

**Nomination of Jeff Sessions to be Attorney General of the United States**  
**Questions for the Record**  
**January 17, 2017**

**QUESTIONS FROM SENATOR DURBIN**

**For any questions with subparts, please respond to each subpart separately.**

1. When we met in my office prior to your confirmation hearing, I talked with you about the epidemic of gun violence facing the City of Chicago.

In September, Mayor Emanuel put forward a public safety plan; I handed you a copy of it at our meeting. The plan calls for hiring nearly a thousand more Chicago police officers and detectives. It calls for more training and equipment, like body-worn cameras and gunshot detection technology. It calls for more mentoring programs for youth. And it calls for policing reforms to rebuild trust and cooperation between the police and the community.

All of these are areas where the Justice Department can help. The COPS grant program helps put local police departments put more cops on the beat. The Byrne-JAG program helps them buy equipment. The Office of Juvenile Justice and Delinquency Prevention provides mentoring and violence prevention funds. And the Justice Department was invited in by the mayor, the state Attorney General and me to review the Chicago Police Department's policies and practices.

I believe the Justice Department must sustain and increase its support for Chicago in light of the crisis there. On January 2, President-elect Trump tweeted that Mayor Emanuel should ask for federal help in light of the violence. I was surprised in our meeting when I asked if you would support programs like COPS and Byrne-JAG as Attorney General and you replied "well, I'm going to take what Congress gets me." I then asked if you would include those grant programs in Justice Department budget requests and you said, "well, I'll think about it. I've thought in the past the money is not best spent on COPS." Your comments troubled me, because cutting these programs is the last thing Chicago needs now.

Now that you have had further time to think about it, please answer the following questions:

- a. **Will you commit that, if you are confirmed as Attorney General, you will not seek to cut Justice Department grant funding for the City of Chicago and instead seek increases in that funding to help address the gun violence crisis there?**

**RESPONSE:** I am committed to working with you and Mayor Emanuel on addressing the violent crime problem in Chicago. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes in Chicago and elsewhere throughout the country, and to partner with state and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely providing a particular amount

of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

- b. Will you commit to provide federal resources and support to improve Chicago's public safety, including helping the City to (1) hire additional officers and detectives through the COPS program; (2) purchase body-worn cameras and other equipment through the Byrne-JAG program and other Office of Justice Programs initiatives; (3) boost mentoring and violence prevention programs through the Office of Juvenile Justice and Delinquency Prevention and other Office of Justice Programs initiatives; and (4) reform its policing practices pursuant to the investigation findings and recommendation made by the Department on January 13? Please respond to each subpart of this questions separately.**

**RESPONSE:** I agree with you that each of the federal resources mentioned in your question are important for improving public safety and I am committed to working with you and Mayor Emanuel on addressing the violent crime problem facing Chicago. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes in Chicago and elsewhere throughout the country, and to partner with state and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely providing a particular amount of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

- c. Will you commit not to request cuts to the COPS Hiring Program below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**

**RESPONSE:** I believe the COPS Hiring Program serves an important purpose, particularly given the increase in violent crime across the country and the challenges facing State and local law enforcement and the communities they protect and serve. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes throughout the country, and to partner with State and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely providing a particular amount of federal resources for certain purposes without knowing how circumstances might change needs or priorities in the future.

- d. Will you commit not to request cuts to the Byrne-JAG program below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**

**RESPONSE:** I believe the COPS Hiring Program serves an important purpose, particularly given the increase in violent crime across the country and the challenges facing State and local law enforcement and the communities they protect and serve. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other throughout the country, and to partner with State and local

law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely provide a particular amount of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

**e. Will you commit not to request cuts to the Office of Juvenile Justice and Delinquency Prevention below FY17 levels in the Justice Department's budget requests if you are confirmed as Attorney General?**

**RESPONSE:** I believe the Office of Juvenile Justice and Delinquency Prevention serves an important purpose. If I am fortunate enough to be confirmed as Attorney General, I will seek to best use the resources available to the Department of Justice to address violent and other crimes throughout the country, and to partner with State and local law enforcement agencies to help them address these issues. Resources are limited, however, and it would be unwise to commit to indefinitely provide a particular amount of federal resources to a single jurisdiction or for individual purposes without knowing how circumstances might change needs or priorities in the future.

2. On January 13, the Department of Justice announced the findings of an investigation into the Chicago Police Department (CPD) that had been initiated on December 7, 2015 by the Civil Rights Division and the U.S. Attorney's Office for the Northern District of Illinois. The investigation had been requested by a number of Illinois federal, state and local officials, including myself, Illinois Attorney General Lisa Madigan, and Chicago Mayor Rahm Emanuel, after the release of the videotape of the fatal police shooting of Laquan McDonald. The investigation lasted for 13 months and was conducted with thoroughness and professionalism by career Department employees.

The Department's findings reveal that the Department found reasonable cause to believe that the CPD has engaged in a pattern or practice of using force, including deadly force, in violation of the Constitution. The Department largely attributes this pattern or practice of unconstitutional force to deficiencies in CPD's training, supervision, accountability, and data collection systems. The findings also reveal that CPD's pattern or practice of unreasonable force falls disproportionately on predominantly minority neighborhoods, and that some CPD officers have engaged in racially discriminatory conduct. The findings are sobering, and they make clear that CPD must undergo significant reforms to restore the trust and confidence of the communities it polices and also to boost the morale of CPD officers who are committed to engaging in effective, ethical and active policing but who feel they are insufficiently trained and supported in that effort.

On January 13, the City of Chicago and the Justice Department signed an Agreement in Principle in which they commit to negotiate reforms over the coming months to ensure sustainable, constitutional and effective policing in Chicago. The Agreement states:

Going forward, the Parties commit to negotiate in good faith to reach a comprehensive settlement in the form of a consent decree to be entered as an order of the U.S. District Court for the Northern District of Illinois. The Settlement Agreement will include

reforms of CPD's use of force practices and accountability mechanisms, as well as its training, community policing, supervision, data collection, transparency, officer wellness systems and promotion practices.

When I met with you prior to your confirmation hearing, I told you about this Justice Department investigation into the CPD and asked you about moving forward with a consent decree upon the issuance of the investigation's findings. You replied that you "don't know anything about" the investigation and that you "would have to study it." At your confirmation hearing, you responded to a question by Senator Hirono by saying "[t]he consent decree itself is not necessarily a bad thing, could be a legitimate decision...I just think that caution is always required in these cases."

It was the assessment of the career Justice Department professionals who conducted the CPD investigation that the CPD must undergo significant reforms to rebuild trust with the communities most challenged by violent crime and that "it is not likely to be successful in doing so without a consent decree with independent monitoring."

**a. Will you commit that, if you are confirmed, you will honor the Agreement in Principle that the Justice Department signed on January 13?**

**RESPONSE:** While I have not been privy to the discussions that led to the aforementioned agreement, I believe it is important to partner with law enforcement agencies that require assistance, and the recommendations made by career staff can be useful in attempting to achieve those goals. As I testified before the Committee, I think that there are concerns with the impact of using consent decrees for policy purposes and that caution should be used in these cases. If I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate this agreement and the internal information that led to that agreement, and continue to search for solutions to problems in policing so we can best protect the rights of individuals while also protecting the public from crime. I look forward to working with you, the City of Chicago, and the Chicago Police Department on this important matter.

**b. Will you commit that, if you are confirmed, you will work with the City to implement the reform recommendations made by the Department, including through the use of a consent decree?**

**RESPONSE:** If I am fortunate enough to be confirmed as Attorney General, I will carefully evaluate this agreement and the internal information that led to that agreement, and continue to search for solutions to problems in policing so we can best protect the rights of individuals while also protecting the public from crime. I look forward to working with you, the City of Chicago, and the Chicago Police Department on this important matter.

3. I sent a letter on December 13 to Attorney General Lynch inquiring whether there is an ongoing criminal investigation by career Justice Department employees into Russian interference in the 2016 U.S. presidential election. That night Attorney General Lynch stated in a television interview that an investigation is ongoing.

When you and I met prior to your confirmation hearing, I asked if you would continue this investigation if you were confirmed as Attorney General. You responded “If there’s a basis to continue it, yes. There may be. But Congress also has investigations ongoing.”

I was troubled by your answer. Congress does have a key role to play in investigating Russia’s actions and amplifying the Obama Administration’s sanctions on Russia. But only the Justice Department has the authority to prosecute the perpetrators. We need an Attorney General who will protect our democratic processes from foreign interference. And that Attorney General may also have to stand up to President-elect Trump, who inexplicably continues to embrace Russian President Vladimir Putin.

- a. **Have you read the unclassified or classified versions of the January 6 Intelligence Community Assessment “Assessing Russian Activities and Intentions in Recent US Elections”?**

**RESPONSE:** No.

- b. **Do you believe that this assessment provides the “basis” you said you needed for the Department of Justice to continue a criminal investigation into Russian interference in the 2016 U.S. presidential election?**

**RESPONSE:** See response to 3(a).

- c. **Will you commit that, if you are confirmed as Attorney General, you will not impede or shut down any FBI or Justice Department investigation into Russian efforts to influence the 2016 U.S. presidential election?**

**RESPONSE:** I am unaware of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

- d. **Will you commit that, if you are confirmed as Attorney General, you will recuse yourself from any ongoing FBI or Justice Department investigation into Russian efforts to influence the 2016 U.S. presidential election?**

**RESPONSE:** I am not aware of a basis to recuse myself from such investigations. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- e. **Will you commit that, if you are confirmed as Attorney General, you will recuse yourself from any investigation into whether President-elect Trump or any of his family, campaign staff, business associates or advisors had any communication with Russian officials or operatives during the 2016 U.S. presidential campaign, or had any connection to, knowledge of, or involvement in Russian efforts to influence the 2016 U.S. presidential election?**

**RESPONSE:** I am not aware of a basis to recuse myself from such investigations. However, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

4. In 2008, Donald Trump Jr. said the following about the Trump Organization: “we see a lot of money pouring in from Russia.”

- a. **Do you know how much of the Trump Organization’s assets or debts are held or owned by Russian individuals, businesses, and/or government officials?**

**RESPONSE:** No.

- b. **Do you know how much money Russian individuals, businesses and/or government officials have paid to, invested in, or otherwise “pour[ed] in” the Trump Organization?**

**RESPONSE:** No.

- c. **If you are confirmed as the chief law enforcement officer of the United States, how will you ensure that the actions of President-elect Trump and his administration are not influenced or impacted by the Trump Organization’s financial connections with Russian individuals, businesses, or government officials?**

**RESPONSE:** If I am confirmed as Attorney General, I would faithfully enforce federal laws, including any applicable laws regarding conflicts of interest. I will also instruct the Office of Legal Counsel to provide the President with guidance on identifying and mitigating conflicts of interest.

- d. **Do you believe the American people would benefit from full transparency of the Trump Organization’s assets, debts, and foreign entanglements?**

**RESPONSE:** As required by law, President Trump released a financial disclosure form that is available to the public. I have not studied it. However, it is my understanding that while a tax return shows how much a taxpayer paid in taxes, it does not provide any more information than a financial disclosure about the identity and nature of one’s assets.

- e. Should such transparency include the public release of President-elect Trump's tax returns for each year in which he has campaigned for or served in the office of President of the United States?**

**RESPONSE:** See response to 4(d).

5. On July 9, 1997, you expressed strong support for robust bipartisan Congressional investigations into whether China attempted to influence the 1996 presidential election. You said on the Senate floor:

We need a bipartisan effort, similar to those conducted in the past. We need the spirit of Howard Baker in the Watergate hearings who, as a Republican, made sure that he cooperated in that investigation and sought the truth. We need the spirit of Warren Rudman, Republican, who participate in the Irangate matters that were investigated here. He always sought to get to the truth regardless of politics.

- a. Do you believe that we need to “get to the truth” about Russian interference in the 2016 U.S. presidential election, “regardless of politics”?**

**RESPONSE:** It is always important to see truth, regardless of politics.

- b. If your answer to question 5(a) is yes, how do you believe we should get to this truth?**

**RESPONSE:** In general, the best way to get to truth is in a fair, professional, and impartial manner, without regard to politics or outside influence.

- c. If your answer to question 5(a) is no, how do you differentiate allegations of Chinese interference in the 1996 election from allegations of Russian interference in the 2016 election?**

**RESPONSE:** I do not have a basis for comparison, as I am not aware of the details of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

- d. If you are confirmed as Attorney General, will you support and assist Congressional investigations into Russian interference in the 2016 U.S. presidential election, including by providing information that Members of Congress – Democrats, Republicans and Independents alike - request as part of such investigations?**

**RESPONSE:** I will support all appropriate investigations and respond to appropriate requests.

6. During his confirmation hearing, Congressman Michael Pompeo, the nominee for the Director of the Central Intelligence Agency, was asked by Senate Select Committee on Intelligence (SSCI) Vice Chairman Mark Warner “[d]o you pledge to continue to pursue your own investigation into ongoing Russian active measures and any attempts they or others may have to undermine the United States, our political system, or our position in the world?” Congressman Pompeo answered “Senator, I do.”

**Do you pledge to continue to pursue any ongoing investigation by the Justice Department into Russian interference in the 2016 election or any other attempts Russia may have made to undermine the United States, our political system, or our position in the world?**

**RESPONSE:** I am unaware of any investigations beyond what is contained in public reporting. As such, I am unable to comment on the status of any such investigations except to say that I believe all investigations by the Department of Justice must be initiated and conducted in a fair, professional, and impartial manner, without regard to politics or outside influence. The Department must follow the facts wherever they lead, and make decisions regarding any potential charges based upon the facts and the law, and consistent with established procedures of the Department. That is what I always did as a United States Attorney, and it is what I will insist upon if I am confirmed as Attorney General.

7. On September 28, 2016, Director James Comey of the Federal Bureau of Investigation testified before the House Judiciary Committee and was asked about the Department’s standard for commenting on whether an investigation is underway. Director Comey stated that “[o]ur standard is we do not confirm or deny the existence of investigations,” but he cited examples of “exceptional circumstances” that he said justified commenting on the existence of investigations, including “when there is a need for the public to be reassured” and “where the public needed transparency.”

- a. **Do you agree with Director Comey that Department of Justice officials are justified in commenting on the existence of investigations in exceptional circumstances, including “when there is a need for the public to be reassured” and “where the public need[s] transparency”?**

**RESPONSE:** I am not familiar with the basis for Director Comey’s remarks.

- b. **Do you believe that the American people deserve to know whether the Department of Justice is fully investigating the extent of Russian interference in the 2016 U.S. presidential election?**

**RESPONSE:** Decisions regarding informing the public of ongoing Department investigations should comply with the law and departmental procedures.



- c. Will you commit to promptly inform the American people about the outcome of the Department of Justice’s investigation of Russian interference in the 2016 U.S. presidential election?**

**RESPONSE:** If confirmed, I will follow the law and departmental procedures with regard to informing the public regarding the outcome of Department investigations.

- d. Will you commit to promptly inform the American people if the Department of Justice closes, terminates, or declines to further pursue an investigation into Russian interference in the 2016 U.S. presidential election?**

**RESPONSE:** If confirmed, I will follow the law and departmental procedures with regard to informing the public regarding the outcome of Department investigations.

8. During his confirmation hearing, General John Kelly, the nominee for Secretary of Homeland Security, was asked if he accepted the conclusions of the intelligence community regarding Russian interference in our election. He answered “yes, with high confidence.”

**Do you agree with General Kelly’s answer?**

**RESPONSE:** I have no reason to disagree with him.

9. The Foreign Emoluments Clause in Art. I, Section 9, Clause 8 of the Constitution states that “No Title of Nobility shall be granted by the United States; and no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”

The Foreign Emoluments Clause reflects a fundamental priority of the Founding Fathers as they designed our form of government. They were worried about foreign powers attempting to influence and corrupt the leadership of our nation, so the Constitution included safeguards against pressure from such powers, particularly the Foreign Emoluments Clause, which was adopted unanimously at the Constitutional Convention. As Delegate Edmund Randolph of the Continental Congress said during the ratification debates in Virginia, “[i]t was thought proper, in order to exclude corruption and foreign influence, to prohibit any one in office from receiving or holding any emoluments from foreign states.”

- a. Do you believe that all current provisions of the Constitution must be followed and enforced, including the Foreign Emoluments Clause?**

**RESPONSE:** Yes.

- b. If you are confirmed as Attorney General, what steps will you take to ensure that the Foreign Emoluments Clause is followed and enforced?**

**RESPONSE:** If confirmed as Attorney General, I will take all appropriate actions in the course of my duties, including providing legal advice upon request, to ensure that office holders comply with their constitutional obligations.

- c. President-elect Trump says that he is taking steps to avoid unconstitutional emoluments. But without seeing his federal tax returns and having full transparency of his and his family's business holdings and debts, how can the American people be confident that all potential emoluments have been eliminated and will continue to be avoided throughout his Presidency?**

**RESPONSE:** As you noted, President Trump has stated that he will comply with his obligations under the Foreign Emoluments Clause, and in fact, will take additional steps beyond what may be required under the Constitution.

- d. President-elect Trump has said he will donate to the U.S. Treasury profits from foreign government payments made to his hotels. Do you believe that the subsequent donation of payments can cure a violation of the Foreign Emoluments Clause, which provides that no officeholder may "accept" such payment? If so, why?**

**RESPONSE:** The question posited is not one on which I have devoted any study, and would depend on a number of facts and specific circumstances, which do not exist at this time. Therefore, I am not in a position to offer even an informal opinion on it. If I am fortunate enough to be confirmed as Attorney General, I would provide legal advice on such matters only after examining the relevant facts and circumstances presented, and consulting with the Office of Legal Counsel and any other component of the Department having expertise bearing on such matters.

- e. If the Office of Legal Counsel is asked to assess the legality of any receipt of emoluments by President Trump, would you recuse yourself from reviewing or influencing the Office's decision? If not, why not?**

**RESPONSE:** I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- f. On what basis will you decide when to personally recuse yourself from involvement in a case, investigation or other matter involving the financial interests of President-elect Trump or his family?**

**RESPONSE:** I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at

my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

- g. If you recuse yourself from involvement in a case, investigation, or other matter involving the financial interests of President-elect Trump or his family, will you commit to having the matter handled by career Justice Department officials instead of political appointees? If not, why not?**

**RESPONSE:** I am not aware of a basis to recuse myself from such matters. If a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. As I made clear at my confirmation hearing, I will always be fair and work within the law and the established procedures of the Department.

10. If we are serious about reducing the number of shootings in Chicago, we cannot ignore the pipeline of illicitly-trafficked guns from Indiana into Chicago. As Lake County Indiana Sheriff John Buncich said last year, hundreds of guns from Lake County show up in Chicago crimes every year, and “individuals are skirting federal law, especially at these gun shows...there’s a lot of illegal gun sales.”

- a. Will you commit that, if you are confirmed, you will work with officials in Indiana on reforms that will reduce the illicit trafficking of guns from Indiana gun shows to the streets of Chicago?**

**RESPONSE:** If I am confirmed, I will make enforcement of federal gun crimes a top priority and aggressively engage with state and local law enforcement partners to achieve consistent policies for the apprehension of those violating federal gun laws. Properly enforced, federal gun laws can reduce crime in our cities and communities.

- b. Will you commit that, if you are confirmed, you will make it a priority of the Department of Justice to investigate and prosecute those who are selling guns that supply Chicago’s criminal gun market?**

**RESPONSE:** If I am confirmed, I will make enforcement of federal gun crimes a top priority and aggressively engage with state and local law enforcement partners to achieve consistent policies for the apprehension of those violating federal gun laws. Properly enforced, federal gun laws can reduce crime in our cities and communities.

- c. If you are confirmed, what steps will you take to ensure that cases involving straw purchasing, gun trafficking, and dealing in firearms without a license are prosecuted? Will the Department of Justice’s budget requests support additional resources, specifically for ATF, to enforce these laws?**

**RESPONSE:** If I am confirmed, I will make reduction of illegal interstate trafficking of firearms a priority. I will work with Congress to ensure that the ATF has the resources necessary to fairly and efficiently investigate criminal activity. I understand the challenges ATF faces and believe

with proper support and with vigorous prosecutions, ATF will be more productive without large increases in funding.

11. Two critically important law enforcement tools for fighting violent crime are crime gun tracing and ballistics matching. Local police departments and sheriff's offices can use ATF's online eTrace tool to trace guns recovered in crime in order to generate leads in criminal investigations and to identify those who illegally traffic in guns. And ATF's National Integrated Ballistic Information Network (NIBIN) lets local law enforcement take digital computer images of ammunition casing evidence recovered at crime scenes and match them to particular guns. This helps law enforcement identify trigger-pullers and helps discover links between gun crimes.

I have made it a priority to encourage every local law enforcement agency in Illinois to trace all of their crime guns through eTrace and to use NIBIN for all recovered ammunition casings. I have reached out to hundreds of police chiefs and sheriffs in my state about these tools, and 476 Illinois law enforcement agencies now use eTrace and 260 use NIBIN. These tools help solve crimes.

**If confirmed as Attorney General, would you take steps to urge all state and local law enforcement agencies to use eTrace and NIBIN for all guns and ammunition casings recovered in crimes?**

**RESPONSE:** I have always believed that forensic analysis, and particularly firearms analysis, is key in reducing gun crime. If I am confirmed, I look forward to working with you with respect to eTrace and NIBIN.

12. You have repeatedly emphasized the importance of enforcing the gun laws on the books. FBI NICS background checks on prospective gun purchasers are one of the most important mechanisms we have to enforce the laws that prohibit felons, the mentally unstable, and other prohibited purchasers from obtaining guns.

- a. **Will you commit that, if you are confirmed, you will work to ensure that the records in the NICS background check system are as complete and up-to-date as possible?**

**RESPONSE:** Yes.

- b. **Will you commit that, if you are confirmed, the Department of Justice will not submit budget requests that seek to reduce the amount of FBI resources and the number of FBI personnel dedicated to operating the NICS system below FY17 levels?**

**RESPONSE:** Through my service as a United States Attorney, and as a Senator, I am aware of the difficult choices that the Justice Department has to make during times of fiscal uncertainty. If I am fortunate enough to be confirmed as Attorney General, I will strive to ensure that the Department maintains the resources necessary to accomplish its mission, and that those resources are utilized in the most efficient and effective manner possible.

- c. **Will you commit that, if you are confirmed, the FBI will respect and enforce current federal and state laws regarding NICS background checks, including by assisting each state to conduct checks on gun sales in that state?**

**RESPONSE:** Yes.

- d. **Will you commit that, if you are confirmed, the FBI will continue to run NICS background checks on private sales in any state when the private seller voluntarily goes to a federally-licensed dealer to conduct a background check on the buyer?**

**RESPONSE:** Yes.

13. On May 6, 1998, you spoke at length on the Senate floor about federal conflict of interest laws. You described the “fundamental principle that a man or woman can only serve one master, not two, and should not be holding public office with a clear conflict of interest.”

You continued:

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to anything other than the government which he represents. That is what we are looking for. Somewhere in the Book of Ecclesiastes the preacher said “A bribe corrupts the mind.” A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master.

You also said in a press release that day that “Laws should apply equally to all people.”

- a. **Do you believe that President-elect Trump has rid himself of his conflicts of interest such that his “total fidelity” is now only to the government which he represents?**

**RESPONSE:** While I have not studied this matter, it is my understanding that President Trump has taken steps to isolate himself from his business interests and to devote himself fully to the duties of the presidential office.

- b. **How can the American people verify that President-elect Trump’s “total fidelity” is only to the government which he represents if he does not release his annual tax returns?**

**RESPONSE:** As required by law, President Trump released a financial disclosure form that is available to the public. I have not studied it. However, it is my understanding that while a tax return shows how much a taxpayer paid in taxes, it does not provide any more information than a financial disclosure about the identity and nature of one’s assets.

14. In an interview on November 23, President-elect Trump said “the president can’t have a conflict of interest.

**In your view, is this an accurate statement?**

**RESPONSE:** I have not discussed this matter with the President and therefore do not know what he meant by that statement.

15. In your May 6, 1998 Senate floor speech on conflicts of interest you said “U.S. attorneys are prosecuting people who do these kinds of things with these kinds of conflicts. To pass a law to say everybody else has to adhere to them except for one individual because he or she is special is a big mistake.”

**Do you think it is a “big mistake” to have federal criminal conflict of interest laws that do not apply to the President?**

**RESPONSE:** I have not had a chance to study this issue in any detail. It is my understanding that in recent history, Presidents have followed the conflicts statute as though it applied to them, but the Department of Justice has explained that applying conflicts laws to the President would either disable him from performing one or more of his constitutional duties or augment the Constitution’s qualifications for becoming President because, in general, conflicts laws force either recusal or divestiture. The Constitution precludes both.

16. On January 5, *The Wall Street Journal* published a story entitled “Trump’s Debts are Widely Held on Wall Street, Creating New Potential Conflicts.” The story noted that President-elect Trump said in his financial disclosure form that his businesses owe at least \$315 million to ten companies. But *The Wall Street Journal* analyzed these debts and found that they had been securitized and are now held by more than 150 companies. Also, Mr. Trump did not list in his disclosure form his debts for partnerships that he does not fully control. *The Journal* was able to identify at least \$1.5 billion in such debts, including loans that Mr. Trump personally guaranteed.

The potential for conflicts of interest here is staggering. For example, as *The Journal* noted, “Deutsche Bank, which is under investigation by the U.S. Justice Department over its equity trades for wealthy clients in Russia, is the single biggest lender to properties controlled by Mr. Trump.”

In addition, *The Journal* found that “If the Trump businesses were to default on their debts, the giant financial institutions that serve as so-called special servicers of these loan pools would have the power to foreclose on some of Mr. Trump’s marquee properties or seek the tens of millions that Mr. Trump personally guaranteed on the loans.” One of the main servicers of Mr. Trump’s debt is Wells Fargo, which was recently penalized by the Consumer Financial Protection Bureau for creating sham consumer accounts.

As *The Journal* concluded, a broad array of financial institutions “now are in a potentially powerful position over the incoming president.”

**a. Do you agree with this conclusion?**

**RESPONSE:** I have not had a chance to study this issue, and I am not privy to the details of the Department's settlement with Deutsche Bank, nor am I familiar with the President's interests as they relate to Deutsche Bank. Without all the facts and without the resources of the Department of Justice at my disposal, it would be premature for me to provide a legal opinion on the matter.

**b. What would be your plan, if you are confirmed, to ensure that President Trump and his family are not susceptible to pressure from the financial institutions that hold their and their businesses' debt?**

**RESPONSE:** If I am confirmed, I will take whatever steps are necessary to ensure that the Department of Justice represents the interests of the American people in the impartial enforcement of the law. I am not privy to the details of the President's or his family's interests as they relate to any financial institutions. Therefore, it would be premature to announce how the Department might proceed in mitigating a hypothetical conflict of interest.

17. There is an important program in the Justice Department's Office of Justice Programs called the John R. Justice Program. Named after the late former president of the National District Attorneys Association, the John R. Justice Program provides student loan repayment assistance to state and local prosecutors and public defenders across the nation. Congress created this program in 2008 and modeled it after a student loan program that DOJ runs for its own attorneys. The John R. Justice program helps state and local prosecutors and defenders pay down their student loans in exchange for a three-year commitment to their job. This is a very effective recruitment and retention tool for prosecutor and defender offices. And since DOJ is giving hundreds of millions of dollars in grants each year to state and local law enforcement, which generates more arrests and more criminal cases, it is critical that we help prosecutor and defender offices keep experienced attorneys on staff to handle these cases.

The John R. Justice Program has helped thousands of prosecutors and defenders across the country. But for the program to remain successful, the Department of Justice must remain committed to funding this program and to carefully administering it.

**Will you commit to keep this program operating during your tenure if you are confirmed?**

**RESPONSE:** While I am not familiar with the specifics of the current funding levels associated with the John R. Justice Program, if confirmed, I will make funding decisions only after a careful evaluation of any current practice or program administered by the Department and the effectiveness of those practices to aid in the administration of justice. I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law and the protections they provide.

18. You have said that marijuana should not be legalized and that “good people don’t smoke marijuana.”

**Would you oppose the nomination of a person to a position in the Justice Department or a federal judgeship if you found out that the person had used marijuana in his or her life?**

**RESPONSE:** My words have been grossly mischaracterized and taken out of context. As can be seen from the full quote, which I have provided below, I was discussing the value of treating people for using dangerous and illegal drugs like marijuana, and the context in which treatment is successful. As I have done in the Senate, if I were fortunate enough to be confirmed as Attorney General, I would look closely at potential nominees to evaluate their character and fitness for the position.

*Senate Caucus on International Narcotics Control, April 2016:*

“I’ll just comment, because I was talking to somebody that’s experienced in this, recently; it was the prevention movement that really was so positive. And it led to this decline, to the creating of knowledge that this drug is dangerous, you cannot play with it, it’s just not funny it is not something to laugh about, and trying to send that message with clarity that good people don’t smoke marijuana. And the result of that is, to give that away and make it socially acceptable, creates the demand—the increased demand that results in people being addicted or impacted adversely. I just hope that we can get our thoughts together on it. I believe the Department of Justice needs to be clearer, I believe the President really needs to reassert some leadership on this; I think it’s really serious.”

19. Although the population of Alabama is more than one quarter African American, there has never been an African-American judge from Alabama on the federal appeals court. Last February, President Obama sought to fill an 11th Circuit vacancy by nominating Abdul Kallon, a highly-regarded African-American judge from Alabama whose district court nomination you supported in 2009. However, you did not submit your blue slip for Judge Kallon’s nomination to the 11th Circuit, meaning this Committee could not move forward with a hearing.

**a. Why did you not submit your blue slip?**

**RESPONSE:** As Senator Shelby and I expressed in our statement when Judge Kallon was nominated, we had negotiated in good faith for several months with the White House to fill judicial vacancies. We believed progress had been made, but as it turned out, the White House was not interested in good faith negotiations. The White House announced Judge Kallon’s nomination outside of those negotiations and at a very late date. Accordingly, we exercised our Senatorial prerogative not to return the blue slips.

**b. In your view, is Judge Kallon qualified to serve on the 11th Circuit?**



**RESPONSE:** I supported Judge Kallon’s nomination to the United States District Court for the Northern District of Alabama in 2009. As you know, Senators exercise a more exacting review for nominees to the circuit courts, which I never had the opportunity to do in this case. As you may recall, ten of President George W. Bush’s circuit court nominees were not confirmed and were returned at the end of his Administration. Of note, Judge William Smith was nominated to the First Circuit on December 6, 2007, and was rated “Well Qualified” by the American Bar Association (ABA), but neither Senator Reed nor Senator Whitehouse returned blue slips on his nomination citing the need to conduct a “through and independent review” of his record and stating: “Before giving someone a lifetime appointment to the federal bench we need to carefully review their record.”<sup>1</sup> Previously, Senator Whitehouse had suggested in September 2007 that it was too late in the president’s term to consider a nomination to the First Circuit. Also notable is the nomination of Mr. Shalom Stone to the Third Circuit on July 17, 2007. He was rated “Substantial Majority Qualified/Minority Well Qualified” by the ABA, but neither Senator Lautenberg nor Senator Menendez returned blue slips on his nomination. Similarly, U.S. Attorney Rod Rosenstein was nominated to the Fourth Circuit on November 15, 2007, and was rated “Unanimous Well Qualified” by the ABA, but neither Senator Cardin nor Senator Mikulski returned blue slips on his nomination.

20. On January 23, 2009, you issued a press release announcing your opposition to President Obama’s nomination of Timothy Geithner for Treasury Secretary. You said:

I have decided to vote against Mr. Geithner’s nomination because his failure to properly pay his taxes on multiple occasions was, in my view, likely a deliberate attempt to avoid his tax obligations. Failure to pay taxes would disqualify any IRS agent from further employment, so it should also disqualify Mr. Geithner from being confirmed Secretary of the Treasury, a cabinet position that oversees the IRS and prosecutions for tax evasion.

You went on to say:

The American people have made clear that they want accountability and responsibility restored to Washington. Ignoring Mr. Geithner’s failure to pay his taxes and elevating him to Secretary—where he will supervise agents and other officials who would be subject to termination for a similar breach of trust—is not a good way to meet the public’s expectations.

**Are you confident that President-elect Trump has properly paid all his taxes? Please explain the basis for your response.**

**RESPONSE:** President Trump is the duly-elected President of the United States. The American people have decided he is both qualified and the best person for the job of leading this country. I have no knowledge regarding the President’s taxes that would cause me to doubt what he has publicly stated regarding that issue.

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<sup>1</sup> John Mulligan and G. Wayne Miller, “Bush selects Smith for U.S. appeals court,” *The Providence Journal*, Dec. 7, 2007.

**21. Will you commit that, if you are confirmed as Attorney General, you will work to enact state laws that restrict voting and registration in ways that disproportionately affect African-American or other minority voters?**

**RESPONSE:** As I testified before the Committee, government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department's jurisdiction, and particularly the laws regarding voting, in a fair and even-handed manner.

22. At your nomination hearing, you suggested that section 2 of the Voting Rights Act provides adequate remedies to problematic voting restrictions. However, consider the example of the North Carolina voting law, which the U.S. Court of Appeals for the Fourth Circuit held was based on discriminatory intent. While section 2 of the Voting Rights Act permitted the state's misconduct to be remedied through litigation, this only occurred after much of the law had been implemented in the 2014 election. Prior to *Shelby County*, this law would have been reviewed by DOJ through the preclearance mechanism and these unconstitutional voting restrictions would have been stopped before any harm was done.

**In light of the time lag involved in section 2 enforcement, how can you suggest a Voting Rights Act without preclearance is adequate?**

**RESPONSE:** If I am confirmed as Attorney General, I will enforce the law and the Constitution and leave to Congress the determination of whether to enact changes to the law. Further, this question implicates an ongoing legal matter that I may be called upon to review; therefore, it would be inappropriate for me to offer an opinion at this time.

23. At your nomination hearing, you stated that the "Supreme Court decided that we should not have... preclearance." However, in *Shelby County v. Holder*, the Supreme Court did not find that preclearance was unconstitutional, but that the formula for determining which jurisdictions are subject to preclearance is unconstitutional.

In 2015, I joined Senator Leahy and Senator Coons in introducing the Voting Rights Advancement Act (VRAA), in order to update the preclearance formula and restore the Voting Rights Act. The VRAA responds to many of the Court's concerns about the original preclearance formula, which you also criticized during the 2006 reauthorization of the Act. For example, the VRAA includes a rolling preclearance coverage formula that applies to all states and hinges on a finding of repeated voting rights violations in the preceding 25 years.

**a. Do you agree that the Supreme Court has not held that preclearance is unconstitutional?**

**RESPONSE:** The U.S. Supreme Court has not held that preclearance is necessarily unconstitutional. The Court has concluded that preclearance is an "extraordinary" remedy that may be permitted in the appropriate circumstances under Congress's exercise of its power under the Reconstruction Amendments.

**b. Without asking you to take a position on the specifics of the VRAA, would an updated coverage formula address your concerns about preclearance?**

**RESPONSE:** If confirmed as Attorney General, I would welcome the opportunity to work with your office and any members of the Committee on legislation affecting our nation’s voting laws. This would include legislation that is both consistent with constitutional limits and designed to address the issues you have raised. I would defer to Congress on how this important issue should be deliberated within the legislative branch.

24. In Wisconsin, a newly-implemented voter photo identification law led to challenges and confusion in the April primary. Consider the case of Eddie Lee Holloway, Jr. He moved from my home state of Illinois to Wisconsin in 2008 and was able to vote without any problems before the voter ID law went into effect. After the law was passed, Mr. Holloway went to a DMV in Milwaukee with an expired Illinois photo ID, his birth certificate, and his Social Security card to obtain a Wisconsin photo ID for voting. However, his application was rejected due to a clerical error on his birth certificate, which read “Eddie Junior Holloway.”

Mr. Holloway spent hundreds of dollars traveling to Illinois to try to fix this problem. In addition to the Milwaukee DMV, he visited the Vital Records System in Milwaukee, the Illinois Vital Records Division in Springfield, an Illinois DMV, and his high school in Decatur, Illinois—all in an attempt to obtain sufficient records for a Wisconsin voter ID. Despite all of these efforts, Mr. Holloway was unable to vote in the April primary.

Unfortunately, Mr. Holloway is not alone. Last year, a study based on data from the annual Cooperative Congressional Election Study found: “The patterns are stark. Where strict identification laws are instituted, racial and ethnic minority turnout significantly declines.” For example, among Latino voters, “turnout is 7.1 percentage points lower in general elections and 5.3 percentage points lower in primaries in strict ID states than it is in other states.”

**What is your response to people like Mr. Holloway who have been prevented from exercising their fundamental right to vote due to burdensome voter ID laws?**

**RESPONSE:** As I testified at the hearing, government cannot create laws designed to improperly inhibit the right of any eligible citizens to vote. The voting rights of Americans are protected by federal law, including the Voting Rights Act. The Supreme Court held in *Crawford v. Marion County Election Board*, that voter identification laws are neither *per se* unconstitutional, nor do they necessarily violate the Voting Rights Act. The analysis of such laws are specific to the particular law, the jurisdiction, and a wide range of factors that Congress has identified as relevant in determining whether a particular voting practice comports with the Voting Rights Act. If I am confirmed as Attorney General, I am committed to enforcing all of the federal laws within the Department’s jurisdiction, and particularly the laws regarding voting, in a fair and even-handed manner.

25. In 2014, GAO released a study on the impact of voter ID laws, at the request of Senators Sanders, Leahy, Schumer, Nelson, and myself. The study found that in two states with strict

voter ID laws—Kansas and Tennessee—the laws hurt turnout. The impact of the law was greatest among African-Americans, young people, and newly-registered voters.

**Do the results of this study concern you?**

**RESPONSE:** I am not familiar with this study. I would note, however, that the bipartisan Carter-Baker Commission report, “Building Confidence in U.S. Elections: Report of the Commission on Federal Election Reform,” found that “there is no doubt” that voter fraud occurs, that “a good ID system could deter, detect, or eliminate several potential avenues of fraud – such as multiple voting or voting by individuals using the identities of others or those who are deceased – and thus it can enhance confidence,” and that “most advanced democracies have fraud-proof voting or national ID cards, and their democracies remain strong.”

26. At our meeting before your nomination hearing, you acknowledged that in your state, there was a “brutal, ruthless denial of the right to vote.” You went on to say that the Voting Rights Act “fixed it.” However, just two years ago, your state made national headlines for closing or reducing service at more than 30 DMV locations, shortly after Alabama enacted a law requiring voters to present a photo ID to vote.

The NAACP Legal Defense Fund wrote to state officials to “raise [their] grave concerns regarding the State’s intended closures” which occurred “predominantly in rural counties with large Black populations, high poverty rates, and little to no public transportation.” Congresswoman Terri Sewell called for a DOJ investigation into the closures, stating that the “closures will potentially disenfranchise Alabama’s poor, elderly, disabled, and black communities.” The federal Department of Transportation opened a civil rights investigation to examine the incident.

**Did you disagree with Congresswoman Sewell’s conclusions on how the closures might impact Alabama voters?**

**RESPONSE:** As I testified before the Committee, it is my understanding that these offices were closed and selected for consolidation due to state budgetary constraints and that the offices were selected based on areas with the lowest population levels. It was later determined that many of the closures were in counties with large African-American populations and so the decision was reversed. It is my understanding that every county in the state has a Board of Registrars and state election officials now issue photo voter identification cards on their own to ensure residents in affected counties retain the ability to obtain state-issued identification for the purposes of voting. As a federal elected official, I was not involved in or consulted regarding this process.

27. You have been outspoken in your defense of religious freedom for Christians. For example, you denounced a 1997 court order that limited prayer in Alabama public schools, calling it “one more example of the effort by the courts to eliminate the natural expression of religious belief from public life.” A year later, you introduced a Senate resolution “affirming the right to display the Ten Commandments in public places, including government offices and courthouses.” You said “[w]e’ve got to end the hostility toward the display of the Ten Commandments in public places.”

You have been much more ambivalent about religious freedom for Muslims. You have referred to it as “a toxic ideology” and said of American Muslims “our nation has an unprecedented assimilation problem.” In response to President-elect Trump’s proposed ban on Muslim immigrants, you said, “I think it’s appropriate to begin to discuss this, and he has forced that discussion.”

President-elect Trump has gone further, saying “Islam hates us.” He has also said that there is “absolutely no choice” but to close some mosques and that he would consider creating a database of American Muslims. And, last July, he launched an offensive attack against Khizr and Ghazala Khan—the grieving parents of a fallen Muslim-American soldier.

At the same time, American Muslims are facing a surge in anti-Muslim hate crimes, according to the FBI and other experts.

**a. Will you commit to vigorously enforcing civil rights laws to combat discrimination against American Muslims, including federal hate crimes laws?**

**RESPONSE:** If I am confirmed as Attorney General, I will enforce all civil rights law to combat discrimination against all Americans, including American Muslims.

**b. Do you believe it would be legally permissible to shut down mosques?**

**RESPONSE:** This scenario certainly does not sound like something that a law enforcement official normally would be engaged in, but without knowing more specifics, I am not able to respond to the hypothetical.

**c. Do you believe it would be legally permissible to create a database of American Muslims?**

**RESPONSE:** I do not believe a database of any group of Americans based on their religion would pass constitutional scrutiny.

**d. Do you think that President-elect Trump’s comments on the Khan family were appropriate?**

**RESPONSE:** I believe that the President has made clear that he respects the sacrifice made by the Khan family.

**e. Last year, President-elect Trump said American Muslims “know who the bad apples are, where the bad seeds are and they don't report them.” But FBI Directors Mueller and Comey have both praised the Muslim community for cooperating with law enforcement and reporting suspected terrorists. Do you agree with the President-elect or Directors Mueller and Comey?**

**RESPONSE:** Based on the individual situations each were referring to at the time, it is likely that I would agree with both the President and Directors Mueller and Comey.

28. Last October marked the seven-year anniversary of the passage of one of the most important civil rights laws of our time, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009.

You vigorously opposed the law at the time of its passage, saying it was “unwarranted, possibly unconstitutional... and it violates the basic principle of equal justice under the law.” You went on to say that the bill “has been said to cheapen the civil rights movement.”

At your nomination hearing, Senator Leahy asked you about this law. You stated: “[T]he law has been passed. The Congress has spoken. You can be sure I will enforce it.”

**If you are confirmed to be Attorney General, what steps will you take to vigorously enforce the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009?**

**RESPONSE:** I firmly believe that all Americans are entitled to equal protection under the law, no matter their background. While as Senators we may have disagreed about the most effective ways to address the challenges facing our country, my duty as Attorney General, if I am fortunate enough to be confirmed, would be to enforce the laws passed by Congress. I would approach enforcement of this law the same way that I would any other federal law—I would endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure full enforcement of federal laws and the protections inherent in them. And I will work with our law enforcement professionals to tailor our efforts to ensure the safety of all of our communities.

29. When the Senate considered the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, you expressed particular concern about a provision in the law that expanded federal hate crime protections to cover victims who are targeted based on their gender, gender identity, sexual orientation, or disability. You even suggested this provision was unnecessary because women and LGBT individuals do not face serious discrimination, saying: “today I am not sure women or people with different sexual orientations face that kind of discrimination. I just don’t see it.”

However, as the *New York Times* reported last year:

Even before the shooting rampage at a gay nightclub in Orlando, [Florida], lesbian, gay, bisexual and transgender people were already the most likely targets of hate crimes in America, according to an analysis of data collected by the Federal Bureau of Investigation.

According to the data, LGBT Americans are “twice as likely to be targeted as African-Americans, and the rate of hate crimes against them has surpassed that of crimes against Jews.”

- a. **At your nomination hearing, you stated that you “understand the demands for justice and fairness made by our LGBT community” and that you “will ensure that the statutes protecting their civil rights and their safety are fully enforced.” Can you elaborate on how you will ensure that the civil rights of gay, lesbian, bisexual, and transgender Americans are protected?**

**RESPONSE:** I firmly believe that all Americans are entitled to equal protection under the law, no matter their background. While as Senators we may have disagreed about the most effective ways to address the challenges facing our country, my duty as Attorney General, if I am fortunate enough to be confirmed, would be to enforce the laws passed by Congress. I would endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure full enforcement of federal laws and the protections inherent in them. And I will work with our law enforcement professionals to tailor our efforts to ensure the safety of all of our communities.

- b. **My staff was unable to find any other instance of you using the term “LGBT” in public prior to your nomination hearing. Is this a term that you have ever used in public prior to your hearing?**

**RESPONSE:** Yes.

30. In a 2014 speech to the Anti-Defamation League, FBI Director Comey said:

Hate crimes are different from other crimes. They strike at the heart of one’s identity—they strike at our sense of self, our sense of belonging. The end result is loss—loss of trust, loss of dignity, and in the worst case, loss of life. Hate crimes impact not just individuals, but entire communities. When a family is attacked because of the color of their skin, it’s not just the family that feels violated, but every resident of that neighborhood. When a teenager is murdered because he is gay, the entire community feels a sense of helplessness and despair. And when innocent people are shot at random because of their religious beliefs—real or perceived—our nation is left at a loss.

**Do you agree with Director Comey’s statement?**

**RESPONSE:** I agree with Director Comey that attacks motivated out of prejudice have no place in our society.

31. In 2012, I chaired a hearing of the Subcommittee on the Constitution, Civil Rights, and Human Rights that examined hate crimes and the threat of domestic extremism. After the hearing, at my request, the FBI began tracking hate crimes against Arab Americans, Hindu Americans, and Sikh Americans, among others. This is a positive step, but if state and local law enforcement agencies fail to report hate crimes, we cannot understand the full extent of the problem and what steps must be taken to address it.

In his speech to the Anti-Defamation League, Director Comey also highlighted this issue, noting:

We need to do a better job of tracking and reporting hate crime to fully understand what is happening in our communities and how to stop it. There are jurisdictions that fail to report hate crime statistics. Other jurisdictions claim there were no hate crimes in their community—a fact that would be welcome if true. We must continue to impress upon our state and local counterparts in every jurisdiction the need to track and report hate crime. It is not something we can ignore or sweep under the rug.

**a. Do you share Director Comey’s concerns about hate crimes being underreported?**

**RESPONSE:** I am unable to thoroughly evaluate this assertion or offer an opinion as I have not been presented with the information necessary to do so. However, if I am fortunate enough to be confirmed as Attorney General, I would expect to learn more about this issue and give it careful consideration.

**b. Will you commit that, if you are confirmed, you will take steps to ensure that the FBI and the Department of Justice work together to improve hate crime reporting by state and local law enforcement?**

**RESPONSE:** Certainly, effective engagement of state and local law enforcement is absolutely critical to protecting all Americans. If I am fortunate enough to be confirmed as Attorney General, it will be incumbent upon me to ensure that the resources of the Department of Justice and our partnerships with state and local law enforcement are utilized in a way that will ensure the enforcement of federal law and the protections our laws provide equally for all citizens.

32. When I was Chairman of the Subcommittee on the Constitution, Civil Rights, and Human Rights, I held two hearings on the human rights, fiscal, and public safety consequences of solitary confinement. Anyone who heard the chilling testimony of Anthony Graves and Damon Thibodeaux—exonerated inmates who each spent more than a decade in solitary confinement—knows that this is a critical human rights issue that we must address.

In light of the mounting evidence of the harmful—even dangerous—impacts of solitary confinement, states around the country have led the way in reassessing the practice. Progress has been made at the federal level as well. However, there are still nearly 10,000 federal inmates in segregation.

**a. Do you believe that long-term solitary confinement can have a harmful impact on inmates?**

**RESPONSE:** It is vital that our prisons be able to secure prisoners and maintain order, but it is also important that they be a safe environment for those prisoners while they are incarcerated, as well as for those guarding them. I believe that we should closely evaluate the studies and evidence and make the best determination about how to handle what can be a dangerous prison



population in a way that is both constitutional and effective.

**b. If you are confirmed, can you assure me that you will examine the evidence and work with BOP to make ensure that solitary confinement is not overused?**

**RESPONSE:** Yes.

33. In federal prosecutions, the majority of drug offenders are non-violent, have low criminal histories, and are not leaders or organizers. In 2015, 48.1 percent of drug offenders were in criminal history category I, and 12.9 percent were in criminal history category II. Indeed, 82.8 percent of all drug offenses did not involve the use of a weapon. Only 7.7 percent of all drug offenders had an aggravating role adjustment (were leaders, organizers, managers or supervisors). A 2016 Report by the United States Sentencing Commission found that the number of federal offenders whose most serious offense was simple drug possession increased nearly 400 percent during the six-year period between fiscal years 2008 and 2013.

I introduced Alton Mills to you as an example of one of these low level offenders. Alton Mills spent 22 years in federal prison, on a life sentence, until December 2015 when President Obama commuted his sentence.

**If you are confirmed as Attorney General, will you prioritize the prosecution of high-level drug offenders over low-level offenders?**

**RESPONSE:** The same 2016 Sentencing Commission Report referenced above notes that the 400 percent increase in drug possession offenses “is almost entirely attributable” to marijuana offenders arrested at or near the United States’ border with Mexico, and that the median quantity of marijuana possessed by those arrestees was 22,000 grams, which is 48.5 pounds. Compared to the median of 5.2 grams (one-fifth of an ounce) of marijuana possessed by arrestees for drug possession offenses in other locations, this seems excessive. These, clearly, are not low-level drug possessors, but are drug traffickers who are smuggling their life-destroying poisons across the border and into our communities to turn a profit for violent drug cartels. If I am fortunate enough to be confirmed as Attorney General, I will vigorously enforce the law and ensure that we make the most effective use of our limited enforcement resources to stop illicit drugs from being trafficked into our country and our communities.

34. During your confirmation hearing, you said “We will prosecute those who repeatedly violate our borders. It will be my priority to confront these crimes vigorously, effectively and immediately.”

The bipartisan United States Sentencing Commission noted in its April 2015 report that illegal reentry cases are a significant portion of all federal cases in which offenders are sentenced under the United States Sentencing Guidelines, constituting 26 percent of all such cases in fiscal year 2013.

In April 2016, the chair of the Sentencing Commission noted that, “there are many low level offenders who return to the United States for reasons related to family or work as well as reasons relating to conditions in their home country.”

- a. How you would seek to balance limited prosecutorial resources when considering illegal reentry cases versus national security cases and other non-immigration criminal cases?**

**RESPONSE:** With limited resources, it is important that the Department of Justice make the best use of its resources to address criminal activity. Striking that balance requires regular review of enforcement priorities, threats, and available resources to ensure the best allocation. If I am fortunate enough to be confirmed as Attorney General, I will endeavor to direct and utilize the resources of the Department in the most effective manner possible to ensure the enforcement of federal law.

- b. How would you use your discretion in choosing to prosecute particular illegal reentry cases? Would work or family ties in the U.S., or conditions in the foreign national’s home country, impact your decision?**

**RESPONSE:** The choice of whether to prosecute any particular case should always involve a review of all of the unique and legally pertinent facts of that case, the relevant law, available evidence, and the likelihood of success in the prosecution.

35. Under the Immigration and Nationality Act, the Attorney General’s determination and ruling on all questions of law is controlling. During your confirmation hearing, I asked you how you would use your vast authority as Attorney General, including in your role overseeing the immigration courts. You will also oversee the Board of Immigration Appeals (BIA), the highest administrative body for interpreting and applying immigration laws, including our asylum laws which provide protection to vulnerable individuals seeking refuge from persecution. You will have the authority to unilaterally revoke decisions of the BIA or to reduce the BIA’s membership from its current number of 17. You will have the authority to hire and fire immigration judges.

- a. Will you commit to not removing any currently serving immigration judges or BIA members, except for cause?**

**RESPONSE:** I am unfamiliar with the staffing requirements at the Board of Immigration Appeals or in the immigration courts, so it would be premature for me to offer an opinion at this time on whether any changes should be made.

- b. What is your plan to deal with the backlog of more than 500,000 pending cases in the immigration courts?**

**RESPONSE:** I am very concerned by the backlog of pending cases, and if I am confirmed, I will carefully evaluate what actions should be taken to address it.

**c. Will you commit to maintaining or increasing the current number of immigration judges and courts nationwide?**

**RESPONSE:** If I am fortunate enough to be confirmed as Attorney General, I will devote the appropriate number of immigration judges and courts to address the current backlog and any new cases.

**d. How do you plan to hire immigration judges in the future and what criteria would you use to disqualify applicants? Would you view as a negative factor prospective judges' membership in groups like the American Immigration Lawyers Association or the American Civil Liberties Union?**

**RESPONSE:** I have not had the opportunity to review the position description for immigration judges, but would expect them to be ethical, impartial, hard-working, and well-versed in immigration law, and believe those factors are more important than membership in any particular organization.

**e. Do you believe a child can represent herself fairly in immigration court without access to counsel?**

**RESPONSE:** My understanding is that the immigration laws of the United States provide all aliens with the privilege of being represented by the counsel of their choosing in civil immigration proceedings. It is also my understanding that Congress has specified that, while an alien retains such a privilege, any such representation must occur at no expense to the government. The sole exception to this is codified in section 1232(a)(5)(C) of Title 8, which charges the Department of Health and Human Services with ensuring:

to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

36. The goal of so-called “sanctuary cities” policies is to promote effective community policing by encouraging immigrant communities to trust local police.

**Do you believe that existing law authorizes the Executive Branch to bar or limit federal funding to the estimated 364 counties and 39 cities nationwide that have policies limiting their police department's role in enforcing immigration laws or would this require Congress to change the law?**

**RESPONSE:** My understanding is that the Department of Justice's current position—announced after a recent review conducted by the Inspector General—is that applicants for Justice

Department grants must comply with section 1373 of Title 8, as it is “an applicable federal law” for purposes of grant eligibility.

37. Regarding refugees, a joint statement by Michael Hayden, former director of the CIA and NSA, and James Stavridis, former NATO Supreme Allied Commander, said:

It’s ironic, to say the least, that today some politicians are seeking to shut out refugees in the name of national security. The global refugee crisis is straining the resources and infrastructures of Lebanon, Jordan, and Turkey, which are hosting the vast majority of Syrian refugees. By doing more to host and help refugees, the United States would safeguard the stability of these nations and thereby advance its own national security interests.

Moreover, hostility to refugees helps ISIS. Conversely, welcoming refugees regardless of their religion, nationality, or race exposes the falseness of terrorist propaganda and counters the warped vision of extremists.

**Do you agree that limiting refugee resettlement could assist ISIS propaganda efforts?**

**RESPONSE:** I have not yet been briefed on all aspects of the U.S. Refugee Admissions Program, but should I be confirmed, I will faithfully enforce our immigration law pertaining to refugees consistent with federal law and with the policy preferences of the President.

38. A document titled, Immigration Handbook For The New Republican Majority: A Memo For Republican Members From Sen. Jeff Sessions, dated January 2015, is available via your Senate website.

**Did any outside groups assist you or your staff in creating, editing, or reviewing this document, and if so, which groups?**

**RESPONSE:** My understanding is that my staff may have contacted some outside groups, such as the Center for Immigration Studies, to inquire about their publicly-available research that was cited in the document. However, we received no assistance from any outside group in creating, editing, or reviewing the document.

39. In the Immigration Handbook For The New Republican Majority: A Memo For Republican Members From Sen. Jeff Sessions, you state:

The Congressional Research Service estimates that the foreign-born population could reach as high as 58 million within a decade based on recent trends. Only an adjustment in policy will change this trajectory—just as policy was changed early in the 20th century to allow labor markets to tighten.

There had been a great wave of immigration in the four decades leading up to the

Coolidge Administration. This substantial increase in the labor pool had created a loose labor market that tilted the balance of power to large employers over everyday workers. Coolidge believed it was rational and sensible to swing the pendulum back towards the average wage-earning American.

The Immigration Act of 1924, to which you refer, limited the number of immigrants to the U.S. via a national origins quota based on the 1890 census. It excluded immigrants from Asia, and severely restricted new immigration from much of the world outside of Northwest Europe and Scandinavia.

**Please explain why you cited the immigration restrictions enacted by the Coolidge Administration without mentioning their exclusionary nature?**

**RESPONSE:** The specific restrictions per country of origin was not the focus of the paragraph. The focus of the paragraph was how President Coolidge changed the immigration laws to adjust the labor pool in a manner that would benefit the average wage-earning American worker.

40. According to the Department of Justice website, clemency applications are handled in the following manner: “After all relevant information has been received, OPA prepares a proposed recommendation for disposition of the case that is submitted to the Deputy Attorney General, who makes the final determination of the Justice Department’s recommendation to the President. The Deputy Attorney General’s signed recommendation is then transmitted to the White House, and the President acts on each case when he believes it is appropriate to do so.”

**a. Will you commit to keep the practice in place of the Deputy Attorney General making the final determination on a clemency application?**

**RESPONSE:** Internal practices exist to provide a regular process for effective, consistent execution of legal duties. However, these practices must sometimes undergo review and changes if it is found that they are ineffective, inefficient, or can be improved due to changes in the law, circumstances, or available resources. It would be unwise to commit to continuing an internal practice indefinitely and without regard to necessary changes or available improvements that may arise.

**b. Will you commit that you will not review or overturn the Deputy Attorney General’s recommendation in any clemency case?**

**RESPONSE:** I cannot categorically commit that, if I am confirmed as Attorney General, I would never review or take action in any future case where I have legal authority or responsibility for the actions of the Department, unless it is a particular case in which a conflict of interest has caused me to recuse myself completely.