Nomination of Jeff Sessions to be Attorney General of the United States Questions for the Record Submitted January 25, 2017

QUESTIONS FROM SENATOR LEAHY

Many answers to my written questions were non-responsive. While some answers quoted statutes and cases to support your position (e.g. Questions 4b, 11a, 15, 19a), in other responses you professed a complete lack of knowledge, even on topics that have dominated the news in recent months. You acknowledged in one response that you believe a statute is constitutional, but in others you refused even to say whether you considered a law to be "reasonably defensible." When responding to these follow up questions, please review any necessary materials to provide substantive answers to my questions.

I also was troubled by your responses to questions 8 and 22, in which you consistently did not answer the question directly and stated that you had "no knowledge of whether [an individual] actually said [remarks relevant to the question] or in what context." Yet you omitted in your response footnotes that I included, which provided the relevant source material. I am re-asking those questions here and, for your convenience, I am appending these source materials to this document.

RESPONSE: I reject the contention that my answers were non-responsive. I received over 550 follow-up questions, many of which would be impossible or inappropriate for me to answer prior to taking office, should I be confirmed. Nevertheless, I made a good faith effort to do so in a timely manner, answering each question to the best of my knowledge and without the vast resources of the Department of Justice at my disposal.

Ouestions 8 and 22

8. In 2014, you accepted the "Daring the Odds" award from the David Horowitz Freedom Center. The Southern Poverty Law Center has repeatedly called David Horowitz an "anti-Muslim extremist" and has an extensive and detailed profile of Mr. Horowitz's racist and repugnant remarks against Muslims, Arabs, and African-Americans.

In your hearing, you stated to Senator Blumenthal with regard to Mr. Horowitz, "I am not aware of everything he has ever said or not." You also defended your association with him by saying "I am not aware of those comments, and I do not believe David Horowitz is a racist or a person that would treat anyone improperly, at least to my knowledge." Now you have had the opportunity to learn more about the extremist remarks Mr. Horowitz has made.

For example, Mr. Horowitz has repeatedly claimed that the United States government has been infiltrated by Muslims. He has referred to Muslims as "Islamic Nazis" who "want to kill Jews, that's their agenda."

a. Do you disavow and condemn that remark?

Mr. Horowitz has said "Obama is an anti-American radical and I'm actually sure he's a Muslim, he certainly isn't a Christian. . . . He's a pretend Christian in the same way he's a pretend American "²

b. Do you disavow and condemn that remark?

Mr. Horowitz has even claimed that Muslims have "infiltrated" the Republican Party, and that "Grover Norquist is a Muslim, he is a practicing Muslim."³

c. Do you disavow and condemn that remark?

RESPONSE to (a) - **(c):** As I said in my original response, I do not hold the views that these questions attribute to Mr. Horowitz.

In 2015, you received the "Keeper of the Flame" award from the Center for Security Policy. The Center for Security Policy has been strongly criticized by the Anti-Defamation League, and is considered a hate group by the Southern Poverty Law Center.

In 2011, its founder, Frank Gaffney, was banned from the Conservative Political Action Conference (CPAC) because, in the words of one board member, "they didn't want to be associated with a crazy bigot." Among his disgraceful statements, Mr. Gaffney has said that the two Muslims in Congress, Representative Keith Ellison and Andre Carson, have "longstanding Muslim Brotherhood ties."

e. CPAC did not want to be associated with a "crazy bigot," but you accepted an award from him in 2015. Do you condemn Mr. Gaffney's remarks and his insinuation that the two Muslim Congressmen are affiliated with the Muslim Brotherhood?

RESPONSE: As I said in my original response, I have not and will not associate myself with any racially insensitive or discriminatory remarks made by anyone.

f. Do you believe it is acceptable for the Attorney General to associate with Mr. Gaffney and his extremist organization?

RESPONSE: As I said in my original response, no government official should lend the prestige of his or her office to any individual or organization that does not reflect American values.

- g. Mr. Gaffney has complained about Somali refugees holding jobs in the meat processing industry, saying "it kind of creeps me out that they are getting jobs in the food supply of the United States." Do you condemn that statement?
- h. Mr. Gaffney argued that a Muslim member of Congress should not be allowed to serve on the House Intelligence Committee because of his "extensive personal and political associations with...jihadist infrastructure in America." Do you condemn that remark?
- i. Mr. Gaffney has said of President Obama that it is an "increasingly indisputable fact that this president is providing aid and comfort to enemies of the United States. And that is the definition, as you know, of treason." Do you condemn the offensive allegation that President Obama is a traitor?

RESPONSE to (g) – (i): As I said in my original response, I do not hold the views that these questions attribute to Mr. Gaffney.

President-elect Trump has appointed Michael Flynn to be his National Security Advisor. The National Security Advisor has typically been the President's principal advisor on national security matters, a position that does not require Senate confirmation.

Mr. Flynn serves on the board of advisors for an organization called ACT for America. The Southern Poverty Law Center has called this organization "far and away the largest grassroots anti-Muslim group in America." In August 2016 – less than six months ago – Mr. Flynn spoke at an event for this group. He is on video saying that Islam "is a political ideology. It definitely hides behind this notion of it being a religion." He also added that Islam is "like a malignant cancer."

- k. Do you disavow and condemn Mr. Flynn's remarks?
- 1. Do you believe that the President's national security advisor should refer to Islam as a "malignant cancer"?
- m. Do you believe the National Security Advisor should be associated with organizations that promote anti-Islamic bigotry and conspiracy theories?

RESPONSE to (k) – (m): As I said in my original responses to each of these questions, I will not associate myself with any racially or religiously insensitive or discriminatory remarks.

In the unclassified Intelligence Community Assessment on "Assessing Russian Activities and Intentions in Recent US Elections" released on January 6, 2017, there are seven pages describing the activities of RT America TV. The report notes that the network's "Leadership [is] closely tied to, controlled by Kremlin." Mr. Flynn has given a paid speech to RT, and attended a dinner celebrating the network's anniversary, where he sat at the same table as Vladimir Putin. ¹⁰

n. Given the facts presented here, what legal issues does the relationship between the National Security Advisor and the Russian government raise?

RESPONSE: I am not privy to the facts or details other than what is contained in public reporting, so I do not know what the appropriate response should be in this particular case.

In 2015, you received an award from the Eagle Forum for "Excellence in Leadership." The late founder of that organization has a long history of controversial remarks. That includes advocating for "railroad cars full of illegals going south" and increasing the pay gap between men and women, ¹² and arguing that married women by definition cannot be raped by their husbands. ¹³

- o. Do you agree that there should be "railroad cars full of illegals going south"? Do you condemn that remark?
- p. Do you agree that married women by definition cannot be raped by their husbands? Do you condemn that remark?

- q. Do you agree that the pay gap between men and women should be increased, rather than diminished?
- r. Ms. Schlafly also claimed "it would be useful to reinstate the House Committee on Un-American Activities" to target Muslims. Do you agree with that statement?

RESPONSE to (o) – (r): As I said in my original response, I do not hold the views that these questions attribute to the deceased woman referenced therein.

- 22. The intelligence community has concluded that Russia intervened in the 2016 election in an effort to help elect Donald Trump. The report is available at https://www.dni.gov/files/documents/ICA_2017_01.pdf. Russian interference in our elections is larger than any candidate or political party. This is about protecting our democracy. Please review this report and respond to the following questions.
- a. Do you accept the conclusion of the intelligence community that Russia was responsible for the hack of the DNC and Hillary Clinton's campaign chair?
- b. Do you accept the conclusion of the intelligence community that Russia provided to Wikileaks the information that it stole?
- c. Do you accept the conclusion of the intelligence community that Russia engaged in these activities in order to interfere with the election in Donald Trump's favor?

RESPONSE to (a) – (c): If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment.

Additional follow-up questions

1. You previously responded to questions 22a-c that you "have no reason not to accept the intelligence community's conclusion(s) as contained in the report." Given that response, I was surprised that when I then asked you if Russia's behavior, which was detailed in the report, was illegal and a threat to our democracy, your response was only, "I have not reviewed the matter in any detail; therefore, I am not in a position to opine on it."

This issue has received significant news coverage, has been the subject of the DNI report provided with these questions, and will be the subject of an investigation by the Intelligence Committee (https://www.burr.senate.gov/press/releases/joint-statement-on-committee-inquiry-into-russian-intelligence-activities). Senators McCain, Schumer, Graham, and Reed previously called for an investigation by a select bipartisan committee

 $(https://www.washingtonpost.com/news/the-fix/wp/2016/12/18/mccain-calls-for-committee-to-investigate-russia-hacking-theres-no-doubt-of-interference/?utm_term=.36d83eddfc08).\\$

Please read the appended report before responding.

- a. Given the information presented in the DNI report, do the Russian attempts to interfere in the 2016 election, including its hacks of the Democratic National Committee and of "some Republican-affiliated targets" (Report 3), constitute illegal behavior? If your answer is anything other than an unambiguous "yes," please explain how this hacking might possibly be legal.
- b. The report states on page one:

"We assess with high confidence that Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election, the consistent goals of which were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency."

Given these conclusions and the entirety of the report, do you believe the Russian attempts to interfere in the 2016 election constitute a threat to our democratic process? If your answer is anything other than an unambiguous "yes," please explain why such foreign interference in the American electoral process – seeking to "undermine public faith in the US democratic process" – is acceptable.

RESPONSE to (a) – **(b):** If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment at this time on any conclusion I may have reached.

2. I previously asked you about the propriety of President Trump giving a White House position to Florida Attorney General Pam Bondi. I noted, "In 2013, while Bondi's office was considering joining a lawsuit against Trump University for fraud (which was settled two months ago for \$25 million), Mr. Trump donated \$25,000 to a group supporting Bondi. The donation was made illegally from Mr. Trump's foundation, and he was forced to reimburse and to pay a penalty to the IRS once the illegal payment became public. One month after the donation was received, Bondi's office decided not to join the lawsuit against Mr. Trump." I asked whether these facts, and the reported White House job for Attorney General Bondi, raised concerns about a quid pro quo.

You responded, "I am not aware of facts that would support the assertions made in the above question and am unable to opine on this matter." I have appended to these questions a *New York Times* article from last year, titled "New Records Shed Light on Donald Trump's \$25,000 Gift to Florida Official." Please review the article, which provides the factual predicate for the question.

Do the facts of Mr. Trump's illegal donation, Ms. Bondi's ensuing decision not to join the lawsuit, and now the White House job for Ms. Bondi raise any concerns about a quid pro quo?

RESPONSE: It would be unwise for me to rely solely on an article to offer an opinion as to

the legitimacy of the facts contained in it, or the implications of it. While I have no knowledge on which to evaluate the truthfulness of the article you have asked me to review, it is well-known that the *New York Times* was regularly critical of the Trump campaign and sometimes less than objective.

3. When I asked what your recusal standard will be, if confirmed, your responses were not satisfactory. You argued in an op-ed that Attorney General Lynch should have recused herself from matters involving Secretary Hillary Clinton because Lynch had had a single conversation with President Bill Clinton while the investigation was ongoing (http://www.foxnews.com/opinion/2016/11/05/giuliani-sessions-keating-et-al-time-for-lorettalynch-to-appoint-special-counsel.html). I asked whether you would apply the same standard to yourself regarding President Trump.

You argued that it would be unfair to expect you to recuse yourself for "merely being a supporter of the President's during the campaign." I fear you are selling yourself short. ABC News referred to you as "Top Trump foreign policy adviser Sen. Jeff Sessions" (http://abcnews.go.com/Politics/top-trump-adviser-jeff-sessions-trump-campaign/story?id=41358247). The *Washington Post* said, "In Donald Trump's world, most roads, it seems, lead back to Sen. Jeff Sessions (R-Ala.), President-elect Trump's pick for attorney general. After Sessions became one of the first members of Congress to endorse Trump this February, he became an adviser on almost every major decision and policy proposal Trump made during the campaign" (https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/10-things-to-know-about-sen-jeff-sessions-donald-trumps-pick-for-attorney-general). Your relationship with President Trump went beyond mere support.

Your response to my recusal questions was that you would consult with Justice Department ethics officials in cases where you "believed [your] impartiality might reasonably be questioned." Justice Department recusal standards are codified at 28 C.F.R. § 45.2 (see appended). In relevant part, the regulations state:

...no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with:

- (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or
- (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

"Political relationship" is defined as "a close identification with an elected official...arising from service as a principal adviser thereto or a principal official thereof."

Under the definition in 28 C.F.R. § 45.2(c), did you have a "political relationship" with President Trump before you were nominated to be Attorney General? Please answer yes or no.

RESPONSE: As I previously stated, if a matter arose in which I believed my impartiality

might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. Such a consultation would necessarily include careful evaluation of the statute in question, in light of relevant facts and circumstances. I will not make this determination in a vacuum and without the expertise of Department attorneys.

4. In my first round of written questions I asked you whether, when opposing the 2013 Leahy-Crapo VAWA reauthorization, you opposed its new protections for LGBT Americans. Your response was nearly 300 words, but it did not directly answer the question, so I will ask again.

Did you oppose the new protections for LGBT Americans in the 2013 VAWA reauthorization? Please answer yes or no.

RESPONSE: As I noted in my original response, on its face, the broad prohibition in this provision

"would appear to preclude operation of a women-only (or women and children-only) domestic violence shelter, and the Act's exception to this prohibition appears narrow and is unclear. I believe that, in some circumstances, it is appropriate for VAWA grant recipients to provide services that are limited to women. To the extent that VAWA 2013's new anti-discrimination provision is construed to, for example, prevent or make it difficult for a women's domestic violence shelter to provide services that it believes should be limited only to women, I continue to have serious reservations about that provision. In the past, I have received strong objections from a respected women and children's shelter on this very issue."

5. I asked at your hearing whether you would defend VAWA's constitutionality, and you said only "if it is reasonably defensible." I then asked in my written questions whether you believed "the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims' provisions, is 'reasonably defensible." You answered only that you "will carefully study this program before reaching any final legal conclusions about the VAWA tribal jurisdiction provision."

Based on your strong opposition to the law, as well as your thorough preparation for this nomination process, I find it difficult to believe you have not "carefully stud[ied]" it. Moreover, you did assert that particular laws were constitutional in other responses. In your response to 14a-b, you wrote, "I believe that this statute is constitutional." Here, I am not asking for such an endorsement of a law's constitutionality, I am just asking whether you believe it is "reasonably defensible."

Do you believe the 2013 Leahy-Crapo VAWA Reauthorization, including its LGBT and tribal victims' provisions, is "reasonably defensible"? Please answer yes or no.

RESPONSE: As I said in my original response,

"[i]f 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."

I am not aware of any other provision of the law that raises constitutional concerns. Furthermore, as Attorney General, it would be my duty to review these provisions as would be necessary to enforce the 2013 law, regardless of past opinions I may have held. While I do not have these resources available to me at present, as Attorney General, I would have agencies within the Department with substantial expertise on tribal matters and jurisdiction to assist me in these matters.

- **6.** In response to question 37, on encryption, you wrote "It is also critical, however, that national security and criminal investigators be able to overcome encryption."
- a. Please explain what you mean by this.
- b. Do you believe that all encryption should provide a "back door" for law enforcement officials? Please answer yes or no.

RESPONSE to (a) – (b): Encryption is part of many quickly-developing technologies, and it would be imprudent to guess at what an appropriate categorical rule should be for all of those technologies without first undertaking extensive review or without considering the possibility of adequate tailoring of those rules based on the particular technology in question, especially when encryption is likely to undergo exponential development and expansion in the next few years, just as it has recently. Encryption serves many valuable and important purposes, but it is also important that national security and law enforcement investigators be able to continue use lawful authorities to prevent, investigate, and respond to threats.

- 7. In response to Question 19(c), you said the United States should take "great care" before using lethal force in the United States in the armed conflict against al Qaeda and associated forces.
- a. Aside from circumstances such as self-defense when law enforcement officials are permitted to lawfully use lethal force, what circumstances could justify the use of lethal force on U.S. soil?

RESPONSE: Examples would include law enforcement's response to the San Bernardino and Orlando terror attacks.

In 2013, Senator Rand Paul wrote to former Attorney General Eric Holder asking, "Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?" Former Attorney General Holder responded categorially, "The answer to that question is no."

b. Do you agree with former Attorney General Holder? Please answer yes or no.

RESPONSE: Lethal force cannot be used against Americans without lawful justification.

8. I asked in my first round of written questions about your comment that the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act "has been said to cheapen the civil rights movement." You emphasized, "Those were not *my* words." I recognize that.

The *Washington Post* reported Tuesday that the U.S. Attorney in Idaho has used the Act to bring federal hate crimes charges against a man who murdered a gay man by "push[ing] [the victim] to the ground and kick[ing] him at least 30 times with steel-toed boots while [the victim] begged for his life." The *Post* noted, "The fatal beating of the openly gay man has been compared by some in the community to the murder of Matthew Shepard, the gay college student from Wyoming whose torture and subsequent death set off a nationwide debate about hate crimes and homophobia and led to the federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act." The article is appended and can be found at https://www.washingtonpost.com/news/morning-mix/wp/2017/01/24/idahoan-admits-to-brutal-murder-of-gay-man-as-he-pleaded-for-his-life-now-faces-hate-charge.

While you emphasized that you were not speaking in your own words when you said that my hate crimes amendment "has been said to cheapen the civil rights movement," I would still like to know whether you agree with that statement.

When you said in 2009 that "the hate crimes amendment... has been said to cheapen the civil rights movement," did you agree with that viewpoint? Do you agree with it now? Please answer yes or no.

RESPONSE: Hate crimes legislation deals with serious and important issues and it is not correct to say it cheapens our commitment to civil rights.

9. At your hearing, Senator Franken asked you about President Trump's claims that there were millions of illegal votes cast in the 2016 election. You responded, "I don't know what the President-elect meant or was thinking when he made that comment, or what facts he may have had to justify his statement. I would just say that every election needs to be managed closely and we need to ensure that there is integrity in it, and I do believe we regularly have fraudulent activities occur during election cycles."

Earlier this week, President Trump reportedly "surprised the top Republicans and Democrats in Congress on Monday when, during a dinner at the White House, he repeated his claim that millions of undocumented immigrants voted for Hillary Clinton."

(http://www.cnn.com/2017/01/24/politics/wh-trump-believes-millions-voted-illegally.) In a press briefing Tuesday afternoon, Press Secretary Sean Spicer responded to a question about that erroneous claim by saying, "The President does believe that, I think he's stated that before, and stated his concern of voter fraud and people voting illegally during the campaign and continues to maintain that belief based on studies and evidence people have brought to him." Again, as Senator Franken noted at your hearing, there is zero evidence to support this outlandish claim. The *Washington Post's* "Fact Checker Recidivism Watch" stated:

Despite Trump's repeated claims, his attorneys stated there was no evidence of voter fraud in the 2016 election. In a court filing opposing Green Party candidate Jill Stein's recount petition, lawyers for Trump and his campaign wrote: 'All available evidence suggests that the 2016 general election was not tainted by fraud or mistake.'

When we debunked this claim on Nov. 29, 2016, we implored Trump's staff members to please drop this talking point — as we are tired of telling them it is false. We can't emphasize this point enough. (https://www.washingtonpost.com/news/fact- checker/wp/2017/01/24/recidivism-watch-spicer-uses-repeatedly-debunked-citations-for- trumps-voter-fraud-claims/?utm term=.89751bee5353.)

Speaker Paul Ryan evidently agreed with President Trump's attorneys and is quoted by Fox News saying, "I've seen no evidence to that effect. I've made that very, very clear." (http://www.foxnews.com/politics/2017/01/24/spicer-digs-in-on-trumps-illegal-voting-claim-as-ryan-distances.html.)

Senator Lindsey Graham also evidently agreed with President Trump's attorneys, and argued, "To continue to suggest that the 2016 election was conducted in a fashion that millions of people voted illegally undermines faith in our democracy." (http://www.nbcnews.com/politics/2016-election/gop-senator-president-trump-stop-claiming-illegals-cost-you-popular-n711386.)

Press Secretary Spicer stated that President Trump believes these claims, even though the president's lawyers do not. I am not asking you to explain the President's beliefs; I would like to know whether you share that belief.

Do you share President Trump's belief that "millions of undocumented immigrants voted for Hillary Clinton" in the 2016 election? Please answer yes or no. If your answer is anything other than an unambiguous "no," please provide evidence to support the claim that millions of votes were cast illegally.

RESPONSE: I have not studied any data that the President might have relied upon in making this assertion, nor have I discussed this with him. At this time I do not know how many people illegally voted.

10. On Wednesday President Trump announced several executive orders involving immigration, including an order involving constructing a border wall and others targeting immigrants. Additional executive orders, targeting refugees, are expected on Thursday.

What role did you or your staff have in formulating and drafting these executive orders?

RESPONSE: None. Neither I, nor any of my current staff, had such a role. During the campaign, President Trump sought my and my staff's input on a number of matters on which I have taken very public positions as a Senator; however, it would be impossible for me to know the degree to which that input was relied upon in formulating or drafting the Executive Orders in question.

11. The New York Times reported this morning that President Trump is preparing an

executive order that would expand the use of the ineffective military commission system, allow individuals to be transferred to the detention facility at Guantanamo Bay, and allow the CIA to reopen secret "black sites," among other things.

a. Do you believe international law prohibits U.S. officials from engaging in torture or cruel, inhuman or degrading treatment? If so, what is the source of that prohibition?

RESPONSE: While I have not studied the relevant international law on this question, as I have previously stated, U.S. federal law deems it unlawful for either the military or our intelligence agencies to subject detainees to torture or cruel, inhumane, or degrading treatment.

b. Do you believe, as a matter of law, that we are in an armed conflict with those who "harbor" Al Qaeda, the Taliban, or associated forces? What constitutes "harboring"?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment.

c. Do you believe, as a matter of law, that we are in an armed conflict with those who provide "substantial support" to Al Qaeda, the Taliban, or associated forces? What constitutes "substantial support"?

RESPONSE: If I am fortunate enough to be confirmed as Attorney General, I will have the vast resources of the Department, including experienced personnel, at my disposal to rely on before forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment.

d. What limits does the U.S. Constitution set on placing U.S. citizens in military custody on U.S. soil?

RESPONSE: As I have previously stated, under the historic rules of war and U.S. law, the United States may detain an active member of al Qaeda or other enemy combatants for the duration of the hostilities. As you know, in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), a plurality of the Supreme Court stated that "[t]here is no bar to this Nation's holding one of its own citizens as an enemy combatant." The plurality relied in part on *Ex Parte Quirin*, 317 U.S. 1 (1942), in which the Court held that Congress authorized the military trial of a U.S. citizen who entered the country with orders from the Nazis to blow up domestic war facilities, but was captured before he could execute them. *See also Padilla v. Hanft*, 423 F.3d 386 (4th Cir. 2005); *Al-Marri v. Pucciarelli*, 534 F.3d 213 (4th Cir. 2008). Captured citizens who are at war with the U.S., can of course, contest their detention in federal court by writ of *habeas corpus*.

e. Do you believe the United States is in an armed conflict with all "violent Islamic extremists"? How would you define a "violent Islamic extremist?"

RESPONSE: The United States is currently in an armed conflict with a number of violent Islamic extremist groups that are named in the AUMF (including associated forces). Of course we are in a state of conflict and hostility with all those who carry out violent attacks against us.