

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

**QUESTIONS FROM SENATOR FRANKEN**

**Question 1.** During my time in the Senate, one of the issues I've focused on is advancing equality for the lesbian, gay, bisexual, and transgender (LGBT) community. For me, that means making sure that our federal civil rights laws protect LGBT kids from discrimination and harassment in school. It means making clear that in this country, no one should be fired because they're gay or transgender. And generally, it means making sure that LGBT people are treated with the same dignity and respect afforded to everyone else under the law. So I was heartened to see you acknowledge LGBT people in your hearing testimony, where you stated that you "understand the demands for justice and fairness made by the LGBT community."

However, I have trouble reconciling that claim with your record on LGBT issues. You voted against prohibiting job discrimination against LGBT people. You voted against ending "Don't Ask, Don't Tell." You argued that expanding our hate crimes law to protect LGBT people would "cheapen the civil rights movement." And you described the Supreme Court decision granting same-sex couples the right to marry as "part of a continuing effort to secularize, by force and intimidation, a society that would not exist but for the faith which inspired people to sail across unknown waters."

- Give your past record with regard to LGBT issues, how can you assure the LGBT community that you truly understand their demands for justice and, if confirmed, that you will work in their best interests?

**RESPONSE:** I firmly believe that all Americans are entitled to equal protection under the law, no matter their background, and if I am confirmed as Attorney General, I will work to ensure that our laws are enforced efficiently and effectively on behalf of all. 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.

- In your testimony, you stated that you "will ensure that the statutes protecting their rights and their safety are fully enforced." Under Attorneys General Holder and Lynch, the Department's work to protect and advance the rights of LGBT people was an integral part of DOJ's civil rights enforcement. If confirmed, can Americans expect the same from you?

**RESPONSE:** The Civil Rights Division has a historic and proud record of defending the civil rights of all Americans, particularly the most vulnerable. That will certainly continue under my leadership, if I am fortunate enough to be confirmed as Attorney General.

**Question 2.** For the majority of Americans, requiring that LGBT people are treated equally does not come at the expense of protecting other people’s rights. Nor do most people believe that treating LGBT people equally is incompatible with respecting the religion of people who don’t necessarily share our beliefs. However, you are a supporter of the deceptively named First Amendment Defense Act (FADA), a bill that would allow people and some institutions, even those that receive taxpayer dollars, to ignore laws that require them to recognize marriage equality if doing so is contrary to their religious beliefs. If enacted, this bill would prevent the federal government from enforcing laws and regulations that require federal benefits for same-sex spouses, and that prevent commercial landlords and even homeless shelters from turning away married same-sex couples, among other laws.

Some have argued that FADA is necessary to protect pastors, ministers, and churches who fear that they’ll be forced to marry gay and lesbian couples. But the First Amendment already prevents clergy or churches from being forced to marry a couple if doing so is contrary to their beliefs. It always has. The Supreme Court’s decision in *Obergefell v. Hodges*, which recognized that same-sex couples have the right to marry in all 50 states, did not change that.

- Why do you believe that a bill like FADA is necessary? And how do you reconcile your support for FADA, which would sanction discrimination against lawfully married gay and lesbian couples, with your claim to “understand the demands for justice and fairness made by the LGBT community?”

**RESPONSE:** First, I reject the characterization of the First Amendment Defense Act as “deceptively named.” During the oral argument in *Obergefell*, Justice Alito asked former Solicitor General Donald Verrilli whether a private university or college could lose its tax-exempt status if it opposed same-sex marriage. General Verrilli responded: “it’s certainly going to be an issue. I don’t deny that.” Thus, the purpose of the legislation was to prohibit the federal government from taking discriminatory actions against any person based on their belief or action in accordance with a religious or moral conviction. I supported this legislation because I believe that we can, and should, protect the rights of all citizens—including LGBT individuals and those with traditional views of marriage. I do not see freedom as a zero-sum game. I understand the critical and historic role of Department of Justice in upholding our nation’s civil rights laws. If I am fortunate enough to be confirmed as Attorney General, I will enforce those laws to the letter.

**Question 3.** You strongly opposed the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, which extended federal hate crimes protections to victims who were targeted on the basis of their sexual orientation or gender identity. Such crimes have an especially pernicious impact on members of the LGBT community. As FBI Director Comey explained, “[h]ate 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.”

In November, the FBI released its annual report on hate crime statistics, which relies upon data gathered and reported by state and local law enforcement agencies. According to the report, 7,121 people were victims of hate crimes in 2015. Of those 7,121 victims, 17.7 percent were

targeted because of their sexual orientation and 1.7 percent were targeted because of their gender identity. However, during a 2009 hearing on the bill that extended protections to the LGBT community, you stated that “I’m not sure women or people with different sexual orientations face that kind of discrimination. I just don’t see it.”

- In light of the data gathered by the FBI, do you still hold the view that LGBT people do not experience that kind of discrimination? If so, why?

**RESPONSE:** Any statement I made during debate over the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 reflected an opinion that I reached based on information available to me at the time. If I am fortunate enough to be confirmed as Attorney General, I will work diligently to ensure that all Americans receive equal protection under our laws.

Although the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act enables the Department to prosecute crimes motivated by the victim’s actual or perceived sexual orientation or gender identity, and to provide assistance to state and local authorities in the investigation and prosecution of hate crimes, federal law does not require state or local law enforcement to report such incidents. As a result, Director Comey acknowledged, “[t]here 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.”

- In recognition of this fact, the FBI has worked with advocacy and law enforcement organizations to improve the investigation of hate crimes and to develop a standard for collecting, analyzing, and reporting hate crime incidents. Do you agree that underreporting of hate crime incidents by state and local law enforcement remains an obstacle to combatting hate crimes? If not, why?

**RESPONSE:** While I am generally familiar with Director Comey’s concerns about underreporting, but am unable to thoroughly evaluate his assertion or offer an opinion as I have not been presented with information necessary to do so. However, if I am fortunate enough to be confirmed as Attorney General, I would expect to learn more about this issue and give it my careful consideration.

- What steps will you take to encourage greater participation in hate crimes reporting by state and local law enforcement agencies?

**RESPONSE:** If I am fortunate enough to be confirmed as Attorney General, the Department will be vigilant in the full enforcement of all federal laws. 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. The specific steps I will take to ensure the enforcement of any particular law will be decided after careful evaluation of any current practices of the Department and the effectiveness of those practices.

**Question 4.** A number of organizations and individuals have voiced support for your nomination or submitted letters praising your suitability for the post. On the day your nomination was

announced, the antiabortion group Operation Rescue issued a press release in which its president, Troy Newman wrote quote, “[w]e could not be happier about the selection of Sen. Jeff Sessions as the next Attorney General. I have worked on projects with Sen. Sessions in the past and know him to be an experienced prosecutor and principled pro-life advocate with a reputation for honesty.”

- What projects did you work on with Mr. Newman? Please list each project separately and describe your level of involvement in each.

**RESPONSE:** I am unaware of any such projects.

The title of the above Operation Rescue press release is “We Stand Ready to Assist Attorney General-Designate Sessions in Prosecuting Planned Parenthood.” In the release, Mr. Newman said “a new sheriff is coming to town” and that Planned Parenthood would no longer be protected.

- Have you made a commitment to Mr. Newman or to Operation Rescue to prosecute Planned Parenthood? If so, please describe any discussions you have had with Mr. Newman or his associates regarding the prosecution of Planned Parenthood or other reproductive health providers.

**RESPONSE:** I have made no commitments to any individual, including Mr. Newman, nor have I engaged in discussions about specific legal action the Department might take if I am fortunate enough to be confirmed as Attorney General. It would be highly inappropriate to do so.

In 1994, Congress passed the Freedom of Access to Clinic Entrances (FACE) Act. FACE prohibits threatening or intimidating women seeking reproductive health services and the doctors who provide them. It prohibits physically interfering with or injuring patients and clinicians. It prohibits damaging clinic property. And the Department of Justice enforces the FACE Act.

- It is critically important, especially in light of your support from radical elements within the antiabortion movement, that patients and women’s health providers not doubt the Department’s willingness to enforce the law and guard against threats. How can you reassure abortion providers and women seeking health care services that you will strictly enforce the FACE Act, if confirmed?

**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.

**Question 5.** In September 2015, the Department of Justice released policy guidance on the use of cell-site simulators—portable surveillance devices that collect cell phone identification and location information by mimicking cellphone towers. The guidance was released after I wrote to the Department raising concerns about the use of these systems.

Cell-site simulators, known as International Mobile Subscriber Identity Catcher devices (IMSI-catchers), “DRTBoxes, “dirtboxes,” or “Stingrays,” have the ability to compel affected mobile phones to reveal their location and users’ registration information. Recent complaints filed with the FCC have also alleged that cell-site simulators can disrupt cellular service and may interfere with calls for emergency assistance. As such, I believe that the devices must be used with great care and only in limited circumstances. In my view, the need for law enforcement to monitor and apprehend criminal suspects should not come at the expense of innocent Americans’ privacy. In order to ensure that the Department uses cell-site simulators in a manner that is consistent with the Constitution, the Department’s 2015 guidance provides that law enforcement agencies must first obtain a search warrant supported by probable cause before deploying cell-site simulators. However, this guidance could be repealed at any time.

- The 2015 policy provides a critical protection for Americans’ privacy. If you are confirmed, will you continue to require a warrant before authorizing the use of cell-site simulators? If not, why?

**RESPONSE:** While I am generally familiar with this policy, I am not privy to any internal Department of Justice data regarding the effectiveness of the policy in balancing the interests of law enforcement and public safety with protection of civil liberties. If I am fortunate enough to be confirmed as Attorney General, I will carefully review and evaluate this policy, including any relevant data and how circumstances may have changed or how they may change in the future.

- The 2015 guidance also sets forth practices concerning the collection and retention of data. If confirmed, will you commit to keeping the guidance’s data retention and transparency provisions in place? If not, why?

**RESPONSE:** While I am generally familiar with this policy, I am not privy to any internal Department of Justice data regarding the effectiveness of the policy in balancing the interests of law enforcement and public safety with protection of civil liberties. If I am fortunate enough to be confirmed as Attorney General, I will carefully review and evaluate this policy, including any relevant data and how circumstances may have changed or how they may change in the future.

- If confirmed, will you commit to preventing the Department from using cell-site simulators to surveil individuals participating in First Amendment-protected activities, such as attending political protests or religious ceremonies? If not, why?

**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.

**Question 6.** As the ranking member of the Subcommittee on Privacy, Technology and the Law, I have watched the proliferation of body-worn cameras with cautious optimism. Body cameras have the potential to help build trust between law enforcement and the community, and reduce uncertainty in the courtroom. At the same time, body cameras collect incredibly sensitive

information, and it is essential that law enforcement agencies develop privacy and data protection policies to address how data captured by body cameras is collected and used. In September 2015, the Department of Justice awarded more than \$23 million in grants to local and tribal law enforcement agencies to expand the use of body-worn cameras. The grants support the purchase of cameras, training and technical assistance, and efforts to catalog and examine the impact of their use. The Department also created a body-worn camera toolkit, which includes model policies that grantee agencies may reference in setting up their own programs. Under the current program, grantees are required to develop and articulate policies on privacy and data retention, but the Department does not require that grantee policies meet any one standard.

In my view, it's essential that the public and law enforcement have a clear understanding of how the sensitive information captured by body cameras is handled. So long as the Department of Justice is supporting the purchase of body-worn cameras by state and local law enforcement agencies, I think it's important that DOJ make sure departments who purchase body cameras with federal funds have a meaningful policy in place guiding their use, including a privacy policy.

- If confirmed, will you commit to working with me to ensure that grantees develop strong policies to protect the integrity of the data and the privacy of both police and the public? If not, why?

**RESPONSE:** If I am fortunate enough to be confirmed as Attorney General, I would commit to working with you and any other member of Congress on policies to protect the integrity of the data and the privacy of both police and the public.

**Question 7.** Senator Hatch asked you about the Religious Land Use and Institutionalized Persons Act (RLUIPA), which is enforced by the Department of Justice's Civil Rights Division. You told Senator Hatch that "religious freedom is a great heritage of America. We respect people's religion.... It's mandated in the Constitution."

- In a 2016 report on the Department's RLUIPA work, the Department noted that the number of RLUIPA investigations involving mosques or Islamic schools had risen dramatically from 2000 to 2006. In December 2016, for example, the Department filed a lawsuit against Culpeper County, Virginia, alleging that the county violated RLUIPA when it denied a sewage permit application to the Islamic Center of Culpeper (ICC), effectively preventing the ICC from building a mosque. The complaint alleges that since 1992, the county had considered 26 applications and never denied the permit for a commercial or religious use prior to ICC's application. Do you agree that enforcement of RLUIPA—on behalf of all religious faiths—is critically important?

**RESPONSE:** Yes.

- Will you commit to defending the rights of Muslim Americans—as strenuously as those of any other faith—to be free from unduly burdensome, unreasonable or discriminatory zoning, landmarking, and other land use regulations?

**RESPONSE:** RLUIPA is federal law and, if I am fortunate enough to be confirmed as Attorney General, I would ensure its even-handed enforcement when the facts and circumstances of a case dictate Department action.

- The 2016 report by the Department also contained this finding: “Another troubling statistic that emerges from the last five-and-a-half years reinforces the conclusion that there is particularly severe discrimination faced by Muslims in land use: While 84% of non-Muslim investigations opened by the Department resulted in a positive resolution without the United States or private parties filing suit, in mosque and Islamic school cases, only 20% have resulted in a positive resolution without the filing of a RLUIPA suit.” Will you commit that the Department will maintain the same resources for its RLUIPA work, including work on behalf of Muslim Americans?

**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.

- You are reported as having said, that the true threat confronting the United States is “the toxic ideology of Islam.” How can you assure an asylum applicant claiming persecution based on their Islamic faith will receive a fair hearing in the immigration courts, if you are confirmed?

**RESPONSE:** If I am confirmed, asylum applicants claiming persecution in the immigration courts will have an equal opportunity to qualify for asylum consistent with the our duly-enacted immigration laws.

**Question 8.** I am concerned about further consolidation in the media and telecommunications markets because it often leads to higher prices, fewer choices, and even worse service for consumers. Furthermore, when you have a small group controlling what Americans can watch, the risk of private censorship over political content grows.

In a speech in October, President-elect Trump announced his opposition to AT&T’s proposed acquisition of Time Warner, saying that his administration would not approve the deal. He also stated that his administration would revisit Comcast’s acquisition of NBCUniversal, suggesting that it never should have been approved in the first place.

- At a time when a typical American household spends on average about \$2,700 annually on telephone, video, and broadband services, do you agree with the president-elect that consolidation in the media and telecommunications industries is a problem?

**RESPONSE:** The antitrust division at the Department of Justice plays a vital role in keeping our markets competitive and protecting consumers. The media and telecommunications markets are no exception. If I am confirmed as Attorney General, the antitrust division will play a central role in protecting consumers in these particular markets and will not hesitate to

take action against violations of law. I look forward to working with you and other members of Congress to learn more about the specific issues facing the media and telecommunications marketplaces and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement.

- Should you be confirmed as attorney general, how will an Antitrust Division under your supervision evaluate AT&T's proposed acquisition of Time Warner? Will it revisit Comcast's acquisition of NBCUniversal?

**RESPONSE:** If confirmed as Attorney General, the antitrust division will conduct a thorough evaluation, consistent with federal law, of all proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies.

**Question 9:** In December, President-elect Trump met with Masayoshi Son, chief executive of Softbank, which owns Sprint. Mr. Son has allegedly long sought for his company to acquire T-Mobile, which would collapse the U.S. wireless market from four major nationwide carriers to three. Following the meeting, Mr. Son reportedly committed to investing \$50 billion in the United States and creating 50,000 new jobs. What Mr. Son will receive in return for these investments is unclear.

- Have you discussed the meeting between Mr. Son and the president-elect with Mr. Trump? If so, what promises were made to Mr. Son in exchange for his commitments to invest in the United States?

**RESPONSE:** No.

- What role will an Antitrust Division under your supervision play in the new administration? Should companies seeking regulatory approval of their mergers and acquisitions plan to communicate with the president-elect directly prior to – or during – the Department of Justice review process? How will you ensure an impartial review?

**RESPONSE:** The antitrust policies of the United States must be consistent and as clear as possible, and if I am fortunate enough to be confirmed, I will not hesitate to enforce antitrust law to protect against anti-competitive transactions. Though I am not thoroughly familiar with the precise processes currently employed by the Department, antitrust review under my leadership will be consistent with federal antitrust law, objective, independent, and based on sound economic analysis.

**Question 10:** I am increasingly concerned about internet companies that can use their positions as dominant media platforms to stifle competition and inhibit the free flow of information. In recent years, we've heard allegations of online intermediaries leveraging their market dominance to the detriment of content creators and innovative startups. For example, Google has given preference to its own products and services in search results while downgrading competitors' products and services. I've also heard from photographers in my home state that Google is taking original content from photographers' distributors' websites without appropriate compensation or attribution. Apple is preventing its competitors in the music streaming market from promoting

lower prices to consumers on Apple iOS. And Amazon is using its dominance in the book market to impose unfair contractual terms on publishers and authors.

- What will an Antitrust Division under your supervision do to address allegations that these dominant platforms' unilateral behavior is anticompetitive and may ultimately harm the free flow of ideas and content?

**RESPONSE:** Ensuring competition on the internet is of vital importance in our modern, digital economy. If I am confirmed as Attorney General, the antitrust division will look at all markets to ensure compliance with federal antitrust law. It will conduct a thorough evaluation, consistent with federal law, of all proposed mergers and acquisitions to determine whether they violate federal antitrust law and policies. I look forward to working with you and other members of Congress to learn more about these particular issues and to ensure that the Department has the information and tools it needs to carry out its duties in antitrust enforcement.

In recent years, antitrust investigations against Google and Apple for alleged anti-competitive conduct have taken place at the Federal Trade Commission, which shares antitrust enforcement authority with the Department of Justice. However, this does not preclude the Justice Department from asserting jurisdiction over these issues in the new administration.

- As Attorney General, would you be open to examining allegations of anti-competitive conduct by some of these dominant platforms at the Department of Justice?

**RESPONSE:** As I testified before the Committee, the antitrust policies of the United States have to be as consistent and as clear as possible to protect against anti-competitive transactions in any industry or marketplace. If confirmed as Attorney General, I will not hesitate to enforce antitrust law to protect against anti-competitive transactions.

**Question 11:** As we saw following Comcast's acquisition of NBCUniversal, conditions that are placed on deals that are approved can be difficult to enforce and are not always reliable. Another major problem is that those conditions expire.

- How do you believe the Department of Justice can ensure that merger conditions actually have enough teeth to protect consumers in the long term?

**RESPONSE:** Federal antitrust laws are in place to protect consumers and to ensure a competitive marketplace. If I am confirmed as Attorney General, the antitrust division will not hesitate to enforce such laws and impose appropriate conditions to protect consumers, as necessary.

- There is increasing evidence that other types of merger remedies, including divestitures, aren't sufficient in protecting consumers from harm. Do you agree that in cases such as those, the DOJ should be more willing to challenge these deals in court, as it was slated to do in the case of Comcast-Time Warner Cable?

**RESPONSE:** If I am confirmed as Attorney General, the antitrust division will examine each transaction on the merits and will not hesitate to challenge transactions or impose conditions or other remedies as necessary to protect consumers.

**Question 12:** Four years ago, as the Supreme Court was considering *American Express v. Italian Colors*, I asked Assistant Attorney General William Baer about the importance of private antitrust enforcement. He has since told me that the Supreme Court’s decision in that case made it much harder for small businesses to file private antitrust enforcement actions and instead they are forced to arbitrate their claims.

- Do you agree that antitrust enforcement has changed since that decision? Do you currently have concerns about small business’ ability to bring antitrust claims to a public court of law? If not, why?

**RESPONSE:** I have not studied the Court’s decision or its implications for small businesses. If I am fortunate enough to be confirmed as Attorney General, I expect to learn more about this issue.

**Question 13:** Since entering the Senate, I have made it a priority to combat the widespread and harmful impact of forced arbitration. These clauses restrict Americans’ access to justice by stripping consumers and workers of their legal rights and insulating corporations from any accountability.

I have a letter that you sent on June 10, 1999 to one of your constituents. You write, “thank you for taking the time to contact me with your concerns about the Federal Arbitration Act and consumer transactions. I appreciate the reality that in many cases, arbitration clauses in contracts for sales of consumer goods limit a person’s right to sue in state or federal court.”

- Do you still believe that arbitration clauses often limit Americans’ right to sue in a public court of law?

**RESPONSE:** I have no reason to disagree with the sentiment expressed in the letter.

I do not oppose the use of arbitration when it is voluntarily agreed to by both parties after a dispute has arisen. But consumers and workers have a right to a meaningful choice about where to enforce important state and federal laws. Forced arbitration clauses, by their very nature, effectively deny Americans of this choice. In 2012, in response to President Obama’s weekly address, you stated that “before entering politics, I was a federal prosecutor. I tried many cases and spoke to many juries. The brilliance of our legal system is that it places judgment in the hands of everyday citizens. Twelve complete strangers, from all walks of life, sit in a jury box, carefully weigh the evidence, and then reach an impartial verdict.” Despite the praise you have offered for our nation’s public courts and justice system, you have consistently defended forced arbitration clauses in consumer and employment contracts.

- Why should any American be forcibly denied the fundamental rights and protections inherent in the “brilliance of our legal system” as you so aptly recognized in 2012?

**RESPONSE:** I do not believe any American should be forcibly denied the fundamental rights and protections inherent in the brilliance of our legal system.

One very public example of mandatory arbitration is former Fox News anchor Gretchen Carlson's lawsuit alleging that she'd been sexually harassed by her boss Roger Ailes, the founder, and former CEO and chairman of the network. Ailes' lawyers tried to force her case into private arbitration, arguing that Ms. Carlson had breached the terms of her employment contract, which included a forced arbitration clause. The arbitration clause in Ms. Carlson's contract also prohibited her from speaking out about the claims – as is the case in most forced arbitration agreements. Had Roger Ailes and Fox News been successful in forcing Ms. Carlson into arbitration and abiding by those terms, her colleagues at Fox News, many of whom were also victims of sexual harassment, would have been left in the dark about her case and may never have come forward with their own claims.

According to the Equal Employment Opportunity Commission, at least 25% of American women say they have experienced sexual harassment in the workplace.

- Do you agree that women with claims of sexual harassment and employment discrimination deserve access to the courts and an impartial jury verdict? If not, why?

**RESPONSE:** Yes. All victims of sexual harassment and employment discrimination should have the ability to obtain justice and seek appropriate recourse against the perpetrator.

- Do you believe it is it fair for corporations and employers to force consumers and workers to surrender their fundamental legal rights before a dispute has even arisen? If so, why?

**RESPONSE:** Arbitration is intended to avoid the formalities, expense, and delay of formal dispute resolution before courts. It is one of the most cost-effective means of resolving disputes. Unlike businesses, consumers and employees generally cannot afford a team of lawyers to represent them. Furthermore, consumers, employees, and small businesses that enter into contracts covered by the Federal Arbitration Act is entitled to have their disputes resolved in accordance with fundamental principles of due process, and in a speedy and cost-effective manner.

- In light of the fact that arbitration proceedings are shrouded in secrecy and have the ability to cover up discriminatory patterns and practices, why should they not be subject to the same transparency afforded participants in the civil justice system you praised in 2012?

**RESPONSE:** Consumers, employees, and small businesses that enter into contracts covered by the Federal Arbitration Act is entitled to have their disputes resolved in accordance with fundamental principles of due process, and in a speedy and cost-effective manner.

Forced arbitration also impacts servicemembers who are trying to enforce the legal rights they fight to protect. Take the case of Kevin Ziober, a Navy Reservist who, after informing his

company he was being deployed to fight for his country in Afghanistan, was thrown a farewell party with an American-flag shaped cake, and then summarily dismissed by his employer in violation of a federal law called the Uniformed Services Employment and Reemployment Rights Act. After returning from active duty, Kevin filed suit against his former employer, and has been fighting for years for the right to enforce congressionally mandated protections for servicemembers in a public court of law.

- Do you agree that we should afford the same protections inherent in our civil justice system to everyone, especially our men and women in uniform?

**RESPONSE:** I am not familiar with the above-mentioned case. Regardless, anyone, including our men and women in uniform, who enters into a contract covered by the Federal Arbitration Act is entitled to have their disputes resolved in accordance with fundamental principles of due process, and in a speedy and cost-effective manner.

**Question 14:** In recent years, the growing use of so-called stalking apps, which allow users to track someone's location – or even listen to their phone calls and read their text messages – without their knowledge or consent, has raised serious concerns. Federal law does not currently prohibit developers from creating apps that surreptitiously track geo-location data. This loophole in the law grants stalkers and domestic abusers access to a powerful tool enabling increased violence against women.

- Do you agree that location data can be highly personal information and is deserving of privacy protections?

**RESPONSE:** Your tireless efforts to shed light on this very important issue, particularly as it relates to victims of domestic violence, have been admirable. If I am fortunate enough to be confirmed as Attorney General, I will ensure that the Department continues to prosecute these matters, and will be happy to work with you and other members of Congress to advance policies that protect victims.

Last year, I reintroduced legislation – the Location Privacy Protection Act – that would, among other things, amend the federal wiretap statute to explicitly include the interception of location data and allow for the forfeiture of proceeds from the sale of smartphone tracking apps.

- Should you be confirmed as Attorney General, will you work with me on this legislation to ensure that the federal government has all the tools necessary to protect women from stalking apps and their attendant violence and abuse?

**RESPONSE:** If I am fortunate enough to be confirmed as Attorney General, I will be happy to work with you to ensure that federal prosecutors have all the tools needed to protect victims from stalking, violence, and abuse.

DOJ has the authority under existing wiretap laws to prosecute creators of apps that allow stalkers to listen to victims' phone calls, intercept text messages, or otherwise intercept content from victims' phones. In response to my request, which was joined by Senators Grassley,

Cornyn, and Graham, the DOJ exercised this authority and began taking criminal action against the creators of these stalking apps within the last few years. Although this is a positive development in the enforcement of our nation's laws, there is more that DOJ can do to protect the victims of stalking apps.

- What will you do to ensure DOJ continues taking such action against the creators of stalking apps?

**RESPONSE:** If I am fortunate enough to be confirmed as Attorney General, I am happy to work with you and other members of Congress to advance policies that protect victims of domestic violence and stalking by pursuing appropriate criminal actions.

**Question 15:** In our courtesy visit, we discussed violence against Native women, and I told you how important the issue is to me. When I provided you with a statistic demonstrating just how prevalent violence against Native women is – and at the hands of non-Indians – you expressed shock and said that you didn't realize the extent of the problem.

Over 84% of Native women experience domestic or sexual violence. And over 97% of them are victimized by non-Indians. That's a recent stat. But in 2012, all you had to do was talk to one tribe, and you would have learned that women in Indian Country are regularly abused by non-Indians who go unprosecuted and unpunished.

During the hearing you told me you would spend a little time with the Poarch Band of Creek Indians in Alabama to better understand how the issue of domestic and sexual violence is affecting Indian Country. I also think it is necessary to visit at least one tribe where the special domestic violence jurisdiction is being exercised. Tribes are using that authority to secure long overdue justice for victims and are doing so with care and deliberation and in a manner that protects defendants' rights.

- During the hearing you also told Senator Hirono that you can't commit to not challenging VAWA on these grounds. But you also admitted to not understanding the gravity of the problem of violence against native women when you voted on it in 2013. Now that you are better informed on the issue, will you commit to enforcing and defending this very important provision?

**RESPONSE:** If I am confirmed as Attorney General, I will enforce all federal laws, including the 2013 reauthorization of VAWA. I understand that a pilot program has been initiated that seeks to conform tribes' exercise of criminal jurisdiction over non-Indians to the requirements of the Sixth Amendment. I will carefully study this program before reaching any legal conclusions about the VAWA tribal jurisdiction provision.

Sexual assault and other violent crime on Indian reservations are very serious problems—in some places, the problem has reached epidemic proportions. The Federal government exercises criminal jurisdiction over many Indian reservations. If I am confirmed as Attorney General, I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request

additional resources where existing resources are inadequate. Finally, I would note that on many Indian reservations, state and local authorities exercise criminal jurisdiction. State and local law enforcement resources greatly exceed those of Federal and tribal governments combined. On the exclusively Federal reservations where federal law enforcement has proved to be inadequate to reduce high levels of violent crime, Congress may consider allowing state and local authorities to exercise criminal jurisdiction. State and local law enforcement has proven effective on many existing Indian reservations, and the extension of such criminal jurisdiction to both Indians and non-Indians in Indian country does not offend constitutional guarantees.

**Question 16:** In 2011, the Office for Victims of Crime established the National Coordination Committee on the American Indian/Alaska Native (AI/AN) Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative. The Committee has since issued a report with specific recommendations for the Department of Justice on improving the federal government's response to adult and child victims of sexual violence in tribal nations, and the Obama Administration has implemented many of these recommendations.

- As attorney general, will you commit to continuing these policies to further address sexual violence in Indian Country? If not, why?

**RESPONSE:** I am not familiar with this report, however, if I am confirmed as Attorney General I will certainly review it and its recommendations. I will implement recommendations that improve the Federal government's fulfillment of its role in enforcing criminal laws on Federal reservations. If confirmed, I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request additional resources where existing resources are inadequate.

**Question 17:** The Department of Justice has the primary responsibility for investigating and prosecuting crime in much of Indian country. The rates of violent victimization on many Indian reservations are the highest in the nation, but crimes in Indian country still largely go unprosecuted and unpunished.

- What will be your approach to addressing crime in Indian country? What steps will you take to reduce crime in Indian country?

**RESPONSE:** If I am confirmed as Attorney General, I will be committed to ensuring that federal law enforcement resources are fully deployed to investigate and prosecute crime on Federal reservations, and will request additional resources where existing resources are inadequate.

**Question 18:** In recent years the media has increasingly highlighted the tragic prevalence of sexual assault in our country – whether it be on our military bases, on our college campuses, or at the hands of once-beloved public figures. In response, most of us in Congress have publicly committed to doing whatever is necessary to combat such violence and ensure that victims have

access to justice. But critical to that effort is also our willingness – as the nation’s leaders – to speak openly and honestly about the systemic barriers to addressing the problem.

- As attorney general – and the nation’s top victim advocate – what would you say to the hundreds of thousands of survivors of sexual violence who may be unwilling to report their abuse for fear of retaliation or concern that they will not be believed?

**RESPONSE:** I would urge victims to report all incidents of sexual assault to law enforcement authorities, and would assure them that federal authorities (which, for example, typically have jurisdiction over military bases) will take all reports seriously and will investigate and prosecute all appropriate cases to the fullest extent of the law.

- What steps do you think our law enforcement can take to address a culture that often fails to hold perpetrators accountable and instead blames the victims?

**RESPONSE:** Law enforcement authorities can best “address” such a culture by aggressively investigating sexual assault offenses and vigorously prosecuting them to the fullest extent of the law.

**Question 19:** As we’ve explored previously in the Judiciary Committee – and as research continues to demonstrate – runaway and homeless youth are particularly vulnerable to trafficking and exploitation. Covenant House New York’s 2013 survey found that youth involved in commercial sexual activity frequently reported exchanging sexual acts for basic necessities like food or a place to sleep. And a more recent study by Covenant House New Orleans found that a quarter of the homeless youth they interviewed had been victims of trafficking or sexual labor. Finally, according to the Human Rights Campaign, of the nearly 2 million young people who are affected by homelessness each year, research shows that up to 40 percent of homeless youth identify as LGBT.

- You were one of three senators who opposed the effort to reauthorize the Runaway and Homeless Youth Act in the Judiciary Committee in the 113<sup>th</sup> Congress. Why exactly did you oppose?

**RESPONSE:** I was concerned with what I believed to be overly broad and vague language in the bill that could have discriminated against faith-based organizations that help form the fabric of the United States’ social services, and would have undermined the goal of the bill by making it more difficult to protect and provide services for at-risk individuals.

- Should you be confirmed as attorney general, how can I trust that you will work to ensure that all kids, including LGBT youth and those that need it the most, have access to shelter and other necessary services to prevent them from becoming a victim of trafficking?

**RESPONSE:** As a United States Senator, I was a cosponsor and strong supporter of the Adam Walsh Act of 2006, which imposed tough, mandatory penalties for sex trafficking of minors, child pornography, and federal sexual assault offenses. I also have supported reauthorizations of the Violence Against Women Act, and have supported other legislation

that has done much to prevent sexual assault and other violence, including trafficking. Additionally, I worked to add an amendment to the 2005 Violence Against Women Act that expanded DNA sampling and has prevented many of these types of crimes over the past decade. If I am fortunate enough to be confirmed as Attorney General, I will continue in my commitment to strongly address these types of terrible crimes, and to protect and ensure justice for their victims.

**Question 20:** As the Department of Housing and Urban Development has frequently recognized, survivors of domestic violence face unique challenges in securing and maintaining adequate housing. Indeed, according to the Department of Justice, one-in-four homeless women in the United States is a survivor of domestic violence. And not surprisingly, once a woman becomes homeless, she becomes more vulnerable to violence and exploitation. In fact, nine-in-ten homeless women have experienced severe physical or sexual abuse.

- The Department of Justice is charged with protecting Americans' right to access housing free from discrimination. Should you be confirmed as Attorney General, what will you do to address the link between homelessness and domestic violence? How will you work with the Department of Housing and Urban Development to accomplish these goals?

**RESPONSE:** If I am confirmed, I will fully enforce all existing laws relating to sexual assault, and all non-discrimination laws. I assume that the Department of Housing and Urban Development refers cases of potential violation of the laws to the Justice Department for prosecution, and I would expect to continue such cooperation.