

Hearing Transcript

Senate Judiciary Committee Hearing on the Nomination of Sen. Sessions to be Attorney General

Day 1

January 10, 2017

GRASSLEY:

Before we actually start the hearing, I'm going to give a point of personal privilege to former chairman and my friend, Senator Leahy, to speak for a few seconds that he asked to do, and I think it's very appropriate that you do what you said you were going to do.

LEAHY:

Thank you, Mr. Chairman, and I appreciate the courtesy.

The Senate Judiciary Committee convenes for the first time in the 115th Congress; historic moment in the committee's 200 year history.

Last week, Senator Dianne Feinstein was named the committee's Ranking Member, the first time in American history that a woman has served in this capacity, and having been either chairman or ranking member for the past 20 years, I can't think of anybody better.

It is striking that 352 members have served on the committee and only five of those happened to be Democrats, have been women. Three of those five women are proudly serving on this important committee today; Senator Feinstein, Senator Klobuchar, Senator Hirono. So, after my at least 20 years, I -- I welcome Senator Feinstein. We grapple (ph) with some of the most pressing issues facing our country.

We Americans can be proud that she's here. And I applaud you for this.

FEINSTEIN:

Thank you. Thank you (inaudible).

GRASSLEY:

Thank you, Senator Leahy.

Good morning. I welcome everyone to this very important hearing to consider the nomination of our colleague, Senator Sessions, to serve as the 84th attorney general of the United States.

GRASSLEY:

First, I want to set out a couple of ground rules. I want to handle this hearing the same way that I handled the hearing for Attorney General Lynch's nomination and it's also the same way that Chairman Leahy handled previous hearings. I want everyone to be able to watch the hearing without obstruction. If people stand up and block the views of those behind them or speak out of turn, it's simply not fair, it's simply not considerate to others, so officers will immediately remove those individuals.

Now, before my opening statement, let me explain how we will proceed. Senators Feinstein and I will give our opening remarks. Then, Senators Shelby and Collins will introduce the nominee. Following Senator Sessions' opening remarks, we'll begin our first round of questions.

Each Senator will have an initial 10 minute rounds for questions. After the first round, we're going to do eight minute rounds of question. I want everyone to know that I'm prepared to stay here as long as members have questions that they'd like to ask. Again, that's the way I handled Attorney General Lynch's nomination. I think that's the most fair way to proceed for both members as well as our distinguished nominee.

I welcome our new members to this committee. I look forward to working with all of the new members as well as the ones that are repeating serving on this committee. I'd also like to recognize and welcome a number of important audience members; Former Attorney General Meese and Mukasey and also our former colleague Senator Kyl, a former member of this committee and I see the attorney general for Ohio's here as well, a former colleague of ours.

Finally, before my opening remarks, I congratulate Senator Feinstein on your appointment to the -- and the decision to take over the ranking membership. We've always had a good working relationship through several things we've done both legislatively and as leaders of the drug caucus and I appreciate very much the opportunity to work with you. Thank you.

With that, I'll now start my opening comments. Our hearing today hardly introduces Senator Sessions to the committee. No. We're here today to review the character and the qualifications of a colleague who has served alongside us in the Senate for 20 years. That includes his time as a ranking member of this committee. We know him well. We know the policy positions he's taken as a legislator. I've been on both sides of debates with this distinguished Senator Sessions.

Having served with him for so long, we pretty well know whether he supports your policy positions or oppose them. He tells us so with his usual thoughtfulness, humility, and more importantly, respect. As a former chairman of this committee has put it, Senator Sessions is quote, unquote, "wonderful to work with." We know him to be as -- as another senior Democrat on this committee described him, quote, unquote, "a man of his word."

As a third senior colleague put it, a Democrat as well, he is always a gentleman. He is straightforward and fair. Most of all, the members of this committee know him to be a leader who

has served the people of Alabama and all Americans with integrity, with dedication, and with courage. That describes how I know the nominee for the 20 years that I've served with him.

As Former Chairman Leahy observed the last time a new president took office, it's, quote, "important that the Justice Department have a senior leadership in place without delay. We need the Justice Department to be at its best," end of quote.

Perhaps my good friend Senator Schumer said it best when he observed that we should, quote, "move to a vote hopefully sooner rather than later," end of quote. And when we do as he said, we, quote, "won't be voting for or against the president's policies. We'll be voting" -- or in summary, Senator Schumer said "we'll be voting for a colleague with a first-rate legal mind, whose record proves his commitment to just law enforcement and eminently qualified to lead the Department of Justice."

GRASSLEY:

I've been encouraged by the initial support many of our colleagues on both sides of the aisle have expressed for Senator Sessions nomination. So I look forward to hearing from Senator Sessions and moving to his appointment without delay.

Senator Sessions' record is a life of public service, and so we know his story. He was raised on a small town of Hybart, Alabama, where his father owned and ran a small country store. He then studied at Huntington College and the University of Alabama before practicing law in Russellville and Mobile.

Senator Sessions has always been an active member of his community. He taught school before attending law school and taught Sunday school at Ashland Place Methodist Church. He served our nation in the Army Reserve, attaining the rank of captain. After his time in private practice, Senator Sessions served as an assistant U.S. attorney -- attorney in the Southern district of Alabama.

He then headed that office after the Senate confirmed him for United --- U.S. Attorney, a post he held for a dozen years. So all told, this Senator, colleague of ours, has served 15 years as a federal prosecutor in the department that he will soon head.

It was during that time that he oversaw the investigation of klansman Francis Hays for the brutal abduction and murder of a black teenager Michael Donald. He made sure that case was brought to state court, where the defendant was eligible for and received the punishment that he justly deserved, the death penalty.

His office then successfully prosecuted that murderer's accomplice in federal court. Based on his prosecutorial record, the people of Alabama elected him their attorney general and then their senator. He has served with us since 1997. And as our former chairman of (inaudible), this committee has relied on him for his prosecutorial experience during the course of his Senate service.

Throughout his public service, both within the department, outside of the department, he has raised his hand and served when called upon. He has done his duty, enforced the law fairly and let the chips fall where they may. Reflecting on this record of service, it's no surprise then, that Senator Sessions was also an Eagle Scout. Other members of this committee know as I do, that the Scout's motto, "be prepared", sets on his desk in his Senate office.

Senator Sessions' entire life of dedicated public service has prepared him for this day. If he's confirmed, and I expect that he will be, Senator Sessions will shed his role as a legislator who writes law and he'll take on the task of enforcing the laws Congress has written.

He has made this transition before when the people of Alabama elected him their Senator based on his record of service as U.S. attorney and Alabama attorney general. As one member of this committee observed about a lawyer's transition into the role of a judge, quote, "there are turning points in a person's life, when they put away things of the past and move into new responsibilities." end of quote.

Serving as our nation's attorney general will mark another such turning point in Senator Sessions' distinguished career. And every member of this committee knows from experience, in his new role, Senator Sessions will be a leader for law and order administered without regard to person. Leadership to that end is exactly what the department now needs.

It should go without saying, that the department is tasked with the responsibility of enforcing our laws -- all of our laws, in a dispassionate and even handed way. We write the laws. The executive enforces them faithfully. This is simple, but very foundational principle.

Unfortunately for the last several years, the department has simply declined to enforce some laws the executive branch found obnoxious. The department's failure to enforce the law has run the gambit of issues from criminal law to our nation's duly enacted immigration laws. It's true that each branch of government has an independent duty to assess the Constitution -- constitutionality of the laws it writes, it administers and it adjudicates.

GRASSLEY:

But it's equally true that the executive has a constitutional responsibility to, as we all know, take care that the laws be faithfully executed. I know our colleague, this Senator Sessions, respects the legislative process and the prerogative of Congress to write the law. As he explained during the confirmation hearing that we offered (ph) John Ashcroft's nomination to serve as attorney general. Quote, "the attorney general is a law enforcer. There is a big difference between a politician and a senator where we vote on policy and -- and executing that policy," end of quote.

I look forward to hearing from Senator Sessions on how he will transition from voting on policy matters, to enforcing the laws he has labored so long to improve and to sustain. Just as he respects Congress's duly enacted laws, Senator Sessions knows and respects the importance of an independent attorney general at the department's helm.

When he has questioned other candidates for the Office of Attorney General, he has made plain the priorities of an attorney general's independence. He sought assurances on this account during the confirmation hearing for Attorney General Eric Holder, a nominee -- a nominee that happens Senator Sessions and I both supported, despite policy disagreements with Eric Holder.

Senator Sessions asked at that time, quote, "you are not threatening and not guaranteeing you are going to prosecute people until you fairly evaluate all the facts and the evidence and the law they thought they were dealing with at the time," end of quote.

During this committee's hearing on the confirmation of another Attorney General, Senator Sessions reflected on the obligations of the people as he knew them from his service in Alabama, quote, "you speak for the legal interest of the state," end of quote.

As a result, he said quoting again, "there are times when the attorney general represents a state. He has an obligation and a duty regardless of what the parties, to a litigation may say, including when one of those parties is the government to ensure that it is fair for all the people of this state."

This firm grasp of the separation of powers equips this Senator Sessions to provide the department with independent leadership of the highest priority. He knows the department's obligations well, not only because he knows the department, but because he has seen those obligations observed in the breach from his seat beside us, in the Senate.

To this legislator, the department's failure in the just enforcement of laws isn't just a policy disappointment on a particular issue, it's an affront to the very separation of powers that defines our role and the voice of the people that warns our votes.

I imagine Senator Sessions may have thoughts on that question as well and I hope to hear those points. On this committee, we don't always agree on the right way to handle the complex policy issues we consider.

And when you have served in the Senate as long as Senator Sessions and I have, you're bound to find at least a few points of disagreement with even the most like-minded colleagues. But Senator Sessions, two decades of service beside me, testified without question, to this he is a man of honor and integrity, dedicated to the faithful and fair enforcement of the law who knows well and deeply respects the Department of Justice and its constitutional role.

I look forward to hearing from him about this vision and plans for the department and now, it is Senator Feinstein's turn for her words.

FEINSTEIN:

Thank you, very much Mr. Chairman.

And I'd like to thank Senator Leahy also for his words.

If I may, I would like to begin by just quickly introducing some Californians in the audience. Congresswoman Maxine Waters from Los Angeles, Congresswoman Barbara Lee from the Bay Area, also Denise Rojas (ph) who is a DREAMer, who has been enormously successful. I had the privilege of writing an article about her.

And also, the Reverend Dr. Amos Brown, whom I've known for 40 years and the Reverend Dr. Frederick Haynes, they are part of the ministerial delegation here, today.

The senator before us this morning, is someone that many of us on this committee has worked with for some 20 years. And that makes this very difficult for me. I committed to Senator Sessions in our private meeting and I'll say it again here.

The process is going to be fair and thorough. But today, we're not being asked to evaluate him as a senator. We're being asked to evaluate him for the attorney general of the United States, the chief law enforcement for the largest and best democracy in the world.

As attorney general, his job will not be to advocate for his beliefs, rather, the job of the attorney general is to enforce federal law, even if he voted against the law. Even if he spoke against it before it passed, even if he disagrees with the president, saying that the law is constitutional.

Most importantly, his job will be to enforce federal law equally, equally, for all Americans. And this job requires service to the people and the law, not to the president. The president-elect said to his opponent during a debate and I quote, "if I win, I'm going to instruct my attorney general to get a special prosecutor to look at your situation," end quote.

Mr. Chairman, that's not what an attorney general. An attorney general does not investigate or prosecute at the direction of the president. Nor do attorney generals wear two hats; one, as the president's lawyer and one as the presidents -- as the people's lawyer.

That model has failed. Rather, the attorney general must put aside loyalty to the president. He must ensure that the law and the Constitution come first and foremost, period. President Lincoln's attorney general, Edward Bates, I think said it best when he said this and I quote, "the office I hold is not properly political, but strictly legal. And it is my duty, above all other ministers of State, to uphold the law and to resist all encroachments from whatever quarter," end quote.

That is the job of the attorney general. If confirmed, Senator Sessions will be the top official charged with faithfully and impartially, enforcing all federal law and protecting our fundamental right to vote from all incursions, whether they be foreign or domestic.

His duty will be to enforce and protect our civil rights and constitutional freedoms, including a woman's right to choose. He will run the department that ensures those who commit hate crimes are held accountable. And he will be charged with protecting consumers and taxpayers from fraud and making sure that corrupt public officials are held accountable.

He will prosecute polluters based on federal law. And it is the attorney general who must ensure that this government follows the law, does not ever torture again. This is an awesome responsibility

and an enormous job. What we must do now in these hearings is determine what type of attorney general Senator Sessions will be if confirmed.

And let me express a deep concern. There is so much fear in this country. I see it, I hear it -- particularly in the African American community; from preachers, from politicians, from everyday Americans.

As Mrs. Evelyn Turner of the Marion Three said in her passionate letter to this committee, and I quote, "I am very troubled by his stance against civil rights in the more recent past. As a U.S. senator, he supported no laws or causes, which suggest that he has changed," end quote.

Throughout his Senate career, Senator Sessions has advocated an extremely conservative agenda. For example, he voted no and spoke for nearly 30 minutes in this committee against the Leahy Amendment two years ago, that express the sense of the Senate that the United States would not bar people from entering this country based on their religion.

FEINSTEIN:

He voted against each of three bipartisan comprehensive immigration bills in 2006, 2007, and 2013. Twice he voted against the DREAM Act, the bill for undocumented youth known as DREAMers, who were brought here as children through no choice of their own, calling it a, quote, "reckless proposal for mass amnesty," end quote.

He voted against efforts to prohibit the use of waterboarding and other so-called enhanced interrogation techniques, calling them lawful, and praising Attorney General Mukasey in 2008 for refusing to rule out the use of waterboarding in the future. These interrogation techniques are and were at the time illegal. And thanks to a provision Senator McCain placed in the defense authorization bill this past year, they are now prohibited from use.

In addition, Senator Sessions voted against the Matthew Shepard and James Byrd Hate Crimes Act, which among other things expanded the hate crimes law to cover sexual orientation and gender identity. Arguing against the hate crimes law in 2009, he said this, "Today, I'm not sure women or people with different sexual orientations face that kind of discrimination. I just don't see it," end quote.

Well, this senator, regretfully, sees it. Hate crimes are happening. The Department of Justice must see it, must investigate it, and prosecute it appropriately. Those are votes that are deeply concerning. They are recent. They are important and they clearly show this senator's point of view.

Now, for all these reasons, this hearing must determine clearly whether this senator will enforce laws he voted against. We, the American people, want to know how he intends to use this awesome power of the attorney general if he is confirmed. Will he use it fairly? Will he use it in a way that respects law and the Constitution? Will he use it in a way that eases tensions among our communities and our law enforcement officers? Will he be independent of the White House? Will

he tell the president no when necessary, and faithfully enforce ethics laws and constitutional restrictions?

So we will ask questions and we will press for answers. Ultimately, we must determine whether Senator Sessions can be the attorney general for all of our people.

Mr. Chairman, I'd like to conclude with one final point. We cannot ignore that there are deep concerns and anxieties throughout America. There is a deep fear about what a Trump administration will bring in many places. And this is the context in which we must consider Senator Sessions's record and nomination to become the chief law enforcement of America.

Communities across this country are concerned about whether they will be able to rely on the Department of Justice to protect their rights and freedoms. These freedoms are so cherished. They are what make us unique among nations. There have been sit-ins, protests and writings. And the committee has received letters of opposition from 400 different civil rights organizations, 1,400 law professors, 1,000 law students, a broad task force of organizations that oppose domestic violence, 70 reproductive health organizations, and many, many others.

All these letters express deep anxiety about the direction of this country and whether this nominee will enforce the law fairly, evenly, without personal bias.

So I hope today's questions are probing and the answers are fulsome. Ladies and gentlemen, this is the only way we have to know whether this man can dispatch (sic) himself from the president and from his record and vote in full according to the laws of the United States of America.

Thank you very much, Mr. Chairman.

GRASSLEY:

Thank you, Senator Feinstein.

Before I turn to Senator Shelby and Collins for their opening statement, I note that the committee received a letter from former Secretary of State, Condoleezza Rice indicating that she had hoped to join our colleagues and introducing Senator Sessions, she strongly supports his nomination, it's a powerful letter and I hope my colleagues will take time to read it and I would like to have it entered in the record at this point.

Now, to Senator Shelby and Senator Collins in that order. Proceed.

SHELBY:

Chairman Grassley, Ranking Member Feinstein, thank you for allowing me to be a part of this historic hearing today.

Although my friend and colleague, Jeff Sessions, is well known to the members of this committee, it's my distinct privilege to introduce him as president-elect Donald Trump's nominee to serve as our next United States attorney general.

Before joining the Senate, Jeff sessions began his distinguished career as a practicing attorney, and then served as the United States attorney for Alabama's Southern district, before ultimately becoming the attorney general of the state of Alabama.

During the past 20 years here in the U.S. Senate that I have served with Jeff Sessions, I've had the opportunity to know him well, not just as a skilled attorney with an accomplished record as a prosecutor and as a legislator, but a man of extraordinary character. I have the highest regard, not only for his intellect, but for his integrity.

Unfortunately, since the announcement of his nomination, Jeff's political opponents have attacked his character with baseless and tired allegations, but in reality, Jeff Sessions' extensive record of treating all-Americans equally under the law is clear and well documented.

Throughout his decades of public service, including his impressive tenure on this committee, Jeff's commitment to upholding the rule of law I believe is unparalleled. The integrity, humility and gravity with which Jeff Sessions will approach the Office of Attorney General of the United States is unquestionable.

I have no doubt, Mr. Chairman, that he will apply the law with the impartiality required of the job. I'm also confident this committee will report favorably and expeditiously, Jeff Sessions' nomination to be the next attorney general of the United States.

COLLINS:

Thank you, Mr. Chairman.

Mr. Chairman, Senator Feinstein, members of this distinguished committee; I am pleased to join Senator Shelby in presenting my friend and colleague senator Jeff Sessions and to offer my support for his nomination to be our next attorney general.

(UNKNOWN)

(OFF-MIKE)

COLLINS:

Jeff Sessions and I were first sworn in to the United States Senate on the very same day. In the 20 years since, we have worked closely on some issues and on opposite sides on others. In fact, it would be fair to say that we have had our share of vigorous debates and policy disagreements.

Through these experiences, I have come to know Senator Sessions professionally as a trusted colleague and personally as a good friend. I can vouch confidently for the fact that Jeff Sessions is a person of integrity, a principled leader, and a dedicated public servant.

As a senator, Jeff Sessions has worked across the aisle to lead important legislative reforms. He's worked with Senator Dick Durbin to pass the Fair Sentencing Act, a law that addressed the unfair racial disparity in crack cocaine sentencing. He worked with Senator Ted Kennedy to pass the Prison Rape Elimination Act. And with Senator Chris Coons on the reauthorization of the Victims of Child Abuse Act, an area where Senator Sessions and I have worked together in opposing unfair trade agreements and practices that hurt American workers.

COLLINS:

What I want this committee and the American people to know, is that Jeff Sessions is the same genuine, fair-minded person in the unguarded private moments as he is in the halls of the Senate. We first came to know each other during dinners with other members of our Senate class, where we discussed everything from our politics to our families.

I have never witnessed anything to suggest that Senator Sessions is anyone other than a dedicated public servant and a decent man. In 1980, long before he ran for the Senate or even dreamed of being attorney general, Jeff Sessions sponsored the first African-American member of the Mobile Lions Club. As U.S. attorney, he provided leadership and the successful convictions of two Klan members who had murdered an African-American teenager.

As Ranking Member of the Senate Judiciary Committee in 2009, he appointed the first African-American to serve as chief counsel to the Republican members. My friends, these are not the actions of an individual who is motivated by racial animus.

In spite of his strong record, Senator Sessions nomination has generated controversy. He has had to withstand some very painful attacks on his character, both years ago and again today, with little or no acknowledgment of his accomplishments and actions, or the responses he has made to the accusations levied against him.

As this committee debates this nomination, I would draw your attention to an important epilogue to Jeff Sessions nomination 31 years ago to be a federal judge. The late Senator Arlen Specter of Pennsylvania was a member of the judiciary committee when the Sessions nomination was considered in 1986. Senator Specter, then a Republican, voted against Jeff Sessions.

Years later, in 2009, Senator Specter had switched parties. He was asked by a reporter if he regretted any of the more than 10,000 votes he had cast. Out of all of those votes, then Democratic Senator Specter cited just one. It was his vote against confirming Jeff Sessions as a federal judge.

When asked why, Senator Specter replied, quote, "because I have since found that Senator Sessions is Egalitarian.", end quote. In other words, once Senator Specter served with Jeff Sessions and had the opportunity to get to know him, he changed his mind.

I hope that you will keep Arlen Specter's reflections in mind, as this committee evaluates Senator Sessions' public service, his character and his fidelity to the rule of law. The members of this committee have an advantage that Senator Specter did not.

The vast majority of you have already served with Senator Sessions and you know him well. If this committee places its trust in him, I have every confidence that Jeff Sessions will execute the office of Attorney General honestly, faithfully, and fully in the pursuit of justice.

Thank you Mr. Chairman. Thank you Ranking Member Feinstein and members of this committee.

GRASSLEY:

And I thank both of our colleagues for our powerful statement. I appreciate it very much. And you're free to go and we'll call the nominee at this point.

Senator Sessions, before you are seated, I'd like to administer the oath. Would you raise your hand please and answer this question? Do you swear that the testimony that you are about to give, before this committee, will be the truth, the whole truth and nothing but the truth so help you God?

SESSIONS:

I do.

GRASSLEY:

Thank you, and please be seated. Senator Sessions, it's our normal process if you desire to introduce people that are with you, including your family -- I'm sure you're very proud of. You are free to do that and then go immediately to your opening statement.

SESSIONS:

Thank you, Mr. Chairman.

I am (ph) being joined (ph) by (inaudible) and grandchildren. It's an honor for me to be here, and to have my family (ph) with me (ph). First, my wife Mary, my best friend for (inaudible) years, without her love and look (ph) forward (ph) none of this would have been possible for me and our family.

And we are so proud of our three children, each of which are here today. Mary Abigail Reinhardt, our oldest (inaudible).

Thank you. They're now stationed in the Pacific Coast. They have two children, Jane Ritchie and Jim Beau. And they wished me well this morning. My daughter, Ruth Walk -- maybe Ruth you

would stand up -- and her husband, John Walk. John is an attorney with the Department of Homeland Security.

And they have four children as you see before you today, Grace -- Gracie and Hannah and Joanna and Phoebe. Phoebe and Joanna are twins. And we're so proud of them. My son, Sam, is a graduate of Auburn and Alabama Law School. Sorry, Sam, about the game the last night. Lindsey, congratulations, wherever he is.

Sam is an attorney in Birmingham and he is married to Angela Stratas. They have four children, Alexa, Sophia, Lewis and Nicholas. Ten grandchildren, the oldest is nine, and you can imagine the week we had at the beach this summer in Alabama.

Finally, I want to express how humbled I am to have received such overwhelming support and encouragement from our nation's law enforcement community, many are here today.

Mr. Chairman, with your permission, I would like to ask those present, please, to stand and be recognized, the law enforcement members that are here today.

Would you please stand? Every major law enforcement organization in America has endorsed my candidacy. I feel the weight of the confidence that they have placed in me. And gentlemen and ladies, I'll do my best to be worthy of that.

And if I may, Mr. Chairman, yesterday with Law Enforcement Officer Appreciation Day, sadly on that day, we lost two of our brave officers. Orlando Police Department Master Sergeant Debra Clayton, one of the first officers to respond to the Orlando night club shooting in June, was shot and killed while confronting a subject wanted for murder.

Sergeant Clayton, a 17 year veteran of the force was married with two children. While assisting in the search for that assailant, Orange County Deputy First Class Sheriff Norman Lewis was killed in a traffic action -- accident on his motorcycle. He was an 11 year veteran of the Sheriff's Office.

These honorable and dedicated -- have dedicated their lives to keeping their communities safe and we should remember their service and keep them in our families -- and their families in our prayers.

Chairman Grassley, Ranking Member Feinstein, distinguished members of the committee, I'm honored to appear before you today. I thank you for the opportunity to respond to your questions as you discharge your duty in the appointment process as prescribed by the Constitution.

I also want to thank you my dear friends...

PROTESTER:

No Trump! No KKK! No fascist USA! No Trump! No KKK! No fascist USA! Citizens of the races (ph) illegitimate, just like the whole (inaudible) Senate from ruling (ph). People consented (ph) to the (inaudible) -- let me stand up.

January 14 they were (ph) standing in the street. refuse (ph).org! refuse (ph).org! Stop Trump (ph) camping (ph) from people (ph). refuse (ph).org! No Trump! No KKK! No fascist USA! No Trump! No KKK! No fascist USA!

SESSIONS:

Mr. Chairman, if I might, dear friends, I want to thank Richard Shelby, my colleague, and Senator Susan Collins for their kind and generous introductions. It was very moving and touching for me. It's hard to believe, really, that the three of us have served together in this body for almost 20 years.

When I arrived in the Senate in 1997, I probably wouldn't have anticipated becoming so close with a colleague from Maine, two people from the northern most part of our country and the southern most part...

PROTESTER:

No Trump! No KKK! No fascist USA! No way you can keep (ph) me (ph) from (ph) your hands up (ph). (inaudible) you're a pig. (inaudible) from getting in power.

SESSIONS:

It took us awhile to perhaps understand our accents, but once we did, we became fast friends. Of course Richie Shelby and I never had an accent problem. He was a -- has been a steadfast friend and I think we've been a pretty good team representing the interests of Alabama and the United States.

I want to thank President-elect Donald Trump for the confidence and trust he has shown in me by nominating me to serve as the Attorney General of the United States. I feel the weight of an honor greater than I aspired to. If I am confirmed, I will commit to you and to the American people to be worthy of the office and the special trust that comes with it.

So, I come before you today as a colleague, who's worked with you for years -- and some of you 20 years. You know who I am, you know what I believe in, you know that I'm a man of my word and can be trusted to do what I say I will do. You know that I revere the Constitution, that I'm committed to the rule of law. And you know that I believe in fairness, impartiality and equal justice under law.

Over the years, you've heard me say many times that I love the Department of Justice. The Office of Attorney General of the United States is not a normal political office and anyone who holds it must have total fidelity to the laws and the Constitution of the United States.

He or she must be committed to following the law. He or she must be willing to tell the president or other top officials if -- no if he or they overreach. He or she cannot be a mere rubber stamp. He or she must set the example for the employees of the department to do the right thing and ensure that when they do the right thing they know the attorney general will back them up.

No matter what politician might call or what powerful special interest, influential contributor or friend might try to intervene. The message must be clear, everyone is expected to do their duty. That is the way I was expected to perform as an assistant United States attorney working for Attorney General Meese in part of my career.

And that is the way I trained my assistants when I became United States attorney. And if confirmed, that is the way I will lead the Department of Justice. In my over 14 years in the Department of Justice, I tried cases personally of every kind; drug trafficking, very large international smuggling cases, many firearms cases, other violent crimes, a series of public corruption cases of quite significance, financial wrongdoing and environmental violations.

Our office supported historic civil rights cases and major civil cases; protecting the people of this country from crime and especially from violent crime is a high calling of the men and women of the Department of Justice. Today, I'm afraid it's become more important than ever.

SESSIONS:

Since the early 1980s, good policing and prosecutions over a period a years have been a strong force in reducing crime, making our communities safer. Drug use and murders are half what they were in 1980 when I became a United States attorney.

So I'm very concerned that the recent jump in violent crime and murder rates are not anomalies, but the beginning of a dangerous trend that could reverse those hard-won gains that have made America a safer and more prosperous place.

The latest FBI statistics show that all crime increased nearly four percent from 2014 to 2015. The largest increase since 1991, with murders increasing nearly 11 percent, the single largest increase since 1971. In 2016 there were 4,368 shooting victims in Chicago. In Baltimore, homicides reached the second highest per capita rate ever.

The country's also in the throes of a heroin epidemic, with overdose deaths more than tripling between 2010 and 2014 -- tripling. Nearly 50,000 people a year die from drug overdose. Meanwhile, illegal drugs flood across our southern border and into every city and town in the country bringing violence, addiction and misery.

We must not lose perspective when discussing these statistics. We must always remember that these crimes have been committed against real people, real victims. It's important that they are kept in the forefront of our minds in these conversations and to ensure that their rights are protected.

So these trends cannot continue. It is a fundamental civil right to be safe in your home and your community. If I am confirmed, we will systematically prosecute criminals who use guns in committing crimes. As United States attorney, my office was a national leader in gun prosecutions nearly every year. We were partner with state and local law enforcement to take down these major drug trafficking cartels and dismantle criminal gangs.

We will prosecute those who repeatedly violate our borders. It will be my priority to confront these crimes vigorously, effectively and immediately. Approximately 90 percent of all law enforcement officers are not federal, but they're state and local. They are the ones on the front lines. They are better educated, trained and equipped than ever before. They are the ones who we rely on to keep our neighborhoods and playgrounds and schools safe.

But in the last several years, law enforcement as a whole, has been unfairly maligned and blamed for the unacceptable actions of a few of their bad actors. They believe the political leadership in the country has abandoned them. They felt they have become targets. Morale has suffered, and last year, while under intense public criticism, the number of police officers killed in the line of duty increased by 10 percent over 2015. And firearm deaths of police officers are up 68 percent.

So this is a wakeup call colleagues, it cannot continue. If we're to be more effective in dealing with rising crime, we will have to rely and work with more effectively local law enforcement, asking them to lead the way. To do that they must know they're supported. And if I am so fortunate as to be confirmed as Attorney General, they can be assured they will have my support in their lawful duties.

As I discussed with many of you in our meeting prior to this hearing, the federal government has an important role to play in this area also. We must use the research and the expertise and the training that has been developed by the Department of Justice to help these agencies in developing the most effective and lawful law enforcement methods to reduce crime. We must reestablish and strengthen the partnership between federal and local officers to enhance a common and unified effort to reverse the rising crime trends.

I did this as United States attorney. I worked directly and continuously with local and state law enforcement officials. If confirmed, this will be one of my priority objectives. There are also many things the department can do to assist the state and local officers to strengthen relationships with their own communities, where policies like community based policing have absolutely been proven to work.

I am committed to this effort and to ensuring that the Department of Justice is a unifying force for improving relations between the police in this country and the communities they serve. This is particularly important in our minority communities.

Make no mistake, positive relations and great communications between the people and their police are essential for any good police department.

SESSIONS:

And when police fail in their duties, they must be held accountable. I have done these things as United States attorney. I have worked to advance these kinds of policies.

In recent years, law enforcement officers have been called upon to protect our country from the rising threat of terrorism that has reached our shores. If I'm confirmed, protecting the American people from the scourge of radical Islamic terrorism will continue to be a top priority. We will work diligently to respond to threats using all lawful means to keep our country safe.

Partnerships will also be vital to achieving much more effective enforcement against cyber threats, and the Department of Justice clearly has a lead role to play in that essential effort. We must honestly assess our vulnerabilities and have a clear plan for defense as well as offense when it comes to cyber security.

The Department of Justice must never falter in its obligation to protect the civil rights of every American, particularly those who are most vulnerable. A special priority for me in this regard will be the aggressive enforcement of laws to ensure access to the ballot for every eligible voter without hindrance or discrimination and to ensure the integrity of the electoral process which has been a great heritage of the Department of Justice.

Further, this government must improve its ability to protect the United States Treasury from fraud, waste and abuse. This is a federal responsibility. We cannot afford to lose a single dollar to corruption, and you can be sure if I'm confirmed, I will make it a high priority of the Department of Justice to root out and prosecute fraud in federal programs and to recover monies lost due to fraud and false claims, as well as contracting fraud and issues of that kind.

The Justice Department must remain ever faithful to the Constitution's promise that our government is one of laws and not of men. It will be my unyielding commitment to you, if confirmed, to see that the laws are enforced faithfully, effectively and impartially.

The attorney general must hold everyone, no matter how powerful, accountable. No one is above the law and no American will be beneath its protection. No powerful special interest will power this department.

I want to address personally the fabulous men and women that work in the Department of Justice. That includes -- that includes personnel in main Justice here in Washington, but also the much larger number that faithfully fulfill their responsibilities every day throughout the nation.

As the United States attorney, I work with them constantly. I know them and the culture of their agencies. The federal investigative agencies represent the finest collection of law enforcement officers in the world. I know their integrity and their professionalism and I pledge to them a unity of effort that is unmatched. Together, we can and will reach the highest standards and the highest results. It would be the greatest honor for me to lead these fine public servants.

To my colleagues, I appreciate the time each of you have taken to meet me one-on-one. As senators, we don't always have enough opportunity to sit down and discuss matters face-to-face. I had some great visits. I understand and respect the conviction that you bring to your duties. Even though we may not always be in agreement, you have always been understanding and respectful of my positions and I of yours.

In our meetings over the past weeks, you have had the opportunity to share with me and your -- relating to the department from unprosecuted crimes on tribal lands, a matter that is greater than I had understood, to the scourge of human trafficking and child exploitation, to concerns about cuts in grant programs, to the protection of American civil liberties and the surge of heroin overdose deaths, to just name a few things.

I learned a lot during those meetings, and particularly in my meeting with Senator Whitehouse who discussed cyber security, he has a great deal of knowledge, there. And I'm glad that Senator Whitehouse, you and Senator Graham have taken a lead on this important issue and I think we can work together and make some progress.

Senator Graham, congratulations on your football victory last night.

GRAHAM:

We'll talk (ph) about that later.

(LAUGHTER)

SESSIONS:

I want to assure all of my colleagues that I have given your concerns earnest reflection and will bear them in mind. As I move forward, I will sincerely endeavor to keep these lines of communications open and hope that we can continue our collegiality and friendships.

In that regard, if I'm to be -- if I'm confirmed, I commit to all of you that the Department of Justice will be responsive, Mr. Chairman, to Congress and will work with you on your priorities, all of you, and provide you with guidance and views where appropriate. The department will respect your constitutional duties, your oversight role and the particularly critically important separation of powers between the executive and legislative branches.

Let me address another issue straight on. I was accused in 1986 of failing to protect the voting rights of African-Americans by presenting the Perry County case, the voter fraud case, and of condemning civil rights advocates and organizations and even harboring, amazingly, sympathies for the KKK.

These (inaudible) false charges. The voter fraud case my office prosecuted was in response to pleas from African-American incumbent elected officials who claimed that the absentee ballot process involved a situation in which ballots cast for them were stolen, altered and cast for their opponents. The prosecution sought to protect the integrity of the ballot, not to block voting. It was a voting rights case.

As to the KKK, I invited civil rights attorneys from Washington, D.C. to help us solve a very difficult investigation into the unconscionable, horrendous death of a young African-American coming home from the 7-Eleven store at night simply because he was black. His -- Michael O'Donnell -- and actively backed the attorneys throughout the case and they broke that case.

That effort led to a guilty plea and a life sentence in court for one defendant and his testimony against this other defendant. There was no federal death penalty at the time. I felt the death penalty was appropriate in this case and I pushed to have it tried in state court, which was done. That defendant was indeed convicted and sentenced to death.

And 10 years later, ironically, as Alabama's attorney general, my staff participated in the defense of that verdict and sentence, and a few months after, I became a United States senator and that murdering klansman was indeed executed.

I abhor the Klan and what it represents and its hateful ideology. I insisted Morris Dees of the Southern Poverty Law Center and his lawsuit that led to the successful collapse of the Klan at least in Alabama, the seizure of their building, at least for that period of time.

As civil rights division attorneys have testified before the committee, I supported fully their historic cases that the Justice Department filed to advance civil rights and that I supported, including cases to desegregate schools, abolish at-large elections for cities, county commissions and school boards.

These at-large elections were a mechanism used to block African-American candidates from being able to be elected to boards and commissions. It was deliberate and part of a systemic plan to reduce the ability of African-Americans to have influence in the election and governing process.

I never declared the NAACP was un-American or that a civil rights attorney was a disgrace to his race. There is nothing I am more proud of than my 14 years of service in the Department of Justice. I love and venerate that great institution. I hold dear its highest ideals. As God gives me the ability, I will work every day to be worthy of the demands of this august office.

You can be absolutely sure that I understand the immense responsibility I would have. I am not naive. I know the threat that our rising crime and addiction rates pose to the health and safety of our country. I know the threat of terrorism. I deeply understand the history of civil rights in our country and the horrendous impact that relentless and systemic discrimination and the denial of voting rights has had on our African-American brothers and sisters. I have witnessed it.

SESSIONS:

We must continue to move forward and never back. I understand the demands for justice and fairness made by our LGBT community. I will ensure that the statutes protecting their civil rights and their safety are fully enforced.

I understand the lifelong scars worn by women who are victims of assault and abuse. And if I am so fortunate to be confirmed as your attorney general, you can know that I understand the absolute necessity, that all my actions must fall within the bounds of the Constitution and the laws of the United States.

While all humans must recognize the limits of their abilities, and I certainly do, I am ready for this job. We will do it right. Your input will be valued. Local law enforcement will be our partners. Many friends in federal government that I've had in law enforcement will be respected.

I've always loved the law. It is the very foundation of this country. It is the exceptional foundation of America. I have an abiding commitment to pursuing and achieving justice and a record of doing that. And if confirmed, I will give all my efforts to this goal. I only ask that you do your duty as God gives you the ability to see that duty as your charge by the Constitution.

Thank you for your courtesies. I look forward to -- to further hearing.

Thank you Mr. Chairman.

GRASSLEY:

Before I ask questions, I want to thank you Senator Sessions for your service in the Senate, but more importantly taking on this responsibility you've been nominated for, and to thank you for your opening statement.

I'm glad that you were able to mention the names of a lot of your family that are with you and there's a lot of other people that we may not have their name. And I would ask the staff to put in the record the names of all the other people who are accompanying you today as well, if they're willing to give us that name. And, it's -- it's a proud day for you, your wife, son and daughters and their families. I welcome all of you very much. Now to the questioning.

The attorney general, I'll take 10 minutes, then Senator Feinstein will go back and forth as we usually do. The attorney general of the United States is, of course, the nation's chief law enforcement officer. He or she is not the president's lawyer nor is he the president's wingman, as attorney general Holder described himself.

Rather, he or she has an independent obligation to the Constitution and to the American people. Now I know you care deeply about this foundational principle. So I'm going to ask you a question. I've heard you ask other nominees for attorney general.

Occasionally, you'll be called upon to offer an opinion to the president, who appointed you. You'll have to tell him, yes or no. And sometimes presidents don't like to be told no. So I'd like to know, would you be able to stand up and say no to the president of the United States, if in your judgment the law and your duty demands it? And the reason I ask that, is because I know you work very hard for the president-elect.

SESSIONS:

Mr. Chairman, I understand the importance of your question. I understand the responsibility of the attorney general, and I will do so. You simply have to help the president do things that he might desire in a lawful way and have to be able to say no, both for the country, for the legal system and

for the president, to avoid situations that are not acceptable. I understand that duty. I've observed it through my years here and I will fulfill that responsibility.

GRASSLEY:

Say just so my colleagues don't think I'm taking advantage of time, somebody didn't start the clock. Oh you got -- OK. It is the light isn't working. I'm sorry. I can read it now. So, I heard what you said, but just to emphasize, let me follow up.

Well, if you disagree with the president's chosen course of action, and you told him so and he intends to pursue that course of action anyway. What are your options at that point?

SESSIONS:

Mr. Chairman, I think an attorney general should first, work with the President. Hopefully that attorney general would have the confidence of the president and avoid a situation that would be unacceptable.

I do believe that if an attorney general is asked to do something that's plainly unlawful, he cannot participate in that --- he or she -- and that person would have to resign ultimately before agreeing to execute a policy that the attorney general believes would be an unlawful or unconstitutional.

GRASSLEY:

You sir...

SESSIONS:

I would say Mr. Chairman, if there are areas that are brightly clear and right, there are areas that may be gray and there are areas that are unacceptable, and a good attorney general needs to know where those lines are to help the president where possible and to resist improper, unacceptable actions.

GRASSLEY:

OK. You served in this department for 14 or 15 years. You served as your state's attorney general. And of course, you've served on this committee for a long time. And we have oversight over the department that you might head, and you've done that all for 20 years.

I've had my share of disagreements with the department's leadership over the last few years. Some of those were purely policy disagreements, but some issues were especially troubling to me in that department -- in that the department failed to perform fundamental functions to enforce the law.

As attorney general, day in and day out, you'll be faced with difficult and sometimes thorny legal problems. What will your approach be to ensuring that the department enforces the law? And more broadly, what is your vision for the department?

SESSIONS:

Mr. Chairman, the ultimate responsibility of the attorney general and the Department of Justice is to execute the laws passed by this Congress and to follow the Constitution in that process and carry its principles out. So you can be sure I understand that. We may have had disagreements here about whether a law should be empassed -- should be passed, but once passed I will do my dead level best to ensure its properly and fairly -- excuse me -- enforced.

I do believe that we have a crime problem. I won't perhaps in time now, unless you want me to, to describe what we can do to address that and there are other challenges this country faces. I would be pleased to recognize the influence of the legislative branch and to welcome the insights that you might have.

GRASSLEY:

Since that's a very important issue with me and I suppose every colleague here, let me emphasize by saying, is it fair to say then, that regardless of what your position may have been as a legislator, your approach as attorney general will be to enforce the law, regardless of policy differences.

SESSIONS:

Absolutely Mr. Chairman. That's a -- I don't think I have any hesitation, or any lack of the inability to separate the roles that I have had, to go from the executive -- legislative branch to the executive branch is a transfer of, not only position, but of the way you approach issues. I would be an executive function, an enforcement function of the laws this great legislative body might pass.

GRASSLEY:

During the course of the presidential campaign, you made a number of statements about the investigation of former Secretary of State Hillary Clinton, relating to her handling of sensitive e-mails and regarding certain actions of the Clinton Foundation. You weren't alone in that criticism.

I was certainly critical in the same way as were millions of Americans on those matters, but now, you've been nominated to serve as attorney general. In light of those comments that you made, some have expressed concerns about whether you can approach the Clinton matter impartially in both fact and appearance. How do you plan to address those concerns?

SESSIONS:

Mr. Chairman, it was a highly contentious campaign. I, like a lot of people, made comments about the issues in that campaign. With regard to Secretary Clinton and some of the comments I made, I do believe that that could place me objectivity in question. I've given that thought.

I believe the proper thing for me to do, would be to recuse myself from any questions involving those kind of investigations that involve Secretary Clinton and that were raised during the campaign or to be otherwise connected to it.

GRASSLEY:

OK. I think, that's -- let me emphasize then with a follow up question. To be very clear, you intend to recuse yourself from both the Clinton e-mail investigation and any matters involving the Clinton Foundation, if there are any?

SESSIONS:

Yes.

GRASSLEY:

Let me follow up again, because it's important. When you say you'll recuse, you mean that you'll actually recuse and the decision will therefore fall to, I assume, a deputy attorney general? I ask because after Attorney General Lynch met with President Clinton in Phoenix, she said she would, quote/unquote, "defer to the FBI," but she never officially recused.

SESSIONS:

No, she did not officially recuse. And there is a procedure for that, which I would follow. And I believe that would be the best approach for the country because we can never have a political dispute turn into a criminal dispute. That's not in any way that would suggest anything other than absolute objectivity. This country does not punish its political enemies, but this country ensures that no one is above the law.

GRASSLEY:

You touched on something that's very dear to me, and that's working with -- having executive branch people work with members of Congress. And you also mentioned working with us on oversight. But since that's very important to me, let me say that the executive branch has always been one of my top priorities regardless of who occupies the White House. I've often said I'm an equal opportunity overseer.

Now, over the years I've asked quite a few executive nominees, both Republican and Democrat, to make commitments to respond to oversight. You said you would, but in my experience, nominees are usually pretty receptive to oversight requests during these type of hearings, but after they've been confirmed, oversight doesn't seem to be a high priority for them.

As I told you when we met privately in my office, sometimes I think nominees should go ahead and be a little more straightforward during their hearings. And instead of saying yes to everything

we ask about oversight, it would be more honest to say maybe when asked if they would respond to our questions.

Now, because you've served on this committee, and understand the importance of oversight, I'm hoping you'll be different than your predecessors in response to oversight questions. And so, I have with me that I'll give to one of your staff a whole bunch of letters that haven't been answered yes. One of them even you signed with me to the Department of Justice.

And I hope that you would go to great lengths to see that these get answered so the next May or June, if I'm contacting you that they haven't been answered, then, you know, the Trump administration might be blamed for it. And these are all a result of not getting answers from the last administration.

So I hope you'll help me get answers to these, at least the one you helped me write.

(LAUGHTER)

SESSIONS:

Mr. Chairman, you are correct that this committee has oversight, but it goes beyond that. This committee and the Congress funds the various branches of the executive branch, the various departments. And you have every right before you fund our agencies and departments to get responsive answers to questions that are proper.

Sometimes the department -- the Congress has asked for issues that maybe there's legitimate reason to object to, but they should object and state why.

Mr. Chairman, I will be responsive to your request, and I understand your history perhaps more than anyone in this Congress to advance the idea that the executive branch needs to be held accountable, and I salute you for it.

GRASSLEY:

And if Senator Feinstein contacts you, don't use this excuse, as so many people use it, if you aren't chairman of a committee, you don't have to answer the question. I want her questions answered just like you'd answer mine.

SESSIONS:

I understand that.

GRASSLEY:

Senator Feinstein?

FEINSTEIN:

Thank you. Thank you. Thank you.

(LAUGHTER)

That was above and beyond the call. Thank you, Mr. Chairman.

FEINSTEIN:

I would like to begin with a -- it's the second-largest criminal industry in this country, which is now, believe it or not, by revenues produced, human sex trafficking. And trafficking victims are among the most vulnerable in our society. The average age is 12 to 14. They are beaten, raped, abused; at times, handcuffed at night so they can't escape, and often moved from place to place, forced to have sex with multiple men each night.

The Justice for Victims of Trafficking Act signed into law in 2015, created a domestic trafficking victims fund for victim services to be administered by the Department of Justice. Part of that fund contains up to 30 million for health care or medical items or services to trafficking victims. These funds are subject to the Hyde Amendment, which says no appropriate -- appropriated funding can be used to pay for abortion, however, the Hyde Amendment does not apply in cases of rape.

On the Senate floor, Senator Cornyn discussed the Hyde language and said, and I quote "everyone knows the Hyde Amendment language contains an exception for rape and health of the mother, so under this act, these limitations on spending wouldn't have anything to do with the services available to help those victims of human trafficking.

In short, Senator Cornyn asserted that had the Hyde Amendment, which contains an exception for rape, would not affect the availability of services for these victims. The domestic trafficking victims fund will be under the jurisdiction of the Department of Justice.

Here's the question. Will you ensure that these grant funds are not denied to service providers who will assist victims of human trafficking in obtaining comprehensive services they need, including abortion if that is what is required for a young girl impregnated during this horrific abuse?

SESSIONS:

Senator Feinstein, I appreciate that question, and I do appreciate the fact our country has been talking and I believe taking action for a number of years to deal with sex trafficking more effectively. I don't know that we've reached a level of actual effectiveness we need to, but Congress and you and other have been very, very out spoken about this and there are all kinds of citizens groups that are focused on it. So it's a very important issue.

I was not aware of how the language for this grant program has been established. I do appreciate your concerns on it. It's a matter that I have not thought through, but ultimately, it's a matter for

this United States Congress, not so much a matter for the attorney general. We need to put our money out to assist in this activity according to the rules established by the Congress.

FEINSTEIN:

Well I'm delighted that Senator Cornyn is here. I quoted him directly from the floor, that the Hyde Amendment would not prevent the distribution of these funds and so I hope you would agree to that and that's certainly most important to me, because Congress has spoken and the bill is law.

SESSIONS:

I understand that and we would follow the law.

FEINSTEIN:

OK. As you know, the Constitution also protects a woman's right to access to health care and determine whether to terminate her pregnancy, in consultation with her family and her doctor. I'm old enough to remember what it was like before, when I was a student at Stanford and there after. And the early 1960s, I actually sentenced women in California convicted of felony abortion to state prison for a maximum sentence of up to 10 years and they still went back to it because the need was so great. So was the morbidity and so was the mortality.

This right passed now by the Constitution, as recognized in Rowe, Planned Parenthood v. Casey, and the Supreme Court's recent decision, in whole women's health, and (inaudible). In fact, the court recently struck down honors regulations imposed by Texas on women's health clinics. You have referred to Rowe v. Wade as, quote "one of the worst closely erroneous Supreme Court decisions of all time," end quote.

Is that still your view?

SESSIONS:

It is. I believe it's a -- it violated the Constitution and really attempted to set policy and not follow law. It is the law of the land. It is been so established and settled for a long time and it deserves respect and I would respect it and follow it.

FEINSTEIN:

On November 14th, 2016, appearing on the TV show "60 Minutes," the president-elect said that the issue of same-sex was, quote "already settled. It's law. It was settled in the Supreme Court, it's done, and I'm fine with that."

Do you agree that the issue of same sex marriage is settled law?

SESSIONS:

The Supreme Court has ruled on that, the dissents dissented vigorously, but it was five to four and five justices on the Supreme Court, the majority of the court, has established the definition of marriage for the entire United States of America and I will follow that decision.

FEINSTEIN:

Here's another question. If you believe same sex marriage is settle law but a women's right to choose is not, what is the difference?

SESSIONS:

Well, I haven't said that the woman's right to choose or the -- Roe v. Wade and its progeny is not the law of the land or not clear today. So I would follow that law.

FEINSTEIN:

Thank you.

I would like to ask one question based on the letter that we received from 1,400 law professors. They're from 49 states, only Alaska's left out. I inquired why and they said because Alaska doesn't have a law school. So it's a pretty comprehensive list representing law professors in every state that has a law school.

What they said, and this is what I want you to respond to, "Nothing in Senator Sessions public life since 1986 has convinced us that he is a different man than the 39-year-old attorney who was deemed too racially insensitive to be a Federal District Court Judge," excuse me, "All of us believe it's unacceptable for someone with Senator Sessions' record to lead the Department of Justice."

So I want your response to this and answer to the question, how do intend to put behind you what are strongly felt personal views, take off the political hat and be an attorney general who fairly enforces the law and the Constitution for all?

SESSIONS:

Well, Senator Feinstein, I would direct their attention to first the remarks of Senator Spector, who in his entire career said he made one vote that he would regret and that was the vote against me. He indicated he thought I was an egalitarian, a person who treated people equally and respected people equally.

This caricature of me in 1986 was not correct. I had become United States attorney. I supported, as the civil rights attorney said, major civil rights cases in my district that integrated schools, that prosecuted the Klan, that ended single-member districts that denied African-Americans the right to hold office.

I did everything I was required to do. And the complaints about the voter fraud case and the complaints about the Klan case that I vigorously prosecuted and supported are false. And I do hope this hearing today will show that I conducted myself honorably and properly at that time and that I am the same person, perhaps wiser and maybe a little better, I hope so, today than I was then.

But I did not harbor the kind of animosities and race-based discrimination ideas that were -- I was accused of. I did not.

FEINSTEIN:

Thank you.

Thank you, Mr. Chairman.

GRASSLEY:

OK.

Senator Hatch and then Senator Leahy.

HATCH:

Well, thank you Mr. Chairman...

GRASSLEY:

Before your time starts...

HATCH:

Yeah, sure.

GRASSLEY:

... I'd like to mention that the committee received a letter in support of Senator Sessions' nomination from Attorneys General Ashcroft, Barr, Gonzales, Meese and Mukasey, as well as a number of former deputy attorney generals.

They wrote in part as follows a sentence from that letter. "Based on our collective and extensive experience, we also know him to a person of unwavering dedication to the mission of the department to assure that our country is governed by a fair and even-handed rule of law."

I ask consent to put that letter in the record.

Senator Hatch.

HATCH:

Well, thank you, Mr. Chairman. I first want to thank you for your fair approach to this, our first hearing of the 115th Congress. You've scheduled and you've structured this hearing in time -- in line with this committee's precedents. In fact, you're including more witnesses in this hearing than the past average for attorney general nominees.

HATCH:

Senator Sessions has provided this committee with more than 150,000 pages of material relevant to his nomination. That is 100 times what Attorney General Lynch produced and almost 30 times what Attorney General Holder provided.

This material comes from someone we know, someone many of us have served with in the Senate and on this very committee, yet some on the far left will stop at nothing to defeat this nomination. They oppose this nomination precisely because Senator Session (sic) will not politicize the Justice Department or use its resources to further a political agenda. They make up one thing after another to create a caricature that bears no resemblance to the nominee, who is actually before us here today.

Now, I've been on this committee for a long time and I've seen these dirty tactics used before, and they're not gonna work this time.

Senator Sessions, it sounds a little strange to say this, but welcome to the Senate, the Senate Judiciary Committee. I'm sure there will be some need to address false claims and fabricated charges during this hearing. Believe it or not, however, I actually have some questions about issues and policies that you will be addressing when you become attorney general.

The first is one I have raised with every incoming attorney general nominee for nearly 25 years, and it concerns enforcement of federal laws prohibiting obscenity. In the 108th Congress, you introduced Senate Concurrent Resolution 77, expressing the sense of the Congress that federal obscenity laws should be vigorously enforced throughout the United States.

It plays the Senate -- or excuse me, it passed the Senate unanimously, pleased it too. In fact, it is the only resolution on this subject ever passed by either the Senate or the House.

Now, Senator Sessions, with your permission, I want to share with you that resolution adopted last year by the Utah legislature, outlining why pornography should be viewed as a public health problem as well as some of the latest research into the -- into the arms of obscenity.

Is it still your view that federal laws prohibiting adult obscenity should be vigorously enhanced?

SESSIONS:

Mr. Chairman, those laws are clear and they are being prosecuted today and should be continued to be effectively and vigorously prosecuted in the cases that are appropriate.

HATCH:

And making this a priority for the Justice Department, would you consider reestablishing a specific unit dedicated to prosecuting this category of crime?

SESSION:

So that unit has been disbanded. I'm not sure I knew that, but it was a part of the Department of Justice for a long time and I would consider that.

HATCH:

OK.

For several years now, Senator Chris Coons and Representative Tom Marino and Suzan DelBene and I have raised the importance of safeguarding data privacy on an international scale from unauthorized government access. That is why we continue to push forward the International Communications Privacy Act, which establishes a legal standard for accessing extraterritorial communications.

The need for a legislative solution was reinforced in July when the U.S. Court of Appeals for the 2nd Circuit held in *Microsoft v. United States* that current law does not authorize U.S. law enforcement officials to access electronic communications stored outside the United States.

If confirmed, will you and your staff work with us to strike the needed balance to strengthen privacy and -- and promote trust in the United States technologies worldwide, while enabling law enforcement to fulfill its important public safety mission?

SESSIONS:

That'll be a high responsibility, Senator. I know you've worked hard on that for a number of years, as have others, members of this committee, Senator Coons and others. So working that out, understanding the new technology.

But the great principles of the right to privacy, the ability of individuals to protect data that they believe is private and should be protected, all of those are great issues in this new technological world we're in. And I would be pleased to work with you on that and I do not have firm and fast opinions on the subject.

HATCH:

Well, thank you so much.

Now, I'd like to turn now to rapid DNA technology that will allow law enforcement officials to speedily process DNA samples in 90 minutes or less. FBI Director Comey told this committee that rapid DNA would help law enforcement, quote, "change the world in a very, very exciting way, " unquote.

Legislating -- legislation authorizing law enforcement to use this technology, which you co-sponsored, passed the Senate last year. I was disappointed, however, that it got tied up with criminal justice reform efforts in the House. And I have two questions.

First, do you -- do you agree with director -- with FBI Director Comey and with law enforcement leaders across the country that rapid DNA legislation is important and will help law enforcement to do their jobs better and faster?

And secondly, do you agree with me that we should work to pass this legislation sooner rather than later and should avoid tying it to efforts on other legislative issues whose path forward is unclear?

SESSIONS:

Mr. Chairman, rapid DNA analysis is a hugely important issue for the whole American criminal justice system. It presents tremendous opportunities to solve crimes in an effective way and can be -- produce justice because it's a kind of thing that you can't fake or mislead. So I am very strongly in favor of that.

And my personal view, after many years in the law enforcement community, is that one of the biggest bottleneck colleagues (ph) of all of our laws involving prosecution of criminal activity, is the bottleneck of the scientific analysis, the forensic sciences, where we fail sometimes to get DNA back, fail to get back fingerprint analysis, fail to get back drug analysis, chemical analysis and all of this slows down and stops cases that should long since have been brought forward and disposed of.

HATCH:

OK. I'd rather some Democratic senators accuse you of opposing the Violence Against Women Act. Now, that caught my attention because like I did, you actually voted to reauthorize it.

As I recall, in 2013, there were not one, but two bills to reauthorize VAWA, the Violence Against Women Act. One had controversial provisions that had never been received in a hearing, the other did not. Am I right that you supported reauthorizing the Violence Against Women Act?

SESSIONS:

Absolutely. I supported it in 2000 when it passed, I supported it in 2005 when the bill -- both of those bills I supported became law. And then in this cycle, Senator Grassley had a bill that I thought was preferable and I supported his bill that actually had tougher penalties than the other bill.

And it is kind of frustrating to be accused of opposing VAWA, the Violence Against Women Act, when I have voted if for it in the past. There were some specific add-on provision (ph) in the bill that caused my concern and I think other people's concern.

HATCH:

And Mr. Chairman, I ask consent to place in the record, an op-ed published in USA Today on this subject by Penny Nance, president of Concerned Women for America, the nation's largest public policy women's organization, if you can.

GRASSLEY:

Without objection, it will be included.

HATCH:

Now, I have a question about the Justice Department's Civil Right Division. The division enforces the religious land use and Institutionalized Persons Act which protects the right of prison inmates to worship and protect churches and religious institutions from burdensome zoning and other restrictions. So I introduced this legislation in 2000, it passed without objection in both the Senate and the House.

I would note for the record that next Monday, January 16th, is Religious Freedom Day. I hope that you will make the religious freedom of all Americans a priority under your leadership.

The civil rights division also has a unit dedicated to combating human trafficking. It was created in 2007 and one of my former Judiciary Committee counsels, Grace Chung Becker, was its first head.

Perhaps, you could comment on the significance of issues such as religious freedom and human trafficking and why it's important to include them within the civil rights agenda of the department.

SESSIONS:

Mr. Chairman, religious freedom is a great heritage of America. We respect people's religion. We encourage them to express themselves and to develop their relationships with the higher power as they choose. We respect that. It's mandated in the Constitution.

But there are situations in which I believe we can reach accommodations that would allow the religious beliefs of persons to be honored in some fashion as opposed to just dictating everything under a single provision or policy.

So I believe you're correct. We should recognize our religious freedom. It will be a very high priority of mine.

HATCH:

Well, let me (inaudible).

Now, Mr. Chairman, let me close by asking consent to place in the record letters from the National Center for Missing and Exploited Children and the Boys and Girls Clubs of America. They attest to Senator Sessions work on behalf of the vulnerable children and young people.

And I also ask consent to place in the record a letter supporting this nomination from nearly two dozen men and women who have served as assistant attorneys general in 10 different offices and divisions.

They say that as both U.S. Senator and U.S. Attorney, quote, "Senator Sessions has demonstrated a commitment to the rule of law and to the even-handed administration of justice." I could not agree more.

GRASSLEY:

Without objection...

HATCH:

Thank you.

GRASSLEY:

... those will be included.

SESSIONS:

Thank you.

LEAHY:

Thank you Mr. Chairman and welcome Senator Sessions and Mrs. Sessions.

Let me just follow up, you were just asked about Violence Against Women Act and your -- your support. Let's deal with the facts. Let's deal with what was actually quoted on. Let's deal with the Violence Against Women Act that you voted against.

You strongly oppose the Violence Against Women Reauthorization Act of 2013. Spoke against it -- you voted against it. That law expanded protections for some of the most vulnerable groups of domestic violence and sexual assault survivors, students, immigrants, LGBTQ victims and those on tribal lands.

Now the Justice Department, by all accounts, has done an excellent job implementing and enforcing it over the last three years. I believe -- we were both prosecutors. I went to a lot of domestic violence scenes -- crime scenes -- as a young prosecutor. I believe that all victims of domestic and sexual violence deserve protection.

Why did you vote against expanding protections for LGBT victims, students, immigrants and tribal victims of domestic violence and sexual assault? Why did you vote no?

SESSIONS:

Mr. Chairman, I did indeed support the bill in 2000 and in...

LEAHY:

I'm talking about the bill that is the law today.

SESSIONS:

I understand.

LEAHY:

The law today it's passed in 2013 by an overwhelming margin in the Senate and by an overwhelming margin, in the Republican controlled House, signed into law by President Obama.

I'm asking about that, why did you oppose it?

SESSIONS:

Mr. Chairman, a number of people opposed some of the provisions in that bill. Not the entire bill.

LEAHY:

I'm just asking about you.

SESSIONS:

I'm trying to answer.

LEAHY:

Go ahead.

SESSIONS:

So when we voted in the committee eight of the nine Republicans voted against the bill. One of the more concerning provisions was a provision that gave tribal courts jurisdiction to try persons who were not tribal members.

That's contrary -- I believe the only time that's ever happened. That was the big concern that I raised, I believe primarily, on the legislation. So I voted with the -- the chairman and the legislation he had that I thought did the job for protecting women, to reauthorize the Violence Against Women Act, but at the same time did not have other things attached to it that I -- thought were concerning.

LEAHY:

Well, on the tribal courts, those have now been prosecuted, very carefully, defendants receive due process rights -- they have to. None of the non-Indian defendants that have been prosecuted have appealed to federal courts.

Many feel it's made victims on tribal lands safer. Do you agree with that? Do you agree with the way the Justice Department has handled such cases?

SESSIONS:

Mr. Chairman, I do believe that the law has been passed by Congress, I'm interested to see how it plays out in the real world and I will do my best to make my judgment about how to enforce that as attorney general.

Certainly the law itself has many powerful provisions that I'm glad was passed and that is in law and provides protections to women as victims against -- of victims of violence.

LEAHY:

On the tribal lands it's been used and prosecuted for three years. Do you feel it's been handled correctly?

SESSIONS:

Mr. Chairman I have no understanding of that. But in the -- the results of it so far -- I'm interested -- first time I've heard it -- commented on.

Let me say this to you directly. In meeting with senators prior to this hearing, I've had a quite a number, perhaps more than any other issue, that I learned a lot about, and that is that non-Indians that have been going onto tribal lands and committing crimes, including rape, have not been effectively prosecuted.

Now, under current law and historically, they would have been prosecuted in the federal government by the United States attorneys and that has not been happening sufficiently, I am now convinced. So I do think the FBI, particularly maybe the Bureau of Indian Affairs investigators,

should be beefed up and the U.S. attorneys need to do probably a better job of prosecuting cases that need to be prosecuted in federal court.

LEAHY:

Those are -- those are facts that came out pretty clearly in the hearings before you voted against that provision. That is why Senator Crapo and I and others included it in the bill.

But let me -- there maybe -- there have not been any test (ph) to that, nobody's -- nobody's appealed this, nobody's objected to it. But would you be able to, if -- if somebody does, would you be able to defend it in court?

SESSIONS:

I would defend the statute if it's reasonably defensible, yes. If passed by Congress, it would be the duty of the attorney general whether they voted for it or support it, to defend it. And now, did I call you Mr. Chairman, Mr. Chairman, a while ago? I think I did. So.

LEAHY:

That's OK.

SESSIONS:

You've been my chairman for many years.

LEAHY:

I've spent 20 years back and forth, and I've delighted to turn it over to Senator Feinstein and Senator Grassley. But..

SESSIONS:

Well, you'll be handling all the money of the United States I understand in your new position.

LEAHY:

The -- in 2009, I offered to Matthew Shepherd and James Byrd Hate Crimes Prevention Act as an amendment to the Defense Bill. It extended hate crimes protections to LGBT individuals, women and individuals with disabilities. It passed the Senate overwhelmingly.

You opposed it. You stated at a hearing that you're not sure women or people with different sexual orientations face that kind of discrimination. And then you said, "I just don't see it." Do you still believe that women and LGBT individuals do not face the kind of discrimination that the hate crimes legislation was passed to prevent?

SESSIONS:

Mr. Chairman -- Senator Leahy, having discussed that issue at some length, it -- I -- that does not sound like something I said or intended to say. What I did intend...

LEAHY:

You did say it.

SESSIONS:

Well, I understand, but I've seen things taken out of context and not give an accurate picture.

My view is and was a concern that it appeared that these cases were being prosecuted effectively in state courts, where they would normally be expected to be prosecuted. I asked Attorney General Holder to list cases that he had that indicated that they were not being properly prosecuted. I noted that Mr. Byrd was given the death penalty in Texas for his offense and Mr. Shepherd, there were two life sentences imposed as a result of the situation in his state.

So, the question simply was, do we have a problem that requires an expansion of federal law into an area that the federal government has not been historically involved. Senator Hatch had a -- a proposal that we do a study to see the extent of the problem and that we should have evidence of that -- that indicates a shortage of prosecutions and a lack of willingness...

(CROSSTALK)

SESSIONS:

... for adding this law.

LEAHY:

As far as the study last year, the FBI said that LGBT individuals were more and likely to be targeted for hate crimes than any other minority group in the country. I mean, we can study this forever, but that's a pretty strong fact.

SESSIONS:

Well, I will tell you, Senator...

LEAHY:

And in 2010, you stated expanding hate crime protections to LGBT individuals was unwarranted, possibly unconstitutional. You said the bill had been sent to cheapen the civil rights movement. Especially considering what the FBI has found, do you still feel that way?

SESSIONS:

Mr. Chairman, the law has been passed. The Congress has spoken. You can be sure I will enforce it.

LEAHY:

Thank you.

When you were -- well, let me -- I don't want to go as much over -- over time as -- as Senator Hatch did, but I'll ask you one question.

(LAUGHTER)

The president-elect has repeatedly asserted his intention to institute a ban on Muslim immigrants to the United States. December 2015, you voted against a resolution that I offered in this committee that expressed a sense of (inaudible) that the United States must not bar individuals from entering into the United States based on their religion. All Democrats, most Republicans, including the chairman, were in support of my resolution.

Do you agree with the president-elect that the United States can or should deny entry to members of a particular religion, based on their religion? We do background checks for terrorism, but based on their religion. Do you believe -- do you agree with the president-elect the United States can or should deny entry to all members of a particular religion?

SESSIONS:

Senator Leahy, I believe the president-elect has subsequent to that statement made clear that he believes the focus should be on individuals coming from countries that have history of terrorism. And he's also indicated that his policy and what he suggests is a strong vetting of people from those countries before they're admitted to the United States.

LEAHY:

Then why did you vote against the resolution?

SESSIONS:

Mister -- I almost called you Mr. Chairman again.

Senator Leahy, the -- my view and concern was, in the resolution, it was suggesting that you could not seriously consider a person's religious views even and often sometimes, at least, not in a majority, but many people do have religious views that are inimical to the public safety of the United States. I did not want to have a resolution that suggested that that could not be a factor in the vetting process before someone is admitted.

But I have no belief and do not support the idea that Muslims, as a religious group, should be denied admission to the United States. We have great Muslim citizens who've contributed in so many different ways, and America, as I said in my remarks, at the occasion that we discussed it in committee, are great believers in religious freedom and the right of people to exercise their religious beliefs.

LEAHY:

Thank you.

GRASSLEY:

Before I turn to...

(CROSSTALK)

GRASSLEY:

Yes. Without objection, your inserts will be included.

I have a letter from Solicitor General Ted Olson in support of Senator Sessions. Quoting in part with respect to civil rights, he says, quote "As a lawyer who has devoted years of effort to litigating and vindicating the civil rights of our fellow gay, lesbian and transgender citizens, I recognize that people of good faith can disagree on legal issues. Such honest disagreement should not qualify -- disqualify them from holding public office. In particular, I have no reservations about Senator Sessions' ability to handle these issues fairly and in accordance with law and to protect the civil rights of these and all of our citizens."

I'd like to include that in the record without objection.

Senator Graham.

GRAHAM:

Thank you, Mr. Chairman.

We're about to get an answer to the age-old question, can you be confirmed attorney general of the United States over the objection of 1,400 law professors?

(LAUGHTER)

I don't know what the betting line in Vegas is, but I like your chances.

(LAUGHTER)

Speaking of football...

(LAUGHTER)

I want to congratulate the University of Alabama for one heck of a streak. One of the most dominate football teams in the history of college football. And I want to acknowledge the Clemson Tigers, where I live five miles from the stadium, that that was the finest college football game I think I've ever seen. Dabo Swinney and the Tigers represent everything good about college athletics.

And while we were on different teams, early this morning, I want to let the good people of Alabama know that in terms of their senator, Jeff Sessions, he is a fine man, an outstanding fellow, who I often disagree with, I've traveled the world with. I've gotten to know him and his family and I will enthusiastically support you for the next attorney general of the United States.

GRAHAM:

Now, let's talk about issues.

Some people believe that the only way you can get justice in this world is for the federal government to administer it. Have you heard such thoughts?

SESSIONS:

Well, I have.

GRAHAM:

Yeah.

SESSIONS:

I think I know what you're talking about.

GRAHAM:

Yeah, I think I do too.

(LAUGHTER)

I think the whole point is for the federal government to take over an area of law, there should be a good reason. Do you agree with that?

SESSIONS:

Yes.

GRAHAM:

If a state's not prosecuting crimes against people based on their sex, their race, whatever reason, then it's proper for the federal government to come in and provide justice, do you agree with that?

SESSIONS:

I do.

GRAHAM:

When the state's doing its job, the federal government should let the states do their job.

SESSIONS:

That is correct. That's a general principle...

GRAHAM:

That's the way...

SESSIONS:

... and is not a general federal crime -- federal statute that federalizes all crime in America.

GRAHAM:

For the people who are listening, that's just the way we think. You may not agree with that, but we think that way. And I think we've really got a good reason to think that way. Think that's the way they set up the whole system.

Muslims, as you know, me and the president-elect have had our differences about religious test. Would you support a law that says you can't come to America because you're Muslim?

SESSIONS:

No.

GRAHAM:

Would you support a law that says that if you're a Muslim, you say you're a Muslim and when we ask you, what does that mean to you? Well, that means I got to kill everybody that's different from me, it's OK to say they can't come.

SESSIONS:

I think that would be a prudent decision.

GRAHAM:

I hope we can keep people out of the country who want to kill everybody because of their religion. I hope we're smart enough to know that's not what most people in the Muslim faith believe.

SESSIONS:

But it can be the religion of that person.

GRAHAM:

That's right. That's the point we're trying to make here. About the Wire Act, what's your view of the -- Obama's administration's interpretation of the Wire Act to law, to allow online video poker or poker gambling.

SESSIONS:

Senator Graham, I was shocked at the memorandum, I guess the enforcement memorandum that the Department of Justice issued with regard to the Wire Act and criticized it. Apparently there is some justification or argument that can be made to support the Department of Justice's position, but I did oppose it when it happened and it seemed to me to be an unusual...

GRAHAM:

Would you revisit it?

SESSIONS:

I -- I would revisit it and I would make a decision about it based on careful study rather than -- and I haven't reached -- gone that far to give you an opinion today.

GRAHAM:

Immigration, you've said that the executive order of President Obama you believe is unconstitutional, the DACA law. You still have that position?

SESSIONS:

I did for a number of reasons.

GRAHAM:

I'm not, I mean...

SESSIONS:

Right.

GRAHAM:

I agree with you. Now, we've got 800,000 people have come out of the shadows, have been signed up. Will you advise the next president -- President Trump, to repeal that executive order?

SESSIONS:

There will be decision that needs to be studied and he would need to agree to, but it's an executive order, really a memorandum of the Department of Homeland Security. It would certainly be constitutional, I believe, to -- end that order. And I would -- Department of Justice I think would have no objection to a decision to abandon that order because it is very questionable, in my opinion, constitutionally.

GRAHAM:

Once we repeal it and I agree that I believe it is an overreach, what do we do with the 800,000 kids who've come out of the shadows?

SESSIONS:

Senator Graham, fundamentally we need to fix this immigration system. Colleagues, it's not been working right. We've entered more and more millions of people illegally into the country. Each one of them produces some sort of humanitarian concern, but it is particularly true for children. So, we've been placed in a bad situation. I really would urge us all to work together.

I would try to be supportive...

GRAHAM:

Would you prefer...

SESSIONS:

... to end the illegality and put us in a position where we can wrestle with how to handle these difficult, compassionate decisions.

GRAHAM:

Right. And the best way to do it is for Congress and the administration to work together and pass a law, not an executive order.

SESSIONS:

Exactly.

GRAHAM:

OK. When it comes to the law of war, do you believe that people who join Al Qaida or affiliated groups are subject to being captured or killed under the law of war?

SESSIONS:

I do, Senator. Just -- I don't see how we could see it otherwise and it's a responsibility of the military to protect the United States from people who attack us.

GRAHAM:

Do you believe the threats to the homeland are growing or lessening?

SESSIONS:

I believe they are growing and we're seeing that now in Europe and we're also seeing it right here in America.

GRAHAM:

Do you support the continuation of Gitmo as a confinement facility for foreign terrorists?

SESSIONS:

Senator Graham, I think it's designed for that purpose, it fits that purpose marvelously well, it's a safe place to keep prisoners, we've invested a lot of money in that and I believe it could be -- it should be utilized in that fashion and have opposed the closing of it. But as attorney general...

PROTESTER:

No! In the name of humanity (ph)...

GRAHAM:

I just wanted to see if they were still listening.

PROTESTER:

(OFF-MIKE)

GRAHAM:

I think they're on the fence about Gitmo, but I'm not sure.

(LAUGHTER)

Let me tell you, I support this administration's effort to make sure we prosecute terrorism as a military action, not a law enforcement action. They're not trying to steal our cars or rob your bank account, they're trying to destroy our way of life and I hope you'll go after them without apology, apply the law, and the law is the law of war, not domestic criminal law. You'll have a friend in Senator Graham if you intend to do that.

Cyber attacks, do you think the Russians were behind hacking into our election?

SESSIONS:

I have done no research into that. I know just what the media says about it.

GRAHAM:

Do you think you could get briefed any time soon?

SESSIONS:

Well, I'll need to.

GRAHAM:

I think you do too. You like the FBI?

SESSIONS:

Do I like them?

(LAUGHTER)

GRAHAM:

Yeah.

SESSIONS:

Some of my best friends are FBI...

GRAHAM:

Do you -- do you generally trust them?

SESSIONS:

Yes.

GRAHAM:

Are you aware of the fact that the FBI has concluded that it was the Russian intelligence services who hacked into the DNC and Podesta's e-mails?

SESSIONS:

I do understand that.

GRAHAM:

From your point of...

SESSIONS:

At least that's what's been reported and I've not been briefed by them...

GRAHAM:

Right.

SESSIONS:

... on the subject.

GRAHAM:

From your point of view, there's no reason for us to be suspicious of them?

SESSIONS:

Of their decision?

GRAHAM:

Yeah.

SESSIONS:

I'm sure it was honorably reached.

GRAHAM:

How do you feel about a foreign entity trying to interfere in our election? I'm not saying they changed the outcome but it's pretty clear to me they did? How do you feel about it, what should we do?

SESSIONS:

Senator Graham, I think it's a significant event. We have penetration apparently throughout our government by foreign entities. We know the Chinese revealed millions of background information on millions of people in the United States and these, I suppose, ultimately are part of international, big-power politics.

But it -- when a nation uses their improperly gained or intelligence-wise gained information to take policy positions that impact another nation's Democracy or their approach to any issue, then that raises real serious matters.

It's -- really, I suppose, goes in many ways to the State Department, our Defense Department, in how we as a nation have to react to that which would include developing some protocols where when people breach our systems that a price is paid even if we can't prove the exact person who did it.

GRAHAM:

I agree, I've got 20 seconds left. I've known you for, I guess, 15 years now and we've had a lot of contests on the floor and sometimes we agree, sometimes we don't.

I'm from South Carolina so I know what it's like sometimes to be accused of being a conservative from the South, that means something other than you're a conservative from the South. In your case, people have fairly promptly tried to label you as a racist or a bigot or whatever you want to say.

How does that make you feel? And this is your chance to say something to those people.

SESSIONS:

Well, that does not feel good.

PROTESTER:

(OFF-MIKE)

GRASSLEY:

If nothing else, I'm clearing the room for you.

(LAUGHTER)

GRAHAM:

And I would suggest that the freedom of speech also has some courtesy to listen.

So what's your answer?

SESSIONS:

Senator Graham, I appreciate the question.

You have a Southern name, you come from South Alabama; that sounds worse to some people, South Alabama. And when I came up as a United States attorney, I had no real support group. I didn't prepare myself well in 1986 and there was an organized effort to caricature me as something that wasn't true. It was very painful. I didn't know how to respond and didn't respond very well.

I hope my tenure in this body has shown you that the caricature that was created of me was not accurate. It wasn't accurate then and it's not accurate now.

And I just wanted you to know that as a Southerner who actually saw discrimination and have no doubt it existed in a systematic and powerful and negative way to the people -- great millions of people in the South particularly of our country, I know that was wrong. I know we need to do better. We can never go back. I am totally committed to maintain the freedom and equality that this country has to provide to every citizen and I will assure you that that's how I will approach it.

GRASSLEY:

Senator Durbin.

DURBIN:

Thank you, Mr. Chairman.

Senator Sessions, let me first say it's -- I'm glad that you brought your family with you today. It's a beautiful family with your wife and your son and daughters and those four beautiful little granddaughters. You kept them as quiet as you could for as long as you could, so thank you so much for being here today. I'm sure it was great moral support and part of your effort here today.

When you came by my office last week, I talked to you about a man named Alton Mills, and with permission of the chair, I'd like to -- he's my guest today -- ask Mr. Mills if he'd please stand up. Alton, thank you for being here today. I'd like to tell you story so you can understand my question a little better. When Alton Mills was 22-years-old, unemployed, he made a bad decision; he started selling crack-cocaine on the streets of Chicago.

He was arrested twice for possession of small amounts of crack-cocaine. The third time that he was arrested, the kingpins who had employed him turned on him, and as a consequence, he ended up being prosecuted under the three strikes and you're out law. At the age of 22 -- pardon me -- the age of 24, he was sentenced to life without parole.

He had never been in prison before, and as I mentioned, there were no allegations made against him other than possession and sale. No violence, no guns, nothing of that nature.

Alton Mills ended up, despite the sentencing judge's admonition that he believed this was fundamentally unfair and his hands were tied, Alton Mills ended up spending 22 years in federal prison until December 2015 when President Obama commuted his sentence. He was finally able to go home to his family.

Senator Sessions, seven years ago, you and I co-sponsored a bill known as The Fair Sentencing Act, which Senator Collins referenced earlier, and that reduced the brutal sentencing disparity for crack-cocaine crimes over powder cocaine. It was originally 100 to 1. We agreed, in the Senate gym I might add, to bring that down to 18 to 1.

Inmates, overwhelmingly African-American, were spared thousands of prison years because of our joint effort to end this injustice, yet when I asked you to join me in appealing to the sentence commission -- sentencing commission to follow our law and when I asked you to join Senator Grassley and me in permitting the almost 5,000 still serving under this unfair 100 to one standard to petition individually for leniency, you refused.

And you said of President Obama's pardoning of people like Alton Mills. and I quote, "President Obama continues to abuse executive power in an unprecedented reckless manner to systemically release high-level drug traffickers and firearms felons. So-called low-level non-violent offenders simply do not exist in the federal system," you said.

DURBIN:

Senator Sessions, Alton Mills and many more just like him do exist. So if you refuse to even acknowledge the fundamental injustice of many of our sentencing laws, why should you be entrusted with the most important criminal prosecution office in America?

SESSIONS:

Senator Durbin, I think that's rather unfair, based on our relationship and how we work together.

In 2001, I introduced legislation very similar to the bill that you and I successfully made law. It would have reduced it to 20 to 1, our bill went to 18 to 1. A little better, but fundamentally that I was criticized by the Bush Department of Justice. My legislation was opposed by them. It was seven years later or so or really longer before our bill ever passed.

So I stepped out against my own Republican administration and said openly on the floor of the Senate that I believe that these crack cocaine laws were too harsh, with -- and particularly it was disadvantageous to the African-American community where most of the punishments were falling and it was not fair and we ought to fix it.

So, I just want to say, I took a strong stand on that and I did not agree. You and I did not agree on the retroactivity because a lot of these were plea bargain cases and may not have been totally driven by the mandatory minimums. But, so -- I thought the court had basically now agreed that it is retroactive. I don't know what group is not being covered by it, but a large group was covered by a court decision. We sort of left it open, as I remember.

DURBIN:

We did.

SESSIONS:

You and I discussed...

DURBIN:

Let me see, in the -- on the issue of fairness, I will acknowledge you stepped out on this issue and you and I both recognize the brutal injustice of 100 to 1 and we agreed on 18 to 1. That's how laws are made.

And now, we have 5,000 prisoners sitting in federal prison still there under this brutal unjust 100 to 1, and all I've asked and all Senator Grassley's asked, allow them as individuals to petition to the judge, to the prosecutor, to the Department of Justice so that their sentences can be considered. That's something you've opposed.

So in fairness, tell me why you still oppose that.

SESSIONS:

Well, first, I would tell you with absolute certainty that if -- it is a decision of this body. It's not the attorney general's decision about when and where a mandatory minimum is imposed and whether it can be retroactively be altered. So I will follow any law that you pass, number one.

Number two, I understood the sincere belief you had on that issue and it was a difficult call and that's why we really never worked it out. So I understand what you're saying, but I did believe that you are upsetting finality in the justice system, that you are suggesting that these kind of factors were not considered when the plea bargaining went down. So it's an honorable debate to have and I respect your position on it.

DURBIN:

Senator, you have been outspoken on another issue and I would like to address it, if I could. I have invited here today Sergeant Oscar Vazquez, if he would be kind enough to stand up and be recognized. Sergeant, thank you for being here.

I'll tell you his incredible story in the short form. Brought to the United States as a child, in high school, he and three other DREAMers started a robotics club and won a college-level robotics competition -- they made a movie out of his story. He graduated from Arizona State University with an engineering degree. The Obama administration granted him a waiver and allowed him to become a citizen and enlist in the United States Army where he served in combat in Afghanistan.

Senator Sessions, since joining the Senate in 1997, you've voted against every immigration bill that included a path to citizenship for the undocumented. You described the DREAM Act, which I introduced 15 years ago to spare children who are undocumented through no fault of their own, as quote, "a reckless proposal for mass amnesty."

You opposed the bipartisan comprehensive immigration reform bill, which passed the Senate four years ago. You've objected to immigrants volunteering to serve in our armed forces, saying, quote, "In terms of who's going most likely to be a spy, somebody from Coleman, Alabama or somebody from Kenya."

DURBIN:

When I asked what you would do to address the almost 800,000 DREAMers, like Oscar Vasquez, who would be subject to deportation if President Obama's executive order was repealed, you said, quote, "I believe in following the law. There is too much focus on people who are here illegally and not enough on the law."

Senator Sessions, there's not a spot of evidence in your public career to suggest that as attorney general, you would use the authority of that office to resolve the challenges of our broken immigration system in a fair and humane manner. Tell me I'm wrong.

SESSIONS:

Well, you are wrong, Senator Durbin. I'm going to follow the laws passed by Congress.

As a man of policy, we disagreed on some of those issues. I do believe that if you continually go through a cycle of amnesty, that you undermine the respect for the law and encourage more illegal immigration into America.

I believe the American people spoke clearly in this election. I believe they agreed with my basic view, and I think it's a good view, a decent view, a solid legal view for the United States of America that we create a lawful system of immigration that allows people to apply to this country, and if they're accepted they get it, if they're not accepted they don't get in. And I believe that's right and just and the American people are right to ask for it. We have not delivered that for them.

DURBIN:

Senator Graham asked this question and I listened to your answer. When he asked you what would happen to those 800,000 currently protected by President Obama's executive order, known as DACA, who cannot be deported for two years -- it's renewable -- and can work for two years, and you said, "Let Congress pass a comprehensive immigration reform bill."

You opposed the only bipartisan effort that we've had on the Senate floor in modern memory. And what's going to happen to those 800,000 if you revoke that order and they are subject to deportation tomorrow? What is going to happen to them? What is the humane legal answer to that?

SESSIONS:

Well, the first thing I would say is that my response to Senator Graham dealt with whose responsibility this is. I had a responsibility as a member of this body to express my view and vote as I believed was correct on dealing with issues of immigration. That's not the attorney general's role, the attorney general's role is to enforce the law.

And as you know, Senator Durbin, we're not able financially or any other way to seek out and remove everybody that's in the country illegally.

President Trump (sic) has indicated that criminal aliens, like President Obama indicated, certainly are the top group of people, and so I would think that the best thing for us to do, and I would urge colleagues that we understand this, let's fix this system. And then we can work together after this lawlessness has ended and then we can ask the American people and enter into a dialogue about how to compassionately treat people who've been here a long time.

DURBIN:

That does not answer the question about 800,000 that would left in the lurch, whose lives would be ruined while you're waiting on Congress for a bill that you opposed.

SESSIONS:

Well, I thought it did answer it pretty closely (inaudible) what you ask and I understand your concerns.

GRASSLEY:

Senator Cornyn.

CORNYN:

Senator Sessions, congratulations to you and your family on this once in a lifetime honor to serve as the head of the Department of Justice.

You know, sitting here listening to the questions and some of the comments that have been made, both by the protesters and others, it strikes me that many people have been surprised to learn more about your record, your outstanding record as a prosecutor, as somebody who treated that responsibility to uphold enforce the law in the Constitution without fear or favor. I think some people here listening today have been somewhat surprised by your record in complete context.

Those of us who have served with you in this Senate, some as many as 20 years, like Senator Shelby and Senator Collins, testified to your character. But I'd like to think that those of us who served with you most closely in the Senate, particularly here on the Judiciary Committee, know more about you than just your record and your character, we know your heart. We know what kind of person you are.

CORNYN:

You're a good and decent and honorable man. You've got an outstanding record that you should be proud of, and I know you are and you should be. For example, when somebody says when you unfairly prosecuted some African-Americans for voter fraud in Alabama, it strikes me as incomplete is the most charitable thing I can say, when they leave out the fact that the very compliance in that case were also African-Americans.

In other words, the people you prosecuted were African-Americans, but the people whose voting rights you were trying to vindicate were African-Americans, isn't that correct?

SESSIONS:

That is correct.

CORNYN:

Does that strike you as a fair characterization of your approach toward enforcing the law that people would leave that important factor out?

SESSIONS:

It's not, Senator Cornyn and it's been out there for a long time. If you ask people who casually follow the news, they probably saw it otherwise.

And these were good people who had tried -- asked me to get involved this case in 2002. A majority African-American Grand Jury, with African-American foreman, asked the federal government to investigate the 1982 election.

I declined, I hope that that investigation would've stopped the problem. But two years later, the same thing was happening again. We had African-American incumbent officials pleading with us to take some action. We approached the Department of Justice in Washington.

The vote -- the public integrity voting sanction, they approved an investigation and it developed into a legitimate case involving charges of vote fraud, taking absentee ballots from voters, opening them up and changing their vote and casting them for somebody they did not intend the vote to be cast for.

It was a voting rights case. And I just feel like we tried to conduct ourselves in the right way. I never got in the argument of race or other matters. I just tried to defend myself as best I could.

I would note colleagues, in just in the last few days, the son of Albert (sic) Turner has written a letter and said I was just doing my job and he understood the reason and justification for the prosecution and that that would be a good attorney general. So I was -- that was gratifying to me and that's the real truth to the matter.

CORNYN:

Senator Sessions, I know the nature of these confirmation hearings is that people pick out issues that they're concerned about or where there may be some good faith disagreement on policy. And that's what they focus on.

But lemme just ask you maybe it's not a great analogy, but lemme try any way. You have been married to your wife Mary, almost 50 years, right?

SESSIONS:

Well, it hadn't gotten to 50 yet, 47...

(CROSSTALK)

CORNYN:

OK. Well, that's a good run. Let me just ask you...

SESSIONS:

Let it continue, I've been blessed.

CORNYN:

Are there occasion where you and your wife disagree?

SESSIONS:

No Senator.

(LAUGHTER)

(UNKNOWN)

You're under oath.

SESSIONS:

Wait a minute, I'm under oath. On occasion we do, yes.

CORNYN:

Would you think it would be fair to characterize the nature of your relationship with your wife based upon those handful of disagreements that you've had with her over -- over time?

SESSIONS:

That's a good point. Thank you for making it. No I don't.

CORNYN:

Well, and to your original point, your wife is always right, correct?

SESSIONS:

That is correct.

CORNYN:

You are under oath.

(LAUGHTER)

Well, so this is the nature of this -- these confirmation hearings, people are identifying specific issues where there are policy differences. But my point is, that does not characterize your entire record of 20 years in the United States Senate or how you've conducted yourself as a prosecutor, representing the United States government in our Article III courts.

Let me get to a specific issue, a couple in the time I have remaining. I was really, really pleased to hear you say in your opening statement, that many in law enforcement feel that our political leaders have on occasion, abandoned them.

You said police ought to be held accountable. But do you believe it is ever, under any circumstances, appropriate for somebody to assault a police officer, for example?

SESSIONS:

Adversely, no on defense for that kind of action. And I do believe that we are failing to appreciate police officers who place their lives at risk, as this sergeant was just killed yesterday trying to deal with a violent criminal and vindicate the law and she was killed.

That is the kind of thing that too often happens. We need to be sure that when we criticize law officers, it is narrowly focused on the right basis for criticism and to smear whole departments, places those officers at greater risk.

And we are seeing an increase in murder of police officers, it was up 10 percent last year. So I could just say, I could feel -- I could feel in my bones, how it was going to play out in the real world when we had, what I thought often times, was legitimate criticism of a perhaps, wrong doing by an officer. But spilling over to a condemnation of our entire police force and morale has been affected.

And its impacted the crime rates in Baltimore and crime rates in Chicago. I don't think there's any doubt about it. I regret that's happening, I think it can be restored. But we need to understand the requirement that the police work with the community and be respectful of their community, but we as a nation, need to respect our law officers too.

CORNYN:

Well, I for one, appreciate your -- your comments because we ought to hold our police and law enforcement officers up in the high regard to which they deserve based on their service to the communities.

And your comments remind me to some extent of Chief David Brown's comments, the Dallas police chief, following the tragic killing of five Dallas police officers recently.

Where he said that police ought to be held accountable, but under no circumstances could any assault against a police officer be justified based on what somebody else did, somewhere at some time. So, I for one, appreciate that very much.

You mentioned Baltimore and Chicago. And we've seen an -- an incredible number of people, frequently in minority communities, who've been killed as results of crimes related to felons who perhaps are in possession of guns that they have no legal right to be in possession of.

Earlier, you talked about prosecuting gun crimes and I'm glad to hear you say that. Project Exile, which originated I think in Richmond, Virginia which targeted felons and other people who cannot legally own or possess firearms, was enormously effective.

And when I look at the record of the last five and 10 years as the Justice Department, prosecution of those kinds of crimes down 15.5 percent, in the last five years. Down 34.8 percent in the last 10 years.

Can you assure us that you will make prosecuting those people who cannot legally possess or use firearms a priority again in the Department of Justice? And help break back of this crime wave

that's affecting so many people in our local communities, like Chicago or Baltimore and particularly minority communities?

SESSIONS:

I can, Senator Cornyn. I'm familiar with how that plays out in the real world. My best judgment colleagues, is that properly enforced, the federal gun laws can reduce crime and violence in our cities and communities.

It was highlighted in Richmond in Project Exile. But I have to tell you, I've always believed that. When I was the United States attorney in the '80s and into the early '90s, we had a -- we produced a news letter that went out to all local law enforcement called Project Triggerlock. It went to federal law enforcement, too.

And it highlighted the progress that was being made by prosecuting criminals who use guns to carry out their crimes. Criminals are most likely the kind of person that will shoot somebody when they go about their business. And if those people are not carrying guns because they believe they might go federal court, be sent to a federal jail for five years, perhaps they'll stop carrying those guns during that drug dealing and their other activities that are criminal.

Fewer people get killed. Fewer people get killed. So I truly believe, that we need to step that up. It's a compassionate thing. If one of these individuals carrying a gun shoots somebody, not only is there a victim, they end up with hammering sentences in jail for interminable periods. The culture, the communities are safer with fewer guns in the hands of criminals.

CORNYN:

Thank you.

GRASSLEY:

Before we go to Senator Whitehouse, people have asked -- members have asked me about our break. And if it's OK with Senator Sessions, it would work out about 1:00, if we have three on this side and three on this side, for the one hour because it's noon right now. Is that OK with you, Senator Sessions?

SESSIONS:

Mr. Chairman, I'm at your disposal.

GRASSLEY:

And so this will give my colleagues an opportunity that want to go to the respective political party caucuses to go and we would take a recess of about 30 to 40 minutes.

SESSIONS:

That's very fair.

GRASSLEY:

OK. Thank you, Senator.

So then, now Senator Whitehouse?

WHITEHOUSE:

Senator Sessions, hello.

SESSIONS:

Thank you, Senator Whitehouse.

WHITEHOUSE:

When we met, I told you that I was going to ask you a particular question. So I'm going to lead off with that particular question.

Following the Gonzales scandals at the Department of Justice; the department adopted procedures, governing communications between the White House and the Department of Justice; consistent with constraints that were outlined years ago in correspondence between Senator Hatch and the Reno Justice Department. Limiting contacts between a very small number of officials at the White House and a very small number of officials at the Department of Justice.

Will you honor and maintain those procedures at the Department of Justice?

SESSION:

I will, Senator Whitehouse. You, as an honorable and effective United States attorney yourself, know how that works and why it's important. Attorney General Mukasey issued a firm, very...

(CROSSTALK).

WHITEHOUSE:

Yes.

SESSION:

... may be still pending. And I would say to you, well that's the appropriate way to do it. I read -- after you and I talked I read Reno memorandum, the Gorelick (ph) memorandum. And I think I would maintain the -- those rules.

WHITEHOUSE:

On the subject of honorable prosecutions, when is it appropriate for a prosecutor to disclose derogatory investigative information about a subject who was not charged?

SESSION:

That's a very dangerous thing and it's a pretty broad question as you've ask it. But you need to be very careful about that and there are certain rules like grand jury rules that are very significant.

WHITEHOUSE:

And isn't it also true that it is customary practice, because of the concern about the improper release of derogatory investigative information; that the department customarily limits its factual assertions, even after an individual has been charged, to the facts that were charged in the information or the indictment.

SESSION:

I believe that's correct, yes. That's a standard operating policy in most offices. Now there may be some exceptions, but I think that's standard operating procedure in the United States attorney's offices like you and I had.

WHITEHOUSE:

As a question of law, does waterboarding constituted torture?

SESSION:

Well, there was a dispute about that when we had had the torture definition in our law. The Department of Justice memorandum concluded it did not necessarily prohibit that. But Congress has taken an action now that makes it absolute improper and illegal to use waterboarding or any other form of torture in the United States by our military and by all our other departments and agencies.

WHITEHOUSE:

Consistent with the wishes of the United States military.

SESSION:

They have been supportive of that. And in fact, I'll just take a moment to defend the military. The military never...

(CROSSTALK)

WHITEHOUSE:

You don't need to defend them from me, I'm all for our military.

SESSION:

I know, but I just -- most -- so many people, I truly believe, think that the military conducted waterboarding. They never conducted any waterboarding, that was by intelligence agencies. Their rules were maintained. I just to teach the Geneva conventions and the rules of warfare as an Army Reservist to my personnel, and the military did not that.

WHITEHOUSE:

And General Petraeus sent a military wide letter disavowing the value of -- of torture, as we -- as we both know. Another question -- another question as a matter of law; is fraudulent speech protected by the First Amendment?

SESSION:

Well, fraudulent speech, if it amounts to an attempt to obtain a thing of value for the person the fraudulent speech is directing...

WHITEHOUSE:

Which is an element of fraud...

SESSION:

... absolutely -- fraud and can be prosecuted. And I think we see too much of that. We see these phone calls at night to elderly people, we see mail -- mailings go out that seem to be to be awfully far from truth and seducing people to probably make unwise decisions.

WHITEHOUSE:

So fraudulent corporate speech would also not be protected by the First Amendment.

SESSION:

That is correct. And it's subject to civil and/or criminal complaint.

WHITEHOUSE:

And speaking of civil complaints; was the Department of Justice wrong when brought and won the civil RICO action against the tobacco industry?

SESSION:

Well, Senator, they won those cases. They took them to court and eventually won a monumental victory, that is correct. And it's part of the law...

WHITEHOUSE:

Hard to say that...

SESSION:

... and firmly established.

WHITEHOUSE:

Hard to say they were wrong if they won, right?

SESSIONS:

That's correct.

WHITEHOUSE:

As you know, the United States has retaliated against Russia for its interference with the 2016 elections. In Europe, Baltic States, Germany and Italy have raised concerns of Russia meddling in their country's elections.

I know this has been touched on before, but I want to make sure it's clear. Will the Department of Justice and the FBI under your administration be allowed to continue to investigate the Russian connection, even if it leads to the Trump campaign and Trump interests and associates?

And can you assure us that in any conflict between the political interests of the president and the interests of justice, you will follow the interests of justice, even if your duties require the investigation and even prosecution of the president, his family and associates?

SESSIONS:

Well, Senator, why ask? If the laws violated and they can be prosecuted then of course you'll have to handle that in an appropriate way.

I would say that they problem may turn out be, as in the Chinese hacking of our -- hundreds of thousands of -- maybe millions of records, has to be handled at a political level. And I do think it's appropriate for a nation who feels that they've been hacked and that information has been improperly used to retaliate against those actions.

It's just a...

WHITEHOUSE:

And I know we share a common interest in advancing the cybersecurity of this nation and I look forward to continuing to work with you on that.

Let me ask you a factual question. During the course of this boisterous political campaign, did you ever chant, "lock her up?"

SESSIONS:

No I did not. I don't think. I heard it in rallies and so forth, sometimes I think humorously done. But it was a matter that I -- have said a few things -- a special prosecutor, I favored that. I think that probably is one of the reasons I believe that I should not make any decision about any such case.

WHITEHOUSE:

And you understand that the good guy law man in the movies is the one who sits on the jailhouse porch and doesn't let the mob in?

SESSIONS:

Exactly. Exactly.

WHITEHOUSE:

So I'm from Rhode Island, as you know Senator. We have NAACP and ACLU members who've heard you call their organization -- who've heard that you called their organizations un-American.

We have a vibrant Dominican community who look at Big Papi, David Ortiz, swinging his bat for the Red Socks and wonder why you said, quote, "almost no one coming from the Dominican Republic to the United States is coming here because they have a provable skill that would benefit us."

I represent a lot of Latinos who worry about modern day Palmer Raids breaking up parents from their kids. And Muslims who worry about so called patrols of Muslim homes and neighborhoods.

And I've heard from police chiefs who worry that you, as attorney general, will disrupt law enforcement priorities that they have set out. And disrupt the community relations that they have worked hard over years of community engagement to achieve.

Time is short, but I noticed that in your prepared remarks these are not unforeseeable concerns. And your prepared remarks did very little to allay the concerns of those people.

Is there anything you'd like to add now in our closing minute?

SESSIONS:

Well, thank you. The -- my comment about the NAACP arose from a discussion that I had where I expressed concern about their statements that were favoring, as I saw it, Sandinista efforts and communist guerrilla efforts in Central America.

And so I said they could be perceived as un-American and weaken their moral authority to achieve the great things they had been accomplished in -- in integration, in moving forward for reconciliation throughout the country.

And I believe that, clearly. And I never said and accused them of that. Number two, with regards...

WHITEHOUSE:

So what would you tell (inaudible) of the NAACP in Rhode Island right now? He's head of the NAACP.

SESSIONS:

Well, I would say, please, look at what I've said about that and how that came about and it was not in that context, it was not correct. I said in 1986 that NAACP represents one of the greatest forces for reconciliation and racial advancement of any entity in the country, probably number one. That's what I said then, I believed it and I believe it now and it's an organization that has done tremendous good for us.

With regard to the Dominican Republic, I had gone on a CODEL with Senator Specter. We came through the Dominican Republic. We visited public service housing projects that seemed to be working and did other things of that nature. And I went and spent some time with the consular official there, just ask him about things. And what I learned was, that there's a good bit of fraud in it and he was somewhat discouraged in his ability to -- he felt to do his job.

And we also understood and discussed that the immigration flow is not on a basis of skills. Immigration flow from almost all of our countries, frankly, is based on a family connection and other visas rather than a skilled-based program more like Canada has today, and that's all I intended to be saying there.

I -- I -- it's -- tell anybody that heard that statement, please don't see that as a diminishment or a -- a criticism of the people of the Dominican Republic. It was designed to just discuss, in my remarks, the reality of our immigration system today. I'd like to see it more skilled-based and I think that would be helpful.

WHITEHOUSE:

Mr. Chairman, my time's expired. Thank you for your patience.

GRASSLEY:

Thank you, Senator Whitehouse.

Before I go to Senator Lee, there's an evaluation of the work of Senator Sessions during his time as U.S. attorney that I speak -- I think speaks to his outstanding record. I'm made aware of this because Senator Feinstein requested an evaluation of Senator Sessions' office from the Department of Justice and I'd note just a few points from their evaluation back in 1992, a couple of short sentences.

"All members of the judiciary praise the U.S. attorney for his advocacy, skills, integrity, leadership of the office and accessibility." And the second quote, "The USAO for the Southern District of Alabama is an excellent office with outstanding leadership, personnel and morale. The district is representing the United States in a most capable and professional manner."

Without objection, we'll put that in the record.

Senator Lee.

(UNKNOWN)

Mr. Chairman, while we're putting things into the record, could I join...

GRASSLEY:

Yes, please do that.

(UNKNOWN)

... and ask unanimous consent that a December 5, 2016 letter from leaders of the U.S. Environmental Movement and a January 5, 2017 letter from the National Task Force to End Sexual Violence and Domestic Violence Against Women be added to the record?

GRASSLEY:

Yes. And those will be included without objection.

Senator Lee.

LEE:

Hello, Senator Sessions.

SESSIONS:

Hello.

LEE:

I've enjoyed working with you over the last six years and always found you to be someone who treats colleagues, regardless of differing viewpoints, with dignity and respect. You've taught me a great deal in the six years I've been here and I've appreciated the opportunity to work with you. I think a lot of this has to do with the fact that we're both lawyers, although being a lawyer around here, certainly having a law degree, is not unusual.

One of the things that sets you apart and makes you different, I get the sense from you that you think of yourself not so much as a senator who used to be a lawyer, but as a lawyer who is currently serving as a senator. And I think that's an important thing, especially for someone who's been named to be the next attorney general of the United States.

Even though you and I have never had the opportunity to discuss the intricacies of the rule against perpetuities or the difference between the doctrine of worthier title (ph) in the rule in Shelly's (ph) case, I get the sense that you would eagerly engage in such banter when the occasion arises. So maybe in a subsequent round, we'll have the opportunity to do that.

But this does raise a -- a discussion that I'd like to have with you about the role of the lawyer. As you know, a -- a lawyer understands who his or her client is. Anytime you are acting as a lawyer, you -- you've got a client. This is a simple thing if you're representing an individual because in almost every instance, unless the client is incapacitated, you know who the client is. The client has one mouthpiece, one voice, and you know what the interests of that client are and you can evaluate those based on the interests expressed by the client.

I gets a little more complicated when you're representing a corporate entity. Typically, you'll interact either with a general counsel or the chief executive officer. The bigger an entity gets, the more complex it gets. There might be some ripples in this relationship between the lawyer and the client.

In the case of the U.S. government and the attorney general's representation of that client, this is a particularly big and powerful client, and that client has many interests. In a sense, the client is, of course, the United States of America, but at the same time the attorney general is there, put in place by the president of the United States and serves at the pleasure of the president of the United States.

And so, in that respect, the attorney general has several interests to balance and must at once regard him or herself as a member of the president's Cabinet, remembering how the attorney general got there and can be removed at any moment by the president. And at the same time, the attorney general has the obligation to be independent, to provide an independent source of analysis for the president and for the president's team and Cabinet.

How do you understand these things as a former U.S. attorney, as a former line prosecutor and as a senator who served on the Judiciary Committee? You've had a lot of opportunities to observe this process. How do you see the proper balancing between all these interests from the standpoint of the attorney general?

SESSIONS:

That's a very insightful or probing question, and it touches on a lot of important issues that we, as attorney general, would need to deal with.

There are even sometimes these government agencies, like foreign countries, they negotiate memorandums of understanding that are akin to a treaty actually. They can't seem to work together, often times, in an effective way, and so the attorney general is required to provide opinions on that. The attorney general ultimately owes his loyalty to the integrity of the American people and to the fidelity to the Constitution and the legitimate laws of the country. That's what he's ultimately required to do.

However, every attorney general has been appointed by a president, or they wouldn't become attorney general. And they've been confirmed by the Senate or they wouldn't be made attorney general. And so, they do understand, I think, that if a president wants to accomplish a goal that he or she believes in deeply, then you should help them do it in a lawful way, but make clear and object if it's an unlawful action. That helps the president avoid difficulty. It's the ultimately loyalty to him.

And you hope that a president -- and I hope President-elect Trump has confidence in me so that if I give him advice, that something can be done or can't be done, that he would respect that. That's an important relationship too. But ultimately, you are bound by the laws of the country.

LEE:

Some of that, I assume, could come into play when you're dealing with a politically sensitive case or a case that is politically sensitive because it relates to a member of the administration or to the interplay between the executive branch and the legislative branch for example.

In some of those instances, there could be calls for a special prosecutor. On the one hand, this is a way of taking the attorney general out of the equation so that it can be handled in a manner that reflects a degree of separation between the administration and -- and the case. On the other hand, there are constitutional questions that are sometimes raised and sometimes people argue that this place is too much of a presumption that a special prosecutor will seek an indictment in order to justify the expense and the time put into appointing a special prosecutor.

For reasons that relate to the complexity of these considerations, there are of course guidelines in place that can help guide the determination to be made by the attorney general as to when, whether, how to put in place a special prosecutor. But even within these guidelines, there's a lot of flexibility, a lot of discretion at the hands of the attorney general in deciding how to do that.

Do you have anything you -- that you would follow? What can you tell us about what considerations you would -- would consider in deciding whether or not to appoint a special prosecutor?

SESSIONS:

Well, it is a -- not a little matter. It is a matter that's created controversy over the years.

I don't think it's appropriate for the attorney general just to willy nilly create special prosecutors. History has not shown that has always been a smart thing to do. But there are times when objectivity is required and the absolute appearance of objectivity is required, and perhaps, a special prosecutor is appropriate.

SESSIONS:

It -- the -- Attorney General Lynch, for example, did not appoint a special prosecutor on the Clinton matter and I did criticize that.

I was a politician. We had a campaign on. I didn't research the law in depth; it was just the reaction as a senator of a concern.

But there are -- should be -- great care should be taken in deciding how to make the appointment or if an appointment of a special prosecutor is required.

The Department of Justice, you're not required to be a judge, to be a prosecutor. One judge said there's nothing wrong with a prosecutor who likes his work and doesn't think laws should be violated. Is that a bias? I don't think so, I think that's strength. So I just would say that's kind of the way -- the best I can give you at this point, Senator Lee.

LEE:

Thank you. That's helpful.

Another challenging issue that relates to this duty of independence that attorneys general have relates to the Office of Legal Counsel. You know, it's of course -- the job of the Office of Legal Counsel, or OLC, as it's sometimes known, to issue opinions within the executive branch in a wide array of subjects. Some are subjects that a lot of people would find interesting.

Others are subjects that only a lawyer could love. And sometimes only a lawyer specializing in something esoteric or specific. There's -- one recent OLC opinion entitled "Completive Bidding Requirements Under the Federal Highway Aid Program," there aren't perhaps that many people who would find that interesting, but there are a lot of others that would capture immediately the public's interest.

What's significant about all of these though, no matter how broad or narrow the topic, no matter how politically sexy or dull the topic might be, they, in many instances almost conclusively resolve a legal question within the executive branch of government. And in many instances they're doing so on the basis of constitutional determinations that may or may not ever be litigated.

Such that the broaching of a constitutional topic might opened, studied and resolved entirely within the executive branch, largely as a result of how the lawyers within the Office of Legal Counsel decide to do their jobs.

What -- what can you tell me about what you would do, if confirmed, to ensure that the Office of Legal Counsel maintains degree of professional and independence requisite for this task?

SESSIONS:

Senator Lee, that office is important. It does adjudicate or actually opine on important issues related to conflicts of disputes within the great executive branch of the American government. Like you said, what kind of competition is required before you get a highway grant? There may be disagreement about that. OLC has asked to review it, and -- and stayed at one position. The government of the United States is wanting to. It's not a multiple government. These departments are not independent agencies.

And so that does -- that office is so exceedingly important as you indicate, because many times those opinions hold and they set policy and they effect things. Sometimes it also has the power and I'm sure you would be sensitive to, to expand or constrict the bureaucracies in their ability to execute under statutes.

In other words, is this within their power or is it not within their power? So there's some of the things like that that can impact the American people overtime in a significant way.

LEE:

Thank you.

GRASSLEY:

Senator Klobuchar?

KLOBUCHAR:

Thank you very much, Mr. Chairman.

Good to see you Senator Sessions. You and I have worked together on a number of bills, including leading the International Adoption Simplification Act, which I believe made a big difference to a lot of families in keeping their siblings together when they were adopted.

Senator Cornyn and I led the sex trafficking bill that passed last year and you have some important provisions in that. And then we worked together on law enforcement issues and I appreciate your respect and support that you have from the community and I also thank you for your work on drug courts. It's something we both share as former prosecutors and believe in the purpose of those courts.

KLOBUCHAR:

But I wanted to lead first with another part of the Justice Department's jobs and that's protecting civil rights and the right to vote. My state has the highest voter turnout in the last election of any state. We're pretty proud of that. And as county attorney for eight years, from Minnesota's biggest county, I played a major role in making sure that the election laws were enforced and that people who were able to vote could vote and that people who shouldn't vote, didn't vote.

Since the Voting Rights Act became law more than 50 years ago, we've made progress, but I've been very concerned about some of the movement by states to restrict access to voting in recent years. We haven't been able to pass the bipartisan Voting Rights Advancement Act forward last Congress and I just think it's an area that's going to be ripe for a lot of work going forward.

You and I talked about how at one point, you previously called the Voting Rights Act an intrusive piece of legislation and I wondered if you could explain that as well as talk about how you will actively enforce the remaining pieces of the act. That would be section two which prohibits voting practices or procedures that discriminate on the basis of race and section three, bail in (ph) provision through which most states can be subject to preclearance.

And you don't have to go into great detail on those two sections, you could do it later. But if you could just explain your views of the Voting Rights Act moving forward and what would happen in terms of enforcement if you were attorney general?

SESSIONS:

The Voting Rights Act passed in 1965 was one of the most important acts to deal with racial difficulties that we face and it changed the whole course of history, particularly in the south. There was a clear finding that there was discriminatory activities in the south, that a number of states was systematically denying individuals the right to vote. And you go back into the history and you can see it plainly.

Actions and rules and procedures were adopted in a number of states with the specific purpose of blocking African-Americans from voting and it was just wrong. And the Voting Rights Act

confronted that and it in effect targeted certain states and required any -- even the most minor changes in voting procedure, like moving a precinct across...

KLOBUCHAR:

So how would you -- how would you approach this going forward? For instance, the fifth circuits decision that the Texas voter ID law discriminates against minority voters. That was written by a Bush appointee. Do you agree with that decision? How would you handle this moving forward?

SESSIONS:

Well, I have not studied that. There's going to be a debate about it. Courts are ruling on it now and that is voter ID and whether or not that is an improper restriction on voting that adversely impacts disproportionately minority citizens. So that's a matter that's got to be decided.

On the surface of it, it doesn't appear to me to be that. I have publicly said I think voter ID laws properly drafted are OK. But as attorney general, it will be my duty to study the facts in more depth, to analyze the law. But fundamentally, that will -- can be decided by Congress and the courts as they interpret the existing law.

I did vote to extend the Voting Rights Act several years ago. I thought -- and it included section five, but later section five was eliminated by the Supreme Court on the basis that...

KLOBUCHAR:

And how about the...

SESSIONS:

... progress had been made and this -- and our intrusive question, let me answer that.

It is intrusive. The Supreme Court on more than one occasion has described it legally as an intrusive act because it only focused on a certain number of states. And normally, when Congress passes a law, it applies to the whole country. So it's a very unusual thing for a law to be passed that targets only a few states. But they had a factual basis. They were able to show that it was justified in this fashion.

So that's the foundation for it and that's why I supported it -- its renewal.

KLOBUCHAR:

And I think you'll understand as you look at this issue that there are many voters, people who are trying to vote that view some of these rules that are put in place as intrusive for them because it makes it harder for them to vote. And I think that is the balance that you're going to need.

(CROSSTALK)

KLOBUCHAR:

And I just -- I hope -- I just -- coming from a state that has such high voter turnout, that has same day registration, very good turnout in Iowa as well, right below us, states that have put in place some really expansive voter laws and it doesn't mean Democrats always get elected. We've had Republican governors in Minnesota. We have a Republican governor in Iowa. And I just point out that I think the more that we can do to encourage people to vote, the better democracy we have.

KLOBUCHAR:

And I want to turn to another quick question on a democratic issue as in (ph) a democracy issue that was raised by Senator Graham, and as Senator Whitehouse, I just returned with Senator's McCain and Graham from a trip to Ukraine, Baltics, Georgia, and learned there about how these intrusive cyber attacks are not just unique to our country, not just unique to one party, not just unique to one election. And they've seen that movie before in those countries.

And do you have any reason to doubt the accuracy of the conclusion reached by our 17 intelligence agencies that in fact Russia used cyber attacks to attempt to influence this last election? I'm not asking if you believe it influenced it, just if you believe the report of our intelligence agencies.

SESSIONS:

I have no reason to doubt that and have no evidence that would indicate otherwise.

KLOBUCHAR:

Thank you.

Violence Against Women Act, Senator Leahy asked some of those questions really important to me. You and I discussed it. I just have one question there. If confirmed, will you continue to support the lifesaving work being done by the Office on Violence Against Women?

SESSIONS:

Yes.

KLOBUCHAR:

OK. Thank you.

Immigration, you and I have some different views on this and I often focus on the economic benefits of immigration, the fact that we have 70 of our Fortune 500 companies headed by immigrants. At one point, 200 of our Fortune 500 companies were either formed by immigrants or kids of immigrants. Roughly 25 percent of all U.S. Nobel laureates were foreign born.

And just to understand in a state like mine where we have entry level workers in dairies (ph) are immigrants, major doctors at the Mayo Clinic, police officers who are Somali, if you see that economic of immigrants in our society.

SESSIONS:

Well, immigration has been a high priority for the United States. We've been a leading country in the world in accepting immigration. I don't think American people want to end immigration.

I do think that if you bring in a larger flow of labor than we have jobs for, it does impact adversely the wage prospects and the jobs prospects of American citizens. I think as a nation, we should evaluate immigration on whether or not it serves and advances the nation interests, not the corporate interests.

It has to be the peoples interests first and I do think too often we've -- Congress has been complacent in supporting legislation that might make businesses happy, but it also may have had the impact of pulling wages down. Dr. Borjas at Harvard has written about that. I think he's the world's perhaps most effective and knowledgeable scholar and he says that does happen, wages can be diminished.

And one of the big cultural problems we have today is middle class and lower class Americans have not -- lower class (ph) economically -- are not having the wage increases that we'd like to see them have. In fact, since 2000, wages are still down from what they were in 2000.

KLOBUCHAR:

I just see that we can do a mix of making sure that we have jobs for people here and then understanding that we're a country of immigrants.

SESSIONS:

On that subject, you're familiar with Canada.

PROTESTER:

(OFF-MIKE)

KLOBUCHAR:

OK.

PROTESTER:

And we are people of America. You have (inaudible). You are supported by hate groups (inaudible).

KLOBUCHAR:

Mr. Chairman, if I could just have another 30 seconds here, I had one -- one last question.

SESSIONS:

Maybe 45 seconds, Mr. Chairman.

I would just that you've come up close to the Canadian system, I think maybe some of those policies ought to be considered by the United States.

PROTESTER:

(OFF-MIKE)

KLOBUCHAR:

My last question, Mr. Chairman, is on the reporters issue. Free press, I believe, is essential to our democracy and I've always fought to ensure that those rights aren't compromised. My dad was a reporter, a newspaper reporter for years, and I'm especially sensitive to the role of the press as a watchdog.

You've raised concerns in the past about protecting journalists from revealing their sources. You did not support the Free Flow of Information Act. In 2015, the attorney general revised the Justice Department rules for when federal prosecutors can subpoena journalists or their records and he also committed to releasing an annual report on any subpoenas issues or charges made against journalists and committed not to put reporters in jail for doing their job.

If confirmed, will you commit to following the standards already in place at the Justice Department? And will you make that commitment not to put reporters in jail for doing their jobs?

SESSIONS:

Senator Klobuchar, I'm not sure, I have not studied that -- those regulations. I would note that when I was the United States attorney, we knew -- everybody knew that you could not subpoena a witness or push them to be interviewed if they're a member of the media without approval at high levels of the Department of Justice, that was in the 1980s. And so, I do believe the Department of Justice does have sensitivity to this issue.

There have been a few examples where the press and the Department of Justice haven't agreed on these issues, but for the most part, this is a broadly recognized and proper deference to the news media, but you could have a situation in which a media is not really the unbiased media we see today. And they could be a mechanism through which lawful intelligence information is obtained.

There are other dangers that could happen with regard to the federal government that normally doesn't happen to the media covering murder cases in the states.

KLOBUCHAR:

All right. Well, thank you. And I'll follow-up with that in a written question when you have a chance...

SESSIONS:

If you would, I would...

KLOBUCHAR:

Thank you, thank you.

GRASSLEY:

I call for the first time on a new member of the committee, Senator Sasse from Nebraska.

SASSE:

Mr. Chairman, thank you, thank you very having me.

Before I get started, I would like to enter into the record a letter of support from 25 current states attorney general, including Doug Peterson, the attorney general from my state of Nebraska. The letter reads in part "no one is more qualified to fill this role than Senator Sessions." This is obviously an important testimony from the top law enforcement officers of 25 states. I ask unanimous consent, Mr. Chairman to include this into the record.

GRASSLEY:

Without objection, it will be included. Precede Senator Sasse.

SASSE:

Thank you.

Senator Sessions, when you were introducing your grandkids -- and I'm amazed that they've stay around as long as they did, mine would have been more disruptive earlier. I was thinking about all the time I spend in schools and we have a crisis in this country of civic ignorance. Our kids don't know basic civics and we have a crisis of public trust in this country, in that many Americans presume that people in the city are overwhelmingly motivated by partisan perspectives, rather than the public good.

Tragically, our current president, multiple times over the last three or four years has exacerbated this political polarization, by saying he didn't have legal authority to do things and subsequently doing exactly those things, quite apart, from peoples policy perspectives on these matters.

This is a crisis when kids don't understand the distinction between the legislative and executive branches, and when American voters don't think that people who serve in these offices take their oaths seriously. It's not quite as simple as Schoolhouse Rock jingles on Saturday morning. But could you at least start by telling us what you think the place for executive orders and executive actions are?

SESSIONS:

That's a good question, and a good premise that we should think about. People are taught that Schoolhouse Rock is not a bad basic lesson in how the government is supposed to work. Legislatures pass laws, Congress -- the president executes laws, as does the entire administration, as passed by Congress or follows the Constitution and the judicial branch decides disputes. As a neutral umpire, an unbiased -- un-participant -- any if the sides to the controversy and does it objectively.

So I think every day that we get away from that is really dangerous. And it is true that if a president says I do not have this authority or others say the president doesn't have certain authority and then is done by the president, it confuses people. And it's a -- I think colleagues -- we too little appreciate something that's corrosive happening out in our country.

There is a feeling that judges just vote when they get a big case before them on what their political agenda is and not what the Constitution actually requires. That judges can redefine the meaning of words to advance an agenda they haven't that may not be the agenda of the American people and that inevitably is corrosive to respect the law.

SASSE:

Thank you, but take it get one step further, because there are going to be many cases, there will be many instances where the administration in which you are likely going to end up serving, will want to do things and they'll want to know what their limits of their executive discretion is.

It's pieces of legislation that have been passed around here in recent years, sometimes are well over a thousand pages, with all sorts of clauses, the secretary shall dot, dot, dot, fill in the law. So this Congress has regularly under reached an invited executive overreach. This Congress has regularly failed to finish writing laws, and then invited the executive branch to do it.

What are some of the markers that you could use to help understand the limits where the executive branch cannot go?

SESSIONS:

We really need to reestablish that. Professor Turley, Jonathan Turley has written about this. It's just powerful, it's certainly an objective voice, an American jurisprudence. And he says that Congress is just falling down on his job.

Now, of course there are two ways. One of them is that it writes laws that are too broad and I would urge all of you to be sure that when we pass a law or you pass a law, if I'm confirmed, that that law is clear and sets limits. When it doesn't set limits, then you can have the secretary of this agency or that agency claiming they have certain authorities and you end up with a very muddled litigation maybe resulting from it.

So re-establishing the proper separation of powers and fidelity to law and to limits is an important issue. And I think hopefully -- I think that's what you're suggesting.

SASSE:

Could you tell me under what circumstances, if any, you think the Department of Justice can fail to enforce a law?

SESSIONS:

Well, it can fail to enforce it by setting prosecutorial policies with regard to declining to prosecute whole chunks of cases, and in fact, eliminate a statute. If a new tax is passed and the Department of Justice says it can't be collected, then the law was not followed.

You also have circumstances in which you can redefine the statute or alter -- if we're talking about improper actions, it could expand the meaning of the words of the statute far beyond what Congress ever intended, and that's an abuse too.

SASSE:

Not to interrupt you too soon, but the improper, but also what is proper because this administration has made the case regularly that they need to exercise prosecutorial discretion because of limited resources. And obviously, there aren't infinite recourses in the world.

So what are some proper instances, in your view, when an administration might not enforce a law?

SESSIONS:

Well, critics of the immigration enforcement, the DAPA and the DACA laws, said that the prosecutorial discretion argument went too far, it basically just eliminated the laws from the books.

Secondly, with regard to that, the president's realm -- the order came from Homeland Security, not from the Department of Justice. But Homeland Security's order not only said we're not going to enforce the law with regard to certain large classifications of people, but those people who had not been given the legal status under the laws of the United States were given photo IDs, work

authorization and Social Security numbers and the right to participate in these government programs that would appear to be contrary to existing law.

So that would me -- to me, suggest an overreach.

SASSE:

And in parallel before the courts, what instances would it be legitimate, if any, for the solicitor general to not defend the law in court?

SESSIONS:

That's a very good question, and sometimes, it becomes a real matter.

In general, the solicitor general as part of the Department of Justice and the executive branch, states the position of the Department of Justice. And it has a duty, the Department of Justice does, to defend the laws passed by this body, by Congress. And they should be defended vigorously, whether or not the solicitor general agrees with them or not, unless it can't be reasonably defended.

And so sometimes, you reach a disagreement about whether or it's reasonably defensible or not. But that's the fundamental question and the Department of Justice should defend laws that Congress passed unless it's -- they're unable do so, in a reasonable way.

SASSE:

What is the place of independent agencies in a unified executive branch? And do you envision that you will be making any recommendations to the president to reign in independent agencies in an effort to preserve the constitutional distinction between the powers of the Congress and the administrative responsibilities of an executive branch?

SESSIONS:

Senator, that's a good question, kind of a historic question at this point in time because it does appear to me that agencies oftentimes see themselves as independent fiefdoms. And sometimes you even hear the president complain about things clearly under his control.

I remember President Clinton complaining about the death penalty processes of the Department of -- federal government when he appointed the attorney general who had just appointed a committee to make sure the death penalty was properly carried out.

So I mean, like, who's responsibility is this? You're in charge of -- you can remove the attorney general if you're not happy. So those kind of things do continue out there that we need to be careful about and I thank you for raising it.

SASSE:

I have less than a minute left, so last question but going back to something that Senator Lee was asking about.

Could you give a top line summary of what you view the responsibilities of the OLC to be and what the relationship would be between the OLC, the Office of the Attorney General, and the White House?

SESSIONS:

Well, OLC has statutory duties to make opinions. The OLC team reports to the attorney general, who could reverse I suppose or remove the OLC head, the deputy attorney general, if he thought those -- that department was not following the law.

But essentially, they are given the power as attorney general -- I had an opinions section in Alabama. And they rendered opinions on a whole host of matters when called upon from school boards and highway departments and that sort of thing. So this OLC does represent a key position in the Department of Justice.

They must have extraordinary legal skill. They have to be terrific lawyers. They have to understand the constitutional order of which we are a part and they should render objective decisions day after day, week after week. Ultimately, the responsibility of the president and the attorney general is to ensure that we have that kind of quality at OLC.

SASSE:

Thank you.

GRASSLEY:

Senator Franken?

FRANKEN:

Thank you, Mr. Chairman.

Senator, congratulations on your nomination.

SESSIONS:

Thank you.

FRANKEN:

In 2009, when you became the ranking Republican on this committee, you were interviewed about how you would approach the committee's work and nominations specifically. You said that

Democrats should expect you to be fair because you had been through this process yourself back in 1986 and you felt that back then, the committee had distorted your record.

You said that moving forward, quote, "we're not going to misrepresent any nominees' record and we're not gonna lie about it," unquote. And we certainly don't wanna do that to our colleague. But I also think it's fair to expect that sitting before us today that you're not going to misrepresent your own record. That's fair to say, right?

SESSIONS:

That is fair.

FRANKEN:

Good.

Now, in that same interview, you said, quote, "I filed 20 or 30 civil rights cases to desegregate schools and political organizations and county commissions when I was the United States Attorney." So 20 or 30 desegregation cases. Did I miss read that quote?

SESSIONS:

I believe that's what I've been quoted as saying and I suspect I said that.

FRANKEN:

OK.

OK. Now, that was 2009, but in November, your office said, quote, "When Senator Sessions was U.S. attorney, he filed a number of desegregation lawsuits in Alabama," not 20 or 30 this time, but a number. So tell me, did you file 20 or 30 desegregation cases or is it some other number?

SESSIONS:

Well, thank you, Senator Franken. It is important for us to be accurate. The records don't show that there were 20 or 30 actually filed cases. Some of the cases involved multiple defendants and multiple parties like a school board and a county commission being sued for racial discrimination, things of that nature.

But the number would be less than that, as we've looked at. So I...

FRANKEN:

What -- what do you think would've caused you to say...

SESSIONS:

I don't know, I...

FRANKEN:

... that you filed 20 or 30 desegregation cases?

SESSIONS:

Well, we had cases going throughout my district. And some of them were started before I came and continued after I left. Some of them were brought and then settled promptly.

And so it was extraordinarily difficult to actually I was surprised, to get a record by checking the docket sheets (ph) to find out exactly how many cases were involved. I heard one lawyer from the Department of Justice agreed with that large number...

FRANKEN:

Let me move on...

SESSIONS:

... but I don't -- that record doesn't justify it.

FRANKEN:

The questionnaire you submitted for today asked you to list and describe the, quote, "10 most significant litigated matters you personally handled" -- personally handled. And among the cases that you listed, that you personally handled, are three voting rights cases and a desegregation case.

Last week, I should note, three attorneys who worked at DOJ and who actually brought three of the four cases wrote an op-ed piece in which they say, quote, "We can state categorically that Sessions had no substantive involvement in any of them." Now, you originally said that you personally handled three of these cases, but these lawyers say that you had no substantive involvement.

Chairman Grassley, I would ask that that op-ed from last Tuesday's Washington Post be entered into the record.

GRASSLEY:

Without objection, it will be entered.

FRANKEN:

Are they distorting your record here?

SESSIONS:

Yes. In fact, one of the writers there, Mr. Hebert, spent a good bit of time in my office. He said I supported him in all the cases he brought; that I was more supportive than almost any other U.S. attorney; and that I provided office space. I signed the complaints that he brought. And as you know, may know, Senator Franken, when a lawyer signs a complaint, he's required to affirm that he believes in that complaint and supports that complaint and supports that legal action, which I did. We sued...

FRANKEN:

So that's your -- that's your personal involvement was that your name was on it?

SESSIONS:

Well, look, you can dispute the impact or the import of the questionnaire. Another attorney who - - Paul Hancock, who brought cases in our district, said, "Well, the attorney general claimed credit for the cases in the Department of Justice." He saw nothing wrong with my claiming that this was a case that I had handled.

FRANKEN:

OK. Two of the...

SESSIONS:

So you can disagree with that, but those cases have my signature on -- on the docket sheet. My name is listed number one as the attorney for the case.

FRANKEN:

OK. Look, I'm not a lawyer. I'm one of the few members of this committee who didn't go to law school. And usually I get by just fine, but it seems to me that a lawyer -- if a lawyer has just his name added to a document here or a filing there, that lawyer would be misrepresenting his record if he said he personally handled these cases.

Two of the lawyers who wrote the op-ed have also submitted testimony for today's hearing -- Mr. Gerry Hebert and Mr. Joe Rich. Mr. Hebert says, quote -- says he, quote, "litigated personally two of the four cases" you listed. He said, "I can state with absolute certainty that Mr. Sessions did not participate in either." Mr. Rich worked on one of the four cases you listed. He said, quote, "I never met him at that time nor any other time, and he had no input to the case."

These represent three of the four cases that you claimed that were among the top 10 cases that you personally handled.

Now, in your 1986 questionnaire, you used phrases like, quote, "I prepared and tried the case as sole counsel." And quote, "I was the lead prosecutor on this case," assisted by so and so. Why didn't you use the same level of detail in your 2016 questionnaire?

SESSIONS:

In looking at this questionnaire, we decided that that was an appropriate response, since it was major historic cases in my office. Let me just reply, Senator Franken, in this fashion. Mr. Hebert in 1986 when he testified at my hearing said, quote, "We have had difficulty with several U.S. attorneys in cases we have wanted to bring. We have not experienced that difficulty in the cases I have handled with Mr. Sessions. In fact, quite the contrary," close quote.

He goes on to say, "I've had occasion numerous times to ask for his assistance and guidance. I have been able to go to him and he has had an open-door policy, and I've taken advantage of that and found him cooperative." And that is an accurate statement.

I don't know Mr. Rich. Perhaps he handled a case that I never worked with. He goes on to say...

(CROSSTALK)

SESSIONS:

No, I want to -- you've raised this question...

FRANKEN:

One of the cases that you listed was a case that Mr. Rich handled. So if you don't know him, it's hard for me to believe that you personally handled it.

SESSIONS:

Well, when I found that -- these cases, I had been supportive of them.

FRANKEN:

You have filed...

SESSIONS:

Here I was, Mr. Hebert says, quote, "And yet I have needed Mr. Sessions's help in those cases and he has provided that help every step of the way. In fact, I would say that my experience with Mr. Sessions has led me to believe that I have received more cooperation from him, more active involvement from him, because I have called upon him," close quote.

Quote, "I have worked side by side with him on some cases in the sense that I have had to go to him for some advice," close quote.

FRANKEN:

In some cases -- not necessarily the ones you listed.

SESSIONS:

Well, look, it was 30 years ago. And my memory was of this nature and my memory was my support for those cases.

FRANKEN:

Your memory. OK. Look, I am not -- I'm one of the few members of this committee who's not a lawyer -- the chairman and the ranking aren't. But when I hear "I filed a case," you know, I -- I don't know some of the parlance. It might have a special meaning in legal parlance, but to me as a layman, it sounds to me like "filed" means "I led the case" or "I supervised the case."

It doesn't mean that my name was on it. And it seems to me -- look, I'll close, Mr. Chairman -- setting aside any political or ideological differences that you or I may have, DOJ is facing real challenges whether it's protecting civil rights or defending national security. And our country needs an attorney general who doesn't misrepresent or inflate their level of involvement on any given issue.

I consider this serious stuff, as I know that you would if you were in my position.

SESSIONS:

Well, you are correct, Senator Franken. We need to be accurate in what we say. When this issue was raised, I did do a supplemental that said I "provided assistance and guidance to Civil Rights Division attorneys; had an open-door policy with them; and cooperated with them on these cases," close quote.

I signed them. I supported cases and attempted to be as effective as I could be in helping them be successful in these historic cases. I did feel that they were the kind of cases that were national in scope and deserved to be listed on the form. If I'm in error, I apologize to you. I don't think I was.

FRANKEN:

Well, you couldn't find 20 or 30 desegregation cases that you stated you had participated in. And you don't sound like you personally handled cases that you said you personally handled. Thank you.

SESSIONS:

Well, I was on a radio interview without any records, and that was my memory at the time.

GRASSLEY:

I think you answered the question.

FRANKEN:

Thank you.

GRASSLEY:

Senator Flake, now it's 12:59, so at 2:09 we will adjourn for lunch. I'll be back here then at 2:39, and whoever is present will start then. But I hope everybody can be back here at least by 2:45. Well, whatever -- I got...

(LAUGHTER)

You know what I mean. Go ahead, Senator Flake.

FLAKE:

Well, thank you.

Are you saying we're adjourned or I'm going?

GRASSLEY:

Oh, you go ahead.

FLAKE:

OK. All right. Great. It's always nice being the last one standing between lunch.

GRASSLEY:

Let's have order for Senator Flake.

FLAKE:

I just want to say at the outset how much I've enjoyed working with you and being your colleague. I appreciate having you as a friend.

It's no secret we've had a difference of opinion on immigration legislation that we put forward. You've had different ideas. But I have no doubt that as attorney general, you will faithfully execute the office. And I appreciate the answers that you've given today.

FLAKE:

Let me ask unanimous consent to submit a column written by our own attorney general in Arizona, Mark Brnovich, for The Hill newspaper this week, supporting your...

GRASSLEY:

Without objection it'll be include.

FLAKE:

He's supporting your nomination.

Let me talk to you about an aspect of immigration that's important in Arizona. As you know we have a large border with Mexico. We have a program called Operation Streamline that has, over the years, been tremendously effective in cutting down recidivism in terms of border crossers.

What it is basically it's intended to reduce border crossing by expeditiously prosecuting those who enter the country illegally over -- under a no tolerance or zero tolerance policy. It's credited with being instrumental in achieving better border security, specifically in the Yuma Sector, along the western side of Arizona's border with Mexico.

Nevertheless, in recent years the U.S. Attorney's Office for the District of Arizona adopted a policy that ended prosecutions for those who cross, but for -- well without criminal history other than simply crossing the border.

I've asked Attorney General Holder and Attorney General Lynch, as well as Secretary Johnson at Homeland Security on what is being done here and I haven't gotten a straight answer. No matter how many times I ask the question. So I'm looking forward to a little more candor here.

As attorney general, if you're confirmed, what steps will you take to restore Operation Streamline to a zero tolerance approach that's been so successful in Arizona -- in a portion of Arizona's border.

SESSIONS:

Thank you. Senator Flake, I have enjoyed working with you and I know the integrity with which you bring your views on the immigration system.

Like you, I believe that Streamline was very effective, and it was really surprised that it's been undermined and significantly.

The reports I got initially, some years ago, maybe a decade or more ago, was that it was dramatically effective. And so I would absolutely review that and my inclination would be, at least

at this stage, to think it should be restored and even refined and made sure it's lawful and effective. But I think it has great positive potential to improve legality at the border.

FLAKE:

All right. Well, thank you. It's been effective in Yuma and I can tell you there's concern there among the Sheriff's Office, Sheriff Wilmot and others, concern that we're seeing an increase in border crossings simply because the cartels understand very well where there's a zero tolerance policy and where there is not. Word spreads.

And we could quickly get to a situation where we have a problem in the Yuma sector like we do in the Tucson sector. Is there any reason why we haven't expanded this program to the Tucson sector if it's been successful elsewhere?

SESSIONS:

I do not know what reason that might be. It seems to me that we should examine the successes and see if they can't be replicated throughout the border.

FLAKE:

All right. Well, thank you. I look forward to working with you on that.

SESSIONS:

I appreciate that opportunity to work with you on that because I've long felt that's the right direction for us to go.

FLAKE:

Thank you. When we have a successful program it's difficult to see it scrapped. And to see the progress that's been made in certain parts of the border done away with.

Let me get to another subject here. Victim's rights, this is an area of the law that you've show particularly interest in over your time as a Senator.

I have with me letters of support for your nomination from various victims groups and advocates. The Victims of Crime and Leniency, Verna Watt (ph), Victims of -- and Friends United, op-ed by Professors Paul Kassel (ph) and Steve Twist (ph), all in support of your nomination. I'd ask that these documents be placed as part of the record.

As attorney general, what steps will you take to insure that victim's rights are protected?

SESSIONS:

We cannot forget victim's rights. We have a victim witness legislation that creates, within each United States Attorney's Office, a victim witness coordinator. And the job of that person is to make sure that concerns of the victims are heard. If they have to come to court, to help them get there, to make sure that they don't feel threatened and are protected.

SESSIONS:

That's a direct response -- the Department of Justice in the criminal justice system as directed by Congress. So I really think that's one step. And that's the fundamental mechanism -- I think Senator Kyle was a strong advocate for that, and it helped really improve the treatment of victims in -- in federal criminal cases. There's just no doubt about it.

FLAKE:

Well, thank you. I was going to note the presence of former Senator Kyl, my predecessor in this office who did so much work in this area, partnering with you. So thank you for that answer.

SESSIONS:

I'm honored that he's giving of his time to assist me in this effort, honored very greatly.

FLAKE:

Thank you.

Let's talk about Prison Rape Elimination Act. It was mentioned previously, I think, by Senator Collins. As attorney general, you not only led the Department of Prosecutors and Law Enforcement Officers, but also the bureau -- you will lead, not only the Department of Prosecutors, Law Enforcement Officials, but also the Bureau of Prisons.

You'll be responsible for 190,000 federal inmates currently in custody. This is an often overlooked part of the attorney general's role, but it's an important part of the position that you're being nominated for. I believe one of the highlights in your record, in the Senate, is your leadership in passing the Prison Rape Elimination Act of 2003, or PREA.

Which passed both chambers without objection and was signed into law by George W. Bush, this was a bipartisan bill. You worked across the aisle with the late Senator Kennedy, as well as with Republican Representative Frank Wolf, Democrat Representative Bobby Scott in the House and I have letters of support from anti-prison rape activists that I'd also like to put as part of the record, without objection if I could.

GRASSLEY:

Without objection.

FLAKE:

Thank you, thank you.

With the law approaching its 15th anniversary, 11 states have certified that they're in compliance with the national standards and of the 41 states and territories have provided assurances that they're working toward compliance. Only four states and territories have chosen not to participate. Is PREA meeting the expectations you had for it when you introduced the bill in 2003?

SESSIONS:

I don't think there's any doubt that it's improved the situation. As to whether it's reached its full potential, I don't think I'm able to tell you with certainty, but I certainly think it's made a positive difference. You know, it was a special time for me, Senator Kennedy was a strong critic of me in 1986.

And he said, you know, as we were working on this, he said, I've wanted to work with you on legislation like this, and I think it was sort of a reconciliation moment. We also worked on another major piece of legislation for several years. It would have been rather historic, but it was private savings accounts for lower wage workers in America that, I guess, the financial crisis of '07 or some things happened that ended that prospect.

But, I believe, that it's important for American people to know, that when an individual is sentenced to prison, they're not subjected to cruel and inhuman punishment under the Constitution at a minimum.

And I -- the idea that was so widely spread, that there's routine sexual abuse and assaults in prisons and other kind of unacceptable activities was widespread in our media and widespread among the American people.

One of our goals was, to establish just how big it was to require reporting to -- and create circumstances that in -- that -- that helped insure that a person who should be prosecuted for violence in the prison actually do get prosecuted was a real step forward. We do not need to subject prisoners to anymore punishment than the law requires.

FLAKE:

Thank you. And just the remaining seconds I have, let me just say, there's another area that we have worked on and -- and hopefully can continue to work on and that's the area of duplicative DOJ grants.

As you know, department awarded approximately \$17 billion in grants over the years. OIG reports, GAO reports, have all shown that there's duplication and waste, sometimes fraud and abuse. We continue to commit to work to root out this kind of duplicative action there.

SESSIONS:

Well, I know you've had a -- a history of being a staunch defender of the Treasury against those who would abuse it, and I believe the same way. It's the taxpayer's money. Every dollar that's extracted from an American citizen, that goes into the government needs to get productive, valuable activities. And any of it that's delivered for political and insufficient reasons is a cause of great concern.

I will make it a priority of mine to make sure that the dollars that we have are actually getting to the purposes they're supposed to go for. It's one thing to say, I did a great thing. I got more money for this good purpose, but did it really efficiently and effectively go there? Did it really make a positive difference? So I think the Department of Justice can utilize those grant programs to help valuable activities and it needs to guard against improper activities.

FLAKE:

Thank you Senator Sessions. Thank you Mr. Chairman.

GRASSLEY:

We'll break for about 30 minutes. We'll reconvene at 1:40. Senator Coons will be next up and he's indicated he will be here on time.

So, recess for now.

(RECESS)

GRASSLEY:

Before I call on Senator Coons, I want to explain why one of the members on my side of the aisle can't be here. Senator Tillis is attending -- is unable to attend Senator Sessions' confirmation hearing today because his brother is being sworn in to the Tennessee General Assembly. So he's asked me to have his statement submitted into the record and it signals his strong support for Senator Sessions.

He also -- Senator Sessions, he also wants me to know that he'll submit questions for you to answer in writing.

Senator Coons, as we announced before, will be the first one this afternoon to (ph) proceed.

And Senator Sessions, if there's any -- I won't know unless you tell me. If there's any sort of 15 minute break or anything you need, let me know.

SESSIONS:

Thank you Mr. Chairman.

GRASSLEY:

We'll do that at the end of some person asking questions.

Senator Coons.

COONS:

Thank you, Chairman Grassley.

Welcome Senator Sessions. Congratulations to you and Mary and your whole family on your nomination.

The position of attorney general of the United States is one of the most important positions on which this committee will ever hold hearings and the next attorney general of the United States will assume leadership of the Justice Department on the heels of an election in which there were many issues thrown about in the course of the campaign, some of which have been asked about previously; calls for a Muslim ban or patrols, issues of a potential Russian cyber attack affecting our democracy, calls for mass deportations and chants at some rallies to lock her up for one of the candidates.

And given the divisiveness of this election, I think it is critical that the next attorney general be well suited for this position and this time. And as such, I think a successful nominee has to be able to persuade this committee that he will act fairly and impartially administer justice and advance justice for all Americans.

Senator Sessions, we've served on this committee together for six years and we've worked well together on a few issues, on state and local law enforcement issues, on the reauthorization of the Victims of Child Abuse Act and on the restoration of funding for federal public defenders and I appreciate that partnership.

But there's also been many issues on which we disagreed, issues from immigration to civil liberties to civil rights to criminal justice, voting rights and torture, and I am concerned about your views on a number of these issues as we discussed when we met last week. So I am grateful to the chairman and to you that we're going to have a full and fair hearing on all of these issues today.

Let me start with some questions about your time when you were Alabama attorney general and how you understood some direction you received from the U.S. Department of Justice. At that point, Alabama was the only state in the country that handcuffed prisoners to hitching posts and we talked about this when we met before and I said I would ask you about this in this hearing.

A hitching post was used as a punishment for prisoners perceived as being unwilling to work or participate in the daily lives of the prison, whether serving on a chain gang or participating in work, and they would be cuffed by both wrists to a pole at chest height, sometimes for seven, eight or nine hours unprotected from sun, heat or rain without access in some cases to water or even a bathroom. And as the attorney general, you and the governor received letters from the U.S.

Department of Justice telling you that Alabama's use of the hitching post in both men and women's prisons was unconstitutional and unjustified.

But as I understand it, the use of the hitching post continued throughout your term and you did not act to stop it. During this same period, the state of Alabama was sued not just about hitching posts, but also about chain gangs. Prison policies in Alabama said a man could be put on a chain gang if he failed to shave or keep his bed clean, if he disrespected a member of the staff and would end up doing hard labor breaking rocks while being chained together in groups of five, shackled with eight feet of chain between men.

And these practices, the case that was brought demonstrated, were disproportionately affecting African-Americans. In later litigation, the practice of using the hitching post was called by an Alabama judge the most painful and torturous punishment in Alabama short of electrocution. And in 2002, the United States Supreme Court said using the hitching post was clearly unconstitutional when it was used in Alabama.

Can you please, Senator, tell me your view today of the use of the hitching post and chain gang in Alabama corrections and what your view is of what action you would take today if these practices were restored?

SESSIONS:

Thank you very much, Senator.

That was an issue of (ph) the governor who campaigned and promised that prisoners should work and he was determined to make that happen. I believe the litigation occurred after my time as attorney general according to my records, but we could be wrong. I'll supplement the records for you. Certainly, the decision by the Supreme Court and federal courts were after I left office, I believe.

So, working of prisoners is an issue that we've dealt with in the Congress of the United States and by state legislatures. I think good employment of a prisoner is a healthy thing. I do not favor, personally, this kind of work. I think it should be more productive work, work kind of help the individual develop a discipline that they could use when they go on to private life after they leave prison.

After the Supreme Court ruling, I think it's crystal clear what the law is. That was disapproved and disallowed and found to be found unconstitutional and I would absolutely follow that as attorney general.

COONS:

In your view, did it take a ruling by the U.S. Supreme Court to clarify that this constituted torture, that it was just not bad corrections policy, it was actually substantively torture of prisoners?

SESSIONS:

Senator Coons, I don't -- I'm not -- I don't recall ever personally being engaged in the studying of the constitutional issues at stake. It's perfectly legitimate for prisoners to work, but they should be on decent conditions and I think it should be the kind of work that's productive and it could actually lead to developing good habits. I heard some evidence on that subject.

So I do not have a legal opinion about the case; I have not studied the details of it.

COONS:

Just to be clear, what I was -- I -- what I was pressing you on there was the use of the hitching post, which is a disciplinary measure that had been abandoned by all states but Alabama. It's really reminiscent more of the stocks, the stockade that was used centuries ago, and to me somewhat troubling that it continued without -- without challenge.

Let me ask you more broadly. As you know, both Republicans and Democrats on this committee have worked together to address ways in which our criminal justice system is broken and to address the disparate racial impact of over-incarceration that's resulted the last 30 years. Senator Tillis and I just yesterday published an op-ed that we wrote jointly about the importance of responsible balanced criminal justice reform and Senators Grassley and Cornyn, Lee, Graham and Flake all your fellow Republicans, have supported meaningful reforms to address excessive mandatory sentences and incarceration.

And in my experience here in six years with you, you have steadfastly opposed all of these efforts at bipartisan sentencing reform. Help me understand why you've blocked efforts at reducing mandatory minimum sentences, at creating opportunities for the revisitation of sentences that may have been overly harsh when initially imposed and help me understand whether you think it is ever proper for a prosecutor to charge anything less than the most serious offense available and carrying the longest sentence.

SESSIONS:

Well, there's a lot of questions there, Senator Coons.

COONS:

Yes.

SESSIONS:

So, the -- the Sentencing Act has one foundational requirement now, and that's the minimum mandatories. The guidelines have been either made voluntary by the sentencing commission in the courts and the policies of the attorney general. So the thing that does stand in place are the minimum mandatories, the minimum that can be sentenced for a certain offense.

I offered legislation in 2001, it was opposed by the Bush Justice Department, that would have reduced the sentencing guidelines. And in fact, a number of years later, unfortunately, essentially could have been done in 2001, when I made a speech in favor of it. I made a speech saying what you are saying, that it was disproportionately impacting our African-American community and we needed to fix it and eventually that was passed. So I have a record of doing that, number one.

Number two, so these other things happened in the meantime, the guidelines were reduced. The Justice Department has reduced its requirements. The Justice Department now allows a prosecutor to present a case to the judge that doesn't fully reflect the evidence that they have in their files about a case. That's a problematic thing. You shouldn't charge, I think -- it's problematic and difficult to justify a prosecutor charging five kilos of heroin when the actual amount was 10 to get a lower sentence.

Now, there may be circumstances when somehow, proof and other issues could justify that, but I just would say, as a principle, you've got to be careful about it.

Finally, colleagues, sentencing guidelines are within the breast of the Congress, they're mandated by law. I was concerned about what we're seeing as a -- beginning to see a rising crime, and the same time, a decline in sentences.

Sentences are down 19 percent already, as a based on (inaudible) and guidelines changes. So that's a matter of interest, and I felt we should slow down a bit before we go further...

COONS:

Well if I might...

SESSIONS:

... and make sure we're not making a mistake, Senator Coons.

COONS:

It is my hope that if you are confirmed, and we do make progress on bipartisan criminal justice reform, that as attorney general, you will carry out whatever legislative decisions might be made by this body.

But last, let me just say that in my six years here, in addition to not working with us on a number of bipartisan proposals on criminal justice reform, you've been one of the few senators to repeatedly and steadfastly vote against congressional attempts to prohibit torture in the military context or in the interrogation context and to repeatedly defend enhanced interrogation practices.

Are you clear now that our statutes prohibit torture and if the president were to attempt to override that clear legal authority, what actions would you take?

SESSIONS:

On your previous question, I would note that federal prison population has already dropped 10 or more percent, and will drop another 10,000 this year. So what's happening now is reducing the federal population. This law only dealt with the federal prison population and that represents the most serious offenders. Our federal DEA and U.S. attorneys are prosecuting more serious cases.

With regard to the torture issues, I watched them for some time and have been concerned about what we should do about it. This bill that passed last time was a major step. I thought it was really not the right step. Senator Graham, I know has been an opponent of torture steadfastly and supported a lot of different things, opposed it.

It basically took what I was teaching, these -- the young soldiers at the Army Reserve Unit as a lecturer, as a teacher, the fet (ph) -- Army Field Manual, and it made that the law for the entire government, including the intelligence agencies and other departments. I thought that was an unwise step, to take something that directs even the lowest private to do, to make that the rule for higher ups.

COONS:

Well, Senator...

SESSIONS:

But (inaudible) the law, it is a law, and it needs to be enforced, absolutely.

COONS:

As we both know, there was a bipartisan effort to review the -- our experience with enhanced interrogation...

SESSIONS:

It was...

COONS:

... and concluded it was not effective.

SESSIONS:

Yeah, it was, and of course Senator Graham and JAG officers -- I was for a little bit.

GRASSLEY:

(inaudible).

CRUZ:

Thank you, Mr. Chairman.

Senator Sessions, congratulations on your nomination.

SESSIONS:

Thank you.

CRUZ:

You are a friend, you are a man of integrity. You and I have worked closely together on this committee, on the Armed Services Committee, and I have every confidence you are going to make a superb attorney general.

You know, this has been an interesting day at this hearing, listening to Democratic senator after Democratic senator give speeches in praise of the rule of law. And I am heartened by that, I am encouraged by that, because for eight years, it's been absent.

For eight years we've seen a Department of Justice consistently disregarding the rule of law. When Eric Holder's Department of Justice allowed illegal gun transactions, illegally sold guns to Mexican gun traffickers as part of Fast and Furious, guns that were later used to murder border patrol agent Brian Terry, the Democratic members of this committee were silent.

When Eric Holder was found in contempt of Congress, for refusing to cooperate with Congress' investigation into Fast and Furious, once again the Democratic members of this committee were silent. When the IRS illegally targeted United States citizens for exercising the First Amendment views, for exercising their roles in the political process, Democratic members of this committee were silent.

When the Department of Justice refused to fairly investigate the IRS targeting citizens and indeed assigned the investigation to a liberal partisan Democrat who had given over \$6,000 to President Obama and Democrats, Democrats on this committee were silent.

When numerous members of this committee called on the attorney general to appoint a special prosecutor to ensure that justice was done in the IRS case, Democrats on this committee were silent. When the Justice Department began using Operation Choke Point to target law-abiding citizens that they disagreed with politically...

PROTESTER:

(inaudible) you are racist. You have tried to (inaudible). You are -- you caused (inaudible) organization. Black lives matter. Black lives matter. Black lives matter. Black lives matter.

PROTESTER:

(inaudible) deportation.

PROTESTER:

(inaudible) white nationalist. Black lives matter.

PROTESTER:

(inaudible) do not protect the rights of African-Americans, Muslims, or immigrants. Senator, (inaudible). Senator, (inaudible). Senator, (inaudible).

CRUZ:

You know, free speech is a wonderful thing.

When the Department of Justice used Operation Choke Point to target legal businesses because they disagreed politically with those businesses, the Democrats on this committee were silent.

When the Obama Justice Department sent millions of dollars of taxpayer money to sanctuary cities that were defying federal immigration law, the Democrats on this committee were silent. When the Obama administration refused to enforce federal immigration laws and unilaterally rewrote those laws, the Democrats on this committee were silent.

When the Obama administration released tens of thousands of criminal illegal aliens, including rapists and murderers, into the general population, Democrats on this committee were silent. When the Department of Justice signed off on the Obama administration paying a nearly \$2 billion ransom to Iran contrary to federal law, the Democrats on this committee were silent.

When the Obama administration ignored and rewrote provision after provision of Obamacare, contrary to the text of the law, the Democrats on this committee were silent. When the Obama administration signed off on illegal recess appointments that the Supreme Court had to strike down unanimously, the Democrats on this committee were silent.

And when the Obama administration released five Guantanamo terrorists without the required notification of Congress, the Democrats on this committee were silent. That pattern has been dismaying for eight years, but I take today as a moment of celebration. If once again this committee has a bipartisan commitment to rule of law, to following the law, that is a wonderful thing, and it is consistent with the tradition of this committee going back centuries.

Now, if we were to play a game of tit for tat, if what was good for the goose were good for the gander, then a Republican attorney general should be equally partisan, should disregard the law, should advance political preferences favored by the Republican party.

Senator Sessions, do you believe that would be appropriate for an attorney general to do?

SESSIONS:

No, I do not. I believe you -- and I think we do have to be aware that when something like this is done, and some of the things I'm familiar with enough to agree with you, that I thought were improper, I do believe it has a corrosive effect on public confidence in the constitutional republic of which we are sworn to uphold.

CRUZ:

I think you are exactly right. You and I are both alumni of the Department of Justice, and it has a long, bipartisan tradition of staying outside of partisan politics, of simply and fairly enforcing the law. I will say right now, if I believed that you would implement policies, even policies I agreed with, contrary to law, I would vote against your confirmation.

And the reason I am so enthusiastically supporting your confirmation, is I have every degree of confidence you will follow the law faithfully and honestly. And that is the first and most important obligation of the attorney general.

Now earlier in this hearing, Senator Franken, engaged you in a discussion that I think was intended to try to undermine your character and integrity. And in particular, Senator Franken suggested that you had somehow misrepresented your record.

It is unfortunate to see members of this body impune the integrity of a fellow senator with whom we have served for years. It is particularly unfortunate when that attack is not backed up by the facts. Senator Franken based his attack primarily on an op-ed written by an attorney, Gerald Hebert.

There is an irony in relying on Mr. Hebert because, as you well know, in 1986, during your confirmation hearing, Mr. Hebert testified then and attacked you then, making false charges against you and, indeed, I would note in the 1986 hearing two days later, Mr. Hebert was forced to recant his testimony to say that he had given false testimony to this committee and, indeed, to say quote, "I apologize for any inconvenience caused Mr. Sessions or this committee by my prior testimony."

So, an individual who's testified falsely once before this committee, his op-ed is now the basis for Senator Franken's attack on you. And, indeed, the basis of Senator Franken's attack, is he claims you were uninvolved in several civil rights cases that were listed on your questionnaire. In 1986 Mr. Hebert testified -- this is a quote from him, "I have needed Mr. Session's help in those cases, and he had provided that help every step of the way."

Is that correct that that's what Mr. Hebert testified?

SESSIONS:

Yes, that's correct.

CRUZ:

Now, in the four cases Senator Franken referred to, you reported all four of them in your supplement to the Judiciary Committee, is that right?

SESSIONS:

That is correct.

CRUZ:

Mr. Franken didn't mention that and let me point out here's how you described your involvement in your written submission to this -- to this committee.

Quote, "for the cases described in two, four, eight, and nine, my role, like most U.S. Attorneys in the nation and not with non-criminal civil rights cases, was to provide support for the Department of Justice Civil Rights Division's attorneys."

"I reviewed, supported, and co-signed complaints, motions, and other pleadings and briefs that were filed during my tenure as U.S. Attorney. I provided assistance and guidance to the civil rights attorneys, had an open-door policy with them, and cooperated with them on these cases. For the cases described in six, I supervised litigation and signed the pleadings."

Now that is consistent with the 1986 testimony that you provided help every step of the way. Is that correct?

SESSIONS:

Well, I think so, yes.

CRUZ:

There's no question you've been forthright with this committee and I would note that members of this committee don't have to search far and wide to know who Jeff Sessions is. We've known every day sitting at this bench alongside you.

I want to shift to a different topic, and it's the topic I opened with, which is the politicization of the Department of Justice. The Office of Legal Counsel has a critical role of providing sound legal and constitutional advice, both to the attorney general and the president. And in the last eight years we have seen a highly-politicized OLC.

An OLC that has given politically convenient rulings, whether on recess appointments, whether on executive amnesty and early on perhaps that was started by 2009 Attorney General Holder overruling OLC concerning legislation trying to grant the District of Columbia representation in Congress. And it may well be that that sent a message to OLC that it's opinions were to be political and not legal in nature.

Tell me, Senator Sessions, what will you do as attorney general to restore professionalism and fidelity to law to the Office of Legal Counsel?

SESSIONS:

Senator Cruz, I think any short-term political agenda gains that come from the abuse of the -- the law-making processes and requirements of the Department of Justice just don't make sense.

It will always in the long run be more damaging than the short-term gain that one might have. The Office of Legal Counsel, all of us who've served in the Department know, is a big-time position. You need a mature, smart, experienced person who understands this government, who understands the laws and is principled and consistent in their application of the laws.

That will help the president, it will help the Congress and it will help the American people. I do believe we need to work hard to have that and I will do my best to ensure we do have it.

CRUZ:

One final question. In the last eight years, the Department of Justice's Solicitor General's Office has also, I believe, been unfortunately politicized and it sustained an unprecedented number of unanimous losses before the United States Supreme Court.

Indeed, President Obama's Justice Department won less than half of its total cases before the Supreme Court which is the lowest presidential win rate since Harry Truman. And the average historically for the last 50 years has been about 70 percent.

Numerous of those cases were unanimous with indeed both Obama Supreme Court appointees voting against the lawless positions of this Justice Department, including their assertion that the government has the authority to supervise and direct the appointment and the hiring and firing of clergy in the church.

What will you do as attorney general to ensure the integrity of the Office of Solicitor General? That it is faithful to the law and not advancing extreme political positions like the Obama Justice Department did that have been rejected over and over again by the Supreme Court?

SESSIONS:

I think the problem there is a desire to achieve a result. Sometimes it overrides a commitment to the law. In the long run, this country will be stronger if we adhere to the law, even though somebody might be frustrated in the short term of not achieving an agenda.

The Solicitor General should not advocate to alter the meaning of words to advance an agenda. That is an abuse of office and I would try to seek to have a Solicitor General who is faithful to the Constitution, serves under the Constitution, does not feel that it has the power to rise above it and make it say what it wants it to say.

CRUZ:

Thank you, Senator Sessions.

GRASSLEY:

Mr. Blumenthal goes.

I think we have votes still scheduled for 2:45. It's my idea that we would continue this going. Like I'll go with the end of the first vote and then vote and come back. And I hope other people will preside and keep asking questions while the two votes are going on, so we can finish at a reasonable time today.

(UNKNOWN)

(inaudible) about Session voting.

GRASSLEY:

What?

(UNKNOWN)

He's not voting.

GRASSLEY:

OK. Well, that's right, I -- did we get a decision? You're -- you can stay here during that voting time.

Senator Blumenthal.

BLUMENTHAL:

Thanks, Mr. Chairman and thank you for conducting this hearing in such a fair-minded and deliberate way. And I want to join you in thanking Senator Sessions for his public service over so many years and his family who have shared in the sacrifices that you have made. So, I am sure that my colleagues and I appreciate your service and your friendship.

This experience for us is a difficult one, not only because you're a colleague, but I consider you to be a friend and someone who is well-liked and respected in this body, understandably. And I know, if you were sitting here, you'd be pretty tough on me, maybe tougher than I'm going to be on you. But it's not personal, as you understand, because we have an obligation to advise and consent to ask those kinds of tough questions.

And you and I have shared some experiences. Both of us have been United States attorneys and attorneys general of our state and I want to thank you as well for thanking our law enforcement community, which is so important to this nation. And it makes sacrifices and those sacrifices often are not only in time and foregone income, but also in lives and I join you in respecting the law enforcement officers who were victims most recently of gun violence.

I want to begin just by asking you a question which I asked in a letter. Will you recuse yourself from voting on your own nomination and the nominations of other cabinet secretaries?

SESSIONS:

I do not have plans on to vote on my nomination. I have not thoroughly examined all the issues, but I think there could be a conflict of interest or a violation of ethics rules and I would comply with the rules.

BLUMENTHAL:

I believe it would be a conflict of interest for you to vote on other cabinet secretaries as they are nominated by the president, who is also your boss and I think that I hope you will consider recusing yourself from those votes as well because I think it will set a tone for what you will do in cases of conflicts of interest.

And I want to talk a little bit about conflicts of interest because I think that the Attorney General of the United States has a unique and special role, especially at this point in our history. He should be a champion, a zealous advocate of rights and liberties that are increasingly under threat in this country.

And he's not just another government lawyer or another cabinet secretary. He is the nation's lawyer. And so any appearance of conflict of interest or compromising positions because of political involvement, I think, is a real danger to the rule of law and respect and credibility of the rule of law.

So I would hope that you would consider appointing special counsel in cases where there may be a conflict of interest involving the president, and one of those cases involves Deutsche Bank. The president of the United States owes the Deutsche Bank several hundreds of millions of dollars, it's currently under ongoing investigation.

Will you appoint a independent counsel to continue the investigation of Deutsche Bank?

SESSIONS:

Well, Senator Blumenthal, I have not -- I'm not aware of that case, I'm not in any way -- have not researched it or even read some of the public's articles about it. So I'm totally uninformed about the merits or lack of it of the case. I don't know that the president is implicated simply because he's borrowed (ph) from a bank.

But I would say that as Senator Lee, I think, raised in his questioning, you just want -- you don't want to be in a position where every time an issue comes up, the attorney general recuses himself. But at the same time, serious questions, when they arise, the attorney general should refuse himself under appropriate circumstances and I guess that goes with -- or the appointment of a special counsel, which is a somewhat different issue.

BLUMENTHAL:

Would you...

SESSIONS:

There have been a lot of criticisms of that, but I think it's a useful tool in the appropriate circumstances.

BLUMENTHAL:

Would you agree with me that the emoluments clause applies to the president of the United States?

SESSIONS:

Well, the emoluments clause applies, I guess the dispute is and the discussion is is -- and to what extent does it apply and how does it apply in concrete situations, which I have not studied.

BLUMENTHAL:

If there's evidence that the president of the United States has violated or may be violating the emoluments clause, will you appoint a special counsel?

SESSIONS:

We would have to examine that. I would not commit to this day -- at this time appointing a special counsel when I'm not aware of a precise factual situation that would be in play.

BLUMENTHAL:

If there is a violation by the president's family of the STOCK Act, which prohibits the use of private or insider information for personal gain, will you apply special counsel?

SESSIONS:

Well, we'll have to evaluate that if such a (ph) circumstance occurs and I would do my duty as I - - as I believe I should do it at the time.

BLUMENTHAL:

I would suggest that in those cases, an independent counsel is not only advisable, but required to avoid a conflict of interest and I would hope that you would be sensitive to those concerns.

SESSIONS:

Well, there are reasonable arguments to be made for that. I suggested that Attorney General Lynch should appoint a special counsel in the Clinton matter. I don't know whether you supported that or not.

BLUMENTHAL:

One reason I'm asking the question is that you have advocated a special counsel in other instances where in fact the argument for it was weaker than it would be in these cases and I think it would be appropriate.

SESSIONS:

Well, I will suggest that during a campaign, sometimes we get excited, but as attorney general, you have to follow the law, you have to be consistent and you have to be honorable in your decision making. And I respect the question you're raising.

BLUMENTHAL:

Let me ask you about another group. I welcome your condemnation of the Ku Klux Klan. You may be familiar with a group called Operation Rescue, and Operation Rescue endorsed you. In fact, Troy Newman, the head of Operation Rescue, said, quote, "We could not be happier about the selection of Senator Jeff Sessions as the next Attorney General."

Operation Rescue has in fact advocated, quote, "execution," end quote, of abortion providers. And as an example of its work, this poster was circulated widely in the 1990s and early 2000s about a Dr. George Tiller who subsequently was murdered. After his murder, Operation Rescue said that his alleged murderer should be treated as a political prisoner. Dr. Tiller was murdered in 2009 and I'm sure you're familiar with is case.

Will you disavow their endorsement of you?

SESSIONS:

I disavow any activity like that, absolutely and a group that would even suggest that is unacceptable and I will enforce the laws that make clear that a person who wants to receive a lawful abortion cannot be blocked by protesters and disruption of a doctor's practice.

I might not favor of that. I am pro life as you know, but we've settled on some laws that are clearly effective and as attorney general you can be sure we would follow them.

BLUMENTHAL:

You would use the FACE statute, the Freedom of Access to Clinic Entrances Act to empower and mobilize the FBI, the Federal Marshal service or the Bureau of Alcohol Tobacco and Firearms to protect clinics if there were harassment or intimidation.

SESSIONS:

I would use the appropriate federal agencies and I do believe it is in violation of the law to excessively or improperly hinder even the access to an abortion clinic.

BLUMENTHAL:

Will you rigorously enforce statues that prohibit purchase of guns by felons or domestic abusers or drug addicts and use the statues that exist right now on the books to ban those individuals from purchasing guns?

SESSIONS:

Well, Congress has passed those laws, they remain the bread and butter enforcement mechanisms throughout our country today to enforce guns laws. The first and foremost goal I think of law enforcement would be to identify persons who are dangerous, who have a tendency or have been proven to be law breakers an been convicted and those who are caught carrying guns during the commission of a crime.

Both of those require mandatory sentences as United States attorney in Alabama it was a high priority of mine. I calculated a number of years, we were one of the top, even though a small office, on a percentage basis, we were one of the top prosecutors of those cases. I think it saves lives Senator Blumenthal. I (inaudible) as a matter -- my judgment at least is experience tells me it can help make -- create a more peaceful community.

BLUMENTHAL:

Will you support laws necessary to effectively apply those laws including universal back ground checks that are necessary to know whether the purchaser is a felon or a drug addict or a domestic abuser?

SESSIONS:

Well, I believe in background check laws and many of them are appropriate. But, in every instance -- there's some instances when it's not practical let's say. For example somebody inherited a gun from their grandfather. Those transactions I'm not sure should require that kind of universal background check.

GRASSLEY:

(OFF-MIKE) member of this committee.

Senator Crapo, welcome to the committee and you may proceed.

CRAPO:

Thank you Mr. Chairman and I too want to thank you for the way you are handling this hearing and appreciate your service here in the committee.

And, Senator Sessions I also want to join those who have congratulated you on your nomination to be the attorney general of the United States.

I am one of those who has had the opportunity to work with you for years and know you very well. I consider you well qualified and look forward to your service as the Attorney General of the United States, if you are confirmed and I expect you will be. I know you to be a man of your word. I know that you're committed to the Constitution of the United States of America and you are committed to enforcing the law of this country as you have said multiple times here in this committee. So, I thank you for that.

I want to go on my question into just a couple of other areas. Beyond just the notion of the enforcement of the law, but the manner in which the Department of Justice enforces the law, three basic carries (ph). One the abuse of the power or discriminatory enforcement of the law. Two the regulatory over reach that we're seeing across this country and what role the Department of Justice plays in trying to deal with that. And, then finally the cooperation of the states.

We live in a Union of 50 states and under our Constitution there are appropriate rules for the federal government and the states and the Department of Justice has a very powerful influence on that. So if I could get into those three areas.

The first one, I'm just going to use as an example of the kind of abusive use of power that I hope you will help stop and prevent from continuing to happen.

It was already -- this example is one that was already referenced by Senator Cruz, Operation Choke Point.

Operation Choke Point, for those that aren't familiar with it, the only appropriate thing about it, in my opinion, is its name, it was named -- it was a program designed by the Department of Justice to help choke financing away from businesses and industries that were politically unacceptable or for whatever reason unacceptable to the administration.

The Justice Department working with, and I think perhaps even pressuring, some of our financial regulatory agencies created this program to give additional scrutiny, indeed such aggressive scrutiny that it pressured them out of their access to finance -- to certain industries.

I don't know how these industries got onto the list, but I'll just read you several that are on the list. Ammunition sales, coin dealers, firearm sales, installment loans, tobacco sales, this list is a list of

30 that was put out by the FDIC. When they -- when they actually realized they shouldn't of put the list out they quickly took it back.

And the FD -- the FDIC says that they're not pursuing this program anymore, but when we tried to de-fund it earlier the administration fought aggressively to make sure we didn't get the votes to defund it.

This program is one where the justification is -- well, the businesses who operate in these industries haven't done anything wrong. But these are industries that might do things wrong more than other industries and therefore we're going to pressure people out of these industries.

It reminds me of a 2002 movie called "Minority Report," it was a Tom Cruise movie and that was one about an advanced police force in the future that had determined -- or had developed the ability to know if you we're going to commit a crime before you commit the crime. And then their job was to go arrest you. It was really good at stopping crime because they arrest you before you even commit it. And then one of them came up on the list and that's the story of that movie.

My point is, we can't really tell for sure whether Operation Choke Point is still operating. Although we still have people in these industries who can't get financing. If that kind of thing is going on in the Department of Justice will you assure that it ends?

SESSIONS:

I will. At least as you've framed this issue and as I understand the issue from what I -- little I know about it but, fundamentally, a lawful business should not be attacked by having other lawful businesses pressured not to do business with the first business.

That's, to me -- it would be hard to justify. I guess maybe they've got some arguments that would be worth listening to. But fundamentally that seems to me, Senator Crapo, you're a great lawyer and you -- but seems to me that goes beyond what would be legitimate in a great economy like ours.

CRAPO:

Well, I would hope the Department of Justice would not be a partner with any of our federal agencies in this kind of conduct.

Another one which I'll throw out as an example is the National Instant Criminal Background Check List, which is now being utilized by the Veteran's Administration and by the Social Security Administration to put people's names on the list so that they can be denied access to owning or purchasing a firearm.

And the way they put their name on the list is to say that they are mentally deficient. If they need a little help on their Social Security benefits, if they're a veteran who put their life on the line for us and goes to war and receives a head injury and so they need a little bit of assistance, then -- then they get their name often put on the list.

I know that these are not the agencies that you supervise, but I know the Department of Justice supervises the NICS list. And I would just encourage your help, whether it's here or anywhere else in our government, as we see agencies using their power to achieve political purposes, or some other discriminatory purpose of the administration I would hope you would stand solidly against it.

SESSIONS:

Well, thank you Senator Crapo, I know you've worked on that issue. So I'd be sympathetic and be willing to receive any information that I know you've gathered on -- to form your views about it.

CRAPO:

All right I appreciate that.

Let me move on to the question of regulatory overreach. I'll just use one example there. I'm one who believes that today, we have gone -- we talked a lot about this hearing today about the rule of law. In America, statutes are passed by Congress and signed into law by a willing president. But now we have multiple agencies that are doing rule makings that, in my opinion, are going far beyond the legal authority of the laws under which they operate.

I'll use one example. The Waters of the United States rule that has been implemented -- or seeking to be implemented by the EPA and...

CRAPO:

doing rulemakings that in my opinion are going far beyond the legal authority of the laws under which they operate. I'll use one example. The Waters of the United States rule that has been implemented, or seeking to be implemented by the EPA and the Army Corps of Engineers.

In my opinion that is totally unfounded in law. And often the Department of Justice is partnered up with these agencies as they try to defend their activities in court. And I'm not sure I actually know the proper role there.

Does the Department of Justice simply have to litigate on behalf of these agencies? Or does it have the ability to advise these agencies that they're pursuing activities beyond the bounds of the law?

SESSIONS:

It can be that an agency would ask an opinion on the Office of Legal Counsel, the Department of Justice. And as to whether their interpretation is sound or not, that opinion, until reversed at some point, stands for the entire government.

But basically these agencies are oftentimes just set about their own agendas without asking for an opinion. And often they are narrowminded or they're focused only on what they feel are the goals

of their agency, and don't give sufficient respect to the rule of law and the propriety of what they're doing.

In particular, did the Congress really intend this? Did this law really cover this? Or is it just something you want to accomplish and you're twisting the law to justify your actions? Those are the kind of things that we do need to guard against.

CRAPO:

Well, I appreciate that. And I hope that under your leadership we will have a Justice Department that will give strong advice where it can, and have strong influence where it can across the United States system -- across our agencies in this country, to help encourage and advise that they stay within the bounds of the law.

The last thing, and I'll just finish with this and you can give a quick answer. I'm running out of time here. And that is cooperation with the states.

As I said earlier, our system of government is comprised of 50 states in a union under a Constitution that establishes a federal government. And you and I both know well that the 10th Amendment says that those rights and powers, they're not specifically granted to the federal government in the Constitution, are reserved to the states and to the people, respectively.

Many of our states feel that that proper respect for their sovereignty is being abused, again, by federal agencies, not just the Department of Justice. But the Justice Department often gets involved in this through providing the legal services that it does to our agencies.

And you know I could go through a ton of more examples and lists of litigation that is ongoing right now with my state and other states around the country where if we simply had a better level of respect for the role of states in this union and under our Constitution, we could work out a lot more of these issues. Rather than having the heavy hand of the federal litigation system come to play into forcing compliance by states.

And so I won't go into any specific details, but would just ask your feelings about that importance of respecting the role of states in this country.

SESSIONS:

There's no general federal criminal crimes. So many things like larceny and even murder unconnected to some civil rights connection. These things have traditionally been totally the responsibility of the states.

As a young prosecutor in the 1970s I remember almost all the cases had an interstate commerce nexus. It wasn't the theft of an automobile that you prosecuted. It was interstate transportation of a stolen vehicle.

CRAPO:

A lot of...

SESSIONS:

So a lot of that is just -- now we've forgotten that distinction, that limitation on federal power.

CRAPO:

We have. And a lot of what I'm talking about happens in the environment and natural resource division, and others. There's a lot of litigation out there.

I'd just encourage you -- I see my -- I am out of time.

GRASSLEY:

Let me make a suggestion before I introduce Senator Hirono. And she's welcome back to the committee. She's been off two years.

To make efficient use of our time, when she's done it would be Senator Kennedy's turn. But you probably have to go vote. So if there's somebody back here that can start the second round, do it. And then we'll call on Senator Kennedy to finish the first round.

Senator Hirono?

HIRONO:

Thank you, Mr. Chairman. It's good to be back on this committee.

And aloha to you, Senator Sessions.

SESSIONS:

Aloha.

HIRONO:

I will do my best to be nice to you.

SESSIONS:

Well that won't be hard for you.

HIRONO:

Thank you very much.

I know that the attorney general has broad prosecutorial discretion. You noted in some of your responses to questions from Senator Durbin around the issue of what would happen to the 800,000 DACA registered people if the president-elect rescinds that program. And you indicated that I think at that point the A.G.'s office only has so many resources, and that may not be a high priority for you. But you indicated that's why we needed immigration reform.

So my series of questions will center around how you would exercise your prosecutorial discretion, which I think you would acknowledge is wide as attorney general. Wouldn't you?

SESSIONS:

In most -- in many cases you do -- the federal prosecutors set discretionary limits. But you have to be careful that it does not exceed a reasonable judgment about what a discretionary...

(CROSSTALK)

HIRONO:

I agree.

SESSIONS:

... be.

HIRONO:

It's not totally unfettered. Wide prosecutorial discretion. So my questions will center around how you would exercise prosecutorial discretion with regard to some specific issues.

You probably know, Senator Sessions, that I am an immigrant. You indicated in one response that you would want immigration reform to center around skills based immigration reform. And if that were the case, my mother, who brought me to this country to escape an abusive marriage would not have been able to come to this country. And she acquired her skills later.

But I just want to let you know that it's one of the reasons that issues relating to immigration are very important, not just to me, but to millions of people in this country. And I have heard from them. I've heard from immigrants in this country, LGBT Americans, women and religious minorities who are terrified that they will have no place in President-Elect Trump's vision of America.

And based on what I've heard since the election, I am deeply concerned that their fears are well founded. I'm hoping that you can address some of these concerns today.

So I mentioned the exercise of prosecutorial discretion. When you came to see me we did talk about whether or not you would support a ban on Muslims coming to this country based on the fact that they were Muslims. And you said that you would not support that.

But you also indicated that you would support basically what would be considered enhanced vetting of people with extreme views. What would characterize an extreme view to you? And how would you go about ferreting out people with extreme views when there are millions of people legally coming into our country?

And also a related question. The fact that you would consider vetting people with extreme views to be a proper use of our governmental authority, there must be a connection in your mind that people with extreme views, which I hope you will describe what you mean by, will do something that would compromise the safety of Americans. Could you respond to my series of questions relating to extreme views?

SESSIONS:

Well, I do think first of all the vetting process is in the hands of the State Department, the consular offices and those offices that are meeting people abroad and evaluating them for admission to the United States. So the Department of Justice really does not dictate that, as long as it's perhaps -- as long as it's within constitutional order.

I think the approach that's preferable is the approach that is -- would be based on areas where we have an usually high risk of terrorists coming in, people who could be clearly violent criminals. And those certainly justify higher intensity of vetting.

I think that mainly responds to your question. But again, the ultimate decision about that would be done through the State Department and by the president.

HIRONO:

I'm sure they would ask for the attorney general's opinion as to the limits of the Constitution in requiring these kinds of questions to be asked of people who come to our country. And you did indicate once that religious views would be a factor in determining whether somebody has extreme views.

Let me turn to...

SESSIONS:

Their religious views in...

(CROSSTALK)

HIRONO:

Not in and of itself...

SESSIONS:

... extremism. Right. Not -- if they -- their interpretation of their religious views encompasses dangerous doctrines and terroristic attacks I think they should certainly deserve more careful scrutiny than someone whose religious views are less problematic.

HIRONO:

Yes. Senator Sessions, you did say that one's religious views would be a factor in determining whether one has extreme views that would enable -- that would not enable them to come to our country.

Let me turn to the question of abortion. On Roe v. Wade, you did say quote, "I firmly believe that Roe v. Wade and its descendants represent one of the worst colossally, erroneous Supreme Court decisions of all time and it was an activists decision."

My question is do you still hold that view? I believe you answered yes to someone who asked you that question previously. That you believe that Roe v. Wade was a bad decision.

SESSIONS:

Well, I do...

HIRONO:

Do you still believe that?

SESSIONS:

Well, I guess I've said that before, so I'm a pro-life advocate...

HIRONO:

Thank you.

SESSIONS:

... but fundamentally, the problem, as I see it, with Roe versus Wade is that it denies the people the right to make laws that they might feel appropriate. Did the Supreme Court have that power? I concluded they didn't, because the Constitution didn't answer that question, but...

HIRONO:

Well, Senator Sessions...

SESSIONS:

... I respect the...

HIRONO:

I hate to interrupt you, but I have less than two minutes. So, I don't want to get into the substance of Roe v. Wade. I realize you still believe that that was a bad decision, although it was based on constitutional privacy protections.

So, we can expect the make up of the Supreme Court to change, and we can very well end up with a Supreme Court that will be very open to overturning Roe v. Wade. And should you be the attorney general, would you direct or advise your solicitor general to weigh in, to -- to weigh in before that Supreme Court, which has an opportunity to overturn Roe v. Wade? And would your solicitor general go in and weigh in to repeal or to overturn, I should say, Roe v. Wade?

SESSIONS:

Well, Roe versus Wade is firmly asconced as the law of the land and I don't know we would see a change in that. You're asking a hypothetical question. Those cases seldom come up on such a clear issue. They come up at the margins. I just would not be able to predict what a well researched, thoughtful response to -- would be to manage it could happen in the future.

HIRONO:

I think most of us know that the next opportunity for the Supreme Court to weigh in on whether or not to change Roe v. Wade would be a very close decision and, likely possible a five to four decision. And that it's not just a hypothetical, but it is a real concern to a lot of people.

Let me turn to the Voting Rights Act. While the Supreme Court did eliminate parts of the Voting Rights Act, it still retains Section II, which prohibits states from enacting laws that would have a discriminatory impact.

The Attorney General's Office was a party to challenging two states laws, I believe it was Texas and there was another state, that the Supreme Court ultimately agreed with the attorney general's position that these laws violated the Voting Rights Act, Section II. Would you, should you become the attorney general, just as vigorously prosecute those kinds of state laws that have a discriminatory voting impact?

SESSIONS:

Well, this administration's attorney general has intervened when it felt it was appropriate and not intervened when it did not feel it was appropriate. So, I think my responsibility would be to ensure that there's no discriminatory problems with a Voting Rights Act of a state. If there is, if it violates the Voting Rights Act or the Constitution, I think the United States -- the attorney general may

well have a responsibility and a duty to intervene. You cannot allow improper erosion of -- of the right of Americans to vote.

HIRONO:

Well, we know that since the Supreme Court's decision that did away with major parts of the Voting Rights Act that numerous, perhaps 13 states have already enacted laws that could be deemed contrary to the Voting Rights Act. So I would hope as attorney general, you would vigorously review those kinds of laws and to prosecute and to -- to seek to overturn those state laws just as your predecessors have done.

I want to turn to VAWA. I know that you voted against the most recent iteration of VAWA because you had concerns about how non-Indians would be prosecuted under tribal law. And you indicated that yes, you do acknowledge that non-Indians do go on tribal lands, commit crimes and that these should be, these kinds of crimes should be prosecuted at the federal level. And I would expect that should you become attorney general, that you will do that.

But at the same time, my question is, would you then seek to overturn that part of VAWA that allows the tribal courts to proceed?

SESSIONS:

That would be a strictly legal decision. We should give respect to the laws of Congress that have been passed. As a member of Congress, I was uneasy with it, did not think it was a good approach, and I believe eight out of nine Republicans on the committee shared that concern and did vote against it. As I noted earlier, I voted for the Violence Against Women Act in 2000, 2010 and I voted for the Grassley version of the Violence Against Women Act this past time, even though I did vote against the same law.

HIRONO:

So, as attorney general, you would not do anything to -- to challenge that part of VAWA that allows for tribal courts to proceed.

SESSIONS:

Well, I would have to make a legal decision on that. I'm not able to do so today.

HIRONO:

Thank you Mr. Chairman.

GRASSLEY:

Thank you.

LEE:

Senator Sessions, you are aware, many instances, Congress when enacting a law will choose to issue a broad, sort of, mandate, a broad aspirational statement, leaving the details of the actual law making process to a regulatory system that then has to follow certain procedures in term to effectively make laws. We call those regulations, typically, and sometimes an executive branch agency will go a step further.

And outside the process that has to be followed when propagating a new regulation, they'll just issue a guidance document. A guidance document outlining what the agency feels is the status of the law in this area. Guidance documents have received a lot of criticism from members of the public, who point out that they are bereft of any kind of safeguard. And they haven't gone through a legislative process, they haven't even gone through any time of revue process that would normally accompany the regulatory -- the regulatory rule making cycle.

As a matter of policy making, will the Department of Justice, under your leadership, assuming you're confirmed, use guidance documents as a matter of course in propagating legal interpretations?

SESSIONS:

Senator Lee, a guidance document that's clearly within the intent of Congress and the laws plain words can be beneficial. I think they're normally issued by the agency or department that administered it, like, for example, Health and Human Services, Homeland Security, Department of Commerce.

The often, or sometimes, they ask the Office of Legal Counsel for their opinion about what the proper interpretation of a statute is, but I do think you raise a valid concern. A guidance document cannot amount to an amendment to the law. Bureaucrats do not have -- that's a majority term, but department and agency attorneys and members don't have the ability to rewrite the law to make it say what they'd like it to say. And if we get away from that principle, we've eroded respect for law and the whole constitutional structure where Congress makes the laws not the executive branch.

LEE:

What about in the context of litigation? Where you're litigating a case involving one of these guidance documents that you're representing, the federal agency in question. Will the department, under your leadership, assuming your confirmed to this position, ask courts to defer to non-binding guidance documents in the same way that courts are routinely asked to defer to regulations?

SESSIONS:

Well, that's a good question, from a good lawyer I have to say. In other words, the question you're suggesting is, the established law of the land or the courts is that they give certain deference to well established, properly established regulations issued pursuant to -- to statute, but what if the secretary just issues a guidance document? Does the court -- is the court entitled to give full

deference to that? I would -- first of all, I don't know. I haven't researched it. But I do think that would be a pretty bold step to go that far and would be dubious about it.

LEE:

Thank you.

As you know, from time to time, the Department of Justice receives subpoenas or -- or one of the entities being represented by the Department of Justice might receive requests from members of Congress, from committees in Congress, including some committees that have the power issue subpoenas, in other instances, just letters or other types of requests from Congress for documents.

I suspect that there may be a number of outstanding requests of this nature that are left pending at the end of this administration, requests that were issued during the 114th Congress, the -- the Congress previous to this one, but will still need to be handled within the department after you're confirmed, assuming you are confirmed.

Will you commit to reviewing any of those that remain pending and -- and doing so in a manner that's timely and -- and showing the respect for a coordinate branch of government?

SESSIONS:

Senator Lee, if you would, repeat for me the -- what kind of...

LEE:

Yep, pending request for documents that -- that might be left over from the previous Congress...

SESSIONS:

Request for documents in what kind of -- proceeding?

LEE:

Request for documents either from the department itself or in matters where the department is involved, representing an entity within the federal government. I just want to make sure that those don't get left behind -- that they don't get ignored simply because they haven't been dealt with by the previous administration.

SESSIONS:

Well, I -- I do think that in time it'll be evaluated in proper request. I -- I would assume would continue to be valid and we would try to follow up whatever the law requires in that regard.

LEE:

Thank you. I appreciate that.

I want to talk about the use of the attorney client privilege by members of the executive branch -- by executive branch officials. In a 1998 opinion, the U.S. Court Appeals for the D.C. Circuit reached the conclusion that executive branch officials do not enjoy the same common law attorney client privilege as ordinary lawyers -- lawyers who are not executive branch officials.

And -- and Justice Scalia, while he was serving as the assistant of attorney general over the office of legal council, authored a legal opinion stating that the -- that executive branch officials do not enjoy the privilege, unless they're dispensing with personal legal advice. Instead, in that view, executive branch officials need to exert the executive privilege rather than the traditional common law attorney client privilege.

And yet executive branch agencies routinely can be observed asserting the attorney client privilege instead of the -- in much the same way they would in the traditional context, rather than just invoking the executive privilege. Would -- would you agree with that, that -- that might raise some questions?

SESSIONS:

Senator Lee, I have not studied that opinion of Justice Scalia. I would be reluctant to comment. Except I would say that it's probably good for the American republic that department and agency officials seek legal advice before they act. In the long run, that's probably better. And I think having some expectation that they can have a candid comment with their attorney is of value.

I hadn't thought about and never given study to the question of whether it should be on the executive privilege or attorney client. Although I can understand the -- imagine the difficulties.

LEE:

Yes. No, I -- I -- I appreciate your candor on that point and it gives me some comfort knowing that you're aware of the -- of the situation, you'll look at those.

I'd like to talk about some anti-trust issues in the -- the moments I have remaining. And then perhaps we'll get back to these during a subsequent round.

Anti-trust regulators, when they're reviewing potentially anti-competitive harms that might arise as a result of a merger will sometimes impose conditions, conditions on the merger moving forward, saying unless you do A, B and C, this merger can't go forward. But if you do A, B and C in order to address whatever concerns we, the anti-trust regulators have, then -- then the merger can be consummated.

It is my view that there is a temptation for anti-trust regulators sometimes to impose conditions that don't involve anti-competitive concerns. And that that raises some red flags that because the role of the anti-trust regulator is to look out for anti-competitive concerns arising out of the merger. That's where their inquiry ought to be focused and that's where their conditions ought to be focused.

Do you disagree with that?

SESSIONS:

I would agree with that, as I -- as you formulate it, I believe. And it would be wrong on to further some other separate discreet agenda that's not reasonably connected to the merger itself. So I think we should ensure that we have the highest integrity in anti-trust adjudications, because they can have great impact.

The law is not crystal clear about what's lawful and what's not lawful, and what the anti-trust division is required to do. And it leaves dangers, if not politicalization of it, it remains dangers -- dangers of policy agendas getting involved in it. So it's a important division that requires great integrity and ability I believe, in the leadership at the anti-trust division.

GRASSLEY:

Thank you. Just a moment.

Senator Leahy.

LEAHY:

Thank you, thank you, Mr. Chairman.

The -- as I listened to Senator Lee asking you these questions, it occurred to me that you were one of a very, very, very small minority of members who opposed the USA Freedom Act that I drafted with Senator Lee, it passed with a super majority in both the House and the Senate.

Even though you voted against it and this of course topped the bulk collection by NSA, that both Senator Lee and I opposed. Do you agree the executive branch has to uphold the law that they cannot reinstate the bulk collection of America's phone records without amending federal statutes?

SESSIONS:

Senator Leahy, that appears to be so and I can't swear that that's absolutely, totally, always true, but it appears to be so.

LEAHY:

Wait -- wait -- wait a minute. We either passed the law or we didn't pass the law. A super majority voted for the Lee-Leahy law, the president signed it into law. You voted against it. Will you uphold the law?

SESSIONS:

I will follow the law, yes, sir.

LEAHY:

And will you commit that you're not going to allow the NSA to engage in the bulk collection of Americans' records in violation of the USA Freedom Act based on a theory that somehow whoever is president has the power to disregard the statute?

SESSIONS:

I do not believe that the statute can be disregarded and it should be followed.

LEAHY:

Thank you, I appreciate that.

We had a dust-up in the press, as you recall, when Mr. Trump bragged about how he had grabbed women and so on. You, shortly after the tape came out, and I realize that an explanation here, you said I don't characterize that as sexual assault.

But then you said later, the Weekly Standard's characterization of comments they made following Sunday's presidential debate, is completely inaccurate. My hesitation is based solely on the confusion of the content of the 2005 tape, a hypothetical posed by the reporter which was asked in a chaotic post environment -- post debate environment. And of course it's crystal clear that assault is unacceptable. I would never intentionally suggest otherwise. That's basically what you said after the confusion on your first comment. Is that correct?

SESSIONS:

I believe that's correct.

LEAHY:

Thank you. Is grabbing a woman by her genitals without consent, is that sexual assault?

SESSIONS:

Clearly it would be.

LEAHY:

If a sitting president or any other high federal official was accused of committing what the president-elect described in a context which it could be federally prosecuted, would you be able to prosecute and investigate?

SESSIONS:

The president is subject to certain lawful restrictions, and they would be required to be applied by the appropriate law enforcement official if -- if -- if appropriate, yes.

LEAHY:

And the conduct described, based on the description, would be sexual assault?

SESSIONS:

Well, the confusion about the question, it was a hypothetical question and it -- and it related to what was said on the tape. I did not remember at the time whether this was suggested to be an unaccepted, unwanted kind of...

LEAHY:

OK, well let's...

SESSIONS:

... would certainly meet the definition. If that's what the tape said, then that would be...

LEAHY:

My -- my question is very simple. Is grabbing a woman by her genitals without consent, is that sexual assault?

SESSIONS:

Yes.

LEAHY:

Thank you.

Now you were asked earlier about having called the NAACP and the ACLU un-American. You said that was before you were a senator. But as a senator you've committed to be -- you have continued to be hostile to them. You criticize nominees for having what you call ACLU DNA.

Now I remember when Republicans led the Justice Department, his inspector general found the Bush administration engaged in unlawful, politicized hiring practices. That's the Republican administration's own inspector general.

They said the Ashcroft Justice Department used litmus tests whether applicants would be sufficiently conservative. If they were ever in the ACLU, they couldn't have a job. You said in a radio interview, justice has to be safe and secular, progressive, liberals.

OK. Let me ask you a couple simple questions. Are an individual's religious beliefs relevant to the employment at the Justice Department?

SESSIONS:

Not unless it's such that they can't perform their duties in an honorable way consistent with the law.

LEAHY:

What would be an example of that?

SESSIONS:

Well, if an individual so strongly believed that abortion should be unlawful that they use their position to block constitutionally approved abortions, I think that would make them not subject to being employed in the Department of Justice.

LEAHY:

Are you going to have a litmus test at the Department of Justice for people who have worked at civil rights organizations?

SESSIONS:

No.

LEAHY:

Senator Graham mentioned you've long been a champion of states' rights and certainly you and I have had enough discussions on that and I realize those are deeply-held beliefs. But states have also voted on an issue of marijuana and regulation. I believe your own state of Alabama permits the use of a derivative of marijuana known as CBD oil, legal in Alabama, illegal under federal law.

If you are confirmed as the nation's chief law enforcement official and you know that we have very limited federal resources, in fact we're spending about a third of our budget now just to keep the prisons open because of mandatory minimums and what not.

Would you use our federal resources to investigate and prosecute sick people who are using marijuana in accordance with their state laws, even though it might violate federal law?

SESSIONS:

Well, I won't commit to never enforcing federal law, Senator Leahy, but absolutely it's a problem of resources for the federal government. The Department of Justice under Lynch and Holder, set

forth some policies that they thought were appropriate to define what cases should be prosecuted in states that have legalized at least in some fashion some parts of marijuana.

LEAHY:

Do you agree with those guidelines?

SESSIONS:

I think some of them are truly valuable in evaluating cases, but fundamentally the criticism I think that was legitimate is that they may not have been falling. Only using good judgment about how to handle these cases will be a responsibility of mine. I know it won't be an easy decision, but I will try to do my duty in a fair and just way.

LEAHY:

The only reason I mention is you've been some very strong views, you even mandated the death penalty for anyone convicted of a second drug trafficking offense, including marijuana, even though mandatory death penalties are of course unconstitutional.

SESSIONS:

Well, I'm not sure under what circumstances I said that, but I don't think that sounds like something I would normally say. We're glad to look at it, but...

LEAHY:

Would you say that's not your view today?

SESSIONS:

It is not my view today.

LEAHY:

Thank you very much.

LEE:

I perked up when he started talking about federalism. And, of course, everything Senator Leahy said was interesting. But the federalism stuff is particularly interesting.

(UNKNOWN)

Praising -- he was praising your legislation.

LEE:

Yes, exactly. I appreciated that too. That was -- that was great.

Federalism is an issue that's near and dear to many of us, and I know it's important to you. The notion that our federal government possesses powers that James Madison described as few and defined. Those reserved to the states are numerous and indefinite.

We were supposed to be a different legislative body. Our federal government was always intended as a limited purpose national government, not a general purpose national government, one possessing complete police powers. We've seen a slow, but steady drift over the last 80 years away from this principle of federalism, such that powers exercised at the federal level today could no longer be described as few and defined, but more appropriately described as numerous and indefinite.

And in light of the supremacy clause in the Constitution, any powers we do exercise through the federal government are by definition replaced from the states. In other words, when our action conflicts with state action, it's our action that prevails in light of the supremacy clause. It's one of the reasons why federalism needs to be looked out for so carefully.

And one of the reasons why a view that I think you and I both share is that U.S. government officials, in all three branches of government, whether they wear a black robe or not, are expected when they swear an oath to uphold the Constitution, to look out for basic structural protections in the Constitution like federalism so that we don't have an excessive accumulation of power in the hands of the few.

So, the Founding Fathers set up this system in which we have these structural protections. We have the vertical protection we call federalism, which we've just described and the horizontal protection we call separation of powers, that says within the federal government, in order to protect us against the risks associated with the excessive accumulation of power in the hands of a few, we're going to have one branch that makes the laws, another branch that enforces the laws and a third branch that interprets the laws.

As long as we keep each branch within the same lane, the people are protected from what happens when one person or a group of people gets too powerful. But over the last 80 years, just as we've seen a deterioration of federalism, we've also seen a deterioration of separation of powers.

You have an interesting set of circumstances with our laws, our controlled substances laws concerning marijuana, in that for the first time in a very long time you've seen some attention paid to federalism, but in the limited area associated with marijuana. In other words, there are federal laws prohibiting the use of marijuana, the sale of marijuana, the production of marijuana, that apply regardless of whether a state has independently criminalized that drug, as every state until recently had.

Then you had some states coming along and decriminalizing it, sometimes in the medical context, other times in a broader context. The response by the Department of Justice during the Obama

administration has been interesting and it's been different than it has in other areas. They've been slow to recognize principles of federalism elsewhere. They chose to recognize it here.

My question to you is, did the way they respond to that federalism concern, run afoul of separation of powers? Did what they -- did the department's approach to this issue, that they identified as a federalism issue, contravene the understanding that we are the law-making body and the executive branch is the law-enforcing body?

SESSIONS:

Well, I'm not sure I fully understand the point of your question. But you're talking about separation of powers within the federal government?

LEE:

Yes.

SESSIONS:

The three branches of federal government.

LEE:

Yes.

SESSIONS:

And how do they -- how does that implicate the marijuana laws?

LEE:

Yes. Are there separation of powers concerns arising out of the Department of Justice's current approach to state marijuana laws?

SESSIONS:

Well, I think one obvious concern is that the United States Congress has made the possession of marijuana in every state and distribution of it, an illegal act.

So, if you -- we need to -- if that's something that's not desired any longer, Congress should pass a law to change -- change the rule. It -- it's not so much the attorney general's job to decide what laws to enforce. We should do our job and enforce laws effectively as we're able.

LEE:

Thank you.

I'd like to get back to anti-trust issues for a moment. In 2010 you co-sponsored some legislation that extended the Anti-Trust Division's leniency program, extended it all the way out to 2020. So, it was a 10-year extension at the time you helped to move that through.

The legislation provided that members of a cartel could receive reduced penalties if they reported cartel activity to the Department and cooperated with in the investigation the Department had in connection with theft anti-trust cartel.

Now the Anti-Trust Division within the Department of Justice considers this tool, quote, "It's most important investigative tool for detecting cartel activity." close quote. Because it creates an incentive for cartel members to self-report, to come forward, and to identify things that the Anti-Trust Division needs to be aware of. So, I applaud your leadership in this area because it's been very helpful to the enforcement of our anti-trust laws in the department.

So, I have two questions related to this program, looking forward. First, given its importance, do you think the program should be made permanent and second, are you open to any other ideas that might strengthen the program?

SESSIONS:

Senator Lee, I would not commit to -- commit to you that I have formed an opinion on that. These are very complex areas of the law. I'm not a member of the Anti-Trust subcommittee, as a number of members of our committee are and have achieved levels of expertise like Senator Klobuchar and you and others.

So, I would just have to commit to you that I'm open to hearing the views of this Congress and that subcommittee and would try to work with you, but I do understand that anti-trust policy is an important issue for America and we need to get it right and that would be my goal.

LEE:

Thank you.

One important question that sometimes arises in the anti-trust context relates to what role the Department of Justice should play in communicating with foreign authorities, authorities in other countries that deal with competition laws, deal with things analogous to our anti-trust laws in this country.

The Department of Justice has typically played a leading role, but in recent years it has also allowed the Federal Trade Commission, the FTC, to become heavily involved. To my mind, this raises some potential concerns because the FTC is an independent agency, as compared to the Department of Justice, of course, which is headed by a presidential appointee who, with Senate confirmation, serves at the pleasure of the president.

Do you have any opinion on this as to -- at this point, that the Department of Justice, which is more accountable to the president and therefore has some connection to the people, should be more actively involved in communicating with foreign anti-trust or -- or competition authorities?

SESSIONS:

I really wouldn't attempt to comment today on that. I would be glad to hear your thoughts on it. I think it can be problematic if U.S. officials encourage foreign officials to join with them to -- against an action of a private company. They put -- it could put so much excessive pressure on them that they're not able to resist, and when they may have a lawful basis to resist.

But -- so these are big issues and you have to be sensitive to the power that the Department of Justice has, that the Anti-Trust Division has and make sure that there's a principled policy and lawful basis for what is done.

LEE:

Thank you, Senator Sessions. I see our Chairman's back. Oh, he's not back.

(CROSSTALK)

LEE:

Senator Feinstein.

FEINSTEIN:

It's my understanding that Senator Durbin has not yet had his second round and so I would like to defer to him.

(CROSSTALK)

FEINSTEIN:

I'm going to defer to Durbin because he somehow got missed.

DURBIN:

Thank you very much.

I want to thank the chairman and my friend, Senator Feinstein.

This morning, before the Senate Intelligence Committee, Director Comey of the FBI was testifying on the question of investigating the Russian involvement in this last election. And he was asked if there was any ongoing investigation about contacts between Moscow and the Russians and any

presidential campaigns. And he refused to answer, said he wasn't going to discuss any ongoing investigations publicly.

I would like to ask you a question related to recusal. You stated earlier today that you had made the decision, and you haven't given us real background on it, but made the decision that you would recuse yourself from any prosecutions involving Hillary Clinton or the Clinton campaign and e-mails. And then I understand -- I wasn't present but Senator Blumenthal asked you for some other hypotheticals as to whether you'd recuse yourself on an emolument question or some other things, and you said you'd take it on a case-by-case basis.

What if, hypothetical, same as Hillary Clinton, we are dealing with an investigation that involves the Trump campaign or anyone in the Trump campaign, would you recuse yourself as attorney general from that prosecution?

SESSIONS:

My response to the -- my recusal issue was because I'd made public comments about it that could be construed as having an opinion on the final judgment that would have to be rendered. I don't think I made any comments on this issue that go to that, but I would review it and try to do the right thing as to whether or not it should stay within the jurisdiction of the attorney general or not.

DURBIN:

It would strike me that this is an obvious case for a special prosecutor if it involves a campaign leading to a candidate who selected you as the attorney general. Wouldn't an abundance of caution suggest that you wouldn't want any questions raised about your integrity in that type of prosecution?

SESSIONS:

Senator Durbin, I think it would be incumbent upon anybody who's holding the office of attorney general at that time to carefully think his way through that, to seek the advice and to follow the normal or appropriate special prosecutor standards. And so I would intend to do that. But I have not expressed an opinion on the merits of those issues, to my knowledge.

DURBIN:

Senator Sessions, there's been a lot of controversy about refugees. The United States had a dubious record on refugees during World War II, refusing to accept Jewish refugees who were, in some cases, returned to Europe and the Holocaust and perished.

After World War II, a new policy emerged in the United States, bipartisan policy, and the United States became more open, in some cases generous, to accepting refugees. The numbers, I've heard various numbers, but 650,000 Cuban refugees who came to the United States during the ascendancy of the Castro regime, 125,000 or more Soviet Jews accepted in the United States,

spared from persecution in the Soviet Union. Four hundred thousand from Eastern Europe after World War II, 400,000 from Vietnam, 150,000 from the former Yugoslavia.

In the audience today is Omar al-Muktad (ph). I don't know you could please stand here. Mr. Muktad (ph) is a Syrian refugee. His story is a story of a journalist who for more than a decade publicized human rights abuses by the Assad regime, arrested seven times, imprisoned for two years. When he refused to stop writing after that, the prison guards broke his hands.

After his release from prison, he continued to write about the abuses of the Syrian security forces. When he was again pursued by the regime, he fled to Turkey. He was resettled in the United States by Catholic Charities after receiving refugee status.

There have been some strong words spoken about Syrian refugees. In fact, during the course of the campaign there were some who said we should accept none, and many have questioned whether we should accept any refugees from anywhere. Despite the lengthy vetting process and background checks, some have said, no refugees; we're finished with that business.

One of your responsibilities as attorney general will be the involvement of prosecutorial discretion, decisions that have to be made about the fate of men like Alton Mills I had introduced earlier, who had served 22 years of a life sentence for the possession of crack cocaine. Cases of Oscar Vasquez, a man who was a DREAMer and wanted to serve the United States in uniform. And this case involving Omar al-Muktad (ph).

The American Bar Association standards say the duty of a prosecutor is to seek justice, not merely to convict. It is an important function of the prosecutor to seek to reform and improve the administration of criminal justice.

When it comes to cases like these, in your role as the leading prosecutor in the United States of America, what is your feeling about your discretion to make the decision as to whether or not to spare individuals like those I've described?

SESSIONS:

I've been made aware in the last several years how this process works. It's really the secretary of state, usually through consultation with the president, that decides how many refugees should be admitted to the country. And there's little Congress can do other than getting into a funding argument with the president about that.

So Secretary Kerry met with members of the Judiciary Committee to announce what he planned to do on refugees. That will be how it would be decided, and legally the president appears to have that power. But it would be my responsibility, I think, to make sure that it was exercised within the bounds of law.

DURBIN:

But you have a responsibility too. You oversee the office of the pardon attorney, which recommends that sentences like those of Alton Mills be commuted. You oversee the immigration courts, which are responsible for interpreting how our nation's immigration laws apply to DREAMers and refugees like Mr. Muktaad (ph).

So this isn't another agency. It is the Department of Justice, and you will be the leader of that department. You will have the authority and prosecutorial discretion. You can't point to Congress and you can't point to the State Department. There's a responsibility within your own department.

SESSIONS:

Well, a refugee is admitted or not admitted to the United States on the approval or disapproval by the secretary of state and his consular officials. It's not a trial or not a litigation. So that's how that would be determined.

The gentleman from Syria that you mentioned should have -- be able to make a strong case for his acceptance as a refugee because he's been damaged and injured and attacked and at risk for his writings, so that would give him -- proving that should give him -- put him at a higher level of potential acceptance.

DURBIN:

Well, you and I can disagree on this one point on your authority over immigration courts as attorney general. But I hope that we both agree that there are compelling cases of people who are victims around the world of terrorism and war, discrimination and maltreatment, men and women. And many of them look to the United States as the last possible place for them to find safety and security.

I hope after the heated language of this last election campaign that we can come back to some of the standards that have guided this nation since World War II.

SESSIONS:

Well, we will not end the refugee program. I would not favor that. But we do have a responsibility to be careful and make sure those who are admitted have been properly vetted and are not a danger.

DURBIN:

Thank you.

GRASSLEY:

This is what I'd like to do. The votes kind of made this a convoluted rounds that we're in here. One person's had third round, we've got one person with no round. So this -- or without a first round. And then Senator Sessions would like to take a break.

So here's what I'd like to do, Senator Sessions, if it's OK with you. I want to go with Senator Hatch, Senator Feinstein for their second rounds, and then Senator Kennedy for his first round and give you a short break at that point. Is that OK?

SESSIONS:

That would be good, thank you.

GRASSLEY:

And for the benefit of the rest of you, I kind of got lost out of this, but I've got to be here for the rest of the meeting, where maybe some of you don't have to be. So I'll wait and do my second, third and fourth round when everybody else is gone.

FEINSTEIN:

Was that nice!

(UNKNOWN)

Now me?

(LAUGHTER)

GRASSLEY:

Now it's...

FEINSTEIN:

Senator Hatch?

GRASSLEY:

Senator Hatch, yes.

HATCH:

Senator Sessions, I think you've done a terrific job. I've known you all of your 20 years. I've watched you work diligently on the Judiciary Committee and on your other committees as well. You're an honest, decent man, and you have tremendous abilities in law enforcement and you've proven it here today and you're showing it here today. It's hard for me to understand why anybody would be against you.

Let me ask just a couple of questions. I want to emphasize that you have wide support for your appointment among law enforcement, including the National Sheriffs Association, National

District Attorneys Association, the National Association of Police Organizations, the National Association of Assistant U.S. Attorneys, National Narcotic Officers Association, the Fraternal Order of Police, the Federal Law Enforcement Office Association, the International Union of Police Associations, and the associations of major county sheriffs and major city chiefs of police. I'm not sure I've seen anybody that had all that kind of massive support for this position.

Now I draw attention to this for an important reason. Disagreements about policy positions are one thing, but accusations about your commitment to fairness, or suggestions that you're not sensitive to race is another. Would these law enforcement organizations enthusiastically support someone who was biased? We know they wouldn't. Of course not. Would they endorse someone who would fail to be impartial? Of course not.

Such accusations, especially without any evidence to support them whatsoever, are not simply attacks on Senator Sessions, they are also smears against organizations like these which have similarly examined the record and found Senator Sessions worthy of support.

So I'm grateful to you for your willingness to take this on, knowing that you might be smeared by certain organizations. It takes some guts to do this. But we all know you have guts. We all know that you believe in what you're doing. We all know that you have a tremendous integrity. We all know that you have a tremendous intellectual ability as well.

And even though you and I have disagreed on some issues that are important to both of us, you've always acted with distinction and with fairness and decency. And I would expect you to do the same thing as attorney general of the United States.

One thing I know, you would be giving it everything you have, and that's a lot. You have a lot to give. Let me just say, this morning one of my Democratic colleagues said that the standards for evaluating your nomination is whether you will, quote, "enforce the law fairly, evenly, without personal bias," unquote.

Do you agree that the attorney general has a duty to do that?

SESSIONS:

That's a core responsibility of the attorney general, absolutely.

HATCH:

I have no doubt, knowing you, that you'll live up to that. No doubt whatsoever. I think everybody should have to agree with that.

The real question is how we can be confident that you will fulfill that responsibility. And most of the questions this morning were about statements you made, positions you took or votes you cast as a senator on legislative issues. And some of these questions suggested that you could not enforce a law you had not voted for, or that you would not enforce the law or policy that you might have questioned or personally disagreed with.

Now I personally categorically reject that, and you have too. Am I right?

SESSIONS:

That is correct.

HATCH:

Darned right it is. Some of my friends would also reject the suggestion that a liberal could not be impartial. I think liberals can be impartial.

SESSIONS:

I do too, Senator Hatch, and some people -- I don't think it would be hard for me to be impartial and to enforce laws that I didn't vote for. I just don't think that's going to be -- I think I can separate my personal votes of maybe years ago from what my responsibility is today, and I hope that my colleagues can believe that.

HATCH:

Well, the answer to the question whether you can as attorney general enforce the laws fairly, evenly, and without personal bias gets a resounding yes, you can. And anybody who disagrees with that hasn't been listening, hasn't observed you over the last 20 years, or any time over the last 20 years. There's not a shred of evidence from your entire record to undermine that conclusion.

Now it's a fact that you have already served in both the executive and legislative branches, strengthened even further your commitment to the duty of fairness and impartiality. Seems to me it does. Am I right?

SESSIONS:

Well, thank you, yes. I do believe that I've conducted myself according to principles that I think are valid and try to be consistent and honest in my evaluation of the many complex issues that we have here. Sometimes good people can certainly disagree on them.

HATCH:

You know that's true. Now the Justice Department has a duty to defend in court the laws enacted by Congress. As a member of this committee for 20 years, you heard attorney general nominees profess their commitment to fulfill that duty, regardless of politics. Now in my opinion the Justice Department under the outgoing administration reneged on its duty to do so in a number of respects. In some key instances they made decisions on political rather than legal grounds.

How important is it for the Justice Department to defend Congress' statutes, and will you commit to do so even when, as a legislator, you would have opposed those statutes?

SESSIONS:

Senator Hatch, you've been through these issues for many years and I certainly respect your judgment, but I do believe that the lawyer for Congress, the lawyer for the United States, that represents the United States government in court should be the lawyer that defends acts lawfully passed in Congress wherever it's reasonable argument can be made. And I commit to you I will do that.

HATCH:

Well, I believe you, and I know that's true. I have a rough time seeing why anybody would find any real flaws or faults with your nomination. I just want to personally thank you for being willing to go through this, for your willingness to be able to do this, and for your integrity that you have shown and exhibited and demonstrated over the last 20 years.

I can personally testify about you and about what a fine, really good person you are. And we have differed on some pretty important issues from time to time. I have respect for you because you stand up for what you believe, however wrong you may have been...

(LAUGHTER)

SESSIONS:

My wife laughed.

HATCH:

Well, I have a lot of respect for you and I hope that the rest of this first sitting goes really well and that we can get you confirmed as soon as possible because I know you'll do a terrific job and I'm very proud of you for being willing to accept this.

Thanks, Mr. Chairman.

SESSIONS:

I'm honored to have your support, Senator Hatch.

HATCH:

Thank you. You have it.

GRASSLEY:

Senator Feinstein.

FEINSTEIN:

Thanks very much, Mr. Chairman. Just to begin, I would like to ask unanimous consent that all statements and written testimony sent to the committee concerning Senator Sessions be made part of the record. And I have some testimonies and letters.

GRASSLEY:

Without objection, so ordered.

FEINSTEIN:

Thank you very much.

Senator Sessions, when I was a small child, it was during World War II and my father took me to a racetrack south of San Francisco called Tanforan. And it had become a detention camp for Japanese-American citizens. And during the length of World War II -- well, thousands of families were held in this compound.

We checked with CRS, who says no Japanese-American was ever convicted of any sabotage against the United States during that period of time.

Senator Lee, Senator Cruz and I have tried together to enact a bill to assure that no American citizen or lawful permanent resident detained in the United States can be held indefinitely without charge or trial pursuant to authorization of military force.

So here's the question. Do you believe that the government can, pursuant to a general authorization to use military force, indefinitely detain Americans in the United States without charge or trial?

SESSIONS:

Senator Feinstein, that's an important question. Classically the answer is yes. Classically if you captured a German soldier, they could be held until the war ended. That was done, I'm sure, at the Civil War and most wars since.

FEINSTEIN:

I'm talking about Americans.

SESSIONS:

I hear you. So then the question is, we're in a war like we have now, that's gone on multiple years and I would think the principle of law certainly would appear to be valid. But as reality dawns on us and wars might be even longer, you know, it's honest to discuss those issues.

So I respect your willingness to think about that and what we should do. But in general I do believe, as Senator Graham has argued forcefully for many years, that we are in a war, and when members who, like the Japanese, who were never proven to be associated with a military regime like the Japanese government, these individuals would have to be proven to be connected to an enemy, a designated enemy of the United States.

I probably explained more than I should, but that's basically the arguments and the issues we are facing. I respect your concerns and I am sure they will continue to be debated in the future.

FEINSTEIN:

Well, let me just say a few things about that. I served on the Intelligence Committee for 15 years. I read all of it. I think I know as much as anybody about what's happening in the United States. This is not -- these are Americans that we are talking about that can be picked up and detained and held without...

SESSIONS:

You're talking about Americans.

FEINSTEIN:

...trial indefinitely. And that should not be the case.

SESSIONS:

Well, I understand your point, and a citizen of the United States has certain important rights that cannot be abrogated. It is absolutely so they cannot be detained without undergoing a habeas review, and the government truly has to prove that they are indeed connected sufficiently with an enemy action against the United States or they couldn't be detained.

FEINSTEIN:

Well, I appreciate that. Let me go on to another subject. You were one of nine senators to vote against Detainee Treatment Act of 2005. It prohibited the imposition of cruel, inhuman or degrading treatment or punishment of any person in the custody or control of U.S. personnel.

You also voted against an amendment sponsored by Senator McCain in the 2016 Defense Authorization bill to limit interrogations to the techniques provided by the Army field manual, which is not include waterboarding.

Do you agree the CIA's former enhanced interrogation techniques, including waterboarding, are prohibited by this provision of law as now codified at 42 USC 2000dd?

SESSIONS:

It does appear to be clear that the last act, McCain amendment, would prohibit waterboarding.

FEINSTEIN:

And you would enforce that?

SESSIONS:

I would enforce the law, yes.

FEINSTEIN:

Thank you very much. Now my third question is, and this was in the Washington Post, a report last night that you failed to disclose to this committee and to the Office of Government Ethics, sub certius (ph) rights to oil or other minerals on more than 600 acres in your home state, some of which I gather are adjacent to a federal wildlife preserve.

Apparently Alabama records -- and this is a quote -- show that the senator leased undivided mineral interests to Chief Capital, a Texas firm, in 2015. Do you in fact own these interests?

SESSIONS:

Senator Feinstein, I believe that's so, and the way it happened was that many years ago, at least 50 or more years ago, my family, ancestors sold some land and reserved mineral rights. Later there was a dam built on the river and a desire to take land that was going to be flooded and to add additional land for a duck preserve.

And they negotiated and the family sold land to the government and retained the mineral rights per the agreement. At least that's my understanding. So by an odd series of events, the properties fell to me. I've never reviewed the deeds, I've never known how much land is out there that I own mineral rights on, although oil companies are pretty good about making sure they contact real owners before they drill a well.

So you are correct that we reported the income on my return...

FEINSTEIN:

Four thousand. I saw that.

SESSIONS:

...as coming the property that I own and the property where the oil well is. I did not note in that report specifically that it was oil income because the blank said royalties, but maybe I missed.

So I would just say to you this. We absolutely -- this is something I've taken no affirmative action in. It's something that I'm going to take affirmative action in. I have one of the simplest, clearest,

fairest financial reports you can see. My assets and my wife's assets are almost entirely Vanguard funds and municipal bonds. I own no individual stocks because I want to be sure that I don't have conflicts of interest.

I want to adhere to high standards. We're going to find out what we did or didn't do and correct it

FEINSTEIN:

Good. Thank you.

GRASSLEY:

I welcome a brand-new Senator Kennedy, not only to this committee but to the Senate as well. Senator Kennedy, you are allowed 10 minutes now.

KENNEDY:

Good afternoon, Senator.

SESSIONS:

Thank you.

KENNEDY:

My name is John Kennedy. That's really my name.

(LAUGHTER)

Just so you know, I used to have a law partner named Jose Canseco. It would cause a lot of confusion when we would go to meetings together.

SESSIONS:

I guess.

KENNEDY:

I have been impressed in preparing for the hearings with the deep support you enjoy from law enforcement. In fact, one of my sheriffs from Louisiana -- I don't know if Greg is still here, Sheriff Greg Champagne (ph), who also happens to be a lawyer, came all the way up from Louisiana to lobby other senators on your behalf.

And I've noticed a lot of the organizations that are supporting you are organizations that have not always agreed with your positions on the issues. And that impressed me. I just wanted to read you

one quick excerpt. This is from a statement by the Sergeants Benevolent Association from the NYPD, New York. About as far away from Mobile as you can get.

This is what the letter said. Quote, "As a union representing law enforcement officers, over the years the SBA" -- that's the Sergeants Benevolent Association -- has worked as both an ally and a respectful opponent of Senator Sessions. This experience has shown us that Senator Sessions is a man of unquestionable integrity, devoted to the rule of law and the best interest of our nation. It's for these reasons and many others that we believe Senator Sessions is the absolute right choice to serve as America's chief law enforcement officer."

Now that impressed me. I'd like to know what you intend as attorney general to do to further partner with state and local law enforcement.

SESSIONS:

That is so important. And the United States attorneys throughout the country, as in Louisiana and Alabama, are key players in this. All United States attorneys, colleagues are funded to have law enforcement coordinating officers. I had two in my small office. We had regular meetings.

In the early '80s, this is when it started. This is when the first time. And so instead of having a law enforcement plan produced in Washington, D.C., the U.S. attorneys were directed to get all the federal agencies and all the state and local agencies to sit down and identify what the main threats are and direct their resources to deal with these real threats in that district, and they would be different in different districts around the country.

I sense that that's been eroded somewhat, so we need to go back to a lot of that. The Department of Justice has great resources for identifying tactics and strategies that work on crime. We ought to be able to always help the state and local police officers have the best data on what works and how to create safer and better communities.

The federal government cannot dictate to these agencies. It would be a disaster. They wouldn't accept it, number one, and any influence you might have would be eliminated. We need to be partners of federal government through its power internationally and nationally can help a local investigative agency solve a complex criminal case if they don't have the subpoena power. They don't have -- a Louisiana U.S. attorney, or a sheriff doesn't have power to have investigations conducted in Texas or Denver.

So these are the things that are all-important. I truly believe from a matter of public policy, we need to see the big picture, and we are all in it together. We are all in it together. And 90 percent of the law officers in America are state and local. They are the ones that are the eyes and ears of law enforcement.

So I really think, Senator Kennedy, you are correct that we need to do this. I think there's a feeling among law enforcement that that's not been happening sufficiently. So I sense that's one of -- and the fact that I think I understand that, that I've had as much strong and enthusiastic support as I've had.

KENNEDY:

You know, when a radical Islamic terrorist drives a truck into a group of people and kills them, we are told that we should not judge all Muslims by the act of a few. And I agree with that. Don't you think the same rule ought to apply when one or two law enforcement officers make a mistake? Don't you think the same rule ought to apply to all the other 99.9 percent law enforcement officials out there, who just get up every day and go to work and try protect us?

SESSIONS:

Well, I really do. And I think those of us in high public office do need to be cautious about demeaning whole departments and whole groups of people because within most any department you can find in America surely most of the people are just wonderful servants, public servants trying to do the right thing.

So when we say these things, we can increase risk for them. We can make it harder for them to have relationships with the constituents where they are serving, and actually result in an increase in crime and ineffectiveness in law enforcement.

So these issues are -- we can't miss these issues. You cannot make a big mistake like we may be making now. So I commit to doing my best as a law officer to engender the kind of unity and comprehensive effort state and local, federal, that may be the most effective engine to fight crime and make our communities safer.

KENNEDY:

In Louisiana, Senator, we believe that love is the answer. But we also believe that we have the right under the Constitution to own a gun just in case. Could you share with me your thoughts on the Second Amendment?

SESSIONS:

Well, I do believe the Second Amendment is a personal right. It's an historic right of the American people, and the Constitution protects that and explicitly states that. It's just as much a part of the Constitution as any of the other great rights and liberties that we value. So my record is pretty clear on that.

However, people can forfeit their right to have a gun and it can be a factor in receiving sentences and being prosecuted if you carry a gun, for example during the commission of a crime. That can add penalty and convictions to you. I think that's a legitimate and responsible restraint on the Second Amendment right to keep and bear arms.

KENNEDY:

I think they believe this and Alabama too, but Louisiana, we also believe that nothing makes it easier to resist temptation than a good upbringing, a strong set of values and witnesses. I'd like to know your thoughts on the Freedom of Information Act.

SESSIONS:

Well, the Freedom of Information Act is law and I would see it is carried out, and the policies of the country need to be followed.

KENNEDY:

I've got one final question. I read the Inspector General's report about the Department of Justice. I think it came out about the middle of 2016, last year. They talked about -- the Inspector General talked about problems with the department's massive grant programs. The Inspector General said that approximately \$100 million over the last five years went for, quote, "questionable expenditures," or funds that, quote, "could have been put to better use."

Now this is taxpayer money. It didn't just fall from heaven. We thank heaven for it but it came out of people's pockets. I would like to know your thoughts about the I.G. report, if you are familiar with it, and what you plan to do once you are confirmed -- and I believe you will be confirmed -- to help our friends at the Justice Department prioritize their spending a little bit.

SESSIONS:

Thank you, Senator Kennedy. That report raises real concerns. I believe that any responsible public official should recognize that when they obtain an I.G., their own Inspector General, and saying that their department is not performing according to high standards, should listen to that report and take action and review what's happening and make sure it does not continue.

The American people have no desire, and they absolutely should not have their money sent to Washington and then be wasted. We can do a lot more with the money that we have. Having been ranking member of the Budget Committee, I know how difficult it is, but one way to get extra money, free money, is to use the money you've got wisely for things that are valuable.

KENNEDY:

Senator, I don't know you well but I have followed your career with respect and admiration for a lot of years, and I just want to tell you that. You would be a great Attorney General.

SESSIONS:

Thank you. Thank you very much.

GRASSLEY:

Senator Sessions, you asked for a short break, so I hope maybe 15 minutes would be adequate.

SESSIONS:

That would be adequate. Absolutely.

WHITEHOUSE:

As soon as I came back, he's going.

GRASSLEY:

Senator Whitehouse is going to be next

WHITEHOUSE:

That's OK. Ready when you are.

GRASSLEY:

So go ahead, Senator. Take your time. We'll stand in recess.

(RECESS)

GRASSLEY:

(OFF-MIKE) ask questions and it doesn't matter how many it is, I'm going to stay here as long as people want to ask questions because I haven't had my second round yet. If I could ascertain that, I'd appreciate it. I know we have at least one or two Republicans that want too. Senator Whitehouse, you go ahead.

WHITEHOUSE:

Thank you, Chairman.

Senator Sessions, welcome back. As you know, the Department of Justice has at its heart the career prosecutor and attorney corps that staffs it on social media. Conservative bloggers are already circulating names of career attorneys in the department who they say should be demoted or reassigned because of positions they argued under Attorneys General Holder and Lynch.

One commentator for the Heritage Foundation has made the comparison to filth within the Department of Justice and suggested that, like Augean stables, you need to run rivers through the department and wash out the agency from top to bottom. And you yourself have criticized department attorneys for being secular. That was as recently as November.

Now in Rhode Island, we have a long tradition, back to Roger Williams, of separating church and state, and as an attorney general and as a U.S. attorney we also have a tradition of allowing career

attorneys to follow the policy dictates of other administrations and not holding the career people responsible for that.

I'm wondering how you will react to this. Do you have a problem with career attorneys if their private, religious beliefs are secular ones? And will you support the career attorneys against the pressure from these right wing organizations seeking to wash them out like filth, to paraphrase the Heritage Foundation?

SESSIONS:

The Department of Justice is composed primarily of career professionals, as you know Senator Whitehouse, who serve there ably as United States attorneys. And I give them the highest respect. Most of those attorneys reach high standards and they are willing to follow lawful orders and directions from their superiors, even if they might have a different philosophy.

I do think it's often they are put into non-career spots and can go back to career spots, but I don't know how exactly that works. So you would normally expect, and I am sure the Obama administration made changes in the leadership of the department that put career people in positions that they thought would be most advantageous for them to advance the causes they believed in.

That's sort of within the rules of the game. But to target people and to any way demean them if they were fine public servants and they were following the law and carrying out a legitimate policy of their supervisors would be wrong, and I think we should respect them...

WHITEHOUSE:

Does a secular attorney have anything to fear from an attorney general Sessions at the Department of Justice?

SESSIONS:

Well, no. And I use that word at the 90,000-foot level. A little concern I have that we as a nation I believe are reaching a level in which truth is not sufficiently respected, that the very ideals, the idea of truth is not believed to be real, and that all of life is just a matter of your perspective and my perspective, which I think is contrary to the American heritage.

So let's just say kind of a criticism of -- but we are not a theocracy. Nobody should be required to believe anything. I share Thomas Jefferson's words on the memorial over here, "I swear eternal hostility to any domination of the mind of man." And I think we should respect people's views and not demand any kind of religious test for holding office.

WHITEHOUSE:

And a secular person has just as good acclaim to understanding the truth as a person who is religious, correct?

SESSIONS:

Well, I'm not sure. In what method. Is it less a not objectively committed to...

WHITEHOUSE:

...that an attorney would bring to bear in a religious case.

SESSION:

Well, let me just say, we are going to treat anybody with different views fairly and objectively. And the ideal of truth and trying to achieve the right solution to me is an important goal of the American jurisprudential system. Actually, our legislative system.

What is the right thing, what is true, and let's act on it and do the right thing. That's all I do.

WHITEHOUSE:

On the subject of what is truth.

SESSIONS:

It's an age-old question.

WHITEHOUSE:

You may be in a position as attorney general to either enforce laws or bring actions that relate to the problem of carbon emissions and changes that are taking place, both physically and chemically, in our atmosphere and oceans as a result of the flood of carbon emissions that we have had.

It is the political position of the Republican Party in the Senate as I have seen it that this is not a problem, that we don't need to do anything about it, that the facts aren't real and that we should all do nothing whatsoever. That's the Senate.

You as attorney general of the United States may be asked to make decisions for our nation that require a factual predicate that you determine as the basis for making your decision. In making a decision about the facts of climate change, to whom will you turn? Will you, for instance, trust the military, all of whose branches agree that climate change is a serious problem of real import for them?

Will you trust our national laboratories, all of whom say the same? Will you trust our national science agencies? By the way, NASA is driving a rover around on the surface of Mars right now, so their scientists, I think, are pretty good. I don't think there is a single scientific society, I don't think there's a single accredited university, I don't think there's a single nation that denies this basic set of facts.

And so if that situation is presented to you and you have to make a decision based on the facts, what can give us any assurance that you will make those facts based on real facts and real science?

SESSIONS:

That's a good and fair question, and honesty and integrity in that process is required. And if the facts justify a position on one side or the other on a case, I would try to utilize those facts in an honest and appropriate way.

I don't deny that we have global warming. In fact, the theory of it always struck me as plausible, and it's the question of how much is happening and what the reaction would be to it. So that's what I would hope we could see occur.

WHITEHOUSE:

Indeed, I'll bet you dollars against those lovely Krispy Kreme donuts that we have out back that if you went down to the University of Alabama and if you talked to the people who fish out of Mobile, they've already seen the changes in the ocean. They'd be able to measure the pH changes and they'd know that acidification is happening and that there is no actual dispute about that except in the politics of Washington, D.C.

SESSIONS:

I recognize the great interest and time you have committed to the issue and I value your opinion.

WHITEHOUSE:

I do come from an ocean state and we do measure the rise in the sea level and we measure the warming of Narragansett Bay and we measure the change in pH. It's serious for us.

Thank you. My time has expired.

GRASSLEY:

Now it looks like it will be the senator from Texas. And senator from Texas, I'm going to step out for a minute. When your eight minutes are up, would you call on Senator Klobuchar?

CRUZ:

Sure. Thank you, Mr. Chairman.

Senator Sessions, I want to congratulate you on making it through a lengthy hearing and then performing admirably. And I think your performance today has reassured this committee, and even more importantly, has given comfort to the American people that you will be an attorney general who will faithfully apply the law without partiality, without partisan lens, but with fidelity to the Constitution and the laws of the United States.

I also want to do something I don't do very often, which is I want to commend the Democrats on this committee for, I think, showing admirable restraint. At the beginning of this hearing I had concerns that it would turn ugly with accusations that don't belong in this hearing. And I think my friends on the Democratic side of the aisle have largely restrained from going down that road. I think it was the right decision to make, but I commend them for that.

You know, I would note that in the recesses of the Internet and in some of the groups that are speaking on this nomination, and indeed, in the view of some of the protesters who have made their voices heard today, there have been racial charges raised. Indeed, some of the protesters have chanted "KKK."

And you and I have both talked about this a number of times. That is one of the easiest charges for someone to make when they don't have an argument on the merits, when they don't have the facts behind them, and it is a particularly hurtful argument that can be directed at someone, particularly when it's countered by the facts.

What I want to focus on principally in this round is spending a little bit of time highlighting an aspect of your record, which is your involvement in the prosecution of Henry Hays, a member of the Ku Klux Klan, because I suspect it is something that very few people watching this hearing have ever heard of.

And it is striking, and I think highly revealing, so I'd like to just walk through some of the facts. I know you are very familiar with them but I suspect some of the folks at home watching the hearing may not be.

In 1981, in Mobile, Alabama, the Ku Klux Klan ordered the murder of a random African American man, Michael Duncan. KKK members Henry Hays and James "Tiger" Knowles abducted 19-year-old African American Michael Donald. They beat him, they strangled him, they cut his throat and they hung him from a tree. Absolutely shameful and disgraceful.

You were U.S. attorney at the time. Your office, along with the FBI, along with the local district attorney, investigated the murder. The Department of Justice attorneys Barry Kowalski and Bert Glen worked on the case.

When asked about your work on this case, Mr. Glen testified that, quote, "During the entire course of the investigations, he" -- meaning Sessions -- "has provided unqualified support and cooperation to us, and independently as an individual who absolutely wanted to see that crime solved and prosecuted." Is that accurate, Senator Sessions?

SESSIONS:

I think it is, yes. That's exactly what I intended to do. It actually occurred before I became United States attorney. Wrong group of people had been indicted in state court. That complicated matters. Case was not making the kind of progress it needed to make, and so we had a discussion.

And we invited the civil rights division attorneys Bert Glen and Barry Kowalski, both of which were exceptionally fine, along with assistant Thomas Figures in my office, broke that case, and I thought they deserved a great deal of credit.

But I was with them. I was in the grand jury with them. I called the grand jury at their convenience whenever they wanted to come to the state. Actually used them and empaneled a special grand jury so they could be called when they desired it. It had already been called for another special purpose, but we added that to their purpose. So they had the flexibility.

It was I thought a brilliantly conducted investigation. I guess Barry Kowalski was the lead attorney in it.

CRUZ:

Now Bobby Eddy, who was the chief investigator for the Mobile County district attorney's office, he testified, quote, "Without his" -- meaning Sessions' -- "cooperation, the state could not have proceeded against Henry Hays on the capital murder charge."

Chris Galanos, who was the Mobile County district attorney in 1981, stated, quote, "We needed to some horsepower, which the feds through Jeff Sessions provided. Specifically we needed the investigative power of the FBI and the power of the federal grand jury. I reached out to him," Sessions, "and he responded, quote, 'Tell me what you need and you'll have it.'"

And indeed, your office prosecuted Hays' accomplice in federal court, where he pleaded guilty. And Mr. Eddy testified that "Tiger" Knowles, the accomplice, pled guilty on a civil rights violation and received a life sentence, the highest sentence he could receive under federal law, in federal prison.

And he continued to say, Henry Hays was tried in state court by Mr. Galanos' office and found guilty and sentenced to die in the electric chair. And this made Hays the first white man executed in Alabama for murdering a black person since 1913.

When you were the attorney general of Alabama, you later argued to uphold Hays' death penalty, and in 1997, five months after you joined this body as a senator, Hays died in Alabama's electric chair. And I would note not only that, not only did you assist in the prosecution of the face of evil, a Ku Klux Klan murderer who saw ultimate justice, but as it so happened you also prosecuted Hays' father, KKK grand titan Benny Jack Hays, who ordered his son to kill an African American, and you prosecuted him for attempting to defraud his home insurer in order to collect money to pay for his son's legal defense. Is that correct?

SESSIONS:

That is correct.

CRUZ:

And beyond that, your office cooperated with Morris Dees and the Southern Poverty Law Center to bring a civil suit against the KKK and Mr. Galanos explained, quote, "After the criminal cases were over the Southern Poverty Law Center took the evidence we had developed and gave to them, and they sued civilly and got a \$7 million verdict on behalf of Ms. Donald." And the \$7 million civil judgment against the KKK in Alabama bankrupted the Klan, leading to its demise in the state. Is that correct?

SESSIONS:

That's essentially correct, yes. In fact, they sold the Klan headquarters to help satisfy the judgment.

CRUZ:

Well, I would say, Senator Sessions, it's easy for people reading things on the Internet to believe whatever's raised and passions get hot. And I know the protesters who stand up and chant "KKK," they in all likelihood believe what they're saying because they are reading and being encouraged on the internet. But I have not seen any appointee to the Cabinet, Democrat or Republican, who has a record like you do of prosecuting klansmen, putting them on death row, bankrupting them and putting them out of business and doing so as you had.

I'll tell you, I admire your doing so. And I'll issue a challenge to our friends in the news media. I noticed every time a protester jumped up, all the photographers took pictures of the protesters. I suspect we're going to see them in all the papers. I would encourage the news media: Cover this story. Tell the story on the 6:00 news about Jeff Sessions helping prosecute a klansman who had murdered an innocent African-American man and put him on death row and bankrupting, helping bankrupt the Klan in Alabama. That's a story that needs to be told.

And Senator Sessions, I thank you for your record. I thank you for your service.

SESSIONS:

Thank you, Senator Cruz. And I would say it has been very disappointing and painful to have it suggested I think the Klan was OK when we did everything possible to destroy and defeat and prosecute the Klan members who were involved in this crime. And it was a good, joint effort. I was supportive of it every step of the way and some great lawyers worked very hard on it.

CRUZ:

Thank you, sir.

GRASSLEY:

Senator Klobuchar.

KLOBUCHAR:

Thank you very much, Mr. Chairman.

Senator Sessions, just this week, backpage.com announced that it was taking down the adult services section of its website. Senator Cornyn and I led the bill on the Judiciary Committee, you contributed to it, which we appreciate. And then we also had work by Senator Portman and Senator McCaskill and Heitkamp and others on this issue.

We had 48 arrests around the towns of New Ulm and Cokato (ph), Minnesota alone where BackPage was part of the operation. And so this was a good result. They took the Fifth today in front of Homeland Security while you were testifying.

But I wanted to know what your plans would be. The Justice Department finally came out with the National Strategy on Sex Trafficking, which was part of our bill, and so it will be in your hands if you are confirmed as attorney general to implement. And could you just give me your thoughts on this issue?

SESSIONS:

Well, I'm glad that the entire nation seems to be giving priority to this. A lot of great people have given real focus to the problem of sex trafficking and the degradation and destruction that results from it. So I think it would be a firm and important part of the Department of Justice's priorities. And I would look forward to following up on the legislative successes and other things that are happening to see if we can't make a real impact against this abominable practice.

KLOBUCHAR:

And I will say Attorney General Lynch and the Deputy Attorney General Yates, as former prosecutors like yourself, they have worked really hard in this area. So it would be worth talking to them about the work they've done as well.

Antitrust -- Senator Lee and I have long chaired that committee. We rotate, depending on who is in charge of the Senate, as ranking member. I care a lot about this. We're in the midst of a merger wave. Between 2010 and 2015, the number of mergers reported to the government increased over 50 percent from 716 to 1,801. And over the last 18 months, we've seen substantial mergers in pharmaceutical, agriculture, cable, insurance, beer. Recently across the political spectrum, there's been a lot of concern about concentration because, you know, you need to have an even playing field if competition is going to flourish. And that means that's better for consumers if you have strong competition. Will you commit to making vigorous antitrust enforcement a priority?

Kind of a sideline to that, there's some concern based on some of the statements from the president-elect that maybe certain companies or industries could be targeted depending on if they're in favor or not. These are not statements that you have made. Could you comment about, independent of the attorney general, when it comes to considering these cases?

SESSIONS:

The antitrust policies of the United States have to be consistent and as clear as possible. As you know, that's not always as easy as some people might think.

I can say with confidence in you and Senator Lee as leaders, I believe, on the Antitrust Subcommittee, I know you are, have been more attuned to the details and the special issues that are involved in that section of the Department of Justice. So we work resolutely on it.

I have no hesitation to enforce antitrust law. I have no hesitation, if the finding justifies it, to say that certain mergers should not occur and there will not be political influence in that process.

KLOBUCHAR:

Thank you. I'm going to put series of some other questions on the record. One is on synthetic drugs. We're working hard, Senator Grassley and I have long worked on this issue with Senator Feinstein and Senator Graham. And we have a new bill that we're working on to make it easier to go after synthetic drugs and maybe on the record we could get your comments on that.

Drug courts, again, one of my top priorities, I think that they've worked very well in jurisdictions that are devoted to seeing themselves not just as businesses that want to see repeat customers, but getting people off of the treadmill of crime and drugs.

And then a very Minnesota-focused issue, Minnesota just got a designation called HITD for high-intensity drug trafficking. A lot of it's based on heroin and some of the opiate addictions that we've seen. And somehow it was set up so the money came through Wisconsin. If you know anything about the Vikings/Packers rivalry, this makes our sheriffs very concerned. And so I would -- I thought I would maybe just on the record, again I'm not going to get into detail, discuss this with you on the record and ask you some questions about making sure we get our due for the funding for Minnesota.

But the last thing I want to talk about was just the refugee issue. We have the biggest Somali population in the country. Our U.S. attorney and the Justice Department have done an excellent job in taking on some ISIS cases as well as Al-Shabaab cases, dozens of cases that have been successfully prosecuted. And I know that work will continue, want that work to continue.

We also have the vast majority of them are law abiding and an important part of our community. And as you know, there has been a lot of anti-Muslim rhetoric out there. We had -- I heard the story in Minneapolis of a family that went out to eat, they had lived in our town forever, they had two little kids. And they go out to eat and this guy walks by and looks at them and says you four go home, you go home to where you came from. And the little girl looks up at her mom and she says, mom, I don't want to go home, you said we could eat out tonight.

And you think of the words of that innocent child. She only knows one home and that's my state. She only knows one home and that's America. So a big part of the job of the attorney general, to me, is not just enforcing those laws as we have in our state against terrorist activities, but it is also protecting the innocence among us.

So I wondered if you could close your questions from me by commenting about your view of how you would uphold all of our nation's laws, the basic value of religious freedom, but also the protection of people from larger crimes than the remark I just talked about, but actually bullying and those kinds of things, because I just think it has no place in our country.

SESSIONS:

Thank you. That is an important principle that you've touched on, which is the principle that in America you are free to exercise your religious beliefs as you deem fit, as long as it doesn't violate established law that, you know, would be important.

So we have that provided for in the Constitution. We can't establish a religion and we can't prohibit free exercise. And I believe, by and large overwhelmingly, Americans value that principle and support it. And we should always hold it high and we should not back away from it, and that includes Muslim friends and neighbors as well as any other religion.

And you are right, overwhelmingly there is not violence and radicalism among our Muslim friends and neighbors and we should not ever think that and treat people in a discriminatory basis.

When people apply to come to the country, it is appropriate, I believe, to vet them from countries that may have had a history of violence, to be careful about who we admit, because basically the admission process is a process that should serve the national interest.

So that's sort of my view about it. I believe it's an acceptable and good view and would try to carry that out. But the decision about admitting and not admitting is really not the attorney general's decision at all. It is the State Department's and it is the policy of the president and the State Department. And so we would just simply make sure if it's done it's done in a proper fashion and not unlawfully.

KLOBUCHAR:

Thank you. And Mr. Chairman, I also have some statistics on immigration in response to some of the first exchanges that Senator Sessions and I had about what Minnesota, the business economic value of immigrants in our community. I'll just put that on the record later, so thank you.

Thank you.

GRASSLEY:

Senator Cornyn.

CORNYN:

Thank you, Mr. Chairman.

Senator Sessions, thanks to Senator Grassley and Senator McConnell I now find myself as a member not only of this committee, but also the Intelligence Committee, for which I am grateful. One reason why I thought it was so important for another member of the Senate Judiciary Committee to get on the Intelligence Committee is that because while the Intelligence Committee conducts a lot of the oversight, it's the Judiciary Committee that confers the authorities on our intelligence officials and law enforcement officials to do what they do.

My hope is that during this process where we're coming off of a very contentious election that our colleagues across the aisle will join us in making sure that the new president has his national security Cabinet members at least confirmed on an expedited basis. And, of course, I would include the office of attorney general as one of those.

As you know, the attorney general and the department's National Security Division work with members of the intelligence community and help oversee the collection of foreign intelligence information.

I know earlier, Senator Leahy and perhaps Senator Lee asked you a little bit about the USA Freedom Act and the National Security Agency. But I want to highlight something that you're well-aware of and that's the sunset of Section 702 of the Foreign Intelligence Surveillance Act.

According to the Privacy and Civil Liberties Oversight Board, which Congress appropriately appointed to oversee the activities of the intelligence community, Section 702, which will expire at the end of this year, has been responsible for disrupting more than 100 known terrorist plots, including the New York subway bomb plot in 2009 and other plots outside the United States. As I said, if we don't act by the end of the year, that authority will expire.

I think we are fortunate on the Judiciary Committee to also have, in addition to our other colleagues, Senator Feinstein who has, until recently, served as the ranking member on the Senate Intelligence Committee and now, of course, she's ranking here. And I hope she along with Chairman Grassley will make sure that all of the committee members are thoroughly briefed and comfortable with the reauthorization of Section 702 and to make it one of our highest priorities this year.

In addition to Section 702, as you know, there are other legal and policy challenges that you're going to face as the next attorney general. Our national security investigators and law enforcement officers are facing incredible challenges, many of them technical challenges like growing encryption of communications, whether it's hardware or software.

We saw that being relevant to what happened in San Bernardino where the FBI had to pay third parties a substantial amount of money to get at the communications contained in the telephones of the actors in the San Bernardino attacks, or in Garland in my home state of Texas where the last time the FBI director came before this committee said there were still a multitude of communications on the devices of the two shooters in Garland that they still had not been able to get access to.

So the FBI director said this is part of the trade craft now of terrorists. And he referred to it as going dark. And thankfully, Chairman Grassley held a hearing on that just this last year.

We know there are other statutes, including the Electronic Communications Privacy Act, things like the so-called ector fix which would allow the use of national security letters to get IP addresses, not content, without a warrant, but IP addresses or metadata which is important to these national security investigations.

I think I know the answer to this, but as attorney general, I just would like your verbal commitment here to continue to do what you have always done, and that's put the safety and security of the American people first and you'll continue to work with us in a cooperative fashion to make sure that all the needs of all the stakeholders are being met, including the brave men and women who defend us each and every day in the intelligence and law enforcement community. Will you do that?

SESSIONS:

I will, Senator Cornyn. And thank you for your hard work and leadership on these important issues.

CORNYN:

Let me ask you about the Freedom of Information Act. I don't know whether Senator Grassley had a chance to ask you about this or not.

As you may know, Senator Leahy and I are kind of the odd couple on Freedom of Information Act reforms. As a conservative, I've always felt that the best antidote to abuse or waste is sunlight where possible. And you don't have to pass another law or another regulation where people change their behavior because they know people are watching.

And Senator Leahy and I have worked closely together to see a number of reforms passed and signed into law, many of which I know you have supported and consulted with us on. It's not a blank slate. Sometimes you have to be careful about disclosing information that ought not to be public information or is law enforcement sensitive or classified or the like.

But I just would hope that you would continue to work with us. And I'm confident you will, but I'd just to get your verbal commitment to continue to work with us to make sure that the public's right to know is protected. I'm not suggesting that the public has a right to know everything because, frankly, as I said, classified, law enforcement sensitive information needs to be protected for important policy reasons. But will you continue to work with us to make sure that we protect the public's right to know to the extent feasible?

SESSIONS:

I will, Senator Cornyn. And I value your judgment and insight on it. It's an important issue and I appreciate your work.

CORNYN:

Thank you.

Thanks, Mr. Chairman.

GRASSLEY:

Senator Franken.

FRANKEN:

Thank you, Mr. Chairman.

Before I move on to my questions, I'd like to respond very briefly to what Senator Cruz said earlier. It is important, in my view, that the members of this committee get clarity with regard to the nominee's record. That's our job and it's important.

Now, let's be clear. Senator Sessions said in his questionnaire that he, quote, "personally handled" four civil rights cases. Some of the lawyers who worked on those cases disputed that characterization and Senator Sessions himself, after his questionnaire was in, felt a need to file a supplement in which he clarified that he merely provided, quote, "assistance and guidance" to Civil Rights Division attorneys on these four cases.

Now, if that's a distinction without a difference, I'm not sure why Senator Sessions felt the need to clarify. But I want to move on.

Senator Sessions, in late November President-elect Trump tweeted, quote, "In addition to winning the Electoral College in a landslide, I won the popular vote if you deduct the millions of people who voted illegally." Now, let's be clear. President-elect Trump lost the popular vote by more than 2.8 million votes, so what he's saying here is that more than 2.8 fraudulent votes were cast. Do you agree with President Trump that millions of fraudulent votes were cast in the president election?

SESSIONS:

Senator Franken, 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.

FRANKEN:

Well, the Department of Justice is tasked with protecting voting rights and prosecuting fraud. So if millions upon millions of fraudulent votes were case, I would imagine that the next attorney general would be quite concerned about that.

Did the president-elect tell you anything about what caused him to come to this conclusion?

SESSIONS:

I have not talked to him about that in any depth or particularly since the election.

FRANKEN:

Uh-huh. So he didn't share any evidence of voter fraud with you? Because I would imagine as the man that he wants to make responsible for combating fraud at the ballot box that he would want to make sure that you had all the evidence necessary to take action and to protect the vote, so he didn't do that evidently.

Before we move on, I should note for the record that state election and law enforcement officials surveyed in mid December found virtually no credible reports of fraud among the nearly 138 million votes that were cast and no states reported indications of any widespread fraud.

What's truly troubling about this, I believe, these bogus claims of voter fraud, is they're routinely used to justify voter suppression. And thanks to the Supreme Court's disastrously decided Shelby County decision, which gutted the Voting Rights Act, it is easier than ever before for states to make it harder for people to vote.

Now, Senator Sessions, you have a complicated history with the Voting Rights Act. Ten years ago when voting rights was a bipartisan issue, you voted to reauthorize the Voting Rights Act, everyone did, it passed 98 to nothing.

But you have also called the Voting Rights Act, quote, "an intrusive piece of legislation." You have complained that the act's pre-clearance requirement unfairly targeted certain states. And you have said that there is, quote, "little present-day evidence that state and local officials restrict access to the franchise." You said that the Voting Rights Act has, quote, "eliminated that discrimination."

Well, Senator, after the Shelby County decision, which you celebrated, states began testing the limits of what they could do, in many cases citing the risk of so-called voter fraud as a justification for their actions.

Now, that's what happened in North Carolina, for example. Just a few months after Shelby County, the state enacted one of the nation's strictest voter I.D. laws and enacted other restrictions. Without any evidence, the state described these changes as necessary to prevent fraud.

Well, the courts disagreed. North Carolina's restrictions were challenged, in July the 4th Circuit found the primary purpose of the restrictions wasn't to fight fraud, but to make it harder for black people to vote.

Here's what the court said, and I quote, "The new provisions target African Americans with almost surgical precision. They constitute inept remedies for the problems, assuredly (ph) justifying them and, in fact, impose cures for problems that did not exist."

Senator, do you still believe that there is little present-day evidence of states restricting access to the franchise? And if you do, what do you think the 4th Circuit got wrong when it found that North Carolina targeted black voters with almost surgical precision? Do you accept that North Carolina was targeting African-American voters, but not believe that it was engaging in discriminatory conduct?

SESSIONS:

Well, you cannot create laws designed to inhibit the right of any class of citizens to vote. And so if the 4th Circuit found that and there's a factual basis to support it, then any law that's passed would be subject to being either eliminated or altered. So I support your concern that laws of this kind cannot be used for that purpose.

I do believe not long ago the Supreme Court did uphold voter I.D. laws, but there are a ways to do it and ways probably you cannot do it. So I am not familiar with the details of the North Carolina law, but you are correct, any finding that's sustainable that there is a racial animus in the passing of a law that would restrict voting, that law could be unsustainable.

FRANKEN:

Now, North Carolina is one of the states that would have been covered by pre-clearance, was it not?

SESSIONS:

North Carolina and states would be. Of course, I would just suggest...

FRANKEN:

It would have been. So now we're...

SESSION:

...that Section 2 allows all the remedies. And that's what I suppose they filed the action under in this case. It's just not a pre-clearance question and that pre-clearance policy is intrusive as the Supreme Court has said. And I didn't mean that in any pejorative way. I was asked, do you believe it's intrusive, is that correct? I said it is intrusive, but the voting -- this is 1986, but the Voting Rights Act was absolutely essential to reverse the problems that we had in the South...

FRANKEN:

Mr. Chairman, let me just respond to that, please?

OK, here's the thing. OK, because we had this debate after Shelby. And Chairman Leahy tried to introduce something to substitute so that we could have pre-clearance again, which was fought by

you. The whole point is that Section 2 of the Voting Rights Act, you're right. But how many years after North Carolina did that? So how many times, how many elections were conducted in North Carolina where African Americans' votes were suppressed?

That's why you need pre-clearance. And as soon as Shelby came down, you saw Texas, you saw North Carolina go, oh, good, now we can suppress votes. That is the reason you have pre-clearance. And that is the reason that you can't rely on the district court or the circuit courts to rule.

GRASSLEY:

(OFF-MIKE)

SESSIONS:

Mr. Chairman, I voted a few years ago for the Voting Rights Act extension for 25 years. It included pre-clearance in it. We all knew at that time that the Supreme Court would probably take up a case before long that would have wrestled with the question of whether there is a sufficient basis for the extraordinary remedy of requiring only a few states in the country to have every even ministerial act, like moving a voting precinct, to seek the permission of the Department of Justice first.

The Supreme Court found that that no longer could be justified. The Supreme Court decided that we should not have or did not have to have pre-clearance. But Section 2 of the Voting Rights Act allows these kind of challenges that Senator Franken is talking about. That's what was brought in North Carolina. That's what's being litigated today. And the court there did in fact find that the voter I.D. law was improper, as I understand it.

So I believe we've proceeded in a lawful fashion. And I did feel in one sense that it was a good feeling that the Supreme Court had concluded there had been substantial improvement in our area of the country, the South of the country, in voting rights, sufficient that Section 5 could no longer be justified.

But I voted for it.

FRANKEN:

Thank you, Mr. Chairman, for your indulgence. As Justice Ginsberg said, an umbrella means you don't get wet when it's raining and you don't take the umbrella away.

GRASSLEY:

(OFF-MIKE) in the record a letter that I just today received in support of Senator Sessions's nomination from the National Shooting Sports Foundation, without objection, I should say.

Senator Sasse.

SASSE:

Thank you, Mr. Chairman.

Senator Sessions, I'd like to talk a little bit about the Sarah Root case. I know that you and I have discussed it briefly last summer.

Sarah Root was a woman who was killed a year ago this month in Omaha. She had just graduated from college and she was killed by a drunken street racer. Omaha authorities believe that this guy had been engaged in similar activity many times in the past. He was an illegal immigrant. He ran into her car, killed her right after her graduation.

He was detained by Omaha police. They ultimately notified the Department of Homeland Security this guy is a flight risk. He was able to post a fairly insignificant bond and he disappeared. The Department of Homeland Security did nothing to detain the guy, despite the fact that the Douglas County sheriff and the Omaha police department asked that he be detained. The Obama administration determined that it wasn't an enforcement priority.

I don't want to hold you to specifics on this case here, but I want to get your pledge in this context. I want to hear you talk generally about the coordination between state and local law enforcement on illegal immigration activities and in particular in cases where serious crimes have been committed.

But I wonder if you would pledge now that if I send you a letter the day after you are confirmed, would you give expeditious attention to responding with some of these details about how enforcement priorities are set inside the federal government?

SESSIONS:

Thank you, Senator Sasse. I certainly will. And it does represent important failures that we're seeing too often in our system today.

SASSE:

Do you have any top-line thoughts on the way local and state officials interact with federal officials on immigration cases?

SESSIONS:

Well, the immigration enforcement procedures, the courts have held, are exclusively the power of the federal government. But it's also clear that a state official has the right to arrest somebody for the offense of crossing the border illegally. They have the right to arrest people who have entered the country illegally or repeatedly entered the country illegally for any kind of offense, including the offense of reentering illegally. And the cooperative system should work in a way that the federal government then evaluates whether or not they want to put a hold on an order not to release that person until they can take them and see them be deported.

And it's failing in a whole number of ways. You've got the sanctuary cities who refuse to tell Homeland Security that they've got somebody that's committed a serious crime so they can be deported. They refuse to honor detainers.

On the other sides, we've got Homeland Security too often having standards or failing to follow up on serious offenses of people who should be deported.

So in both aspects, I think, Senator Sasse, we can do much better. And we, this country, has every right to deport persons who are here unlawfully, who violate our criminal laws in some other aspect, and they should indeed be promptly deported.

SASSE:

Thank you. We'll follow up with a letter because this guy, Edwin Mejia, who killed Sarah Root, it was obvious to everybody engaged locally, lots of law enforcement and the family whose daughter was killed, that this guy was a flight risk. And everyone was screaming to the feds please don't let this guy disappear before he can stand trial. He's now in the top 10 most wanted list and nobody thinks he's ever going to be found. Everybody believes he left the country.

And this kind of case isn't an isolated case. It's a kind of handoff between federal and local law enforcement that could happen repeatedly if you don't have a federal government that has any clear policy. So I'd like to send you a letter right after your confirmation asking for clarity about how enforcement discretion and enforcement actions are prioritized.

SESSIONS:

And Senator Sasse, I would note that fundamentally that would be a Homeland Security issue initially and they need to set the standards of what they should and should not do. And I would think that General Kelly would be quite willing to also talk with you about it, as will I.

SASSE:

I will likely be addressing the letter to both you and General Kelly. So thank you.

A completely different line of questioning. This morning you were asked some hard and appropriate questions about the responsibility of a chief law enforcement officer for the federal government. If there are cases where there might be a conflict between your oath of office to the Constitution, of limited government, and a separation of executive and legislative authorities and the people that you report to when you work inside an administration, you said in the course of that answer that there could ultimately be cases where someone might have to resign because they were being forced to do something that conflicted with their oath.

I wonder if you could unpack that a little bit and talk about, you know, the Justice Department's responsibilities and attorneys general past, over the past few decades. Can you name instances where a resignation might be in order and what kinds of lines would you envision being crossed

and ways that you as the attorney general might push back on an administration if asked to do things that you regarded as inconsistent with your oath to the Constitution?

SESSIONS:

It would be difficult to speculate on that. We saw that during the Nixon administration. But there could clearly be a circumstance in which there is such a relationship breach that an attorney general wouldn't be an effective member of a president's administration. Maybe the chief executive could even be correct and the attorney general could be wrong. But if the attorney general's duty is to give the best judgment that the attorney general can give and, therefore, if it's rejected on a very fundamental area, then that causes great concern. Maybe in another area of less importance you could afford to disagree.

But I just think that that result should be very rare, has not happened very often in the history of this country. Actually, I only know of one. And therefore, the reason is that usually the chief executives, and I would expect with President Trump, that when confronted or advised that certain policies are not acceptable would accept that advice. I'm confident that he would.

But you raise a hypothetical and I've at least given you my thoughts about it.

SASSE:

Just to conclude, because I'm inside my last minute, but going back to the connection between this question and the OLC line of questioning that Senator Lee posed this morning, if a head of OLC, if the assistant attorney general from OLC was coming to you and saying I've been asked to try to justify a certain position, I've been asked to write a memo to support this position and I don't think we can get there, I don't think that the Department of Justice's considered wisdom and insight into the law is that we can ultimately write the memo that will authorize certain actions, how do you as the attorney general envision that conversation going? Just tell us the parts between an OLC, an attorney general's office and the White House?

SESSIONS:

Well, Attorney General Mukasey, who I think is still here, yes -- I'm honored to have him here today -- he issued a memorandum about how the communications could be effectively carried out. And it restricted communications from the political officials to the Justice Department in a way that guaranteed integrity. But there's nothing wrong, as I understand it, through the proper chain of command that a request for an OLC opinion on a certain subject, there's nothing wrong with the White House asking for that. Indeed you want that, you don't want the White House acting, you want them to seek legal advice. And generally, historically, things get sort of worked out.

If the OLC comes back and says, Mr. President, you can do this, but you can't do it this way, or maybe you can do it that way and maybe it won't give you everything you want, but that's safe, that's legal, that's within the realm of action that the president can take, this, we believe, is not.

And usually having an attorney general who has the confidence of the president, who the president knows was giving him the best advice, also advising him what he cannot do, which is part of good advice, is the way it's historically resulted.

And you need the best lawyers and you need to be very careful because these things set precedence. They also can result in lawsuits and all kinds of controversy that should not happen as a result of a bad OLC opinion.

SASSE:

Thank you. The stewardship of the integrity of that office is critically important. Thank you for your forthrightness.

GRASSLEY:

Senator Coons.

COONS:

Thank you, Chairman Grassley.

Senator Sessions.

SESSIONS:

Thank you, Senator Coons.

COONS:

To return to an issue a number of senators asked about before, but I just want to get clarity about a particular concern I had. The intelligence community has issued a unanimous opinion with high confidence that at the highest levels the Russian government engaged in an organized cyberattack that was designed to influence the American elections. And it is, as you've mentioned before, emblematic of the kinds of threats that the United States faces, whether it's China stealing our intellectual property or hacks into our federal database that affects of federal workers or, in this case, a direct attack on democracy.

And you mentioned in response to a previous question you haven't been fully briefed on this. But there is a bipartisan bill that's been introduced to strengthen and sustain sanctions against Russia for this attack on our democracy. Is that something you'd support?

SESSIONS:

That is something that's appropriate for Congress and the chief executive to consider. In other words, how do you respond to what's believed to be a cyberattack from a major nation? It's difficult

just to say we're going to prosecute the head of the KGB or some group that's participated in it, no longer a KGB, of course.

So in many ways, the political response, the international foreign policy response, may be the only recourse. And it would help in that light that more clarity be established, which, Senator Coons, you probably understand more than I, the discussions about having the world know that if you do X to us, you can expect we're going to do Y to you.

COONS:

Well, I think this bipartisan bill is designed to be a forceful response to provide predictable preemption of other countries that might believe that they could engage in a successful cyberattack to influence future elections, whether at the federal or local level. So I urge you to get briefed up on it, as all senators can now, and to have a clear public stance on it.

Let me move to immigration if I might. Alabama had a state statute that forced its schools to check students' immigration status before allowing them to enroll in school. Are you concerned at all that that statute might target innocent children and discourage school attendance for juveniles?

SESSIONS:

First, I had no involvement in that statute. Secondly, I believe the court struck that statute down, I'm not sure.

COONS:

I believe that's correct.

SESSIONS:

Some of that was declared improper and some not. So I don't -- what was your question exactly?

COONS:

Well, I'll follow up if I could. There was a statute in Alabama that was designed to require teachers, school administrators to check the immigration status of students before enrolling them. And I believe at that point five years ago you made a public statement that we've allowed a sad situation for decades where large numbers of people are in this country illegally and it's going to have unpleasant and unfortunate consequences. Some took that to mean that you felt that it was an unfortunate consequence, but appropriate that children who were brought here illegally by their parents could be denied access to education.

SESSIONS:

Well, they cannot be denied access to education. The courts have decided that, as I understand it. The question is, could you even ask if you're lawfully in the country or not? And I don't know what the law is on that subject.

But what I was getting at was that this a continual problem and will continue to be a problem if we don't end the lawlessness. I mean, you'd rather have children, immigrant children and children of immigrants here that came lawfully rather than unlawfully. It creates a problem that we don't need to have and I believe is within our grasp to fix. And I believe people of good will will support that. And we need to get that done. And a lot of problems in our country will be fixed and a lot of our ability to create a more harmonious system in the future could become possible once this illegal system is fixed.

COONS:

Well, as you know, Senator, on this committee, together many of us worked, put great effort into crafting a bill that ultimately passed the Senate by a strong bipartisan margin, would have invested heavily in securing the border and address a lot of unresolved issues in immigration.

But my recollection was you did not support that bill. It's my hope that we can find a bill, as you say, that you could support.

Let me move to another point. We worked together to restore funding to the federal public defender service when it was cut by sequestration. And I think that's because we both agree that outcomes are more fair when there's effective representation on both sides.

One of the amendments I offered to that immigration bill would have provided counsel to children who were applying for refugee status because they were fleeing violence in their home countries in U.S. immigration proceedings. Is that something you would support?

SESSIONS:

Senator Coons, as I understand it, that is the law that you cannot provide lawyer to illegal entrants into the country. And I don't believe it makes a -- it distinguishes between minors and adults. But I may be wrong about that. I presume that's why you've offered legislation to that effect to change established law.

But in general, I do not believe we can afford nor should we undertake to provide free lawyers for everybody that enters the country unlawfully. I think that would be a massive undertaking.

So you're talking about children specifically. I understand that. And I...

COONS:

Specifically (inaudible).

(CROSSTALK)

SESSIONS:

That's a matter that Congress would need to decide what to do about.

COONS:

Let me ask you another question if I might. There have been -- there was a lot of discussion in the course of the campaign, it was a very vigorous campaign, about the role of immigrants and, in particular, Muslims in this country. And I just want to make sure I've understood this.

You believe it's improper for the government to discriminate based solely on a person's religion, correct?

SESSIONS:

That's incorrect. I believe that religion as practiced by and understood by an individual could make that individual subject to being denied admission if that individual's practice of their religion would present a threat to the country. So we have no requirement to admit somebody who claims to be religious who would present a threat to the United States. And I strongly think we have every right to inquire in those kind of radical and dangerous ideas that some might possess.

COONS:

So there's about 3 million Muslims in the United States today. There have been Muslims in America since its founding. Thomas Jefferson had a copy of the Quran. Would you support a national registry of Muslims? And what sort of surveillance of mosques do you think would be appropriate within the constraints of civil liberties and respect for free exercise?

SESSIONS:

I would not favor a registry of Muslims in the United States. No, I would not. And I think we should avoid surveillance of religious institutions unless there is a basis to believe that a dangerous or threatening illegal activity could be carried on there. I'm not aware that there is a legal prohibition on that under current law.

Let me ask a last question, if I might. As Alabama's attorney general, this is back in 1996, there was a conference planned at the University of Alabama and this was for LGBT students, a conference to talk about a wide range of issues from health to status in society for the LGBT community.

And based on a state law, you sought to prevent that conference from happening. And a federal district court held that the existing state statute, Alabama state statute, that prevented gatherings in public buildings for the "advocacy of sodomy and sexual misconduct," I'm quoting, the district court held that that clearly violated the First Amendment, the free speech rights of students to gather and talk about their lives.

And you publicly announced that you intended to do everything you could to stop that conference and I believe sought an injunction which was later denied and the 11th Circuit later held that this law was unconstitutional on its face.

Would you think, looking back on this now, given your statement earlier that you understand the needs for justice of the LGBTQ community, that it was a poor use of state resources to defend a law that was so facially unconstitutional?

GRASSLEY:

(OFF-MIKE)

SESSIONS:

Senator Coons, that statute, the litigation started in another university before I became attorney general. It was going on for about a year. And I believe the litigation arose from the group filing a declaratory judgment against the law. And as attorney general, I felt I should attempt to defend the law. And the court ruled against it.

And it would have been better if we hadn't passed the law. It would have been better if the controversy hadn't occurred.

COONS:

Thank you.

GRASSLEY:

Before I go to Senator Crapo, I have a letter here from a former colleague, Senator Lieberman of Connecticut, and in that letter he makes an important point, two sentences I'd like to repeat: "Do I agree with everything he," meaning Senator Sessions, "has ever said or done? Of course not. But I don't agree with everything anyone I know has ever said and done, including myself. If I were in the Senate today, I would vote aye on his nomination."

I ask consent to put that in the record.

Senator Crapo.

CRAPO:

Thank you, Mr. Chairman.

Senator Sessions, one issue that's been gone over a lot today, which I'm going to return to, is the question of the rule of law and whether you would honor it.

Many times an administration will not agree with a particular statute, even though the language and intent of Congress are crystal clear. And in addition, many times the individual who has been appointed to enforce the laws doesn't personally agree with a law that's on the books. Yet as an attorney general, it will be your job, as you have already indicated, to enforce and defend the laws as written by the legislative branch, regardless of your own personal philosophical views.

And I know that you've done this. Let me talk about a few examples. Even though you support the death penalty, you agreed to drop the death sentence of a defendant when you determined that the aggravating circumstances standard in the statute for applying the death penalty didn't apply to their particular convicted double murder.

Even though you had supported a Republican governor when you were Alabama's attorney general when this governor violated the ethics laws, you agreed and argued to uphold his conviction.

Again, when you were the Alabama attorney general, you declined to prosecute a former Alabama insurance commissioner who was a Democrat, even though you received criticism for this. You didn't prosecute because you believed there wasn't actually a criminal violation.

You also prosecuted the Alabama Republican Party vice chairman, even though you're from the same party.

So it seems to me that your history shows that you can make those kinds of judgment calls and do what the job demands.

I already know the answer to this question because I've seen it in your record and because I've known and worked with you for a number of years. But I ask anyway, again, if you're confirmed, will you commit to enforce and defend the laws and the Constitution of the United States regardless of your personal and philosophical views on the matter?

SESSIONS:

I will, Senator Crapo. And I would note on the death penalty case, my appellate lawyers gave a little briefing of the cases that were coming up and they said we'll be defending this death case, but we are probably going to lose. I said, why are we going to lose? And they said it didn't have the aggravating factor you needed to carry out a death penalty. And I said we can't go before the Supreme Court and argue for a death penalty if it doesn't meet the standard for a death penalty. To which the lawyer said, well, the local people are really fired up about it and we usually just do what they want and let the court decide. I said, well, no, we shouldn't do that.

Well, that turned out to be an easy decision to make that day. But when I was running for the United States Senate maybe a year later, it became one of the biggest ads and biggest attacks on me that I had failed to defend the jury conviction for murder in this county. But you have to do the right thing.

And some of these other cases reflect the same thing. Indeed, this insurance commissioner, the case was taken by the governor's team to the state D.A. who prosecuted the case and convicted the

man, but it was reversed on appeal by a finding by the court of appeals that he didn't commit a crime, just like we had concluded originally.

So these are tough calls. Sometimes I've not always made them right. But I do believe you have to put the law first, Senator Crapo, and I have tried to do that, tried to teach my people that. And none of us are perfect, but we should strive to get it right every time.

CRAPO:

Well, thank you, Jeff. And I knew that answer, as I said, before I asked the question. But one of the other senators here today said that it's important to get your record out and I think it is important to get your record correctly understood. And I think that there unfortunately is too much inaccurate reporting about your record.

Another instance in that context. As you know, I am the Republican sponsor of the Violence Against Women Act that we passed recently here in the U.S. Senate and the Congress. You've been criticized for not supporting that act. But I want to give you a chance again to correct the record and to fully state the record.

If I understand it right, you voted for the original and supported the reauthorization of that act at least twice and that your objection to the act that did pass this last time, the reauthorization, was not at all based on the question of whether to have the statute in place, it was instead based on an issue with regard to jurisdiction on tribal lands and other related matters. Could you again restate your position on the issue?

SESSIONS:

Well, thank you, Senator Crapo. And, you know, I came here as a lawyer, tried to conduct myself properly and consider what some might consider legal technicalities, but I think are pretty important.

The bill, as I understood it, was controversial primarily because of this situation in which a non-tribal member could be tried in a tribal court, which apparently, I think it's fair to say, is not constructed in a way that's consistent with the Constitution and that we have never done this before.

And so eight of the nine Republicans on the Judiciary Committee concluded that this was not appropriate. So by voting against that version of the Violence Against Women Act, if it had failed, we would not then, I am confident, not had a bill, we would have been able to pass a Violence Against Women Act that didn't have that provision in it. So that's sort of where we were in the political process.

And one of the bad things about modern American politics is, if you take that position, you're not portrayed as being wrong on the tribal issue, you're portrayed as being against a bill that would protect women from violence. And I think that is unfair and thank you for giving me the chance to respond.

CRAPO:

Well, thank you. And I appreciate that. And I can again confirm because, as I said, I am the Republican sponsor of that bill, and that description you have given is exactly of one of just a couple issues which were being seriously litigated, if you will, here and which we were trying to resolve.

And those of you who took that position, again, were not in any way objecting to the act. You had multiple times before supported it. And you were trying to help resolve one specific issue on the bill. And so I just wanted to clarify that with you and, again, get the record straight about where you stand on the issue.

I see my time is pretty much gone, Mr. Chairman. I won't go to my next question.

GRASSLEY:

Before I call on Senator Blumenthal, out of consideration for you I want to explain what I think we have left here. And if you need a break tell me. We've got two Democrats and two Republicans to do a second round, besides the chairman. But I'm going to wait until later to do my second round. We've got two Democrats, I've been told, at least want a third round.

And so what I would like to do is, first of all, if you need a break we'll take a break whenever you say so now. And in the meantime, I'd like to have my colleagues take into consideration something I want to do. I want everybody to get over here that wants to ask questions. And I'm not going to take up anybody's time until everybody else is done, and then I want to take about maybe 15 or 20 minutes of your time to do the equivalent of a couple of rounds with questions I haven't asked yet.

So what's your desire?

SESSIONS:

I'm ready to go.

GRASSLEY:

OK.

SESSIONS:

I may take a break at some point, but...

GRASSLEY:

Well, you just say when you want to take a break.

SESSIONS:

Thank you. Thank you, Mr. Chairman.

GRASSLEY:

Senator Blumenthal.

BLUMENTHAL:

Thanks, Mr. Chairman.

Thank you, Senator Sessions.

I was pleased to hear you disavow and denounce Operation Rescue in response to my last questions. I want to ask about a couple of other groups and individuals.

In 2003 at an event called Restoration Weekend, you gave a speech praising a man named David Horowitz as a man, quote, "a man I admire." David Horowitz has said, among other things, that, quote, "All the major Muslim organizations in America are connected to the Muslim Brotherhood," and, quote, "80 percent of the mosques are filled with hate against Jews and Americans." He's also made a number of statements about African Americans as in, quote, "too many blacks are in prison because too many blacks commit crimes." You praised him as "a man I admire."

That statement was omitted from your response to the committee. Did you omit it because you were embarrassed about praising David Horowitz?

SESSIONS:

No and I didn't know David Horowitz had made those comments. I read his brilliant book -- what's the name of it? I have a hard time remembering. But it was his transformation having grown up in a, as he described it, communist family. He was editor of Ramparts magazine, a radical magazine, and I believe "Radical Son" was the name of his book. And it was a really powerful and moving story of how he moved from the unprincipled, totalitarian radical left to a more traditional American person. He's written a number of books that I've read, I think, one of them. But he's a most brilliant individual and has a remarkable story. I'm not aware of everything he's ever said or done.

BLUMENTHAL:

Well, these statements have been reported publicly repeatedly over many years. You first came to know him in 2003. In fact, you received an award from the David Horowitz Freedom Center in 2014. You were unaware of any of the apparently racist comments that he made?

SESSIONS:

I'm not aware of those comments and I don't believe David Horowitz is a racist or a person that wouldn't treat anyone improperly, at least to my knowledge.

And the award he gave me was the Annie something Johnson award, and that was the lady that went over Niagara Falls in a barrel. That's the award that I received.

BLUMENTHAL:

Let me ask you about another group which also you left out of your questionnaire, a group that the Southern Poverty Law Center, cited earlier by Senator Cruz, listed as a hate group. And you received from the Federation for Fair Immigration Reform an award known as the Franklin Society Award. The founder of that group has said, quote, "I've come to the point of view that for European-American society and culture to persist requires a European-American majority and a clear one at that." He said also, quote, "Too much diversity leads to divisiveness and conflict." The founder John Tanton also, through his political action committee, contributed twice to your campaigns in 2008 and 2014 a thousand dollars in each donation.

Will you denounce those statements and disavow that award and that support from that organization?

SESSIONS:

I don't accept that statement. I believe the United States should have an immigration policy that's fair and objective and gives people from all over the world a right to apply. And those who have - - should give preference to people who have the ability to be prosperous and succeed in America and could improve their lives and improve the United States of America. And that's sort of my view of it.

I do not accept that kind of language...

BLUMENTHAL:

Will you return the award?

SESSIONS:

...which would be contrary to my understanding of the American vision of life.

BLUMENTHAL:

Will you return the award?

SESSIONS:

Well, I don't know that I have to -- I don't know whether he had any involvement in choosing the award or not. And presumably, the award and the contributions that I did not even know, I don't recall ever know I got, are his decision, not mine.

BLUMENTHAL:

This award similarly was left out of your response to the questionnaire. And I guess the question, Senator Sessions, is, how can Americans have confidence that you're going to enforce anti-discrimination laws if you've accepted awards from these kinds of groups and associated with these kinds of individuals and you won't return the awards?

SESSIONS:

Well, first of all, I don't know that I'd defer to the Southern Poverty Law Center as the final authority on who's a radical group. So I would first challenge that. They acknowledged publicly and have in the last few weeks that I was a strong assister to them in prosecuting the Klan, but they said they opposed me because of their views on immigration. Well, I believe my views on immigration are correct, just, decent and right. Somebody else can disagree, but that's what I think.

BLUMENTHAL:

Would you also disavow support from Frank Gaffney at the Center for Security Policy who gave you an award in August of 2015, similarly having made statements about Muslims and supporting your candidacy for attorney general?

SESSIONS:

Well, they chose to give me the award. They did not tell me what they gave it to me for, and I do not adopt everything that that center would support, I do not suppose. I am pretty independent about those things. But I would acknowledge...

BLUMENTHAL:

But you can understand...

SESSIONS:

...that Ronald Reagan, Dick Cheney, Joe Lieberman also have received that award from that institution.

BLUMENTHAL:

Well, he has not been nominated to be attorney general.

SESSIONS:

Well, he has not, but he ran for vice president on your party.

BLUMENTHAL:

And the people of the United States might be forgiven for concluding that the kinds of attitudes and the zealotry or lack of it that you bring to enforcement of anti-discrimination laws might be reflected in your acceptance of awards from these organizations, your association with these kinds of individuals.

So I am giving you the opportunity to completely repudiate and return those awards.

SESSIONS:

Senator Blumenthal, I just feel like the reason I was pushing back is because I do not feel like it is right to judge me and require that I give back an award if I do not agree with every policy of an organization that gave the award. I was honored to be given awards, a lot of prominent people, I am sure, have received awards at either one of these groups.

And David Horowitz is a brilliant writer and I think has contributed to the policy debate. Whether everything he said, I am sure I do not agree with. Some of the language that you have indicated, I am not comfortable with. And I think it is all right to ask that question.

But I just would believe it would be more than -- it would not be proper for you to insist that I am somehow disqualified for attorney general because I accepted an award from that group.

BLUMENTHAL:

Given that you did not disclose a number of those awards, are there any other awards from groups that have similar kinds of ideological, negative views of immigrants or of African Americans or Muslims or others, including awards that you may have received from the Ku Klux Klan.

SESSIONS:

Well, I will not receive it from Henry Hayes, I will tell you that. He no longer exists. So no, I would not take an award from the Klan.

BLUMENTHAL:

I want to give you the opportunity...

SESSIONS:

So I will just say that I have received hundreds of awards. I do not think -- I probably somehow should have made sure that the Annie Johnson (sic) jumping off Niagara Falls, I should have reported that probably.

So I would just say to you I have no motive in denying that I received those awards. It is probably publicly published when it happened. And I have received multiple hundreds of awards over my career as I am sure you have.

BLUMENTHAL:

My time is expired, Mr. Chairman. I apologize. And I will return on the third round. Thank you.

GRASSLEY:

I do not find any fault with the questions you are asking except for this business that somebody that is in the United States Senate ought to remember what awards we get. I do not know about you, but I will be every other week somebody is coming into my office to give me some award. And you take these plaques or whatever they give you and you do not even have a place to hang them, you store them someplace.

I do not know whether even if I went down to that storage place I could tell you all the awards I got. I do not need anymore awards. It is kind of a problem that they give you the awards.

(LAUGHTER)

GRASSLEY:

And obviously, I will bet Senator Sessions feels that way right now.

(LAUGHTER)

BLUMENTHAL:

I do not differ with you. Mr. Chairman, I do not differ with you that sitting here none of us on this side of the table could probably recall every single award we have ever received. But the questionnaire from this committee asked for the information as to all awards. And I think it is fair to observe that a number of these awards were omitted from the responses.

GRASSLEY:

OK. Well, if somebody asked me to fill out that same questionnaire, it would never be complete and I do not know how you ever could make it complete.

Before I go to you, I have a statement here from the Alabama state senate, Quinton Ross, a Democrat, minority leader. He says, "I know him," meaning Senator Sessions, "personally and all of my encounters with him have been for the greater good of Alabama. We have spoken about everything from civil rights to race relations, and we agree that as Christian men our hearts and minds are focused on doing right by all people."

And I do not think we should forget that Senator Sessions got reelected to the United States Senate without a primary opponent or a general election opponent. Egad, you know, would not we all like to do that?

Senator Graham.

GRAHAM:

I have been unable to do that.

GRASSLEY:

Oh, I will put this in the record without objection.

GRAHAM:

Thank you. I had six primary opponents.

(LAUGHTER)

GRASSLEY:

Yeah.

GRAHAM:

And I..

GRASSLEY:

I can understand. I can understand why.

(LAUGHTER)

GRAHAM:

There you go. I will probably have 10. I will probably have 10 next time.

But here is what I want them to know. I, too, received the Annie Taylor Award.

SESSIONS:

Annie Taylor Award, that is the name of it.

GRAHAM:

Yeah, there is it. I was there. I got it, too.

(LAUGHTER)

I do not get enough awards. You can speak for yourself, Mr. Chairman.

(LAUGHTER)

Yeah, I got the award. I went to the dinner and Chris Matthews interviewed me. So I do not know what that means other than I will do almost anything for a free dinner.

(LAUGHTER)

You know, I like Senator Blumenthal, but, you know, we did this for Alito, this whole guilt-by-association stuff. You have been around 15 years.

SESSIONS:

Twenty.

GRAHAM:

Twenty. Well, 15 with me. I am pretty sure you are not a closet bigot, and I got the same award you did. And that other award he was talking about, who got it? Joe Lieberman?

SESSIONS:

He got the award at the Gaffney.

GRAHAM:

OK. Well, anyway, all I can tell you is that this whole idea that if you receive recognition from some group, you own everything they have ever done or said, is probably not fair to any of us. And we can go through all of our records about donations.

The bottom line is, Senator Sessions, there is no doubt in my mind that you are one of the most fair, decent, honest men I have ever met. And you know what I like most about you? If you are the only person in the room who believes it, you will stand up and say so. I have seen you speak out when you were the only guy that believed what you believed and I admire the heck out of that.

So if I get nominated by Trump, which I think will come when hell freezes over...

(LAUGHTER)

... I am here to tell you I got the Annie Taylor Award, too.

So let's talk about the law of war. I think you were asked by Senator Feinstein about the indefinite detention. Hamdi v. Rumsfeld, this is Sandra Day O'Connor's quote, "There is no bar to this nation's holding one of its own citizens as an enemy combatant."

That case involved a U.S. citizen that was captured in Afghanistan and was held as an enemy combatant. Are you familiar with that case?

SESSIONS:

Generally, yes, not as familiar as you, but I know you have studied it in great depth.

GRAHAM:

Well, this has been -- as a military lawyer, this is sort of part of what I did. Do your constitutional rights as a U.S. citizen stop at the nation's shores or do they follow you wherever you go?

SESSIONS:

Well, you have certain rights wherever you go.

GRAHAM:

So if you go to Paris, you don't give up your Fourth Amendment right against illegal search and seizure. Could the FBI break into your hotel room in Paris and basically search your room without a warrant?

SESSIONS:

I do not believe it.

GRAHAM:

No, they cannot. Your constitutional rights is attached to you. So if the people will say, well, he was in Afghanistan, that does not matter. What the court is telling us, no American citizen has a constitutional right to join the enemy at a time of war.

And Ray Quirin (ph), that case involved German saboteurs who landed in Long Island. Are you familiar with this?

SESSIONS:

I am very familiar with that case. I have read it.

GRAHAM:

They were German saboteurs and had American citizen contacts in the United States. They were all seized by the FBI and tried by the military.

So what I would tell Senator Feinstein and my other colleagues, the law is well-settled here, that a United States citizen in other wars have been held as enemy combatants when the evidence suggests they collaborated with the enemy. Under the current law, if you are suspected of being an enemy combatant, within a certain period of time, 60 days I think, the government has to present you to a federal judge and prove by a preponderance of the evidence that you are a member of the organization they claim you to be a member of.

Are you familiar with that, your habeas rights?

SESSIONS:

Correct, yes.

GRAHAM:

So as to how long an enemy combatant can be held traditionally under the law of war, people are taken off the battlefield until the war is over or they are no longer a danger. Does that make sense to you?

SESSIONS:

It does make sense and that is my understand of the traditional law of war.

GRAHAM:

And the law of war is designed to, like, win the war. The laws around the law of war are designed to deal with conflicts and to take people off the battlefield, you can kill or capture them, and there is no requirement like domestic criminal law, at a certain point in time they have to be presented for trial because the goal of the law of war is to protect the nation and make sure you win the war.

So when you capture somebody who has been adjudicated a member of the enemy force, there is no concept in military law or the law of war that you have to release them in an arbitrary date because that would make no sense.

So all I am saying is that I think you are on solid ground. And this idea of an American citizen being an enemy combatant is part of the history of the law of war. And I am very willing to work with my colleagues to make sure that indefinite detention is reasonably applied and that we can find due process rights that do not exist in traditional law of war because this is a war without end.

When do you think this war will be over? Do you think we will know when it is over?

SESSIONS:

I have asked a number of witnesses in Armed Services about that. And it is pretty clear we are talking about decades before we have a complete alteration of this spasm in the Middle East that just seems to have legs and will continue for some time. That is most likely what would happen.

GRAHAM:

You are about to embark on a very important job at an important time. And here is what my suggestion would be: That we work with the Congress to come up with a legal regime that recognizes that gathering intelligence is the most important activity against radical Islam.

The goal is to find out what they know. Do you agree with that?

SESSIONS:

That is a critical goal.

GRAHAM:

And I have found that under military law and military intelligence-gathering, no manual I have ever read suggested that reading Miranda rights is the best way to gather information.

As a matter of fact, I have been involved in this business for 33 years. And if a commander came to me as a JAG and said we just captured somebody on the battlefield, you name the battlefield, they want their rights read to them, I would tell them they are not entitled to Miranda rights. They are entitled to Geneva Convention treatment. They are entitled to humane treatment. They are entitled to all the things that go with the Geneva Convention because the court has ruled that enemy combatants are subject to Geneva Convention protections.

So I just want to let you know, from my point of view, that we are at war. I am encouraged to hear that the new attorney general recognizes the difference between fighting a crime and fighting a war.

And that the next time we capture bin Laden's son-in-law, if he has got any more, I hope we do not read him his Miranda rights in two weeks. I hope we keep him humanely as long as necessary to interrogate him to find out what the enemy may be up to. Does that make sense to you?

SESSIONS:

Well, it does. We did not give Miranda warnings to German and Japanese prisoners we captured. And it has never been part of the rule.

So they are being detained and they are subject to being interrogated properly and lawfully any time, any day, and they are not entitled to a lawyer and so forth.

GRAHAM:

Right. And Miranda and all did not exist back in World War II, but it does now. But the law, the Hamdi case, this is very important, that you do not have to read an enemy combatant their Miranda rights. They do have a right to counsel in a habeas proceeding...

SESSIONS:

In a habeas course, you are correct.

GRAHAM:

...to see if the government got it right. You can hold them as long as is necessary for intelligence gathering and you can try them in Article III courts, you can try them in military commissions.

As the attorney general of the United States, would you accept that military commissions could be the proper venue under certain circumstances for a terrorist?

SESSIONS:

Yes.

GRAHAM:

Thank you.

GRASSLEY:

Here is what we will do. We will go to Senator Hirono and then Senator Kennedy and then you should take a break because I want one. OK?

(LAUGHTER)

Proceed.

HIRONO:

Thank you.

Senator Sessions, in 1944, the Supreme Court handed down what is considered one of the worst rulings in the history of our country, and that case is Korematsu versus United States, which upheld the constitutionality of the internment of Japanese Americans internment camps.

Despite the near-universal condemnation today of the court's ruling, this past November Carl Higbie, a spokesman for a pro-Trump super-PAC and a surrogate for President-elect Trump, cited Korematsu as precedent for a program which would require Muslims in the United States to register with the government.

Here are my questions. First, would you support such a registry for Muslim Americans, in other words U.S. citizens?

SESSIONS:

I do not believe we need a registration program for U.S. citizens who happen to be Muslim. Is that the question?

HIRONO:

My question is whether you would support such a registry for U.S. citizens who happen to be Muslims.

SESSIONS:

No.

HIRONO:

Thank you. So since the president may go in that direction, what kind of constitutional problems would there be for U.S. citizens who happen to be Muslims to be required to register?

SESSIONS:

Well, my understanding is, as I recall, later comments by President-elect Trump do not advocate for that registration, but he will have to speak for himself on his policies. But I do not think that is accurate at this point as his last stated position on it.

HIRONO:

Since you do not support such a registry for U.S. citizen Muslims, is that because you think that there are some constitutional issues involved with such a requirement for U.S. citizen Muslims?

SESSIONS:

It would raise serious constitutional problems because the Constitution explicitly guarantees the right to free exercise of religion. And I believe Americans overwhelmingly honor that and should continue to honor it, and it would include Muslims for sure. And I do not believe they should be treated differently fundamentally. They should not be treated differently.

HIRONO:

Thank you. And in addition to the freedom of religion provisions, perhaps that would be some equal protection constitutional problems, possibly some procedural due process constitutional problems with that kind of registry requirement.

Turning to consent decrees, there are more than 18,000 law enforcement agencies in the United States. America's police officers are the best in the world, and that is due, in large part, to their bravery, skill and integrity in what they do.

Our Constitution ensures that the government is responsible to its citizens and that certain rights should not be violated by the government, but that does not mean that things always work perfectly, as you noted in one of your responses, in the real world.

So while the vast majority of police officers do exemplary work and build strong relationships with their communities to keep the public safe, there have been specific use-of-force deadly incidents that have sparked nationwide outrage. Some of these incidents have led the attorney general's Civil Rights Division to do investigations into whether individual police departments have a, quote, unquote, "pattern of practice," unquote, of unconstitutional policing, and to make sure our police departments are compliant with the law.

And when these investigations find that police departments are engaged in unconstitutional policing, they are frequently resolved through consent decrees with the Department of Justice, which requires police departments to undertake certain important reforms that are overseen by independent monitors to ensure that necessary changes are being made in these departments.

Senator Sessions, you once wrote that, and I quote, "consent decrees have a profound effect on our legal system as they constitute and end run around the democratic processes," end quote.

Currently, more than 20 police departments around the country are engaged in consent decrees with the Justice Department. In Maryland, Baltimore mayor, Catherine Pugh, said Monday she expects her city to finalize a consent decree with the Justice Department this week, as noted in The Baltimore Sun.

My question is, will you commit to maintaining and enforcing the consent decrees that the Justice Department has negotiated during this administration?

SESSIONS:

Those decrees remain in force until and if they are changed. And they would be enforced.

The consent decree itself is not necessarily a bad thing. It could be a legitimate decision. There can be circumstances in which police departments are subject to a lawsuit, which is what starts this process ultimately ending in a consent decree.

But I think there is concern that good police officers and good departments can be sued by the Department of Justice when you just have individuals within a department who have done wrong. And those individuals need to be prosecuted. And these lawsuits undermine the respect for police officers and create an impression that the entire department is not doing their work consistent with fidelity to law and fairness. And we need to be careful before we do that.

So what I would say to you, because filing a lawsuit against a police department has ramifications, sometimes beyond what a lot of people think, and it can impact morale of the officers, it can impact and affect the view of citizens to their police department.

And I just think that caution is always required in these cases. I would not prejudge a specific case.

HIRONO:

Senator Sessions, I understand that. But a showing of a pattern of practice needs to be shown, so these are not just a rogue police officer doing something that would be deemed unconstitutional.

So are you saying that with regard to negotiating consent decrees that you will revisit these consent decrees and perhaps give police departments a second bite at the apple so that they can undo some of the requirements on them?

SESSIONS:

Well, presumably, the Department of Justice under the Holder/Lynch leadership always would be expecting to end these decrees at some point. So I just would not commit that there would never be any changes in them. And if departments have complied or reached other developments that could justify all or a modification of the consent decree, of course I would do that.

HIRONO:

Well, usually consent decrees require -- when they end, it is because they have complied with the provisions of the consent decree. So I am just trying to get a simple answer. And I hope that you would...

SESSIONS:

Well, I will give you a simple answer. It is a difficult thing for a city to be sued by the Department of Justice and to be told that your police department is systematically failing to serve the people of the state or the city. So that is an august responsibility of the attorney general and the Department of Justice.

So they often feel forced to agree to a consent degree just to remove that stigma. And sometimes there are difficulties there, so I just think we need to be careful and respectful of the parties.

HIRONO:

I understand that. But as to the consent decrees that were negotiated with both parties in full, you know, faith to do what is appropriate, that you would leave those intact unless there are some exigent or some extraordinary circumstances.

Of course, going forward, as attorney general you can enter into whatever consent decrees you deem appropriately appropriate. So my question really is the existing consent decrees which took

a lot to negotiate, by the way. And it is not the vast majority of police departments in this country; it is 20.

GRASSLEY:

You can answer that if you want to and then we will move on.

SESSIONS:

I understand what you are saying. And one of the impacts of a consent decree is it does require judicial approval of any alteration in it, and that raises pros and cons.

HIRONO:

Thank you.

GRASSLEY:

Senator Kennedy.

KENNEDY:

Thank you, Mr. Chairman.

Senator, could you tell the committee a little bit more about what it was like to be a U.S. attorney? What was your management style? Did you enjoy it? How was it compared to serving in the state government as a state attorney general?

SESSIONS:

I loved being a U.S. attorney. That was, I hate to say it, was -- we all say it, almost everybody that has held the job says it is the greatest job. If you like law enforcement and trying to protect citizens and prosecuting criminals, it was just a fabulous job.

And we had great assistants. And I loved it and our team did. It was Camelot days for me, so I did feel that.

I only had two years as attorney general. We had this monumental deficit when I got elected and we had to lay off a third of the office because we did not have money to pay the electric bill. And it was just one thing after another.

And then I was running for the Senate, so I did not get to enjoy that job. But the United States attorney job was a really fabulous experience. And I believe in the course of it I worked with FBI, DEA, U.S. Customs, Marshals Service, all the federal agencies, ATF, IRS, Postal Service and their inspectors. And you get to know their cultures and their crimes that they investigate, the officers and what motivates them and how a little praise and affirmation is so important for them.

They get the same salary, you know. If they are not being appreciated, they feel demeaned, their morale can decline.

So that kind of experience was wonderful. And I do think it would help me be a better attorney general.

KENNEDY:

I have made up my mind.

(LAUGHTER)

I yield back my time. I hope you will be a raging voice of common sense at the Department of Justice, Senator.

SESSIONS:

Well, thank you.

GRASSLEY:

Before you take a break, I hope that the people, all the people that still want to do a third round, will come back in about maybe 15 minutes or a little less. Is that OK?

SESSIONS:

Yes.

GRASSLEY:

OK. We stand in recess for 15 minutes or so.

(RECESS)

GRASSLEY:

(OFF-MIKE)

FRANKEN:

Well, thank you.

Senator, last Friday the Director of National Intelligence, we covered this a little, representing 16 agencies released a declassified intelligence report stating in quote, "We assessed Russian

President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. presidential election," unquote. And yet despite the consensus among our intelligence agencies, President-elect Trump has remained persistently skeptical during the first presidential debate. He wandered a lot whether the responsible party could be China or, quote, somebody sitting on their bed that weighs 400 pounds.

Last month he called reports of Russian hacking quote, "ridiculous," and quote "another excuse," for the democratic loss. He said quote, "it could be somebody sitting on -- in a bed some place." Again, I mean, they have no idea. And even after the release of the declassified report, the president has really yet to acknowledge Russia's role in the hacking. You said earlier that you accept the FBI's conclusion. To my mind, it's absolutely extraordinary to see a president-elect so publicly refuting and without evidence, so far as I can tell, the assessment of our intelligence agencies. Why do you think president-elect Trump has been so unwilling to acknowledge Russian involvement in the hacking?

SESSIONS:

I did mean to indicate I respect the FBI and I respect the fact that if they give a conclusion they believe is accurate, but I'm not able to comment on the president-elect's comments about it.

FRANKEN:

OK. CNN has just published a story and I'm telling you this about a news story that's just been published. I'm not expecting you to know whether or not it's true or not. But CNN just published a story alleging that the intelligence community provided documents to the president-elect last week that included information that quote, "Russian operatives claimed to have compromising personal and financial information about Mr. Trump." These documents also allegedly say quote, "There was a continuing exchange of information during the campaign between Trump's surrogates and intermediaries for the Russian government."

Now, again, I'm telling you this as it's coming out, so you know. But if it's true, it's obviously extremely serious and if there is any evidence that anyone affiliated with the Trump campaign communicated with the Russian government in the course of this campaign, what will you do?

SESSIONS:

Senator Franken, I'm not aware of any of those activities. I have been called a surrogate at a time or two in that campaign and I didn't have -- did not have communications with the Russians, and I'm unable to comment on it.

FRANKEN:

Very well. Without divulging sensitive information, do you know about this or know what compromising personal and financial information the Russians claim to have?

SESSIONS:

Senator Franken, allegations get made about candidates all the time and they've been made about president-elect Trump a lot sometimes. Most of them, virtually all of them have been proven to be exaggerated and untrue. I would just say to you that I have no information about this matter. I have not been in on the classified briefings and I'm not a member of the intelligence committee, and I'm just not able to give you any comment on it at this time.

FRANKEN:

OK. Totally fair.

Last week, Julian Assange, the founder of WikiLeaks, claim that the Russian government was not the source of the hacked e-mails WikiLeaks published during the -- that they published during the campaign. Now, Assange did not identify his source nor did he say whether his source worked with or received information from the Russians. But again, American intelligence agencies have included the Russian government directed the hacking operation. Nonetheless, immediately following that interview, president-elect tweeted, quote, "Julian Assange said a 14-year-old could have hacked Podesta. Why was DNC so careless. Also said Russians did not give him the info exclamation point.

Senator Sessions, does it concern you that our future commander in chief is so much more willing to accept what Julian Assange says instead of the conclusions of our intelligence agencies and why do you think President Trump finds Assange trustworthy?

SESSIONS:

Senator Franken, I'm not able to answer that. I have not talked to the president-elect about any of these issues and it is often inaccurate what gets printed in them papers.

FRANKEN:

Well, back in 2010, back when WikiLeaks was publishing stolen American diplomatic cables and military secrets, you voiced concern about the Obama administration's response. You said that WikiLeaks publishing sensitive documents should be quote, "pursued with the greatest intensity." You said quote, "the president from on down should be crystal clear on this, and I haven't seen that, I mean, he comes out of the left, the anti-war left. They have always glorified people who leak sensitive documents. Now he's the commander in chief so he's got a challenge."

President-elect Trump, by contrast, said quote, "WikiLeaks, I love WikiLeaks." Do you believe that by holding up Julian Assange, who traffics and leaked in stolen documents, often classified documents as a legitimate source of information that president-elect Trump is glorifying people who leak sensitive documents?

SESSIONS:

Well, I would say this, that if Assange participated in violating the American law, then he is a person subject to prosecution and condemnation.

FRANKEN:

Well, we know that in regard to what he did in 2010 and yet the president-elect said WikiLeaks, I love WikiLeaks. Doesn't it seem like perhaps if you weren't sitting before us today as an attorney general nominee and if President Obama was publicly embracing Julian Assange, that perhaps you might take a more critical view?

SESSIONS:

As a member of the Senate, as you and I remain for, hopefully not too much longer, depends on you and your colleagues, but we're -- I feel a lot -- it's a lot easier to be vigorous and outspoken. If you begin to think about the awesome responsibility of serving as an Attorney General with the possibility of having to handle certain cases, you need to be more cautious about what you say. So, I think it's just not appropriate for me to be the person for you to seek political responses from.

GRASSLEY:

Senator --

FRANKEN:

OK. I am out of time. I will try to stick around for one more quick round.

GRASSLEY:

OK. Senator Cruz?

CRUZ:

Thank you, Mr. Chairman.

Mr. Sessions, thank you for your endurance today.

Let's turn to a different topic, one that's been addressed some in this hearing but one that I know is -- is a particular passion of yours and one on which you built a remarkable record. That's immigration. And I want to focus, in particular, on the problem of criminal aliens in the United States and this administration's nonenforcement of the laws. And take a moment just to review some of the numbers which you know very well, but I think it's helpful to review for those watching this hearings.

We have had an administration that consistently refuses to enforce our immigration laws. So, in October 2015, ICE submitted that there were 929,684 aliens present in the United States who had been ordered to leave the country but who hadn't done so. And of those over 929,000 aliens with

removal orders, 179,027 had criminal convictions. In addition to the 179,027 criminal aliens with final orders of removal, there were at least 194,791 known criminal aliens who were at the time in removal proceedings. We also know that 121 criminal aliens released by ICE between fiscal year 2010 and 2014 went on to commit homicides. And between fiscal year 2009 and fiscal year 2015, ICE released 6,151 aliens with sexual offense convictions from its custody.

My question for you, Senator Sessions, is can you commit to this committee and to the American people that as Attorney General, you will enforce the laws including the federal immigration laws and you will not be releasing criminal illegal aliens into the public, especially those with violent convictions such as homicide or sexual assault convictions?

SESSIONS:

Senator Cruz, you and I have talked about this and you know that I believe we have failed in dealing with criminal aliens. President Obama set that as a priority but I don't think they've been as effective as needed. I believe that should be increased and stepped up, the priority of that. The actual policies, as you know, our homeland security policies, the secretary of homeland security will determine those policies. There are ways in which the Department of Justice can fulfill a role in it but the overall policies and priorities would be set by homeland security.

I just believe that as we go forward and reduce the flow of illegal immigrants into America, then there are few people illegally per investigative officer and you get a better handle, you're in a virtuous cycle instead of this dangerous cycle that we're in today where things tend to get worse. So, I believe we can turn that around. This is one of the policies that has to be given priority. Donald Trump has also said he believes criminal aliens obviously should be the top priority and all of us, I believe, this government will work effectively to deal with it. I would -- I would do my part.

CRUZ:

You know, there are few issues that frustrate Americans more than the refusal to enforce our immigration laws and not too long ago, I was down on the border in Texas visiting with border patrol officials, visiting with law enforcement, local sheriffs. And I'll tell you, it was after the election and there was a palpable sense of relief that finally, we would have an administration that didn't view the laws as obstacles to be circumvented but rather, an administration that would be willing to enforce the laws on the books and stop releasing criminal aliens in communities where the citizens are at risk.

You know, one of the most tragic instances that we're all familiar with is Kate Steinle. Beautiful young woman in California who lost her life who was murdered by a criminal illegal alien who had seven prior felonies. And yet over and over and over again, the system failed. And young Kate Steinle lost her life in her father's arms saying "Daddy, please save me." You and I are both the fathers of daughters and I cannot think of a more horrific experience than having to hold your daughter at this moment of agony. Can you share -- this has been an issue you have been leading for so long -- can you share your perspective as to the responsibility of the federal government to

keep the American people safe and not to subject the American people to murderers and other repeat felons who are here illegally, not to release them to the public?

SESSIONS:

Senator Cruz, you are touching on the right issue here. First and foremost, the immigration policy of the United States should serve the national interest, the peoples' interest, that's what an immigration system should do. Number two, under the laws of world agreements that if a citizen from a foreign country is admitted by visa to the United States and they commit a deportable act or otherwise need to be removed, that country has to take them back and when they cease to do that, you have a serious breach of collegial relations between the two countries and no country, particularly the United States, should ever allow so many individuals who committed crimes here often when they entered illegally, not even coming on a lawful visa and they need to be deported promptly. And reluctance of that to happen is baffling to me. It should have total bipartisan support. It's said that it does, but for somehow it's never accomplished. So, it's very, very frustrating. So, the basic summary of that is it's perfectly proper, decent and correct for this nation not to allow people who come here on a visa or illegally to remain here after they have committed crimes.

CRUZ:

Well, thank you, Senator Sessions. As you know, I have introduced legislation in the senate, Kate's law, which would provide for those who illegally re-enter with a violent criminal conviction a mandatory five-year prison sentence. This past Senate that failed to pass it, it's my hope Congress will pass that legislation and give additional tools to the administration to keep the American people safe.

Let me turn to one additional aspect of illegal immigration which is the national security component of it. Since August of 2015, you and I have joined together to send three separate letters to the Departments of Justice, homeland security and state as well as a letter to the president seeking information on the immigration histories of individuals who have been convicted or implicated in terrorist attack in the United States. And over and over again, the current administration has stonewalled our efforts as senators to get basic facts that I think the American people are entitled to. You and I were able to piece together from the public record that at least 40 people who were initially admitted to the United States as refugees were subsequently convicted or implicated in terrorism and -- and more broadly, of a list of 580 individuals who were convicted of terrorism or terrorism related offenses between 2001 and 2014, at least 380 were born in foreign countries, many from terrorist spots in the Middle East and Africa and Central Asia. And of the 198 U.S. citizens, you and I were able to find on that list, at least 100 were born abroad and subsequently naturalized.

As I mentioned, the administration has stonewalled us. Will you commit to work with this committee to provide the data that we've been seeking that I think the American people are entitled to know of those who are committing terror plots against us, how many are coming in through a broken immigration system, through a broken refugee system and to working with this committee to prevent that from happening in the future to keep the people safe?

SESSIONS:

I will do that. I do believe that's the homeland security primary responsibility, but it was a bit frustrating because what those numbers tend to indicate, it indicates that it's not true that refugees don't commit terrorist acts. There is a danger even in the refugee population and good vetting is critical in that process.

CRUZ:

Thank you, senator.

GRASSLEY:

Senator Collins?

COONS:

Thank you, Mr. Chairman.

Senator Sessions, if I might, I would like to take us to an area I don't think has been explored much today but of grave concern to me which is disability rights. Another area where, if confirmed, as attorney general, you'd be charged with protecting among the most vulnerable Americans and those whose rights have only recently been fully recognized and enforced. You have previously said that the IDEA which provides for access to education for those with intellectual disabilities creates, and I think I quote here, "lawsuit after lawsuit, special treatment for certain children and is a big factor in accelerating the decline in civility in classrooms all over America." And in a different setting, you were critical of the supreme court's decision in *Atkins v. Virginia* in 2002 which held that executing individuals with intellectual disabilities violates the Eighth Amendment. In a floor speech six days later after that ruling, you said that you were quote, "very troubled" by the court telling states quote, "they could not execute people who were retarded." If a state was scheduled to execute someone with intellectual disabilities, would you insist on the justice department now taking vigorous action to stop it and given your previous comments about the IDEA, do you still believe it unfairly benefits some children and hurts others?

SESSIONS:

We made a real reform in IDEA. I led that effort. We ended up having the vote of Hillary Clinton and Dick Durbin, Senator Durbin. We worked on it very hard and I was very pleased with the way it worked out.

It was true that the IDEA community pushed back against the reforms I was proposing, but in the end, I think it worked out fine and the reason was that the burden was on the school systems. I was in a blue ribbon great little school in Alabama, first day of school, and the principal told me it's now 3:00. At 5:00, I will go to a meeting with lawyers and parents about and -- a child on whether or not they will be in the classroom all day or half a day and the child had serious disabilities. So,

he said I'm trying to get this school up and running and I'm having to spend this extraordinary amount of time on this.

So, we created a legal system that made it better. And the schools got a little more deference in being able to monitor. And it was a big issue. It was a disruptive force in big city schools in New York and Chicago and other places like that. So, on the question of intellectual disabilities, I suppose we can disagree, as a matter of policy, perhaps I was questioning the legal mandate but a person with intellectual disabilities that should be considered as a factor in the sentencing jury or judge's opinion before they go forward. But obviously, if a person knows the difference in right and wrong, historically they would be held to the same standard even though their intellectual ability would be less.

COONS:

Let me revisit a question about consent decrees that Senator Hirono was asking you about previously. Because consent decrees have been used in this area and disability rights to make sure that folks with intellectual disabilities have access to services and education but also in policing. Police chiefs and elected officials, as we have spoken, about in communities across the country have, in some cases, invited DOJ to open civil rights investigations of their police departments and have invited them to enter into consent decrees in order to implement reforms to law enforcement in order to make sure that they improve the quality of police community relations and respect for civil rights. Do you plan to continue to assist cities with these investigations when asked if attorney general and under what circumstances would you commence a civil rights investigation of a law enforcement agency that may have violated federal law?

SESSIONS:

Well, those are difficult questions for me to answer explicitly today but I would note on the consent decrees or the language the Senator Hirono quoted, I believe, was in a booklet of which I simply wrote the foreword on. I don't believe that was my language.

Consent decrees have been criticized in a number of areas but with regard to the disabilities community and the police departments, I guess you're asking about, I'm not familiar with how they have worked out in the disabilities arena but with regard to police departments, I think it's a good thing that a police department might call on federal investigators in a team and to work with their police department to identify any problems and to help select remedies that the community might feel were more valid because the department of justice validated them and agreed to them. So, I think you and I talked, it really is important that the people trust the department, police departments, and the police departments have respect from the communities. When you don't have that, crime is -- people safety is at risk.

COONS:

Well, I hope we can find ways to work together to combat violent crime and the improve police community relations.

Let me just briefly ask you about Trade Secrets Act and intellectual property, something we've talked about. There is a significant problem for American inventions, companies, entrepreneurs, having their innovations stolen, sometimes by cyber hack by intrusions, sometimes physically or through industrial espionage. The Obama Administration's made real progress if increasing enforcement and in going after those who would steal America's inventions. Is that something that you would intend to continue vigorous enforcement to protect American inventions?

SESSIONS:

I do. I think a lot of that may be through the U.S. Trade representative. It could be done through commerce department and other departments and the department of justice may have a role...

COONS:

It does.

SESSIONS:

... in criminal activities or civil enforcement. I would not -- excuse me -- say for certain what that would be at this point but my view, as you and I have talked, is that you're correct about this. When we enter into a trade agreement with a foreign nation, what we have to understand is that's just a simple contract and we'll comply, we'll deal with you on this basis and if you're partner to that contract that is not acting honorably, then you have every right to push back and if it ultimately means you have to pull out of the agreement, then you pull out of the agreement. If it's serious enough. I don't think we've been as aggressive as we should have been in those agreements.

COONS:

Let me ask one last question if I may. I just wanted to reflect on something you said in your opening and something we have talked about. You were born in Selma, roughly 70 years ago. I've been to Selma several times with Congressman Lewis and a number of others, and last year, many of us joined Congressman Lewis for the 50th anniversary of the famous march across the Edmund Pettus Bridge when he faced violence and the response, the conscience of the nation was stirred by this horrible event and it spurred Congress to pass the Bipartisan Voting Rights Act. There's been a lot of questioning back and forth about your comments about whether the Voting Rights Act was intrusive and the Shelby County decision. I just wanted to make sure I came back to an important point which was that, Senator Leahy and I and a number of others tried hard to find Republican partners to advance the Voting Rights Advancement Act which would have replaced the now 50 years old, roughly, preclearance formula with a new one that would be national in scope, would not disadvantage any region and would be simply based on enforcement actions. Previous questioning by, I think, Senator Franken and others, focused on recent enforcement actions, the fourth circuit finding that North Carolina's post Shelby voter ID law violated the law because it targeted African-Americans.

You said in your opening statement you witnessed the Civil Rights Movement as it happened near you, that you witnessed the depredations of segregation. And in a ceremony last year during the

presentation of the Congressional Gold Medal to the foot soldiers of the Civil Rights Movement, you said, I feel I should have stepped forward more. What more do you think you, perhaps, could have done or should have done in recent years as a senator to take more active action, so that folks from around the country could have confidence in your commitment to continuing the journey of civil rights in the country?

SESSIONS:

Well, I don't think we have to agree on everything just because you think this is a necessary thing, you may be right and if I don't think so, I don't know that I'm wrong, not necessarily wrong. I would say that I did sponsor the Congressional Gold Medal Act that gave the gold medal to the Selma and Montgomery marches with Senator Cory Booker. We were the two lead sponsors on it. I was at that event and have a wonderful picture I'd cherish with John Lewis and other people on the bridge celebrating that event.

It changed the whole south. Voting rights were discriminating, were being -- African-Americans were being discriminated against systemically. They were being flat denied through all kinds of mechanisms. In a whole, only a very few and many instances were allowed to vote, if any.

So, this was an unacceptable thing. As I said at the hearing in 1986, I was asked about it being intrusive. Please, Senator Coons, do not suggest in any way that that word means that I was hostile to the act. I said then and I say now. It was necessary that the act be intrusive because it had to force change and it wouldn't have happened without the power of the federal government. That is a plain fact.

COONS:

Senator, what I'm suggesting is an alternative path forward for the Voting Rights Act that would not have been singling out one region or one state or one history, but that would have allowed the right to be effective in the face of the recent record showing ongoing discrimination, ongoing denial of the right to vote in different states across the country, now no longer isolated to the south, when presented with an opportunity to continue and strengthen the voting rights act post Shelby, you didn't take that step.

SESSIONS:

Well...

GRASSLEY:

Senator Session, if you need to answer that, go ahead and answer it. I want to go to Senator Blumenthal.

SESSIONS:

As I said, I supported the authorization of the Voting Rights Act with Section 5 in it. When the Supreme Court said it was longer necessary that section 5 be in it, I did not support the language that you offered that would basically put it back in, you and Senator Leahy. So, I don't apologize for that. I think that was a legitimate decision and with regard to the question of voter ID, I'm not sure it's inconclusively settled one way or the other whether a properly conducted voter ID system is improper and discriminatory. Indeed, the Supreme Court has held that voter ID is legitimate. At least on certain circumstances.

GRASSLEY:

OK. Before Senator Blumenthal, I have another thing that has come to our attention so I will put this in the record without objection, a letter that we received from some lawyers about the IDEA issue. These lawyers litigate cases on this issue. They say certain stories about the issue took Senator Session's comments out of context and then they go on to note that Senator Kennedy and others later reached an agreement with Senator Sessions on the issue.

Senator Blumenthal?

BLUMENTHAL:

Thanks, Mr. Chairman.

Senator Session, I want to pursue this conversation about voting rights, In October of 2015, there was a report widely reported that the State of Alabama intended to close a number of DMV offices. Congressman -- Congresswoman Terri Sewell, wrote to the Attorney General Loretta Lynch urging an investigation stating, I'm quoting, "This decision will leave 8 out of 10 counties with the highest percentage of nonwhite registered voters without a Department of Motor Vehicles, DMV, to issue an Alabama driver's license." She noted that quote, "an estimated 250,000 Alabamians who do not have, do not have an acceptable form of photo identification to cast a ballot," end quote. As you know, subsequently, the Department of Transportation issued an investigation under Title 6 of the Civil Rights Act and that year-long investigation found that Alabama's conduct caused, quote, "a disparate and adverse impact on the basis of race," end quote.

Did you believe or do you not believe now that it was a problem that 250,000 estimated citizens of your state did not have the requisite ID to vote?

SESSIONS:

There is a system, I understand, that makes those IDs available. The driver's licenses offices were a part of a budget cutting process within the state which I had absolutely nothing to do with and did not advise and know about until it was done. They attempted, they claimed, that they were simply identifying the areas with the lowest population and trying to do some consolidation and trying to make the system more efficient and productive. It was later these objections rose -- arose and they have reversed that, I believe. So, that's the way that went, I hope, and think there was no intent at the time to do an anti, you know, to be racially insensitive, but indeed, many of the closures were in counties with large African-American populations.

BLUMENTHAL:

Did you believe then that there was a problem in denying 250,000 people an access to photo identification they needed to vote?

SESSIONS:

Well, they didn't deny 250,000 people the right to vote. That would be utterly wrong and should be stopped immediately. It just simply -- maybe the closest driver's license office would be in the next county and closer for you to go to that one than the one that was closed. But it was, in general, perceived as detrimental to African-Americans and included in that detriment was the possibility of an ID for voting. So, you are correct, it was controversial and it was fixed.

BLUMENTHAL:

Did you agree with the Department of Investigation finding that it had an adverse and disparate impact on people on the basis of race?

SESSIONS:

Well, I've never expressed an opinion upon it and I never studied that issue in depth but, apparently, somebody must have agreed because it was changed.

BLUMENTHAL:

Did you agree with that conclusion?

SESSIONS:

Well, yes, I was happy that -- that solution was reached, yes, very much.

BLUMENTHAL:

Did you take...

SESSIONS:

No need to have a -- you know, you shouldn't -- we should remember those things as we move forward setting policy, what kind of ramifications could it have. I don't think they had voting in their mind at all, but it did impact voting to some degree for sure.

BLUMENTHAL:

But you took no action at the time. You expressed no conclusion at the time despite what was found to be a disparate and adverse impact on the voting rights of 250,000 members of the citizens of your state?

SESSIONS:

Well, they didn't ask my opinion before they did it and it was purely a state matter and I did not actively intervene, you're correct.

BLUMENTHAL:

I want to ask you about the DACA, young people, the DREAMers, who have submitted information to the federal government about their whereabouts, their identities, a lot of personal details. And I know that your response, I think, to a question about it was that Congress must act. But wouldn't it violate fundamental fairness whether due process or some standard of constitutional due process, to use that information, in effect, against them. Obviously, we're not talking about a criminal proceeding, so there's no double jeopardy. But, I guess, I'm asking for your commitment as perspective attorney general, your respect for the constitution, to make a commitment that those young people will not be deported, that you will continue that policy that has been initiated.

SESSIONS:

Certainly, you're correct that those -- that cohort of individuals should not be targeted and give a priority, anything like the priorities should be given to criminals and people who've had other difficulties in the United States, those who've been deported and had final orders of deportation. So, I understand what you're saying there. I think until I've had a chance to think it through and examine the law and so forth, I would not opine on it myself.

Number two, importantly, this is a policy of homeland security. They've got to wrestle with the priorities of their agents, what they should spend their time with and try to do that in a most effective way. So, General Kelly will have to think that through. I'm simply would be -- if some matter were litigated, we would try to be supportive of the litigating position if possible. So, really a homeland security question.

BLUMENTHAL:

I understand that homeland security may be involved. But ultimately, orders to deport are the responsibility of the Department of Justice to enforce. You are the nominee to be the nation's chief law enforcement officer, and more importantly, in some sense, you're a source of the nation's consciences, legal conscience. And so I'm asking you as a perspective United States attorney whether your conscience would be violated by using information submitted in good faith by countless young people who have been in this country since infancy, many of them, and who trusted the government of the United States of America to give them the benefit of that policy articulated by the president of the United States. You may have disagreed that policy.

SESSIONS:

Well...

BLUMENTHAL:

But if the submission of that information in good faith, on the basis of representations by the United States of America, it seems to me involve a perspective commitment on your part in representing the United States of America.

SESSIONS:

Well, you make a good point and that that's a valid concern. I know of no policy that would suggest that something like that would be done and I would not push for it. But ultimately, the decision would be made by the homeland security department. They decide their priorities for enforcement and then there's a question of whether or not I would -- I just wouldn't want to be in a position to say they would never be used. And I can't make that commitment today. I haven't thought it through as to what laws might be implicated, but if somebody were a terrorist or had other criminal gang connections, could you never use that information? I don't know. I'm just not prepared to answer that today. It may not be possible to use it.

BLUMENTHAL:

Well, I'm -- I recognize Mr. Chairman my time is up but I'll pursue this line of questioning again because I feel I'm midway through a number of questions.

Thank you, Senator.

GRASSLEY:

Before I call on the senator from Hawaii, I'd like to note that Pat Edgington (ph), former vice chair of the Alabama Democratic Party, wrote to our committee in support of this nomination. Mr. Edgington (ph) says, quote, "I truly hope our party will not make this vote on party lines but instead vote on man." End of quote. Quote again, "I have known him for approximately 40 years and while we have had our policy differences, I know his instincts are fundamentally humane and just." Without objection, enter that in the record.

Senator from Hawaii.

HIRONO:

Thank you, Mr. Chairman.

Our Muslim-American community is gravely concerned about what a Trump presidency would mean for them. So, can the Muslim-Americans count on you as attorney general to protect their constitutional and civil rights?

SESSIONS:

Yes.

HIRONO:

Thank you. Very reassured.

I had asked you earlier about consent decrees that relate to police departments. I have a question along those lines but it involves another part of civil rights. In 2015, a federal district court in Alabama, your state approved a consent decree order filed by the Department of Justice in the Huntsville City Schools case and this was a school desegregation case. A number of other school districts throughout the country are under desegregation orders. Would you commit to maintaining and enforcing those decrees?

SESSIONS:

Those still remain in effect in a number of districts. Huntsville is a very strong, healthy and well-managed school systems. I'm actually -- I believe they have good leadership. But a consent decree remains in effect until it's altered by the court.

HIRONO:

So your answer is...

SESSIONS:

They would be enforced until there's an alteration of it. Yes.

HIRONO:

Thank you.

I have question about violence in increasing number of threats against providers of health care services and abortion services to women. Since the November election, the number of threats online, many of them online, against providers have more than tripled. Given the increasing numbers of violence targeting abortion providers, how high of a priority will it be to you to prosecute violence targeting abortion providers under the freedom of access to Clinic Entrances Act.

SESSIONS:

They deserve the same protection that any entity, business or otherwise or health care entity is entitled to. When people violate the law and carry out improper threats or blockades of the business.

HIRONO:

Well, were there...

SESSIONS:

Maybe even more so because there's a specific law about abortion clinics, I believe.

HIRONO:

Yes. So, there's a specific law that Congress passed that -- that protects access to these clinics and where there is evidence of increasing number of threats of violence, I hope that that -- it gets on your radar screen as a priority for enforcement.

SESSIONS:

As a law is to be applied, yes. I know where exactly how the threats are worded but that seem -- it's improperly done, they can be subject to criminal prosecutions and they would be evaluated properly in my administration.

HIRONO:

And certainly, where Congress cared enough about this particular area of access, that I hope that you would have a commitment to making sure that that law is being enforced in the way that we intended.

Regarding birthright citizenship, people born in this country are U.S. citizens regardless of the citizenship status of their parents and there are those who argue that that is not enough to confer citizenship. Do you believe that there should be more required to become U.S. citizens?

SESSIONS:

Well, under the current state of the law, it's accepted they do obtain their citizenship, so I suppose that would not be two obstacles to changing that. One, you would have to have a congressional enactment, I believe, to change it and even that congressional action could be construed as violative of the constitution and not be a constitutional act, so those -- I have not reviewed the details of that. I do know there are some dispute about whether or not the Congress could change that status.

HIRONO:

But it's certainly not anything that in the order of priorities that you would pursue as attorney general to ask Congress to change the law to require more than being born in this country to confer U.S. citizenship.

SESSIONS:

I would be focusing my attention on enforcing the laws that exist and I guess it would be Congress' duty to wrestle with whether to change it or not.

HIRONO:

Turning to a change in the law that came about after the Lilly Ledbetter case, it's the Lilly Ledbetter Act and I know you're familiar with the factual circumstance in which Lilly Ledbetter did not know that she had been given disparate pay, that was illegal, and she didn't find out about it and the Supreme Court said you have only 180 days in order to find this out in order to have your day in court.

So, Congress had a bill which you voted against and I'm wondering why you voted against that bill because in making that decision, the court basically abrogated years and years of legal precedent and it was a surprise to a lot of us that suddenly they were imposing a 180-day you must know kind of a requirement, but you voted against that bill. Can you tell us briefly why?

SESSIONS:

We had a hearing on it in the judiciary committee, a number of witnesses testified and the testimony as I understood it was that she did, in fact, have noticed and the court found that she had noticed and that's why they had that statute of limitations was enforced. You need a statute of limitations of some kind. And if they don't know, then you can allow it to continue indefinitely. But as I understood, that was the ruling so it was less problematic for future cases than was discussed. But my recollection is not perfectly clear on that issue but that was one of the factors, I remember, being involved in my decision.

HIRONO:

My recollection of the holding in that case is different from yours because often in these discrimination case, unlawful pay discrimination, the victim is not aware and has no way of finding out that such discrimination is occurring and that's why the law made it very clear that every instance of a disparate paycheck would constitute a new violation and that's all this bill did. Otherwise, the Lilly Ledbetters of the world would really be -- would be foreclosed from their day in court. So, you obviously have a different understanding of the holding of the case. So,...

SESSIONS:

As the -- well, I'm more likely -- my memory is not that good. But if you have explicit notice hypothetically, should the every paycheck for the next 20 years be told the statute of limitations so that's the -- was the legal question. I have a -- my recollection is not perfect.

HIRONO:

I was very corned about that case and so I'd say that perhaps my recollection of the holding is more accurate than yours.

Let me turn to corporate wrongdoing. When I just met you, you indicated that nobody is above the law and there is, I think, an ongoing investigation of the part of the Department of Justice what Wells Fargo did and basically defrauding millions of their customers. So, would you continue to pursue this kind of investigation and would you also hold accountable individual corporate office holders for -- should there be found to have been a violation of law.

SESSIONS:

Corporations are subject as an entity to fines and punishment for violating the law and so are the corporate officers. And sometimes, it seems to me Senator Hirono that the corporate officers who caused the problem should be subjected to more severe punishment than the stockholders of the company who didn't know anything about it.

HIRONO:

I couldn't agree with you more.

Thank you, Mr. Chairman.

GRASSLEY:

Senator Franken, you said you had one more question you wanted to ask.

FRANKEN:

Could I ask two?

GRASSLEY:

Go ahead.

FRANKEN:

By the way, the Chairman, I must complement you, you have deferred your time to us all and I thank you.

GRASSLEY:

I haven't given it up, I've just give...

FRANKEN:

No, you deferred it.

GRASSLEY:

Please proceed. You're taking time.

FRANKEN:

OK. Senator, I like to briefly return to something you said earlier about your opposition to VAWA and our courtesy visit. The second item of substance that we discussed was violence against native women. I told you how important the issue is to me and to tribes all over the country. And they've highlighted it for me, time and time again. And 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 you didn't realize the extent of the problem. Over 84 percent experience domestic or sexual violence. Over -- and over 97 percent of them are victimized by non-Indians. That's the recent stat.

But in 2012, all you had to do was talk to one tribe and you've learned that women in an Indian country are regularly abused by non-Indians who go unprosecuted and unpunished. If you take the issue of domestic and sexual violence seriously, I think it's incumbent upon you to visit at least one tribe and I think Alabama has nine tribes that are recognized in the state. Is that correct?

SESSIONS:

Well, only one tribal group that I believe only one tribal group that has properties, tribal lands...

FRANKEN:

Is that Poarch?

SESSIONS:

Poarch accretive. It used to be in my district. I've had good relations with them, been on that small tribes -- tribal lands a number of times and visit their clinics and...

FRANKEN:

OK. Good. Well, I would -- you know, if you are attorney general and even if you're not but if, certainly, if you are attorney general, when you're back home, you might take some time to talk to them about this issue.

Earlier, you told Senator Hirono that you cannot commit to not challenging VAWA on these grounds but you've also admitted that you didn't understand the gravity of the problem against native women when you voted on it in 2013 or the extent of non-Indian violence. Would you just commit to me to spending a little bit of time with the Poarch tribe? Thank you. That would be good...

SESSIONS:

They've been supportive of me and...

FRANKEN:

Thank you.

I want to talk one last thing.

GRASSLEY:

You've got more question. OK.

FRANKEN:

Thank you. Thank you, Mr. Chairman.

The day before the election in Candidate Trump came to my state for his only rally during the campaign and let me tell you what he said. He was standing before a large crowd and he accused Democrats of planning to quote, "import generations of terrorism, extremism and radicalism into your schools and throughout your communities. Here in Minnesota, he said, you've seen firsthand the problems caused with faulty refugee vetting and large numbers of Somali refugees coming into your state without your knowledge, without your support of approval and while some of them joining ISIS and spreading their extremist views all over our country and all over the world, I can't begin to tell you how angry those comments made me.

To see Candidate Trump hold his only rally in Minnesota at an airport where about a thousand Somalis -- immigrants work and Somali Minnesota work and earn -- refugees, really -- and to stoke that kind of fear and hatred was an insult, I believe, to every Minnesotan. It was offensive, it was irresponsible, but wasn't really surprising. Candidate Trump made scapegoating immigrants and refugees and banning Muslims from entering our country a centerpiece of his campaign.

Now, some of his advisers tried to spin or walk back his comments on the so-called Muslim ban, but you, Senator, you know, you said that the idea was, quote, appropriate to discuss. And in June, you said, quote, "we must face the up comfortable reality that not only are immigrants from Muslim majority countries coming to the United States, radicalizing and attempting to engage in an act of terrorism, but also, their first generation American children are susceptible to the toxic radicalization of terrorists organizations. You said that our nation was quote -- has a, quote, "unprecedented assimilation problem."

You know, Senator, part of what makes that a simulation challenging is when people seeking to leave this country exploit fear and anxiety and redirect that fear toward our immigrant and refugee communities. Right after the election, my office got a call from a middle schoolteacher in St. Paul. Her school has a sizable population of Somali-Americans, Somali-Minnesotan kids. Now, they're smart kids so they've been paying attention to the election and they were terrified. The teacher called my office and said please, please have Senator Franken come to the school and give them some assurance.

These kids did not know what the make of a country, their country, electing a leader who describes them and their families as worthy of hatred and suspension. So, I did my best to alleviate their fears that day. I told them you're Americans. I said you kids, you're Americans. Don't be afraid.

And a couple of weeks later, I talked to the French ambassador to the United States. I said to him, tell, what -- who's defined as a Frenchman in France? And he said somebody who is -- who can trace back a couple of centuries to their family in a French village.

Well, these kids are Americans. And we consider them American. And what we saw in Paris and what we saw which was caused by Belgians, is because they take that attitude in Europe. We don't take this attitude. And it's dangerous to take it. One of the most beautiful weeks I've been to was the graduation -- high school graduation in Willmar, Minnesota, in June and I invited myself there because one of our pages, our senate pages, was from Willmar and she's Somali, a Somali-Minnesota girl.

And I saw her on election day. I was at the university of Minnesota. She told me her sister, her younger sister, was named the Willmar Homecoming Queen. In Europe, they don't assimilate people. Here in the United States, we vote them homecoming queen. Thank you.

GRASSLEY:

Senator...

SESSIONS:

They're all Americans.

GRASSLEY:

Senator Sessions, if you want to respond, go ahead.

SESSIONS:

Well, I think he -- Senator Franken makes some important points and I appreciate his comments.

GRASSLEY:

Senator...

FRANKEN:

Thank you.

(CROSSTALK)

SESSIONS:

Although I do believe my comment was unrelated to the event in your state.

GRASSLEY:

Senator Tillis, you're entitled to 10 minutes since the first round but you don't have to use it all.

TILLIS:

I've learned nothing else except to understand what it is...

(CROSSTALK)

GRASSLEY:

I want to do my second and third round.

TILLIS:

No, Mr. Chair, I'm not going to take long. And, Mr. Chair, you know, and Senator Sessions, I think that you know that I was in Tennessee today with the proud moment of seeing my father sworn in to the legislature. However, I got up and watched the opening comments, your opening comment, you did an extraordinary job. And to be honest with you, I think you've demonstrated more stamina today than the crimson tide did last night against the worthy adversary.

But, Senator Sessions, I'm not going to ask a lot of questions. I'm going to tell you I thank you for your leadership. I think you and I have talked about this before. But I want to thank you again publicly about your leadership as a balanced chair and I think as the late Arlen Specter said in egalitarian, I've seen you sit on the immigration subcommittee and you see me come to every one of those meetings and you know you and I have a difference of opinion on that matter. What's remarkable about you is you bring balance panels to discuss the issues so that both sides can be heard and you never ever hesitated to let me speak as long as I want to which I'm sure was a lot longer than you wanted me to and I really appreciate your leadership because that's what's missing oftentimes up here in the senate and we're going to miss you and I'm going to look forward to voting for you and for your confirmation.

I ask the same question of the attorney general that was before this committee last year and I want to ask you because it's very important to me. I think the Department of Justice has issues. I think that the inspector general's report is a good example back in 2014 when I simply said that the inspector general's report that says that they need to increase accountability and the Department of Justice and I'll get to a specific question in a minute that we should act on it. I got a non-answer to that question. In fact, I got a better answer to a deputy who came back in which is why I supported the deputy and I didn't support the A.G. nominee.

Can you tell me if you've had an opportunity to take a look at those recommendations and to what extent those recommendations would be instructed to you now that you've become the chief -- when you become the chief executive of that agency?

SESSIONS:

I'm glad you raised it. I hope you'll stay on the Department of Justice to respond to it. I have not studied it. I've had some time ago, I believe, a briefing on the nature of it when it came out. But it does appear to me to raise fundamental questions about the good management of the people's money and that money needs to be managed every single dollar effectively to get positive results, not wasted, and I will be glad to hear any suggestions you have it will be a priority of mine.

TILLIS:

Thank you.

(CROSSTALK)

SESSIONS:

... has raised it and so I think what we need to do and I will do is to do an immediate analysis of it if I'm so fortunate as to be confirmed.

TILLIS:

Thank you because we'll be following up on it. This is something, I think, that's very important to me.

And, really, a specific question in that regard, I hope you look at it and when you get confirmed, make it a priority to look into. The -- as a part of the report, I believe it was said that some DOJ employees engaged in prosecutorial misconduct and perjured themselves in court. If you find that to be substantiated, what would you do with the people in the DOJ who were guilty of such actions?

SESSIONS:

The Department of Justice is a great institution. Most of the people are a people of the highest character....

TILLIS:

Without a doubt.

SESSIONS:

... and ability. However, we've had a series of problems overtime that seem to me to be worthy of concern broadly and I think it would be important for the next attorney general to try to revitalize

and reemphasize the absolute commitment that a federal prosecutor must have to do justice and not just win a case. And also, it is hard for lawyers in Washington who get sent out to the field to try a big, important, highly -- high profile case. They don't know the community very well. Maybe they haven't tried as many cases as United States attorney in the field that's doing every day and sometimes they -- their skills don't meet their academic levels that you might think they would have and things kind of go wrong. We need to do better.

TILLIS:

Well, thank you for that. Also, just by way of comment, the chair looked at a stack of letters that remained unanswered by the current attorney general and the DOJ. He did cite that he expects you to respond, at least, to the one that you signed. But I hope you'll actually respond to all of them and to the -- to the chair's credit, not only from the chair but from the ranking member and members of this body who are trying to make the DOJ the best it can possibly be.

Finally, I'll just yield back the rest of time after saying the -- I watched -- I probably watched the good three hours of the proceedings today. I was struck at one point when some were casting doubt about you in terms of your view of ethnicity and a number of other backgrounds. What struck me the most about that picture on TV was your wife's eyes well enough because she and her son know you well. Many of us know you well. And I think all of us know that you're going to make a great attorney general. You're a fair-minded man and you're going to obey the law.

You will no longer be a lawmaker which I know from time to time is probably going to frustrate you. But I have no doubt in my mind, you will be one of the best attorney generals. You will faithfully execute the law. You will enforce the law and you will do it in a fair and impartial manner and I can't wait to see you in action.

Thank you, Senator Sessions. Thank you, Mr. Chair.

GRASSLEY:

Thank you. Before we start the forth round, I don't think you've had your third round, Senator Sasse. So, proceed.

SASSE:

Thank you...

GRASSLEY:

You've got eight minutes. You don't have to use it all.

SASSE:

Thank you for the counsel for a rookie. I also didn't think I could talk about college football but Senator Tillis already broke that bubble.

Senator, Nebraska 1995, remains the best team in the history of college football. I think we can all agree after last night. I'd like to ask you a question about...

(CROSSTALK)

SASSE:

I've heard from Nebraskans how regulations are games by activists to try to change federal policy through lawsuits and settlements rather than through the making of law in the Congress. Federal agencies and activist groups are often assumed to have been sort of colluding to do this to circumvent the Congress and I'm curious as to what you think when plaintiffs in the government enter into a settlement to try to change policy, what's the appropriate role of the Department of Justice to make sure that that agreement does not circumvent the law in the Congress and the Administrative Procedure Act?

SESSIONS:

The Department of Justice has final settlement authority in any case against the United States although they tend to listen to and see their role as being supportive of the agency. So, if homeland security or the department of education or EPA is being sued, they may -- they have the power to make the final judgment. And their responsibility is to protect the public interest, the national interest and to make sure the law is followed. There has been in state court and sometimes in federal court, this sue-and-settle mentality, this consent decree that we've been talking about.

I've pointed that it's -- at times controversial. So, if the agents or the officials that the Environmental Protection Agency believe that a law should be expanded and they're sued by a group that wants to expand the law in the same way and it may be unacceptable to expand it that far, but if the Department of Justice goes along with the agency and agrees to a settlement and get a court to order this to occur, then the government is bound by their settlement agreement and the people's interest do the democratic process is eroded because a decision is being made by unelected people and not the legislature.

So you understand that and I think that was a fundamental part of the question. I do believe a good Department of Justice needs to be alert to that and should not feel obligated to settle a case on the terms that any agency might think but make sure the settlement is in a legal and justified and in the national interest.

SASSE:

And there'd been occasions. There'd been reports that's been the practice of DOJ at times to force violators to make certain payments to approve third parties as a condition of settlement, as a hypothetical. There had been discussions about whether or not a bank that was, again hypothetically, fined by the DOJ might see its penalties reduced if it made payments to a designated not-for-profit. And when, if ever, is it appropriately for the Department of Justice to require payments to any third party as a part of a settlement?

SESSIONS:

I think that's a very dubious practice. I would be cautious about it and we'd have to make sure it's justified. And normally, that's not the best way to settle a case in my opinion.

SASSE:

And finally, the judgment fund that the Department of Justice administers, it's a general fund that's available to compensate those who sue the government and win. Unfortunately, how this money gets used is not fully known by the Congress. Will you commit to making public the use of these funds?

SESSIONS:

The funds that are not paid out or funds that are paid out is part of a litigation.

SASSE:

In the judgment fund, the department has a discretion to determine how to settle these cases and what payments to make but the Congress and the public often don't know where this money goes. Would you commit, as attorney general, to being transparent with where the funds go out of the judgment fund?

SESSIONS:

I would -- would be surprised that it's not public and it should be available to the public. They should know how a lawsuit is settled and where the money went. Absolutely.

SASSE:

Thank you, Senator.

GRASSLEY:

Before Senator Blumenthal follows up on some things he wanted to, we received a letter in support of Senator Sessions' nominee -- nomination from 108 former U.S. Attorneys who served under every president since President Nixon. They say quote, "We have no doubt that Senator Session can do the job well bringing to this critically important office his own unique and extraordinary strengths of courage, humility, experience and infallible promise to treat all people equally under the law," end of quote. Without objection, I'll insert that in the record.

Senator Blumenthal?

BLUMENTHAL:

Thanks, Mr. Chairman.

BLUMENTHAL:

Senator Sessions, response to Senator Tillis' -- one of Senator Tillis' questions, you said that the job of the attorney general is to do justice, not necessarily to win a case. And I think that's almost an exact quote from Justice Jackson when he was United States attorney general. It's one of my favorite quotes. I think he said the role of the United States attorney or a government lawyer is to do justice, not necessarily win a conviction and that's why I feel that the role of attorney general ought to be the legal conscience for the nation as I was remarking earlier.

So I hope that you will reconsider what you've said about the DACA policies and assert an independent view based on the nation's conscience or what it should be about what has happened to those young people. Likewise on issues like Deutsche Bank, what you and I have discussed privately and where I think there ought to be an investigation focusing on individual culpability and perhaps in some of these other investigations as well where an independent council may be necessary and similarly your response on recusal from both on your prospective colleagues appointed by the president elect where you have not yet responded to the letter that I wrote. I'm not going to take more time this afternoon or tonight. But I think that I remain unsatisfied on those questions.

And in generally, I think that the role that you would have as United States Attorney General ought to be not just another government lawyer but as a champion of civil rights and liberties and the nation's legal conscience.

And thank you, Mr. Chairman, for giving me this opportunity.

SESSIONS:

Thank you, Senator Blumenthal and I respect your history as a prosecutor in the United States attorney in time in the Department of Justice.

BLUMENTHAL:

Thank you.

GRASSLEY:

Senator Sessions -- thank you, Senator Blumenthal.

GRASSLEY:

Senator Sessions, you've been a vocal champion for American workers, especially as we have heard so much about how American workers are being laid off and replaced by cheaper foreign labor imported through some of our visa programs. You've been a cosponsor of a bill sponsored by me and Senator Durbin that would reform H-1B visa programs by ensuring that qualified

American workers are considered for high skilled job opportunities before those jobs can be offered to foreign nationals. It also prohibit company from hiring H-1B employees if they employ more than 50 people and more than 50 percent of their employees are H-1B or L-1 visa holders.

This provision would crack down on outsourcing companies that import large number of H-1B and L1 workers for short training periods and then send these workers back to their home countries to do the work of U.S. workers. In 2013, you and I seem to be the lone senators on this committee who fought for U.S. workers. We argued that the Gang of Eight bill that would have increased the number of foreign workers who came in on H-1B visas and actually hurt Americans who were qualified, willing to do those jobs, we said that the bill failed to adequately protect U.S. workers and neglected to hold employers accountable for misusing the H-1B and L1 visa programs.

We tried to provide more protection for U.S. workers. We tried to ensure that no business imported foreign workers before making a good faith effort to hire people at home. We tried to expand the ability for government to audit employers, we offered amendments that were supported by the AFL-CIO.

In April 2015, you helped lead eight other senators in a letter to then Attorney General Holder, Secretary of Homeland Security Johnson, and Secretary of Labor Perez on this issue. So,me of those who signed that letter sit on this panel today. For instance, Senator Durbin and Blumenthal. That letter requested that the Obama administration investigate abuse of H-1B visa programs by companies including Southern California Edison, Disney and IBM that have been laying off American workers and replacing them with H-1B workers in some cases reportedly making the American workers train their own replacements.

The Office of Special Counsel for immigration related unfair employment practices is an office within your department that you will head. That enforces the anti-discrimination provisions of the Immigration and Nationality Act. While the office is designed to protect foreign nationals with employment visas from discrimination, it is also charged with ensuring that American workers are not discriminated against in the workplace. Many U.S. workers advocate -- advocates believe, for example, that the layoff of American workers and the replacement by cheaper, foreign, H-1B workers constitutes de facto nationality based discrimination against American workers.

The Obama administration has failed to protect American workers here. Will you, this is my question, will you be more aggressive in investigating the abuses of these visa programs?

SESSIONS:

Mr. Chairman, you know, I believe this has been an abuse. And I have been pleased to support your legislation and some others too, that others have produced that I believe could be helpful. It needs to be addressed. It's simply wrong to think that we're in a totally open world and that any American with a job can be replaced if somebody in the world is willing to take a job for less pay. We have borders. We have a commitment to our citizens and you have been a champion of that. I've been honored to work with you on it.

Thank you for your leadership. I would use such abilities that I have to help address that. I think it also does require legislation like you have offered, you and Senator Durbin, I believe a legislation maybe -- may be necessary to have the kind of reforms that we need.

GRASSLEY:

I appreciate your answer. We'll continue to push for the legislation. We've been very difficult moving that legislation wrong because of business oppositions within our country. And so, whatever you can do in regard to being more aggressive investigating the abuses of our visa programs will help solve some of the problems if we don't get legislation passed, but we still intend to pursue that.

Now, on another point, as you know, relationships between law enforcement and the communities that they serve have been strained. You've already spoken to that in your opening comments. In many instances, police have been specifically targeted. Now, tomorrow, it's my understanding the president of the Fraternal Order of Police will testify about this issue. But I'd also like to hear from you on this point, we obviously need the figure out a way to fix these relationships and restore mutual trust and respect for law enforcement. What role can you play as attorney general in this and what role can the department play more broadly?

SESSIONS:

It's essential this nation affirm those that we send out to provide public safety and affirm their good deeds and if they make mistakes and commit crimes, then they have to be prosecuted like anyone else would who commits a crime and violates the law. But fundamentally, the overwhelming of our law officers of dedicated faithful individuals serving their country and their community with discipline and integrity and courage. So, I -- I think this is an important matter.

And so, we need to guard against the kind of public statements that have troubled me in recent months and years in which we seem to dismiss and take sides against the entire law enforcement community where we suggest that the law enforcement community is not some -- not a positive factor and that all officers tend or have -- are not performing in a high level.

So, I believe that I will do my duty to correctly distinguish between wrongdoing by individuals and the entire law enforcement community. Murders of deaths of law enforcement officers are up 10 percent over the last year. The number of policemen and law officers who have been killed with a firearm is up, I think, 58 percent. So, me stunning numbers and part of this is a corrosion of respect between the communities and law officers and I think it's a dangerous trend we must reverse and reverse soon.

GRASSLEY:

My next question deals with agricultural antitrust and I don't believe that there should be political decisions involved in antitrust decisions in the department but there are several high level agricultural mergers going on right now, one before DOJ, one before the FTC and then there's another one I don't think has been assigned yet. And my -- I come from the standpoint of being an

agriculture with a -- with a general -- just a very, I guess, ideological belief that when you have less companies, you have less competition, you have higher prices for imports. That's in agriculture but that would be true of any segment of the economy.

I also, before I ask this question, I want to make a point that I don't think there are a enough people in the department of justice that know much about farming. And one time, maybe 10, 15 years ago, I got some administration, I don't know if it was the Clinton one or the Bush one, to say that they were going to have somebody in the antitrust department that knew something about agriculture and I think they did put somebody there. I don't know if that person is still there or not.

So this is my question. I'm concerned about the increased consolidation and possible anticompetitive business practices in the agricultural industry. Currently, the antitrust division is reviewing several significant mergers and acquisitions in the agricultural sector. Do I have your commitment that the justice department will pay close attention to agri business, competition matters and carefully scrutinize proposed agriculture mergers and acquisitions and can you assure me that the agriculture antitrust issues will be a priority for the justice department if you're confirmed as U.S. attorney general?

SESSIONS:

There's been controversy of a number of those issues over the years that I'm generally aware of without committing and commenting on any particular case, I will, Senator Grassley, will be pleased to honor your request.

GRASSLEY:

In 1986, 10 years before you came to the United States Senate, I got it the False Claims Act passed. It has brought 53 billion dollars back into the Federal Treasury since then. If you're confirmed, will you pledge to vigorously enforce the False Claims Act and devote adequate resources to investigating and prosecuting False Claims Act cases?

SESSIONS:

In the qui tam provisions and the part of that, I'm aware of those. I think they are valid and an effective method of rooting out fraud and abuse. I even filed one myself one time as a private lawyer. So, these are important issues that you have been a leader on. It has saved this country lots of money and probably has caused companies to be more cautious because they can have a whistleblower that would blow the whistle on them if they try to do something that's improper. So, I think it's been a very healthy thing and you're to be congratulated for that and I do support that act.

GRASSLEY:

You took care of my second question. I was going to ask you on qui tam and you said that whistleblowers are very important. I'm glad to hear you say that. I don't know whether they get enough support. I hope you give priority to that because a great number of the qui tam places come

from the outside, not from the inside. Will you provide congress with regular -- this is the last point on this one, will you provide congress with regular timely updates on the status of FC qui -- False Claims Act cases including statistics as to how many are under seal and the average length of seal time?

SESSIONS:

I would do that. In my experience is, sometimes they're awfully a long time. And but...

GRASSLEY:

That's exactly why I'm asking the question and updates from time-to-time. I think we'll keep people within your department more responsive and responsible.

SESSIONS:

I understand that and is there a report -- I don't know if a report is required now but don't see why it would be particularly difficult to provide that to you.

GRASSLEY:

OK. I have a long lead in to another question. I'm just going to ask you, if you would tell us, for the record, your reasons for opposing the 2013 Immigration Bill

SESSIONS:

Mr. Chairman, fundamentally, I believe that it would not, in the lawlessness and it would grant the amnesty. That's the position that fundamentally caused you concern, because in 1986, there was an amnesty given and a promise of enforcement in the future. And it didn't happen.

And so we ended up, instead of 3 million people, I guess it was in 1986, now, the estimates are we have 11 million people here unlawfully. This is not the kind of policy a great nation must have. We need to have a lawful system that we can be proud of, that the world knows works, that people stop coming illegally because they don't think they will be successful in the attempt and we could see a dramatic reduction in illegality and we could all be pleased to see the result occur and we'll have to call on Congress to help some.

But -- and you've been -- you understand the issue and you've been supportive but we're going -- we may have to pass some legislation. A lot can be done with current law but I would love to be a part with this committee of restoring the immigration system on to the high level that ought to be.

GRASSLEY:

I want to return to the issue of Violence Against Women Act. I know that for me, that bill didn't do enough to fight fraud and abuse that's why I introduced a substitute amendment that would have given more money to victims by fighting fraud and abuse that was discovered in the program.

It would have insured that no money under the program was used to lobby congress. It also would have had limited the amount of funding in the program that could be used for administrative fees and salary salaries. In addition, my substitute amendment developed harsher penalties for federal conviction of forcible rape which the bill that passed weakened. It also addressed child pornography and aggravated sexual assault, neither of which were addressed in the bill that is now law. Finally, my substitute amendment combated fraud in the award of U visas to ensure true victims were protected.

My question, as you mentioned, you voted for my substitute amendment that was stronger in many respects than the bill that was passed. Will you enforce the law that was passed?

SESSIONS:

Yes, I will, Mr. Chairman.

GRASSLEY:

That's probably the tenth time you answered that today but thank you for being with me.

I want to speak about the Board of Immigration Appeals. It's the highest administrative body for interpreting immigration laws, hearings appeals rendered by immigration judges. This board, which is under the attorney general's purview has published some very problematic precedent decisions the past several years. The board of immigration appeals decisions are binding on all immigration officers, including homeland security officers and immigration judges unless overturned by the position you're seeking or a federal court. Will you or someone on your team, commit to taking a hard look at all precedent decisions made by this board?

SESSIONS:

Mr. Chairman, that does appear to be a power or an ability of the attorney general which I have not thoroughly studied. Any changes would need to be carefully done and thought out in a principled and honorable way. I would do that and if changes need to occur, need to occur and I have the ability to do it, I will try to conduct myself properly in making those changes.

GRASSLEY:

Two more points. Oversight by congress is important. You've already said that and you've -- I'm glad you know the necessity of that.

But Congress cannot do all the oversight needed on its own. We need to rely -- rely on strong inspectors general to provide another independent assessment on the operations within the executive branch. That's why that position was set up in 1979, I believe.

Do you agree that independence is the hallmark of an inspector general's integrity and effectiveness? And if you do, please elaborate and the reason I asked the question is probably it

happens in more departments but I pay a lot of attention to DOJ and I think there's been some problems with DOJ of recognizing and cooperating with the independence of the inspector general.

SESSIONS:

Yes. The independence should be respected and should be had. I'm familiar with some cases in which the independence of the inspector general is less than that in general throughout the Congress and I've tried to strengthen -- been willing to -- and interested in strengthening their independence.

It's a challenge. The inspector general is appointed by the agencies for the most part, I believe. But they -- if they're not seen as independent, then they can't be the effective body that we'd like them to be. They have staffs, they have ability to be -- to contribute, to saving money and I believe in the inspector general's process.

GRASSLEY:

Before I ask the last question, whatever reputation I have for investigation and in oversight probably maybe even 90 percent of the leads we get come from whistleblowers and whistleblowers within an agency are generally treated like skunks at a picnic. And I hope that I don't know how many thousands or tens of thousands of employees you're going to be over -- administering over, you can't possibly know what goes on with all those employees. I hope you will give encouragement to whistleblowing and that you will listen to them.

Once in a while you have a crank, but for the most part, these are just patriotic people that want the government to do what the government's supposed to do or spend money the way the government's supposed to spend it. And then when they don't get anything going up the chain of command, that's when they become whistleblowers and they come to us. And that time, even if they're protected under law, they're still ruling themselves professionally.

And so I hope you see them as a source so you can administer a better department and do what government is supposed to do. But in regard to that, I would appreciate it if you would provide congress with accurate and timely information regarding any action taken administrative or criminal against individuals who retaliate against whistleblowers because it's against the law to retaliate.

SESSIONS:

You are correct about that and it's not acceptable to retaliate against a whistleblower. So, we have been known to be cranks, as you indicated, but you cannot effectively manage this government without good citizens and good employees speaking up when they see wrongdoing. You've established a reputation as someone willing to receive that information and act on it and then defend the individual who had the courage to come forward and we need more of that in this government.

GRASSLEY:

I thank you very much.

I would like to have you and other people listen to a couple points I want to make at the tailend. I want people to know that we'll keep the record open until Monday for questions and you know what to do with those when you get them.

I want to thank everybody who participated including those in the audience. Most importantly, thank you for your testimony today and for answering our questions and doing it very thoughtfully and very thoroughly. You performed, I think, admirably and showed this entire country what we all know from serving with you.

You're imminently qualified to serve as attorney general and I have every confidence that you're going to do a superb job.

Senator Sessions, you're excused. We will reconvene tomorrow morning at 9:30 for panel two.

SESSIONS:

Thank you.