

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

QUESTIONS FROM SENATOR HIRONO

1. During the hearing I asked Senator Sessions whether he would implement the Freedom of Access to Clinic Entrances act. He said, “I don’t know exactly how threats are worded but if it is improperly done, they can be subject to criminal prosecutions and they would be evaluated properly in my administration.”
 - a. The Ninth Circuit Court of Appeals ruled in 2002 that WANTED posters targeting abortion providers, as well as websites listing the addresses and telephone numbers of abortion providers and declaring them guilty of crimes against humanity, constitute actionable threats under the FACE Act. Do you agree with this ruling by the Ninth Circuit?

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.

2. During the hearing I asked Senator Sessions whether he supported “enhanced vetting” of people with “extreme views.”
 - a. How would you characterize what constitutes an extreme view?

RESPONSE: An example of an extreme view would include those that call for the harming or killing those who do not share your religious beliefs.

- b. Do you believe certain religions are more prone to extreme views than others? And if so, which ones?

RESPONSE: It is my understanding that individuals across the world in every religion have adopted views that could be described as extreme and there are periods in which some religions exhibit more extreme and dangerous views than others.

3. At the hearing I asked if Senator Sessions would commit to maintaining and enforcing the consent decrees that the Justice Department has negotiated during the Obama administration. You said “those consent decrees remain in force until and if they are changed.” You also stated “...I just wouldn’t commit that there would never be any changes in them. And if departments have complied or reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that.”
 - a. In light of ample empirical evidence showing that consent decrees have been an effective tool in addressing police misconduct, do you plan to instruct the Civil Rights Division of the U.S. Department of Justice to continue issuing them??

RESPONSE: As I testified before the Committee, consent decrees themselves are not necessarily bad things, but there are also concerns with the use or overuse of them, and the ramifications are deserving of caution. If I am fortunate enough to be confirmed as Attorney General, I will exercise caution and my best judgment in determining how and when to use that tool.

- b. Absent a showing that a police department has actually achieved full compliance with specific provisions of a consent decree or the entirety of a previously-negotiated consent decree, will the Department of Justice under your leadership maintain, enforce, and defend against proposed changes to that consent decree?

RESPONSE: As I testified before the Committee, I would not pre-judge a specific case, nor would I commit that there would never be any changes to consent decrees that have been entered into, particularly if departments have either complied or have made other improvements that might justify the withdrawal or modification of the consent decree.

- c. If your answer to the prior question was anything other than yes, please identify all criteria you will use to determine whether to maintain, enforce, and defend against changes to an existing consent decree entered into between a police department and the Justice Department.

RESPONSE: As I testified before the Committee, I would not pre-judge a specific case. If departments have either complied or have made other improvements that might justify the withdrawal or modification of the consent decree, then I would carefully evaluate all of the relevant facts and circumstances to determine whether action needs to be taken.

- d. What did you mean by “And if departments have... reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that”? What “other developments could justify the withdrawal or modification” of a consent decree?

RESPONSE: As I testified before the Committee, I would not pre-judge a specific case. Just as each consent decree is unique to each jurisdiction, each case necessarily differs in what developments or improvements might justify withdrawal or modification of the consent decree.

- 4. During the hearing I cited the current Wells Fargo investigation and asked whether Senator Sessions would instruct the Department of Justice to pursue and hold accountable individual and corporate wrongdoers who defraud the American consumer.
 - a. Do you believe that any financial institutions have a large enough financial impact that the Department of Justice would be hindered in any way from holding those institutions and/or their executives fully accountable in any case of lawbreaking?

RESPONSE: As I testified before the Committee, the duty of the Attorney General is to ensure that the law is properly and fairly enforced. No matter how wealthy or well-connected, no individual or institution is above the law.

- b. If confirmed, if you determine that the size or interconnectedness of any financial institution hinders the Department of Justice’s ability to hold a bank or its executives accountable, will you work with banking regulators to take any necessary remedial action, including requiring the institution to divest assets, to ensure that the institution and its executives can be held accountable to the full extent of the law?

RESPONSE: Yes.

- c. As you know, many of Wells Fargo’s consumer contracts contain provisions that require consumers to adjudicate disputes through arbitration, rather than in the court system. Wells Fargo has argued for dismissal of numerous consumer lawsuits over the fake account scandal based on these provisions. You have strongly defended the use of “forced arbitration” clauses during your time in the Senate.¹ If confirmed, will you defend rules enacted by banking regulators that limit the use of forced arbitration in consumer banking contracts to the full extent of the law?

RESPONSE: I have not devoted significant study to this issue. However, if I am confirmed, if such matters come before the Department of Justice, I will carefully and objectively evaluate the facts and circumstances of each case and endeavor to uphold and defend the Constitution in the pursuit of justice.

¹ See e.g., <https://www.congress.gov/congressional-record/2000/3/28/senate-section/article/s1810-2?q=%7B%22search%22%3A%5B%22financial%22%5D%7D&r=5>, [https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Track_Regulatory_Issues/Pending_Regulatory_Changes/2016/Congressional%20Letter%20to%20Cordray%20re%20arbitration5b25d%20\(1\).pdf](https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Track_Regulatory_Issues/Pending_Regulatory_Changes/2016/Congressional%20Letter%20to%20Cordray%20re%20arbitration5b25d%20(1).pdf)