graduate from college, and enroll in a Master's program in environmental management.

LeDerick was a child who believed he did not have much of a future. He struggled so much that he had to repeat first grade. In third grade, he was evaluated for a suspected disability and found eligible to receive special education services under the IDEA. The special education and related services that LeDerick received enabled him to make progress academically, and after graduation he enrolled in a community college where he thrived. He went on to graduate from New Jersey City University with honors, earning a Bachelor's degree in mathematics with a minor in fine arts. LeDerick is now an advocate, spoken word poet, playwright and motivational speaker. He has performed at the White House and to professional audiences; and, LeDerick has presented to groups ranging from youth and staff at correctional facilities to college students.

While **Katie** was at an Early Childhood Center, her parents made it clear to school officials that when she reached kindergarten they wanted her to attend her neighborhood elementary school and be educated with neighborhood children. Katie's parents were disappointed when, during the meeting to discuss Katie's transition to kindergarten, school officials said that Katie should be placed in a segregated classroom at a "special school" more than ten miles from their home. Katie's parents retained an attorney from a nonprofit agency, and the district reluctantly agreed to place Katie in her neighborhood school for kindergarten. Following kindergarten and first grade, the school system again tried to move Katie to a "special school." The family was forced to file for due process. The matter settled at mediation, and Katie successfully remained at her neighborhood school through 5th grade. When Katie transitioned to middle school, the district AGAIN tried to place her in a segregated classroom. Katie's family was again forced to file for a due process hearing. This time the issues were not resolved prior to a hearing. Katie's parents prevailed at the hearing. The district took the issue to federal court, resulting in more delay and cost for both sides. While in federal court, Katie's parents and the district reached a settlement that has led to Katie's current successful program in her neighborhood high school.

Isabel, a student with multiple disabilities and significant social and emotional needs, was making progress in a regular classroom with supplementary services and a Behavior Intervention Plan. Upon moving to a new state, the new school district placed her in a segregated special education classroom, despite her parents' requests for more integration. Additionally, school personnel used physical force, restraint, and prolonged periods of isolation and seclusion to address her behavioral issues in violation of her IEP and Behavior Intervention Plan. Isabel was later diagnosed with Post Traumatic Stress Disorder as a result of this experience. IEP meetings and discussions between the parents and school failed to resolve the issues, and Isabel's parents filed for a due process hearing. A hearing officer found that the school district violated the IDEA by failing to provide Isabel with an education in the least restrictive environment and by implementing behavioral interventions which were inconsistent with substantive and procedural rights under the IDEA.

George was an eight-year-old child with Autism who was taught in an alternative setting because he could not be managed in a general education classroom. However, George was not receiving special education services because his school district asserted that he was "not disabled enough" to qualify for special education. His parents filed for due process and the hearing officer found that George was eligible for special education. As a result, he was provided with supports and services that would allow him to benefit from his education. Not only did this success at due process improve educational outcomes for George, but it also brought public attention to a systemic scandal in which children with disabilities were being kept out of special education.

Dennis was a high school student who had never learned to read. From first through eleventh grade, he failed the majority of his classes, yet he was promoted from grade to grade. By the time he was eighteen, he had a history of suspensions from school and juvenile charges against him. Despite his academic and behavioral problems, Dennis was never evaluated or identified as a child with a disability in need of special education. Believing that Dennis had an undiagnosed learning disability, an attorney from Legal Aid filed for a due process hearing on Dennis' behalf under the IDEA a settlement was reached without a hearing. Under the settlement agreement, Dennis was provided with intensive educational and transition services. As a result, Dennis learned to read and graduated high school. Utilizing IDEA's transition services, Dennis attended a technical school paid for by the school district, where he excelled as a student electrician. He then secured a job as an apprentice to a traveling electrician. One of his first assignments was to travel to Texas after a hurricane to help rebuild homes.

Sincerely,



Denise Marshall
Executive Director



NAFSA: Association of
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STATEMENT OF

Esther Brimmer, DPhil, Executive Director & CEO
NAFSA: Association of International Educators

BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

THE NOMINATION OF JEFF SESSIONS TO SERVE AS ATTORNEY GENERAL TO THE UNITED STATES

January 10, 2017

Chairman Grassley, Ranking Member Leahy, and members of the Committee:
Thank you for the opportunity to submit this testimony.

On behalf of NAFSA: Association of International Educators, I appreciate the opportunity to express our strong opposition to the nomination of Senator Jeff Sessions as Attorney General to the United States. NAFSA does not take this step lightly. As a matter of practice, NAFSA believes it is preferable to reserve judgment on cabinet level nominees until after they have had a chance to testify in the confirmation hearing process. However, in the case of Senator Sessions, his long track record provides sufficient evidence for us to determine he is not qualified to enforce laws pertaining to immigration and civil rights that are vital to NAFSA's mission.

NAFSA is the world's largest professional association dedicated to the promotion and advancement of international education and exchange. Our nearly 10,000 members believe that connecting students, scholars, educators, and citizens across borders is fundamental to building mutual understanding among nations; preparing the next generation with vital cross-cultural and global skills; and creating the conditions for a more peaceful world. Our commitment to fostering peace and security through international education relies upon leadership that embraces openness, equality, and justice. Senator Jeff Sessions' hostile positions on immigration, voting rights, and education disqualify him from leading the United States Department of Justice.

Immigration

New Americans yearn to contribute to our nation as generations have done before them. Yet, Senator Sessions is among the Senate's most anti-immigrant senators. When his colleagues produced a bipartisan package, he opposed it. He has opposed nearly every immigration bill that has included a pathway to citizenship, and was instrumental in killing comprehensive immigration reform efforts in Congress. In opposing immigration proposals, including visa programs for individuals to work in science, technology, engineering and math (STEM) fields, Senator Sessions has relied on flawed and out-of-context research and statistics from the Center for Immigration Studies (CIS), Numbers USA, and the Federation for Immigration Reform (FAIR). All three are well known anti-immigrant groups which the Southern Poverty Law Center has described as "the nativist lobby," having been founded by "a man with deep racist roots."

Despite statistics showing otherwise, Senator Sessions claims the shortage of U.S. STEM graduates is a hoax perpetrated by employers who want to bring down wages and harm American workers. He has used this unjustified theory to oppose "stapling a green card" to the diplomas of foreign students graduating with master's degrees or PhDs in STEM. We should be pleased that well-educated students want to contribute their expertise to our economy.

NAFSA works to encourage qualified students from around the globe to study in and contribute to our institutions of higher education. International students contributed \$32.8 billion to our economy and supported over 400,000 jobs in the 2015-2016 academic year, in addition to providing incalculable benefits to their communities and educational institutions. Hostile immigration policies that make it harder for students to work and live here will dissuade many students, who will seek educational and work opportunities in other countries.

Bringing his anti-immigrant bias to the Department of Justice would drastically harm the rights of immigrants and undercut the values of openness and inclusivity that represent the best of U.S. policy. The attorney general has prosecutorial discretion and control over the immigration courts, which Senator Sessions could use to prosecute migrants on even minor and technical charges and speed deportation. He will also have the opportunity to hire new, anti-immigrant judges whose impact on the immigration courts could last for decades. In addition, as attorney general, Senator Sessions could expand the controversial use of private prisons to house nonviolent, non-criminal immigrants waiting for decisions on their immigration and asylum cases.

His reach could extend to thwarting policies of local jurisdictions that want to be welcoming to immigrants. He has recommended cuts to much needed federal funding to so-called "sanctuary cities," jurisdictions that refuse to do the job of federal agents to identify and turn over migrants without legal documentation. Justice Department attorneys under Sessions' direction could be required to seek injunctions against cities which do not cooperate with the administration's efforts to root out immigrants.

Voting Rights

NAFSA also opposes Senator Sessions' nomination because of his alarming record on voting rights. We believe our democracy must be as strong and inclusive as possible to realize the promise of America. The nation is great because of the values we strive to uphold. The right to vote is the bedrock of our democracy. Moreover, the United States gains respect abroad from our protection of civil rights at home. Senator Sessions' willingness to prevent citizens from exercising their right to vote makes him unqualified to lead the department that enforces voting rights.

Sessions' nomination to be a district judge in 1986 was derailed in part as a result of his opposition to voting rights for disenfranchised citizens. As a U.S. attorney, he unsuccessfully prosecuted activists engaged in voter registration, claiming rampant voter fraud in an election in which only 14 ballots had been allegedly tampered with, out of 1.7 million cast. In 2013, he applauded the Supreme Court's decision to gut a key provision of the Voting Rights Act and supports voter ID on the false premise that voter fraud, as opposed to voter suppression, is a widespread problem in the United States. As Attorney General he could direct Justice Department resources away from efforts to enfranchise more citizens whose right to vote has been wrongfully denied, and instead channel Justice Department efforts towards chasing mythical cases of rampant voter fraud.

Education

The United States has long recognized that education is a Constitutional right which supports democracy and creates an informed electorate. As Attorney General of Alabama, Jeff Sessions led the fight to overturn a ruling that found the inequitable funding of Alabama public schools resulted in unconstitutionally separate and unequal education for Alabama's children. His willingness to sacrifice the futures of minority and disabled students by refusing to support necessary improvements to lift all Alabama school children suggests that as attorney general he will fail to enforce policies or practices to remedy discrimination in our institutions of education or elsewhere.

To advance international education and exchange, NAFSA seeks to provide opportunities for all students—regardless of race, religion, ethnicity, nationality, disability, gender identification or expression, or sexual orientation—to benefit from international education and gain the experience necessary to succeed in an interconnected world. Senator Sessions' willingness to embrace segregation of educational institutions is anathema to that goal.

CONCLUSION

The Attorney General is charged with enforcing laws that are fundamental to ensuring "equal justice for all." Senator Sessions' record on immigration, voting rights, and education indicates that if confirmed, he will champion policies that are neither just nor inclusive. In 1986, the United States Congress decided that his extremism disqualified him from serving on the federal bench. In the intervening years, nothing has changed that would indicate he is now fit to serve as the head of the federal law enforcement. We urge all Senators to oppose his confirmation.

FOR IMMEDIATE RELEASE: December 14, 2016

CONTACTS: Craig Ford, 256-393-9009

Rep. Craig Ford Endorses Senator Jeff Sessions for Attorney General of the United States

Montgomery – Alabama State Representative Craig Ford announced today his support for Senator Jeff Sessions' nomination to be Attorney General of the United States. Rep. Ford, a Democrat who was first elected to the Alabama House of Representatives in 2000, made this endorsement because of the positive impact it could have for the State of Alabama.

"Throughout his career in public service, Senator Sessions has faithfully and honorably represented the people of Alabama. As a federal prosecutor and state attorney general, he fairly and equitably pursued and administered justice. I believe Senator Sessions will be a fair and unbiased Attorney General. His experience as a U.S. Attorney, and as Alabama's Attorney General, makes him exceptionally qualified to serve in this role.

"As a U.S. Senator for the past 20 years, Senator Sessions has repeatedly worked across party lines to enact landmark legislation that was signed into law by presidents of both parties.

"Senator Sessions has always been committed to public safety, the rule of law and our Constitution. Furthermore, and perhaps most impressive to members of both political parties, Senator Sessions has seen an outpouring of endorsements from law enforcement organizations. Our attorney general must have an effective working relationship with national, state and local law enforcement in order to ensure public safety, and Senator Sessions truly has their support.

"The appointment process shouldn't be about partisan politics; it should be about making sure we have capable people appointed to these offices. While I have not always agreed with Senator Sessions on everything, I've always believed that he was doing what he thought was in the best interest of our State, and his experience and qualifications make him an excellent choice for Attorney General.

"Senator Sessions and I share a deep commitment to, and love for, our great State. Having an Alabamian in such a prominent national role can be very beneficial to the State. We also share a commitment to our armed forces, as we both served as Captains in the U.S. Army Reserve. Now is the time to come together as a State and a country, and therefore I give Senator Sessions my full endorsement for attorney general of the United States."

Rep. Craig Ford is a Democrat from Gadsden and the Minority Leader in the Alabama House of Representatives.

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The Washington Post

Opinions

Jeff Sessions says he handled these civil rights cases. He barely touched them.

By J. Gerald Hebert, Joseph D. Rich and William Yeomans January 3

J. Gerald Hebert is director of the Voting Rights and Redistricting Program at the Campaign Legal Center. Joseph D. Rich is co-director of the Fair Housing and Community Development Project at the Lawyers' Committee for Civil Rights Under Law. William Yeomans is a fellow in law and government at American University's Washington College of Law; on Election Day, he worked as a voter protection legal volunteer for the Democratic Party of Virginia.

Attorney general nominee Jeff Sessions is trying to mislead his Senate colleagues, and the country, into believing he is a champion for civil rights. We are former Justice Department civil rights lawyers who worked on the civil rights cases that Sessions cites as evidence for this claim, so we know: The record isn't Sessions's to burnish. We won't let the nominee misstate his civil rights history to get the job of the nation's chief law enforcement officer.

In the questionnaire he filed recently with the Senate Judiciary Committee, Sessions (R-Ala.) listed four civil rights cases among the 10 most significant that he litigated "personally" as the U.S. attorney for Alabama during the 1980s. Three involved voting rights, while the fourth was a school desegregation case. Following criticism for exaggerating his role, he then claimed that he provided "assistance and guidance" on these cases.

We worked in the Justice Department's Civil Rights Division, which brought those lawsuits; we handled three of the four ourselves. We can state categorically that Sessions had no substantive involvement in any of them. He did what any U.S. attorney would have had to do: He signed his name on the complaint, and we added his name on any motions or briefs. That's it.

To understand why that was the sum total of Sessions's work, it helps to know that the Civil Rights Division in Washington takes the lead in investigating and trying voting rights and school desegregation cases. Division lawyers

decide which cases to bring, where to bring them and the contours of the legal theory presented to the court. When a complaint is filed, the custom is for the local federal prosecutor, the U.S. attorney, to sign it and perhaps other substantive court filings. This step is a mere formality. In rare cases, the U.S. attorney also provides input to the Civil Rights Division attorneys about the substance of the case or the legal strategy. But the role is limited to that of an adviser to the division lawyers driving the litigation.

Sessions's attempt to pass himself off as a civil rights hero is particularly brazen given his history with the nominations process. In 1986, as part of his rejected bid to become a federal district court judge, Sessions filled out a similar questionnaire and had to provide the same information about his most important cases. Yet he listed none of the civil rights cases he now touts, even though all of those cases either were in progress or had reached a decision by that time. Instead, he chose to highlight his criminal prosecutions.

The Daily 202 newsletter

A must-read morning briefing for decision-makers.

In both the 1986 questionnaire and his confirmation hearings (at which one of us, J. Gerald Hebert, testified), Sessions indicated that he discussed civil rights cases with department attorneys only when they came to Mobile, Ala., to get him to sign complaints. He also said he did not try any civil cases himself while U.S. attorney, focusing instead on criminal prosecutions. Indeed, he said it was Tom Figures — the same African American assistant whom Sessions allegedly called “boy” — who handled all of the office's civil rights cases. It therefore makes sense that his 1986 questionnaire included so many criminal cases and no civil rights matters. That renders even more suspect his recent efforts to claim his colleagues' civil rights experience as his own.

Sessions's dubious questionnaire is not an isolated incident. It is part of a concerted effort to make his abysmal civil rights record look exemplary. For instance, Sessions is circulating talking points touting his support to reauthorize the Voting Rights Act 10 years ago. That took no special courage — the measure passed the Senate 98 to 0. But Sessions celebrated when the Supreme Court cut the heart out of the law in 2013, and has opposed all efforts to fix it since. He is also playing up the fact that his U.S. Attorney's Office tried cases with the NAACP and the American Civil Liberties Union. Yet he has called those same organizations “un-American,” and in 2010 he bashed several of President Obama's judicial nominees for having what he called “ACLU DNA” or “the ACLU chromosome.” His recent assertions to the contrary notwithstanding, Sessions has a long record of hostility toward enforcing the rights that Americans cherish.

Sessions has not worked to protect civil rights. He worked against civil rights at every turn. Sessions knows that his real record on race and civil rights is harmful to his chances for confirmation. So he has made up a fake one. But many of us who were there — in Alabama in the 1980s, 1990s and beyond — are still around. We lived that story, too. And we are here to testify that Sessions has done many things throughout his 40-year career. Protecting civil rights has not been one of them.

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**STATEMENT OF
WADE HENDERSON, PRESIDENT & CEO,
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS**

**HEARING ON
THE NOMINATION OF SENATOR JEFF SESSIONS AS ATTORNEY GENERAL**

**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

JANUARY 10, 2017

Chairman Leahy, Ranking Member Sessions, and members of the Committee: I am Wade Henderson, President and CEO of The Leadership Conference on Civil and Human Rights. I am also honored to serve as the Joseph L. Rauh, Jr. Professor of Public Interest Law at the University of the District of Columbia David A. Clarke School of Law. Thank you for the opportunity to present the views of The Leadership Conference on the nomination of Senator Jeff Sessions to be the next United States Attorney General.

The Leadership Conference on Civil and Human Rights is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 200 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups. I am privileged to bring the voices of this community to today's hearing.

The Leadership Conference strongly opposes the confirmation of Senator Sessions as Attorney General. His decades-long record of racial insensitivity, bias against immigrants, disregard for the rule of law, and hostility to the protection of civil rights makes him unfit for this position. In our democracy, the Attorney General is the people's lawyer, not the President's lawyer, and has a sacred duty to enforce our nation's laws without prejudice and with an eye toward justice. He must be seen by the public – every member of the public, from every community – as a fair arbiter of our legal system. Unfortunately, Senator Sessions' record does not demonstrate that he would meet such a standard.

As you know, when then-U.S. Attorney Sessions was nominated in 1986 by former President Ronald Reagan to be a federal district judge, the Senate upheld its constitutional duty by undertaking a thorough review of his record at that time. This Committee was presented with compelling evidence that then-U.S. Attorney Sessions had a deeply troubling record as an opponent of civil rights enforcement, as someone who engaged in voter suppression tactics targeting African Americans (most notably his failed prosecution of three African-American voting rights activists¹), and a history of making racially

¹ Lena Williams, "Senate Panel Hands Reagan First Defeat on Nominee for Judgeship," *New York Times*, June 6, 1986, at <http://nyti.ms/2iadw1g>



insensitive comments. In light of this record, the Committee voted against recommending his confirmation.

Over the subsequent three decades, the record of Senator Sessions on matters of civil and human rights has been no less troubling. He remains just as unfit to serve in a position that would require him to represent all Americans in a fair and impartial manner.

First, we are concerned that he will simply fail to properly enforce many of our nation's important civil rights laws and precedents, given his opposition and in some cases outright hostility to them. For example:

- He praised² the Supreme Court ruling in *Shelby County v. Holder*,³ which gutted a key part of the Voting Rights Act of 1965.
- He strongly opposed the Shepard-Byrd Hate Crimes Prevention Act,⁴ and even argued it would be unconstitutional, long after the Supreme Court unanimously upheld a similar state law in *Wisconsin v. Mitchell*.⁵
- He opposed the Lilly Ledbetter Fair Pay Act of 2009⁶ and other legislation to advance women's rights, including efforts to address the pay gap.
- He opposed the reauthorization of the Violence Against Women Act in 2013⁷
- He characterized the Individuals with Disabilities Education Act's requirements to include children with disabilities in mainstream education as "irritating" and "accelerating the decline in civility."⁸
- He criticized⁹ the landmark marriage equality rulings of *U.S. v. Windsor*¹⁰ and *Obergefell v. Hodges*,¹¹ and supported legislation that aims to do an end run around them.
- He condemned investigations of police agencies accused of misconduct or a "pattern or practice" of violating civil rights, and called consent decrees "an end run around the democratic process."¹²

² David Weigel, Southern Republican Senators Happy that Supreme Court Designated Their States Not-Racist, Slate.com, June 25, 2013 at <http://slate.me/2ia9qpX>

³ 133 S. Ct. 2612 (2013).

⁴ Sen. Jeff Sessions, Floor Statements, July 20, 2009 at <http://bit.ly/2iabMEY>

⁵ 508 U.S. 476 (1993).

⁶ Passage of Lilly Ledbetter Fair Pay Act (S. 181), U.S. Senate Roll Call Votes 111th Congress – 1st Session, at <http://bit.ly/2i9UCrg>

⁷ Passage of Violence Against Women Reauthorization Act of 2013 (S. 47), U.S. Senate Roll Call Votes 113th Congress – 1st Session, at <http://bit.ly/2ia8529>

⁸ Sen. Jeff Sessions, Floor Statements, May 18, 2000, at <http://bit.ly/2iaua0q>

⁹ Chad Petri, "Senator Sessions on Gay Marriage," *WKRG.com News*, June 29, 2015 at <http://bit.ly/2i7a4Jx>

¹⁰ 133 S. Ct. 2675 (2013).

¹¹ 135 S. Ct. 2584 (2015).

¹² Eli Hager, Alysia Santo and Simone Weichselbaum, "8 Ways Jeff Sessions Could Change Criminal Justice," *The Marshall Project*, Nov. 18, 2016, at <http://bit.ly/2ia1G7d>



- After then-candidate Donald Trump was revealed to have made comments in 2005 bragging about physically forcing himself on women, Sen. Sessions failed to condemn the remarks and even questioned whether the comments described sexual assault¹³ – something his subsequent “clarification” still failed to address.

Second, at the same time that he will under-enforce the law in many areas, we believe he will over-enforce the law in other areas. For example:

- As evidenced by his failed 1985 prosecution of three voting rights activists who were working to increase African-American registration and turnout, and by his strong support for restrictive voter ID laws,¹⁴ Sen. Sessions is certain to overzealously pursue allegations of voter fraud – even though it is extremely rare¹⁵ – and support policies that make it more difficult for citizens to register and vote.
- Given his opposition to bipartisan efforts to reduce sentences for certain nonviolent drug offenses, and his opposition to administrative efforts that prioritize more serious cases,¹⁶ he can be expected to support mandatory minimum sentencing and other failed, heavy-handed criminal justice tactics – including with respect to marijuana, even though voters throughout the country continue to support its decriminalization.
- As a fierce opponent of comprehensive immigration reform – which he once referred to as “terrorist assistance”¹⁷ – as well as to more targeted legalization programs such as the DREAM Act, he will likely step up the criminal prosecution of nonviolent immigrants under programs such as “Operation Streamline” and reduce due process protections in administrative immigration proceedings.
- His defense of then-candidate Donald Trump’s call to prohibit Muslims from entering the country – something he called “appropriate to begin to discuss”¹⁸ – raises serious concerns that he will selectively enforce terrorism and criminal laws on the basis of religion.

Third, Senator Sessions has proudly associated himself with some of the most extreme and divisive organizations in our country today, associations that would contravene his responsibility to serve as “the people’s lawyer” for all Americans. For example, he has aligned himself with NumbersUSA, the Federation for American Immigration Reform, and the Center for Immigration Studies, all three of which were founded by John Tanton, who held white nationalist beliefs and called for the preservation of a “European-American majority.” He has also received awards from the David Horowitz Freedom Center and Frank Gaffney’s Center for Security Policy, two organizations designated as anti-Muslim hate groups by the Southern Poverty Law Center. And he has praised the writers of Breitbart.com, which its former head Stephen K. Bannon has described as the “platform for the Alt-Right.”

¹³ Sean Sullivan, “Trump supporter Sen. Jeff Sessions reportedly said behavior Trump described in 2005 video is not sexual assault,” *The Washington Post*, Oct. 10, 2016 at <http://wapo.st/2ia5WDE>

¹⁴ See, e.g., vote on Dole Amendment on voter identification (S.Amdt. 2350 to S.Amdt. 2327 to H.R. 2669), U.S. Senate Roll Call Votes 110th Congress – 1st Session, at <http://bit.ly/2i7d9Jy>

¹⁵ See, e.g., Brennan Center for Justice, “Debunking the Voter Fraud Myth,” Sept. 1, 2016, at <http://bit.ly/2i7cBDk>

¹⁶ “Federal Inmate Population Declines,” *Federal Bureau of Prisons*, Oct. 4, 2016, at <http://bit.ly/2iaeOJD>

¹⁷ Sen. Jeff Sessions, Floor Statements, June 27, 2007, at <http://bit.ly/2i7lFrO>

¹⁸ Eric Lichtblau, “Jeff Sessions, as Attorney General, Could Overhaul Department He’s Skewered,” *New York Times*, Nov. 18, 2016 at <http://nyti.ms/2ia1i8N>



Finally, since his nomination was announced, Senator Sessions has evidenced a disrespect for the nomination vetting and “advice and consent” process that raises additional questions about his fitness to serve as our nation’s top law enforcement officer. In particular, he has repeatedly failed to fully complete the Committee’s questionnaire,¹⁹ by omitting numerous controversial interviews and speeches and by giving inaccurate information regarding his civil rights litigation experience.²⁰ While I can understand the difficulty involved in documenting every speech and interview throughout a career as long as his, the misrepresentations and omissions are nonetheless troubling because he has strongly criticized other nominees for allegedly incomplete questionnaires – even suggesting in one case that it could amount to a felony.²¹ They also raise questions about whether he will exercise the necessary independence to serve as a proper adviser to and a check on the President and the administration that he intends to serve.

The totality of Senator Sessions’ record, despite some positive aspects,²² disqualifies him from wielding the tremendous authority and public trust that comes with serving as Attorney General. For the above reasons, The Leadership Conference on Civil and Human Rights urges you to vote against his confirmation.

Thank you for giving me the opportunity to contribute my views to the record of today’s hearing and to your deliberations over this nominee. Please feel free to contact me at (202) 466-3311 if I can be of any further assistance.

¹⁹ See, e.g., Sen. Dianne Feinstein, Press Release, “More Time Needed to Review Sessions Nomination Documents,” Dec. 13, 2016, at <http://bit.ly/2i7w0UL>.

²⁰ J. Gerald Hebert, Joseph D. Rich and William Yeomans, “Jeff Sessions Says He Handled These Civil Rights Cases. He Barely Touched Them,” *Washington Post*, Jan. 3, 2017, at <http://wapo.st/2i7fZyo>.

²¹ Jennifer Bendery, “Jeff Sessions Omits Decades of Records For His AG Confirmation Hearing,” *Huffington Post*, Dec. 30, 2016 at <http://huff.to/2i7jZ1L>.

²² For example, the Southern Poverty Law Center, while expressing opposition to his confirmation, acknowledged that he was helpful in the Center’s successful effort to sue and bankrupt the Ku Klux Klan following its role in the 1981 lynching death of Michael Donald. Similarly, The Leadership Conference was grateful to work with Senator Sessions in an effort that culminated in the passage of the Fair Sentencing Act of 2010, which reduced racial disparities in federal cocaine sentencing provisions. While such actions are noteworthy, they do not change our conclusion that Sen. Sessions’ record, on the whole, is too troubling for him to be confirmed as Attorney General.

Supplemental Statement of J. Gerald Hebert
On the Nomination of Jefferson B. Sessions III
To Be United States Attorney General
January 11, 2017

I am submitting this supplemental statement to respond to questions raised by Senator Ted Cruz during this Committee's hearing on the nomination of Senator Jeff Sessions to be Attorney General on Tuesday, January 10, 2017. During the hearing, Senator Cruz referenced the testimony I gave in a deposition and to this Committee regarding Mr. Sessions' nomination for a federal judgeship in 1986. Senator Cruz has mischaracterized my prior testimony, intimating that I essentially recanted my 1986 testimony and that I had "lied." He claimed that, because of the events of 1986, people cannot trust my current testimony that Mr. Sessions had no substantive involvement in civil rights cases I handled at the Department of Justice in the 1980's. I would like to clarify for the Committee what occurred in 1986, in order to rebut the unfounded and misleading accusations that Senator Cruz made at the hearing yesterday.

On March 12, 1986, staffers on this Committee contacted the Department of Justice, asking my supervisor, Paul Hancock, and me to come to Capitol Hill to provide sworn testimony regarding Mr. Sessions. Civil Rights Division leadership requested that we comply, and we did so. Mr. Hancock and I had mere minutes between being contacted by Committee staff and being transported to the Hill to provide deposition testimony. Neither of us had any time to consult Department records regarding our cases or Mr. Sessions' involvement in them prior to giving our deposition testimony for this Committee.

During his deposition, Mr. Hancock stated that Mr. Sessions had contacted the FBI and stopped an investigation related to a voting rights case Mr. Hancock was conducting in Conecuh County, Alabama.¹ Mr. Hancock was unable to recollect, or to piece together from his records, in which of two Conecuh County cases this interference occurred, or when exactly it occurred.² He admitted: "[M]y recollection is really not clear."³ In my deposition, I was asked whether Mr. Sessions had interfered with Department of Justice cases. I stated that "I only know what happened with our Conecuh County case, but Paul Hancock is in a better position to talk about that than I am."⁴ I said that "he and I both have a very fuzzy recollection about Conecuh County," and that it "was Paul's case primarily."⁵

¹ 78-84 (deposition of Paul Hancock). Both Mr. Hancock's and my deposition testimony are a part of the 1986 hearing record on Mr. Sessions' nomination to be a federal judge.

² *Id.* at 79-80.

³ *Id.* at 87.

⁴ *Id.* at 109 (deposition of J. Gerald Hebert).

⁵ *Id.*

The next day, I was called to testify before this Committee. Senator Joe Biden questioned me about Mr. Hancock's statement in his deposition. I replied, based on Mr. Hancock's previous testimony and my own limited recollection, that Mr. Sessions had gotten the FBI to call off its investigation.⁶ Unfortunately, we were unable to collect and review all of the DOJ records regarding Alabama voting rights investigations until a few days after the hearing. When we did so, we realized that the investigation at issue related to a case in Clarke County, Alabama, not Conecuh County, and that the interfering U.S. Attorney was Mr. Sessions' predecessor, not Mr. Sessions. Mr. Hancock and I immediately submitted sworn declarations to that effect to this Committee, correcting our testimony.⁷ Those declarations were filed on March 17, 1986, well before the Committee voted on Mr. Sessions' nomination.⁸ Mr. Hancock testified before this Committee regarding the error on March 19, 1986.⁹

Senator Cruz distorted this regrettable occurrence to suggest that I had somehow recanted my testimony before this Committee, that I had lied, and that therefore my word cannot be trusted now. This is patently false. First, the only testimony that I corrected was that regarding the FBI investigation, a matter which constituted ten lines of a 24-page deposition and one page of my ten-page live testimony.¹⁰ In my declaration correcting the error, I reiterated that I stood behind the rest of my testimony.¹¹ Second, neither Mr. Hancock nor I "lied" regarding the one incorrect piece of our testimony. As I stated in my declaration: "When I rendered that testimony, it was true to the best of my knowledge, recollection and belief."¹² At that time, Mr. Sessions acknowledged that we had acted in good faith.¹³ And third, the idea that an error regarding a minor aspect of my testimony in 1986 should render suspect, not only my own statements today on Mr. Sessions' nomination to be Attorney General, but also those of my former Department of Justice colleagues, is shameful.

As I and other Department of Justice attorneys have stated, both in the 1980s¹⁴ and today,¹⁵ the very structure of our voting rights and school desegregation cases meant that Mr.

⁶ *Id.* at 59-60 (statement of J. Gerald Hebert).

⁷ *Id.* at 209-16 (declarations of Paul Hancock and J. Gerald Hebert).

⁸ *Id.* at 209.

⁹ *Id.* at 206-08 (testimony of Paul Hancock).

¹⁰ Compare *id.* at 59-60 (testimony regarding FBI investigation), with *id.* at 56-66 (full live testimony); *id.* at 109 (testimony regarding FBI investigation), with *id.* at 94-117 (full deposition).

¹¹ *Id.* at 216 (declaration of J. Gerald Hebert) ("This revelation concerning the non-involvement of Mr. Jefferson Sessions in interfering in any voting investigations in the Southern District of Alabama does not affect in any way my other testimony rendered before the Senate Judiciary Committee on March 13, 1986.").

¹² *Id.* at 216.

¹³ *Id.* at 537 (statement of Jefferson B. Sessions III) ("I simply refuse to believe that Mr. Hancock, who came in here and apologized for his error, or Mr. Hebert were deliberately out to discredit me or embarrass me. But I want to point this out: When I was asked about it, I did not call them liars.").

¹⁴ See *id.* at 77-78 (deposition of Paul Hancock).

¹⁵ J. Gerald Hebert, *Written Testimony of J. Gerald Hebert On the Nomination of Jefferson Beauregard Sessions III For Attorney General of the United States*, Testimony to U.S. Senate Comm. On Judiciary (Jan. 9, 2016), <http://www.campaignlegalcenter.org/sites/default/files/J.%20Gerald%20Hebert%20Testimony%20Regarding%20N>

Sessions was not substantively involved in those cases as U.S. Attorney. His statements to the contrary in his questionnaires to this Committee are false. Nothing that occurred in 1986 changes that fact.

Nominatio%20of%20Jefferson%20B.%20Sessions%20III.pdf; J. Gerald Hebert, Joseph D. Rich & William Yeomans, Op-Ed, *Jeff Sessions Says He Handled These Civil Rights Cases. He Barely Touched Them.*, Wash. Post (Jan. 3, 2017), https://www.washingtonpost.com/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4ddffa6-d0fa-11e6-a783-cd3fa950f2fd_story.html?utm_term=.38b1b899295d.



**THE MARTIN LUTHER KING, JR. CENTER
FOR NONVIOLENT SOCIAL CHANGE, INC.**
449 Auburn Avenue, N.E. Atlanta, Georgia 30312 (404) 524-1956

March 19, 1986

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The Honorable Strom Thurmond, Chairman
Committee on the Judiciary
United States Senate
SD-224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Jefferson B. Sessions
U.S. Judge, Southern District of
Alabama Hearing, March 13, 1986

Dear Senator Thurmond:

I write to express my sincere opposition to the confirmation of Jefferson B. Sessions as a federal district court judge for the Southern District of Alabama. My professional and personal roots in Alabama are deep and lasting. Anyone who has used the power of his office as United States Attorney to intimidate and chill the free exercise of the ballot by citizens should not be elevated to our courts. Mr. Sessions has used the awesome powers of his office in a shabby attempt to intimidate and frighten elderly black voters. For this reprehensible conduct, he should not be rewarded with a federal judgeship.

I regret that a long-standing commitment prevents me from appearing in person to testify against this nominee. However, I have attached a copy of my statement opposing Mr. Sessions' confirmation and I request that my statement as well as this letter be made a part of the hearing record.

I do sincerely urge you to oppose the confirmation of Mr. Sessions.

Sincerely,

Coretta Scott King
Coretta Scott King

CSK/lm

cc: The Honorable Joseph R. Biden, Jr.
United States Senate
308 Senate Hart Building
Washington, D.C. 20510

1314

**Statement of
Coretta Scott King
on the Nomination of
Jefferson Beauregard Sessions, III
for the
United States District Court
Southern District of Alabama**

**Senate Judiciary Committee
Thursday, March 13, 1986**

Statement of
Coretta Scott King
on the Nomination of
Jefferson Beauregard Sessions
for the
United States District Court
Southern District of Alabama

Senate Judiciary Committee
Thursday, March 13, 1986

Mr. Chairman and Members of the Committee:

Thank you for allowing me this opportunity to express my strong opposition to the nomination of Jefferson Sessions for a federal district judgeship for the Southern District of Alabama. My longstanding commitment which I shared with my husband, Martin, to protect and enhance the rights of Black Americans, rights which include equal access to the democratic process, compels me to testify today.

Civil rights leaders, including my husband and Albert Turner, have fought long and hard to achieve free and unfettered access to the ballot box. Mr. Sessions has used the awesome power of his office to chill the free exercise of the vote by black citizens in the district he now seeks to serve as a federal judge. This simply cannot be allowed to happen. Mr. Sessions'

conduct as U.S. Attorney, from his politically-motivated voting fraud prosecutions to his indifference toward criminal violations of civil rights laws, indicates that he lacks the temperament, fairness and judgment to be a federal judge.

The Voting Rights Act was, and still is, vitally important to the future of democracy in the United States. I was privileged to join Martin and many others during the Selma to Montgomery march for voting rights in 1965. Martin was particularly impressed by the determination to get the franchise of blacks in Selma and neighboring Perry County. As he wrote, "Certainly no community in the history of the Negro struggle has responded with the enthusiasm of Selma and her neighboring town of Marion. Where Birmingham depended largely upon students and unemployed adults [to participate in non-violent protest of the denial of the franchise], Selma has involved fully 10 per cent of the Negro population in active demonstrations, and at least half the Negro population of Marion was arrested on one day." — Martin was referring of course to a group that included the defendants recently prosecuted for assisting elderly and illiterate blacks to exercise that franchise. In fact, Martin anticipated from the depth of their commitment twenty years ago, that a united political organization would remain in Perry County long after the other marchers had left. This organization, the Perry County Civic League, started by Mr. Turner, Mr. Hogue, and others,

—/ The New York Times, Sunday Magazine, March 14, 1985.

as Martin predicted, continued "to direct the drive for votes and other rights." In the years since the Voting Rights Act was passed, Black Americans in Marion, Selma and elsewhere have made important strides in their struggle to participate actively in the electoral process. The number of Blacks registered to vote in key Southern states has doubled since 1965. This would not have been possible without the Voting Rights Act.

However, Blacks still fall far short of having equal participation in the electoral process. Particularly in the South, efforts continue to be made to deny Blacks access to the polls, even where Blacks constitute the majority of the voters. It has been a long up-hill struggle to keep alive the vital legislation that protects the most fundamental right to vote. A person who has exhibited so much hostility to the enforcement of those laws, and thus, to the exercise of those rights by Black people should not be elevated to the federal bench.

The irony of Mr. Sessions' nomination is that, if confirmed, he will be given life tenure for doing with a federal prosecution what the local sheriffs accomplished twenty years ago with clubs and cattle prods. Twenty years ago, when we marched from Selma to Montgomery, the fear of voting was real, as the broken bones and bloody heads in Selma and Marion bore witness. As my husband wrote at the time, "it was not just a sick imagination that conjured up

the vision of a public official, sworn to uphold the law, who forced an inhuman march upon hundreds of Negro children; who ordered the Rev. James Bevel to be chained to his sickbed; who clubbed a Negro woman registrant, and who callously inflicted repeated brutalities and indignities upon nonviolent Negroes peacefully petitioning for their constitutional right to vote," -/

Free exercise of voting rights is so fundamental to American democracy that we can not tolerate any form of infringement of those rights. Of all the groups who have been disenfranchised in our nation's history, none has struggled longer or suffered more in the attempt to win the vote than Black citizens. No group has had access to the ballot box denied so persistently and intently. Over the past century, a broad array of schemes have been used in attempts to block the Black vote. The range of techniques developed with the purpose of repressing black voting rights run the gamut from the straightforward application of brutality against black citizens who tried to vote to such legalized frauds as "grandfather clause" exclusions and rigged literacy tests.

The actions taken by Mr. Sessions in regard to the 1984 voting fraud prosecutions represent just one more technique

/ "Civil Right No. 1 -- The Right to Vote," by Martin Luther King, Jr., The New York Times, Sunday Magazine, March 14, 1965.

used to intimidate Black voters and thus deny them this most precious franchise. The investigations into the absentee voting process were conducted only in the Black Belt counties where blacks had finally achieved political power in the local government. Whites had been using the absentee process to their advantage for years, without incident. Then, when Blacks, realizing its strength, began to use it with success, criminal investigations were begun.

In these investigations, Mr. Sessions, as U.S. Attorney, exhibited an eagerness to bring to trial and convict three leaders of the Perry County Civic League including Albert Turner despite evidence clearly demonstrating their innocence of any wrongdoing. Furthermore, in initiating the case, Mr. Sessions ignored allegations of similar behavior by whites, choosing instead to chill the exercise of the franchise by blacks by his misguided investigation. In fact, Mr. Sessions sought to punish older black civil rights activists, advisors and colleagues of my husband, who had been key figures in the civil rights movement in the 1960's. These were persons who, realizing the potential of the absentee vote among Blacks, had learned to use the process within the bounds of legality and had taught others to do the same. The only sin they committed was being too successful in gaining votes.

The scope and character of the investigations conducted by Mr. Sessions also warrant grave concern. Witnesses were selectively chosen in accordance with the favorability of their testimony to the government's case. Also, the prosecution illegally withheld from the defense critical statements made by witnesses. Witnesses who did testify were pressured and intimidated into submitting the "correct" testimony. Many elderly blacks were visited multiple times by the FBI who then hauled them over 180 miles by bus to a grand jury in Mobile when they could more easily have testified at a grand jury twenty miles away in Selma. These voters, and others, have announced they are now never going to vote again.

I urge you to consider carefully Mr. Sessions' conduct in these matters. Such a review, I believe, raises serious questions about his commitment to the protection of the voting rights of all American citizens and consequently his fair and unbiased judgment regarding this fundamental right. When the circumstances and facts surrounding the indictments of Al Turner, his wife, Evelyn, and Spencer Hogue are analyzed, it becomes clear that the motivation was political, and the result frightening -- the wide-scale chill of the exercise of the ballot for blacks, who suffered so much to receive that right in the first place. Therefore, it is my strongly-held view that the appointment of Jefferson Sessions to the federal bench would irreparably damage the work of my husband, Al Turner, and countless others who risked their

lives and freedom over the past twenty years to ensure equal participation in our democratic system.

The exercise of the franchise is an essential means by which our citizens ensure that those who are governing will be responsible. My husband called it the number one civil right. The denial of access to the ballot box ultimately results in the denial of other fundamental rights. For, it is only when the poor and disadvantaged are empowered that they are able to participate actively in the solutions to their own problems.

We still have a long way to go before we can say that minorities no longer need be concerned about discrimination at the polls. Blacks, Hispanics, Native Americans and Asian Americans are grossly underrepresented at every level of government in America. If we are going to make our timeless dream of justice through democracy a reality, we must take every possible step to ensure that the spirit and intent of the Voting Rights Act of 1965 and the Fifteenth Amendment of the Constitution is honored.

The federal courts hold a unique position in our constitutional system, ensuring that minorities and other citizens without political power have a forum in which to vindicate their rights. Because of this unique role, it is essential that the people selected to be federal judges respect the basic tenets of our legal system: respect for individual rights and a commitment to equal justice for all.

The integrity of the Courts, and thus the rights they protect, can only be maintained if citizens feel confident that those selected as federal judges will be able to judge with fairness others holding differing views.

I do not believe Jefferson Sessions possesses the requisite judgment, competence, and sensitivity to the rights guaranteed by the federal civil rights laws to qualify for appointment to the federal district court. Based on his record, I believe his confirmation would have a devastating effect on not only the judicial system in Alabama, but also on the progress we have made everywhere toward fulfilling my husband's dream that he envisioned over twenty years ago. I therefore urge the Senate Judiciary Committee to deny his confirmation.

I thank you for allowing me to share my views.

1/5/2017

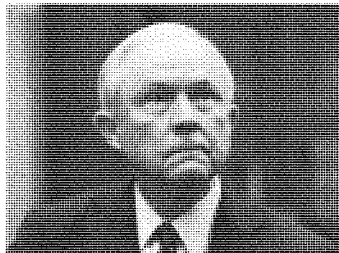
The Law Professors' Scandalous Statement Against Jeff Sessions

Forbes**Michael I. Krauss** Contributor*Law Prof. I write about Torts, Legal Ethics & Foreign Policy Issues**Opinions expressed by Forbes Contributors are their own.*

OPINION 1/05/2017 @ 11:46AM 698 views

The Law Professors' Scandalous Statement Against Jeff Sessions

On Jan. 10, Senator Jeff Sessions is scheduled to appear before the Senate Judiciary Committee to present his qualifications to replace Loretta Lynch as Attorney-General of the United States. In anticipation of his hearing, over 1300 law professors have signed onto a statement to the Chairman and Ranking Member of the Committee, which urges them to reject President-Elect Trump's nomination of Sessions.

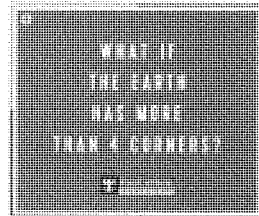


FILE - On Jan. 10, Sen. Jeff Sessions, R-Ala., is scheduled to appear before the Senate Judiciary Committee, Chairman Grassley, R-Iowa, in Washington. (AP Photo/Molly Riley, File)

Let me emphasize that I do not know Senator Sessions. I am not a member of Mr. Trump's transition team. I write about this solely in my capacity as a Professor of Legal Ethics. One of my main goals as a professor of legal ethics is to try to show my students, through my teaching and scholarship, that officers of the court should be pondered and serious. We should not engage in casual character assassination. We should not become partisan hacks.



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The Law Professors' Scandalous Statement Against Jeff Sessions

In that capacity, I regret having to conclude that the statement shames me as a law professor.

The statement is little more than a diatribe of charges against Sessions, many of which have nothing to do with his ability to execute the functions of the office to which he has been nominated. Thus:

- The statement claims that some (it never says how many) of its signers object to Sessions' view that illegal entry into America should be prohibited. Wanting to enforce our laws is not disqualifying for an Attorney General, except perhaps in a Bizarro world.
- The statement claims that some (it never says how many) of its signers object to Sessions' willingness to enforce existing drug laws. Again, it is fatuous to criticize a would-be Attorney General for desiring to enforce existing laws.
- The statement claims that some (it never says how many) of its signers object to Sessions' views about the relationship between fossil fuels and climate change. As regards his fitness as Attorney General, I don't care what those views are any more than I care what Sessions thinks about NATO or the Designated Hitter rule.
- The statement claims that some (it never says how many) of its signers object to Sessions' opposition to unnamed legislative efforts of which they approved, and which would in their opinion have favored women, homosexuals, and transgendered people. They don't elaborate on any of this, nor do they note that the Attorney General cannot pass new legislation, but is entrusted with enforcing it. They never claim that Sessions would not enforce legislation of which he disapproves. Note to signatories: being of the opposite political party from you is not grounds for refusing to confirm.
- Last and certainly not least, the statement claims that some (it never says how many) of its signers object to Sessions' nomination because he was accused of racial insensitivity in his prosecution of three people for voting fraud when he served as United States Attorney for the Southern District of Alabama 32 years ago. The statement further

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claims that this racial insensitivity was the reason why Sessions was not confirmed as a federal judge following his nomination by President Reagan in 1986. This charge would be relevant to his position (though surely not decisive – if one's position on issues 32 years ago are disqualifying today, few if any recent federal office-holders would be in office) if it were true. But the statement does not provide the slightest bit of evidence in support of its defamatory conclusion.

In 1985 three (black) defendants were accused of having altered the absentee ballots of (black) voters in order to defeat some (black) candidates the defendants opposed, and to ensure victory for other (black) candidates the defendants favored. U.S. Attorney Sessions had received a call from the Perry County (Ala.) district attorney, informing him that two (black) Democratic officials, whose candidacies were opposed by civil rights leader Albert Turner, “were very concerned that a concerted effort was being made to deny a fair election” through the multiplication of altered absentee ballots by Turner and his allies. A subsequent examination of absentee ballots revealed that many had indeed been altered, always from non-Turner-supported candidates to Turner-supported candidates (including Turner himself). Turner apparently admitted to making alternations, but claimed that the voters had authorized him to make them (though Alabama law prohibited candidates from ever touching absentee ballots for any reason). Several (black) voters denied ever having authorized the alteration of their completed ballots.

Sessions assigned two attorneys to prosecute the case. They were opposed by large (eleven different attorneys at various times) team for the defense. Turner and his two co-defendants were acquitted. Note, though, that William Kimbrough Jr., Sessions' Democratic predecessor as United States Attorney, testified on Sessions' behalf in 1986 that his defeat in court did NOT mean the prosecution was unjustified:

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“Quite often, in the South, you do not win civil rights cases. That is not to say they should not be brought. I personally tried a number of civil rights cases involving police brutality or alleged police brutality, and I do not believe I won one of them. I do not apologize to anyone for having brought the case. There was probable cause to believe that somebody's rights had been abused.... You bring the case because the case needs to be brought.”

For what it's worth, even Albert Turner's son has recognized that Sessions was “doing his job,” competently and ethically, by bringing charges against his parents. “My differences in policy and ideology with (Sessions) do not translate to personal malice,” said Albert Turner Jr., now a county commissioner in Perry County. “He is not a racist.”

As I stated above, I have never met Senator Sessions. I am not on his “team.” But I think he is entitled to a fair hearing, not one biased by a conclusory and dubious “statement” concocted by 1300 academics, the great majority of whom possibly signed on without doing any independent research. I think Mr. Turner is right — this is all about political differences between the signatories of the statement and Jeff Sessions, not about his fitness for office.

Joe Biden told CNN in December, “The president should get the person that they want for that job [Attorney General], as long as they commit, under oath, that they are going to uphold the law.”

Character assassination is so unworthy of our profession — what an awful example to set for the budding lawyers who are our students! The ABA Model Rules of Professional Conduct prohibit “conduct that is prejudicial to the administration of justice.” I contend that the law professors’ statement, which condemns Attorney General nominee Jeff Sessions based on irrelevancies and innuendoes, is just that.

Michael Krauss is Professor of Law at the Antonin Scalia School of Law at George Mason University, and is a nationally known scholar of Tort Law and Legal Ethics. His home page is [here](#).

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The Law Professors' Scandalous Statement Against Jeff Sessions

The Recruiter Said 'You Think Pretty Highly Of Yourself, Don't You?'

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**STATEMENT
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

**RE: OPPOSITION TO SENATOR JEFFERSON SESSIONS' NOMINATION TO SERVE
AS ATTORNEY GENERAL OF THE UNITED STATES**

The Lawyers' Committee for Civil Rights Under Law was founded in 1963 at the behest of John F. Kennedy who called upon the private bar to contribute its time and resources to combat discrimination. We are pleased to present this testimony to the U.S. Senate Judiciary Committee regarding the nomination of Senator Jefferson Sessions to serve as Attorney General of the United States.

The position of the Attorney General is unique in American governance. As the head of the Department of Justice and the nation's top law enforcement officer, the Attorney General has the high duty of vigorously enforcing the law. Enforcement of the nation's civil rights laws is one of the most important responsibilities of the Attorney General in inspiring confidence in all communities in the United States, especially at a time, like now, when racial divide and tensions are increasing. This responsibility is of special importance to fulfilling the mission of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"). As Senator Bingaman explained during Senate debate on another nominee, the Attorney General is uniquely situated within the President's cabinet:

"The position of Attorney General is not comparable to other Cabinet positions. As head of the Department of Justice, the Attorney General has enormous independent responsibility and authority, neither of which is subject directly to direction by the President Historically, the Attorney General is the officer who has enforced the Voting Rights Act and the other civil rights laws which have transformed our nation for the better in the last half century. Given the great power which has been lodged in this office, it is important that the American people have confidence in the fairness and impartiality of the occupant of that office."

- Congressional Record, 01/31/2001, S872

At this time, our country needs an Attorney General who has a record of supporting civil rights laws and the principles underlying them, and taking actions that demonstrate this commitment. Unfortunately, the nomination of Senator Sessions to be Attorney General is a major step backwards in fulfilling this critical responsibility. His long record of hostility to civil rights enforcement makes him the wrong choice to serve as this nation's Attorney General.

Initially, it is important to take note of Senator Sessions' effort to claim that he was a strong enforcer of voting rights and school desegregation laws when he was Attorney General of Alabama and U.S. Attorney. In his recent response to a question in the Committee's questionnaire for his confirmation hearings, he was asked to list the "ten most significant litigated matters that [he] personally handled." Senator Sessions' response to this question listed three voting rights cases



and one school desegregation case. But, as pointed out in a recent editorial in the *Washington Post*, three former attorneys of the Department's Civil Rights Division (including one Lawyers' Committee attorney) who personally handled three of the four cases stated "categorically that Senator Sessions had no substantive involvement in any of them." Rather he did "what any U.S. attorney would have had to do: signed his name on the complaint, and have his name added on any motions or briefs. That's it." In fact, in responding to a previous questionnaire from the Judiciary Committee, he did not even mention these cases.

A more accurate picture of Senator Sessions' commitment to civil rights is demonstrated by the historical record.

Record on Voting Rights

One of the top priorities of the Lawyers' Committee for Civil Rights Under Law is ensuring compliance with the Voting Rights Act of 1965. Senator Sessions' political career demonstrates hostility towards the principles underlying civil rights laws that spans over thirty years.¹ In response to the Supreme Court's 2013 decision in *Shelby County v. Holder* which gutted Section 5 of the Voting Rights Act, Senator Sessions stated, "but now if you go to Alabama, Georgia, North Carolina, people aren't being denied the vote because of the color of their skin." However, the ongoing work of the Lawyers' Committee indicates otherwise. Indeed, we have filed voting rights lawsuits in all three states in the past year alone. In Alabama, we filed suit alleging that the method of electing Alabama's most powerful judges violates the Voting Rights Act.¹ In Hancock County, Georgia, we filed suit in 2015 to stop the attempted purge of African-American voters from the voting rolls, and obtained a court order requiring that those wrongly struck from the register be placed back on the rolls.² Also in Georgia, we and other organizations filed suit in 2016 to stop the improper rejection of over 40,000 voter registration applications, predominately filed by African Americans, resulting in an agreement by the State to allow the applicants to vote.³ And also in 2016, the Fourth Circuit Court of Appeals ruled that an array of voter suppression laws enacted by the North Carolina Legislature were passed with the intent to discriminate against African Americans.⁴

While Senator Sessions voted in favor of reauthorizing the expiring provisions of the Voting Rights Act in 2006, during his 1986 confirmation hearing, Senator Sessions described the Act as a "piece of intrusive legislation." This disdain for one of our nation's most important federal civil rights laws is particularly problematic at a moment in which we continue to see ongoing voting discrimination and voter suppression across our country. Furthermore, he has a deep history of opposing and undermining cases on behalf of traditionally disenfranchised voters. Those cases include the following:

¹ *NAACP v. State of Ala.*, 2:16-cv-00731 (M.D. Ala. 2016).

² *Georgia State Conference of the NAACP, et al., v. Hancock County Board of Elections and Registration, et al.*, 5:15-cv-0414-CAR, M.D. GA.

³ *NAACP, et al., v. Kemp, et al.*, 2:16-cv-219-WCO, N.D.GA.Gainesville Div.

⁴ *N. Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).



White v. Alabama

This past September, the Lawyers' Committee filed a new federal voting rights lawsuit in Senator Sessions' home state of Alabama concerning the at-large method of election that has long been used for the state's three highest courts. The predecessor to our case, *White v. Alabama*, was initiated in 1994 by a group of African American voters who asserted the same Voting Rights Act violation as our current case – that the at-large system of electing Alabama appellate judges violated Section 2 of the Act. The statewide at-large method of electing these judges, combined with the enduring presence of racially polarized voting in the state, ensures that most every elected appellate judge in Alabama is the candidate of choice of the white majority. At that time of the *White* litigation, only one of the nineteen appellate judges in Alabama was African-American even though African Americans comprised over 25% of the State's population. For the previous 125 years, only two African Americans, both of whom were appointed by the Governor, had served as an appellate court judge.⁷

In October 1994, a federal district court approved a settlement in the *White* case which had been negotiated by the then-State Attorney General of Alabama, Jimmy Evans. The settlement was designed to provide significant African American representation on the Alabama judiciary for the first time in the state's history. At the time of the settlement, Senator Sessions was running for Alabama Attorney General against Evans and vigorously opposed the agreement, including making an appearance before the district court in opposition when the court was reviewing the matter.

Subsequently, Senator Sessions was elected as the new Alabama Attorney General and soon after, when the case was on appeal, he reversed the position of the previous Alabama Attorney General and urged a panel of federal circuit judges to reject the settlement, arguing that he could not defend the terms agreed to by his predecessor and approved by the district court because they improperly focused on race. The court subsequently vacated the settlement,⁸ but Sessions made no further efforts at reaching an acceptable settlement. The alleged Section 2 Voting Rights Act violation was not further pursued, either when Senator Sessions was the Alabama Attorney General or any time since, until the recent filing of our case.

Today, twenty years later, there is not one African American appellate judge in Alabama. All nineteen are white. Because of this continued lack of minority representation, we filed our suit in an attempt to finally bring the three highest courts in Alabama into compliance with the Voting Rights Act. Once again we argue that the at-large election method used to select appeals court judges unlawfully dilutes the voting strength of African Americans and prevents them from electing candidates of their choice.⁹

Senator Sessions' rejection of the settlement in the *White* case resulted in a discontinuation of that case and the continuation of an all-white judiciary in Alabama. Our lawsuit reflects the

⁷ *White v. State of Ala.*, 867 F. Supp. 1519, 1527 (M.D. Ala. 1994).

⁸ *White v. State of Ala.*, 74 F.3d 1058 (11th Cir. 1996).

⁹ *NAACP v. State of Ala.*, 2:16-cv-00731 (M.D. Ala. 2016).



importance of addressing, through the Voting Rights Act, discrimination which has historically been the cause of the complete lack of minority representation on Alabama state courts. It is an example of the kind of voting discrimination that we continue to see in many communities across our country.

The Marion Three Case

In 1985, during his tenure as U.S. Attorney for the Southern District of Alabama under then President Ronald Reagan, then Attorney General Sessions pressed charges against eight residents from Greene and Perry counties, accusing them of altering absentee ballots. Of the accused, seven out of eight of were black. Among the group were longtime civil rights activist Albert Turner, of the Southern Christian Leadership Conference, his wife Evelyn Turner, and fellow activist Spencer Hogue – later known as the Marion Three – who had long conducted voter registration drives throughout rural Black Belt counties, aiming to boost registration rates among poor and elderly African Americans. Turner became known as “Mr. Voter Registration,” and is credited with the African American community’s gain of political control in many counties in the Alabama Black Belt. On the basis of highly questionable evidence of an effort by the Marion Three and others to commit voter fraud, Senator Sessions dispatched dozens of FBI agents to repeatedly visit homes of rural black residents. The countless hours of interrogation yielded only 14 allegedly tampered ballots out of more than 1.7 million cast statewide in the 1984 election. When brought to trial for the alleged crimes, Federal District Judge Emmett Cox dismissed 50 counts against the defendants due to lack of evidence and all the remaining counts resulted in an acquittal by the jury. In other words, what was clearly a major effort by then Attorney General Sessions to prosecute alleged “voter fraud” was based on flimsy or nonexistent evidence.

The approach of Senator Sessions in this case is particularly troubling in the context of repeated claims of “voter fraud” when the overwhelming evidence is that there are but a handful of such cases around the country. The Justice Department will be responsible for overseeing these claims and the responses of the states to them. Consequently, the next Attorney General must be fair-minded and trusted by the entire country in evaluating these claims.

Voting Rights Act of 1965

The Lawyers’ Committee knows the reality of voting discrimination and voter suppression all too well having filed more than 12 such cases in 2016 alone. Our nation deserves an Attorney General who recognizes the existence of voting discrimination and who will use the Voting Rights Act as a tool to confront it. There is no evidence in Senator Sessions’ record that suggests he would bring any commitment to attacking voting discrimination. In fact, he denies its existence in many states with the most egregious histories of such discrimination.

Record On Criminal Justice

The Department of Justice enforces federal criminal laws, including criminal laws that protect our civil rights; it operates a prison system; and it enforces civil laws protecting us from civil rights violations committed by law enforcement agencies. Prosecuting hate crimes, creating



trust between minority communities and law enforcement, and reducing the over-incarceration of minority men and women are essential to unifying our country. Today, approximately 211,000 people are locked up in federal prisons, according to data from the Prison Policy Initiative. Below is an overview of pressing criminal justice issues that must continue to be national priorities but would likely be disregarded by Senator Sessions.

Police Oversight

In response to a string of police-involved shootings of civilians, the Justice Department utilizes its powers to investigate law enforcement agencies accused of a “pattern or practice” of violating civil rights. When the Justice Department identifies civil rights violations, the Department may bypass litigation and enter into consent decrees with the offender agencies to resolve the pattern or practice of unconstitutional or otherwise unlawful conduct. In a new report issued on January 4, 2017, the Justice Department confirmed that there are currently 18 open agreements in pattern or practice policing cases, including 14 court-enforced consent decrees. In the introduction to a 2008 paper published by the Alabama Police Institute, Senator Sessions condemned such interventions as an abuse of federal authority.¹⁰ “Consent decrees have a profound effect on our legal system as they constitute an end run around the democratic process,” he wrote. This statement suggests that Senator Sessions will not carry forward the critical work of the Justice Department in this area and may abandon the pattern or practice violations addressed by the 18 existing agreements. Such a result would dismantle years of work to restore constitutional policing practices at offending law enforcement agencies across the country.

Sentencing

The Attorney General guides U.S. attorneys toward stricter or more lenient sentences through charging memos. While individual U.S. attorneys have some discretion, the Attorney General sets the tone for use of that discretion. Former Attorney General Eric Holder advised against piling on charges for low-level drug offenders and seeking maximum sentences, a policy Senator Sessions is unlikely to continue. Senator Sessions was a longtime supporter of eliminating sentencing discrepancies between crack and cocaine offenders, but he helped block broader drug sentencing reform in the Senate in 2016 despite wide bipartisan support, saying it would release “violent felons” into the street.

Today, the United States comprises just 5% of the world’s population but it incarcerates almost 25% of all of the world’s prisoners. In 2010 alone, state and federal governments spent \$80 billion on incarceration. Of the 216,000 current federal inmates, nearly half are serving time for drug-related crimes.

If confirmed, Senator Sessions will likely reverse the significant progress that has been made to adjust sentencing ranges for low-level drug offenders, destroying years of efforts to reduce

¹⁰ <http://www.alabamapolice.org/wp-content/uploads/API-Research-Consent-Decrees.pdf>



federal prison populations and rein in federal prison spending while directing limited federal resources towards more serious threats to public safety.

Hate Crimes

Senator Sessions fiercely opposed the 2009 Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. The Act extended federal hate crime protections to people victimized because of their sexual orientation, gender or gender identity, or disability. The law mandates that the Attorney General – or a designee – sign off on all criminal prosecutions brought under the Act. In a speech on the Senate floor in July 2009, Senator Sessions agreed that people should not be attacked because of their sexual orientation or gender, but he argued that federal prosecution of such attacks was unnecessary because there was no evidence that they weren't being prosecuted adequately at the state and local levels. The incoming Attorney General will be in a position to effectively neutralize the protections the law affords.

But, we have seen a significant uptick in the number of hate crimes and hate-inspired incidents across the country in the last several weeks of 2016. While no official FBI data on this period has yet been produced, these incidents have been well documented and recorded by media. This moment requires an Attorney General who bring a deep commitment to aggressive enforcement of our nation's laws addressing hate to help turn the tide on this pattern of growing hostility and intolerance. Senator Sessions' record raises grave concerns that he would bring such commitment to the job.

Lack of Commitment to Judicial Diversity

Senator Sessions' actions in the *White* case also reflect his lack of commitment to the importance of diversity at every stage of the country's judicial system. The Lawyers' Committee's Judicial Diversity Program seeks to improve the judicial system through increased representation from people of diverse backgrounds working on the judicial bench.¹¹ Judicial diversity is especially important in maintaining and increasing public confidence in the legitimacy of the courts. As the American Bar Association's Judicial Division has stated:

"The public's trust and confidence in the justice system is enhanced when they see that the judges deciding their cases resembles the vast racial, ethnic, and cultural groups that make up American society. Likewise, a diverse judicial branch expands an individual judge's perspective in making decisions that impact a diverse population."

American Bar Association, Judicial Division

As a United States Senator, Senator Sessions' opposition to judicial diversity has not been limited to the Alabama appellate judiciary. An African American has never served in the Alabama seat of the 11th Circuit Court of Appeals. Earlier this year, President Obama nominated Abdul Kallon to serve on the 11th Circuit, a nomination applauded by the Lawyers' Committee. If

¹¹ <https://lawyers-committee.org/project/public-policy/judicial-diversity>.



confirmed he would have become the first African American federal court of appeals judge from Alabama. However, even though the vacancy on the Court of Appeals has been declared a judicial emergency,¹² Senator Sessions continued his anti-judicial diversity stance and refused to support the nomination.

Senator Sessions' hostility to judicial diversity is significant because of the Justice Department's critical role in evaluating judicial nominees by way of the Office of Legal Program's role in advising the President on nominations for Article III judgeships.

Legislative Record On Civil Rights Matters

On a range of civil rights matters concerning race, gender and immigrants' rights, Senator Sessions has consistently and often stood opposed.

In 2015, Senator Sessions supported the Stop Sanctuary Policies and Protect Americans Act, which would have prohibited sanctuary jurisdictions from receiving federal grant money.¹³

In 2013, Senator Sessions voted against the 2013 reauthorization of the Violence Against Women Act. A bill signed into law by President Obama, VAWA 2013 recognized tribes' inherent power to exercise "special domestic violence criminal jurisdiction" over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country.¹⁴

In 2013, Senator Sessions opposed the bipartisan immigration reform bill that passed the Senate. When it passed, he published an "Immigration Handbook for the New Republican Majority" to assist efforts to defeat the bill in the House, and has updated the handbook to oppose subsequent efforts to enact immigration reform.¹⁵

In 2013, Senator Sessions supported an amendment to the Employer Non-Discrimination Act of 2013. The amendment exempts religiously affiliated employers from the prohibition on employment discrimination based on sexual orientation and gender identity.¹⁶

In 2012, Senator Sessions did not support The Convention on the Rights of Persons with Disabilities. The purpose of the Treaty was to ensure that the equality of treatment and nondiscrimination, precepts anchored in the United States Constitution are extended to all citizens, including those with disabilities.¹⁷

¹² <http://www.uscourts.gov/judges-judgeships-judicial-vacancies-judicial-emergencies>

¹³ <https://www.congress.gov/bills/114/10/congress/senate/bill/2146>

¹⁴ <https://www.govtrack.us/congress/bills/113/s47/text>

¹⁵ http://www.senate.gov/legislative/118/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=1&vote=001

¹⁶

¹⁶ <https://www.congress.gov/amendment/113th-congress/senate-amendment/2013>

¹⁷ <https://www.congress.gov/treaty-document/112th-congress/7>



In 2011, Senator Sessions opposed the reauthorization of the Violence Against Women Act of 2012.¹⁸

In 2010, Senator Sessions voted against a motion for cloture on a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.¹⁹

In 2009, Senator Sessions voted against the Lilly Ledbetter Fair Pay of 2009. The bill – which was the first piece of legislation that President Obama signed into law – amended the Civil Rights Act of 1964 to ensure that the statute of limitations does not unfairly bar claims of pay disparity based on gender discrimination.²⁰

In 2006, Senator Sessions supported a federal constitutional amendment to ban same-sex marriage. He voted to invoke cloture and move to a final vote on the amendment, which fell 11 votes short of the 60 it needed to pass.²¹

In 2006, Senator Sessions voted with a unanimous Senate to reauthorize the Voting Rights Act of 1965, but he has criticized the landmark civil rights law as "intrusive," and agreed with the Supreme Court's 2013 decision, *Shelby County, Alabama v. Holder*, that struck down key provisions of the law.

In 2002, Senator Sessions voted against a bill that would have expanded the definition of hate crimes to incorporate acts committed because of a victim's sex, sexual orientation or disability and permit the federal government to help states prosecute hate crimes even if no federally protected action was implicated. He voted not to invoke cloture and move to a final vote on the amendment, which fell 6 votes short of the 60 it needed to pass.²²

In 1997, Senator Sessions co-sponsored the Civil Rights Act of 1997, a bill which would eliminate affirmative action by the federal government in connection with federal contracts, employment, or other programs by the activities.²³

In addition to his consistent opposition to important federal civil rights legislation, he has also consistently opposed the nominations of African Americans, Latinos and other minorities to Senate-confirmed positions including Justice Sonia Sotomayor, United States Attorney General Loretta Lynch, Assistant United States Attorney General for the Civil Rights Division Bill Lann Lee, among others.

¹⁸ <https://www.congress.gov/bills/112th-congress/senate/bills/1925/text>

¹⁹ <https://www.congress.gov/bills/111th-congress/senate/bills/3772>

²⁰ http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=001

²¹ http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=001

²² http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=001

²³ <https://www.govtrack.us/congress/bills/105/s950/text>



Integrity and Fairness

The Attorney General leads the nation's largest law enforcement agency, comprised of more than 113,000 employees. That said, a court found that grave prosecutorial misconduct was carried out under Senator Sessions' leadership of the Alabama State Attorney General's Office during his term as State Attorney General. In *State of Alabama v Tieco* (Jefferson County, Alabama 1996), the court found that the "misconduct of the Attorney General in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this court."

The court concluded that the State Attorney General either refused or failed to turn in exculpatory evidence when requested; failed or refused to comply with previous discovery orders issued by the court; and repeatedly lied to the court, denying the existence of evidence, which was later discovered by the defense. The court also found the use of deceptive testimony; imposition of false charges; a flagrant disregard of the constitutional rights of the accused parties; and complete disregard of the law when issuing a subpoena demanding that witnesses appear before a jury and testify, among other things.

The prosecutorial misconduct of the magnitude described here raises grave questions about Senator Sessions' integrity and fitness for the chief law enforcement role in our nation. Furthermore, seeing as Senator Sessions could not properly control a far smaller State Attorney General's office of less than 200, it raises serious questions as to his fitness and ability to lead one of our nation's most important and largest federal agencies. His track record creates doubt surrounding whether or not he is truly fit to be the Attorney General of the United States.

Conclusion

Senator Sessions' public record demonstrates a deficient commitment to upholding and enforcing the Constitution and civil rights laws, ensuring equal justice under the law and promoting the rule of law. His record makes clear he will not be a vigorous force in promoting the causes of racial and gender equality to which this nation must be committed. Furthermore, the grossly inadequate completion of Senator Sessions' Senate Judiciary Committee Questionnaire demonstrates a failure to understand the importance and necessity of a thorough and honest vetting of our next Attorney General. Now more than ever, it is essential that the American people believe in the integrity of this position. For these reasons and more, the Lawyers' Committee for Civil Rights Under Law issues this statement in opposition to Senator Jeff Sessions' nomination to serve as United States Attorney General.

**Environmental Leaders' Statement on Civil and Human Rights,
Social Justice and an Inclusive Economy**

As leaders of the U.S. environmental movement, we are mothers and fathers, daughters and sons, white, black, Latino, Asian, Native American, of many creeds, faiths and religions. We come from diverse backgrounds and near infinite preferences and beliefs. But above all, we are concerned individuals and concerned members of the human race.

For these reasons, we join our voices with millions across the United States and around the world who are speaking out against the intolerance we are witnessing because we believe in justice for all and equal protection under the law. We will advocate to protect our rights to clean air and water, to dwell in a livable climate and to exercise our freedom of religion and cultural beliefs. We are united in guarding our natural spaces, and preserving the diverse and abundant life that shares our world.

We stand in solidarity with national and global movements for civil rights and social justice, to end structural racism and to empower women, people of color, immigrants, indigenous, disabled, and LGBTQi people as fully equal and fully safe members of our society. We will champion efforts to foster an inclusive economy that is both just and sustainable.

The environmental movement is, at its heart, about protecting the home we all share, not just for ourselves but for the generations to come. There is a place for everyone in that home. But there is not a place for hate. We have witnessed with alarm the rapid, abhorrent and dangerous rise in racist and violent acts in communities across the nation in the wake of the election, and we condemn the language and actions during and since the election that have fostered or encouraged those acts.

We will oppose hatred and abuses of civil and human rights because they are incompatible with a just and sustainable future. Creating that future requires inclusion and equality - and the unequivocal defense of both.

We call on our allies that have not yet done so to join us in solidarity with frontline communities, beginning with making a public statement and pledging to support building an inclusive future for all communities.

And we call on President-elect Trump to put out a statement that is inclusive of all people, expresses respect and understanding for the fears many Americans are now feeling, and upholds the unique and grave responsibility of the Presidency to protect all Americans equally. In doing so, we demand that *all* his nominees and appointees honor fundamental civil rights and embody civility befitting the offices for which they have been selected. Therefore, we call on the President-elect to rescind the appointment of Steven Bannon as Chief Strategic Advisor and withdraw the nomination of Senator Jeff Sessions for Attorney General to signify his move to represent all equally and protect the rights of all people.

Protection of our planet is an absolute necessity for the survival and health of the human race and other species. And a strong commitment to human rights for all is a fundamental building block to the protection of our planet.

Michael Brune
Executive Director
Sierra Club

Keya Chatterjee
Executive Director
US Climate Action Network

Allison Chin
Board Member
Sierra Club and Women's Voices for the Earth
Green Leadership Trust, Co-Chair

Jamie Rappaport Clark
President
Defenders of Wildlife

Tony DeFalco
Board Member
Earthjustice
Green Leadership Trust Steering Committee

Dianne Dillon-Ridgley
Board Member
National Wildlife Federation and Center for
International Environmental Law
Green Leadership Trust Steering Committee

Dr. Michael K. Dorsey
Director
National Sierra Club Board

Michel Gelobter
Board Member
Ceres and CalCEF

Carmen G. Gonzalez
Board Member
Earthjustice

Reginald "Flip" Hagood
Governing Council Member
The Wilderness Society
Green Leadership Trust, Co-Chair

David Hahn-Baker
Clean Water Fund
Green Leadership Trust Steering Committee

Jamie Hoyte
Board Member and Treasurer
Union of Concerned Scientists
Green Leadership Trust Steering Committee

John E Huerta
Board Member Emeritus
National Parks Conservation Association

Gene Karpinski
President
League of Conservation Voters

Ken Kimmell
President
Union of Concerned Scientists

Annie Leonard
Executive Director
Greenpeace US

Mark Magaña
Board Member
League of Conservation Voters
Green Leadership Trust Co-Chair

Aaron Mair
Board Chair, Sierra Club
Board Member, Arbor Hill Environmental
Justice
Green Leadership Trust Steering Committee

Juan D. Martinez
Board Member
The Wilderness Society

Anuja Mendiratta
Emeritus board member
Women's Voices for the Earth

Carroll Muffett
President
Center for International Environmental Law

Brian O'Donnell
Executive Director
Conservation Lands Foundation

Angela Park
Angela Park Consulting

Audrey Peterman
Board Member
National Parks Conservation Association

Erich Pica
President
Friends of the Earth US

Adrianna Quintero
Board Member
US Climate Action Network

Lauret Savoy
National Parks Conservation Association

John Seager
President
Population Connection

Patrice L. Simms
Howard University School of Law
Earthjustice

Tamara Toles O'Laughlin
Board Member, Women's Voices for the Earth
Vice President, DC Ecowomen
Green Leadership Trust Steering Committee

Catherine Thomasson, M.D.
Executive Director
Physicians for Social Responsibility

Vien Truong
Director
Green for All

Trip Van Noppen
President
Earthjustice

Robert Wendelgass
President
Clean Water Action

Guy O. Williams
Board Member
Rails-to-Trails Conservancy

Jamie Williams
President
The Wilderness Society

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ALABAMA STATE BAR
THE DISCIPLINARY COMMISSION
TELEPHONE 334-269-1515
P.O. BOX 671
MONTGOMERY, AL 36101

TX 334/2514311

DELIVERY ADDRESS:
415 CENTER AVENUE
MONTGOMERY, AL 36104

April 16, 1998

Honorable Jeff B. Sessions
c/o Ms. Peggy Jeffreys
Executive Assistant
Office of Senator Jeff Sessions
495 Russell Senate Office Bldg.
Washington, D.C. 20510-0104

Re: ASB No. 98-116(A)

Dear Senator Sessions:

I am writing to advise that a formal investigative file has been opened based upon the enclosed Order and Opinion of Judge James S. Garrett, which was received in this office on or about July 16, 1997. After receipt of this Order and Opinion, the Office of General Counsel requested J. Mark White, attorney for one of the defendants, to provide this office with a copy of the defendants' "Memorandum in Support of Motions to Dismiss and/or Suppress" which statement of facts was adopted as part of Judge Garrett's order. A copy of the Memorandum in Support of Motion to Dismiss and/or Suppress was provided on or about July 31, 1997, and is enclosed for your reference as part of the complaint.

After review of the Memorandum in Support of Motions to Dismiss and/or Suppress and the hearing transcripts, the Office of General Counsel determined that you were possibly an "involved attorney."

No aspect of the complaint has been prejudged. The Disciplinary Commission has adopted a policy that lawyers are entitled to receive a copy of any complaint and entitled to respond in writing to the complaint.

RULE 30, ALABAMA RULES OF DISCIPLINARY PROCEDURE OF THE ALABAMA STATE BAR, ADOPTED BY THE SUPREME COURT OF ALABAMA, PROVIDES THAT ALL DISCIPLINARY PROCEEDINGS SHALL REMAIN CONFIDENTIAL UNTIL A PLEA OF GUILTY OR THE DISCIPLINARY BOARD OR DISCIPLINARY COMMISSION MAKES A FINDING OF GUILTY.

Honorable Jeff B. Sessions, III
April 16, 1998
Page 2

Please review the enclosed documents and provide a written response thereto on or before June 1, 1998. In making your response, you should consider the following general allegations of misconduct and the following Rules of Professional Conduct:

Knowing use of unreliable information to obtain a search warrant

Material representations of fact in the affidavit used
to obtain the search warrant

Improper execution of the search warrant

Seizure of items outside the scope of the search
warrant

Allowed unauthorized persons to be present
during grand jury proceedings in violation of law
and/or court rules

Allowed nonlawyers to examine witnesses
testifying during grand jury proceedings

Allowed witnesses to provide unsworn testimony
during grand jury proceedings

Failure to comply with other requirements of law
and/or court rules during grand jury proceedings

Failure to keep records of grand jury proceedings
as required by law and/or court rules

Selective recollection of testimony during grand
jury proceedings

Improper use of criminal proceedings for personal
gain or benefit

Improper use of criminal proceedings and evidence
obtained therein for the benefit of third parties in
ongoing, related civil proceedings

Honorable Jeff B. Sessions, III
April 16, 1998
Page 3

Improper use of criminal proceedings and evidence
obtained therein as a defense to proceedings
before the Alabama Ethics Commission

Disclosure of indictments, evidence and/or action
of the grand jury in violation of law and/or court
rules

Presenting and obtaining indictments from the grand
jury with knowledge or reason to know that they were
not supported by probable cause or were otherwise
legally defective

Maintaining and prosecuting charges not supported
by probable cause

Failure to produce exculpatory evidence

Failure to comply with court orders and/or court rules

Misrepresentations to the court and others regarding
the existence of and character of discoverable
evidence

Deliberate lack of diligence or intentional ignorance
to avoid responsibilities regarding discovery imposed
by law, court order and/or court rules

Altering evidence or documents having potential
evidentiary value

Publication or release of NCIC information in
violation of law

Improper contact with witnesses and/or parties
represented by counsel

Lack of candor in testimony or statements made
as officers of the court during court proceedings

Honorable Jeff B. Sessions, III
 April 16, 1998
 Page 4

Lack of candor in investigative reports, affidavits,
 or other products of the criminal investigation

Representing conflicting interests

Disclosure of confidential information
 Use of confidential information to the disadvantage
 of a client and/or former client

Possible violations of the *Alabama Rules of Professional Conduct* as follows:

- 1.7 Conflict of Interest: General Rule
- 1.8 Conflict of Interest: Prohibited Transactions
- 1.9 Conflict of Interest: Former Client
- 1.10 Imputed Disqualification: General Rule
- 3.1 Meritorious Claims and Contentions
- 3.2 Expediting Litigation
- 3.3 Candor Toward the Tribunal
- 3.4 Fairness to Opposing Party and Counsel
- 3.8 Special Responsibilities of a Prosecutor
- 4.1 Truthfulness in Statements to Others
- 4.2 Communication With Person Represented by Counsel
- 4.3 Dealing With Unrepresented Person
- 4.4 Respect for Rights of Third Persons
- 5.1 Responsibilities of a Partner or Supervisory Lawyer
- 5.3 Responsibilities Regarding Nonlawyer Assistants
- 5.5 Unauthorized Practice of Law
- 8.4(a) Misconduct
- 8.4(c) Misconduct
- 8.4(d) Misconduct
- 8.4(g) Misconduct

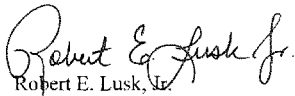
Your response need not be limited to the foregoing, but should include any and all information you deem necessary in order to adequately respond to any allegations that may apply or concern

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Honorable Jeff B. Sessions, III
April 16, 1998
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you, your conduct, or your knowledge of circumstances surrounding such conduct on the part of others.

Sincerely,


Robert E. Lusk, Jr.
Assistant General Counsel

REL/clr

Enclosure



NEWS FROM THE MAJOR CITIES CHIEFS

FOR IMMEDIATE RELEASE

CONTACT: Darrel Stephens
Executive Director
Major Cities Chiefs Association
704-996-5457

Major Cities Chiefs Statement on Sessions Nomination

WASHINGTON, November 22, 2016 – Association President J. Thomas Manger, Chief of Police, Montgomery County, Maryland, today released this statement.

The Major Cities Chiefs Association today joins with law enforcement colleagues to support the nomination of Senator Jeff Sessions to become our next Attorney General.

As U.S. Attorney and Alabama Attorney General, Jeff Sessions became a steadfast advocate for law enforcement and public safety during his early career. Over the past 20 years on the Senate Judiciary Committee, he has been an unwavering champion for measures to address violent crime and drug abuse in the communities we serve across the Nation.

He will be strong partner in our continuing efforts to prevent and interdict acts of terrorism against the American people. His record in the U.S. Senate demonstrates a firm and consistent commitment to community policing and undiminished support for the men and women of law enforcement.

Major Cities Chiefs will look to Jeff Sessions to strengthen critical programs upon which we rely including:

- Evidence-Based Policing Programs
- Funding from Byrne-JAG and COPS Community Policing Development
- Violence Reduction Network and Programs to Reduce Violent Crime While Maintaining Community Support

We will form a partnership with our new Attorney General to:

- Strengthen measures for protection of police officers, including Federal prosecution of assailants
- Launch a national campaign to recruit and hire our next generation of police professionals
- Reform and strengthen asset forfeiture partnerships between Federal and local agencies
- Address encryption barriers and industry efforts that thwart public safety

Law Enforcement Executives across the Nation stand ready to work with the Department of Justice on these and other critical issues and thus we urge the U.S Senate leadership to swiftly confirm the nomination of Jeff Sessions as Attorney General.

###

Major Cities Chiefs is a professional association of Chiefs and Sheriffs representing the largest cities in the United States and Canada. Membership is comprised of Chiefs and Sheriffs of the sixty-eight largest law enforcement agencies in the United States and ten largest in Canada. They serve 81.9 million people (70.4 US - 23%, 11.5 - 32% Canada) with a workforce of 185,183 (163,244 US, 21,939 Canada) officers and non-sworn personnel.



WASHINGTON BUREAU · NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
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January 17, 2017

The Honorable Charles Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

**RE: FOLLOW UP TO THE HEARING ON THE NOMINATION OF JEFFERSON
BEAUREGARD SESSIONS III TO SERVE AS ATTORNEY GENERAL OF THE UNITED STATES**

Dear Chairman Grassley and Ranking Member Feinstein,

During the hearing on the nomination of Senator Jefferson "Jeff" Beauregard Sessions III to serve as Attorney General of the United States, Senator Lindsey Graham posed a question to NAACP President and CEO Cornell William Brooks regarding the annual NAACP Civil Rights Federal Legislative Report Card. Since coming to the US Senate, Mr. Sessions appears to ignore the position of the NAACP in the majority of instances, despite the fact that according to the last Census count over 26% of the population of Alabama is African American, and our Alabama State Conference of Branches, which has been in existence since 1918, is one of the strongest in the nation. Well known alumni of the Alabama State Conference of Branches include Rosa Parks and Dr. Martin Luther King, Jr. More recently our Alabama State Conference of Branches has been out front on a number of crucial issues, including voting rights and immigration reform. Regardless, Senator Sessions has consistently voted in opposition to the NAACP position on average almost 90% of the time since coming into office, according to the annual NAACP Federal Civil Rights Legislative Report Card.

Since 1914, the NAACP Federal Legislative Civil Rights Report Card has served as a presentation of key civil rights votes taken by the full United States Senate and the United States House of Representatives. The Report Card, which is released once a year, at the end of the first session, as a midterm report and then again at the end of a Congress as a final report, is designed to provide NAACP members with insight into the general voting patterns of their congressional representatives and state delegations over the course of a year.

It is often said that the NAACP has no permanent friends or enemies, just permanent positions. Nowhere is this sentiment more true than in our federal legislative civil rights report card. The recorded votes, and the responding percentages and grades, show how each member voted on the bread and butter civil rights issues which come before them. Very often, the NAACP Washington Bureau sends a letter to Congressional offices urging members to support or oppose a particular legislative position. In many cases, Members of the House and Senate also

receive letters, phone call, and even constituent visits from NAACP members in their states or districts or by the NAACP Washington Bureau Director. In cases in which a vote is called and we have not had time to send a letter, e-mails, office visits and phone calls into the Capital Hill offices or a quick review of the NAACP list of policy priorities should answer any questions. This list of priorities reflects the will of the more than 2,200 voting delegates from across the nation who attend our national convention each year, on behalf of the hundreds of thousands of members of the NAACP.

For the edification of this Committee, I am submitting the latest full NAACP Federal Legislative Report Card, for the 113th Congress. We are still compiling the final votes for the second session of the 114th Congress, which ended in mid-December. I am also including below a chart of Senator Sessions' voting record since coming to Congress.

In closing, let me say that we would like every single member of the Congress, regardless of political party affiliation to vote in support of the NAAVP Congressional civil rights legislative agenda fully.

I hope that you find this information useful. If you have any further questions regarding the Federal Legislative Civil Rights Report Card or any other issue, please feel free to contact me at (202) 463—2940.

| CONGRESS | YEARS | OVERALL PERCENTAGE | TIMES VOTED CORRECTLY | GRADE |
|---------------|-----------|--------------------|-----------------------|-------|
| 105 | 1997-1998 | 10% | 1/10 | F |
| 106 | 1999-2000 | 13% | 2/15 | F |
| 107 | 2001-2002 | 19% | 7/37 | F |
| 108 | 2003-2004 | 3% | 1/33 | F |
| 109 | 2005-2006 | 7% | 2/28 | F |
| 110 | 2007-2008 | 28% | 8/29 | F |
| 111 | 2009-2010 | 10% | 4/39 | F |
| 112 | 2011-2012 | 0 | 0/26 | F |
| 113 | 2013-2014 | 8% | 3/40 | F |
| 114 (midterm) | 2015 | 7% | 2/29 | F |

Sincerely,



Hilary O. Shelton
Director, NAACP Washington Bureau &
Senior Vice President for Policy and Advocacy

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Enclosure

cc: Senator Lindsey Graham

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January 10, 2017

The Honorable Charles Grassley
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C. 20510

**Re: The Nomination of Jefferson Beauregard Sessions III to be
Attorney General of the United States**

Dear Chairman Grassley and Ranking Member Senator Feinstein:

The NAACP Legal Defense & Educational Fund, Inc. ("LDF") writes to supplement its January 9, 2017 report in opposition to the nomination of Senator Jeff Sessions to be Attorney General of the United States.¹ After extensive review of our vast internal records, and in light of testimony during today's hearing on the nomination, we are submitting three additional documents that we believe are relevant to Sen. Sessions' record and his fitness to serve as Attorney General. These documents, attached to this letter, include:

- A. A declaration signed by Theodore M. Shaw, Chambers Distinguished Professor of Law and the Director of the Center for Civil Rights at the University of North Carolina Law School. From March 1982 until April 2008, Mr. Shaw worked in various capacities for LDF, including directing LDF's docket of school desegregation cases in the South. During that time, Mr. Shaw worked with local Mobile, Alabama cooperating attorneys on

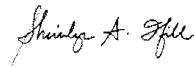
¹ LDF, *Report in Opposition to the Nomination of Jefferson Beauregard Sessions to be Attorney General of the United States* (Jan. 9, 2017), <http://www.naacpldf.org/files/our-work/LDF-Jefferson-Sessions-Report-in-Opposition-FINAL-1-9-2017.pdf>.

Birdie Mae Davis v. Board of School Commissioners of Mobile, Alabama, a case which Sen. Sessions now lists among “the 10 most significant” litigation matters that he “personally handled.” In his declaration, Mr. Shaw avers that: “I have no recollection, knowledge, information and belief of Mr. Sessions working directly on the *Davis* case or working directly with me or any other LDF attorney while I was involved with the *Davis* case.”

- B. A chapter of the book *Lift Every Voice* by Lani Guinier, the Bennett Boskey Professor of Law at Harvard Law School. Ms. Guinier, then a staff attorney at LDF, served as defense counsel to Spencer Hogue in the Marion Three prosecution. In this chapter, Ms. Guinier recounts her experience defending the prosecution, and in particular the chilling effect that the prosecution had on Black political participation in Alabama.
- C. A March 19, 1986 letter and nine-page statement from Coretta Scott King to Senator Strom Thurmond regarding the nomination of then-United States Attorney Jeff Sessions to be United States district judge in the Southern District of Alabama. Mrs. King wrote in “sincere opposition” to Sen. Sessions’ nomination, and focused her statement on Sen. Sessions’ failed prosecution of three voting rights activists—known as the “Marion Three”—in Perry County, Alabama. One of the defendants in that case, Albert Turner, was a close aide to Dr. Martin Luther King, Jr. and played a central role in the activism that led to the Voting Rights Act of 1965. Regarding Sen. Sessions’ decision to pursue that prosecution, in which a jury ultimately acquitted all three defendants,² Mrs. King concluded: “Mr. Sessions has used the awesome powers of his office in a shabby attempt to intimidate and frighten elderly black voters. For this reprehensible conduct, he should not be rewarded with a federal judgeship.”

Thank you for considering LDF’s report in opposition and these supplemental materials. If you have any questions, please contact Todd A. Cox, Director of Policy or Kyle Barry, Policy Counsel, at 202-682-1300.

Sincerely,



Sherrilyn A. Ifill
President & Director Counsel

² See *id.* at 11-13.

Full version Text-only version (<http://webcache.googleusercontent.com/search?q=cache:ssCAWlgVVpYJYJhttps://www.usatoday.com/story/opinion/2016/12/28/sessions-doj-women-violent>)

Tip: To quickly find your search term on this page, press **Ctrl+F** or **⌘-F** (Mac) and use the find bar.

Penny Name 3:35 p.m. EST December 28, 2016

And he'll do it, even if it costs him politically.



(Photo: Mark Waltheiser, Getty Images)

Senator Patty Murray, D-Wash., aligned to other liberal women in the United States Senate, as well as to liberal bloggers, that Donald Trump's pick for attorney general, her colleague Senator Jeff Sessions, R-Ala., should be opposed in part because of his opposition to the Violence Against Women Act. 'I have seen him vote against the Violence Against Women Act,' she wrote in a [recent Facebook](https://www.facebook.com/pattyvmurray/posts/10154682656478872) (<https://www.facebook.com/pattyvmurray/posts/10154682656478872>) post. 'And we need to do everything we can to fight for an Attorney General who's truly committed to standing up for and protecting the rights of everyone in this country. Given Sessions' record, it is difficult to see how he could pass this most basic, most essential, test.'

Well, the Violence Against Women Act (VAWA), despite its clever name, has many problems and Sessions has taken steps to weaken it, for vulnerable victims of violence. However, with a whopping price tag of **\$1.6 billion over five years** (<https://books.google.com/books?id=wVBnPA4ACQBA&pg=PA58&lpg=PA58&dq=vawa+1.6+billion&source=bl&otsrc=hQcKhthS5sq=wb2P7X0L41z7cWPBQnackh=on5sq=3x6p=08nUKEw-qNcMZX9zhJlBIMKH-WPsCbsQBAEILzAD6v=onepage&q=vawa%201.6%20billion&f=false>), VAWA failed to adequately address the needs of women in three ways.

First, the money increases bureaucracy and law enforcement without actually reaching women (and men) in need. For example, housing, a persistent need for victims, receives only one-fifth (<http://nation.time.com/2013/02/27/whats-wrong-with-the-violence-against-women-act/>) of the funding law enforcement action receives. If this legislation was block granted directly to the states then law enforcement or social services could be more precisely allocated.

Secondly, there is no evidence (<http://thehill.com/blogs/congress-blog/judicial/280897-vawa-must-be-reformed-for-domestic-violence-rates-to-come-down>) that the Bill itself has helped reduce the rate of intimate partner violence. A Department of Justice report showed there was a 72% overall increase (<http://www.pewsocialtrends.org/2013/05/07/us-homicide-rate-down-49-since-1993-peak-public-awareness/>) in non-fatal violent crime from 1994 to 2010, but domestic violence had a smaller decrease (<https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4536>) and then remained steady (<http://www.ctbanews.com/news/justice-dept-violence-against-women-fell-4-over-decade/>). Angela Parmley of the Department of Justice summarizes, “We have no evidence (<http://thehill.com/blogs/congress-blog/judicial/280897-vawa-must-be-reformed-for-domestic-violence-rates-to-come-down>) to date that VAWA has led to a decrease in the overall levels of violence against women.”

<http://www.usatoday.com/story/opinion/2016/11/17/trump-white-women-vote-jewish-column/93880672/>

POLICING THE USA: A look at race, justice, media (<http://preview.usatoday.com/policing/>)
When a child is born, tests should be uniform: Our view
<http://www.usatoday.com/story/opinion/2016/11/22/newborn-tests-screening-hospitals-editorials-debates/95769812/>

There are more pressing concerns than restrooms: #tellsusatoday
(<http://www.usatoday.com/story/opinion/2016/12/22/bathroom-gender-north-carolina-say-tellsusatoday/95777798/>)

Third, VAWA is rife with bureaucratic and financial mismanagement and abuse. Sen. Chuck Grassley, R-Iowa, who was working to introduce language to fix some of these problems, described what some [internal investigations](http://www.grassley.senate.gov/news/news-releases/violence-against-women-act) (<http://www.grassley.senate.gov/news/news-releases/violence-against-women-act>) had found:

A review of individual VAWA grants audits that were conducted from 1998-2010 by the Department of Justice Inspector General indicates that the problem with VAWA grantees' administration and record keeping may actually be getting worse. During this timeframe, the Inspector General conducted a review of 22 individual grantees that received funding from VAWA programs. Of those 22 grantees, 2 were found to have some form of violation of grant requirements ranging from unauthorized and unallowable expenditures, to sloppy record keeping and failure to report in a timely manner. Some of these audits are downright appalling.

This is why the women of Concerned Women for America and Sessions opposed VAWA as presented and supported other versions that would have addressed some of the glaring problems with the bill. The [Grassley-Hutchinson amendment \(http://www.grassley.senate.gov/news/news-releases/support-alternative-vawabill\)](http://www.grassley.senate.gov/news/news-releases/support-alternative-vawabill) would have, among other things, ensured rape kit processing funding actually went to that purpose, strengthened accountability for grant awardees and given harsher sentences in cases of interstate violence and child pornography.

The point here is that it would still take a courageous senator to stand for what is right. Truly standing on the side of women would require a senator to endure being painted by the malicious left as the total opposite.

It says a lot that Sessions did, in fact, stand for women, no matter the personal political cost he had to pay.

His nomination is great news for those of us who love justice and truth and who are tired of the political calculations that have plagued the DOJ under the Obama administration.

Sessions will be on the side of the people as the next attorney general. He will be for women, for children, for families — for all Americans. That is a welcomed and much-needed change at the DOJ.

The Senate should confirm him swiftly.

Penny Nance is president and CEO of Concerned Women for America.

You can read diverse opinions from our [Board of Contributors \(http://preview.usatoday.com/reporters/boc.html\)](http://preview.usatoday.com/reporters/boc.html) and other writers on the [Opinion front page \(http://preview.usatoday.com/opinion/\)](http://preview.usatoday.com/opinion/), on Twitter [@USATOpinion \(http://preview.usatoday.com/opinion/\)](http://preview.usatoday.com/opinion/) and in our daily [Opinion newsletter \(http://profile.usatoday.com/newsletters/manage/\)](http://profile.usatoday.com/newsletters/manage/). To submit a letter, comment or column, check our [submission guidelines \(http://story/opinion/2016/09/29/submission-guidelines-usatoday-opinion-column-oped-howto-letters-editor/89864600/\)](http://story/opinion/2016/09/29/submission-guidelines-usatoday-opinion-column-oped-howto-letters-editor/89864600/).

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1353



National Association of Assistant United States Attorneys

For Immediate Release

November 18, 2016

Contact: Steven H. Cook, President
1.202.670.8721

NAAUSA Endorses Senator Sessions' Selection to Become United States Attorney General

The National Association of Assistant U.S. Attorneys (NAAUSA) expresses its strong support for the selection of Senator Jeff Sessions to become the next Attorney General of the United States. Senator Sessions, a former Assistant U.S. Attorney, U.S. Attorney, Alabama Attorney General, four-term U.S. Senator and longtime member of the Senate Judiciary Committee, is a man of unquestionable integrity and unparalleled experience. Throughout his distinguished career he has demonstrated an unwavering commitment to the rule of law, fairness, and equal justice for all.

NAAUSA President Steve Cook said "Senator Sessions is uniquely equipped to be the chief law enforcement officer of our Nation and to lead the Department of Justice. We congratulate President-Elect Trump for his selection of Senator Sessions to this important post and we look forward to his formal nomination and prompt confirmation by the Senate."

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The National Association of Assistant United States Attorneys is a national professional association representing the interests of Assistant U.S. Attorneys employed by the Department of Justice. Assistant U.S. Attorneys are the career-level attorneys in the 94 U.S. Attorneys' Offices responsible for federal criminal prosecutions and civil cases involving the United States Government.



**Statement of the National Domestic Workers Alliance
Submitted to the United States Senate Committee on the Judiciary
Hearing on "Attorney General Nomination"**

January 10, 2017

Members of the Committee, we are the National Domestic Workers Alliance (NDWA). Thank you for the opportunity to submit this statement for inclusion in the record for today's hearing. NDWA is the nation's leading voice for dignity and fairness for millions of domestic workers in the United States. Founded in 2007, NDWA works for the respect, recognition and inclusion in labor protections for domestic workers, most of whom are women. The alliance is powered by 60 affiliate organizations plus four local chapters of over 20,000 nannies, housekeepers and direct care workers in 36 cities and 17 states.

Domestic workers played a critical role in our country's historic civil rights movement. Senator Jeff Sessions' nomination as U.S. Attorney General is an affront to this proud legacy. NDWA urges all members of the United States Senate to oppose the nomination of Senator Sessions. Throughout his lengthy career, Senator Sessions has consistently dehumanized many of our communities including immigrants, people of color, women, Muslims, LGBTQ individuals and people with disabilities. Given his strong history of obstructing civil rights, Senator Sessions has proven that he is unfit to serve as Attorney General.

As the nation's chief law enforcement officer, the Attorney General is charged with upholding the constitutional rights and protections of all people in the United States. Senator Sessions, however, has opposed the Voting Rights Act, which aims to ensure all Americans have an equal opportunity to participate in our democracy and instead prosecuted voting rights activists who tried to increase Black registration and turnout. He has opposed bipartisan efforts to reform the criminal justice system by reducing sentences and he opposes federal consent decrees with local law enforcement agencies designed to reduce police misconduct. Sessions has opposed hate crimes protections for members of the LGBTQ community, fought the reauthorization of the Violence against Women Act (VAWA) and supported a Muslim ban in the United States. In addition, Senator Sessions has closely aligned himself with anti-immigrant extremist groups like NumbersUSA and the Federation for American Immigration Reform, which are founded on white supremacist ideals. Senator Sessions, through his own record, has been one of the staunchest opponents of any proposals that would bring humanity to our country's treatment of immigrants and has instead called for a massive border wall, mass deportations and the criminalization of immigrants. This record and these affiliations make Senator Sessions wholly unfit to prosecute hate crime and defend the civil rights of all persons in the US.

National Domestic Workers Alliance
395 Hudson Street, 4th Floor
New York, NY 10014

Congress has already determined that Senator Sessions does not meet the standards necessary to carry out a political appointment. In 1986, a Republican-led Senate Judiciary Committee rejected his nomination for a federal judgeship in Alabama because of his history of racist statements. Since then, Senator Sessions has continued his record of divisive hateful rhetoric. We urge Members of this Committee to uphold the values of our democracy and reject the nomination of Senator Sessions for Attorney General.

National Domestic Workers Alliance
 395 Hudson Street, 4th Floor
 New York, NY 10014



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FRATERNAL ORDER OF POLICE®**

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CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

**FOR IMMEDIATE RELEASE
18 NOVEMBER 2016**

**CONTACT: JIM PASCO
(202) 547-8189**

**FRATERNAL ORDER OF POLICE:
SESSIONS EXCELLENT PICK FOR ATTORNEY GENERAL**

Chuck Canterbury, National President of the Fraternal Order of Police, hailed this morning's news that Senator Jefferson B. Sessions III (R-AL) will be nominated to serve as the nation's next Attorney General of the United States.

"Since his arrival in the Senate in 1996, Jeff Sessions has been a key law enforcement ally and prominent supporter of police officers," said Canterbury. "We've worked closely with him throughout his career, most recently on issues like asset forfeiture and sentencing reform. Like our members, he is also a strong proponent of Federal enforcement of our nation's narcotics laws."

Senator Sessions served as a U.S. Attorney in Alabama and was the Attorney General of that State prior to his election to the Senate. He has spent much of his time in the Senate as a member of the Committee on the Judiciary and has been a real advocate for the men and women in law enforcement.

"We are very, very pleased with the decision of President-elect Trump to tap Senator Sessions to be our nation's next 'top cop,'" Canterbury says. "As a long time prosecutor, he is and always will be a member of the law enforcement family and we look forward to his leadership at the U.S. Department of Justice."

Senator Session's nomination must be confirmed by the U.S. Senate following the inauguration of Donald J. Trump on 20 January. The Committee on the Judiciary will consider the nomination first, followed by a vote on the Senate floor.

"Jeff Sessions is known for his leadership, integrity and commitment," Canterbury said. "I expect the Judiciary Committee and the Senate to act quickly on this nomination."

The Fraternal Order of Police is the largest law enforcement labor organization in the United States, with more than 330,000 members.

— BUILDING ON A PROUD TRADITION —





January 10, 2017

Statement from Dr. Willie Parker on Trump's Pick for Attorney General

In response to the nomination of Senator Jeff Sessions to serve as US Attorney General, Dr. Willie Parker, Board Chair of Physicians for Reproductive Health, issued the following statement:

"The nomination of the senator from my home state, Senator Jeff Sessions (R-AL), for attorney general is a threat to the safety of reproductive health care providers and the patients we care for. His extreme record of hostility towards reproductive rights stands in the way of his ability to protect the constitutional right to abortion and the safety of patients and providers. As a physician from Alabama who provides abortions, I have seen firsthand how his brand of politics endangers the health and safety of women and families. This is unacceptable for any officeholder, but especially worrisome for someone who is about to become the chief law enforcement official of our great country.

My colleagues and I serve our patients with compassion so that they can make their own decisions regarding their health, their families, and their futures, but we work in an atmosphere of intimidation and harassment every day. In 2015, clinics around the country, including in Alabama, saw a frightening increase in hate speech, death threats, and violence. Sadly, violence against clinics has only spiked since the election in November, according to the National Abortion Federation.

The Department of Justice (DOJ) is the federal department that most affects the safety of abortion providers and patients, and its authority on these issues is far-reaching. As attorney general, Sessions will be responsible for directing work of the National Task Force on Violence Against Health Providers, including its resources and priority status within the DOJ. Furthermore, Sessions' record clearly calls into question his ability to enforce the Freedom of Access to Clinic Entrances (FACE) Act and to fairly prosecute federal crimes targeting abortion providers.

Senator Sessions' long history of opposing reproductive rights in Congress demonstrates his contempt for reproductive autonomy and for the medical professionals who provide reproductive health care. He has repeatedly voted against an amendment that would prevent perpetrators of violent crimes against abortion providers from evading fines by filing for

1/13/2017 Physicians for Reproductive Health Statement from Dr. Willie Parker on Trump's Pick for Attorney General - Physicians for Reproductive Health

bankruptcy. He also opposed the creation of a "Women's Health Care and Clinic Security and Safety Fund" that would provide safety measures for reproductive health providers and clinics. In addition, he has made troubling comments about sexual assault and voted against protections for LGBTQ individuals. Based on his record as a lawmaker, we are profoundly concerned with Senator Sessions' ability to protect reproductive health care providers and our patients in the role of attorney general.

Finally, we have deep concerns regarding how Sessions would treat communities of color—communities that are already targeted by restrictive reproductive health laws. Being personally familiar with recent Alabama history, I am keenly aware of how Sessions' political legacy is marred by racism. As reproductive health care providers, we are dedicated to helping women and men exercise their right to lives of autonomy, dignity, self-determination, and opportunity for all people. Sessions would not protect these fundamental human rights. He is simply not fit to serve as the nation's highest ranking law enforcement official."

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Physicians for Reproductive Health (PRH) is a national coalition of medical professionals who are committed to providing safe, legal, and effective reproductive health care. We are deeply concerned by the nomination of Dr. Willie Parker to the position of Attorney General. Dr. Parker is a vocal opponent of reproductive rights and has a long history of advocating for restrictive laws that would limit access to safe, legal abortion. We believe that his appointment would be a significant setback for reproductive health care in the United States. We urge the President to withdraw Dr. Parker's nomination and to appoint someone who is committed to protecting the rights of all Americans, regardless of their reproductive choices.

**Testimony of the Reverend Dr. Frederick Douglass Haynes, III before
the U.S. Senate Judiciary**

**Black Clergy Steering Committee Against the Nomination of Jefferson
Beauregard Sessions, III for the Position of U.S. Attorney General,
Washington D.C.**

Senate Judiciary Committee

Tuesday, January 10, 2017, 9:30 AM

Russell Senate Office Building 325

This weekend our nation will pause to celebrate the phenomenal life and prophetic legacy of the drum major for justice, the Reverend Dr. Martin Luther King, Jr. who fought to make America "One nation...with liberty and justice for all." On that historic summer afternoon in the symbolic shadow of the Lincoln Memorial, the Rev. Dr. King was presented as "the moral leader of our nation" when he narrated the nightmare of oppression before defiantly declaring in the iconic speech, "I have a dream."

In the moral and prophetic tradition of Dr. King and so many others, from Fannie Lou Hamer to Barbara Jordan, who have been courageously eloquent and exemplary of the values of American citizenship challenging our nation to bridge the gap between principle and practice, I oppose the nomination of Jefferson Beauregard Sessions, III as the next Attorney General for the United States of America. Mr. Sessions is a throwback to the dark days when a former governor of the state of Alabama stood for racism and against justice as his "lips dripped with the words of interposition and nullification." Mr. Sessions has a terrible track record of standing on the wrong side of justice and embodying the principles of the "nightmare" Dr. King eloquently portrayed and lived and died opposing. The nomination of Mr. Sessions as our nation's "top cop" is a frightening proposition to communities of color who have been dehumanized by a policing system that declares Black lives don't matter, given his unapologetic and unfunny comments about the terrorist Ku Klux Klan and his fierce opposition to civil rights

organizations, like the NAACP, that have stood for the best of American democracy. It is morally outrageous that Mr. Sessions, given his history of racial insensitivity would preside over a justice system that has often tilted the scales of justice to the disadvantage of the disadvantaged. Scriptures declare that we are to "speak up and judge fairly; defend the rights of the poor and needy." Instead of defending the poor and needy, Mr. Sessions has used his positions of power to deride, attack, investigate and undermine the opportunities of democracy for communities of color and the historically underserved.

The powerful position of Attorney General of the United States of America is an entrustment to insure that systems and structures in this nation are fair and just for all Americans. Morally, power is used for the benefit of the powerless and vulnerable. The public service record of Mr. Sessions warns us that he is not fit to be a trustee of this pivotal position given his disposition toward the marginalized minorities and those who are outcast as "other."

Can Mr. Sessions be entrusted to protect voting rights, one of the supreme values of democracy? A background check that does not edit out facts reveals that Mr. Sessions led a targeted and invasive investigation of absentee voting ONLY in districts in Alabama where Black voter turnout had experienced an upsurge. No, he cannot be trusted to protect the precious franchise of voting. Mr. Sessions has opposed restoring the voting rights of felons who have paid for their crimes and served their time. Of course, ex-felon disenfranchisement disproportionately impacts African Americans. Mr. Sessions referred to the gutting of the Voting Rights Act in the Supreme Court's decision in *Shelby County v. Holder* as "good news...for the South." This statement was a wink and a nod to racists. He went on to call the Voting Rights Act of 1965 a "piece of intrusive legislation", arguing that Section 5 (a provision that concerns mostly southern states with long histories of voting rights abuses) should be struck down. In light of recent revelations that our election process is being targeted for foreign influence we must also stand against internal threats. The voter suppressive tactics of Mr. Sessions represents such an internal threat. Lady Justice must not be cloaked in the garb of racism and white supremacy.

Mr. Sessions has been one of the most anti-immigration senators currently serving. He has voted against almost every immigration reform bill introduced in the past twenty years. Jesus said that a nation would be judged based on how it treated strangers or foreigners. He also proposed in 2015 a mandatory minimum of 5 years in prison for illegal immigrants entering the country after being deported which could increase the federal prison population by as much as 30%. Mass incarceration, already a stain of injustice on the body politic of America, that has prompted a bipartisan call for prison reform, would be continued and expanded in a Sessions Justice Department. Morally, Mr. Sessions cannot be entrusted to preside over a just and fair immigration policy.

As a minister of the gospel, I recognize that people can change, however Mr. Sessions has done nothing in the 30 years since he was rejected for a federal judgeship in a bipartisan vote that reflects repentance and a change of heart. If he was deemed an inappropriate candidate for a federal judgeship he is even more unfit to serve as our nation's Chief Prosecutor. Before enjoying ceremonies and celebrations that commemorate the legacy of Dr. King as a Dreamer and the Drum Major for justice, I urge you to oppose his nightmare and reject the nomination of Jeff Sessions. The Justice Department must be presided over by one who heeds the words of the prophet Amos, who warned a nation to "Let justice roll down as waters and righteousness as an ever flowing stream." Jeff Sessions, through his policies and statements, has been a metaphorical dam, often blocking the waters of justice and must not be the Attorney General of the United States of America.

**WRITTEN TESTIMONY OF JOSEPH D. RICH FOR
CONFIRMATION HEARING OF JEFF SESSIONS HELD BEFORE
THE SENATE JUDICIARY COMMITTEE**

January 9, 2017

My name is Joseph Rich and I am the Co-Director of the Fair Housing and Community Development Project at the Lawyers' Committee for Civil Rights Under Law. Prior to assuming this position in 2005, I worked for the Department of Justice's Civil Rights Division from 1968 to 2005. From 1969 to 1987 I was in the Division's Equal Opportunities Section and served as Deputy Chief of that Section from 1973 to 1979 and 1983 to 1987. Most of my work in this section was on school desegregation cases.

I also am one of three former Civil Rights Division attorneys who co-wrote an op ed entitled "We Know Jeff Sessions is Overstating his Record" that appeared in the print edition of the *Washington Post* on January 4, 2017.

http://www.washingtonpost.com/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4dd0b060-d0fb-11e6-a783-cd369501200_story.html.

In this op ed we wrote:

"In the questionnaire he filed recently with the Senate Judiciary Committee, Sessions listed four civil rights cases among the 10 most significant that he litigated "personally" as the U.S. attorney for Alabama during the 1980s. Three involved voting rights, while the fourth was a school desegregation case. Following criticism for exaggerating his role, he then claimed that he provided "assistance and guidance" on these cases.

We worked in the Justice Department's Civil Rights Division, which brought those lawsuits; we handled three of the four ourselves. We can state categorically that Sessions had no substantive involvement in any of them. He did what any U.S. attorney would have had to do: He signed his name on the complaint, and we added his name on any motions or briefs. That's it."

I submit this statement to provide further information about the school desegregation case that I worked which is one of the four cases referred to Mr. Sessions's answers to the Judiciary Committee's questionnaire – *Davis v. Board of School Commissioners of Mobile County, AL*. This protracted case was filed in 1963 long before Sessions became U.S. Attorney. The United States intervened as a plaintiff-intervener in 1967. It was not dismissed until 1997 and there was significant litigation throughout its 34 year history.

After the case had been to the Supreme Court in 1971 (401 U.S. 33 (1971)) a desegregation plan agreed to by the plaintiffs and school board was entered on July 8, 1971. Subsequently, the plaintiffs and plaintiff intervener United States filed motions for further relief challenging whether the school district had been in full compliance with the 1971 order approving this plan, and whether the school district had achieved unitary status. A full evidentiary hearing on this motion was held in October 1983. Thereafter, the district court issued a preliminary order that the school district was not unitary. Plaintiff-intervener United States made several post-trial submissions leading to the district court's lengthy decision on March 27, 1986, affirming its preliminary order that the school district had not achieved unitary status and requiring the parties to submit remedial plans to address the deficiencies found. (1986 U.S. Dist. LEXIS 27519). It is work on this part of the case that Mr. Sessions cites as one of the ten most significant litigated matters that he personally handled.

I worked on the *Davis* case in this period. My name is listed in the 1986 reported decision along with that of Mr. Sessions, and is also noted in Sessions' Committee questionnaire discussing the case. However, I never met him at that time nor any other

time and he had no input to the case when I worked on it. Indeed, in the years that I worked on school desegregation cases in Alabama, I never heard that Mr. Sessions participated in them in any way.

A major part of my work on the *Davis* case was on a Supplemental Brief of the United States filed on September 24, 1985. The brief is an in depth thirty nine page document summarizing the evidence which supported its argument that the school system had not achieved unitary status. I worked on the drafting of that brief and signed it and the certificate of service. The signature block for the brief also lists the Assistant Attorney General for Civil Rights, who at that time was William Bradford Reynolds, and Deputy Assistant Attorney General for Civil Rights, who at that time was Charles Cooper, and who reviewed and edited the brief.

Jeff Sessions name is not listed anywhere on this brief nor on the certificate of service and he had no input into the drafting or review of the brief. Nor did he advise or guide me in any way in the drafting of the brief or any other aspect of the case. I did further work on the case after the 1986 decision and attended a conference before the district judge with the Deputy Assistant Attorney General Cooper in 1986 and a pleading filed at that time also does not list Mr. Sessions's name.

In short, any claim by Mr. Sessions that he participated in the *Davis* case at the time of the 1986 decision listed in his questionnaire is inconsistent with my recollection of the case and with pleadings filed at that time.

For Immediate Release December 6, 2016
For More Information Contact:
Kirsten J. Barnes - Communications Director
Office of the Senate Minority Leader
(334) 242-7435 or (706)593-0414
Kirsten.Barnes@alsenate.gov

Ross sees silver lining in Sessions nomination

Alabama Senate Minority Leader Quinton T. Ross Jr. (D-Montgomery) said he looks forward to working with U.S. Sen. Jeff Sessions when and if he is confirmed as the next U.S. Attorney General.

Since President-elect Donald Trump nominated Sen. Sessions as U.S. Attorney General, Sen. Ross has been in close personal contact with the nominee.

"We cannot ignore the fact that he is on the winning team. No matter what side of the political spectrum you are on," Sen. Ross said.

When Sen. Sessions faced his failed confirmation for a federal judgeship, Sen. Ross was a high school student in Pontiac, Mich. However, as a higher education administrator and an elected official, Sen. Ross has had a positive working relationship with the senator for the past 20 years.

"I have worked with Sen. Sessions on education policy and securing federal funding for our schools," said Sen. Ross, who was born in Mobile, Ala. "Additionally, I have spent time with him at the Magic City Classic and at Heritage Barbershop in Montgomery. I know him personally and all of my encounters with him have been for the greater good of Alabama."

Sen. Ross said he sees value in having a person in Washington who will be accessible to his constituents.

"We've spoken about everything from Civil Rights to race relations and we agree that as Christian men our hearts and minds are focused on doing right by all people," Sen. Ross said. "We both acknowledge that there are no perfect men, but we continue to work daily to do the right thing for all people."

Sen. Ross believes that Sen. Sessions' application of the law will not be biased.

1367

Testimony of

Vicki Saporta,

President and CEO

National Abortion Federation

Washington, DC

Submitted to the

Judiciary Committee

United States Senate

Hearing on the Nomination of Jeff Sessions to be the Attorney General of the
United States

January 10, 2017

I would like to thank Chairman Grassley and Members of the Committee for allowing me the opportunity to submit testimony regarding the nomination of Jeff Sessions for Attorney General of the United States.

I am submitting testimony on behalf of the National Abortion Federation (NAF), the professional association of abortion providers. Our members include private and nonprofit clinics, Planned Parenthood affiliates, women's health centers, physicians' offices, and hospitals who together care for approximately half the women who choose abortion in the U.S. and Canada each year. Our mission is to ensure safe, legal, and accessible abortion care, which promotes health and justice for women.

The National Abortion Federation strongly opposes the confirmation of Jeff Sessions as Attorney General of the United States. Based on his record, we have serious concerns that Sessions will not adequately enforce the laws that protect abortion providers and their patients from violence. Indeed, while in the U.S. Senate Sessions has voted specifically against protecting abortion providers on three separate occasions.¹

NAF has been compiling statistics on incidents of violence and disruption against abortion providers since 1977. In the past 38 years, there have been 11 murders, 26 attempted murders, 42 bombings, 185 arsons, and thousands of incidents of criminal activities directed at abortion providers. Our 2015 statistics reflect a dramatic increase in hate speech and internet harassment, death threats, attempted murder, and murder. As our statistics clearly illustrate, the providers of abortion care, unlike other health care professionals, risk their lives daily to provide legal, constitutionally protected reproductive health care to patients.²

The Department of Justice is charged with investigating and prosecuting federal crimes targeting abortion providers. As such, the responsibilities of the Attorney General directly impact the lives of our members, in a way that no other Cabinet position does.

Jeff Sessions' long record of opposing protections for abortion providers is very concerning. His past actions demonstrate that he cannot be trusted to fairly enforce federal laws, including the Freedom of Access to Clinic Entrances Act (FACE). In addition to enforcing FACE, the Attorney General oversees the work of the critical National Task Force on Violence Against Health Care Providers, a unique collaboration among federal agencies that, when supported, has resulted in a documented decrease in violent crimes against abortion providers.

The National Task Force was established by late Attorney General Janet Reno in November 1998 in response to the murder of Dr. Barnett Slepian and other acts of violence against reproductive health care providers. The Task Force was established to coordinate and build upon ongoing efforts within the Department of Justice and other Federal law enforcement agencies, including the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, and Firearms (ATF), the United States Marshals Service (USMS), and the United States Postal Inspection Service (USPIS).

The Task Force and the national organizations representing abortion providers have established an effective and important working relationship. The existence of the Task Force allows reproductive health care providers to access the resources, assistance and expertise of all the above law enforcement agencies with one phone call. In addition, the federal law enforcement agencies are better able to coordinate efforts and investigations into threats and violence against abortion providers that cross jurisdictional lines. Our statistics clearly show that in the first ten years the Task Force operated, there was a recorded decrease in extreme violence against abortion providers.

The reduction of crime is a key goal of the Office of the Attorney General, and should be pursued regardless of ideology. The Attorney General has discretion and authority to affect resources, staffing, and prioritization of cases for the Task Force. Given Sessions' long record of opposition to abortion, the way in which he has used his political career to advance that agenda, and his organizational alignments, we reasonably conclude that protecting abortion providers from violence will not be a priority in a Department of Justice he directs. In a time of increased threats and violence, NAF and our members must be able to turn to the Department of Justice for protection and effective enforcement of federal law.

Our grave concerns are supported by Sessions' record in the Senate. He has repeatedly voted to reject an amendment put forth by Senator Charles Schumer to the Bankruptcy Reform Act, which would prevent violent perpetrators of crimes against abortion providers and clinics from evading charges levied against them by filing for bankruptcy.³ This amendment passed in 2000 by a Senate vote of 80-17. Sessions further voted as recently as 2015 to reject enhanced safety measures proposed under the "Women's Health Care and Clinic Security and Safety Fund," once again demonstrating his disregard for the safety and security of abortion providers and their patients.⁴

Furthermore, the endorsement of Sessions by the dangerous anti-abortion group Operation Rescue is troubling. Operation Rescue sees the nomination of Jeff Sessions as an opportunity to investigate abortion providers and end access to abortion care. And they have good reason to believe Sessions will be their ally. Sessions previously co-led a letter to Attorney General Loretta Lynch and Health and Human Services Secretary Sylvia Burwell, urging them to investigate abortion providers, based on false allegations made by organizations that publicly support violence against providers.⁵ The investigations of abortion providers that Sessions supports only serve to amplify dangerous rhetoric and increase threats and violence against abortion providers.

The Attorney General must lead with impartiality. Over the years, our members have worked very effectively with those law enforcement officials who have been committed to upholding the law, regardless of those officials' personal positions on abortion. We cannot tolerate a further increase in violence and criminal activity because an Attorney General will not vigorously enforce the law or allow the Task Force to continue its vital work.

The dedicated individuals who risk their lives every day to provide safe abortion care deserve nothing less than an Attorney General who will vigorously enforce the law. NAF's examination of Jeff Sessions' record leads us to conclude that he is unable and unwilling to fulfill that mission.

We urge the Members of this Committee to oppose Jeff Sessions' confirmation as Attorney General of the United States.

Thank you.

¹ Senator Jeff Sessions, <https://www.congress.gov/member/jeff-sessions/S001141?pageSort=latestAction:asc> ; <http://www.sessions.senate.gov/public/index.cfm/voting-record>

² Violence Statistics & History, *National Abortion Federation*, <http://prochoice.org/education-and-advocacy/violence/violence-statistics-and-history/>

³ S. Amdt. 2763 to S.625 (Bankruptcy Judgeship Act of 1999), (Feb. 2, 2000), <https://www.congress.gov/amendment/106th-congress/senate-amendment/2763>

⁴ On the Motion to Table S. Amdt. 2876 to H.R. 3762 (Restoring Americans' Healthcare Freedom Reconciliation Act of 2015), (Dec. 3 2015), <https://www.govtrack.us/congress/votes/114-2015/s311>

⁵ Lee Letter to DOJ and HHS to Conduct Full Investigation of Planned Parenthood, (July 21, 2015), <https://www.scribd.com/document/272235009/Lee-Letter-to-DOJ-and-HHS-to-conduct-full-investigation-of-Planned-Parenthood>

1372

United States Senate
OFFICE OF THE ~~MINORITY~~ LEADER
DEMOCRATIC

February 12, 2009

The Honorable Harry Reid
Majority Leader
United States Senate
S-221 Capitol Building
Washington, D.C. 20510-0001

MITCH McCONNELL

Dear Harry:

MITCH

The Senate has the Constitutional duty to provide its Advice and Consent on Presidential nominations, a duty which we take seriously. In consultation with our Ranking Members, we reaffirm our commitment to conduct the appropriate review of these nominations, consistent with the long standing and best practices of committees, regardless of which political party is in the majority. These best practices serve the Senate well, and we will insist on their fair and consistent application.

Therefore, prior to considering any time agreements on the floor on any nominee, we expect the following standards will be met:

1. The FBI background check is complete and submitted to the committee in time for review and prior to a hearing being noticed.
2. The Office of Government Ethics letter is complete and submitted to the committee in time for review and prior to a committee hearing.
3. Financial disclosure statements (and tax returns for applicable committees) are complete and submitted to the committee for review prior to a hearing being noticed.
4. All committee questionnaires are complete and have been returned to the committee. A reasonable opportunity for follow-up questions has been afforded committee members, and nominees have answered, with sufficient time for review prior to a committee vote.
5. The nominee is willing to have committee staff interviews, where that has been the practice.
6. The nominee has had a hearing.
7. The nominee agrees to courtesy visits with members when requested.
8. The nominee has committed to cooperate with the Ranking Member on requests for information and transparency.

There will be additional requirements, honoring the traditions of the Senate, for judicial nominees. These common sense standards and long standing practices will ensure that the Senate has had the opportunity to fairly review a nominee's record and to make an informed decision prior to a vote.

Sincerely,


MITCH McCONNELL
REPUBLICAN LEADER

MM/rw

CHL Se

NATIONAL REVIEW

‘Unreliable and Misleading’ Charges against Sessions

By Carrie Severino — December 22, 2016

As I’ve written before, much of the reporting on Senator Sessions’ bid for Attorney General has failed to dig deeper than the top-level talking points of his opponents. New reports are out digging up a decades-old lawsuit Sessions was involved with in which a state judge wrote that “the misconduct of the Attorney General in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this court.”

Sounds pretty damning, at least until you learn that the order quoted above itself was found “particularly unreliable and misleading” by a unanimous panel of the Eleventh Circuit Court of Appeals. The appellate court faulted the judge below for simply cutting and pasting his order from the opposing lawyer’s briefs, which explains the over-the-top language. Far from finding prosecutorial misconduct, the Eleventh Circuit held that there *had been* probable cause for prosecution. And it found the trial court’s order to be sufficiently misleading that the \$7.2 million verdict in a related civil case was thrown out because the jury had been read that order.

To clarify the timeline of the case, it began in 1995 when a Tieco whistleblower disclosed evidence of fraud to a customer company, USX, which in turn disclosed it to Sessions, then Alabama Attorney General. Following an investigation which uncovered Tieco’s own records which suggested fraud, a grand jury indicted Tieco in July 1996. The Eleventh Circuit later held that the witness and record evidence was sufficient at the time to support prosecution.

In mid-1996, while the case was pending and Sessions was running for Senate, Tieco filed an ethics complaint with the Alabama Ethics Commission that was investigated and rejected unanimously, 5-0. At least one news outlet has characterized the cooperation between USX and the AG’s office in the case as a “bizarre arrangement” and suggested it was following up on the malicious prosecution decision. But the idea that the customer who was allegedly being defrauded should not be allowed to assist the state Attorney General in accessing records that would prove the fraud is itself bizarre. And the ethics investigation itself was only required because Tieco’s counsel had gone on the offense to file ethics charges in the middle of the litigation.

In the course of the trial it became apparent that the whistleblower witness' testimony was weaker than it had originally seemed. In 1997, shortly after Sessions stepped down as AG to take his Senate seat, the judge granted a motion to dismiss the case. In an unusual move, he adopted as part of his final order the defense counsel's own brief, even the hyperbolic language alleging prosecutorial misconduct.

That's right: the language trashing the Attorney General's office was written, not by the trial judge, but by the very aggressive opposing party in the case.

At the time, Sessions characterized the case as one in which the prosecution had been abused by the defense lawyer and maintained that the allegations of misconduct were "unfounded and without merit."

The Eleventh Circuit apparently agreed. While they never got a chance to weigh in on the criminal case itself, which was in state court, a civil case based on the same factual allegations did make it up to the federal appellate court.

Although Tieco dodged the fraud allegations in the criminal trial, its customer USX filed a civil case in federal court. Tieco countersued, alleging malicious prosecution by USX and basing its case almost entirely on the state court order language that Tieco itself had drafted. The jury awarded Tieco \$7.2 million.

But the Eleventh Circuit tossed out the verdict, citing the state court's "particularly unreliable and misleading" order and its prejudicial effect on the jurors. While the court couldn't directly overturn that order because the criminal case wasn't the one being appealed, having the appellate court treat an order that way sends a clear signal: it thought the order wasn't worth the paper it was written on.

The Eleventh Circuit did something the media ought to do. Before jumping on a sensational story, it weighed the reliability of the order to determine whether it represented a serious effort to determine that Sessions or his office had engaged in prosecutorial misconduct.

I'll add that the report of this case by CNN was especially unfair in suggesting that Sessions was hiding the case by not listing it in his judicial questionnaire as one of his "most significant litigated matters," and by speculating that he didn't want to draw attention to it because it was a "major embarrassment." In fact the questionnaire didn't ignore the case: The relevant facts of the ethics complaint were properly disclosed to the Judiciary Committee, and two press releases from the prosecution were part of the public portion of the questionnaire. The fact that Sessions didn't rank the case as one of the most significant matters he had ever handled is hardly sinister.

And CNN's failure to note the inclusion of the information elsewhere in the questionnaire raises questions about the journalists' willingness to do the homework necessary to report the truth.

A headline reading "Decades-old Charges of Misconduct Against Sessions Have Been Repeatedly Discredited" isn't exactly clickbait. But that's about what this nothingburger of a story deserves.



OFFICIAL ABSENTEE
PRIMARY ELECTION BALLOT
SEPTEMBER 4, 1984
ALABAMA DEMOCRATIC PARTY
PERRY COUNTY

Instructions: To vote for any candidate make a cross (X) in the square in the appropriate column, according to your choice.

For United States Senator—Vote for One

- () CHARLES WAYNE BORDEN
(X) HOWELL HEELIN
() MRS. FRANK ROSS STEWART

For Court of Criminal Appeals Judge, Place 4—Vote for One

- () CLAUDE ALLISON
() DON HARRISON
() DAN MCCOY
(X) H. W. "Bucky" McMILLAN

For Member of the County Commission, Place 1—Vote for One

- () REESE E. BILLINGSLEA
(X) SETZER B. HOWARD

For Member of the County Commission, Place 2—Vote for One

- () O. C. DOBYNES

For Member of the County Commission, Place 3—Vote for One

- (X) JOHN WARD

For Tax Assessor—Vote for One

- () WARREN P. KYNARD
(X) WILBERT LEE TURNER

For Tax Collector—Vote for One

- (X) TALLULAH S. NELSON
() ANN H. NICHOLS

"By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all the nominees thereof in the ensuing general election." (§17-15-14(b) Code of Alabama, 1975)

Q: [W]hen you voted your ballot, did you make any changes on it?

Cleophus Shelton: No, I know that.

Q: . . . Did you put that line through [Eddie Perry's] name?

Cleophus Shelton: No, I didn't put that down.

(Tr. P. 120)



AFFIDAVIT OF ABSENTEE VOTER

"State of Alabama
"County of Perry

"I, the undersigned, do swear (or affirm) that
"I am a resident of Perry County
in the State of Alabama.

"(2) My place of residence in Alabama is:
Box 341 (street)
Delma (City or town)
Alabama 36021 (zip code)

"(3) My voting precinct (or place where I vote) is:
Little Rock

"(4) My date of birth is: 11 month 3 day 46 year

"(5) I am entitled to vote in absentee ballot because:
"Check only one:

- ☐ I have moved from Alabama less than thirty days prior to the election.
☒ I will be out of the county (or the state on election day).
☐ I am physically incapacitated and will not be able to vote in person on election day.

"I further swear (or affirm) that I have not voted nor will I vote in person in the election to which this ballot pertains.
"I have marked the enclosed absentee ballot voluntarily and that I have read or had read to me and understand the instructions accompanying this ballot and that I have carefully complied with such instructions.

"Moreover, I further swear (or affirm) that all of the information given above is true and correct to the best of my knowledge and that I understand that by knowingly giving false information so as to vote illegally by absentee ballot that I shall be guilty of a misdemeanor which is punishable by a fine not to exceed \$1,000 and/or confinement in the county jail for not more than six months.

Cleophus Shelton
(Signature or mark of voter.)

"Note: Your signature must be witnessed by either: A notary public or other officer authorized to acknowledge oaths or two witnesses eighteen years of age or older.

"Sworn to and subscribed before me this _____ day
of _____, 19____. I certify that the affiant is known
(or made known) to me to be the identical party he claims to be.

(Signature of Official)

(Title of official) Robert Turner

(Address of official) Box 933

"1st Witness PO Box 933

Marion Print name

Address

city Earl Ford zip code

"2nd Witness EARL FORD

RT 3 Box 16 Print name

MARION AL Address

zip code

434

E.D.
Box
#4
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OFFICIAL ABSENTEE
PRIMARY ELECTION BALLOT
SEPTEMBER 4, 1984
ALABAMA DEMOCRATIC PARTY
PERRY COUNTY

Instructions: To vote for any candidate make a cross (X) in the square in the appropriate column, according to your choice.

For United States Senator—Vote for One

- () CHARLES WAYNE BORDEN
(X) HOWELL HEFLIN
() MRS. FRANK ROSS STEWART

For Court of Criminal Appeals Judge, Place 4—Vote for One

- () CLAUDE ALLISON
(X) DON HARRISON
() DAN MCCOY
() H. W. "Bucky" McMILLAN

For Member of the County Commission, Place 1—Vote for One

- () ~~EDWARD J. McILWAIN~~
(X) SETZER B. HOWARD

For Member of the County Commission, Place 3—Vote for One

- () O. C. DOBYNES
() ~~EDWARD J. McILWAIN~~
(X) JOHN WARD

For Tax Assessor—Vote for One

- () ~~EDWARD J. McILWAIN~~
(X) WILBERT LEE TURNER

For Tax Collector—Vote for One

- (X) TALLULAH S. NELSON
() ~~EDWARD J. McILWAIN~~

"By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all the nominees thereof in the ensuing general election." (§17-18-14(b) Code of Alabama, 1975)

Q: Can you remember any individuals on that ballot that you intended to vote for?

Eddie Shelton: Well, I remember one, that was Eddie Perry.

Q: How do you know Eddie Perry?

Eddie Shelton: He is a close friend.

Q: Did you ever authorize anyone to scratch out Eddie Perry's name on your ballot?

Eddie Shelton: No.

(Jr. P. 66)



AFFIDAVIT OF ABSENTEE VOTER

"State of Alabama

"County of Perry

"I, the undersigned, do swear (or affirm) that: Perry County

"(1) I am a resident of Perry in the State of Alabama.

"(2) My place of residence in Alabama is: 266 Box 391

(street) Selma, Alabama 36701

(City or town) (zip code)

"(3) My voting precinct (or place where I vote) is: Settle Stable

"(4) My date of birth is: 7 month 5 day 57 year

"(5) I am entitled to vote in absentee ballot because:

"Check only one:

☐ I have moved from Alabama less than thirty days prior to the election.

☐ I will be out of the county of the state on election day.

☐ I am physically incapacitated and will not be able to vote in person on election day.

"I further swear (or affirm) that I have not voted nor will I vote in person in the election to which this ballot pertains.

"I have marked the enclosed absentee ballot voluntarily and that I have read or had read to me and understand the instructions accompanying this ballot and that I have carefully complied with such instructions.

"Moreover, I further swear (or affirm) that all of the information given above is true and correct to the best of my knowledge and that I understand that by knowingly giving false information so as to vote illegally by absentee ballot that I shall be guilty of a misdemeanor which is punishable by a fine not to exceed \$1,000 and/or confinement in the county jail for not more than six months.

Edward Shelton

(Signature or mark of voter.)

"Note: Your signature must be witnessed by either: A notary public or other officer authorized to acknowledge oaths or two witnesses eighteen years of age or older.

"Sworn to and subscribed before me this day

of 19 . I certify that the affiant is known

(or made known) to me to be the identical party he claims to be.

(Signature of Official)

(Title of official)

(Address of official) OR

"1st Witness Signature

 Print name

 Address

 City State Zip code

"2nd Witness Signature

 Print name

 Address

 City State Zip code

 Address

 City State Zip code

 Address

 City State Zip code

 Address

 City State Zip code

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ALABAMA
DEMOCRATIC PARTY
OFFICIAL ABSENTEE
PRIMARY ELECTION BALLOT
SEPTEMBER 4, 1984
ALABAMA DEMOCRATIC PARTY
PERRY COUNTY

Instructions: To vote for any candidate make a cross (X) in the square in the appropriate column, according to your choice.

For United States Senator—Vote for One

() CHARLES WAYNE BORDEN

(X) HOWELL HEFLIN

() MRS. FRANK ROSS STEWART

For Court of Criminal Appeals Judge, Place 4—Vote for One

() CLAUDE ALLISON

() DON HARRISON

() DAN MCCOY

(X) H. W. "Bucky" McMillan

For Member of the County Commission, Place 1—Vote for One

() REX D. BILLORETTA

(X) SETZER B. HOWARD

For Member of the County Commission, Place 3—Vote for One

() O. C. DOBYNES

() BOBBY PERRY, JR.

(X) JOHN WARD

For Tax Assessor—Vote for One

() WARREN B. GIBBS

(X) WILBERT LEE TURNER

For Tax Collector—Vote for One

(X) TALLULAH S. NELSON

() JAMES L. HICKS

"By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all the nominees thereof in the ensuing general election." (§17-16-14(b) Code of Alabama, 1975)

Q: Did you mark any names out on this ballot?

Fannie Shelton: No.

Q: Are the names marked out on this ballot?

Fannie Shelton: [Yes].

Q: Did you do that yourself?

Fannie Shelton: No.

Q: Did you authorize anybody to do that for you?

Fannie Shelton: No.

(Tr. P. 91, 92)

AFFIDAVIT OF ABSENTEE VOTER

"State of Alabama

"County of Perry

"(1) I am a resident of Perry County

in the State of Alabama.

"(2) My place of residence in Alabama is

One Perry St.

Selma (City or town)

Alabama 36701 (zip code)

"(3) My voting precinct (or place where I vote) is

Smith's place

"(4) My date of birth is 12 9 49

"(5) I am entitled to vote an absentee ballot because:

"Check only one:

☐ I have moved from Alabama less than thirty days prior to the election.

☐ I will be out of the county of the state on election day.

☐ I am physically incapacitated and will not be able to vote in person on election day.

"I further swear (or affirm) that I have not voted nor will I vote in person in the election to which this ballot pertains.

"I have marked the enclosed absentee ballot voluntarily and that I have read or had read to me and understand the instructions accompanying this ballot and that I have carefully complied with such instructions.

"Moreover, I further swear (or affirm) that all of the information given above is true and correct to the best of my knowledge and that I understand that by knowingly giving false information so as to vote illegally by absentee ballot that I shall be guilty of a misdemeanor which is punishable by a fine not to exceed \$1,000 and/or confinement in the county jail for not more than six months.

Fannie M. Shelton

(Signature or mark of voter.)

"Note: Your signature must be witnessed by either: A notary public or other officer authorized to acknowledge oaths or two witnesses eighteen years of age or older.

"Sworn to and subscribed before me this 19th day

of September, 1984. I certify that the affiant is known

(or made known) to me to be the identical party he claims to be.

(Title of official)

(Address of official)

"1st Witness

Alberty Turner

Print name

PO Box 933

Address

city

zip code

"2nd Witness

EVERETT TURNER

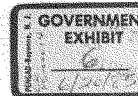
Print name

PO Box 933

Address

city

zip code



Q: Is that your ballot?

Mary Shelton: It is mine, but I didn't mark anything out.

Q: Are there some names on that ballot that are marked out?

Mary Shelton: Right.

Q: Did you mark out those names?

Mary Shelton: No, I didn't.

Q: Did you authorize anybody to mark those names out for you?

Mary Shelton: No.

(Tr. P. 4, 5)



OFFICIAL ABSENTEE
PRIMARY ELECTION BALLOT
SEPTEMBER 4, 1984
ALABAMA DEMOCRATIC PARTY
PERRY COUNTY

Instructions: To vote for any candidate make a cross (X) in the square in the appropriate column, according to your choice.

For United States Senator—Vote for One

() CHARLES WAYNE BORDEN
(X) HOWELL HEFLIN
() MRS. FRANK ROSS STEWART

For Court of Criminal Appeals Judge, Place 4—Vote for One

() CLAUDE ALLISON
(X) DON HARRISON
() DAN McCOY
() H. W. "Bucky" McMILLAN

For Member of the County Commission, Place 1—Vote for One

() WILBERT LEE TURNER
(X) SETZER B. HOWARD

For Member of the County Commission, Place 3—Vote for One

() O. C. DOBYNES
() JOHN WARD

For Tax Assessor—Vote for One

() WILBERT LEE TURNER
(X) WILBERT LEE TURNER

For Tax Collector—Vote for One

(X) TALLULAH S. NELSON

"By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all the nominees thereof in the ensuing general election." (§17-15-14(b) Code of Alabama, 1975)



AFFIDAVIT OF ABSENTEE VOTER

"State of Alabama Perry
County, of

"I, the undersigned, do swear (or affirm) that:

(1) I am a resident of Perry County in the State of Alabama.

(2) My place of residence in Alabama is: Perry County, Box 341

(City or town) (State) Alabama 36701

(3) My voting precinct (or place where I vote) is: Suttle

(4) My date of birth is: August 31, 1953

(5) I am entitled to vote an absentee ballot because:

"Check only one:

☐ I have moved from Alabama less than thirty days prior to the election.

☐ I will be out of the county on the state or election day.

☐ I am physically incapacitated and will not be able to vote in person on election day.

"I further swear (or affirm) that I have not voted nor will I vote in person in the election to which this ballot pertains.

"I have marked the enclosed absentee ballot voluntarily and that I have read or had read to me and understand the instructions accompanying this ballot and that I have carefully complied with such instructions.

"Moreover, I further swear (or affirm) that all of the information given above is true and correct to the best of my knowledge and that I understand that by knowingly giving false information so as to vote illegally by absentee ballot that I shall be guilty of a misdemeanor which is punishable by a fine not to exceed \$1,000 and/or confinement in the county jail for not more than six months.

Mary Shelton (Signature or mark of voter)

"Note: Your signature must be witnessed by either a notary public or other officer authorized to acknowledge oaths or two witnesses eighteen years of age or older.

"Sworn to and subscribed before me this _____ day,

of _____, 1984. I certify that the affiant is known (or made known) to me to be the identical party he claims to be.

(Title of official) (Signature of Official)

(Address of official) OR

"1st Witness: Albert Turner

Print name, Address, City, State, Zip code

"2nd Witness: Evelyn H. Turner

Print name, Address, City, State, Zip code

P.O. Box 933

Address, City, State, Zip code

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Q: [D]o you remember who you voted for?
 Mattie Shelton: ... I know I voted for Eddie Perry...

Q: Once you voted your absentee ballot, did you make any changes on that ballot?
 Mattie Shelton: No, I didn't.

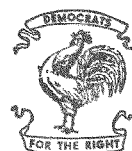
Q: Did you ever authorize anybody in your family or any family members to change your ballot?
 Mattie Shelton: No, I didn't.

AFFIDAVIT OF ABSENTEE VOTER

"State of Alabama
 "County of PERRY

"I, the undersigned, do swear (or affirm) that:
 "(1) I am a resident of PERRY County in the State of Alabama.
 "(2) My place of residence in Alabama is Box 391 (street)
SELMA, Alabama 36701 (city or town) (zip code)
 "(3) My voting precinct (or place where I vote) is: Stark (precinct)
 "(4) My date of birth is: June 30 1915 month day year
 "(5) I am entitled to vote an absentee ballot because:
☐ I have moved from Alabama less than thirty days prior to the election.
☒ I will be out of the county on the state election day.
☐ I am physically incapacitated and will not be able to vote in person on election day.
 "I further swear (or affirm) that I have not voted nor will I vote in person in the election to which this ballot pertains.
 "I have marked the enclosed absentee ballot voluntarily and that I have read or had read to me and understand the instructions accompanying this ballot and that I have carefully complied with such instructions.
 "Moreover, I further swear (or affirm) that all of the information given above is true and correct to the best of my knowledge and that I understand that by knowingly giving false information so as to vote illegally by absentee ballot that I shall be guilty of a misdemeanor which is punishable by a fine not to exceed \$1,000 and/or confinement in the county jail for not more than six months.
Mattie M. Shelton
 (Signature or mark of voter.)
 "Note: Your signature must be witnessed by either: A notary public or other officer authorized to acknowledge oaths or two witnesses eighteen years of age or older.
 "Sworn to and subscribed before me this _____ day of _____ 19____ I certify that the affiant is known (or made known) to me to be the identical party he claims to be.
 _____ (Signature of Official)
 (Title of official)
 (Address of official) _____ OR _____
 "1st Witness Robert Turner Signature
Robert Turner Print name
Box 933 Address
Moore city Earl Ford zip code
 "2nd Witness Earl Ford Signature
Earl Ford Print name
RT 3 Box 16 Address
Marion HI zip code

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**OFFICIAL ABSENTEE
PRIMARY ELECTION BALLOT**

SEPTEMBER 4, 1984

ALABAMA DEMOCRATIC PARTY

PERRY COUNTY

Instructions: To vote for any candidate make a cross (X) in the square in the appropriate column, according to your choice.

For United States Senator—Vote for One

- () CHARLES WAYNE BORDEN
(X) HOWELL HEFLIN
() MRS. FRANK ROSS STEWART

For Court of Criminal Appeals Judge, Place 4—Vote for One

- () CLAUDE ALLISON

- () DAN MCCOY

- (X) H. W. "Bucky" McMILLAN

For Member of the County Commission, Place 1—Vote for One

- () REESE E. BILLINGSLEA
(X) SETZER B. HOWARD

For Member of the County Commission, Place 3—Vote for One

- () O. C. DOBYNES
() EDDIE PERRY, JR.
(X) JOHN WARD

For Tax Assessor—Vote for One

- () WARREN P. KYNARD
(X) WILBERT LEE TURNER

For Tax Collector—Vote for One

- (X) TALLULAH S. NELSON
() ANN H. NICHOLS

"By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all the nominees thereof in the ensuing general election." (§17-16-14(b) Code of Alabama, 1975)

Q: Did you make any marks on your ballot other

than to indicate which candidate that you were voting for?

Mims Shelton: No I didn't.

Q: Does this ballot show that there is a name marked out under that race for the Criminal Court of Appeals judge?

Mims Shelton: Yes...

Q: Did you authorize anybody to mark that name out on your ballot?

Mims Shelton: No, I didn't.

AFFIDAVIT OF ABSENTEE VOTER

State of Alabama

County of Perry

"I, the undersigned, do swear (or affirm) that:

(1) I am a resident of Perry County

(2) My place of residence in Alabama is:

Alabama 36701

(3) My voting precinct (or place where I vote) is:

(4) My date of birth is: 3-12-42

(5) I am entitled to vote an absentee ballot because:

"Check only one:

☐ I have moved from Alabama less than thirty days prior to the election.

☒ I will be out of the county or the state on election day.

☐ I am physically incapacitated and will not be able to vote in person on election day.

"I further swear (or affirm) that I have not voted nor will I vote in person in the election to which this ballot pertains.

"I have marked the enclosed absentee ballot voluntarily and that I have read or had read to me and understand the instructions accompanying this ballot and that I have carefully complied with such instructions.

"Moreover, I further swear (or affirm) that all of the information given above is true and correct to the best of my knowledge and that I understand that by knowingly giving false information so as to vote illegally by absentee ballot that I shall be guilty of a misdemeanor which is punishable by a fine not to exceed \$1,000 and/or confinement in the county jail for not more than six months.

Mims Shelton (Signature or mark of voter)

"Note: Your signature must be witnessed by either: A notary public or other officer authorized to acknowledge oaths or two witnesses eighteen years of age or older.

"Sworn to and subscribed before me this 19th day

of 1984. I certify that the affiant is known (or made known) to me to be the identical party he claims to be.

(Title of official) (Signature of Official)

(Address of official) OR

1st Witness Albert J. Turner

Signature P. B. E. TURNER

Print name P. B. E. TURNER

Address

City Ford

Zip code

2nd Witness

Signature

Print name

Address

City

Zip code

435 E.D.

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Written Statement of
Judy Shepard

To the
Committee on the Judiciary
United States Senate
Hearing Entitled: Attorney General Nomination
January 11, 2017

I am honored to submit this testimony, but I am also deeply troubled by the nomination at hand. In 1998 my son, Matthew, was murdered because he was gay, a brutal hate crime that continues to resonate around the world even now. Following Matt's death, my husband, Dennis, and I worked for the next 11 years to garner support for a federal Hate Crimes Prevention Act that would increase resources for state and local law enforcement agencies investigating and prosecuting hate crimes and provide a federal backstop for prosecuting hate crimes throughout the country, including in states – like Wyoming – that still do not have hate crimes laws on their books.

Over that decade, we were fortunate to work alongside members of Congress, both Democrats and Republicans, who championed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act¹ with the determination, compassion, and vision to match ours as the parents of a child targeted for simply wanting to be himself. Senator Jeff Sessions was not one of these members. In fact, Senator Sessions strongly opposed the hate crimes bill. Unfortunately, Senator Sessions believes that hate crimes are, what he describes as, mere “thought crimes.”² For over a decade, Senator Sessions publicly mischaracterized the reach of the bill, promoting a purposefully inflammatory argument that it would allow for the prosecution of religious leaders and teachers.³

I am not submitting this testimony today because Matt's murderers had “thoughts,” or because they said hateful things. I am writing this because they brutally beat my son with the butt of a .357 magnum pistol, tied him to a fence, and left him to die in freezing temperatures because he was gay. Senator Sessions' repeated efforts to diminish the life-changing acts of violence covered by the Hate Crimes Prevention Act horrified me then, as a parent who knows the true cost of hate, and it terrifies me today to see that this same person is now being nominated as the country's highest authority to represent justice and equal protection under the law for all Americans.

¹ 18 U.S.C. § 249 (2012); Public Law No. 111-84.

² 111th Congress, 1st Session Issue: Vol. 155, No. 109 Page S7694

³ *Id.*

As the number of hate crimes surge, this country needs the protections and resources provided by the Hate Crimes Prevention Act now more than ever. Lesbian, gay, bisexual, and, particularly, transgender people continue to face an epidemic of violence. Every year, more parents lose their children to hate-induced violence simply for being themselves. Just last month, a Mississippi man pled guilty to violating the federal hate crimes law when he beat and stabbed a transgender teenager – admitting that he killed her because of her gender identity.⁴ This closure was possible because the Department of Justice charged him with violating the Hate Crimes Prevention Act. Senator Sessions has been nominated to perform the duties of Attorney General and to enforce this critical piece of federal law. Senator Sessions' very public record of hostility towards the LGBTQ community and federal legislation designed to protect vulnerable Americans makes it nearly impossible to believe that he will vigorously enforce this statute that he worked so hard to defeat.

Senator Sessions has made his hostility and disgust towards LGBTQ people public and clear throughout over 3 decades in public service. As Attorney General of Alabama and as a United States Senator Jeff Sessions not only accepted, but embraced laws criminalizing LGBTQ people. Think about that. He has supported laws that make it illegal for LGBTQ people to live their lives without fear of prosecution just because of who they are or who they love.

While Attorney General of Alabama, he used his position of power and an unconstitutional state law in an effort to block an educational student conference at the University of Alabama in order to target LGBTQ people.⁵ This 1996 conference was described as a place to discuss, among other things, hate crimes and cultural sensitivity in law enforcement, preventing STDs, and an interfaith discussion. He pursued the case even after the district court flatly rejected his legal argument and his deputy attorney general strongly agreed with the court.

As a U.S. Senator, he consistently expressed his disagreement and opposition to the landmark Supreme Court case, *Lawrence v. Texas*, which found laws prohibiting same-sex relationships to be unconstitutional.⁶ He described this foundational civil rights case

⁴ See, *Mississippi Man Pleads Guilty to Hate Crime for Murdering Transgender Victim Because of Her Gender Identity*, U.S. Department of Justice (Dec. 21, 2016) available at: <https://www.justice.gov/opa-pr/mississippi-man-pleads-guilty-hate-crime-murdering-transgender-victim-because-her-gender> (last visited December 28, 2016).

⁵ *Gay, Lesbian, Bisexual Alliance v. Jeff Sessions*, 917 F. Supp. 1558 (1996); See also, *Jeff Sessions fought as Alabama attorney general to keep an LGBT conference from meeting on a public campus*, CNN, (December 2, 2016).

⁶ 109th Congress, 2nd Session Issue: Vol. 152, No. 70, Page S5479 - S55481.

as “troubling” and used this decision as a basis for his support and introduction of a Constitutional amendment that would have prevented any state from allowing same-sex marriage. For years, the Department of Justice has provided protection for many LGBTQ people under federal statutes that prohibit discrimination on the basis of sex. This interpretation has been affirmed by numerous federal courts and agencies and has become a source of justice that many in the LGBTQ community have come to rely upon. Given Senator Sessions’ track record of using his personal belief in unconstitutional laws to support public discrimination, I am deeply concerned that he will fail to continue to enforce these critical protections.

Like many Americans, lesbian, gay, bisexual and transgender people too often face intimate partner violence in their relationships. The federal government has moved decisively to address domestic violence and sexual assault through the 1994 Violence Against Women Act (VAWA). Senator Sessions opposed expanding this Act to protect LGBT victims of violence in the most recent VAWA reauthorization. Fortunately, bipartisan majorities of both chambers adopted these protections and reauthorized the law. But now we are faced with the prospect that Senator Sessions will be responsible for carrying out provisions of a law he firmly opposed. The health and safety of countless LGBT people hinges on his ability to do so.

In preparing this testimony, I read the mission statement for the Department of Justice. As the Attorney General, Senator Sessions would be entrusted to enforce the law, to provide federal leadership, to seek just punishment for the guilty, and to ensure fair and impartial administration of justice for all Americans. But here is where I take issue. In 30 years in public life Senator Sessions has failed to demonstrate that he can be fair and impartial in the administration of justice for *all* Americans. And I am not only referring to the LGBTQ community but all of the protected classes listed in the Hate Crimes Prevention Act. Senator Sessions has repeatedly forfeited opportunity after opportunity to stand up for people like my son Matt and has, instead, used his position of power to target them for increased discrimination and marginalization, thus encouraging violence and other acts deemed to be hate crimes.

Over the years, Senator Sessions has consistently referred to same-sex relationships and LGBTQ people like Matt as “dangerous”, or as a “threat” to our American way of life and our so called “traditional” moral beliefs. Matt was raised to believe in equal rights and equal protection for all. As a freshman in college in North Carolina, he participated in protests against the racist, bigoted, homophobic attitudes of then Senator Jesse Helms. During his short life, Matt was always fighting to make life better for everyone. I am here to carry on his legacy, to do what he would be doing if he were alive, to verbally protest against the types of attitude and prejudice that resulted in his death. Matt was

many things, but he was not dangerous and he was not a threat. But, based on the record of his past actions, it is blatantly clear that placing Jeff Sessions in the position as the nation's chief law enforcement official would be both.

Opinions

Jeff Sessions deserves to be the next U.S. attorney general

Attorney General-designate Sen. Jeff Sessions (R-Ala.) cheers on the crowd during a rally. (Brynn Anderson/Associated Press)

By Larry Thompson *Washington Post* 1/13/18

Larry Thompson was deputy U.S. attorney general from 2001 to 2003.

One of my favorite descriptions of public service was set forth by former president Theodore Roosevelt, who praised the person who is actually in the “arena” and, while suffering the slings and arrows of criticism, continues to strive “valiantly” to serve the public’s interests. It is my experience that there can be no public service without public criticism, but such criticism should always be dispassionate and not misleading.

It is in this vein that I believe the Senate should quickly move to confirm Sen. Jeff Sessions (R-Ala.) as U.S. attorney general. In doing so, it should objectively look at Sessions’s clear record of achievement in the areas of strong law enforcement and legislative bipartisanship. And, the Senate should reject the cheap-shot accusations that attempt to brand the senator as racially insensitive or, worse, a racist. Among his many accomplishments as a federal prosecutor and senator, there are two that clearly define Sessions as a leader with a commitment to strong law enforcement and equal justice.

As a U.S. attorney, Sessions successfully prosecuted Alabama Ku Klux Klan "Grand Titan" Bennie Jack Hays, who ordered his son, Henry Hays, to kill an African American man. Henry Hays and James "Tiger" Knowles did the cowardly deed by abducting a 19-year-old and torturing and then murdering him.

As is common in cases like this with serious civil rights overtones, the investigation was a joint federal-state effort. The state district attorney noted that the investigative power of the FBI and a federal grand jury were needed. He also noted that when he reached to him for help, Sessions responded, "Tell me what you'll need and you'll have it." Knowles pleaded guilty in federal court to a civil rights violation and received a life sentence to be served in federal prison. Sessions, however, pressed to ensure that Hays was tried in state court, where prosecutors could seek the death penalty. Hays was found guilty and received the death sentence. As Alabama attorney general, Sessions successfully argued to uphold Hays's sentence.

Sessions also has a record of bipartisan leadership in the Senate, especially on criminal justice issues. His leadership was instrumental in the passage of the Fair Sentencing Act in 2010. This landmark legislation reduced the penalties for crack cocaine possession, which unfairly targeted African Americans, and brought the penalties more in line with those for powder cocaine.

This was a tremendous accomplishment inasmuch as Sessions first introduced the legislation in 2001 to reduce this unjust disparity and noted, "I think we are at a point now where this 100-to-1 disparity that does fall heavier on the African-American community simply because that is where crack is most often used has got to be fixed." Sessions worked to reduce this disparity for nine years before he was joined by

Sen. Richard J. Durbin (D-Ill.) in a successful bipartisan effort to enact the legislation. Wade Henderson, president of the Leadership Conference on Civil and Human Rights, praised Sessions in 2010 for his “steadfast commitment” to ending this “racially discriminatory disparity.”

That Sessions can view law enforcement and Justice Department issues through a bipartisan lens was further demonstrated when he was one of only 19 Republican senators to vote to confirm Eric Holder, President Obama’s first attorney general.

These remarkable accomplishments demonstrate that Sessions’s deep experience as a federal prosecutor and senator will bring much-needed, strong leadership to the Justice Department.

The Post’s Ellen Nakashima and Sari Horwitz recently reported a moving speech Sessions made at the ceremony awarding the Congressional Gold Medal to the “foot soldiers” who took part in the 1965 voting rights march from Selma to Montgomery, Ala., which very much illustrates the senator’s commitment to equality. He praised the foot soldiers and noted, “More needs to be done. We need to join closer hands.”

So, despite criticism of some of the senator’s public policy and political positions, the nation and the Justice Department have benefited from Sessions’s leadership and time in the “arena.” While being battered at times, he has worked hard and has clearly advanced the public good. Sen. Jeff Sessions, a good man, deserves confirmation as our nation’s next attorney general.



Statement of We Belong Together
Submitted to the United States Senate Committee on the Judiciary
Hearing on "Attorney General Nomination"

January 10, 2017

Members of the Committee, we are We Belong Together. Thank you for the opportunity to submit this statement for inclusion in the record for today's hearing. We Belong Together is a campaign co-anchored by the National Domestic Workers Alliance and the National Asian Pacific American Women's Forum to mobilize women in support of common-sense immigration policies that will keep families together and empower women. We Belong Together was launched on Mother's Day in 2010 and has exposed the dangerous impact of immigration enforcement on women and families, advocated for comprehensive immigration reform legislation and campaigned President Obama to take executive action within his legal authority to improve the broken immigration system.

We Belong Together urges all members of the United States Senate to oppose the nomination of Senator Jeff Sessions as U.S. Attorney General. Throughout his lengthy career, Senator Sessions has consistently dehumanized many of our communities including immigrants, people of color, women, Muslims, LGBTQ individuals and people with disabilities. Given his strong history of obstructing civil rights, Senator Sessions has proven that he is unfit to serve as Attorney General.

As the nation's chief law enforcement officer, the Attorney General is charged with upholding the constitutional rights and protections of all people in the United States. Senator Sessions, however, has opposed the Voting Rights Act, which aims to ensure all Americans have an equal opportunity to participate in our democracy and instead prosecuted voting rights activists who tried to increase Black registration and turnout. He has opposed bipartisan efforts to reform the criminal justice system by reducing sentences and he opposes federal consent decrees designed to reduce police misconduct. Sessions has opposed hate crimes protections for members of the LGBTQ community, fought the reauthorization of the Violence against Women Act (VAWA) and supported a Muslim ban in the United States. In addition, Senator Sessions has closely aligned himself with anti-immigrant extremist groups like NumbersUSA and the Federation for American Immigration Reform, which are founded on white supremacist ideals. Senator Sessions, through his own record, has been one of the staunchest opponents of any proposals that would bring humanity to our country's treatment of immigrants and has instead called for a massive border wall, mass deportations and the criminalization of immigrants. This record and these affiliations make Senator Sessions wholly unfit to prosecute hate crime and defend the civil rights of all persons in the US.

Congress has already determined that Senator Sessions does not meet the standards necessary to carry out a political appointment. In 1986, a Republican-led Senate Judiciary Committee rejected his nomination for a federal judgeship in Alabama because of his history of racist statements. Since then, Senator Sessions has continued his record of divisive hateful rhetoric. We urge Members of this Committee to uphold the values of our democracy and reject the nomination of Senator Sessions for Attorney General.

**SENATOR SESSIONS' EFFORTS TO SALVAGE
ONE BLACK COMMUNITY**

Statement by Robert L. Woodson, Sr.
Founder and President of the Woodson Center
(Formerly the Center for Neighborhood Enterprise)
January 10, 2017

SENATOR SESSIONS' EFFORTS TO SALVAGE ONE BLACK COMMUNITY

*Statement by Robert L. Woodson, Sr., Founder and President of the Woodson Center
(Formerly the Center for Neighborhood Enterprise)*

I have known and worked with Senator Jeff Sessions for more than 15 years and know firsthand that his leadership, compassion, and his actions to uplift "the least among us" far outweigh the weak allegations that have recently been brought against him.

I first met Senator Sessions in 2001 when Catherine Flowers, a community leader who was working to salvage her predominately black community in rural Alabama that was in crisis, came to my office at the Center for Neighborhood Enterprise (CNE) to ask for help. The most pressing issue her community faced was that 37 families were under threat of arrest or eviction after they were cited for violations of health regulations when it was found that raw sewage was flowing above ground. More than the authorities, the residents wanted a solution for the problem, which threatened their well-being and their children's health. But for a community where the average income was \$20,000, the poverty rate was above 30%, and families lived in dilapidated trailers, the cost of installing septic tanks, which ranged from \$6,000 to \$12,000 was hopelessly beyond reach.

Flowers lived in Lowndes County, which accounts for 43 miles of the 54-mile 1965 voting-rights march from Selma to Montgomery. For the past 50 years, annual parades have been held along the route to commemorate the march, with no awareness of conditions of the impoverished community that the route passed through, which had changed little throughout those five decades.

In addition to the crisis of waste disposal, there were no public recreation facilities for youth and no public libraries, and the county's schools were heated by dust-spewing coal furnaces and lacked wiring sufficient to support computers and Internet access. With virtually no manufacturing and economic development in the area, employment opportunities were dismal.

Though the coordinators of the commemorations did nothing to address the plight of the Lowndes County residents, Sessions took action to marshal support to revitalize the desolate community.

Senator Sessions, in response to a request for help, intervened to move forward Congressional appropriations from the EPA to provide funds for the installment of septic tanks. He joined with CNE to meet with Household International (HSBC), which elicited private-sector support from consultants who worked to tackle the immediate problem of waste management and launch a five-year initiative to promote economic development, provide financial literacy training, and create housing opportunities.

When the Hyundai Corporation planned to build a \$1 billion manufacturing plant just six-miles from the Lowndes County border, Sen. Sessions recognized the prospects for parts manufacturing and worked with CNE and Mrs. Flowers to secure \$4 million in grants from the US Department of Commerce and Economic Development that made possible the construction of two industrial parks that became second-tier auto suppliers.

In 2004, Senator Sessions hosted a meeting on Capitol Hill that brought 100 corporate and policy representatives to learn about the Alabama Rural Initiative (ARI) that Catherine Flowers was involved in. As a result of that meeting, Microsoft Corporation donated more than \$65,000 worth of software to equip computer centers for the low-income residents of Lowndes County. Representatives from the US Department of Labor who attended the event encouraged the ARI to apply for a planning grant for a Career Development Workforce Center. The grant was received in 2005, and a comprehensive plan was developed to bring together workforce preparation, adult remedial education, and legal assistance initiatives in Lowndes County to provide a road out of poverty for its residents.

Senator Sessions' support for Lowndes County also includes efforts to preserve its historical legacy. When he received a letter from an angry constituent demanding that Alabama's Interpretive Center along the Selma-Montgomery March trail be closed down and charging that it was "an orgy temple of hate," Sessions toured the Center's exhibits with Flowers and declared that "everyone should know this history." He was instrumental in transferring the authority for the Interpretive Center from the State of Alabama to the National Park Service, where it will be preserved in perpetuity.

I recently received a powerful testimony to Sen. Sessions from civil-rights activist and economic development coordinator Catherine Flowers who experienced his support since those early days of the waste-water crisis in Lowndes County. "I have been seeing all the press on Senator Sessions and I do not recognize the person they are describing," she wrote, "From my vantage point, I do not know who he may have been at one time, but I have known him to be a friend to the people of Lowndes County."

Those who would oppose the appointment of Senator Session as Attorney General would do well to consider the words of President Obama in his eulogy for Senator Robert Byrd, a former member and recruiter for the Ku Klux Klan: "We know there are things he said and things he did that he came to regret....As I reflect on the full sweep of his years, it seems to me that his life bent towards justice. Like the Constitution he tucked in his pocket, like our nation itself, Robert Byrd possessed that quintessential American quality, and that is a capacity to change, a capacity to learn, a capacity to listen, a capacity to be made more perfect."

ADDITIONAL SUBMISSIONS FOR THE RECORD

A list of material and links can be found below for Submissions for the Record not printed due to voluminous nature, previously printed by an agency of the Federal Government, or other criteria determined by the Committee:

Aaron, Marjorie Corman, Professor, University of Cincinnati College of Law, et al., 1,424 faculty members from 180 law schools in 49 states, January 9, 2017, letter:
<https://www.judiciary.senate.gov/imo/media/doc/2017-01-09%20Law%20Professor%20Statement%20re%20Sessions%20Nomination.pdf>

Butler, Jennifer, Reverend, Faith in Public Life, Washington, DC, et al., more than 2,500 faith leaders, statement:
<https://www.judiciary.senate.gov/download/01/10/2017/faith-leaders-opposition-to-trump-cabinet>

Duncan, A. Cameron, University of Virginia School of Law, et al., open letter from 1,060 Law Students to President-elect Donald J. Trump, December 22, 2016:
<https://www.judiciary.senate.gov/download/open-letter-from-1060-law-students>

Executive Office for United States Attorneys, United States Attorney's Office, Southern District of Alabama, January 27–31, 1992, final evaluation report:
www.judiciary.senate.gov/imo/media/doc/Executive%20Office%20of%20U.S.%20Attorneys%20final%20report,%20Sessions.pdf

Gershman, Bennett L., Professor of Law, Pace University, White Plains, New York, January 6, 2017, letter:
<https://www.judiciary.senate.gov/imo/media/doc/01-09-17%20Prof%20Ben%20Gershman1.pdf>

Guinier, Lani, *Lift Every Voice: Turning a Civil Rights Setback into a New Vision of Social Justice*, New York: Simon and Schuster, 1998, chap. 7, "Selma, Alabama, June 1985: Building Bridges from the Bottom Up," pages 183–219, excerpt:
<https://www.judiciary.senate.gov/imo/media/doc/LaniGuinierLiftEveryVoiceCh7.pdf>

Hebert, J. Gerald, former Acting Chief, Civil Rights Division, U.S. Department of Justice, Washington, DC, January 9, 2016, letter:
<https://www.judiciary.senate.gov/imo/media/doc/J.%20Gerald%20Hebert%20-%20Statement%20-%20Opposition.pdf>

Leadership Conference on Civil and Human Rights, The, Washington, DC, December 1, 2016, letter:
<https://www.judiciary.senate.gov/imo/media/doc/Sessions%20Nomination%2012%201%2016.pdf>

Liebman, James S., Associate Professor of Law, Columbia University School of Law, appendix to January 9, 2017, letter:
<https://www.judiciary.senate.gov/imo/media/doc/Appendix%201%20to%20Liebman%20Letter%20re%20Sessions%20Nomination%20010917.pdf>

National Association for the Advancement of Colored People (NAACP), "NAACP Federal Legislative Report Card, 113th Congress, January 3, 2013, through December 16, 2014," Washington, DC, report:
https://www.judiciary.senate.gov/download/naacp__-report-on-sessions

National Association for the Advancement of Colored People Legal Defense and Educational Fund, Inc. (LDF), "Report in Opposition to the Nomination of Jefferson Beauregard Sessions III to be Attorney General of the United States," New York, New York, and Washington, DC, January 9, 2017, report:
<https://www.judiciary.senate.gov/imo/media/doc/2017-01-09%20NAACP%20LDF%20Report%20in%20Opposition%20to%20Sessions.pdf>

Patrick, Deval L., Assistant Attorney General, Civil Rights Division,
U.S. Department of Justice, "Notice of Findings from Investigation
of Easterling Correctional Facility," March 27, 1995, letter and report:
[https://www.judiciary.senate.gov/imo/media/doc/Hitching%20Post%20
Report%20-%20Easterling1.pdf](https://www.judiciary.senate.gov/imo/media/doc/Hitching%20Post%20Report%20-%20Easterling1.pdf)

Patrick, Deval L., Assistant Attorney General, Civil Rights Division,
U.S. Department of Justice, "Notice of Findings from Investigation
of Julia Tutwiler Prison for Women," March 27, 1995, letter and report:
[https://www.judiciary.senate.gov/download/01/10/2017/hitching-post-
report__tutwiler](https://www.judiciary.senate.gov/download/01/10/2017/hitching-post-report__tutwiler)

UltraViolet, Nita Chaudhary and Shaunna Thomas, Co-Founders, petition:
<https://act.weareultraviolet.org/constituents/?tcid=767.tc7597.HKXtdS>

United States Steel LLC v. TIECO Inc., U.S. Court of Appeals, Eleventh Circuit,
August 17, 2001, decision:
<http://caselaw.findlaw.com/us-11th-circuit/1481550.html>

