

**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.”<sup>1</sup> As such, I have an

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<sup>1</sup> 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.<sup>2</sup> 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.

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<sup>2</sup> 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.