

**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.