

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

- Do you continue to believe that Breitbart News is a “bright spot”?*
- Do you believe Breitbart News is a reliable source of information?*
- 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.

- 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.

- 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.

- 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.

- 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?***
- 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.