

Senator Jeff Sessions
Questions for the Record
Sally Quillian Yates
Nominee to be United States Deputy Attorney General

- 1. Do you believe that President Obama has exceeded his executive authority in any way? If so, how?**

RESPONSE: Neither in my capacity as the United States Attorney for the Northern District of Georgia, nor in my current capacity as Acting Deputy Attorney General, have I been charged with determining when and whether the President has exceeded his executive authority. However, I can assure you that, if confirmed as Deputy Attorney General, I would commit to consistently and effectively enforcing the law within the confines of the Constitution. I can also assure you that I believe that the Attorney General and the Deputy Attorney General have an obligation to follow the law and the Constitution and to give their independent legal advice to the President.

- 2. On April 23, 2014, Deputy Attorney General Cole announced a new clemency initiative, under which the President intends to grant clemency to “perhaps thousands” of convicted federal drug offenders, including those who have limited ties to gangs and drug cartels. This policy would give federal drug offenders the benefit of changes in law that took place after they were convicted, even though many of these legislative changes were specifically negotiated to not apply retroactively. On March 20, 2015, President Obama stated that he plans to grant clemency “more aggressively” during the remainder of his term. If confirmed, you will be in a position to advise the President on clemency and pardon petitions.**
- a. Do you agree that the pardon power exists to mitigate injustice in individual cases?**
 - b. Do you agree that the pardon power should not be used to target laws that the President disagrees with on policy grounds?**
 - c. How will you ensure that the individuals whose petitions are granted under this policy are not dangerous criminals convicted of serious federal offenses?**

RESPONSE: Commutation reduces a sentence that is currently being served, in whole or part, but does not change the fact of conviction. Clemency, either in the form of a pardon or commuted sentence, is an extraordinary remedy, but may be appropriate in some circumstances consistent with the interests of justice.

As you know, the Constitution gives the President the exclusive authority to grant or deny clemency petitions without restriction. That authority has never been delegated to any person or agency. Presidents, however, have sought advice from the Department of Justice on the exercise of their authority for more than a century.

The Department has an extensive clemency review process, which factors in the views of the United States Attorney in the district of conviction, the sentencing judge, and the Bureau of

Prisons. It has been the Department's practice that all recommendations for commutation made by the Department to the President under the initiative include a period of supervised or prerelease custody for the Petitioner. The President alone decides which petitions are granted.

Under the clemency initiative announced by Deputy Attorney General Cole on April 23, 2014, the Department will consider six criteria when reviewing clemency applications from federal inmates. Among those criteria are several specifically designed to ensure that dangerous criminals are not released under this policy, including that the applicants are "non-violent, low-level offenders without significant ties to large scale criminal organizations, gangs, or cartels," they lack a "significant criminal history;" they have "demonstrated good conduct in prison;" and that they "have no history of violence prior to or during their current term of imprisonment."

3. **I am told that litigating attorneys within Main Justice are paid significantly more than similarly-situated federal prosecutors within the 93 U.S. Attorney Offices across the country. This pay variance is especially large at the entry level, and can differ as much as \$30,000 between similarly situated Assistant U.S. Attorneys and Justice Department trial attorneys. I am also told that the Department has the authority to correct the problem because it arises out of the uneven treatment in pay of Assistant U.S. Attorneys, covered under the specialized Administratively Determined pay schedule for Assistant U.S. Attorneys, and the pay of all other Department attorneys, covered under the government-wide General Schedule. Serving as vice chair of the Attorney General's Advisory Committee, you must have been aware of this situation. Do you believe it is justified? If not, will you take action to correct it?**

RESPONSE: As the United States Attorney for the Northern District of Georgia, I witnessed on a daily basis the talent and dedication of our Assistant U.S. Attorneys—many of whom have passed up higher paying jobs in the private sector to do the work that they love. I think it is important that all federal prosecutors—both at Main Justice and in the Districts—are compensated in a fair and equitable way for the hard work that they do.

Before I was appointed Acting Deputy Attorney General, I had the opportunity to serve as vice chair of the Attorney General's Advisory Committee, which was briefed by a working group of Department officials on the topic of disparity between the General Schedule and the Administratively Determined pay schedule. The topic continues to be examined. As Acting Deputy Attorney General, I remain committed to ensuring appropriate compensation for all Department attorneys, and I will continue that commitment if confirmed.

4. **In response to a question at your nomination hearing regarding what your priorities will be if confirmed, you stated:**

"It's important that we not be generating stat[istics] but actually having an impact on the communities that we serve to make them as safe as possible. And so one of the things that I would like to do is to work with our law enforcement agencies to ensure that they are focused on making an impact on the safety of the communities rather than just, as I said, generating stat[istics]."

Starting in the 1990s, the “broken windows” crime prevention theory was used in New York with great success. Do you believe there is a danger in failing to prosecute smaller crimes as those smaller crimes lead to larger crimes and undermine public safety?

RESPONSE: Throughout my career as a federal prosecutor, I have followed the facts and the law in making commonsense decisions about which cases to prosecute. Given the Department’s limited resources, we simply cannot prosecute every violation of federal law. This said, we are nonetheless committed to protecting the safety and security of the American people. In instances where there is evidence of a crime that may not rise to a violation of federal law, we will work with our state and local partners to address those crimes.

5. If confirmed, would you advocate for legislation to close the so-called “gun show loophole”?

RESPONSE: As a United States Attorney and a career prosecutor, protecting the public from violent crime has been among my top priorities. I will continue that commitment if confirmed as Deputy Attorney General. As a general matter, I believe the Department should do what it can to ensure that firearms do not wind up in the hands of criminals and others who are prohibited by law from having them, and would look forward to working with Congress toward this goal.

6. In April 2013, the Senate rejected measures that would have instituted a ban on so-called “assault weapons” and large capacity magazines, required universal background checks, and created new high criminal penalties for firearms offenses. In October 2014, Attorney General Holder referred to these as “really reasonable gun safety measures.” Do you agree with Attorney General Holder’s statement?

RESPONSE: As noted above, throughout my career as a federal prosecutor, one of my highest priorities has been to protect Americans from violent crime, including gun crime. I am sure we agree that the Department should do what it can to prevent criminals and others who are prohibited by law from obtaining firearms. Background checks are an important step to help block criminals and other prohibited persons from easily—and unlawfully—procuring firearms.

In addition, as you know, high capacity magazines allow semi-automatic weapons to fire a large number of rounds without reloading, often with tragic results, as we saw in Tucson, Aurora, and Newtown. Large capacity magazines also increase the danger to law enforcement officers, because criminals can fire more rounds before having to reload.

7. Have you ever expressed an opinion on whether the death penalty is unconstitutional? If so, what was that opinion? If not, do you have such an opinion and what is it?

RESPONSE: I believe the death penalty is constitutional, and while I was U.S. Attorney in Atlanta, my office sought the death penalty.

8. **President Obama was quoted in a January 2014 article in *The New Yorker* as saying the following: “I smoked pot as a kid, and I view it as a bad habit and a vice, not very different from the cigarettes that I smoked as a young person up through a big chunk of my adult life. I don’t think it is more dangerous than alcohol.” Do you agree with the President’s statement?**

RESPONSE: The Department and the Administration do not support the legalization of marijuana, nor do I. As a United States Attorney, a career prosecutor, and the Acting Deputy Attorney General, I have been committed to the enforcement of the Controlled Substances Act (CSA), and if confirmed as Deputy Attorney General I will continue that commitment. Likewise, the Department has not wavered in enforcing the CSA and federal money laundering laws, but does so in a way that most efficiently uses its limited resources to address the most significant threats to public health and safety, particularly with respect to violent offenders and gang activity, among other key priorities outlined in the Department’s August 2013 and February 2014 guidance to all United States Attorneys on these issues.

9. **DEA Administrator Michele Leonhart has testified before Congress that “it’s important to have the facts about marijuana out there in ways that kids, teens, young adults, parents can look at it to see that what they’ve been sold – that [legalization] is no big deal – is not true.” Do you agree with Administrator Leonhart?**

RESPONSE: Again, I do not support the legalization of marijuana, nor does the Department or the Administration. As a career prosecutor, I can assure you that I have been committed to enforcing the CSA throughout my career, and if confirmed as Deputy Attorney General, I will continue that commitment. Likewise, the Department remains committed to enforcing the CSA with regard to marijuana, as well as all other illegal drugs. Moreover, marijuana potentially falling into the hands of children is of particular concern to the Department and to me. These concerns are reflected by the Department’s explicit enforcement priority of preventing the distribution of marijuana to minors, as well as the Department’s enforcement priority of addressing threats to public health.

I also believe that it is important that the American public has the facts about marijuana and other dangerous drugs. To that end, while I am either acting or confirmed as Deputy Attorney General, the Department will continue to work with the Office of National Drug Control Policy and other partner agencies throughout the government to make that information available and accessible to the public.

10. **The American Medical Association has stated that it believes “(1) cannabis is a dangerous drug and as such is a public health concern; (2) the sale of cannabis should not be legalized.”**
- a. **Do you agree with that statement?**
 - b. **Do you support the legalization of marijuana at either the state or Federal level?**
 - c. **Do you support the legalization of medical marijuana, as proposed in S. 683 (introduced in the 114th Congress)?**

d. Will you speak out against efforts to eliminate the enforcement of Federal drug laws?

RESPONSE: As noted above, I do not support the legalization of marijuana, nor does the Department or the Administration. As a former United States Attorney and a career prosecutor, I have been committed to the enforcement the Controlled Substances Act (CSA), and if confirmed as Deputy Attorney General I will continue that commitment. Likewise, the Department remains committed to enforcing the CSA and federal money laundering laws in a way that most efficiently uses its limited resources to address the most significant threats to public health and safety. I can assure you that the Department does not support efforts to minimize or eliminate its enforcement of federal drug laws. As I noted in my hearing, I would welcome the opportunity to work with Congress on all issues, including federal drug enforcement.