



The American-Arab Anti-Discrimination Committee

Statement for the Record on the

Nomination of Jeff Sessions to U.S. Attorney General

before the

U.S. Senate Judiciary Committee

Nominee Confirmation Hearing

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**To: Congressman Chuck Grassley, Chairman of Senate Judiciary Committee
Congresswoman Feinstein, Ranking Member of Senate Judiciary Committee**

Introduction

I am writing to you on behalf of the American-Arab Anti-Discrimination Committee (ADC), the country's only national Arab-American organization. ADC has a long history of supporting the human and civil rights of all Americans and opposing racism, discrimination and bigotry in any form. ADC was founded by former U.S. Senator James Abourezk in 1980. Today, ADC is the largest grassroots Arab-American civil rights and civil liberties organization in the United States. ADC is non-profit, non-sectarian, and non-partisan, with members in nearly every State of the United States. ADC routinely works with a broad coalition of national organizations to protect civil rights and advocate for racial justice issues related to profiling. ADC respectfully takes this opportunity to provide a statement for the record to U.S. Senate Judiciary Committee on Senator Jefferson Beauregard Sessions III nomination to serve as U.S. Attorney General.

Civil Rights

The U. S. Attorney General responsibility is to prosecute and enforcement the federal laws. The U.S. Attorney General also has a fundamental role in prosecution of civil rights laws to protect vulnerable and marginalized communities. These laws include but are not limited to the Civil Rights Act of 1964, the Matthew Shephard and James Byrd Jr. Hate Crimes Prevention Act, Religious Land Use and Institutionalized Persons Act, and Voting Rights Act were enacted to protect. Sessions is unqualified and not fit to lead the U.S. Department of Justice in enforcement of these civil rights and hate crime protections because he has actively worked throughout his career to undermine these protections.

Sessions has misused his authority to push misinformed policy on voter fraud. This policy has been used to enact voter ID bills that disproportionality impact African Americans, the disabled and elderly, and English-second language communities. Sessions does not support the Voting Rights Act and stated that this law, which he would be charged with enforcing, is "invasive."¹ In 1986, Sessions' nomination for a federal judgeship was denied due to exposure of incidents where he undermined civil rights protections. Sessions prosecuted three African American civil rights activists for voter fraud in Alabama in 1985, all of whom were acquitted of all charges. At

¹ Paul Blumenthal, *Jeff Sessions' Voting Rights Record Is So Bad That Common Cause Will Oppose Him*, HUFF POST, Jan. 5, 2017, http://www.huffingtonpost.com/entry/jeff-sessions-attorney-general-common-cause_us_586e7a4fe4b043ad97e20abe.



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the same time he did not pursue cases of voter rights violations.² It is clear that Sessions has misused the law to intimidate a community. This flagrant abuse of professional ethics and authority is indicative of how Sessions will act when charged with the powers of the lead law enforcement agency in our country.

In 2009, Sessions adamantly opposed the Matthew Shephard and James Byrd Jr. Hate Crimes Prevention Act.³ Sessions voted no to passage of the Hate Crimes Prevention Act, which extended hate crime protections to people victimized because of their sexual orientation, gender or gender identity, or disability. Sessions' actions demonstrate that prosecution of hate crimes, enforcement of the Hate Crimes Prevention Act, and hate crimes reporting is not a priority. This is extremely problematic where underreporting and non-reporting of hate crimes under the Hate Crimes Statistics Act, and training law enforcement on hate crimes remains an issue. Concerns with hate crimes enforcement will only be exasperated under Sessions', especially where recent spikes in violence and hate crimes targeting the MASSA (Muslim, Arab, Sikh and South Asian) community, a community that he has attacked. Most troubling is Sessions' prior positive statement regarding the Ku Klux Klan,⁴ which is a designated hate and terrorist organization. A U.S. Attorney General cannot enforce hate crimes laws meanwhile expressing approval of the KKK.

Sessions' actions are reflective of a much larger problem where his personal views and opinions would outweigh his obligation to defend and protect the Constitutional and federal rights of all. Sessions is ill-equipped to enforce civil rights law to protect Arab Americans and communities of color. ADC fears that with Sessions as U.S. Attorney General, the U.S. Department of Justice will abandon the Office of Civil Rights' efforts to work with communities of color.

Law Enforcement

ADC lacks confidence in the ability of Sessions to perform the duties of the U.S. Attorney General. Part of the duties of the U.S. Attorney General is to conduct oversight of the Federal Bureau of Investigations, and ensure that government agencies are accountable to the law and are in compliance with the DOJ Guidance Against Use of Racial, National Origin, Ethnic, and Religious Profiling. In direct contradiction, Sessions has publicly supported the registration of Muslims and prohibiting immigration of Arabs and Muslims solely based on their

² Michelle Ye Hee Lee, *The facts about the voter fraud case that sank Jeff Sessions' bid for a judgeship*, WASHINGTON POST, Nov. 28, 2016, https://www.washingtonpost.com/news/fact-checker/wp/2016/11/28/the-facts-about-the-voter-fraud-case-that-sunk-jeff-sessions-bid-for-a-judgeship/?tid=a_inl&utm_term=.a75749ab5146.

³ Eric Bradner, *First on CNN: Matthew Shepard's mother blasts Trump AG pick Sessions' votes on hate crimes law*, CNN POLITICS, Jan. 29, 2017, <http://www.cnn.com/2017/01/09/politics/matthew-shepard-jeff-sessions-hate-crimes/>.

⁴ See Michelle Ye Hee Lee, *Jeff Sessions' comments on race: For the record*, WASHINGTON POST, Dec. 2, 2016, https://www.washingtonpost.com/news/fact-checker/wp/2016/12/02/jeff-sessions-comments-on-race-for-the-record/?utm_term=.da982bf6d687.



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identity.⁶ Sessions himself has directly propagated fear, anti-Arab sentiment, Islamophobia and political rhetoric against immigrant communities that only serves to further criminalize and securitize our communities.⁷ Sessions argues that the federal government should be able to use whatever criteria it wants to decide who can and cannot immigrate to the U.S.—and that includes using religion as a criteria.⁸ These actions are unacceptable for any government official, let alone a nominee for the U.S. Attorney General whom will have authority over the Executive Office of Immigration Review. Sessions' actions demonstrate his flagrant disregard to substantive due process, the guarantee of equal protection under the law for all, and protection for asylum seekers and refugees.

ADC has further reservations about Sessions' ability to reign in law enforcement excessive use of force, and misuse of surveillance tools in violation of the First, Fourth, and Fourteenth Amendments. During his time in Congress, Sessions has provided unconditional support for increases in funding to state and local law enforcement agencies, while failing to exercise any oversight mechanism to assess the use of such federal funding provided to them. In the face of rising and clear police brutality against communities of color, and excessive use of force, Sessions continued to defend the inconceivable actions of police officers use of militarized equipment and riot gear at peaceful protests.⁹ These actions are indicative of unfettered deference to law enforcement with no accountability even where such conduct is questionable.

Sessions vigorously opposed the USA Freedom Act, which put into place some modest reforms to surveillance programs, particularly the Foreign Intelligence Surveillance Court (FISC) warrant process and amicus curiae role.¹⁰ Namely, Sessions continues to support section 215 bulk collection under the Patriot Act despite the fact that: 1) section 215 gave the FBI and the NSA broad power to spy on innocent Americans without a warrant; and 2) the Privacy and Civil

⁶ Watch Chuck Todd Grill Sen. Jeff Sessions For Ten Minutes About His Support For Trump And His Anti-Islamic Rhetoric, From the June 15 edition of MSNBC's Meet The Press Daily, June 15, 2016, <http://mediamatters.org/video/2016/06/15/watch-chuck-todd-grill-sen-jeff-sessions-ten-minutes-about-his-support-trump-and-his-anti-islamic/210979>; Jennifer Butler and John McCullough, *If Sessions won't defend Muslims, he's wrong AG for religious freedom*, THE HILL, <http://thehill.com/blogs/pundits-blog/the-administration/313131-jeff-sessions-disqualifying-religious-freedom-track>.

⁷ Stephen Piggott, *Jeff Sessions: Champion of Anti-Muslim and Anti-Immigrant Extremists*, SOUTHERN POVERTY LAW CENTER, Nov. 18, 2016, <https://www.splcenter.org/hatewatch/2016/11/18/jeff-sessions-champion-anti-muslim-and-anti-immigrant-extremists>; see also Betsy Woodruff, *Trump Attorney General Pick Jeff Sessions Argued For A Religious Test To Ban Muslims*, THE DAILY BEAST, Nov. 19, 2016, <http://www.thedailybeast.com/articles/2016/11/19/trump-attorney-general-pick-jeff-sessions-argued-for-a-religious-test-to-ban-muslims.html>.

⁸ Sessions Delivers Remarks In Opposition To Global 'Right To Migrate' Amendment, Dec. 10, 2015, <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=186AEDE2-B813-4741-A1B1-C3759DFDD2C5>.

⁹ Ames Grawert, Sen. Jeff Sessions' Record on Criminal Justice, Brennan Center for Justice, <https://www.brennancenter.org/sites/default/files/analysis/SenatorJeffSessionsRecordonCriminalJustice.pdf>

¹⁰ Jeff Sessions, *Why Should Terrorists Be Harder to Investigate than Routine Criminals*, <http://www.nationalreview.com/article/418675/dont-hamper-nsas-ability-stop-terrorist-attacks>.



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Liberties Oversight Board finding that no single instance involving a threat to the United States in which bulk collection made a concrete difference in the outcome of a counter-terrorism investigation was identified. Sessions' record shows that he actually seeks to further reduce transparency and oversight of the intelligence community and FISC. Sessions' statements and actions are indicative of providing the FBI with such broad latitude and unchecked power of the J. Edgar Hoover era. Such unchecked power with mass surveillance, expansion of surveillance tools, abuse of the watch-list programs, and surveillance targeting of Arab and Muslim Americans is alarming.

Nomination Process Problematic

ADC has serious concerns on the ability of Congress to sufficiently vet Sessions' record to be able to make a well-informed decision on his nomination and fitness to be U.S. Attorney General. The Committee has yet to receive all documents, materials and information in response to the Committee's questionnaire. Prior nominee's confirmations demonstrate a requisite practice of a complete and full response to the Committee questionnaire prior to a vote on the nominee. Sessions' failure to provide a complete and full record in response to the Committee's requests and the Committee's questionnaire requires strict scrutiny and disqualification as the nominee.

The fairness of the nomination process is a legitimate concern that throws into jeopardy the entire hearing process and makes it more of a formality, rather than the constitutional duty of Congress to conduct oversight and ensure accountability on the Executive. The scheduling of the nomination hearing at virtually the same time as other nomination hearings and the limitations on witnesses makes it impossible to actually examine Sessions' records on key areas that the U.S. Attorney General will be charged with enforcing and/or intricately involved in including: immigration; civil rights, racial justice, and hate crimes; workers' rights; national security and civil liberties.

Conclusion

The U.S. Attorney General particularly has a responsibility, where the U.S. Department of Justice – Office of Civil Rights has to step in due to action and/or inaction by state and local entities in violation of federal law, and/or lack of resources in the state to adequately handle a federal civil rights violation. Sessions has not only disregarded civil rights and liberties protections but has actually engaged in pushing policies and direct actions that harm communities of color, and vulnerable marginalized communities.