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U.S. DISTRICT COURT
N.D. OF ALABAMA[Senate Hearing 115-207]
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S. Hrg. 115-207

CONFIRMATION HEARING ON THE
NOMINATION OF HON. JEFF SESSIONS
TO BE ATTORNEY GENERAL
OF THE UNITED STATES

=====

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

JANUARY 10 and 11, 2017

Serial No. J-115-1

Printed for the use of the Committee on the Judiciary

[GRAPHIC NOT AVAILABLE IN TIFF FORMAT]

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TO BE ATTORNEY GENERAL
OF THE UNITED STATES

TUESDAY, JANUARY 10, 2017

United States Senate,
Committee on the Judiciary,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m., in
Room SR-325, Russell Senate Office Building, Hon. Charles E.
Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley, Hatch, Graham, Cornyn, Lee,
Cruz, Flake, Feinstein, Leahy, Durbin, Whitehouse, Klobuchar,
Franken, Coons, Blumenthal, and Hirono.

Chairman Grassley. Before we actually start the hearing, I
am 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 is very appropriate
that you do what you said you were going to do.

OPENING STATEMENT OF HON. PATRICK LEAHY,
A U.S. SENATOR FROM THE STATE OF VERMONT

Senator Leahy. Well, thank you, Mr. Chairman, and I
appreciate the courtesy. The Senate Judiciary Committee
convenes for the first time in the 115th Congress, a 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 when a woman has served in this
capacity. And having been either Chairman or Ranking Member for
the past 20 years, I cannot think of anybody better.

It is striking that 352 Members have served on the
Committee, and only six of those, who happen to be Democrats,
have been women. Three of those six women are proudly serving
on this important Committee today: Senator Feinstein, Senator
Klobuchar, and Senator Hirono.

So after these 20 years, I welcome Senator Feinstein. When
we grapple with some of the most pressing issues facing our
country, we Americans can be proud that she is here, and I
applaud you for this.

[The prepared statement of Senator Leahy appears as a
submission for the record.]

Senator Feinstein. Thank you.

Chairman 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.

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 is 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 is simply not fair, it is simply not considerate to others, so officers will immediately remove those individuals.

Now, before my opening statement, let me explain how we will proceed.

Senator Feinstein and I will give our opening remarks. Then Senators Shelby and Collins will introduce the nominee. Following Senator Sessions' opening remarks, we will begin our first round of questions. Each Senator will have an initial 10-minute round for questions. After the first round, we are going to do 8-minute rounds of questions. I want everyone to know that I am prepared to stay here as long as Members have questions that they would like to ask. Again, that is the way I handled Attorney General Lynch's nomination. I think that is 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 would also like to recognize and welcome a number of important audience members: former Attorneys 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 is here as well, a former colleague of ours.

Finally, before my opening remarks, I congratulate Senator Feinstein on your appointment and the decision to take over the Ranking Membership. We have always had a good working relationship through several things we have done, both legislatively and as leaders of the Drug Caucus, and I appreciate very much the opportunity to work with you.

Senator Feinstein. Thank you.

Chairman Grassley. Thank you. With that I will now start my opening comments.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY,
A U.S. SENATOR FROM THE STATE OF IOWA

Our hearing today hardly introduces Senator Sessions to the Committee. No; we are 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 has taken as a legislator. I have been on both sides of debates with the distinguished Senator Sessions. Having served with him for so long, we pretty well know whether he supports your policy positions or opposes 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 ``wonderful to work with.'' We know him to be, as another senior Democrat on this Committee described him, ``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 have served with him.

As former Chairman Leahy observed the last time a new President took office, it is ``important that the Justice Department have a senior leadership in place without delay . . . We need the Justice Department to be at its best.''

Perhaps my good friend Senator Schumer said it best when he observed that we should ``move to a vote, hopefully sooner rather than later.'' And when we do, as he said, we ``won't be voting for or against the President's policies.'' In summary, Senator Schumer said we will 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.

I have 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 in the small town of Hybart, Alabama, where his father owned and ran a small country store. He then studied at Huntingdon 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 United 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 in the Southern District of Alabama. He then headed that office after the Senate confirmed him as 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 observed, 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 and 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 is no surprise then that Senator Sessions was also an Eagle Scout. Other Members of this Committee know, as I do, that the Scouts' motto, ``Be Prepared,'' sits on his desk in his Senate office.

Senator Sessions' entire life of dedicated public service has prepared him for this day. If he is confirmed--and I expect that he will be--Senator Sessions will shed his role as a legislator who writes law and he will 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: ``There are turning points in a person's life when they put away things of the past and move into new responsibilities.'' 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 that, 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 evenhanded way.

We write the laws. The Executive enforces them, faithfully. This is a 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 gamut of issues from criminal law to our Nation's duly enacted immigration laws.

It is true that each branch of Government has an independent duty to assess the constitutionality of the laws it writes, it administers, and it adjudicates. But it is 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 held for John Ashcroft's nomination to serve as Attorney General, "The Attorney General is a law enforcer. There is a big difference between a politician and a Senator where we vote on policy and executing that policy."

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' 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 that, it happens, Senator Sessions and I both supported despite policy disagreements with Eric Holder. Senator Sessions asked at that time: "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?"

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: "You speak for the legal interests of the State." As a result, he said, "there are times when the Attorney General represents the 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 the State."

This firm grasp on the separation of powers equips 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 our laws is not just a policy disappointment on a particular issue. It is an affront to the very separation of powers that defines our role and the voice of the people that warrants 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 do not 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 are 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 testify 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.

[The prepared statement of Chairman Grassley appears as a submission for the record.]

And now it is Senator Feinstein's turn for her words.

OPENING STATEMENT OF HON. DIANNE FEINSTEIN,
A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator Feinstein. Thank you very much, Mr. Chairman, and I would 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, 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 have 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 have 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 will say it again here: The process is going to be fair and thorough.

But, today, we are not being asked to evaluate him as a Senator. We are 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 precedent 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, "If I win, I am going to instruct my Attorney General to get a special prosecutor to look at your situation."

Mr. Chairman, that is not what an Attorney General does. An Attorney General does not investigate or prosecute at the direction of the President. Nor do Attorneys General wear two hats--one as the President's lawyer and one 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: "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." 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: "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."

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 a Leahy amendment 2 years ago that expressed the sense of the Senate that the United States would not bar people from entering this country based on their religion. 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 "reckless proposal for mass amnesty."

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, Jr. Hate Crimes Prevention 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 am not sure women or people with different sexual orientations face that kind of discrimination. I just do not see it."

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 would 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' record and nomination to become the chief law enforcement officer 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 write-ins, 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 detach himself from the President and from his record and vote in full accordance with the laws of the United States of America.

Thank you very much, Mr. Chairman.

Chairman Grassley. And thank you, Senator Feinstein.

Before I turn to Senators Shelby and Collins for their opening statement, I would note that the Committee received a letter from former Secretary of State Condoleezza Rice indicating that she had hoped to join our colleagues in introducing Senator Sessions. She strongly supports his nomination. It is 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.

[The letter appears as a submission for the record.]

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

PRESENTATION OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE
STATE OF ALABAMA AND NOMINEE TO BE
ATTORNEY GENERAL OF THE UNITED STATES, BY
HON. RICHARD SHELBY, A U.S. SENATOR FROM THE STATE
OF ALABAMA

Senator 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 is 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 have 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 as 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 that is required of the job. I am also confident that this Committee will report favorably and expeditiously Jeff Sessions' nomination to be the next Attorney General of the United States.

Chairman Grassley. Thank you, Senator Shelby.
Now, Senator Collins.

PRESENTATION OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE
STATE OF ALABAMA AND NOMINEE TO BE
ATTORNEY GENERAL OF THE UNITED STATES, BY
HON. SUSAN COLLINS, A U.S. SENATOR FROM THE STATE
OF MAINE

Senator 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.

[Outburst in audience.]

Senator 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 has 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 is in opposing unfair trade agreements and practices that hurt American workers.

What I want this Committee and the American people to know is that Jeff Sessions is the same genuine, fair-minded person in 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 in 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 this 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, "Because I have since found that Senator Sessions is egalitarian." 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.

Chairman Grassley. And I thank both of our colleagues for your powerful statements. I appreciate it very much. And you are free to go, and we will call the nominee at this point.

[Pause.]

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

Senator Sessions. I do.

Chairman Grassley. Thank you, and please be seated.

Senator Sessions, it is our normal process, if you desire, to introduce people that are with you, including your family I am sure you are very proud of. You are free to do that, and then go immediately to your opening statement.

STATEMENT OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA AND NOMINEE TO BE ATTORNEY GENERAL OF THE UNITED STATES

Senator Sessions. Thank you, Mr. Chairman. I believe we have been joined by my grandchildren. It is an honor for me to be here and to have my family with me.

First, my wife, Mary, my best friend, of 47 years. Without her love and support, none of this would have been possible for me.

And we are so proud of our three children who are here today. Mary Abigail Reinhardt, our oldest, is married to a naval officer, Commander Paul Reinhardt of the USS Alabama. They are now stationed in the Pacific Coast. They have two children, Jane Ritchie and Jim Beau, and they wish me well this

morning.

My daughter Ruth Walk--Ruth, would you 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: Gracie and Hannah, and Joanna and Phoebe. Phoebe and Joanna are twins, and we are so proud of them.

My son, Sam, is a graduate of Auburn and Alabama Law School. Sorry, Sam, about the game last night.

[Laughter.]

Senator Sessions. 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 9, 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 they have placed in me, and, gentlemen and ladies, I will do my best to be worthy of that. And if I may, Mr. Chairman, yesterday was 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 accident on his motorcycle. He was an 11-year veteran of the sheriff's office. These honorable individuals have dedicated their lives to keeping their communities safe, and we should remember their service and keep them and their families in our prayers.

Chairman Grassley, Ranking Member Feinstein, distinguished Members of the Committee, I am 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 our Constitution.

[Outburst in audience.]

Senator Sessions. Mr. Chairman, if I might, I want to thank my dear friends and colleagues, Senator Richard Shelby and Senator Susan Collins, for their kind and generous introductions. It was very touching. It is 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 would not have anticipated becoming so close with a colleague from Maine--two people from the northern-most and southern-most parts of our country.

[Outburst in audience.]

Senator Sessions. It took us a while to understand each other's accents, but once we did, we became fast friends. Of course, Richard Shelby and I never had that problem. He has been a steadfast friend, and I think we have 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 have 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 has 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 am 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 am committed to the rule of law; and you know that I believe in fairness and impartiality and equal justice under law.

Over the years, you have 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 official ``no'' if he or she overreaches. He or she cannot be a mere rubberstamp. 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 great 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 am afraid, it has become more important than ever.

Since the early 1980s, good policing and prosecutions over a period of 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. I am very concerned that the recent jump in the 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 4 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 is 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 are being committed against real people, real victims. It is important that they are kept in the forefront of our minds in these conversations and to ensure that their rights are protected.

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 will 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 are 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 had 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 firearms deaths of police officers are up 68 percent. So this is a wake-up call, colleagues. It cannot continue.

If we are to be more effective in dealing with rising crime, we will have to rely on and work more effectively with local law enforcement, asking them to lead the way. To do that, they must know they are 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 meetings 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 re-establish 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 communication between the people and their police are essential for any good police department. 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 kind of policies.

In recent years, our law enforcement officers have been called upon to protect our country from the rising threat of terrorism that has reached our shores. If I am 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 my 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 cybersecurity. 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 aggressive enforcement of our 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 am 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 moneys 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 cower this Department.

I want to address personally the fabulous men and women that work in the Department of Justice. 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 a United States Attorney, I worked with them constantly. I know them and the culture of their agencies. The Federal investigative agencies represent the finest collection of law officers in the world. I know their integrity and 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 that each of you have taken to meet me one-on-one. As Senators, we do not 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 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, where we discussed cyber security. He has a great deal of knowledge there. I am glad, Senator Whitehouse, that 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.

Senator Graham. How about that last one?

Senator Sessions. So 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 am 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 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 are damnably false charges.

The voter-fraud case my office prosecuted was in response from 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, DC, to help us solve a very difficult investigation into the unconscionable, horrendous death of a young African-American man, Michael Donald, coming home from the 7-Eleven store at night, simply because he was Black. We 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 the 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, that murdering Klansman was indeed executed.

I abhor the Klan and what it represents and its hateful ideology. I assisted Morris Dees, of the Southern Poverty Law Center, in his lawsuit that led to the successful collapse of the Klan, at least in Alabama, and 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 the historic cases that the Justice Department filed to advance civil rights--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 a deliberate 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. 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 born by women who are victims of assault and abuse. And if I am so fortunate as 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 have had in law enforcement will be respected.

I have 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. 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 you are charged by the Constitution.

Thank you for your courtesies. I look forward to the hearing. Thank you, Mr. Chairman.

Chairman Grassley. Before I ask questions, I want to thank you, Senator Sessions, for your service in the Senate but more importantly, for taking on this responsibility you have been nominated for and to thank you for your opening statement. I am glad that you were able to mention the names of a lot of your family that are with you and there are a lot of other people that we may not have their names 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 are willing to give us that name. And it is a proud day for you, your wife, son, and daughters, and their families. I welcome all of you very much.

Now to the questioning. I will take 10 minutes and Senator Feinstein, we 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 am going to ask you a question I have heard you ask other nominees for Attorney General.

Occasionally you will be called upon to offer an opinion to the President who appointed you. You will have to tell him "yes" or "no." And sometimes Presidents do not like to be told "no." So I would like to know, will 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 worked very hard for the President-elect.

Senator 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 have observed it through my years here, and I will fulfill that responsibility.

Chairman Grassley. Just so my colleagues do not think I am taking advantage of time, somebody did not start the clock. Well, the light is not working, I am 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?

Senator 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 is plainly unlawful, he cannot participate in that. He or she would have to resign, ultimately, before agreeing to execute a policy that the Attorney General believes would be unlawful or unconstitutional.

I would say, Mr. Chairman, that there are areas that are 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.

Chairman Grassley. You served in this Department for 14 or 15 years, you served as your State's Attorney General, and, of course, you have served on this Committee for a long time. And we have oversight over the Department that you might head. And you have done that all for 20 years.

I have 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 the Department failed to perform fundamental functions to enforce the law.

As Attorney General day in and day out, you will 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?

Senator Sessions. Mr. Chairman, the ultimate responsibility of the Attorney General in 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 passed, but once passed I will do my dead level best to ensure it is properly and fairly enforced.

I do believe that we have a crime problem. I will not perhaps go into now, unless you want me to, 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.

Chairman Grassley. Since that is 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?

Senator Sessions. Absolutely, Mr. Chairman. I do not have any hesitation or any lack of ability to separate the roles that I have had. To go from the legislative branch to the executive branch is a transfer, not only of position, but of the way you approach issues. I would serve an executive function, an enforcement function of the laws this great legislative body might pass.

Chairman 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 emails and regarding certain actions of the Clinton Foundation. You were not alone in that criticism. I was certainly critical in the same way as were millions of Americans on those matters. But now you have been nominated to serve as Attorney General. In light of those comments that you made, some have expressed concern about whether you can approach the Clinton matter impartially in both fact and appearance. How do you plan to address those concerns?

Senator 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 my objectivity in question. I have given that thought. I believe the proper thing for me to do would be to recuse myself from any questions involving those kinds of investigations that involve Secretary Clinton and that were raised during the campaign or could be otherwise connected to it.

Chairman Grassley. Okay. Let me emphasize then with a follow-up question. To be very clear, you intend to recuse yourself from both the Clinton email investigation and any matters involving the Clinton Foundation if there are any?

Senator Sessions. Yes.

Chairman Grassley. Let me follow up again because it is important. When you say you will recuse, you mean that you will 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 ``defer'' to the FBI, but she never officially recused.

Senator 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. This cannot be handled 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.

Chairman Grassley. You touched on something that is very dear to me and that is working with having executive branch people work with Members of the Congress. And you also mentioned working with us on oversight. But since that is 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 have often said I am an equal opportunity overseer.

Now, over the years, I have asked quite a few executive nominees, but 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 have been confirmed, oversight does not 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 have served on this Committee and understand the importance of oversight, I am hoping you will be different than your predecessors in response to oversight questions.

And so I have with me, that I will give to one of your staff, a whole bunch of letters that have not been answered

yet, one of them even you have 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 that next May or June if I am contacting you that they have not 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 will help me get answers to these, at least the one you helped me to write.

[Laughter.]

Senator Sessions. Mr. Chairman, you are correct that this Committee has oversight, but it goes beyond that. This Committee and the Congress funds the various departments of the executive branch, and you have every right before you fund our agencies and departments to get responsive answers to questions that are proper. Sometimes Congress has asked for answers on issues that maybe there is legitimate reason to object to. But they should object and state why.

Mr. Chairman, I will be responsive to your requests 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.

Chairman Grassley. And if Senator Feinstein contacts you, do not use this excuse, as so many people use, that if you are not Chairman of a Committee you do not have to answer the question. I want her questions answered just like you would answer mine.

Senator Sessions. I understand that.

Chairman Grassley. Senator Feinstein.

Senator Feinstein. Thank you. Thank you.

[Laughter.]

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

I would like to begin with 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 cannot 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 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, "Everyone knows the Hyde amendment language contains an exception for rape and health of the mother. So under this act, these limitations on spending would not have anything to do with the services available to help those victims of human trafficking." In short, Senator Cornyn asserted that 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 is 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?

Senator Sessions. Senator Feinstein, I appreciate that question. And I do appreciate the fact that our country has been talking and, I believe, taking action for a number of years to deal with sex trafficking more effectively. I do not know that we have reached the level of actual effectiveness we need to, but Congress and you and others have been very, very outspoken about this. And there are all kinds of great citizens groups that have focused on it. It is 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 is a matter that I have not thought through. But, ultimately, it is a matter for this U.S. 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.

Senator Feinstein. Well, I am 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 is certainly most important to me because Congress has spoken and the bill is law.

Senator Sessions. I understand that. And we would follow the law.

Senator Feinstein. Okay. As you know, the Constitution also protects a woman's right to have access to health care and determine whether to terminate her pregnancy in consultation with her family and her doctor.

I am old enough to remember what it was like before, when I was a student at Stanford and thereafter. In the early 1960s, I actually sentenced women in California, convicted of felony abortion, to State prison for maximum sentences 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 Roe, Planned Parenthood v. Casey, and the Supreme Court's recent decision in Whole Woman's Health v. Hellerstedt--in fact, the Court recently struck down onerous regulations imposed by Texas on women's health clinics.

You have referred to Roe v. Wade as ``one of the worst colossally erroneous Supreme Court decisions of all time.'' Is that still your view?

Senator Sessions. It is. I believe it violated the Constitution and really attempted to set policy and not follow law. It is the law of the land. It has been so established and settled for quite a long time and it deserves respect. And I would respect it and follow it.

Senator Feinstein. On November 14th, 2016, appearing on the TV show, ``60 Minutes,'' the President-elect said that the issue of same-sex marriage was ``already settled, it's law, it was settled in the Supreme Court, it's done and I am fine with that.''

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

Senator Sessions. The Supreme Court has ruled on that. The dissenters dissented vigorously, but it was 5-4 and five justices on the Supreme Court, a majority of the court, has established the definition of marriage for the entire United States of America and I will follow that decision.

Senator Feinstein. Here is another question: If you believe same-sex marriage is settled law, but a woman's right to choose is not, what is the difference?

Senator Sessions. Well, I have not said that the woman's right to choose or that Roe v. Wade and its progeny is not the law of the land or not clear today, so I would follow that law.

Senator Feinstein. Thank you. I would like to ask one

question based on the letter that we received from 1,400 law professors. They are from 49 States, only Alaska is left out. I inquired why and they said because Alaska does not have a law school. So it is 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, is, ``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. . . . All of us believe it is 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 you 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?

Senator Sessions. Well, Senator Feinstein, I would direct their attention to, first, to the remarks of Senator Specter 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 that I was an egalitarian, a person who treated people equally and respected people equally.

This caricature of me in 1986 was not correct. I have become a 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 ideals that I was accused of. I did not.

Senator Feinstein. Thank you.

Thank you, Mr. Chairman.

Chairman Grassley. Okay. Senator Hatch and then Senator Leahy.

Senator Hatch. Well, thank you, Mr. Chairman.

Chairman Grassley. Before your time starts, I would 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 Attorneys General.

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

I ask consent to put that letter in the record.

[The letter appears as a submission for the record.]

Chairman Grassley. Senator Hatch.

Senator 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 have scheduled and you have structured this hearing in line with this Committee's precedence. In fact, you are including more witnesses in this hearing than the past average for Attorney General nominees.

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 Sessions 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 have been on this Committee for a long time and I have seen these dirty tactics used before. And they are not going to work this time.

Senator Sessions, it sounds a little strange to say this, but welcome to the Senate.

[Laughter.]

Senator Sessions. Thank you.

Senator Hatch. The Senate Judiciary Committee. I am 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 pleased the Senate, or excuse me, it passed the Senate unanimously; it 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 harms of obscenity.

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

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

Senator Hatch. In making this a priority for the Justice Department, would you consider re-establishing a specific unit dedicated to prosecuting this category of crime?

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

Senator Hatch. Okay. For several years now, Senator Chris Coons and Representatives Tom Marino and Suzan DelBene, and I, have raised the importance of safeguarding data privacy on an international scale from unauthorized Government access. So 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 promote trust in the United States technologies worldwide while enabling law enforcement to fulfill its important public safety mission?

Senator Sessions. That would be a high responsibility, Senator. I know you have 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 are in. And I would be pleased to work with you on that. And I do not have firm and fast opinions on the subject.

Senator Hatch. Well, thank you so much. And I would 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 "change the world in a very, very exciting way." Legislation authorizing law enforcement to use this technology, which you cosponsored, 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 agree 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 second, 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?

Senator 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 produce justice because it is the kind of thing that you cannot fake or mislead. So I am very strongly in favor of that.

In my personal view, after many years in the law enforcement community, is that one of the biggest bottlenecks, colleagues, of all of our laws involving prosecutions of criminal activity is the bottleneck of the scientific analysis, is 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.

Senator Hatch. Okay. Now, I have read that some Democratic Senators accuse you of opposing the Violence Against Women Act. 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?

Senator Sessions. Absolutely. I supported it in 2000 when it passed. I supported it in 2005 when 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 for it in the past. There was some specific add-on revision in the bill that caused my concern and I think other people's concern.

Senator 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 and women's organization, if you can.

Chairman Grassley. Without objection, it will be included.

[The op-ed article appears as a submission for the record.]

Senator Hatch. Now, I have a question about the Justice Department's Civil Rights Division. The division enforces the Religious Land Use and Institutionalized Persons Act which protects the right of prison inmates to worship, and protects 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 is important to include them within the civil rights agenda of the Department.

Senator Sessions. Mr. Chairman, religious freedom is our great heritage in 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 is 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 are correct. We should recognize religious freedom. It would be a very high priority of mine.

Senator Hatch. Well, that means a lot to me.

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 that says that, as both U.S. Senator and U.S. Attorney, ``Senator Sessions has demonstrated a commitment to the rule of law and to the evenhanded administration of justice.'' I cannot agree more.

Senator Sessions. Thank you.

Chairman Grassley. Without objection, those will be included.

[The letters appear as submissions for the record.]

Senator Hatch. Thank you.

Chairman Grassley. Senator Leahy.

Senator Leahy. Thank you, Mr. Chairman.

And welcome, Senator Sessions and Mrs. Sessions.

Senator Sessions. Thank you.

Senator Leahy. Let me just follow up. You were just asked about the Violence Against Women Act and your support. Let us deal with the facts. Let us deal with what was actually voted on. Let us deal with the Violence Against Women Act that you voted against.

You strongly opposed 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 are 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''?

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

Senator Leahy. I am talking about the bill that is the law today.

Senator Sessions. I understand what you are saying.

Senator Leahy. The law today, that was 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 am asking about that. Why did you oppose it?

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

Senator Leahy. I am just asking about you.

Senator Sessions. I am trying to answer.

Senator Leahy. Go ahead.

Senator Sessions. So when we voted in the Committee, eight of the nine Republicans voted against the bill. One of the more concerning provisions was one that gave Tribal courts jurisdiction to try persons who were not Tribal members--I believe, the only time that has ever happened. That was the big concern that I raised, I believe, primarily, on the legislation.

So I voted with 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.

Senator 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 has made victims on Tribal lands safer. Do you agree with that? Do you agree with the way the Justice Department has handled such cases?

Senator Sessions. Mr. Chairman, I do believe that the law has been passed by Congress. I am 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.

Senator Leahy. Well, we----

Senator Sessions. Certainly, the law itself has many powerful provisions that I am glad were passed and that are in law, and that provide protections to women victims of violence.

Senator Leahy. On the Tribal lands, it has been used and prosecuted for 3 years. Do you feel it has been handled correctly?

Senator Sessions. Mr. Chairman, I have no understanding of that, but I am interested in the results of it so far. First time I have heard it commented on.

Let me say this to you directly. In meeting with Senators prior to this hearing, quite a number of you raised this issue and I learned a lot about it. I learned a lot about the fact that non-Indians have been going onto Tribal lands and committing crimes, including rape, yet have not been effectively prosecuted.

Now, under current law and historically, they would be 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.

Senator Leahy. Those were 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.

There have not been any tests of that. Nobody has appealed this; nobody has objected to it. If somebody does, would you be able to defend it in court?

Senator Sessions. I would defend the statute, if it is reasonably defensible, yes. It is passed by Congress; it would be the duty of the Attorney General, whether they voted for it or support it, to defend it.

Senator Leahy. Now----

Senator Sessions. Did I call you ``Mr. Chairman'' a while ago? I think I did. You have been my Chairman many years now.

Senator Leahy. Well, that is okay. It has been 20 years back and forth, and I am delighted to turn it over to Senator Feinstein and Senator Grassley.

Senator Sessions. Well, you will be handling all the money of the United States, I understand, in your new position.

[Laughter.]

Senator Leahy. In 2009, I offered the Matthew Shepard and James Byrd, Jr. 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 are not sure women or people of different sexual orientations face that kind of discrimination. And then you said, ``I just do not 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?

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

Senator Leahy. Well, you did say it.

Senator Sessions. Well, I understand, but I have seen things taken out of context and not give an accurate picture. My concern is and was that it appeared 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 they were not being properly prosecuted. I noted that Mr. Byrd's assailant was given the death penalty in Texas for his offense, and Mr. Shepard's had 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 proposal that we do a study to see the extent of the problem, and that we should have evidence that indicates a shortage of prosecutions and a lack of willingness to prosecute before adding this law.

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

Senator Sessions. Well, I will tell you, Senator----

Senator Leahy. And in 2010, you stated that expanding hate

crime protections to LGBT individuals was unwarranted, possibly unconstitutional. You said the bill has been said to cheapen the civil rights movement.

Especially considering what the FBI has found, do you still feel that way?

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

Senator Leahy. Thank you.

I do not want to go as much over time as Senator Hatch did, but I will ask you one question.

The President-elect has repeatedly asserted his intention to institute a ban on Muslim immigrants to the United States.

In December 2015, you voted against a resolution that I offered in this Committee that expressed the sense of the Senate that the United States must not bar individuals from entering into the United States based on their religion. All Democrats and 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 agree with the President-elect that the United States can or should deny entry to all members of a particular religion?

Senator 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 a history of terrorism, and he has also indicated that his policy and what he suggests is strong vetting of people from those countries before they are admitted to the United States.

Senator Leahy. Then why did you vote against the resolution?

Senator Sessions. Mr.--I almost called you Mr. Chairman again. Senator Leahy, my view and concern was that the resolution was suggesting that you could not seriously consider a person's religious views. Sometimes, though not in the majority of cases, 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 have contributed in so many different ways in America--as I said in my remarks at the occasion that we discussed it in Committee. I am a great believer in religious freedom and the right of people to exercise their religious beliefs.

Chairman Grassley. Before I turn to----

Senator Leahy. May I ask consent to put some items in the record?

Chairman Grassley. Yes. So without objection, your inserts will be included.

[The information referred to appears as submissions for the record.]

Chairman Grassley. I have a letter from Solicitor General Ted Olson in support of Senator Sessions, quoting in part, with respect to civil rights, he says, ``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 disqualify them from holding public office. In particular, I have no reservations about Senator Sessions' ability to handle these issues fairly, in accordance with law and to protect the civil rights of these and all of our citizens.''

I would like to include that in the record, without objection.

[The letter appears as a submission for the record.]

Chairman Grassley. Senator Graham.

Senator Graham. Thank you, Mr. Chairman. We are 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.]

Senator Graham. I do not know what the betting line in Vegas is, but I like your chances.

Speaking of football----

[Laughter.]

Senator Graham [continuing]. I want to congratulate the University of Alabama for one heck of a streak. One of the most dominant 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 have 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 have traveled the world with. I have gotten to know him and his family, and I will enthusiastically support you for the next Attorney General of the United States.

Now, let us 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?

Senator Sessions. Well, I have.

Senator Graham. Yes.

Senator Sessions. I think I know what you are talking about.

Senator Graham. Yes, I think I do too. I think the whole point is, for the Federal Government to take over an area of the law, there should be a good reason. Do you agree with that?

Senator Sessions. Yes.

Senator Graham. If a State is not prosecuting crimes against people based on their sex, their race, whatever reason, then it is proper for the Federal Government to come in and provide justice. Do you agree with that?

Senator Sessions. I do.

Senator Graham. When the State is doing its job, the Federal Government should let the States do their job.

Senator Sessions. That is correct. That is the general principle and there is not a general Federal crime, Federal statute, that federalizes all crime in America. There has never been one.

Senator Graham. Because people are listening. That is just the way we think. You may not agree with that, but we think that way. And I think we have really got a good reason to think that way. I think that is the way they set up the whole system.

Muslims. As you know, me and the President-elect have had our differences about religious tests. Would you support a law that says you cannot come to America because you are a Muslim?

Senator Sessions. No.

Senator Graham. Would you support a law that says that if you are a Muslim, and you say you are a Muslim, and when we ask you what does that mean to you, well, that means I have got to kill everybody that is different from me, it is okay to say they cannot come?

Senator Sessions. I think that would be a prudent decision.

Senator Graham. I hope we can keep people out of the country who want to kill everybody because of their religion. I

hope we are smart enough to know that is not what most people in the Muslim faith believe. So----

Senator Sessions. It can be the religion of that person.

Senator Graham. That is right. That is the point we are trying to make here.

About the Wire Act, what is your view of the Obama administration's interpretation of the Wire Act to allow online video poker, or poker gambling?

Senator Sessions. Senator Graham, I was shocked at the enforcement memorandum that the Department of Justice issued with regard to the Wire Act, and I 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----

Senator Graham. Would you revisit it?

Senator Sessions. I would revisit it and I would make a decision about it based on careful study. At this time, I have not reviewed it so far as to give you an opinion today.

Senator Graham. Immigration. You have said that the Executive order of President Obama you believe is unconstitutional, the DACA law. Do you still have that position?

Senator Sessions. I did, for a number of reasons.

Senator Graham. But I am not--I mean, I agree with you.

Senator Sessions. Right.

Senator Graham. Now we have got 800,000 people have come out of the shadows, that have been signed up. Will you advise the next President, President Trump, to repeal that Executive order?

Senator Sessions. That will be a decision that needs to be studied and that he would need to agree to. But it is an Executive order--really, a memorandum of the Department of Homeland Security.

It would certainly be constitutional, I believe, to end that order, and our Department of Justice, I think, could have no objection to a decision to abandon that order. Because it is very questionable, in my opinion, constitutionally.

Senator 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 have come out of the shadows?

Senator Sessions. Senator Graham, fundamentally we need to fix this immigration system. Colleagues, it has not been working right. We have more and more millions of people entering illegally into the country. Each one of them produces some sort of humanitarian concern, but it is particularly true for children.

So we have been placed in a bad situation. I really would urge us all to work together. I would try to be supportive to end the illegality and put us in a position where we can wrestle with how to handle these difficult, compassionate decisions.

Senator 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.

Senator Sessions. Exactly.

Senator Graham. Okay. When it comes to the law of war, do you believe that people who join al-Qaeda or affiliated groups are subject to being captured or killed under the law of war?

Senator Sessions. I do, Senator. I just do not see how we could see it otherwise. And it is the responsibility of the military to protect the United States from people who attack us.

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

Senator Sessions. I believe they are growing and we are

seeing that now in Europe and we are also seeing it right here in America.

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

Senator Sessions. Senator Graham, I think it is designed for that purpose. It fits that purpose marvelously well. It is a safe place to keep prisoners. We have invested a lot of money in that, and I believe it should be utilized in that fashion so I have opposed the closing of it.

But as Attorney General----

[Protestors interrupting.]

Senator Graham. I just wanted to see if they were still listening. I think they are on the fence about Gitmo, but I am not sure.

[Laughter.]

Senator Graham. 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 are not trying to steal our cars or rob your bank account. They are trying to destroy our way of life, and I hope you will go after them without apology, apply the law. And the law is the law of war, not domestic criminal law. And you will 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?

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

Senator Graham. Do you think you could get briefed anytime soon?

Senator Sessions. Well, I will need to.

Senator Graham. Well, I think you do, too.

You like the FBI?

Senator Sessions. Do I like them?

Senator Graham. Yes.

Senator Sessions. Some of my best friends are FBI.

Senator Graham. Do you generally trust them?

Senator Sessions. Yes.

Senator 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 emails?

Senator Sessions. I do understand that.

Senator Graham. From your point of----

Senator Sessions. At least that is what has been reported, and I have not been briefed by them on the subject.

Senator Graham. Right. From your point of view, there is no reason for us to be suspicious of them?

Senator Sessions. Of their decision?

Senator Graham. Yes.

Senator Sessions. I am sure it was honorably reached.

Senator Graham. How do you feel about a foreign entity trying to interfere in our election? I am not saying they changed the outcome, but it is pretty clear to me they did. How do you feel about it and what should we do?

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

But when a nation uses their improperly gained or intelligence-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 really, I suppose, goes in many ways to the State Department, the Defense Department, and 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 cannot prove the exact person who did it.

Senator Graham. I agree. I have got 20 seconds left.

I have known you for, I guess, 15 years now, and we have had a lot of contests on the floor and sometimes we agree, sometimes we do not.

I am from South Carolina, so I know what it is like sometimes to be accused of being a conservative from the South. That means something other than you are 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.

Senator Sessions. Well, that does not feel good.

[Protestor interruption.]

Senator Graham. If nothing else, I am clearing the room for you.

[Laughter.]

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

So what is your answer?

Senator Sessions. Senator Graham, I appreciate the question. When 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 did not prepare myself well in 1986, and there was an organized effort to caricature me as something that was not true. It was very painful. I did not know how to respond and did not 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 was not accurate then and it is not accurate now. And I just want 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. And I know we need to do better.

We can never go back. I am totally committed to maintaining the freedom and equality that this country has to provide to every citizen, and I assure you that that is how I will approach it.

Chairman Grassley. Senator Durbin.

Senator Durbin. Thank you, Mr. Chairman.

Senator Sessions, let me first say it is--I am glad that you brought your family with you today. It is a beautiful family, with your wife and your son and daughters and those four beautiful little granddaughters. You have kept as quiet as you could for as long as you could, so thank you so much for being here today. I am 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 the permission of the chair, I would like to--he is my guest today--ask Mr. Mills if he would please stand up. Alton, thank you for being here today.

I would like to tell you a 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 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, 7 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 in this injustice.

Yet when I asked you to join me in appealing to the 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-1 standard to petition individually for leniency, you refused.

And you said of President Obama's pardoning of people like Alton Mills, ``President Obama continues to abuse Executive power in an unprecedented, reckless manner to systematically 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.

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?

Senator Sessions. Senator Durbin, I think that is 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 7 years later or so or 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 believed these crack cocaine laws were too harsh 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.

I just want to say I took a strong stand on that. 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. So I thought the Court had basically now agreed that it is retroactive. I do not 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 it.

Senator Durbin. We did.

Senator Sessions. You and I discussed it.

Senator Durbin. Let me say on the issue of fairness, I will acknowledge you stepped out on this issue. And you and I both recognized the brutal injustice of a 100-to-1, and we agreed on 18-to-1. That is 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 have asked and all Senator Grassley has asked, allow them as individuals to petition to the judge, to the prosecutor, to the Department of Justice so

that their sentences could be considered. That is something you have opposed.

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

Senator Sessions. Well, first, I will tell you with absolute certainty that it is a decision of this body. It is not the Attorney General's decision about when and where a mandatory minimum is imposed and whether it can be retroactively altered.

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 is why we really never worked it out.

So I understand what you are 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 is an honorable debate to have, and I respect your position on it.

Senator 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 will tell you his incredible story in a 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 this 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 have 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 ``a reckless proposal for mass amnesty.'' You opposed the bipartisan comprehensive immigration reform bill which passed the Senate 4 years ago. You have objected to immigrants' volunteering to serve in our armed forces, saying, ``In terms of who is going most likely to be a spy: somebody from Cullman, Alabama, or somebody from Kenya?''

When I asked what you would do to address the almost 800,000 DREAMers, like Oscar Vazquez, who would be subject to deportation if President Obama's Executive order was repealed, you said, ``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 is 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 am wrong.

Senator Sessions. Well, you are wrong, Senator Durbin. I am going to follow the laws passed by Congress. As a matter 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 is 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 are accepted, they get in; if they are not accepted, they do not get in. And I believe that is right and just, and the American people are right to ask for

it. We have not delivered that for them.

Senator 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 2 years--it is renewable--and can work for 2 years, and you said, "Let Congress pass a comprehensive immigration reform bill."

You opposed the only bipartisan effort that we have had on the Senate floor in modern memory. And what is 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?

Senator 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 is not the Attorney General's role. The Attorney General's role is to enforce the law. And as you know, Senator Durbin, we are not able financially or any other way to seek out and remove everybody that is in the country illegally.

President Trump 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 my colleagues to understand this. Let us fix this system. And then we can work together after this lawlessness has been ended, and then we can ask the American people and enter into a dialogue about how to compassionately treat people who have been here a long time.

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

Senator Sessions. Well, I thought it did answer it pretty closely, what you asked, and I understand your concerns.

Chairman Grassley. Senator Cornyn.

Senator 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 and enforce the law and 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 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. You are a good and decent and honorable man. You have got an outstanding record that you should be proud of, and I know you are. And you should be.

For example, when somebody says that 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 complainants 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. Is that not correct?

Senator Sessions. That is correct.

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

Senator Sessions. It is not, Senator Cornyn, and it has been out there for a long time. If you ask people who casually follow the news, they probably saw it otherwise. These were good people who asked me to get involved in this case. In 1983, a majority African-American grand jury with an African-American foreman asked the Federal Government to investigate the 1982 election. I declined. I hoped that that investigation would have stopped the problem. But 2 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 Public Integrity Voting Section. 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, that just in the last few days, the son of Albert Turner has written a letter and said I was just doing my job, and he understood the reason and the justification for the prosecution and that I would be a good Attorney General. So that was gratifying to me, and that is the real truth of the matter.

Senator Cornyn. Senator Sessions, I know the nature of these confirmation hearings is that people pick out issues that they are concerned about or where there may be some good faith disagreement on policy, and that is what they focus on. But let me just ask you--maybe it is not a great analogy, but let me try anyway. You have been married to your wife, Mary, almost 50 years, right?

Senator Sessions. Well, it has not gotten to 50 yet. Forty-seven, soon to be 48.

Senator Cornyn. Forty-seven, okay. Well, that is a good run. Let me just ask you, are there----

Senator Sessions. Let it continue. I have been blessed.

Senator Cornyn. Are there occasions when you and your wife disagree?

Senator Sessions. No, Senator.

[Laughter.]

Chairman Grassley. You are under oath.

Senator Sessions. Wait a minute. I am under oath. On occasion we do, yes.

Senator Cornyn. Do you think it would be fair to characterize the nature of your relationship with your wife based upon those handful of disagreements that you have had with her over time?

Senator Sessions. That is a good point. Thank you for making it. No, I do not.

Senator Cornyn. Well, and to your original point, your wife is always right.

Senator Sessions. That is correct.

Senator Cornyn. You are under oath.

[Laughter.]

Senator Cornyn. Well, so this is the nature of 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 have conducted yourself as a prosecutor representing the United States Government in our Article III courts.

Let me get to a specific issue, to a couple, in the time I have remaining. I was 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 that it is ever under any circumstances appropriate for somebody to assault a police officer, for example?

Senator Sessions. There is virtually no defense for that kind of action, and I do believe that we are failing to appreciate police officers who place their lives at risk. This sergeant, who was just killed yesterday, was trying to deal with a violent criminal and vindicate the law when 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.

I could feel in my bones how it was going to play out in the real world when we had what I thought oftentimes was legitimate criticism of perhaps wrongdoing by an officer, but spilling over to a condemnation of our entire police force. And morale has been affected, and it has impacted the crime rates in Baltimore and crime rates in Chicago. I do not think there is any doubt about it. I regret that is 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.

Senator Cornyn. Well, I for one appreciate 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 have seen an incredible number of people, frequently in minority communities, who have 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 am 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 5 and 10 years at the Justice Department, prosecution of those kinds of crimes down 15.5 percent in the last 5 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 the back of this crime wave that is affecting so many people in our local communities like Chicago or Baltimore, and particularly minority communities?

Senator Sessions. I can, Senator Cornyn. I am 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 have always believed that. When I was United States

Attorney in the 1980s and into the early 1990s, we produced a newsletter that went out to all local law enforcement called ``Project Triggerlock,' with the Federal law enforcement, too, and it highlighted the progress that was being made by prosecuting criminals who use guns to carry out their crimes.

Drug-dealing criminals are most likely the kind of people who will shoot somebody when they go about their business. And if those people are not carrying guns because they believe they might go to Federal court, be sent to a Federal jail for 5 years, perhaps, they will stop carrying those guns during their drug dealing and their other activities that are criminal. Fewer people will get killed.

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

Senator Cornyn. Thank you.

Chairman Grassley. Before we go to Senator Whitehouse, Members have asked me about our break, and if it is okay with Senator Sessions, it would work out about 1 o'clock if we have three on this side and three on this side for 1 hour, because it is noon right now. Is that okay with you, Senator Sessions?

Senator Sessions. Mr. Chairman, I am at your disposal.

Chairman Grassley. This will give my colleagues an opportunity, if they want, to go to the respective political party caucuses. And we would take a recess of about 30 to 40 minutes.

Senator Leahy. That is very fair.

Chairman Grassley. Okay. Thank you, Senator.

Now, Senator Whitehouse.

Senator Whitehouse. Senator Sessions, hello.

Senator Sessions. Thank you, Senator Whitehouse.

Senator Whitehouse. When we met, I told you that I was going to ask you a particular question, so I am 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?

Senator Sessions. I will, Senator Whitehouse.

You as an honorable and effective United States Attorney yourself know how that works and why it is important. Attorney General Mukasey issued a firm and----

Senator Whitehouse. And very clear about supporting that policy, yes.

Senator Sessions. Maybe still pending, and I would say to you--well, that is the appropriate way to do it. After you and I talked, I read the Reno memorandum, the Gorelick memorandum, and I think I would maintain those rules.

Senator 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?

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

Senator Whitehouse. And is it not 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?

Senator Sessions. I believe that is correct, yes. That is a standard operating policy in most offices. There may be some exceptions, but I think that is standard operating procedure in the United States Attorneys' Offices like you and I had.

Senator Whitehouse. As a question of law, does waterboarding constitute torture?

Senator Sessions. Well, there was a dispute about that when we 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 absolutely 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.

Senator Whitehouse. Consistent with the wishes of the United States military.

Senator Sessions. They have been supportive of that. And, in fact, I would just take a moment to defend the military. The military----

Senator Whitehouse. You do not need to defend them from me. I am all for our military.

Senator Sessions. I know. But I just--so many people, I truly believe, think that the military conducted waterboarding. They never conducted any waterboarding. That was by intelligence agencies. And their rules were maintained. I used to teach the Geneva Conventions and the Rules of Warfare as an Army Reservist to my personnel, and the military did not do that.

Senator Whitehouse. And General Petraeus sent a military-wide letter disavowing the value of torture, as we both know.

Another question, another question as a matter of law: Is fraudulent speech protected by the First Amendment?

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

Senator Whitehouse. Which is an element of fraud.

Senator Sessions [continuing]. Is 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 mailings go out that seem to me to be awfully far from truth and seducing people to probably make unwise decisions.

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

Senator Sessions. That is correct, and it is subject to civil and/or criminal complaint.

Senator Whitehouse. And speaking of civil complaints, was the Department of Justice wrong when it brought and won the civil RICO action against the tobacco industry?

Senator Sessions. Well, Senator, they won those cases. They took them to court and eventually won a monumental victory. That is correct. And it is part of the law and firmly established.

Senator Whitehouse. Hard to say they were wrong if they won, right?

Senator Sessions. That is correct.

Senator 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 countries' elections. I know this has been touched on before, but I want to make sure it is 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?

Senator Sessions. Well, Senator, if there are laws violated and they can be prosecuted, then, of course, you will have to handle that in an appropriate way. I would say that the problem may turn out to be, as in the Chinese hacking of hundreds of thousands, maybe millions of records, it has to be handled at a political level. And I do think it is appropriate for a nation who feels that they have been hacked and that information has been improperly used to retaliate against those actions. It is just----

Senator 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"?

Senator Sessions. No, I did not. I do not think. I heard it in rallies and so forth, sometimes I think humorously done. But it was a matter on which 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.

Senator Whitehouse. And you understand that the good guy lawman in the movies is the one who sits on the jailhouse porch and does not let the mob in.

Senator Sessions. Exactly. Exactly.

Senator Whitehouse. So I am from Rhode Island, as you know, Senator. We have NAACP and ACLU members who have heard you call their organizations--who have 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 Sox, and wonder why you said, "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 have 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 no unforeseeable concerns, and your prepared remarks did very little to allay the concerns of those people. Is there anything you would like to add now in our closing minute?

Senator Sessions. Well, thank you. 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 accomplishing in integration and moving forward for reconciliation throughout the country. And I believe that, clearly, and I never said--and accused them of that.

Number two, with regard----

Senator Whitehouse. So what would you tell the representative of the NAACP in Rhode Island right now? He is

the head of the NAACP----

Senator Sessions. Well, I would say please look at what I have 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 is what I said then. I believed it, and I believe it now. And it is 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 asking about things. And what I learned was that there is a good bit of fraud in it, and he was somewhat discouraged in his ability, he felt, to do his job. And we also understood and discussed that the immigration flow is not on a basis of skills. The immigration flow from almost all of our countries, frankly, is based on family connection and other visas rather than a skill-based program more like Canada has today. And that is all I intended to be saying there.

Tell anybody who heard that statement, please do not see that as a diminishment or 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 would like to see it more skill-based, and I think that would be helpful.

Senator Whitehouse. Mr. Chairman, my time has expired. Thank you for your patience.

Chairman Grassley. Thank you, Senator Whitehouse.

Before I go to Senator Lee, there is an evaluation of the work of Senator Sessions during his time as U.S. Attorney that I think speaks to his outstanding record. I am made aware of this because Senator Feinstein requested an evaluation of Senator Sessions' office from the Department of Justice, and I would 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, I will put that in the record.

[The information referred to appears as a submission for the record.]

Senator Whitehouse. Mr. Chairman?

Chairman Grassley. Yes?

Senator Whitehouse. While we are putting things into the record, could I join?

Chairman Grassley. Yes, please do that.

Senator Whitehouse. In a 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?

Chairman Grassley. Yes, and those will be included, without objection.

[The letters appear as submissions for the record.]

Chairman Grassley. Senator Lee.

Senator Lee. Hello, Senator Sessions.

Senator Sessions. Hello.

Senator Lee. I have enjoyed working with you over the last 6 years and always found you to be someone who treats

colleagues, regardless of differing viewpoints, with dignity and respect. You have taught me a great deal in the 6 years I have been here, and I have appreciated the opportunity to work with you.

I think a lot of this has to do with the fact that we are 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 is an important thing, especially for someone who has 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 and the Rule in Shelley's Case, I get the sense that you would eagerly engage in such banter when occasion arises. So maybe in a subsequent round, we will have the opportunity to do that.

But this does raise a discussion that I would like to have with you about the role of the lawyer. As you know, a lawyer understands who his or her client is. Anytime you are acting as a lawyer, you have got a client. This is a simple thing if you are 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.

It gets a little more complicated when you are representing a corporate entity. Typically, you will interact either with a general counsel or the chief executive, of course. 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 have 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?

Senator Sessions. That is a very insightful or probing question, and it touches on a lot of the important issues that I, as Attorney General, would need to deal with. There are even some times that these Government agencies act like foreign countries, they negotiate memorandums of understanding that are akin to a treaty, actually. They cannot seem to work together oftentimes 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 is what he is ultimately required to do. However, every Attorney General has been

appointed by a President, or they would not become Attorney General, and they have been confirmed by the Senate or they would not have been made Attorney General. 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 is an unlawful action.

That helps the President avoid difficulty. It is the ultimate 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 cannot be done, that he would respect that. That is an important relationship, too, but ultimately you are bound by the laws of the country.

Senator Lee. Some of that, I assume, could come into play when you are dealing with a politically sensitive case--with 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 could be handled in a manner that reflects a degree of separation between the administration and the case. On the other hand, there are Constitutional questions that are sometimes raised, and sometimes people argue that this poses too much of a presumption that the 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 is a lot of flexibility, a lot of discretion in the hands of the Attorney General in deciding how to do that. Do you have anything that you would follow? What can you tell us about what considerations you would consider in deciding whether or not to appoint a special prosecutor?

Senator Sessions. Well, it is not a little matter. It is a matter that has created controversy over the years. I do not think it is 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 now perhaps a special prosecutor is appropriate. Attorney General Lynch, for example, did not appoint a special prosecutor on the Clinton matter. I did criticize that. I was a politician, we had a campaign on. I did not research the law in depth, just the reaction as a Senator of a concern. But great care should be taken in deciding how to make the appointment or if an appointment of a special prosecutor is required.

At the Department of Justice you are 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 do not think so. I think that is a strength. So I just would say that is the best I could give you at this point, Senator Lee.

Senator Lee. Thank you, that is 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 is, of course, the job of the Office of Legal Counsel, or OLC, as it is sometimes known, to issue opinions, within the executive branch on 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 is one recent OLC opinion entitled, ``Competitive Bidding Requirements Under the Federal Highway Aid Program.'' There are not, 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 is 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 are 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 be 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 can you tell me about what you would do, if confirmed, to ensure that the Office of Legal Counsel maintains a degree of professionalism and independence, requisite for this task?

Senator Sessions. Senator Lee, that office is important. It does adjudicate, or actually opine, on important issues related to conflicts or 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 a disagreement about that and OLC is asked to review it and stay to one position, that the Government of the United States is one. It is not a multiple government. These departments are not independent agencies and so that office is so exceedingly important as you indicate, because many times those opinions hold. And they set policy and they affect things.

Sometimes it also has the power, and I am 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 are some of the things like that that could impact the American people over time in a significant way.

Senator Lee. Thank you.

Chairman Grassley. Senator Klobuchar.

Senator 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 had some important provisions in that. And then we worked together on law enforcement issues and I appreciate your respect and the support that you have from that community and I also thank you for your work on drug courts, something we both share as former prosecutors and I believe in the purpose of those courts.

I wanted to lead first with another part of the Justice Department's jobs, and that is protecting civil rights and the right to vote. My State had the highest voter turnout in the last election, of any State. We are pretty proud of that. And as county attorney for 8 years for 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 should not vote, did not vote.

Since the Voting Rights Act became law more than 50 years ago, we have made progress, but I have been very concerned about some of the movements by States to restrict access to

voting. In recent years we have not been able to pass the Bipartisan Voting Rights Advancement Act forward last Congress. I just think it is an area that is 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 2 which prohibits voting practices or procedures that discriminate on the basis of race; and this Section 3 bail-in provision, through which more States can be subject to preclearance. And you do not 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.

Senator Sessions. The Voting Rights Act passed in 1965 was one of the most important Acts to deal with----

[Audience interruption.]

Senator Sessions [continuing]. Racial difficulties that we face. And it changed the whole course of history, particularly in the South. There was a clear finding that there were discriminatory activities----

[Audience interruption.]

Senator Sessions [continuing]. In the South, that a number of States were----

[Audience interruption.]

Senator Sessions [continuing]. Were systematically denying individuals the right to vote. And if you go back into the history 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 even the most minor changes in voting procedure----

Senator Klobuchar. Right.

Senator Sessions [continuing]. Like moving a precinct across the----

Senator Klobuchar. So how would you approach this going forward? For instance, the Fifth Circuit's 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?

Senator Sessions. Well I have not studied that. There is going to be a debate about it, courts are ruling on it now-- that is, voter ID and whether or not it is an improper restriction on voting that adversely impacts disproportionately minority citizens. So that is a matter that has got to be decided. On the surface of it, it does not appear to me to be that. I have publicly said I think voter ID laws properly drafted are okay, but as Attorney General it will be my duty to study the facts in more depth, to analyze the law. But fundamentally that can be decided by Congress and the courts as they interpret the existing law.

I did vote to extend this Voting Rights Act several years ago. It included Section 5, but later Section 5 was eliminated by the Supreme Court, on the basis that----

Senator Klobuchar. And how about the commit----

Senator Sessions [continuing]. Progress had been made and on an intrusive question, let me answer that.

Senator Klobuchar. Yes.

Senator Sessions. 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 is 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 is the foundation for it and that is why I supported it, its renewal.

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

Senator Sessions. I hear----

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

And I want to turn to another quick question on a democratic issue, as in a democracy issue that was raised by Senator Graham and Senator Whitehouse. I just returned with Senators 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 have 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 am not asking if you believe that it influenced it, just if you believe the report of our intelligence agencies.

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

Senator 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 life-saving work being done by the Office on Violence Against Women?

Senator Sessions. Yes.

Senator Klobuchar. Okay. 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 who are immigrants, major doctors at the Mayo Clinic, police officers who are Somali, if you see that economic benefit of immigrants in our society?

Senator Sessions. Well, immigration has been a high priority for the United States. We have been the leading country in the world in accepting immigration. I do not 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 job prospects of American citizens. I think as a nation we should evaluate immigration on whether or not it serves and advances the national interest, not the corporate interest. It has to be the people's interest first, and I do think too often Congress has been complacent in supporting legislation that might make businesses happy, but it also may have had the impact of

pulling wages down.

Doctor Borjas at Harvard has written about that. I think he is 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 and lower economic classes of Americans have not had the wage increases that we would like to see them have. In fact, wages are still down from what they were in 2000.

Senator Klobuchar. Yes. I just see that we can do a mix of making sure that we have jobs for people here and then understanding that we are a country of immigrants.

Senator Sessions. On that subject, for me with Canada----
[Audience interruption.]

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

Senator Sessions. It may be 45 seconds, Mr. Chair. I would just say that you are close to the Canadian system. And I think it may be some of those policies ought to be considered by the United States.

Senator Klobuchar. My last question, Mr. Chairman, is on the reporters issue. Free press, I believe, is essential to our democracy. And I have always fought to ensure that those rights are not compromised. My dad was a reporter, a newspaper reporter for years. And I am especially sensitive to the role of the press as a watchdog.

You have 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 issued 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?

Senator Sessions. Senator Klobuchar, I am not sure, I have not studied those regulations. I would note that when I was a United States Attorney, we knew, everybody knew that you could not subpoena a witness or push them to be interviewed if they were 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 of where the press and the Department of Justice have not agreed on these issues. But for the most part, there is a broadly recognized and proper deference to the news media.

But you could have a situation in which a member of the media is really not part of the unbiased media we see today. And they could be a mechanism through which unlawful intelligence is obtained. There are other dangers that could happen with regard to the Federal Government that normally does not happen to the media covering murder cases in the States.

Senator Klobuchar. All right. Well, thank you. And I will follow up with that in a written question when you have a chance to look at that.

Senator Sessions. If you would, I would be----

Senator Klobuchar. Thank you. Thank you.

Chairman Grassley. I call for the first time on a new Member of the Committee, Senator Sasse from Nebraska.

Senator Sasse. Mr. Chairman, thank you, and thank you for having me.

Before I get started, I would like to enter into the record

a letter of support from 25 current State Attorneys 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 important testimony from the top law enforcement officers of 25 States.

I ask unanimous consent, Mr. Chairman, to include this in the record.

Chairman Grassley. Without objection, it will be included.

[The letter appears as a submission for the record.]

Chairman Grassley. Proceed, Senator Sasse.

Senator Sasse. Thank you. Senator Sessions, when you were introducing your grandkids, and I am amazed that they stayed around as long as they did, mine would have been more disruptive earlier, I was thinking about all the time I spend in schools.

We have a crisis in this country of civic ignorance. Our kids do not know basic civics. And we have a crisis of public trust in this country in that many Americans presume that people in this city are overwhelmingly motivated by partisan perspectives rather than the public good.

Tragically, our current President multiple times over the last 3 or 4 years has exacerbated this political polarization by saying that he did not have legal authority to do things and then subsequently doing exactly those things, quite apart from people's policy perspectives on these matters.

This is a crisis when kids do not understand the distinction between the legislative and the executive branches and when American voters do not think that people who serve in these offices take their oaths seriously. So it is not always 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?

Senator Sessions. That is a good question and a good premise that we should think about. People are taught ``Schoolhouse Rock'' is not a bad basic lesson in how the Government is supposed to work. Legislators pass laws, the President executes laws, as does the entire administration, as passed by Congress, or it follows the Constitution, and the judicial branch decides disputes as a neutral umpire, an unbiased participant, any sides of the controversy and does it objectively, so I think every day that we get away from that is really dangerous.

It is true that if a President says, ``I do not have this authority,'' and other people say the President does not have certain authority and then it is done by the President, it confuses people.

I think, colleagues, we too little appreciate something that is 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. The judges can redefine the meaning of words to advance an agenda that they have that may not be the agenda of the American people. And that inevitably is corrosive to respect the law.

Senator Sasse. Thank you. But take it 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 will want to know what the limits of their Executive discretion is. Some pieces of legislation that have been passed around here in recent years sometimes are, you know, 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 underreached and 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 would use to help understand the limits where the executive branch cannot go?

Senator Sessions. We really need to re-establish that. Professor Turley, Jonathan Turley, has written about this. It is just powerful. He is certainly an objective voice in American jurisprudence. And he says that Congress has just fallen down on its 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 am confirmed, that that law is clear and sets limits. When it does not set limits, then you can have the secretary of this agency or that agency claiming they have certain authorities and we 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 is what you are suggesting.

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

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

You also have circumstances that can redefine the statute or alter it. If we are talking about improper actions, it could expand the meaning of the words of the statute far beyond what Congress ever intended. And that is abuse, too.

Senator Sasse. And not to interrupt you too soon, 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 are not infinite resources in the world, so what are some proper instances, in your view, when an administration might not enforce a law?

Senator 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.

Second with regard to that, the President's--well, the order came from Homeland Security, not from the Department of Justice, but Homeland Security's order not only said we are not going to enforce the law with regard to certain large classifications of people, but those people who had not been given 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, to me, suggest an overreach.

Senator Sasse. And in parallel before the courts, what instances would it be legitimate, if any, for the Solicitor General to not defend a law in court?

Senator Sessions. That is 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 cannot be reasonably defended.

Sometimes you reach a disagreement about whether it is reasonably defensible or not, but that is the fundamental

question. And the Department of Justice should defend laws that Congress passed unless they are unable to do so in a reasonable way.

Senator 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?

Senator Sessions. Senator, that is 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 the 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 whose responsibility is this? You are in charge, you can remove the Attorney General if you are not happy. Those kind of things do continue out there that we need to be careful about. And I thank you for raising it.

Senator Sasse. I have less than a minute left, so last question. But going back to something that Senator Lee was asking about, could you just give a topline 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?

Senator 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 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.

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. It is ultimately the responsibility of the President and the Attorney General to ensure that we have that kind of quality at OLC.

Senator Sasse. Thank you.

Chairman Grassley. Senator Franken.

Senator Franken. Thank you, Mr. Chairman.

Senator, congratulations on your nomination.

Senator Sessions. Thank you.

Senator 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, "We are not going to misrepresent any nominee's record and we're not going to lie about it." And we certainly do not want to do that to our colleague.

But I also think it is fair to expect that sitting before us today that you are not going to misrepresent your own record. That is fair to say, right?

Senator Sessions. That is fair.

Senator Franken. Good. Now, in that same interview, you said, "I filed 20 or 30 civil rights cases to desegregate

schools and political organizations and county commissions when I was United States Attorney.' So 20 or 30 desegregation cases. Did I misread that quote?

Senator Sessions. I believe that is what I have been quoted as saying, and I suspect I said that.

Senator Franken. Okay. Okay, now that was 2009. But in November of this year, your office said, '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?

Senator Sessions. Well, thank you, Senator Franken. It is important for us to be accurate. The records do not show that there were 20 or 30 cases actually filed. Some of the cases involved multiple defendants and multiple parties, like to 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 have looked at. So I----

Senator Franken. What do you think would have caused you to say that you filed 20 or 30 desegregation cases?

Senator Sessions. I do not know. I thought--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 and actually I was surprised to get a record by checking the docket sheets to find out exactly how many cases were involved.

Senator Franken. Okay.

Senator Sessions. I heard one lawyer from the Department of Justice, I believe, with that large number.

Senator Franken. Let me move on. Right.

Senator Sessions. But I do not--the record does not justify it.

Senator Franken. The questionnaire you have submitted for today asks you to list and describe the '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, '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.

Chairman Grassley. Without objection, it will be entered.

[The op-ed article appears as a submission for the record.]

Senator Franken. Are they distorting your record here?

Senator 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 may know, Senator Franken, when a lawyer signs a complaint, he is required to affirm that he believes in that complaint and supports that complaint and supports that legal action, which I did.

We sued----

Senator Franken. So that is your personal involvement was that your name was on it?

Senator Sessions. Well, look, you can dispute the impact or the import of the questionnaire. Another attorney, Paul

Hancock, who brought cases in our district said, well, Attorney General claims 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.

Senator Franken. Okay. Two of the----

Senator Sessions. So you can disagree with that, but those cases----

Senator Franken. Okay. I want to get through this and I do not want any-----

Senator Sessions. Those cases have my signature on the docket sheet.

Senator Franken. I want to get through this.

Senator Sessions. My name is listed number one as the attorney for the case.

Senator Franken. Okay, look, I am not a lawyer. I am one of the few Members of this Committee who did not go to law school, and usually I get by just fine. But it seems to me that a lawyer, if a lawyer has his name added to a document here or filing there, that lawyer would be misrepresenting his record if he said he had 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 he "litigated personally two of the four cases" you listed. He said, "I can state with absolute certainty that Mr. Sessions did not participate personally in either." Mr. Rich worked on one of the four cases you listed. He said, "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, "I prepared and tried the case as sole counsel" and "I was the lead prosecutor on this case" assisted by so-and-so. Why did you not use the same level of detail in your 2016 questionnaire?

Senator Sessions. In looking at this questionnaire, we decided that that was an appropriate response since these were 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, "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." He goes on to say, "I have 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 have taken advantage of that and found him cooperative." And that is an accurate statement.

I do not know Mr. Rich. Perhaps he handled a case that I never worked with. He goes on to say, "The"-----

Senator Franken. Well, one of the cases-----

Senator Sessions. No, I want to--you raised this question, Senator Franken.

Senator Franken. One of the cases that you listed was a case that Mr. Rich handled. So if you do not know him, it is hard for me to believe that you personally handled it.

Senator Sessions. Well, when I found these cases, I had been supportive of them.

Senator Franken. You filed them.

Senator Sessions. I am sure I was--Mr. Hebert says, "And yet, I have needed Mr. Sessions' 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." 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.'

Senator Franken. In some cases, not necessarily the ones you listed.

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

Senator Franken. Your memory. Okay. Look, I am not--I am one of the few Members of this Committee who is not a lawyer. The Chairman, the Ranking are not. But when I hear ``I filed a case,' you know, I do not know some of the parlance, if 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 does not mean that my name was on it.

And it seems to me, look, I will close, Mr. Chairman, setting aside any political or ideological differences that you or I may have, DOJ is facing real challenges, whether it is protecting civil rights or defending national security, and our country needs an Attorney General who does not misrepresent or inflate their level of involvement on any given issue.

Senator Sessions. I hear you.

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

Senator 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 I ``provided assistance and guidance to Civil Rights Division attorneys, had an open-door policy with them, and cooperated with them on these cases.'

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 am in error, I apologize to you. I do not think I was.

Senator Franken. Well, you could not find 20 or 30 desegregation cases that you stated you had participated in and it does not sound like you personally handled cases that you said you personally handled.

Thank you.

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

Chairman Grassley. I think you answered the question.

Senator Franken. Thank you.

Chairman Grassley. Senator Flake. Now, it is 12:59, so at 1:09 we will adjourn for lunch. I will be back here then at 1:39 and whoever is present will start then. But I hope everybody can be back here at least by 1:45. Go ahead, Senator Flake.

Senator Flake. Well, thank you. It is always nice to be the last one standing between lunch.

[Laughter.]

Chairman Grassley. Let us have order for Senator Flake.

Senator Flake. Hey, I just want to say at the outset how much I have enjoyed working with you and being your colleague. I appreciate having you as a friend.

It is no secret we have had our difference of opinion on immigration legislation that we put forward. You have 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 have given today.

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 nomination.

Chairman Grassley. Without objection, it will be included.

[The newspaper column appears as a submission for the record.]

Senator Flake. Let me talk to you about an aspect of immigration that is 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 is intended to reduce border crossing by expeditiously prosecuting those who enter the country illegally under a no-tolerance or zero-tolerance policy. It is 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 a criminal history other than simply crossing the border. I have asked Attorney General Holder and Attorney General Lynch as well as Secretary Johnson at Homeland Security on what is being done here and I have not gotten a straight answer, no matter how many times I ask the question. So I am looking forward to a little more candor here.

As Attorney General, if you are confirmed, what steps will you take to restore Operation Streamline to a zero-tolerance approach that has been so successful in Arizona, in a portion of Arizona's border?

Senator 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 a surprise that it has been undermined 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 is lawful and effective. But I think it has great positive potential to improve legality at the border.

Senator Flake. All right. Well, thank you. It has been effective in Yuma, and I can tell you there is concern there among the Sheriff's Office, Sherriff Wilmot and others, concerned that we are seeing an increase in border crossings simply because the cartels understand very well where there is 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 have not expanded this program to the Tucson Sector if it has been successful elsewhere?

Senator Sessions. I do not know what reason that might be. It seems to me that we should examine the successes and if they cannot be replicated throughout the border.

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

Senator Sessions. I appreciate that opportunity to work with you on that because I have long felt it is the right direction for us to go.

Senator Flake. All right, thank you. When we have a successful program, it is difficult to see it scrapped and to see the progress that has been made in certain parts of the border done away with.

Let me get to another subject here: victims' rights. This is an area of the law that you have shown particular 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 Wyatt,

Victims and Friends United, op-ed by Professors Paul Cassell and Steve Twist, all in support of your nomination. I would ask that these documents be placed as part of the record.

Chairman Grassley. Without objection, they will be placed in the record.

[The letters appear as submissions for the record.]

Senator Flake. As Attorney General, what steps will you take to ensure that victims' rights are protected?

Senator Sessions. We cannot forget victims' rights. We have 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 the concerns of the victims are heard. If they have to come to court, to help them get there, to make sure that they do not feel threatened and are protected. That is a direct responsibility of the Department of Justice and the criminal justice system as directed by Congress. So I really think that is one step and that is the fundamental mechanism.

I think Senator Kyl was a strong advocate for that. And it helped really improve the treatment of victims in Federal criminal cases. There is just no doubt about it.

Senator 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.

Senator Sessions. I am honored that he is giving of his time to assist me in this effort, honored very greatly.

Senator Flake. Thank you. Let us talk about the Prison Rape Elimination Act. It was mentioned previously, I think, by Senator Collins. As Attorney General, you will lead not only the department of prosecutors and law enforcement officials, but also the Bureau of Prisons. You will be responsible for 190,000 Federal inmates currently in custody. This is an often overlooked part of the Attorney General's role, but it is an important part of the position that you are 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 would also like to put as part of the record, without objection, if I could.

Chairman Grassley. Without objection.

[The letters appear as submissions for the record.]

Senator Flake. Thank you. With the law approaching its 15th anniversary, 11 States have certified that they are in compliance with the national standards, another 41 States and territories have provided assurances that they are 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?

Senator Sessions. I do not think there is any doubt that it has improved the situation. As to whether it has reached its full potential, I do not think I am able to tell you with certainty, but I certainly think it has 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 have 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 is important for the American people to know that when an individual is sentenced to prison they are not subjected to cruel and inhuman punishment under the Constitution at a minimum.

And the idea that was so widely spread that there is 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, and to create circumstances that helped ensure that a person who should be prosecuted for violence in the prison actually does get prosecuted--that was a real step forward. We do not need to subject prisoners to any more punishment than the law requires.

Senator Flake. Thank you. And in just the remaining seconds I have, let me just say there is another area that we have worked on and hopefully we can continue to work on and that is the area of duplicative DOJ grants. As you know, the department awarded approximately \$17 billion in grants over the years. OIG reports, GAO reports have all shown that there is duplication and waste, sometimes fraud and abuse.

Will you continue to commit to work to root out this kind of duplicative action there?

Senator Sessions. Well, I know you have had a history of being a staunch defender of the Treasury against those who would abuse it. And I believe the same way, it is the taxpayers' money. Every dollar that is extracted from an American citizen that goes into the Government needs to get to productive, valuable activities. And any of it that is 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 we have are actually getting to the purposes they are supposed to go for. It is 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.

Senator Flake. Thank you, Senator Sessions.

Thank you, Mr. Chairman.

Chairman Grassley. We will break for about 30 minutes. We will reconvene at 1:40, and Senator Coons would be next up, and he has indicated he will be here on time. So recess for now.

[Whereupon, at 1:10 p.m., the Committee was recessed.]

[Whereupon, at 1:49 p.m., the Committee reconvened.]

Chairman Grassley. Before I call on Senator Coons, I want to explain why one of the Members on my side of the aisle cannot be here. Senator Tillis is unable to attend Senator Sessions' confirmation hearing today because his brother is being sworn in to the Tennessee General Assembly.

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

Senator Coons, as we announced before, will be the first one this afternoon. Proceed. And Senator Sessions, if there is any--I will not know unless you tell me--if there is any sort of 15-minute break or anything you need, let me know.

Senator Sessions. Thank you, Mr. Chairman.

Chairman Grassley. We will do that at the end of some person asking questions.

Senator Coons.

Senator 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 cyberattack 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 have served on this Committee together for 6 years, and we have 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 has 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 are 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 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 7, 8, or 9 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 U.S. 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?

Senator Sessions. Thank you very much, Senator. That was an issue by 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 will supplement the records for you. Certainly the decision by the Supreme Court and the Federal courts were after I left office, I believe. So, working of prisoners is an issue that we have dealt with in the Congress of the United States and by State legislatures. I think a 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 to 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 is crystal clear what the law is. That was disapproved and disallowed and found to be unconstitutional, and I would absolutely follow that as Attorney General.

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

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

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

Senator Coons. Just to be clear, 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 is really reminiscent more of the stocks, the stockade that was used centuries ago and, to me, somewhat troubling that it continued 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 has 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 and Graham, and Flake--all your fellow Republicans--have supported meaningful reforms to address excessive mandatory sentences and incarceration. And in my experience here, in 6 years with you, you have steadfastly opposed all of these efforts at bipartisan sentencing reform.

Help me understand why you have 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.

Senator Sessions. Well, that was a lot of questions there, Senator Coons.

Senator Coons. Yes.

Senator Sessions. So the Sentencing Act has one foundational requirement now, and that is the minimum mandatories. The guidelines have been either made voluntary by the Sentencing Commission and 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, what passed a number of years later, unfortunately, essentially could have been done in 2001. I made a speech in favor of it 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 does not fully reflect the evidence that they have in their files about a case. That is a problematic thing. I think it is 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 have got to be careful about it.

Finally, colleagues, sentencing guidelines are within the breadth of the Congress. They are mandated by law. I was concerned about what we are beginning to see--a rise in crime--and, at the same time, a decline in sentences. Sentences are down 19 percent already, as based on the Sessions-Durbin legislation and guidelines changes. So that is a matter of interest. And I felt we should slow down a bit before we go further and make sure we are not making a mistake, Senator Coons.

Senator 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 that might be made by this body.

Last, let me just say that in my 6 years here, in addition to not working with us on a number of bipartisan proposals on criminal justice reform, that you have 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?

Senator Sessions. On your previous question, I would note that the Federal prison population has already dropped 10 or more percent and will drop another 10,000 this year. So what is 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 a steadfast opponent of torture and supported a lot of different things opposed to it. It basically took what I was teaching the young soldiers at the Army Reserve Unit as a lecturer, as a teacher, the 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.

Senator Coons. Well, Senator----

Senator Sessions. But it is the law. It is the law, and it needs to be enforced. Absolutely.

Senator Coons. As we both know, there was a bipartisan effort to review our experience with enhanced interrogation that concluded it was not effective.

Senator Sessions. Yes, there was. And of course Senator Graham was a JAG officer, as I was, for a little bit.

Chairman Grassley. Senator Cruz.

Senator Cruz. Thank you, Mr. Chairman.

Senator Sessions, congratulations on your nomination.

Senator Sessions. Thank you.

Senator 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 8 years it has been absent. For 8 years, we have 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----

[Audience interruption.]

Senator 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 moneys 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 to Congress, the Democrats on this Committee were silent.

That pattern has been dismaying for 8 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?

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

Senator 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 impugn 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, 2 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, "I apologize for any inconvenience caused Mr. Sessions or this Committee by my prior testimony." So an individual who has 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. Sessions' help in those cases and he has provided that help every step of the way.'' Is that correct, that that is what Mr. Hebert testified?

Senator Sessions. Yes, that is correct.

Senator 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?

Senator Sessions. That is correct.

Senator Cruz. Mr. Franken did not mention that, and let me point out, here is how you describe your involvement in your written submission to this Committee: ``For the cases described in two, four, eight, and nine, my role, like most U.S. Attorneys in the Nation and 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?

Senator Sessions. Well, I think so, yes.

Senator Cruz. There is no question you have been forthright with this Committee, and I would note that Members of this Committee do not have to search far and wide to know who Jeff Sessions is. We have known every day, sitting at this bench alongside you.

I want to shift to a different topic, and it is 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 8 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 its 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?

Senator Sessions. Senator Cruz, I think any short-term political agenda gains that come from the abuse of the lawmaking processes and requirements of the Department of Justice just do not make sense. It will always, in the long run, be more damaging, the short-term gain that one might have.

The Office of Legal Counsel, all of us who 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.

Senator 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 has sustained an unprecedented number of unanimous losses before

the U.S. 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. The average historically for the last 50 years has been about 70 percent. Numerous of those cases were unanimous with, indeed, both Obama's 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, 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?

Senator Sessions. I think the problem there is a desire to achieve a result sometimes that overrides their 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 it has the power to rise above it and make it say what it wants it to say.

Senator Cruz. Thank you, Senator Sessions.

Chairman Grassley. Senator Blumenthal goes--I think we have votes still scheduled for 2:45. It is my idea that we would continue this, going--like I will go at 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.

[Exchange aside.] Oh, that is right. Did we get a decision? You can stay here during that voting.

Senator Blumenthal.

Senator 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.

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 are 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 would be pretty tough on me, maybe tougher than I am going to be on you. But it is not personal, as you understand, because we have an obligation to advise and consent, to ask those kinds of tough questions.

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 forgone 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?

Senator Sessions. I do not have plans to vote on my nomination. I have not thoroughly examined all the issues, but if I think there could be a conflict of interest or a violation

of the ethics rule, then I would comply with the rules.

Senator 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.

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 is 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.

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 Deutsche Bank several hundreds of millions of dollars. It is currently under ongoing investigation. Will you appoint an independent counsel to continue the investigation of Deutsche Bank?

Senator Sessions. Well, Senator Blumenthal, I am not aware of that case. I have not researched it or even read some of the public's articles about it. So I am totally uninformed about the merits, or lack of it, of the case. I do not know that the President is implicated simply because he has borrowed from a bank. But I would say that, as I think Senator Lee raised in his questioning, you do not want to be in a position where every time an issue comes up, the Attorney General recuses himself. But at the same time, when serious questions arise, the Attorney General should recuse himself under the appropriate circumstances. And I guess that goes with the appointment of a special counsel, which is a somewhat different issue.

Senator Blumenthal. Would you----

Senator Sessions. There are a lot of criticisms of that, but I think it is a useful tool in the appropriate circumstances.

Senator Blumenthal. Would you agree with me that the Emoluments Clause applies to the President of the United States?

Senator Sessions. Well, the Emoluments Clause applies. I guess the dispute is and the discussion is to what extent does it apply and how does it apply in concrete situations----

Senator Blumenthal. If there is evidence----

Senator Sessions [continuing]. Which I have not studied.

Senator Blumenthal. If there is evidence that the President of the United States has violated or may be violating the Emoluments Clause, will you appoint a special counsel?

Senator Sessions. We would have to examine that. I would not commit, at this time, to appointing a special counsel when I am not aware of a precise factual situation that would be in play.

Senator 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?

Senator Sessions. Well, we will have to evaluate that if such a circumstance occurs, and I would do my duty as I believe I should do it at the time.

Senator 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.

Senator 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 do not know whether you supported that or not.

Senator Blumenthal. One reason I am 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. Let me----

Senator Sessions. Well, I will suggest that during the 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 decisionmaking. And I respect the question you are raising.

Senator 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, "We could not be happier about the selection of Senator Jeff Sessions as the next Attorney General."

Operation Rescue has, in fact, advocated "execution" of abortion providers, and as an example of its work, this poster was circulated widely in the 1990s and early 2000s about a doctor, 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 am sure you are familiar with this case. Will you disavow their endorsement of you?

Senator 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 that. I am pro-life, as you know, but we have settled on some laws that are clearly in effect, and as Attorney General, you can be sure I would follow them.

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

Senator 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.

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

Senator Sessions. Well, Congress has passed those laws. They remain the bread-and-butter enforcement mechanisms throughout our country today to enforce gun 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 lawbreakers and 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. My judgment, at least, tells me it can help create a more peaceful

community.

Senator Blumenthal. Will you support laws necessary to effectively apply those laws, including universal background checks that are necessary to know whether the purchaser is a felon or a drug addict or a domestic abuser?

Senator Sessions. Well, I believe in background check laws, and many of them are appropriate. But in every instance--there are some instances when it is not practical, like, say, for example, somebody inherited a gun from their grandfather. Those transactions I am not sure should require that kind of universal background check.

Chairman Grassley. For the first time I call on a new Member of this Committee, Senator Crapo. Welcome to the Committee, and you may proceed.

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

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 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 are 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 in my questions 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 areas: one, the abuse of the power or discriminatory enforcement of the law; two, regulatory overreach that we are seeing across this country and what role the Department of Justice plays in trying to deal with that; and then, finally, cooperation with the States. We live in a Union of 50 States, and under our Constitution there are appropriate roles 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 am 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. This example is one that was already referenced by Senator Cruz, Operation Choke Point. Operation Choke Point, for those that are not familiar with it, the only appropriate thing about it, in my opinion, is its name. 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 financing--to certain industries. I do not know how these industries got on the list, but I will just read you several that are on the list: ammunition sales, coin dealers, firearms sales, installment loans, tobacco sales. This list is a list of 30 that was put out by the FDIC. When they actually realized they should not have put the list out, they quickly took it back. And the FDIC says that they are not pursuing this program anymore. But when we tried to de-fund it earlier, the administration fought aggressively to make sure we did not get the votes to de-fund it.

This program is one where the justification is, well, the

businesses who operate in these industries have not done anything wrong. But these are industries that might do things wrong more than other industries, and, therefore, we are 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 developed the ability to know if you were 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 is the story of that movie.

My point is we cannot really tell for sure whether Operation Choke Point is still operating, although we still have people in these industries who cannot get financing. If that kind of thing is going on in the Department of Justice, will you assure that it ends?

Senator Sessions. I will. At least as you have framed this issue and as I understand the issue, from what 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 to me would be hard to justify. I guess maybe they have got some arguments that would be worth listening to, but, fundamentally, that seems to me-- Senator Crapo, you are a great lawyer, but it seems to me that goes beyond what would be legitimate in a great economy like ours.

Senator 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 will throw out as an example is the National Instant Criminal Background Checklist, which is now being utilized by the Veterans 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 are 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 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 is 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.

Senator Sessions. Well, thank you, Senator Crapo. I know you have worked on that issue. So I would be sympathetic and be willing to receive any information that I know you have gathered to form your views about it.

Senator Crapo. All right. I appreciate that.

Let me move on to the question of regulatory overreach. I will just use one example there. I am one who believes that today we have gone--we talked a lot in 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 rulemakings that, in my opinion, are going far beyond the legal authority of the laws under which they operate. I will use one example: the Waters of the United States rule that has been implemented or is 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 am 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 are pursuing activities beyond the bounds of the law?

Senator Sessions. It can be that an agency would ask an opinion of the Office of Legal Counsel, the Department of Justice, 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 oftentimes just set about their own agendas without asking for an opinion, and often they are narrow-minded or they are focused only on what they feel are the goals of their agency and do not give sufficient respect to the rule of law and the propriety of what they are 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 are twisting the law to justify your actions? Those are the kinds of things that we do need to guard against.

Senator 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 will just finish with this--and you can give a quick answer, I am 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 Tenth Amendment says that those rights and powers that are 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.

I will not go into any specific details, but would just ask your feelings about that importance of respecting the role of States in this country.

Senator Sessions. There is no general Federal crime. So, many things like larceny and even murder, when there is no civil rights connection, 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 was not the theft of an automobile that you prosecuted. It was interstate transportation of a stolen vehicle. So a lot of that is just--now we have forgotten that distinction, that limitation on Federal power.

Senator Crapo. We have. And a lot of what I am talking about happens in the Environment and Natural Resource Division or in others. There is a lot of litigation out there. I would just encourage you--I see I am out of time.

Chairman Grassley. Let me make a suggestion before I introduce Senator Hirono, and she is welcomed back to the

Committee. She has been off 2 years. To make efficient use of our time, when she is done, it would be Senator Kennedy's turn. But you probably have to go vote, so if there is somebody back here that can start the second round, do it, and then we will call on Senator Kennedy to finish the first round.

Senator Hirono.

Senator Hirono. Thank you, Mr. Chairman. It is good to be back on this Committee. And aloha to you, Senator Sessions.

Senator Sessions. Aloha.

Senator Hirono. I will do my best to be nice to you.

[Laughter.]

Senator Sessions. Well, that will not be hard for you.

Senator 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 AG's office has only so many resources and that may not be a high priority for you. But you indicated that is 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, would you not?

Senator Sessions. 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 discretion should be.

Senator Hirono. I agree. It is not totally unfettered, but 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, and 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 this is 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 have 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 have heard, since the election, I am deeply concerned that their fears are well founded. I am hoping that you can address some of these concerns today.

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 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? And there are millions of people legally coming into our country.

And also a related question: The fact that you would consider vetting of 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?

Senator 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 is within constitutional order.

I think the approach that is preferable is the approach that would be based on areas where we have an unusually high risk of terrorists coming in, people that could be clearly violent criminals, and those certainly justify higher intensity of vetting. I think that maybe responds to your question. But, again, the ultimate decision about that would be done through the State Department and by the President.

Senator Hirono. I am 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. You did indicate that one's religious views would be a factor in determining whether somebody has extreme views.

Let me turn to----

Senator Sessions. If their religious views----

Senator Hirono. Not in and of itself.

Senator Sessions [continuing]. Encompass extremism, if their interpretation of their religious views encompasses dangerous doctrines and terrorist attacks, I think they should certainly deserve more careful scrutiny than someone whose religious views are less problematic.

Senator 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 not enable them to come to our country.

Let me turn to the question of abortion. On Roe v. Wade, you did say, "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 "activist 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.

Senator Sessions. Well, I----

Senator Hirono. Do you still believe that?

Senator Sessions. Well, I guess I have said that before. I am a pro-life----

Senator Hirono. Thank you.

Senator Sessions [continuing]. Advocate. But, fundamentally, the problem as I see it with Roe v. 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 did not because the Constitution did not answer that question, but----

Senator Hirono. Senator Sessions, I----

Senator Sessions [continuing]. I respect people----

Senator Hirono. I hate to interrupt you, but I have less than 2 minutes, so I do not 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 makeup 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 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?

Senator Sessions. Well, Roe v. Wade is firmly ensconced as the law of the land, and I do not know if we would see a change

in that. You are 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 well-researched, thoughtful response would be to matters that could happen in the future.

Senator 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 possibly a 5-4 decision, and that it is 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 2, 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 2. Would you, should you become the Attorney General, just as vigorously prosecute those kinds of State laws that have a discriminatory voting impact?

Senator 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 are no discriminatory problems regarding the Voting Rights Act in a State. If there is, if it violates the Voting Rights Act or the Constitution, I think the Attorney General may well have a responsibility and a duty to intervene. You cannot allow improper erosion of the right of Americans to vote.

Senator Hirono. Well, we know that since the Supreme Court's decision that did away with major parts of the Voting Rights Act that numerous States, perhaps 13 States, have already enacted laws that could be deemed contrary to the Voting Rights Act. So I would hope that as Attorney General you would vigorously review those kinds of laws and to prosecute and 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 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?

Senator 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 version that became law.

Senator Hirono. So as Attorney General, you would not do anything to challenge that part of VAWA that allows for Tribal courts to proceed, right?

Senator Sessions. Well, I would have to make a legal decision on that. I am not able to do so today.

Senator Hirono. Thank you, Mr. Chairman.

Senator Lee [presiding]. Thank you.

Senator Sessions, as you are aware, in 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 lawmaking process to a regulatory system that then has to follow certain procedures in turn 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 promulgating a new regulation, they will 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 that they have not gone through a legislative process; they have not even gone through any type of review process that would normally accompany the regulatory rulemaking cycle.

As a matter of policymaking, will the Department of Justice, under your leadership, assuming you are confirmed, use guidance documents as a matter of course in promulgating legal interpretations?

Senator Sessions. Senator Lee, a guidance document that is clearly within the intent of Congress and the law's plain words can be beneficial. I think they are normally issued by the agency or department that administers it, like, for example, the Department of Health and Human Services, Homeland Security, Department of Commerce. 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 of a law. Bureaucrats do not have--that is a pejorative term, but department and agency attorneys and members do not have the ability to rewrite the law to make it say what they would like it to say.

If we get away from that principle, we erode the respect for law and the whole constitutional structure where Congress makes the laws, not the executive branch.

Senator Lee. What about in the context of litigation, where you are litigating a case involving one of these guidance documents, and you are representing the Federal agency in question? Will the Department, under your leadership, assuming you are confirmed to this position, ask courts to defer to nonbinding guidance documents in the same way that courts are routinely asked to defer to regulations?

Senator Sessions. Well, that is a good question from a good lawyer, I have to say. In other words, the question you are suggesting is, established law of the land or the courts is that they give certain deference to well-established, properly established regulations issued pursuant to statute. But what if a Secretary just issues a guidance document? Is the court entitled to give full deference to that? First of all, I do not know. I have not researched it, but I do think that that would be a pretty bold step to go that far, and would be dubious about it.

Senator Lee. Thank you. As you know, from time to time, the Department of Justice receives subpoenas, 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 to 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 Congress previous to this one, but that will still need to be handled within the Department after you are

confirmed, assuming you are confirmed.

Will you commit to reviewing any of those that remain pending, and doing so in a manner that is timely and showing the respect for a coordinate branch of Government?

Senator Sessions. Senator Lee, if you would, repeat for me what kind of request?

Senator Lee. Pending requests for documents that might be left over from the previous Congress.

Senator Sessions. Requests for documents in what kind of proceeding?

Senator Lee. Requests 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 do not get left behind, that they do not get ignored simply because they have not been dealt with by the previous administration.

Senator Sessions. Well, I do think they are entitled to be evaluated and proper requests, I would assume, would continue to be valid. We would try to follow whatever the law requires in that regard.

Senator Lee. Thank you. I appreciate that.

I want to talk about the attorney-client privilege by members of the executive branch, by executive branch officials. In a 1998 opinion, the U.S. Court of Appeals for the D.C. Circuit reached a 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.

Justice Scalia, while he was serving as the Assistant Attorney General over the Office of Legal Counsel, authored a legal opinion stating that executive branch officials do not enjoy the privilege unless they are dispensing with personal legal advice. Instead, in that view, executive branch officials need to assert 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 you agree with that? That that might raise some questions?

Senator Sessions. Senator Lee, I have not studied that opinion of Justice Scalia. I would be reluctant to comment, except I would say that it is probably good for the American Republic that Department and Agency officials seek legal advice before they act. In the long run, that is probably better.

I think having some expectation that they can have a candid comment with their attorney is of value. I had not thought about, and never given study to, the question of whether it should be under executive privilege or attorney-client. Although, I can imagine the difficulties.

Senator Lee. Yes. I appreciate your candor on that point. It gives me some comfort knowing that you are aware of the situation and you will look at those.

I would like to talk about some antitrust issues in the moments I have remaining, and then perhaps we will get back to these during a subsequent round.

Antitrust regulators, when they are reviewing potentially competitive harms that might arise as a result of a merger, will sometimes impose conditions on the merger moving forward, saying unless you do A, B, and C, this merger cannot go forward. But if you do A, B, and C in order to address whatever concerns we, the antitrust regulators have, then the merger can be consummated.

It is my view that there is a temptation for antitrust

regulators sometimes to impose conditions that do not involve anticompetitive concerns, and that that raises some red flags because the role of the antitrust regulator is to look out for anticompetitive concerns arising out of the merger. That is where their inquiry ought to be focused, and that is where their conditions ought to be focused. Do you disagree with that?

Senator Sessions. I would agree with that. As you formulated, I believe it would be wrong to further some other separate, discrete agenda that is not reasonably connected to the merger itself. So I think we should ensure that we have the highest integrity in antitrust adjudications because they can have great impact. The law is not crystal clear about what is lawful, and what is not lawful, and what the Antitrust Division is required to do. It leaves dangers, if not politicization of it--it remains--dangers of policy agendas getting embroiled in it. So it is an important division. It requires great integrity, and ability, I believe, in the leadership at the Antitrust Division.

Senator Lee. Thank you.

Senator Leahy.

Senator Leahy. Thank you. Thank you, Mr. Chairman.

I listened to Senator Lee asking these questions. It occurred to me that you are 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, stopped the bulk collection by NSA that both Senator Lee and I opposed--do you agree the executive branch has to follow the law, that they cannot reinstate the bulk collection of America's phone records without amending Federal statutes?

Senator Sessions. Senator Leahy, that appears to be so, and I cannot swear that that is absolutely, totally always true, but it appears to be so.

Senator Leahy. Wait a minute. We either passed the law or we did not 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?

Senator Sessions. I will follow the law, yes, sir.

Senator Leahy. And will you commit that you are not going to allow the NSA to engage in 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?

Senator Sessions. I do not believe that the statute can be disregarded, and it should be followed.

Senator 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, shortly after the tape came out, and I realize an explanation here--you said, "I do not characterize that as sexual assault." But then you said later, "The Weekly Standard's characterization of comments I made following Sunday's presidential debate is completely inaccurate. My hesitation was based solely on confusion of the content of the 2005 tape. A hypothetical proposed by the reporter which was asked in a chaotic post-debate environment. Of course, it is crystal-clear that assault is unacceptable. I would never intentionally suggest otherwise."

Especially what you said--after the confusion on your first comment. Is that correct?

Senator Sessions. I believe that is correct.

Senator Leahy. Thank you.

Is grabbing a woman by her genitals without consent--is

that sexual assault?

Senator Sessions. Clearly, it would be.

Senator Leahy. Thank you.

If a sitting President or any other high Federal official was accused of committing what the President-elect described in a context in which it could be federally prosecuted, would you be able to prosecute and investigate?

Senator Sessions. The President is subject to certain lawful restrictions, and they would be required to be applied by the appropriate law enforcement official when appropriate, yes.

Senator Leahy. And the conduct described, based on the description, would be sexual assault?

Senator Sessions. Well, the confusion about the question was a hypothetical question, 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----

Senator Leahy. Let us----

Senator Sessions. That would certainly meet the definition. If that is what the tape said, then that would be----

Senator Leahy. My question is very simple: Is grabbing a woman by her genitals without consent, is that sexual assault?

Senator Sessions. Yes.

Senator Leahy. Thank you.

Now you were asked earlier about having called the NAACP and ACLU un-American. You said that was before you were a Senator. But as a Senator you have continued to be hostile to them. You have criticized nominees for having what you call "ACLU DNA."

Now, I remember when Republicans led the Justice Department, its Inspector General found the Bush administration engaged in unlawful politicized hiring practices. That is the Republican administration's own Inspector General. It said the Ashcroft Justice Department used a litmus test whether applicants would be sufficiently conservative. If they were ever in the ACLU, they could not have a job.

You said in a radio interview, "Justice has to be saved from secular, progressive liberals."

All right. Let me ask you a couple simple questions. Are an individual's religious beliefs relevant to their employment at the Justice Department?

Senator Sessions. Not unless it is such that they cannot perform their duties in an honorable way, consistent with the law.

Senator Leahy. What would be an example of that?

Senator Sessions. Well, if an individual so strongly believed that abortion should be unlawful that they used their position to block constitutionally approved abortions, I think that would make them not subject to being employed in the Department of Justice.

Senator Leahy. Are you going to have a litmus test at the Department of Justice for people who worked at civil rights organizations?

Senator Sessions. No.

Senator Leahy. Senator Graham mentioned you have long been a champion of State's rights. Certainly you and I have had enough discussions on that, and I realize those are deeply held beliefs. But States have also voted on the 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, very limited Federal resources--in fact, we spend about a third of our budget now just to keep the prisons open because of mandatory minimums and

whatnot.

Would you use our Federal resources to investigate and prosecute sick people who are using marijuana in accordance with their State laws, but might violate Federal law?

Senator Sessions. Well, I will not commit to never enforcing Federal law, Senator Leahy, but absolutely, it is 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----

Senator Leahy. Do you agree with those guidelines?

Senator 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 followed. Using good judgment about how to handle these cases will be a responsibility of mine. I know it will not be an easy decision, but I will try to do my duty in a fair and just way.

Senator Leahy. The only reason I mention it, you have 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.

Senator Sessions. Well, I am not sure under what circumstances I said that, but I do not think that sounds like something I would normally say. I will be glad to look at it, but----

Senator Leahy. Would you say that is not your view today?

Senator Sessions. It is not my view today.

Senator Leahy. Thank you very much.

Senator Lee. I perked up when he started talking about federalism. Of course, everything Senator Leahy said was interesting, but the federalism stuff is particularly interesting.

Senator Leahy. I am praising your legislation.

Senator Lee. Yes, exactly. I appreciated that, too. That was great.

Federalism is an issue that is near and dear to many of us, and I know it is important to you. The notion that our Federal Government possesses powers that James Madison described as few and defined, and 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 have 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.

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 is our action that prevails in light of the Supremacy Clause. It is one of the reasons why federalism needs to be looked out for so carefully. One of the reasons why a view that I think both you and I 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 do not have an excessive accumulation of power in the hands of the few.

The Founding Fathers set up this system in which we have these structural protections. We have the vertical protection

we call federalism, which we just described, and the horizontal protection we call separation of powers. It says, within the Federal Government in order to protect us against the risks associated with the excessive accumulation of power in the hands of few, we are 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 have seen a deterioration of federalism, we have 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 have 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 has been different than it has in other areas. They have been slow to recognize principles of federalism elsewhere. They chose to recognize it here.

My question to you is, did the way they responded to that federalism concern run afoul of separation of powers? Did the Department's approach to this issue that they identified as a federalism issue contravene the understanding that we are the lawmaking body, the executive branch is the law-enforcing body?

Senator Sessions. Well, I am not sure I fully understand the point of your question, but--you are talking about separation of powers within the Federal Government?

Senator Lee. Yes.

Senator Sessions. The three branches of Federal Government.

Senator Lee. Yes.

Senator Sessions. And how does that implicate the marijuana laws?

Senator Lee. Yes. Are there separation of powers concerns arising out of the Department of Justice's current approach to State marijuana laws?

Senator 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. If that is something that is not desired any longer, Congress should pass a law to change the rule. It is 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 are able.

Senator Lee. Thank you. I would like to get back to antitrust issues for a moment. In 2010, you cosponsored some legislation that extended the Antitrust Division's leniency program and extended it all the way out to 2020. So it was a 10-year extension at the time, you helped 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 any investigation the Department had in connection with that antitrust cartel.

Now the Antitrust Division within the Department of Justice considers this tool ``its most important investigative tool for detecting cartel activity,'' because it creates an incentive for cartel members to self-report, to come forward, and to identify things that the Antitrust Division needs to be aware

of. So I applaud your leadership in this area because it has been very helpful to the enforcement of our antitrust laws of the Department.

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?

Senator Sessions. Senator Lee, I would not commit to you that I have formed an opinion on that. These are very complex areas of the law. I am not a Member of the Antitrust Subcommittee as a number of Members of our Committee are and have achieved levels of expertise, like Senator Klobuchar, and you, and others.

I would just have to commit to you that I am open to hearing the views of this Congress and that Subcommittee, and would try to work with you, but I do understand that antitrust policy is an important issue for America, and we need to get it right, and that would be my goal.

Senator Lee. Thank you. One important question sometimes arises in the antitrust context. It 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 antitrust 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 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 antitrust or competition authorities?

Senator Sessions. I really would not 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 encouraged foreign officials to join with them to--against an action of a private company. They put--could put so much excessive pressure on them that they are not able to resist, 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, the Antitrust Division has, and make sure that there is a principled policy and lawful basis for what is done.

Senator Lee. Thank you, Senator Sessions. I see our Chairman is back. Oh, he is not back.

Senator Feinstein.

Senator Feinstein. It is my understanding that Senator Durbin has not yet had his second round, and so I would like to defer to him.

Chairman Grassley. Senator--oh, I am sorry.

Senator Feinstein. I am going to defer to Senator Durbin because he somehow got missed.

Senator 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, the Russians, and any Presidential campaigns, and he refused to answer, said he was not 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 have not given us a real background on it--but made the decision that you would recuse yourself from any prosecutions involving Hillary Clinton or the Clinton campaign and emails.

Then I understand--I was not present--but Senator Blumenthal asked you for some other hypotheticals as to whether you would recuse yourself on an emolument question or some other things, and you said you would 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?

Senator Sessions. Well, my response to the--to my recusal issue was because I had made public comments about it that could be construed as having an opinion on the final judgment that would have to be rendered. I do not 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.

Senator 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. Would not an abundance of caution suggest that you would not want any questions raised about your integrity in that type of prosecution?

Senator Sessions. Senator Durbin, I think it would be incumbent upon anybody who is 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.

Senator Durbin. Senator Sessions, there has 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 then, 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 have 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; 400,000 from Eastern Europe after World War II; 400,000 from Vietnam; 150,000 from the former Yugoslavia.

In the audience today is Omar al-Muqdad. I do not know--if he could please stand here. Mr. al-Muqdad 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 2 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 are 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 introduced earlier, who had served 22 years of a life sentence for the possession of crack cocaine; the case of Oscar Vasquez, a man who was a DREAMer and wanted to serve the United States in uniform; and this case involving Omar al-Muqdad.

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 have described?

Senator Sessions. I have been made aware in the last several years how this process works. It is really the Secretary of State, usually through consultation with the President, that decides how many refugees should be admitted to the country. There is 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 would 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.

Senator Durbin. But you have a responsibility, too. You oversee the Office of the Pardon Attorney, who 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. al-Muqdad.

So this is not 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 cannot point to Congress and you cannot point to the State Department; there is a responsibility within your own department.

Senator Sessions. Well, a refugee is admitted or not admitted to the United States on the approval or disapproval by the Secretary of State and its consular officials. It is not a trial or not a litigation, so that is 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 has been damaged and injured and attacked and at risk for his writings, so that would give him a more--proving that should give them--put him at a higher level of potential acceptance.

Senator Durbin. Well, you and I can disagree on this one point and 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.

Senator 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 that those who are admitted have been properly vetted and are not a danger.

Senator Durbin. Thank you.

Chairman Grassley. Before I--this is what I would like to do. The vote has kind of made this a convoluted rounds that we are in here. One person has had a third round, we have got one person with no round. So this--or not--without his first round. And then Senator Sessions would like to take a break.

So here is what I would like to do, Senator Sessions, if it is okay 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 okay?

Senator Sessions. That would be good. Thank you.

Chairman Grassley. And for the benefit of the rest of you, I kind of got lost out of this, but I have got to be here for the rest of the meeting, where maybe some of you do not have to be. So I will wait and do my second, third, and fourth round when everybody else is gone.

Senator Feinstein. Oh, is that nice!

Senator Sessions. How many?

[Laughter.]

Chairman Grassley. So now it is Senator Hatch.

Senator Hatch. Senator Sessions, I think you have done a terrific job. I have known you all your 20 years. I have watched you work diligently on the Judiciary Committee and on your other Committees as well. You are an honest, decent man and you have tremendous abilities in law enforcement, and you have proven it here today and you are showing it here today. It is 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 Sheriff's Association, National District Attorney's 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 Officers Association, the International Union of Police Associations, and the Associations of Major County Sheriffs and Major City Chiefs of Police. I am not sure I have seen anybody that had all that kind of massive support for this position.

Now, I draw attention to this for an important reason. This agreement about political--or policy positions are one thing, but accusations about your commitment to fairness or suggestions that you are not sensitive to race is another.

Would these law enforcement organizations enthusiastically support someone who was biased? We know they would not. 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 am grateful to you for your willingness to take this on, knowing that you might be sneered by certain organizations. It takes some guts to do this, but we all know you have guts and we all know that you believe in what you are 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 have 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 is a lot. You have a lot to give.

Let me just say that this morning one of my Democratic

colleagues said that the standards for evaluating your nomination is whether you will ``enforce the law fairly, evenly, without personal bias.'' Now, do you agree that the Attorney General has a duty to do that?

Senator Sessions. That is the core responsibility of the Attorney General, absolutely.

Senator Hatch. I have no doubt, knowing you, that you will 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. Some of these questions suggested that you could not enforce a law you had not voted for or that you would not enforce a law or policy that you might have questioned or personally disagreed with.

Now, I would personally categorically reject that, and you have, too. Am I right?

Senator Sessions. That is correct.

Senator Hatch. You are 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.

Senator Sessions. I do, too, Senator Hatch. Some people--I do not think it would be hard for me to be impartial and to enforce laws that I did not vote for. I just do not think that is going to be a--I think I can separate my personal votes, maybe years ago, from what my responsibility is today and I hope that my colleagues can believe that.

Senator Hatch. Well, the answer to the question whether you can, as Attorney General, enforce the laws fairly evenly and without personal bias, it is a resounding yes, you can, and anybody who disagrees with that has not been listening, has not observed you over the last 20 years, or anytime over the last 20 years. There is not a shred of evidence from your entire record to undermine that conclusion.

Now, does the fact that you have already served in both the executive and legislative branches strengthen even further your commitment to the duty of fairness and impartiality? It seems to me it does. Am I right?

Senator Sessions. Well, thank you. Yes, I do believe that I have 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.

Senator Hatch. Well, anybody who knows you knows that that is 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 have 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?

Senator Sessions. Senator Hatch, you have 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 U.S. Government in court, should be the lawyer that defends an act lawfully passed in Congress whenever a reasonable defense can be found, and I commit to you I will do that.

Senator Hatch. Well, I believe you and I know that is true, and I have a rough time seeing why anybody would find any real flaws or fault 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.]

Senator Sessions. I heard my wife laugh at that.

[Laughter.]

Senator Hatch. Well, I have a lot of respect for you and I hope that the rest of this proceeding goes really well and that we can get you confirmed as soon as possible, because I know you will do a terrific job and I am very proud of you for being willing to accept this.

Thanks, Mr. Chairman.

Senator Sessions. I am honored to have your support, Senator Hatch.

Senator Hatch. Thank you. You have it.

Chairman Grassley. Senator Feinstein.

Senator 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.

Chairman Grassley. Without objection, so ordered.

[The information referred to appears as submissions for the record.]

Senator 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. It had become a detention camp for Japanese American citizens. 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 is 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?

Senator Sessions. Senator Feinstein, that is 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 am sure, at the Civil War and most wars since.

Senator Feinstein. I am talking about Americans.

Senator Sessions. I hear you. So then the question is, we are in a war like we have now that has 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 is important to discuss those issues. So I respect your willingness to think about that and what we should do, but in general I do believe--and Senator Graham has argued forcefully for many years--that we are in a war and when members who--unlike 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 is basically the argument and the issue we are facing. I respect your concerns and I am sure they will continue to be debated in the future.

Senator Feinstein. Well, let me just say a few things about that. I have served on the Intelligence Committee for 15 years. I read all of it. I think I know as much as anybody about what is happening in the United States and this is not--these are Americans that we are talking about that can be picked up and detained and held without benefit----

Senator Sessions. You are talking about American citizens?

Senator Feinstein [continuing]. Of trial, indefinitely, and that should not be the case.

Senator Sessions. Well, I understand your point. A citizen of the United States has certain important rights. They cannot be abrogated. It is absolutely so, they cannot be detained without undergoing a habeas review and the Government surely has to prove that they are indeed connected sufficiently with an enemy action against the United States or they could not be detained. And if----

Senator Feinstein. Well, I appreciate that.

Let me go on to another subject. You were one of nine Senators to vote against the 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 does not include waterboarding.

Do you agree that the CIA's former enhanced interrogation techniques, including waterboarding, are prohibited by this provision of law, as now codified at 42 U.S.C. Sec. 2000dd?

Senator Sessions. It does appear to be clear that the last Act, the McCain Amendment, would prohibit waterboarding.

Senator Feinstein. And you would enforce that?

Senator Sessions. I would enforce the law, yes.

Senator 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 subsurface 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 show that the Senator leased undivided mineral interests to Chief Capital, a Texas firm, in 2015.'' Do you in fact own these interests?

Senator Sessions. Senator Feinstein, I believe that is 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 is my understanding. So by an odd series of events, the properties fell to me. I have never reviewed the deeds, I have 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 as----

Senator Feinstein. I saw that, \$4,000. I saw that.

Senator Sessions [continuing]. As coming from 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.'' So I would just say this to you, this is something I have taken no action on. 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 do not have conflicts of interest. I want to adhere to high standards. We are going to find out what we did or did not do and correct it.

Senator Feinstein. Good. Thank you.

Chairman Grassley. I welcome brand-new Senator Kennedy, not only to this Committee but to the Senate as well.

Senator Kennedy, you are allowed 10 minutes now.

Senator Kennedy. Good afternoon, Senator.

Senator Sessions. Thank you.

Senator Kennedy. My name is John Kennedy. That is really my name.

[Laughter.]

Senator Kennedy. Just so you will know, I used to have a law partner named Jose Canseco. It caused a lot of confusion when we would go to meetings together.

Senator Sessions. I guess.

Senator 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 do not know if Greg is still here--Sheriff Greg Champagne, who also happens to be a lawyer, came all the way up from Louisiana to lobby other Senators on your behalf. And I have noticed that 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 Benevolence Association from the NYPD, New York, about as far away from Mobile as you can get. This is what the letter said: ``As a union representing law enforcement officers, over the years the SBA''--that is the Sergeants Benevolence 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 interests of our Nation. It is 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 would like to know what you intend, as Attorney General, to do to further partner with State and local law enforcement?

Senator Sessions. That is so important. The U.S. Attorneys throughout the country, as in Louisiana and Alabama, are key players in this. All U.S. 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 the first time.

Instead of having a law enforcement plan produced in Washington, DC, 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 their main threats are and to 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 has 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 would not accept it, number one, and any influence you might have would be eliminated. We need to be partners.

The Federal Government, through its power internationally and nationally, can help a local investigative agency solve a complex criminal case that they do not have the subpoena power, or they do not have--a Louisiana U.S. Attorney or sheriff does not have power to have investigations conducted in Texas or Denver. So these are the things that are all important. And I truly believe from a matter of public policy, we need to see the big picture, and we are all in it together. Ninety percent of the law officers in America are State and local, and 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 is a feeling among law enforcement that that has not been happening sufficiently, and the fact that I think I understand that explains why I have had as much strong and enthusiastic support as I have had.

Senator Kennedy. You know, when a radical Islamist 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. Now, I agree with that. Do you not think the same rule ought to apply when one or two law enforcement officers make a mistake, do you not think that 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 to protect us?

Senator 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 those--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 risks for them. We can make it harder for them to have relationships with constituents where they are serving, and actually result in an increase in crime and ineffectiveness in law enforcement. So, we cannot miss these issues. We cannot make big mistakes 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, local, Federal, that will be the most effective engine to fight crime and make our community safer.

Senator 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?

Senator Sessions. Well, I do believe the Second Amendment is a personal right. It is a historic right of the American people and the Constitution protects it, and explicitly states it. It is 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 is a legitimate and responsible restraint on the Second Amendment right to keep and bear arms.

Senator Kennedy. I think they believe this in Alabama too, but in Louisiana we also believe that nothing makes it easier to resist temptation than a good upbringing, a strong set of values, and witnesses. I would like to know your thoughts on the Freedom of Information Act.

Senator Sessions. Well, the Freedom of Information Act is law. I would see it is carried out. The policies of the country

need to be followed.

Senator Kennedy. I have got one final question. I read the Inspector General's report about the Department of Justice. I think it came out in about the middle of 2016, last year. The Inspector General talked about problems with the Department's massive grant programs. The Inspector General said that approximately \$100 million over the last 5 years went for ``questionable expenditures'' or funds that ``could have been put to better use.'' Now, this is taxpayer money. It did not 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 IG 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.

Senator Sessions. Thank you, Senator Kennedy. That report raises real concerns. I believe that any responsible public official should recognize that when their own Inspector General says that their department is not performing according to high standards, they should listen to that report and take action and review what is 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 have got wisely for things that are valuable.

Senator Kennedy. Senator, I do not know you well, but I followed your career with respect and admiration for a lot of years, and I just want to tell you that. You will be a great Attorney General. Thank you very much.

Chairman Grassley. Senator Sessions, you asked for a short break. I hope, maybe, 15 minutes will be adequate.

Senator Sessions. That would be adequate. Absolutely.

Chairman Grassley. We stand in recess.

[Whereupon, at 3:57 p.m., the Committee was recessed.]

[Whereupon, at 4:13 p.m., the Committee reconvened.]

Chairman Grassley. We will resume with Senator Whitehouse, but I was wondering if the staff or Members could give my staff some indication of how many people still want to ask questions, and it does not matter how many it is, I am going to stay here as long as people want to ask questions, because I have not had my second round yet, and if I could ascertain that, I would appreciate it. I know we have at least one or two Republicans that want to.

Senator Whitehouse, you go ahead.

Senator Whitehouse. As you know, the Department of Justice has at its heart the career, prosecutor, and attorney core 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 the 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. Now 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 am wondering how you would react to this. Do you have a problem with career attorneys if their private religious beliefs are secular ones? 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?

Senator Sessions. The Department of Justice is composed primarily of career professionals, as you know, Senator Whitehouse. You served there ably as United States Attorney, 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 that they are often put into non-career spots and can then go back to career spots, but I do not know how exactly that works.

I am sure the Obama administration made changes in the leadership of the department, they put career people in positions that they thought would be most advantageous for them to advance the causes they believed in, and that is 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.

Senator Whitehouse. Does a secular----

Senator Sessions [continuing]. And I would do that.

Senator Whitehouse [continuing]. Attorney have anything to fear from an Attorney General Sessions in the Department of Justice?

Senator Sessions. Well, no. And I use that word at the 90,000-foot level. I am a little concerned that we as a Nation, I believe, are reaching a level at which truth is not sufficiently respected; that the very ideal, 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. But we are not a theocracy, nobody should be required to believe anything. I shared Thomas Jefferson's words on the Memorial over here, "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man," and I think we should respect people's views and not demand any kind of religious test for holding office.

Senator Whitehouse. And a secular person has just as good a claim to understanding the truth as a person who is religious, correct?

Senator Sessions. Well, I am not sure. In what method?

Senator Whitehouse. In the method----

Senator Sessions [continuing]. Objectively committed to----

Senator Whitehouse [continuing]. It is that an attorney would bring to bear it.

Senator Sessions. Well, let me just say we are going to treat anybody with different views fairly and objectively. And the ideal of truth in trying to achieve the right solution to me is an important goal of the American jurisprudential system and, actually, our legislative system. What is the right thing, what is true? Let us act on it and do the right thing.

Senator Whitehouse. On the subject of what is truth, you may----

Senator Sessions. It is an age-old question.

Senator Whitehouse [continuing]. 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 the 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 do not need to do anything about it, that the facts are not real and that we should all do nothing whatsoever. That is 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 do not think there is a single scientific society, I do not think there is a single credited university, I do not think there is 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?

Senator Sessions. That is 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 do not deny that we have global warming. In fact, the theory of it always struck me as plausible and it is just a question of how much is happening and what the reaction would be to it. So that is what I would hope we could see occur.

Senator Whitehouse. Indeed, I will bet you dollars against those lovely Krispy Kreme doughnuts 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 would already see the changes in the ocean and they would be able to measure the pH changes, and they would know that acidification is happening and that there is no actual dispute about that, except in the politics of Washington, DC.

Senator Sessions. I recognize the great interest in time that you have committed to the issue and I value your opinion.

Senator 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 is serious for us, Senator.

Thank you, my time is expired.

Senator Sessions. Thank you.

Chairman Grassley. Now it looks like it will be the Senator from Texas, and Senator from Texas, I am going to step out for a minute and when your 8 minutes are up, would you call on Senator Klobuchar?

Senator Cruz [presiding]. Sure. Thank you Mr. Chairman.

Senator Sessions, I want to congratulate you in 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 do not 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 do not 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 that 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 protestors who have made their voices heard today, there have been racial charges raised, and indeed some of the protestors 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 do not have an argument on the merits, when they do not have the facts behind them. And it is a particularly hurtful argument that can be directed at someone, particularly when it is 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 would 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 this hearing may not be.

In 1981, in Mobile, Alabama, the Ku Klux Klan ordered the murder of a random African-American man, Michael Donald. 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 a 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 Glenn worked on the case. When asked about your work on this case, Mr. Glenn testified that, ``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?

Senator Sessions. I think it is, yes. That is exactly what I intended to do. It actually occurred before I became a United States Attorney. A wrong group of people had been indicted in State court that complicated matters. The case was not making the kind of progress it needed to make and so we had a discussion. And we invited Civil Rights Division attorneys, Bert Glenn and Barry Kowalski, both of which were exceptionally fine, and along with Assistant Thomas Figures in my office, they 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. I actually used 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. And so they had the flexibility and it was, I thought, a brilliantly conducted investigation. I guess Barry Kowalski was the lead attorney in it.

Senator Cruz. Now, Bobby Eddy was the chief investigator for the Mobile County District Attorney's office. He testified, ``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, ``We needed 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, `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 party 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 Bennie 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?

Senator Sessions. That is correct.

Senator Cruz. And beyond that, your office cooperated with Morris Dees in the Southern Poverty Law Center to bring a civil suit against the KKK, and Mr. Galanos explained, "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-dollar verdict on behalf of Ms. Donald. And the 7-million-dollar civil judgment against the KKK in Alabama bankrupted the Klan, leading to its demise in the State." Is that correct?

Senator Sessions. That is essentially correct, yes. In fact, they sold the Klan headquarters to help satisfy the judgment.

Senator Cruz. Well I would say, Senator Sessions, it is easy for people reading things on the internet to believe whatever is raised, and passions get hot. And I know the protestors who stand up and chant "KKK" they, in all likelihood, believe what they are 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 will tell you, I admire your doing so, and I will issue a challenge to our friends in the news media. I noticed every time a protestor jumped up all the photographers took pictures of the protestors. I suspect we are going to see them in all the papers. I would encourage the news media, cover this story. Tell the story on the six o'clock news about Jeff Sessions helping prosecute a Klansman who had murdered an innocent African-American man, and putting him on death row, and bankrupting--helping bankrupt the Klan in Alabama. That is a story that needs to be told. And Senator Sessions, I thank you for your record, I thank you for your service.

Senator Sessions. Thank you, Senator Cruz, and I would say it has been very disappointing and painful to have it suggested that I thought the Klan was okay 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.

Senator Cruz. Thank you, sir.

Senator Klobuchar.

Senator 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 Senators McCaskill and Heitkamp and others on this issue. We had 48 arrests around the towns of New Ulm and Mankato, 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 it. And could you just give me your thoughts on this issue?

Senator Sessions. Well I am 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 make a real impact against this abominable practice.

Senator Klobuchar. 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 have 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 are 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 have seen substantial mergers in pharmaceutical, agriculture, cable, insurance, beer. Recently, across the political spectrum there has 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 is 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 is 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 are in favor or not. These are not statements that you have made. Could you comment about independence of the Attorney General when it comes to considering these cases?

Senator Sessions. The antitrust policies of the United States have to be consistent and as clear as possible. As you know, that is not always as easy as some people might think. I could say with confidence that you and Senator Lee, as leaders on the Antitrust Subcommittee, have been more attuned to the details and the special issues that are involved in that section of the Department of Justice. So we would 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.

Senator Klobuchar. Thank you. I am going to put a series of some other questions on the record. One is on synthetic drugs. We are 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 are 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 have 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 was just--got a designation called HIDTA, for High-Intensity Drug Trafficking Area. A lot of it is based on heroin and some of the opioid addictions that we have 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. I thought I would maybe just on the record--again, I am 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--I want that work to continue.

We also have--the vast majority of them are law-abiding, 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. They go out to eat and this guy walks by and looks at them and says, "You four, you 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."

You think of the words of that innocent child. She only knows one home, and that is my State. She only knows one home, and that is 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 innocents 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.

Senator Sessions. Thank you. That is an important principle that you have 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 does not violate established law. So we have that provided for in the Constitution. We cannot establish a religion and we cannot prohibit free exercise, and I believe 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.

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 is sort of my view about it. I believe it is 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 policy of the President and the State Department. And so we would just simply make sure, if it is done, it is done in a proper fashion and not unlawfully.

Senator 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 will just put that on the record later. So, thank you. Thank you.

Chairman Grassley. Senator Cornyn.

Senator 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 because while the Intelligence Committee conducts a lot of the oversight, it is 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 are 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 you are well aware of, and that is 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 do not 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 is Ranking here. 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 are 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 is hardware or in the--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 a part

of the tradecraft now of terrorists, and he referred to it as ``going dark.'' 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 Electronic Communications--the so called ECTR 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 is, put the safety and security of the American people first, and you will 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?

Senator Sessions. I will, Senator Cornyn, and thank you for your hard work and leadership on these important issues.

Senator Cornyn. Let me ask you about the Freedom of Information Act. I do not know whether Senator Grassley had a chance to ask you about this or not. As you may know, Senator Grassley and I are--excuse me--Leahy and I are kind of the odd couple on Freedom of Information Act reforms. As a conservative, I have always felt that the best antidote to abuse or waste is sunlight where possible. You do not 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 or consulted with us on. It is 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 am confident you will, but I would just like to get your verbal commitment to continue to work with us to make sure that the public's right to know is protected. I am not suggesting that the public has a right to know everything because, frankly, as I have 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?

Senator Sessions. I will, Senator Cornyn, and I would value your judgment and insight on this important issue. I appreciate your work.

Senator Cornyn. Thank you.

Thanks, Mr. Chairman.

Chairman Grassley. Senator Franken.

Senator Franken. Thank you, Mr. Chairman. Before I move on to my questions, I would 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 is our job and it is important.

Now, let us be clear: Senator Sessions said in his questionnaire that he ``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 the need to file a supplement in which he clarified that he merely provided ``assistance and guidance'' to Civil Rights Division attorneys on these four cases. Now, if that is a distinction without a difference, I am 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, ``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 us be clear: President-elect Trump lost the popular vote by more than 2.8 million votes, so what he is saying here is that more than 2.8 million fraudulent votes were cast. Do you agree with President Trump that millions of fraudulent votes were cast in the Presidential election?

Senator Sessions. Senator Franken, I do not know what the President-elect meant 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.

Senator Franken. Well, the Department of Justice is tasked with protecting voting rights and prosecuting fraud, so if millions upon millions of fraudulent votes were cast, 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?

Senator Sessions. I have not talked to him about that in any depth, particularly since the election.

Senator Franken. Uh-huh. So he did not share any evidence of voter fraud with you? Because I would imagine, as the man who wants--that he wants to make responsible for combatting 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 did not do that, evidently.

Before I 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 is truly troubling about this, I believe, are these bogus claims of voter fraud. They are routinely used to justify voter suppression. 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 ``an intrusive piece of legislation.'' You have complained that the Act's preclearance requirement unfairly targeted certain States, and you said that there is ``little present-day evidence that State and local officials restrict access to the franchise.'' You said that the Voting Rights Act has ``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 is what happened in North Carolina, for example. Just a few months after Shelby County, the State enacted one of the Nation's strictest voter ID 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, and in July, the Fourth Circuit found the primary purpose of the restrictions was not to fight fraud, but to make it harder for Black people to vote. Here is what the court said: ``The new provisions target African Americans with

almost surgical precision. They constitute inept remedies for the problems, assertively 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 Fourth 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?

Senator Sessions. Well, you cannot create laws designed to inhibit the right of any class of citizens to vote, and so if the Fourth Circuit found that, and there is a factual basis to support it, then any law that is 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, that the Supreme Court did uphold voter ID laws, but there are ways to do it and ways you probably cannot do it. I am not familiar with the details of the North Carolina law, but you are correct, any finding that there is a racial animus in the passing of a law that would restrict voting would render that unsustainable.

Senator Franken. Now, North Carolina is one of the States who would have been covered by preclearance, was it not?

Senator Sessions. North Carolina would be. Of course----

Senator Franken. It would have been. So now we are----

Senator Sessions. I would just suggest that Section 2 allows all the remedies, and that is what I suppose they filed the action under in this case. It is just not a preclearance question. That preclearance policy is intrusive, as the Supreme Court has said, and I did not mean that in any pejorative way. I was asked, do you believe it is intrusive, is that correct? I said it is intrusive, but the Voting Rights--I said this in 1986--but the Voting Rights Act was absolutely essential to reverse the problem that we had in the South of systemic voter suppression.

Senator Franken. Mr. Chairman? Mr. Chairman, let me just respond to that, please. Okay. Here is the thing.

Senator Sessions. Well----

Senator Franken. Okay. Because we had this debate after Shelby. Chairman Leahy tried to introduce something, a substitute, so that we could have preclearance again, which was fought by you. The whole point is the section--Section 2 of the Voting Rights Act, you are right. But how many years after North Carolina did that? So how many times, how many elections were conducted in North Carolina where African-American votes were suppressed? That is why you need preclearance. 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 preclearance and that is the reason that you cannot rely on the District Court or the Circuit Courts to rule.

Senator Sessions. Mr. Chairman, I voted a few years ago to extend the Voting Rights Act for 25 years. It included preclearance 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 first have permission, even with ministerial acts like moving a voting precinct, by the Department of Justice.

The Supreme Court found that that could no longer be justified. The Supreme Court decided that we did not have to have preclearance. But Section 2 of the Voting Rights Act allows these kind of challenges that Senator Franken is talking about. That is what was brought in North Carolina, that is what

is being litigated today, and the court there did in fact find that the voter ID law was improper, as I understand it. So I believe we have proceeded in a lawful fashion, and I did feel in one sense that it was a good feeling that the Supreme Court had concluded that there had been substantial improvement in our area of the country as to voting rights, sufficiently so that Section 5 could no longer be justified. But I voted for it.

Senator Franken. Thank you, Mr. Chairman, for your indulgence. As Justice Ginsberg said, an umbrella means you do not get wet when it is raining and you do not take the umbrella away.

Chairman Grassley. I will put in the record a letter that I just today received in support of Senator Sessions' nomination from the National Shooting Sports Foundation. Senator Sasse. Without objection, I should say.

[The letter appears as a submission for the record.]

Senator Sasse. Thank you, Mr. Chairman.

Senator Sessions, I would 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 believed 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 was not an enforcement priority.

I do not 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 enforcement on illegal immigration activities, and particularly 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?

Senator Sessions. Thank you, Senator Sasse. I certainly will. It does represent unjustifiable failures that we are seeing too often in our system today.

Senator Sasse. Do you have any top-line thoughts on the way local and State officials interact with Federal officials on immigration cases?

Senator Sessions. Well, the immigration enforcement procedures, the courts have held, are exclusively the power of the Federal Government. But it is also clear that a State official has the right to arrest somebody for their 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 that of illegal reentry. The cooperative system should work in a way whereby the Federal Government then evaluates whether or not it wants to put a hold on in order not to release that person until they can take them and see them be deported.

It is failing in a whole number of ways. You have got the sanctuary cities that refuse to tell Homeland Security they have got somebody that has committed a serious crime so they

can be deported. They refuse to honor detainers. On the other side, we have 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. 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.

Senator Sasse. Thank you. We will 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 do not let this guy disappear before he can stand trial. He is now on the Top Ten Most Wanted list, and nobody thinks he is ever going to be found. Everybody believes he left the country.

This kind of case is not an isolated case, it is a kind of hand-off between Federal and local law enforcement that could happen repeatedly if you do not have a Federal Government that has any clear policy. So we would like to--so I would like to send you a letter, right after your confirmation, asking for clarity about how enforcement discretion and enforcement actions are prioritized.

Senator 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.

Senator 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. When you have--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--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?

Senator Sessions. It would be difficult to speculate on that. We saw what you are alluding to during the Nixon administration. But there could clearly be a circumstance in which there is such a relationship breach that an Attorney General would not 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 the Attorney General's duty is to give the best judgment that the Attorney General can give, and, therefore, if it is 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 Executive--and I would expect with President Trump--

that when confronted--or advised that certain policies are not acceptable, he would accept that advice. I am confident that he would. But you raise a hypothetical, and I have at least given you my thoughts about it.

Senator Sasse. Just to conclude, because I am 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 have been asked to try to justify a certain position, I have been asked to write a memo to support this position, and I do not think we can get there, I do not 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?

Senator Sessions. Well, Attorney General Mukasey, who I think is still here--yes, and I am 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 is nothing wrong, as I understand it, if it goes through the proper chain of command that a request for an OLC opinion on a certain subject--there is nothing wrong with the White House asking for that. Indeed, you want that. You do not want the White House acting unadvised. You want it 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 cannot do it this way, maybe you can do it that way, maybe it will not give you everything you want, but that is safe, that is legal, that is within the realm of action that the President can take, this we believe is not.'` And, usually, an Attorney General has the confidence of the President, and the President knows that he or she is giving him the best advice, advising him of what he can and cannot do. And you need the best lawyers, and you need to be very careful because these things set precedents. They also can result in lawsuits and all kinds of controversy that should not happen as a result of a bad OLC opinion.

Senator Sasse. Thank you. The stewardship of the integrity of that office is critically important. Thank you for your forthrightness.

Chairman Grassley. Senator Coons.

Senator Coons. Thank you, Chairman Grassley, Senator Sessions.

Senator Sessions. Thank you, Senator Coons.

Senator 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 cyber attack that was designed to influence the American elections, and it is, as you have mentioned before, emblematic of the kinds of threats that the United States faces, whether it is China stealing our intellectual property or hacks into our Federal database that affects a lot of Federal workers or in this case a direct attack on democracy. And you mentioned in response to a previous question you have not been fully briefed on this. But there is a bipartisan bill that has been introduced to strengthen and sustain sanctions against Russia for this attack on our democracy. Is that something you would support?

Senator Sessions. That is something that is appropriate for

Congress and the Chief Executive to consider. In other words, how do you respond to what is believed to be a cyber attack from a major nation? It is difficult just to say, well, we are going to prosecute the head of the KGB or some group that has participated in it--no longer the 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 regard 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 are going to do Y to you.

Senator 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 cyber attack 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 enforced 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?

Senator Sessions. First, I had no involvement in that statute. Second, I believe the Court struck that statute down. I am not sure.

Senator Coons. I believe that is correct.

Senator Sessions. Some of the act was declared improper, and some not. What was your question exactly?

Senator Coons. Well, I will 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 5 years ago, you made a public statement that we have allowed a sad situation for decades where large numbers of people are in this country illegally, and it is 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.

Senator Sessions. But 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 are lawfully in the country or not? And I do not know what the law is on that subject.

But what I was getting at was that this is a continual problem and will continue to be a problem if we do not end the lawlessness. I mean, you would rather have children of immigrants here that came lawfully rather than unlawfully. It creates a problem that we do not need to have, and I believe it is within our grasp to fix, and I believe people of good will will support that. And we need to get that done. 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.

Senator 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 addressed a lot of unresolved issues in immigration. But my recollection was you did not support that bill. It is 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 Defenders Service when it was cut by sequestration, and I think that is because we both agree that outcomes are more fair when there is 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?

Senator Sessions. Senator Coons, as I understand it, that is the law, that you cannot provide lawyers to illegal entrants into the country, and I do not believe it distinguishes between minors and adults. But I may be wrong about that. I presume that is why you have 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 are talking about children specifically. I understand that. I think that is a matter----

Senator Coons. Specifically, those who are applying for asylum.

Senator Sessions [continuing]. That Congress would need to decide what to do about it.

Senator Coons. Let me ask you another question, if I might. 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 have understood this. You believe it is improper for the Government to discriminate based solely on a person's religion, correct?

Senator Sessions. That is 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 into those kind of radical and dangerous ideas that some might----

Senator Coons. So there are 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 Koran. 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?

Senator 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 dangerous or threatening illegal activity could be carried on there. I am not aware that there is a legal prohibition on that under current law.

Senator Coons. 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 am 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 Eleventh 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?

Senator Sessions. Senator Coons, that 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. It would have been better if we had not passed a law. It would have been better if the controversy had not occurred.

Senator Coons. Thank you.

Chairman 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. There are two sentences I would like to repeat: ``Do I agree with everything he''--meaning Senator Sessions--``has ever said or done? Of course not. But I do not 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.

[The letter appears as a submission for the record.]

Chairman Grassley. Senator Crapo.

Senator Crapo. Thank you, Mr. Chairman.

Senator Sessions, one issue that has been gone over a lot today which I am 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 does not personally agree with a law that is on the books. Yet, as 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 have 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 did not 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 did not prosecute because you believed there was actually a criminal--there was not actually a criminal violation.

You also prosecuted the Alabama Republican Party Vice Chairman even though you are 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 have seen it in your record and because I have known and worked with you for a number of years, but I ask anyway, again: If you are 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?

Senator 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 will be defending this death case, but we are probably going to lose." I said, "Why are we going to lose?" And they said, "It did not have the aggravating factor you needed to carry out a death penalty." And I said, "We cannot go before the Supreme Court and argue for a death penalty if it does not meet the standard for a death penalty." To which the lawyers said, "Well, the local people are really fired up about it, and we usually just do what they want and let the Court decide." And I said, "Well, no, we should not 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 just have to do the right thing, and some of these others cases reflect the same thing.

Indeed, that 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. The Court of Appeals found that he did not commit a crime, just like we had concluded originally. So these are tough calls. Sometimes I have 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.

Senator 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 is 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 have 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?

Senator 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 is fair to say, is not constructed in a way that is consistent with the Constitution, and in a way that we have never done 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, have had a bill. We would have been able to pass a Violence Against Women Act that did not have that provision in it. So that is 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 are not portrayed as being wrong on the Tribal issue; you are 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.

Senator 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 one of just a couple issues which were being seriously litigated, if you will, here, 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 will not go to my next question.

Chairman 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 have got two Democrats and two Republicans to do a second round besides the Chairman, but I am going to wait until later to do my second round. We have got two Democrats, I have been told, at least, who want a third round. And so what I would like to do is, first of all, if you need a break, we will take a break whenever you say so now. And in the meantime, I would 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 am 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 rounds with questions I have not asked yet. So what is your desire?

Senator Sessions. I am ready to go.

Chairman Grassley. Okay. Senator----

Senator Sessions. I may need a break at some point.

Chairman Grassley. Well, you just say when you want to take a break.

Senator Sessions. Thank you. Thank you, Mr. Chairman.

Chairman Grassley. Senator Blumenthal.

Senator 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 I admire." David Horowitz has said, among other things, that "all the major Muslim organizations in America are connected to the Muslim Brotherhood," and "80 percent of the mosques are filled with hate against Jews and Americans." He has also made a number of statements about African Americans, as in, "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?

Senator Sessions. No, and I did not know David Horowitz had made those comments. I read his brilliant book--what is the name of it? I have a hard time remembering. But it was about his transformation, having grown up in, as he described it, a "communist family." He was editor of Ramparts magazine, the 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.

Senator Blumenthal. I find it----

Senator Sessions. He has written a number of other books and I have read, I think, one of them. But he is a most brilliant individual and has a remarkable story. I am not aware of everything he has ever said or not.

Senator 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 are unaware of any of the apparently racist comments that he made over----

Senator Sessions. I am not aware of those comments, and I do not believe David Horowitz is a racist or a person that would treat anyone improperly, at least to my knowledge. And he did give me----

Senator Blumenthal. Well, let me just----

Senator Sessions. 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 is the award that I received.

[Laughter.]

Senator 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, "I have 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, "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, \$1,000 in each donation.

Will you denounce those statements and disavow that award and that support from that organization?

Senator Sessions. I do not accept that statement. I believe the United States should have an immigration policy that is fair and objective and gives people from all over the world the right to apply. And that we should give preference to people who have the ability to be prosperous and succeed in America and can improve their lives and improve the United States of America. And that is sort of my view of it. I do not accept that kind of language----

Senator Blumenthal. Will you return the award----

Senator Sessions [continuing]. It would be contrary to my understanding of the American vision of life.

Senator Blumenthal. Will you return the award?

Senator Sessions. Well, I do not know that I have to. I do not know whether he had any involvement in choosing the award or not. Presumably, the recipient of the award is chosen based on some contribution or criteria, but I was not involved in that decision.

Senator 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 are going to enforce anti-discrimination laws if you have accepted awards from these kinds of groups and associated with these kinds of individuals and you will not return the awards?

Senator Sessions. Well, first of all, I do not know that I defer to the Southern Poverty Law Center as the final authority on who is 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 oppose 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 is what I think. I do not----

Senator Blumenthal. Would you also disavow support from Frank Gaffney at the Center for Security Policy, who gave you an award in August 2015, similarly having made statements about Muslims and supporting your candidacy for Attorney General?

Senator 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. I would acknowledge----

Senator Blumenthal. But you can understand----

Senator Sessions [continuing]. That Ronald Reagan, Dick Cheney, Joe Lieberman also have received that award from that institution.

Senator Blumenthal. Well, he has not been nominated to be Attorney General.

Senator Sessions. Well, he has not. But he ran for Vice President on your party's ticket.

Senator Blumenthal. And the people of the United States might be forgiving for including that the kinds of attitudes and the zealousness--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.

Senator 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 from either one of these groups. And David Horowitz is a brilliant writer and I think has contributed to the policy debate. Do I agree with everything he said? I am sure I do not. Some of the language that you indicated he has used, I am not comfortable with. It is all right to ask that question. But I do not believe it would be proper for you to insist that I am somehow disqualified for Attorney General because I accepted an award from that group.

Senator 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?

Senator Sessions. Well, I would 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.

Senator Blumenthal. I want to give you the opportunity----

Senator Sessions. So I would just say that I received hundreds of awards. I do not think--I probably somehow should have made sure that the--Annie Johnson jumping off the Niagara Falls, I should have reported that. But I would just say to you, I have no motive in denying that I received those awards. It was probably publicly published when it happened. I have received hundreds--multiple hundreds of awards over my career, as I am sure you have.

Senator Blumenthal. My time has expired, Mr. Chairman. I apologize, and I will return on the third round. Thank you.

Chairman 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 bet every other week somebody's 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 any more awards. It is kind of a problem that they give you the awards.

[Laughter.]

Chairman Grassley. And obviously I will bet Senator Sessions feels that way right now.

[Laughter.]

Senator 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.

Chairman Grassley. Okay. 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."

I do not think we should forget that Senator Sessions got re-elected to the United States Senate without a primary opponent or a general election opponent. Ye gods, you know, would we not all like to do that?

Senator Graham.

Senator Graham. I have been unable to do that.

Chairman Grassley. For the record, without objection.

[The information appears as a submission for the record.]

Senator Graham. Thank you. I had six primary opponents.

Chairman Grassley. I can understand why.

Senator 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.

Senator Sessions. The Annie Taylor Award.

Senator Graham. Yes, there it is. I was there. I got it, too. I do not get enough awards; you can speak for yourself, Mr. Chairman.

[Laughter.]

Senator Graham. Yes, 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.]

Senator Graham. 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.

Senator Sessions. Twenty.

Senator Graham. Twenty. Well, 15 with me. I am pretty sure you are not a closet bigot. And I got the same award you did. That other award--who got it, Joe Lieberman?

Senator Sessions. He got the award at the Gaffney.

Senator Graham. Okay. 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. 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.]

Senator Graham [continuing]. I am here to tell you I got the Annie Taylor award, too.

So let us talk about the law of war. I think you were asked by Senator Feinstein about indefinite detention. Hamdi v. Rumsfeld. This is Sandra Day O'Connor's quote: ``There's 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?

Senator Sessions. Generally, yes. Not as familiar as you because I know you have studied it in great depth.

Senator Graham. Well, being a military lawyer, this was 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?

Senator Sessions. Well, you have certain rights wherever you go.

Senator Graham. So if you go to Paris, you do not 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?

Senator Sessions. I do not believe----

Senator Graham. No, they cannot. Your constitutional rights attach to you. So to the people who 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. In re: Quirin, that case involved German saboteurs who landed in Long Island. Are you familiar with this?

Senator Sessions. I am very familiar with that case. I have read it.

Senator 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?

Senator Sessions. Correct. Yes.

Senator 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?

Senator Sessions. It does make sense, and that is my understanding of the traditional law of war.

Senator 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 that 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 on an arbitrary date, because that would make no sense.

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 the 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?

Senator 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.

Senator Graham. So let me---

Senator Sessions. That is most likely what would happen.

Senator Graham. You are about to embark on a very important job in 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 in the law against radical Islam. The goal is to find out what they know. Do you agree with that?

Senator Sessions. That is a critical goal.

Senator 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.

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 2 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?

Senator 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--and so they are being detained and they are subject to being interrogated properly and lawfully anytime, any day, and they are not entitled to a lawyer, and so forth.

Senator Graham. Right. And Miranda and all did not exist back in World War II but it does now, but the law, the Hamdi case says--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----

Senator Sessions. In a habeas court. You are correct.

Senator Graham [continuing]. 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 Attorney General of the United States, would you accept that military commissions could be the proper venue, under certain

circumstances, for a terrorist?

Senator Sessions. Yes.

Senator Graham. Thank you.

Chairman Grassley. Senator Hirono, then Senator Kennedy, then you should take a break, because I want one.

[Laughter.]

Chairman Grassley. Proceed.

Senator 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 v. United States*, which upheld the constitutionality of the internment of Japanese Americans in internment camps.

Despite the near-universal condemnation today of the court's ruling, this past November, Carl Higby, 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?

Senator Sessions. I do not believe we need a registration program for U.S. citizens who happen to be Muslim. Is that the question?

Senator Hirono. Yes. My question is whether you would support such a registry for U.S. citizens who happen to be Muslims.

Senator Sessions. No.

Senator 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?

Senator Sessions. Well, my understanding is, as I recall, the 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.

Senator 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?

Senator Sessions. It would raise serious constitutional problems because the Constitution explicitly guarantees the right to free exercise of religion. I believe Americans overwhelmingly honor that and should continue to honor it, and it would include Muslims for sure. I do not believe they should be treated differently, fundamentally. They should not be treated differently.

Senator Hirono. Thank you.

And in addition to the freedom of religion provisions, perhaps there 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 ``pattern of practice'' of unconstitutional policing and to make sure our police departments are compliant with the law.

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 ``consent decrees have a profound effect on our legal system, as they constitute an end run around the democratic processes.'' 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?

Senator Sessions. Those decrees remain in force if and until and if they are changed. And they would be enforced. The consent decree itself is not necessarily a bad thing, 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 the department who have done wrong and those individuals need to be prosecuted.

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, is what I would say to you, because filing a lawsuit against a police department has ramifications, sometimes beyond what a lot of people think. It can impact morale of the officers, it can impact and affect the view of citizens to their police department. I just think that caution is always required in these cases.

Senator Hirono. Senator Sessions----

Senator Sessions. I would not pre-judge a specific case.

Senator Hirono. I understand that, but showing 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 negotiated 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?

Senator Sessions. Well, presumably the Department of Justice, under the Holder-Lynch leadership, 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. If departments have complied or reached other developments that could justify the withdrawal or modification of the consent decree, of course I would do that.

Senator 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----

Senator 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.

Senator Hirono. So----

Senator Sessions. So they often feel forced to agree to a consent decree just to remove that stigma, and sometimes there are difficulties there. So I just think we need to be careful and respectful of the departments.

Senator Hirono. I understand that. But as to the consent decrees that were negotiated with both parties in full 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 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.

Chairman Grassley. You can answer that if you want to, and then we will move on.

Senator Sessions. I understand what you are saying. 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.

Senator Hirono. Thank you.

Chairman Grassley. Senator Kennedy.

Senator 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?

Senator Sessions. I loved being a U.S. Attorney. 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. I loved it, and our team did. Those were Camelot days for me. So I did feel that. I only had 2 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. Then I was running for the Senate, so I did not get to enjoy that job.

But the United States Attorney's 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.

Senator Kennedy. I have made up my mind. I yield back my time. I hope you will be a raging voice of common sense at the Department of Justice, Senator.

Senator Sessions. Well, thank you.

Chairman Grassley. Before you take a break, I hope that 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 okay?

Senator Sessions. Yes.

Chairman Grassley. Okay. We stand in recess for 15 minutes

or so.

[Whereupon, at 6 p.m. the Committee was recessed.]

[Whereupon, at 6:26 p.m., the Committee reconvened.]

Chairman Grassley. For third round, I call on Senator Franken.

Senator Franken. Well, thank you.

Senator, last Friday, the Director of National Intelligence--we have covered this a little--representing 16 agencies, released a declassified intelligence report stating, ``we assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. Presidential election,'' and yet despite the consensus among our intelligence agencies, President-elect Trump has remained persistently skeptical.

During the first Presidential debate, he wondered aloud whether the responsible party could be China or ``somebody sitting on their bed that weighs 400 pounds.'' Last month, he called reports of Russian hacking ``ridiculous'' and ``another excuse for the Democrat loss.'' He said, ``It could be somebody sitting in a bed someplace 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 is 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?

Senator Sessions. I did mean to indicate I respect the FBI and I respect the fact that if they give a conclusion, they believe it is accurate. I am not able to comment on the President-elect's comments about it.

Senator Franken. Okay.

CNN has just published a story--and I am telling you about a news story that has just been published, so I am not expecting you to know whether it is 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 ``Russian operatives claimed to have compromising personal and financial information about Mr. Trump.''

These documents also allegedly stated, ``There was a continuing exchange of information during the campaign between Trump surrogates and intermediaries for the Russian government.'' Now again, I am telling you this as it is coming out, so, you know--but if it is true, it is obviously extremely serious. If there is any evidence that any one affiliated with the Trump campaign communicated with the Russian government in the course of this campaign, what will you do?

Senator Sessions. Senator Franken, I am not aware of any of those activities. I have been called a surrogate at a time or two in that campaign and I did not have communications with the Russians, and I am unable to comment on it.

Senator Franken. Very well.

Without divulging sensitive information, do you know about this or know what compromising personal and financial information the Russians claimed to have?

Senator Sessions. Senator Franken, allegations get made about candidates all the time, and they have been made about President-elect Trump lots of times. Most of them--virtually all of them--have been proven to be exaggerated or 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 am not a Member of the Intelligence Committee, and so I am just not able to give you any comment on it at this time.

Senator Franken. Okay. Totally fair.

Last week, Julian Assange, the founder of WikiLeaks, claimed that the Russian government was not the source of the hacked emails WikiLeaks 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 concluded the Russian government directed the hacking operation. Nonetheless, immediately following that interview, President-elect tweeted, ``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!''

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?

Senator Sessions. Senator Franken, I am not able to answer that. I have not talked to the President-elect about any of these issues. It is often inaccurate, what gets printed in the papers.

Senator 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 ``pursued with the greatest intensity.'' You said, ``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've 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, ``WikiLeaks, I love WikiLeaks.'' Do you believe that by holding up Julian Assange, who traffics in leaked and stolen documents, often classified documents, as a legitimate source of information that President-elect Trump is glorifying people who leak sensitive documents?

Senator 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.

Senator Franken. Well, we know that in regard to what he did in 2010, and yet the President-elect said, ``WikiLeaks, I love WikiLeaks.'' Does it not seem like perhaps if you were not 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?

Senator 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 I feel it is a lot easier to be vigorous and outspoken. But it is different as 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 is just not appropriate for me to be the person for you to seek political responses from.

Senator Franken. Okay. I am out of time. I will try to stick around for one more quick round.

Chairman Grassley. Okay. Senator Cruz.

Senator Cruz. Thank you, Mr. Chairman.

Mr. Sessions, thank you for your endurance today.

Senator Sessions. Thank you.

Senator Cruz. Let us turn to a different topic, one that has been addressed some in this hearing but one that I know is a particular passion of yours and one on which you have built a remarkable record, and that is immigration. I want to focus in

particular on the problem of criminal aliens in the United States and this administration's non-enforcement of the laws, and take a moment just to review some of the numbers, which you know very well but I think it is helpful to review for those watching this hearing.

We have had an administration that consistently refuses to enforce our immigration laws, so in October 2015, I submitted that there were 929,684 aliens present in the United States who had been ordered to leave the country but who had not done so. 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?

Senator 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 do not think they have been as effective as needed. I believe that should be increased and stepped up. The actual policies, as you know, are 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 fewer people illegally per investigative officer and you get a better handle--you are in a virtuous cycle instead of this dangerous cycle that we are 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 that he believes criminal aliens obviously should be the top priority, and I believe this Government will work effectively to deal with it. I would do my part.

Senator Cruz. You know, there are few issues that frustrate Americans more than the refusal to enforce our immigration laws. Not too long ago, I was down on the border in Texas visiting with Border Patrol officials, visiting with law enforcement, local sheriffs. I will tell you, it was after the election and there was a palpable sense of relief, that finally we would have an administration that did not 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.

One of the most tragic instances that we are 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 that 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?

Senator Sessions. Senator Cruz, you touched on the right issue here. First and foremost, the immigration policy of the United States should serve the national interest, the people's interest. That is what an immigration system should do.

Number two, under the laws and world agreements, when a citizen from a foreign country is admitted by visa to the United States and commits a deportable act or otherwise needs to be removed, that country has to take them back. When they cease to do that, then you have a serious breach of collegial relations between the two countries. No country, particularly the United States, should ever allow in so many individuals who committed crimes here, often when they entered illegally, and not even coming on a lawful visa. They need to be deported promptly. The reluctance of carrying this out is baffling to me. It should have total bipartisan support. It is said that it does, but somehow it is never accomplished. So it is very, very frustrating. The basic summary of that is, it is perfectly proper, decent, and correct that this Nation not allow people who come here on a visa or illegally to remain here after they have committed crimes.

Senator 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 5-year prison sentence. This past Senate that failed to pass. It is my hope that 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 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 a 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 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 terror spots in the Middle East, Africa, and Central Asia. 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 have 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?

Senator Sessions. I would do that. I do believe that is a Homeland Security's primary responsibility, but it was a bit frustrating because what those numbers tend to indicate is that it is not true that refugees do not commit terrorist acts. There is a danger, even in the refugee population, and good

vetting is critical in that process.

Senator Cruz. Thank you, Senator.

Chairman Grassley. Senator Coons.

Senator Coons. Thank you, Mr. Chairman.

Senator Sessions, if I might, I would like to take us to an area I do not 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 would 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 ``lawsuit after lawsuit, special treatment for certain children, and is a big factor in accelerating the decline in civility in classrooms all over America.'' 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 6 days later after that ruling you said that you were ``very troubled'' by the Court telling States ``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?

Senator Sessions. We made 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.

The reason was that the burden was on the school systems. I was in a Blue Ribbon, great little school in Alabama on the first day of school and the principal told me, it is now 3; at 5, I will go to a meeting with lawyers and parents about 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 am trying to get this school up and running and I am 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 it, 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 the 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.

Senator Coons. Let me revisit a question about consent decrees that Senator Hirono was asking about previously, because consent decrees have been used in this area, in 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?

Senator Sessions. Well, those are difficult questions for me to answer explicitly today, but I would note on the consent decrees or the language Senator Hirono quoted, that my statements were simply part of the foreword to a booklet.

Consent decrees have been criticized in a number of areas. I am not familiar with how they have worked out in the disabilities arena, but with regard to police departments, I think it is a good thing that a police department might call on Federal investigators and a team 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, as I think you and I talked, it really is important that the people trust the police departments and the police departments have respect from the communities. When you do not have that, people's safety is at risk.

Senator Coons. Well, I hope we can find ways to continue to work together to combat violent crime and to improve police-community relations.

Let me just briefly ask you about trade secret theft and intellectual property, something we have also talked about. There is a significant problem for American inventions, companies, entrepreneurs, of having their innovations stolen, sometimes by cyber hack, by intrusions, sometimes physically through industrial espionage. The Obama administration has made real progress in 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?

Senator Sessions. I do. I think a lot of that may be through the U.S. Trade Representative, it could be done through the Commerce Department and other departments, and the Department of Justice may have a role----

Senator Coons. It does.

Senator Sessions [continuing]. In criminal activities or civil enforcement. I would not say for certain what that role would be at this point, but my view, as you and I have talked, is that you are correct about this. When we enter into a trade agreement with a foreign nation, we have to understand that it is just a simple contract and we will comply, we will deal with you on this basis, and if a party to that contract 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 is serious enough. I do not think we have been as aggressive as we should have been in those agreements.

Senator Coons. Let me ask one last question, if I may, Mr. Chairman. 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 have 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 that 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 has been a lot of questioning back and forth about your comments about whether the Voting Rights Act was intrusive in the Shelby County decision, and 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 that you witnessed the civil rights movement as it happened near you, that you witnessed the depredations of segregation. 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 this country?

Senator Sessions. Well, I do not think we have to agree on everything. Just because you think this was a necessary thing, you may be right, and if I do not think so I do not know that I am necessarily wrong. I would say that I did sponsor the Congressional Gold Medal Act that gave the Gold Medal to the Selma and Montgomery marchers with Senator Cory Booker. We were the two lead sponsors on it.

I was at that event and have a wonderful picture I cherish with John Lewis and other people on the bridge, celebrating that event. It changed the whole South. African Americans were being discriminated against systematically in voting. They were being flatly denied, through all kinds of mechanisms, and only a very few in 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 would not have happened without the power of the Federal Government. That is a plain fact.

Senator Coons. Senator, what I am 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 Voting Rights Act to continue 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 did not take that step.

Senator Sessions. Well----

Chairman Grassley. Senator Sessions, if you need to answer that, go ahead and answer it.

Senator Sessions. I will be short.

Chairman Grassley. I want to go to Senator Blumenthal.

Senator Sessions. As I said, I supported the reauthorization of the Voting Rights Act with Section 5 in it. When the Supreme Court said it was no longer necessary that Section 5 be in it, I did not support the language that you and Senator Leahy offered that would basically put it back in. So I do not apologize for that. I think that was a legitimate decision.

With regard to the question of voter ID, I am not sure it has been conclusively 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 under certain circumstances.

Chairman Grassley. Okay. Before Senator Blumenthal, I have another thing that has come to our attention, so I would 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 Sessions' 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.

[The letter appears as a submission for the record.]

Chairman Grassley. Senator Blumenthal.

Senator Blumenthal. Thanks, Mr. Chairman.

Senator Sessions, I want to pursue this conversation about voting rights. In October 2015, there was a report, widely reported, that the State of Alabama intended to close a number of DMV offices. Congresswoman Terry Sewell wrote to the Attorney General, Loretta Lynch, urging an investigation, stating, I am quoting, ``This decision will leave 8 out of 10 counties with the highest percentage of non-White registered voters without a Department of Motor Vehicles, DMV, to issue an Alabama driver's license.'' She noted that, ``an estimated 250,000 Alabamians who do not have an acceptable form of photo identification to cast a ballot.''

As you know, subsequently the Department of Transportation initiated an investigation under Title VI of the Civil Rights Act, and that year-long investigation found that Alabama's conduct caused ``a disparate and adverse impact on the basis of race.'' Did you believe, or do you believe now, that it was a problem that 250,000 estimated citizens of your State did not have the requisite ID to vote?

Senator Sessions. There is a system, I understand, that makes those IDs available. The driver's license offices were part of a budget-cutting process within the State, which I had absolutely nothing to do with, and did not know about until it was done. And they claim 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 that these objections arose, and they have reversed that, I believe. So that is the way that went. I hope there was no intent at the time to be racially insensitive, but indeed many of the closures were in counties with large African-American populations.

Senator Blumenthal. Did you believe then that there was a problem in denying 250,000 people an access to photo identification they needed to vote?

Senator Sessions. Well, it did not deny 250,000 people the right to vote. That would be utterly wrong and should be stopped immediately. But in this instance, it might have required people to go to the closest driver's license office in the next county which might be closer for you to go to than the one that was closed. But it was, in general, perceived as detrimental to African Americans, and included within that detriment was the possibility of an ID for voting. So you are correct. It was controversial, and it was fixed.

Senator 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?

Senator Sessions. Oh, I have never expressed an opinion upon it and I never studied that issue in depth. But apparently somebody must have agreed, because it was changed.

Senator Blumenthal. Did you agree with that conclusion?

Senator Sessions. Well, yes; I was happy that that solution was reached, yes. Very much. You know, we should remember those

things as we move forward, setting policy, what kind of ramifications it could have. I do not think they had voting on their minds at all, but it could impact voting to some degree, for sure.

Senator 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 voting rights of 250,000 members of the citizens of your State?

Senator Sessions. Well, they did not ask my opinion before they did it, and it was purely a State matter. And I did not actively intervene, you are correct.

Senator 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 would it not violate fundamental fairness, whether due process or some standard of constitutional due process, to use that information, in fact, against them? Obviously, we are not talking about a criminal proceeding, so there is no double jeopardy. But I guess I am asking for your commitment, as a prospective 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.

Senator Sessions. Certainly you are correct that that cohort of individuals should not be targeted and given priority anything like that which should be given to criminals and people who have had other difficulties in the United States--those who have been ordered deported and had final orders of deportation. I understand what you are saying there. I think, until I have 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 have got to wrestle with the priorities of their agents, how they should spend their time, and try to do that in the most effective way. So General Kelly will have to think that through. Simply, if some matter were litigated, we would try to be supportive of the litigating position, if possible. But it is really a Homeland Security question.

Senator 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 are a source of the Nation's conscience, legal conscience. And so I am asking you, as a prospective United States Attorney General, 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 with that policy, but 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 prospective commitment on your part in representing the United States of America.

Senator Sessions. Well, you make a good point, and that is 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. I would not want to be in a position to say they would never be used, and I cannot make that commitment today. I

have not 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 do not know. I am just not prepared to answer that today. It may not be possible to use it.

Senator Blumenthal. Well, I recognize, Mr. Chairman, my time is up. But I will pursue this line of questioning again, because I feel I am midway through a number of questions.

Thank you, Senator.

Chairman Grassley. Before I call on the Senator from Hawaii, I would like to note that Pat Edington, former vice chair of the Alabama Democratic Party, wrote to our Committee in support of this nomination. Mr. Edington says, "I truly hope our party will not make this vote on party lines, but instead vote on the man." 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." I will, without objection, enter that in the record.

[The letter appears as a submission for the record.]

The Senator from Hawaii.

Senator 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?

Senator Sessions. Yes.

Senator Hirono. Thank you. Very reassuring.

[Laughter.]

I had asked you earlier about consent decrees, to 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?

Senator Sessions. Those decrees still remain in effect in a number of districts. Huntsville is a very strong, healthy, and well-managed school system. I believe they have good leadership. But a consent decree remains in effect until it is altered by the Court.

Senator Hirono. So your answer is----

Senator Sessions. They would be enforced until there is an alteration of it, yes.

Senator Hirono. Thank you. I have a question about violence and the 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 the providers have more than tripled. Given the increasing numbers of violence targeting abortion providers, how high of a priority will it be for you to prosecute violence targeting abortion providers under the Freedom of Access to Clinic Entrances Act?

Senator Sessions. They deserve the same protection that any entity--business or otherwise--is entitled to, when people violate the law and carry out improper threats or blockades of their business.

Senator Hirono. Well, where there is----

Senator Sessions. Even more so, because we have a specific law about abortion clinics, I believe.

Senator Hirono. Yes. So there is a specific law that Congress passed that protects access to these clinics and where there is evidence of increasing number of threats of violence,

I hope that that gets on your radar screen as a priority for enforcement.

Senator Sessions. As the law is to be applied, yes. I do not know exactly how the threats are worded, but if it is improperly done, they can be subject to criminal prosecutions and they would be evaluated properly, in my administration.

Senator 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?

Senator Sessions. Well, under the current state of the law, it is accepted that they do obtain their citizenship. There are two obstacles to changing that. One would be 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. I have not reviewed the details of that. I do know there is some dispute about whether or not the Congress could change that status.

Senator Hirono. But it is 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?

Senator 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.

Senator Hirono. On turning to a change in the law that came about after the Lilly Ledbetter case, the Lilly Ledbetter Act, and I know you are familiar with the factual circumstance in which Lilly Ledbetter did not know that she had been given disparate pay--that was illegal. She did not find out about it, and the Supreme Court said you only have 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 am wondering why you voted against that bill. Because in making that decision, the Court basically abrogated years and years of legal precedent. It was a surprise to a lot of us that suddenly they were imposing 180-day, you-must-know kind of a requirement.

But you voted against that bill. Can you tell us briefly why?

Senator 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 notice, that the Court found that she had notice, and that is why they held that the statute of limitations was enforced.

You need a statute of limitations of some kind, and if they do not know, then you can allow it to continue indefinitely. But as I understood it, 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. That was one of the factors I remember being involved in my decision.

Senator Hirono. My recollection of the holding in that case is different from yours, because often in these pay discrimination cases, unlawful pay discrimination, the victim is not aware and has no way of finding out that such discrimination is occurring. And that is why the law made it very clear that every instance of a disparate paycheck would constitute a new violation, and that is 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.

Senator Sessions. My memory is not that good. But if you have explicit notice, hypothetically, should every paycheck for the next 20 years restart the statute of limitations? So that was the legal question. However, my recollection is not perfect.

Senator Hirono. I was very concerned about that case, and so I would say that perhaps my recollection of the holding is more accurate than yours.

Let me turn to corporate wrongdoing. When I just met with you, you indicated that nobody is above the law. And there is, I think, an ongoing investigation on the part of the Department of Justice what Wells Fargo did in basically defrauding millions of their customers.

So would you continue to pursue this kind of investigation, and would you also hold accountable individual corporate officeholders should there be found to have been a violation of law?

Senator 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 did not know anything about it.

Senator Hirono. That could not agree with me more.

Thank you, Mr. Chairman.

Chairman Grassley. Senator Franken, you said you had one more question you wanted to ask?

Senator Franken. Could I ask two?

Chairman Grassley. Go ahead.

Senator Franken. By the way, Chairman, I must compliment you. You have deferred your time to us all, and I thank you.

Chairman Grassley. I have not given it up. I have just----

Senator Franken. No, you deferred it.

Chairman Grassley. Please proceed. You are taking time.

[Laughter.]

Senator Franken. Okay.

Senator, I would 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 have highlighted that 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 that you did not realize the extent of the problem.

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

If you take the issue of domestic and sexual violence seriously, I think it is incumbent upon you to visit at least one Tribe. I think Alabama has nine Tribes that are recognized in the State, is that correct?

Senator Sessions. Well, I believe, only one Tribal group that has properties on Tribal lands.

Senator Franken. The Poarch?

Senator Sessions. Poarch Creek. Used to be in my district; I have had good relations with them. Been on that small Tribe's lands a number of times and visited their clinics.

Senator Franken. Okay, good. Well, I would--if you are Attorney General--and even if you are not, but certainly if you are Attorney General, when you are back home you might take some time to talk with them about this issue. Earlier, you told Senator Hirono that you cannot commit to not challenging VAWA on these grounds. But you have also admitted that you did not understand the gravity of the problem of violence 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.

Senator Sessions. They have been supportive of me.

Senator Franken. Thank you.

I want to talk about one last thing.

Chairman Grassley. You have got one more question.

Senator Franken. Thank you. Thank you, Mr. Chairman.

The day before the election, 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 ``import generations of terrorism, extremism, and radicalism into your schools and throughout your communities. Here in Minnesota,'' he said, ``you have 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 or approval, and with some of them joining ISIS and spreading their extremist views all over our country and all over the world.''

I cannot 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--Somali Minnesota immigrants--work and earn--well, 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 it was not 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, no, you said that the idea was ``appropriate to discuss.''

In June you said, ``We must face the uncomfortable reality that not only are immigrants from Muslim-majority countries coming to the United States, radicalizing, attempting to engage in acts of terrorism, but also their first-generation American children are susceptible to the toxic radicalization of terrorist organizations.''

You said that our Nation has an ``unprecedented assimilation problem.''

You know, Senator, part of what makes that assimilation challenging is when people seeking to lead 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 school teacher in St. Paul. Her school has a very sizable population of Somali-Americans, Somali-Minnesotan kids. Now, they are smart kids, so they have 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 to make of a country, their country, electing a leader who describes them and their families as worthy of hatred and suspicion. So I did my best to alleviate their fears that day. I told them, ``You are Americans.''

I said, ``You kids, you are Americans. Do not be afraid.''

A couple of weeks later, I talked to the French Ambassador to the United States. I said to him, ``Who is defined as a

Frenchman in France?' And he said, ``Somebody 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 do not take this attitude, and it is dangerous to take it.

One of the most beautiful events I have been to was the graduation--high school graduation, Wilmer, Minnesota, in June. I invited myself there because one of our pages, our Senate pages, was from Wilmer and she is Somali. A Somali Minnesota girl. When I saw her on Election Day, I was at the University of Minnesota; she graduated and went to the University of Minnesota. She told me her sister, her younger sister, was named the Wilmer Homecoming Queen. In Europe, they do not assimilate people. Here in the United States, we vote them Homecoming Queen.

Thank you.

Chairman Grassley. Senator Tillis.

Senator Sessions. They are Americans.

Chairman Grassley. Senator Sessions, if you want to respond, go ahead.

Senator Sessions. Well, I think Senator Franken makes some important points, and I appreciate his comments.

Senator Franken. Thank you.

Chairman Grassley. Senator Tillis.

Senator Sessions. Although I do believe my comment was unrelated to the event in your State.

Chairman Grassley. Senator Tillis, you are entitled to 10 minutes--first round, but you do not have to use it all.

[Laughter.]

Senator Tillis. I have learned nothing else except to understand what the Chairman means when he says that.

Chairman Grassley. I want to do my second and third round.

Senator Tillis. No, Mr. Chair, I am not going to take long. And Mr. Chair, you know, and Senator Sessions, I think that you know that I was in Tennessee today for the proud moment of seeing my brother 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 have demonstrated more stamina today than the Crimson Tide did last night against a worthy adversary.

But Senator Sessions, I am not going to ask a lot of questions. I am 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, an egalitarian.

I have seen you sit on the Immigration Subcommittee, and you have seen me come to every one of those meetings and you know you and I have a difference of opinion on that matter. What is remarkable about you is you bring balanced panels to discuss the issue so that both sides can be heard, and you never, ever hesitated to let me speak as long as I want to, which I am sure was a lot longer than you wanted me to. And I really appreciate your leadership, because that is what is missing oftentimes up here in the Senate. And we are going to miss you, and I am going to look forward to voting for you and for your confirmation.

I asked the same question of the Attorney General that was before this Committee two years ago, and I want to ask you because it is 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, an Inspector General's report that says that they need to increase

accountability in the Department of Justice--and I will 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 did not support the AG nominee.

Could you tell me if you have had an opportunity to take a look at those recommendations and to what extent those recommendations would be instructive to you, now that you have become the--when you become the Chief Executive of that agency?

Senator Sessions. I am glad you raised it and I hope you will stay on the Department of Justice to respond to it. I have not studied it. Some time ago, I believe, I had a briefing on the nature of it, but it does appear to me to raise fundamental questions about the good management of the people's money. That money needs to be managed effectively--every single dollar--to get positive results, not wasted. And I will be glad to hear any suggestions you have and it will be a priority of mine.

Senator Tillis. Thank you.

Senator Sessions. In fact, you are the third person that has raised it, and so I think what we need to do, and I will do, is an immediate analysis of it if I am so fortunate as to be confirmed.

Senator Tillis. Thank you, because we will be following up on it. This is something that I think is very important to me. And really a specific question in that regard, I hope you will look at it, and when you get confirmed, make it a priority to look into.

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?

Senator Sessions. The Department of Justice is a great institution. Most of the people are people of the highest character and ability.

Senator Tillis. Without a doubt.

Senator Sessions. However, we have had a series of problems over time 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 re-emphasize 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, high-profile case; they do not know the community very well. Maybe they have not tried as many cases as a United States Attorney in the field that does that every day. Things can go wrong. We need to do better.

Senator Tillis. Well, I thank you for that. Also, just by way of comment, the Chair lifted 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 will actually respond to all of them. 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 will just yield back the rest of my time after saying that I watched--I probably watched a good 3 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 welling up because she and your son know you well. Many of us know you well. And I think all of us know that you are going to make a great Attorney General. You are a fair-minded man, and you are 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 cannot wait to see you in action.

Thank you, Senator Sessions. Thank you, Mr. Chair.

Senator Sessions. Thank you.

Chairman Grassley. Before we start the fourth round, I do not think you have had your third round, Senator Sasse, so proceed.

Senator Sasse. Thank you, Mr. Chairman.

Chairman Grassley. You have got 8 minutes. You do not have to use it all.

Senator Sasse. Thank you for the counsel for a rookie. I also did not 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.

[Laughter.]

Senator Sasse. I would like to ask you a question about sue and settlement. I have heard from Nebraskans how regulations are gamed 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 am curious as to what you think when plaintiffs and the Government enter into a settlement to try to change policy.

What is the appropriate role of the Department of Justice to make sure that that agreement does not circumvent the law and the Congress and the Administrative Procedure Act?

Senator Sessions. The Department of Justice has final settlement authority in any case against the United States, although they can 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 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 settlement, this consent decree that we have been talking about. I pointed out that it is, at times, controversial. So if the officials at the Environmental Protection Agency believe that a law should be expanded and they are sued by a group that wants to expand the law in the same way, and if the Department of Justice goes along with the agency and agrees to a settlement and gets a court to order this to occur, then the Government is bound by their settlement agreement. The democratic process is eroded because a decision is being made by unelected people and not the legislature.

So you understand, and I think that was a fundamental part of your 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 legal and justified and in the national interest.

Senator Sasse. And there have been occasions, there have been reports that it has been the practice of DOJ at times to force violators to make certain payments to approved third parties as a condition of settlement. As a hypothetical, there have 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.

When, if ever, is it appropriate for the Department of

Justice to require payments to any third party as a part of a settlement?

Senator Sessions. I think that is a very dubious practice. I would be cautious about it, and we would have to make sure it is justified. And normally that is not the best way to settle a case, in my opinion.

Senator Sasse. And, finally, the Judgment Fund that the Department of Justice administers is a general fund that is available to compensate those who sue the Government and win. Unfortunately, how this money ultimately gets used is not fully known by the Congress.

Will you commit to making public the use of these funds?

Senator Sessions. The funds that are not paid out or funds that are paid out as part of a litigation?

Senator Sasse. In the Judgment Fund, the Department has the discretion to determine how to settle these cases and what payments to make. But the Congress and the public often do not know where this money goes.

Would you commit, as Attorney General, to being transparent with where the funds go out of the Judgment Fund?

Senator Sessions. I would be surprised if it is not public, and it should be available to the public. They should know how a lawsuit is settled and where the money went, absolutely.

Senator Sasse. Thank you, Senator.

Chairman Grassley. Before Senator Blumenthal follows up on some things he wanted to, we received a letter in support of Senator Sessions' nomination from 108 former U.S. Attorneys who served under every President since President Nixon. They say, "We have no doubt that Senator Sessions can do the job well, bringing to this critically important office his own unique and extraordinary strengths of courage, humility, experience, and an inviolable promise to treat all people equally under the law."

Without objection, I will insert that in the record.

[The letter appears as a submission for the record.]

Chairman Grassley. Senator Blumenthal.

Senator Blumenthal. Thanks, Mr. Chairman.

Senator Sessions, in response to 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 is almost an exact quote from Justice Jackson when he was United States Attorney General. It is 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 is 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 have 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, which 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 counsel may be necessary; and, similarly, your response on recusal from votes on your prospective colleagues appointed by the President-elect where you have not yet responded to the letter that I wrote.

I am not going to take more time this afternoon or tonight, but I think that I remain unsatisfied on those questions. And, in general, 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.

Senator Sessions. Thank you, Senator Blumenthal, and I respect your history as a prosecutor and United States Attorney and time in the Department of Justice.

Senator Blumenthal. Thank you.

Chairman Grassley. Thank you, Senator Blumenthal.

Senator Sessions, you have 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 have 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 would prohibit companies 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 a large number of H-1B and L-1 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 seemed 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 and 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 L-1 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. Some of those who signed that letter sat on this panel today, for instance, Senator Durbin and Senator 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. worker 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.

This is my question: Will you be more aggressive in investigating the abuses of these visa programs?

Senator Sessions. Mr. Chairman, you know, I believe this has been abused, and I have been pleased to support your legislation, and some others' too, that I believe could be helpful. It needs to be addressed. It is simply wrong to think that we are in a totally open world and that any American with a job can be replaced if somebody in the world is willing to

take the job for less pay. We have borders. We have a commitment to our citizens. And you have been a champion of that. I have 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 legislation may be necessary to have the kind of reforms that we need.

Chairman Grassley. I appreciate your answer. We will continue to push for the legislation. We have been very difficult moving that legislation along because of business oppositions within our country. 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 do not get legislation passed. But we still intend to pursue that.

Now on another point, as you know, relationships between law enforcement and the communities they serve have been strained. You have already spoken to that in your opening comments. In many instances, police have been specifically targeted.

Now tomorrow, it is my understanding, the president of the Fraternal Order of Police will testify about this issue. But I would also like to hear from you on this point. We obviously need to 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?

Senator Sessions. It is essential that this Nation support those that we send out to provide public safety and affirm their good deeds. 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 majority of our law officers are dedicated, faithful individuals, serving their country and their community with discipline and integrity and courage.

So I think this is an important matter. 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 a positive factor, and that all officers are not performing at 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.

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. Some stunning numbers, and part of this is a corrosion of respect between the communities and law officers. I think it is a dangerous trend we must reverse and reverse soon.

Chairman Grassley. My next question deals with agricultural antitrust. I do not believe that there should be political decisions involved in antitrust decisions in your Department. But there are several high-level agricultural mergers going on right now, one before DOJ, one before the FTC, and then there is another one I do not think has been assigned yet. I come from the standpoint of being in agriculture 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 inputs. That is in agriculture, but that would be true of any segment of the economy.

I also--before I ask this question--want to make a point that I do not think there are 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 do not know if it was a Clinton one or the Bush one--to say they were going to have somebody in the Antitrust Department that knew something about agriculture, and I think they did put somebody there. I do not know whether that person is still there or not.

So this is my question: I am concerned about 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 agribusiness, competition matters, and carefully scrutinize proposed agriculture mergers and acquisitions, and can you assure me that the agricultural antitrust issues will be a priority for the Justice Department if you are confirmed as U.S. Attorney General?

Senator Sessions. There has been controversy on a number of those issues over the years that I am, generally, aware of. Without committing and commenting on any particular case, I will, Senator Grassley, be pleased to honor your request.

Chairman Grassley. In 1986, 10 years before you came to the United States Senate, I got the False Claims Act passed. It has brought 53 billion dollars back into the Federal Treasury since then.

If you are confirmed, will you pledge to vigorously enforce the False Claims Act and devote adequate resources to investigating and prosecuting False Claims Act cases?

Senator Sessions. Qui tam provisions are a valid and 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 could have a whistleblower that would blow the whistle on them if they try to do something that is improper. So I think it has been a very healthy thing. You are to be congratulated for that, and I do support that act.

Chairman 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 am glad to hear you say that. I do not 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 FCT, False Claims Act cases, including statistics as to how many are under seal and the average length of seal time?

Senator Sessions. I would do that. My experience has been that they take an awfully long time.

Chairman Grassley. That is exactly why I am asking the question. And updates from time to time, I think, will keep people within your Department more responsive and responsible.

Senator Sessions. I understand that. I do not know if a report is required now, but I do not see why it would be particularly difficult to provide that to you.

Chairman Grassley. Okay. I have a long lead-in to another question. I am just going to ask you if you would tell us, for the record, your reasons for opposing the 2013 Immigration Bill.

Senator Sessions. Mr. Chairman, fundamentally, I believe that it would not end the lawlessness, and it would grant amnesty. That is 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 did not happen.

So, instead of 3 million people, the estimates are that we

now 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 do not 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 that result occur. We will have to call on Congress to help some.

You understand the issue, and you have been supportive, but we may have to pass some legislation. Not a lot can be done with current law, but I would love to be part of an effort with this Committee to restore the immigration system to the high level at which it ought to be.

Chairman Grassley. I want to return to the issue of Violence Against Women Act. I know that for me, that bill did not do enough to fight fraud and abuse. That is 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 ensured 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 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 combatted 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?

Senator Sessions. Yes, I will, Mr. Chairman.

Chairman Grassley. That is 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 is the highest administrative body for interpreting immigration laws, hearing 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 are 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?

Senator 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, and I have the ability to do it, I will try to conduct myself properly in making those changes.

Chairman Grassley. Two more points. Oversight by Congress is important. You have already said that. I am glad you know the necessity of that. But Congress cannot do all the oversight needed on its own. We need to rely on strong Inspectors General to provide another independent assessment on the operations within the executive branch. That is 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. The reason I ask the question is, probably it happens in more departments, but I pay a lot of attention to DOJ, and I think there has been some problems within DOJ of

recognizing and cooperating with the independence of the Inspector General.

Senator Sessions. Yes, that independence should be respected and should be had. I am familiar with some cases in which the independence of the Inspector General is less than that, in general, throughout the Congress, and I have been willing and interested in strengthening their independence.

It is a challenge. The Inspector General is appointed by the agencies for the most part, I believe. But if they are not seen as independent, then they cannot be the effective body that we would like them to be. They have staffs. They have the ability to contribute to saving money. I believe in the Inspector General's process.

Chairman Grassley. Before I ask the last question, whatever reputation I have for investigation and 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. I hope that--I do not know how many thousands or tens of thousands of employees you are going to be administering over. You cannot 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 is supposed to do, or spend money the way the Government is supposed to spend it. And then when they do not get anything going up the chain of command, that is when they become whistleblowers and they come to us. And by that time, even if they are protected under law, they still ruin themselves professionally. So I hope that you see them as a source, so you can administer a better Department and do what the Government is supposed to do.

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 is against the law to retaliate.

Senator Sessions. You are correct about that. And it is not acceptable to retaliate against a whistleblower. Some 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 have 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. We need more of that in this Government.

Chairman Grassley. I thank you very much. I would like to have you and other people listen to a couple of points I want to make at the tail end.

I want people to know that we will 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, but 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 are eminently qualified to serve as Attorney General, and I have every confidence that you are going to do a superb job.

Senator Sessions, you are excused. We will reconvene tomorrow morning at 9:30 for Panel II.

[Whereupon, at 8:02 p.m., the Committee was recessed, to reconvene at 9:30 a.m., Wednesday, January 11, 2017.]

[Additional material submitted for the record for Day 1 follows Day 2 of the hearing.]

CONFIRMATION HEARING ON THE
NOMINATION OF HON. JEFF SESSIONS
TO BE ATTORNEY GENERAL
OF THE UNITED STATES

WEDNESDAY, JANUARY 11, 2017

United States Senate,
Committee on the Judiciary,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in Room SR-325, Russell Senate Office Building, Hon. Charles E. Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley, Hatch, Graham, Cornyn, Lee, Cruz, Flake, Tillis, Sasse, Crapo, Feinstein, Leahy, Durbin, Whitehouse, Klobuchar, Franken, Coons, Blumenthal, and Hirono.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY,
A U.S. SENATOR FROM THE STATE OF IOWA

Chairman Grassley. Good morning, everybody. I welcome everyone back for our second day of the hearing on Senator Sessions' nomination for Attorney General. As I said yesterday, I want everyone to be able to watch the hearing without obstruction. If people stand up and block the views of others behind them, or if they speak out of turn, it is not fair or considerate to others, so officers will remove individuals, as they have previously.

Before we begin with opening statements from the panel, I want to go over a couple of housekeeping items and explain how we are going to proceed today.

Senator Whitehouse will be acting as Ranking Member today, and I will give an opening statement, and he can if he wants to as well. I welcome that. Then we will turn to our witnesses for their opening statements. Following their statements, we will begin with the first round of questions in which each Senator will have 7 minutes. After we finish asking questions of the first panel, we will turn to the final panel for their testimony. And in regard to the timing of that, it will kind of depend upon when this panel is completed. But if we get this panel completed, let us say, around lunch or 12:30 or 1 o'clock, we may adjourn for an hour or so at that time. But I will not be able to make that determination until we finish here with this panel.

Yesterday, we met here from 9:30 until about 8 p.m. so that every Senator, both Democrat and Republican, could ask Senator Sessions as many questions as they wanted to. We had great cooperation yesterday, and I should thank everybody for that cooperation, and we will press ahead today.

We heard from Senators Shelby and Collins who gave their strong endorsement of Senator Sessions. Their introductions described Senator Sessions' extensive experience, outstanding qualifications, and character.

I also want to note that yesterday Senator Feinstein participated in her first nomination hearing as the new Ranking Member. I am looking forward to working with her in her new

capacity, as I said yesterday.

In her opening statement yesterday, Senator Feinstein correctly observed, and I would like to quote, a fairly long quote: ``Today we are not being asked to evaluate him''--meaning Senator Sessions--``as a Senator. We are being asked to evaluate him for the Attorney General of the United States--the chief law enforcement for the largest and best democracy in America.'' She continued, ``As Attorney General, his job will not be to advocate for his beliefs. Rather, the job of Attorney General is to enforce Federal law, even if he voted against a law, even if he spoke against it before it passed, even if he disagrees with the precedent saying that the law is constitutional.'' Then she concluded, ``This hearing must determine whether this Senator will enforce the laws that he voted against.''

And yesterday, through 10\1/2\ hours of testimony, we got a clear and unequivocal answer to this threshold question. He was asked repeatedly if he would enforce the law, even if he disagreed with that law as a matter of policy.

Time and again, Senator Sessions reaffirmed his commitment to this fundamental principle. As Attorney General of the United States, his solemn duties, as we all know and expect, are to the Constitution and to enforce the laws duly enacted. His fundamental commitment to the rule of law emerged as a central theme of our discussion yesterday. And as I made clear in my opening statement, that is what I believe the Department desperately needs.

Yesterday's testimony further convinced me that Senator Sessions is the right choice to serve as our Nation's chief law enforcement officer at this critical time. We know that he is very well qualified for the position, having served for 15 years as a prosecutor and now 20 years as a Senator, so that is three decades of public service.

We all know Senator Sessions will be up front with you. When he says that he is going to do something, he will do it. Senator Sessions will be an independent Attorney General, as he has been asked so many times yesterday and about his enforcement of the law. That is the bottom line.

I now turn to Senator Whitehouse.

OPENING STATEMENT OF HON. SHELDON WHITEHOUSE,
A U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator Whitehouse. Thank you very much, Chairman. Let me just make some very brief remarks.

First, I cannot help but note, as a general proposition, hearing after hearing, the effort to push nominees into confirmation hearings before their FBI background checks are complete, before their ethics and financial disclosure filings are concluded, and I would like to put into the record of this hearing the letter that Senator Schumer, Minority Leader Schumer, wrote to Majority Leader McConnell in which he took a letter that Majority Leader McConnell had written to--Minority Leader McConnell had written to Majority Leader Reid and simply changed the names. He wrote ``Dear Mitch'' in place of ``Dear Harry,'' and he signed his own name at the bottom. And it was, thus, a verbatim letter, and what we have been asking for is exactly what Republicans have asked for over and over again, what has long been the tradition of the Senate.

It is not the Senate's fault that the Trump administration was not prepared and that it did not have its nominees vetted in place. I know that Senator Sessions has been one of the nominees who has been prepared, but I cannot help but point out that across the board, the ramming of unvetted nominees, the stacking of hearings on top of hearings, and the jamming of all

of this up against an unprecedented vote-a-rama for a no-hearing budget creates, I think, an unfortunate new precedent in the Senate.

The point that I will make about the Department of Justice, as somebody who has served in the Department of Justice, like many of my colleagues or a number of my colleagues, is that I think there is legitimate concern based on the hectoring in the right-wing groups for a general housecleaning of career staff and for a particular targeting of named career staff. As I mentioned in my questioning yesterday, one of the Heritage Foundation spokespeople made the comparison to the Augean stables and ``filth'' as having to be washed out of the Augean stables. I do not think it is fair to characterize the career employees of the United States Department of Justice as ``filth,'' nor do I think it is proper to assert that this should not be secular. And I think it is a matter of concern when an Attorney General thinks that a secular attorney may have a lesser or a different appreciation of truth than a religious attorney. Particularly coming from Rhode Island, where freedom of conscience has been such a principle of core value since the days of Roger Williams when Providence was a tiny settlement in the wilderness where people who thought freely were able to get away from the theocracy of Massachusetts, we have a long history of concern about that kind of evaluation of career department professionals.

Finally, I would say that after a very divisive campaign that left a lot of Americans and a lot of communities feeling very wounded and very vulnerable and very set upon, and after a promise that he would be President for all Americans over and over and over and over again, we are seeing an array of Cabinet nominees who run far to the right and, frankly, in many cases come out of the swamp that the President-elect promised to drain.

So I thank you, Mr. Chairman, for the, I think, thoughtful and fair way in which you have run this hearing. I thought that Senator Sessions handled himself very well by staying until all the questions were answered. I appreciate the procedure that you have gone through, but I did want to make a record of those concerns from our side about the larger process in which these nominations hearings are taking place.

And with that, I yield back to you, sir.

Chairman Grassley. Thank you.

Before we swear witnesses and I introduce them, I promised Senator Coons a point of personal privilege on one of the nominations.

Senator Coons. Thank you, Mr. Chairman. I had asked for the opportunity to introduce my friend and colleague from law school, Cornell Brooks, but I am perfectly happy to wait to do so until there are other introductions afoot or to do it right now.

Chairman Grassley. I would rather have you do it now, if you would, please.

Senator Coons. Okay. Thank you, Mr. Chairman.

I am pleased to introduce Dr. Cornell Brooks, the president and CEO of the NAACP as one of our many witnesses on this distinguished panel here today. Mr. Brooks has dedicated his entire career to ensuring that Americans truly enjoy the promise of equal protection of the law.

Before assuming leadership of the NAACP in 2014, he was head of the Newark, New Jersey-based Institute for Social Justice, and fittingly for a hearing on the nominee to lead the Department of Justice, his early experience was being a part of the Department of Justice as a trial attorney, where he secured the then-largest Government settlement for victims of housing discrimination and filed the Government's first lawsuit against

a nursing home alleging discrimination based on race.

He was also executive director of the Fair Housing Council of Greater Washington, a trial attorney with the Lawyers' Committee for Civil Rights Under Law, and a law clerk to the Honorable Samuel J. Ervin, III, on the Court of Appeals for the Fourth Circuit. He is a fellow alum of Yale Law School, holds a Master of Divinity degree from Boston University School of Theology. He is not just a lawyer and social advocate but a fourth-generation ordained minister in the African Methodist Episcopal Church, a husband, and father of two sons.

Mr. Brooks, thank you for your leadership in the work of justice around our Nation, and I look forward to your testimony here today.

Thank you, Mr. Chairman.

Chairman Grassley. You bet.

I am going to ask you to stand and swear you in before I introduce you. Would you raise your right hand? Do you affirm that the testimony you are about to give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Mukasey. I do.

Sergeant Vazquez. I do.

Mr. Kirsanow. I do.

Ms. Swadhin. I do.

Ms. Sepich. I do.

Mr. Brooks. I do.

Mr. Canterbury. I do.

Mr. Cole. I do.

Mr. Thompson. I do.

Chairman Grassley. Okay. I notice that all of you have affirmed that. Thank you very much. Please sit down.

The 81st Attorney General of the United States was the Honorable Michael Mukasey. Mr. Mukasey has also served as a U.S. Attorney and a district court judge in the Southern District of New York. We thank him for coming.

Our second witness is Oscar Vazquez. He became a citizen of the United States in 2011 and served honorably in Afghanistan with the U.S. Army. We welcome you and thank you, obviously, for your military service.

Our next witness, Peter Kirsanow, is a member of the U.S. Commission on Civil Rights and is very familiar with this Committee, and we are familiar with you. Thank you for coming.

Next is Amita Swadhin. She is a sexual assault survivor and co-founder of Mirror Memoirs. I hope I am right on that. Welcome to you.

Then we have Jayann Sepich, the mother of Katie Sepich. She is the founder of Surviving Parents Coalition.

Our next witness, Cornell Brooks, you have heard introduced, but let me further say that he is president of the National Association for the Advancement of Colored People, and he is well known to us as well. Thank you for being here today.

Chuck Canterbury is the national president of the Fraternal Order of Police. He is familiar to a lot of us as well, so we welcome you.

Next we will hear from David Cole, national legal director of the American Civil Liberties Union. He is also a professor at the Georgetown Law Center. We welcome you.

And, finally, we will hear from Larry Thompson. He served as Deputy Attorney General under President Bush, as a well-known U.S. Attorney for the Northern District of Georgia, and welcome back to the Committee, Mr. Thompson.

So I think we will start with Mr. Mukasey, and we are going to hear testimony from all of you, and then we will have questions, as I indicated, 7-minute rounds. So proceed, will you, General Mukasey?

STATEMENT OF HON. MICHAEL B. MUKASEY, FORMER ATTORNEY GENERAL,
U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. Mukasey. Thank you, Chairman Grassley, Ranking Member Whitehouse, Members of the Committee. This is one of those occasions that is both an honor and a pleasure: an honor to appear before this Committee and a pleasure to speak to the qualifications of Senator Sessions to serve as Attorney General.

I have submitted a statement to the Committee, and I am happy to answer any questions relating to it or to any other subject that the Committee thinks is relevant to passing on the qualifications of Senator Sessions. But, of course, I am here for the convenience of the Committee, not simply to orate. And after watching yesterday's hearing and Senator Sessions' responses to the Committee's questions, I think the only thing I have to add to what I have already submitted at this point is to say that the person you saw and heard yesterday is very much the person I came to know beginning in 2007 when I first appeared before this Committee: principled, intelligent, knowledgeable, thorough, modest, and thoroughly dedicated to the rule of law and to the mission of the Department, which is to enforce the law and to preserve our freedoms.

So I thank you very much for hearing me.

[The prepared statement of Mr. Mukasey appears as a submission for the record.]

Chairman Grassley. Does that complete your testimony?

Mr. Mukasey. It does.

Chairman Grassley. Thank you.

Now, Sergeant Vazquez, thank you. Please proceed.

STATEMENT OF OSCAR VAZQUEZ, FORMER DREAMER,
U.S. ARMY VETERAN, FORT WORTH, TEXAS

Sergeant Vazquez. Chairman Grassley, Ranking Member Whitehouse, thank you for the opportunity to testify before the Committee. My name is Oscar Vazquez, and I am proud to be an American.

I was born in a small town in Mexico. I was 12 years old when my mother and I boarded a bus for the border. Although I did not make the choice to come to America, this country quickly became my home. As soon as we were settled in America, my parents made sure that I was enrolled in school because they wanted me to understand the value of education. It was at this point that I started to develop a passion for math and science since the formulas and equations transcended the language barrier.

In high school, I joined the JROTC program where my two instructors were Vietnam veterans. They taught us the value of selfless service, whether you were able to provide it in the military or not. They wanted us to be better Americans. I loved the order and discipline and was eventually awarded the JROTC Officer of the Year. During my sophomore year, soon after 9/11, I saw the "Band of Brothers" miniseries, and I knew then I wanted to join the Army. But when I met with a recruiter, I was told that I could not enlist because I was undocumented. I left that meeting not knowing what to do or what was next. I was devastated.

I knew I had to figure out what else I could do with my life. At the beginning of my senior year, I joined the robotics club. Our team of undocumented students entered a NASA-sponsored national competition, and we designed an underwater robot, which we named "Stinky." Beyond our wildest dreams, my high school team won the grand prize for the competition.

against some of the country's top technical universities.

Winning the competition was proof that we as DREAMers had something to offer to the country we always considered our home. Although I could not contribute to my country by joining the military, I enrolled at Arizona State University and decided I could contribute by becoming an engineer.

In 2005, I married my wife, Karla, a U.S. citizen. She started the process of petitioning for my legal status, but as is the case with many DREAMers, there were enormous legal obstacles and substantial risks.

While I was a student at Arizona State, the Arizona Legislature passed a law prohibiting undocumented students from receiving in-State financial aid and paying in-State tuition. Even though Arizona had been my home for many years and I was married to a U.S. citizen, I was treated like an outsider. The law tripled my tuition, but through private scholarships and by working construction, I scraped the money together to pay for college and support my family. I graduated in 2009 with a degree in mechanical engineering.

This was 3 years before the Deferred Action for Childhood Arrivals was established, so even though I had a STEM degree and there were jobs available, no one would hire me in this field because I did not have legal status.

In 2010, after completing a legal process that involved substantial hardship to my family, I was able to get a green card. Having legal resident status changed my life. I was able to get a driver's license, travel freely within the United States, and pursue my career in engineering. The biggest change that I noticed was the fear. I was no longer afraid of being deported or being forcibly separated from my family. I could also pursue my dream of joining the military and become a paratrooper. I enlisted in the United States Army and started basic training in February 2011. I wanted to fight for the country that raised me. Saying I love this country was not enough. I wanted to let my actions speak for themselves.

Shortly before I finished basic training, I became a U.S. citizen. A couple of weeks later, I found myself jumping out of a C-130 flying over Fort Benning, Georgia. And a couple of months after that, I was deployed to Afghanistan. I looked forward to combat because I wanted to protect the United States. Serving in the Army allowed me to contribute more fully to this country and make it safer. I was following in the footsteps of countless other immigrants who have proudly served the United States. In Afghanistan, I fought side by side with my Army brothers. We wore the same uniform with the U.S. flag on the same shoulder. It mattered more that we were willing to die for each other and for our country than where we came from.

To this day, I remember how I felt after our first firefight in Afghanistan. I had put my life on the line for my brothers and for my country, and I felt really proud to be an American. I felt then for the first time that no one could again question whether I am an American. It has been a great honor to serve my country.

My son, Oskar Maximus, is 4 years old and in preschool. My daughter, Samantha, is 8 years old and in third grade. We live outside of Fort Worth, Texas, where I volunteer at two different high schools in their respective robotics programs. I feel that my family is living the American dream. But I want to continue serving my country, and I will soon join the Army Reserve.

I think now about all the doors that were unlocked for me when I gained lawful permanent residence--the ability to get the job of my dreams, provide for my family, and live without fear. I cannot imagine what it would be like to have that taken away from me today. I also cannot imagine what it is like today

for my former teammates and the nearly hundred thousand DACA recipients who do not have a legal status and who are afraid of what could happen to them in a matter of days. Of course, DACA is only a temporary solution, and now even that is at risk.

I hope that you will not view my story as that of someone exceptional; rather, I am where I am today because of the many great people that have believed in me and have given me a chance.

I also want to acknowledge that most DREAMers and most undocumented immigrants do not have a path to legal status right now. I wanted to come here today because our country's top law enforcement officer must be someone who understands that immigrants make our country stronger. Most Americans agree that it is not right to deport someone who was brought here as a child and deport them to a country they might not even remember. We need an Attorney General who will protect the American people from those who would do us harm, but who will also show mercy to those who deserve it.

Thank you again for the opportunity to testify. I look forward to answering your questions.

[The prepared statement of Sergeant Vazquez appears as a submission for the record.]

Chairman Grassley. Thank you very much, Sergeant.

Now, Mr. Kirsanow. Have you pushed the red button or whatever color the button is?

STATEMENT OF PETER KIRSANOW, COMMISSIONER,
U.S. COMMISSION ON CIVIL RIGHTS, CLEVELAND, OHIO

Mr. Kirsanow. Thank you, Chairman Grassley, Ranking Member Whitehouse, and Members of the Committee. I am Peter Kirsanow, a member of the U.S. Commission on Civil Rights and a partner in the Labor and Employment Practice Group of Benesch, Friedlander. I am here in my personal capacity.

The U.S. Commission on Civil Rights was established pursuant to the 1957 Civil Rights Act to, among other things, act as the national clearinghouse for matters pertaining to denials of equal protection, discrimination, and voting rights, and in furtherance of that clearinghouse function, my assistant and I reviewed the bills sponsored and cosponsored by Senator Sessions in his tenure in the Senate, as well as his public activities and actions that are at least arguably related to civil rights.

Our examination found that Senator Sessions' approach to civil rights matters both in terms of his legislative record and his other actions is consistent with mainstream textual interpretation of relevant statutory and constitutional authority, as well as governing precedent.

Our exam also reveals that Senator Sessions' approach to civil rights is consistent, is legally sound, intellectually honest, and has an appreciation and understanding of the historical bases for civil rights laws. And our examination found that several aspects of Senator Sessions' record, unfortunately, have been mischaracterized and distorted to portray him as somehow being indifferent if not hostile to civil rights.

The facts emphatically show otherwise. Among other things-- and this is probably least consequential--Senator Sessions has sponsored or cosponsored a plethora of bills honoring significant civil rights leaders, events, icons, such as Reverend Martin Luther King, Jr., Coretta Scott King, Reverend Shuttlesworth's fight against segregation, three separate bills honoring Rosa Parks, a Senate apology to the descendants of victims of lynching, a bill to honor participants in the Selma Voting Rights March, a bill to honor the victims of the 16th

Street Baptist Church bombing, and on and on and on. But Senator Sessions' commitment to civil rights transcends simple resolutions in support of civil rights. He has authored, cosponsored, or sponsored a number of bills to protect and enhance voting rights, such as the Federal Election Reform Act of 2001, the Voter Fraud Protection Act of 2009, a number of bills to protect and enhance the voting rights of servicemembers, particularly those serving overseas.

He is a strong proponent of religious liberty, having sponsored or cosponsored several bills to prevent discrimination against the religiously observant and to prevent the Government from substantially burdening the free exercise of a person's religious beliefs. But in our estimation, his most profound and important impact is on preserving and protecting the rights of American workers, particularly Black workers.

The employment and wage levels of Black workers in America have been abysmal for several decades. The labor force participation rate for Black males is 61.8 percent and falling. The unemployment rate for Black males is nearly double that of White males. Evidence adduced before the U.S. Commission on Civil Rights shows that 40 percent of the 18-point decline in Black employment levels is attributable to Government failure or refusal to enforce existing immigration laws, and this has a cascade effect by increasing the competition within the unskilled and low-skilled marketplace, driving out Black workers, slashing wages, particularly among Black males. And this has resulted in hundreds of thousands if not slightly over a million Blacks having lost their jobs directly due to this phenomenon. And it has broader sociological implications as well related to incarceration and family formation rates.

No one has been more committed or engaged than Senator Jeff Sessions in protecting and enhancing the prospects of Black workers in America. But for his indefatigable efforts in this regard, the plight of Black workers now and in the immediate future, in the foreseeable future would be demonstrably worse. His leadership on this matter and his leadership on the Subcommittee on Immigration and the National Interest has been key to forestalling an even deeper downward trajectory for Black workers in this country.

I will conclude, Mr. Chair, by simply respectfully offering that his record on civil rights legislation, his actions as a U.S. Attorney and State Attorney demonstrate an unwavering commitment to equal protection under the law and a genuine fidelity to the rule of law that should make him an outstanding Attorney General.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Kirsanow appears as a submission for the record.]

Chairman Grassley. Thank you.

Ms. Swadhin.

STATEMENT OF AMITA SWADHIN, FOUNDER,
MIRROR MEMOIRS, LOS ANGELES, CALIFORNIA

Ms. Swadhin. Good morning. My name is Amita Swadhin. I am a resident of Los Angeles, California, born in Ohio to two immigrants from India and raised in New Jersey. And I am grateful to Chairman Grassley, Ranking Member Whitehouse, and Members of the Committee for the opportunity to be here today.

In October, hot mic tapes were released of President-elect Trump describing forcibly kissing women and grabbing women by the genitals. In the wake of these comments becoming public, Senator Sessions was quoted stating he does not characterize that behavior as sexual assault.

Millions of sexual assault survivors were triggered in the wake of these events. I was one of those survivors. My father raped me at least once a week from age 4 to age 12. I endured psychological, verbal, and physical abuse from him for years. I also grew up watching my father abuse my mother in a textbook case of domestic violence and marital rape.

When I disclosed the sexual abuse to my mother at age 13, she called a therapist, engaging mandated reporting. The prosecutor threatened to prosecute my mother for being complicit. They told me I would be harshly cross-examined by the defense attorney and did not connect me to any victim support services. I was too afraid to tell them my story. My father received 5 years' probation and no jail time, and his violence continued for 2 years until my mother finally found the support to leave him.

I am here today on behalf of rape and sexual assault survivors to urge you not to confirm Senator Sessions as Attorney General. As a publicly out survivor of child sexual abuse, many people have downplayed the impact of this violence on my present-day life. I live with complex post-traumatic stress disorder and struggle every day to be well. It directly and negatively impacts me when people minimize sexual assault. So to hear Senator Sessions initially say President-elect Trump's comments do not constitute sexual assault and then to consider him leading the Department of Justice has been incredibly worrisome.

I am unfortunately far from alone in my experience. More than 320,000 Americans over age 12 are raped or sexually assaulted every year. One in four girls and one in six boys will be sexually abused before age 18. These are public health issues occurring in the private sphere. In 80 percent of adult sexual assaults and 90 percent of cases of child sexual abuse, victims know and trust our perpetrators. For this reason, most victims of violent crime never seek healing or accountability from the State. Most violent crimes remain unreported.

Thankfully, we have improved the response of the criminal justice system with the creation of the Violence Against Women Act in 1994. The STOP Formula Grants under VAWA provide training to judges, prosecutors, police officers, and other law enforcement personnel to better support survivors. In 1991, the police did not contact victim services for me, but today, thanks to VAWA, law enforcement is encouraged to provide victims an advocate to support them in breaking their silence.

Yet despite this progress, rape, sexual assault, and domestic violence still happen at epidemic rates, and survivors at the intersections of oppression are especially vulnerable. LGBT people and particularly transgender women of color are disproportionately victimized. One in two transgender people will be raped or sexually assaulted in their lifetime.

Furthermore, the majority of hate violence homicide victims are transgender women. In fact, only 11 days into the new year, two transgender women of color have already been murdered: Mesha Caldwell, an African-American transgender woman from Mississippi; and Jamie Lee Wounded Arrow, a two-spirit Oglala Lakota woman from South Dakota.

We need an Attorney General who is committed to improving and enforcing our laws to ensure the most vulnerable victims of crime can come forward to seek accountability and to access healing. Time and again, Senator Sessions' voting record has shown us he is not the man for the job. Despite his claim to be a champion for victims of violent crime, he has not been a friend to vulnerable survivors. While Senator Sessions voted in favor of the Violence Against Women Act in the bill's early years, when VAWA was expanded in 2013 to ensure LGBT, immigrant, and Tribal populations of domestic violence and

sexual assault survivors are protected and have access to services, Senator Sessions voted against the bill.

We must trust the Attorney General to enforce and apply our laws fairly per our Constitution's provisions on equal protection. We must trust the Attorney General to respect the humanity of all Americans, and especially to be committed to seeking justice for our most vulnerable victims of crime. Given his voting record on VAWA and on LGBT rights, we have no reason to put our faith or our trust in Senator Sessions as Attorney General.

In conclusion, I want to emphasize that members of the National Task Force to End Sexual and Domestic Violence, including, but not limited to, the National Coalition Against Domestic Violence, the YWCA, the National Council of Jewish Women, UGEMA, the National Center on Violence Against Women in the Black Community, the National Alliance to End Sexual Violence, the National Coalition of Anti-Violence Programs, Break the Cycle, and Jewish Women International oppose Senator Sessions' nomination because of the issues I am raising today.

Thank you.

[The prepared statement of Ms. Swadhin appears as a submission for the record.]

Chairman Grassley. Thank you very much.

And now we will go to Ms. Sepich.

STATEMENT OF JAYANN SEPICH, CO-FOUNDER,
DNA SAVES, CARLSBAD, NEW MEXICO

Ms. Sepich. Good morning, Chairman Grassley, Ranking Member Whitehouse, and Members of the Committee. My name is Jayann Sepich, and thank you for the opportunity to testify today in support of the nomination of Senator Sessions as Attorney General of the United States.

In 2003, my daughter Katie, a vivacious 22-year-old graduate student, was brutally raped, murdered, and set on fire. It is never easy to lose a child for any reason, but the pain and horror of losing our daughter in this violent manner is beyond description.

No suspects emerged in Katie's case, but Katie fought for her life, and underneath her fingernails were found the blood and skin of her attacker, and a DNA profile was extracted and uploaded into the national forensic DNA database called ``CODIS.'' I made the comment to investigators that the man who had killed Katie was such a monster that surely he would be arrested for another crime, his cheek would be swabbed, and we would soon know his identity, and he would not be able to harm another young woman. That is when I learned it was not legal in New Mexico, my home State, or in most States to take DNA at the time of a felony arrest. It could only be taken after conviction.

I was stunned. We do not use DNA to accurately identify persons arrested for serious crimes? We release them from law enforcement custody without a check of the DNA database for a possible match to other unsolved crimes? We collect fingerprints, mug shots, and check what other crimes a person may have been involved in, but we do not collect DNA?

After considerable research, I became a national advocate for the collection of DNA upon arrest. My husband and I started the nonprofit association DNA Saves. We know we cannot bring Katie back, but we absolutely believe that we may be able to prevent new crimes--prevent this horrible pain from being visited on other families--by advocating for laws that allow for the collection of DNA from persons arrested for serious crimes.

To date, 30 State legislatures and the U.S. Congress have

enacted laws requiring that a DNA sample be taken for qualifying felony arrests. In June 2012, the U.S. Supreme Court upheld these laws, ruling that taking DNA at the time of booking for a felony arrest is "a legitimate police booking procedure that is reasonable under the Fourth Amendment." Senator Sessions helped craft the legislative language that became the DNA Fingerprint Act to provide Federal authorities with the authorization to collect DNA from arrestees.

In 2008, Senator Bingaman, along with Senator Schumer as an original cosponsor, introduced the Katie Sepich Enhanced DNA Collection Act, which was passed in 2012. This Federal law provides additional funding, through the Debbie Smith DNA Backlog Elimination Act, to those States that have enacted laws to expand their databases. Once again, as the Judiciary Committee's Ranking Member during that time in which this legislation was pending, Senator Sessions played a significant role in helping us to craft a bill that would gain bipartisan support and eventually passed Congress unanimously.

As a result of stronger State and Federal DNA database laws, we have seen many heinous criminals identified through arrestee DNA testing. My home State of New Mexico has seen over 1,200 cases matched. California is seeing ten cases matched every day on their DNA database. The Alabama Department of Forensic Sciences remains one of the most successful programs in the country, and they credit Senator Sessions for much of the success largely due to the support he has provided from the outset of the State's forensic DNA program during his term as Alabama Attorney General. Alabama has utilized the DNA database to solve over 6,500 previously unsolved cases.

In Katie's case, after more than 3 long years, DNA finally identified Gabriel Avila as Katie's killer. But he would have been identified after only 3 months if law enforcement had been permitted to collect DNA at arrest.

Over the past 11 years, our family has worked to change DNA laws across the country. We have been supported by lawmakers of both parties. We have also seen opposition from both Republicans and Democrats. Forensic DNA is a very complex issue, and it is vitally important that policymakers take the time to fully understand these complexities in a truly nonpartisan manner.

Senator Sessions has done that. And with that understanding, he has stood in strong support of the use of forensic DNA to both identify the guilty and exonerate the innocent. He knows that when a DNA match is made on CODIS, it is completely blind to race, ethnicity, and socioeconomic status. DNA is truth. It is science.

Senator Sessions said in a 2002 floor speech, "We are spending only a pittance on getting our scientific evidence produced in an honest and effective way. As a result, justice is being delayed, and justice delayed is justice denied."

I believe that Senator Sessions is committed to the philosophy that it is the core responsibility of our Government to protect public safety. He cares about victims. He has been a leader on forensics policy for years and consistently has supported vital funding for DNA.

In conclusion, our lives were shattered when our daughter was brutally murdered. We know intimately the pain that violent crime brings to families. Senator Sessions has shown he understands the pain of victims and has put that understanding into action to help make changes that will make a difference. Senator Sessions will provide strong leadership to the United States Department of Justice, and I hope you will support his nomination for Attorney General.

Thank you.

[The prepared statement of Ms. Sepich appears as a

submission for the record.]

Chairman Grassley. Thank you, Ms. Sepich.
Now, Mr. Brooks.

STATEMENT OF CORNELL WILLIAM BROOKS, PRESIDENT AND CHIEF
EXECUTIVE OFFICER, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE, BALTIMORE, MARYLAND

Mr. Brooks. Good morning, Chairman Grassley, Ranking Member Whitehouse, and esteemed Senators of this Committee. My name is Cornell William Brooks. I serve as president and CEO of the NAACP. I greatly appreciate the invitation to testify before you today and to express the deep concerns of the NAACP regarding the nomination of Senator Jefferson Sessions to be U.S. Attorney General.

As you well know, the Attorney General is the chief law enforcement officer of the United States. Particularly for such a time as this, with racial divisions deepening, hate crimes rising from sanctuaries to schoolyards, with State-imposed, racially motivated voter suppression spreading in State legislatures, as well as being struck down in Federal courts, with police-involved shootings reduced to hashtag #homicides and viralized videos, it is critical that this Committee closely examine Senator Sessions' entire record as a prosecutor and as a legislator to determine whether he is fit to serve as the chief enforcer of our Nation's civil rights laws.

Based upon a review of the record, the NAACP firmly believes that Senator Sessions is unfit to serve as Attorney General. Accordingly, representing multiple civil rights and human rights coalitions, we urge this Committee not to favorably report his nomination to the full Senate. As our written testimony details, Senator Sessions' record reveals a consistent disregard for civil and human rights of vulnerable populations, including African Americans, Latinos, women, Muslims, immigrants, the disabled, the LGBT community, and others. Further, his Senate voting record reflects a fundamental disregard for many of the Department of Justice's programs which are vital for the protection of Americans.

Senator Sessions' votes against the Hate Crimes Prevention Act of 2000, 2002, 2004, 2007, and 2009 and the Violence Against Women Act in 2012 and 2013 demonstrate a disturbing lack of concern regarding violent crimes: rape, assault, murder committed against minorities, and an American majority--women. These crimes in particular make victims of individuals as well as the groups to which they belong and the American values we cling to.

His opposition to the Lilly Ledbetter Fair Pay Act indicates a hostility to the claims of employment discrimination and more specifically to allowing legal redress for pay discrimination against women.

His consistent opposition to any meaningful gun controls shows an unwillingness to stand up to the firearms lobby and a lack of concern regarding the destructive impact of gun violence on our children and communities.

His failure to condemn the President-elect's call for an unconscionable and unconstitutional ban on Muslim immigrants as well as his opposition to a Senate resolution condemning a Government-imposed litmus test on a global religion evidences an unwillingness to protect the rights of the vulnerable and the unpopular, which is something an Attorney General must do.

His call for the re-evaluation of a basic constitutional principle, that persons born in this country are citizens of this country, reflects a form of an unconstitutional xenophobia that is fundamentally inconsistent with the duty of the Attorney General to protect the rights of all Americans.

His calling into question the legitimacy of consent decrees causes us to question whether he will use this powerful tool to hold accountable police departments such as Ferguson that engaged in predatory policing and a pattern and practice of discrimination.

With his consistent support for mandatory minimums as a prosecutor and a legislator, he stands in opposition to bipartisan efforts to bring to an end this ugly era of mass incarceration, with 2.3 million Americans behind bars, with overpopulated prisons and jails, and depopulated families and communities.

It is Senator Sessions' record on voting rights, however, that is perhaps the most troubling. As this Committee is well aware, the infamous Marion Three case in which civil rights activists were prosecuted by then-U.S. Attorney Sessions for voter fraud, all of whom were acquitted by a jury in less than 4 hours on 29 counts. This chilling prosecution against innocent civil rights workers who were later given Gold Medals by Congress painfully reverberates in the hearts of Black voters in Alabama and the history of this country.

Senator Sessions' record of prosecuting so-called voter fraud and both intimidating and suppressing voters then is now reflected in a legislative record of supporting voter ID requirements that suppress votes based on the myth of voter fraud today. His record of vote suppression prosecution is connected to a record of vote suppression legislation today. Rather than condemn, he has commended voter ID laws like that in his own State of Alabama affecting a half million voters, similar to laws struck down in Texas and North Carolina in the Fourth and Fifth Circuits.

If we can imagine Senator Sessions leading a Department of Justice in Michael Brown's Ferguson, Freddie Gray's Baltimore, towns with rising hate crime, communities of vulnerable populations, and a democracy divided by voter suppression in this Twitter-age civil rights movement--we can imagine that. Imagining that, we must face the reality that Senator Sessions should not be our Attorney General.

With that said, thank you for this opportunity to testify. I welcome your questions.

[The prepared statement of Mr. Brooks appears as a submission for the record.]

Chairman Grassley. Thank you, Mr. Brooks.

Mr. Canterbury.

STATEMENT OF CHUCK CANTERBURY, NATIONAL PRESIDENT, GRAND LODGE,
FRATERNAL ORDER OF POLICE,
WASHINGTON, DC

Mr. Canterbury. Good morning, Mr. Chairman, Ranking Member Whitehouse, distinguished Members of the Committee, and, of course, my own Senator, Lindsey Graham.

My name is Chuck Canterbury, the national president of the 330,000 rank-and-file police officer organization. I am very pleased to have the opportunity to be here today to testify before this Committee. I have testified before on Cabinet nominations, agency head nominations, and even a nominee for the Supreme Court of the United States. I can say without reservation that I have never testified with more optimism and enthusiasm than I do today for Senator Jeff Sessions. We wholeheartedly support his position and nomination as Attorney General of the United States.

Following the news that President-elect Trump intended to tap Senator Sessions, we immediately issued a statement to the press indicating our strong support for his nomination. He has been a true partner to law enforcement in his time as a U.S.

Attorney, Attorney General for the State of Alabama, and throughout his tenure in the United States Senate.

Senator Sessions has demonstrated commitment not just to so-called law-and-order issues, but also to an issue very important to my members: officer safety. He was the leading cosponsor of the FOP's efforts to enact the Law Enforcement Officers Safety Act, which was authored by our friend and former Chairman of this Committee, Senator Leahy. In 2010, Senator Sessions was the Republican lead cosponsor of S. 1132, the Law Enforcement Officers Safety Act Improvements, which made important and needed changes to the original law. He has provided true leadership in this successful and bipartisan effort.

More recently, Senator Sessions was deeply involved in the passage of S. 2840, the Protecting Our Lives by Initiating COPS Expansion Act. He helped build bipartisan support for the legislation, which passed the Senate and then the House before being signed into law by the President. That law gives the Office of Community-Oriented Policing Services the authority to award grants to State, local, and Tribal law enforcement agencies to get active shooter response training for their officers. The need for this training has obviously been identified by numerous law enforcement leaders and by the FOP.

Senator Sessions played a key role in the efforts to pass the Fallen Heroes Flag Act, the bill which provides a flag flown over this Capitol to surviving members of public officers killed in the line of duty.

Now, this may not sound like much to you, but in a time when officers are being assassinated at the highest rate since the 1970s and officers are being assaulted at record rates, officers in the field want to know: Who has my back? Who will protect me while I protect my community? Bills like this, which acknowledge and respect the sacrifices made by the rank and file truly resonate with my members and with the public safety community.

Members of the Committee may remember the years that were spent trying to do away with the disparity between the sentencing on possession of crack cocaine versus powder cocaine. There was a considerable gulf between the position of the FOP and many Members of this Committee. But in 2001, Senator Sessions introduced a bill to address this issue, and he worked tirelessly to bring it together. He made sure the voice of law enforcement was heard and also asserted his belief that the disparity as existed in the current law was unjust. In 2010, as the Ranking Member of this Committee, he brokered the compromise that led to the passage, with our support, of the Fair Sentencing Act. We accepted that compromise because it was fair, it was just, and it reflected the perspective of law enforcement in the law enforcement community. The importance of his direct role in this issue cannot be overstated. Without Jeff Sessions, I believe we might be here today still trying to remain unsolved.

That said, I understand that there is a certain amount of partisanship, and it is expected in these nomination hearings. But I ask all the Members of this Committee to recollect that Senator Sessions has worked in a bipartisan manner on many issues, officer safety issues, with the FOP and Members of the left. More than many times that I have been here has Senator Sessions been one of the sole Members to stand up for law enforcement, especially when it came to the issue of asset forfeiture. Without his leadership and support, the equitable sharing program may have been dismantled. For us, that demonstrates that Jeff Sessions is a man who can reach across the aisle to get things done for the rank-and-file officer and to protect the citizens of this country.

Senator Sessions has worked tirelessly and faithfully for the majority of his adult life. He is above all a man who reveres the law and reveres justice. I believe he will be an exemplary Attorney General, and we urge you to move this nomination forward to the Senate for passage.

Thank you, sir.

[The prepared statement of Mr. Canterbury appears as a submission for the record.]

Chairman Grassley. Thank you, Mr. Canterbury.

Now, Mr. Cole.

STATEMENT OF DAVID COLE, NATIONAL LEGAL DIRECTOR, AMERICAN
CIVIL LIBERTIES UNION, WASHINGTON, DC

Mr. Cole. Thank you for inviting me to testify.

The ACLU is a nonpartisan organization with a longstanding policy of neither endorsing nor opposing nominees for Federal office. We rarely testify in confirmation hearings as a result. We do so today because we believe Senator Sessions' record raises serious questions about the fitness of Senator Sessions to be an Attorney General for all the American people.

We take no position on how you should ultimately vote, but we urge you to painstakingly probe the many serious questions that his actions, words, and deeds raise about his commitment to civil rights and civil liberties.

Our concerns arise from his conduct as a prosecutor and from his record as a Senator. As a prosecutor, when he exercised the power to prosecute, the most serious power that any Government official in the United States exercises, he abused that power. Cornell Brooks has already talked about his prosecution, ultimately baseless, of civil rights heroes for seeking to increase the Black vote in Alabama. He did not investigate those who sought to help White voters in Alabama, but he did investigate and prosecute those who sought to aid Black voters. Many of the charges in that case were dismissed before they even went to the jury because they were baseless. The jury then acquitted them of all of the charges.

In a second case, the TIECO case, Senator Sessions collaborated with campaign contributors to his senatorial campaign to use the office of the criminal prosecutor to intervene in a private business dispute on behalf of his campaign contributors. He filed a 222-count indictment against TIECO, an engineering supply corporation. All charges in the case were dismissed. Many were dismissed because, again, they were baseless. There was no evidence whatsoever to support them. The others were dismissed on grounds of prosecutorial misconduct, and the judge who dismissed them said this was the worst case of prosecutorial misconduct he had seen in his career on the bench. Mr. Sessions' successor, Mr. Pryor, did not even appeal that decision. So those actions raise serious questions about his fitness to become the most powerful prosecutor in the land.

Second, his record as a Senator. Here he has shown blindness or outright hostility to the concerns of the people whose rights he will be responsible to protect. On voting rights, he supported felon disenfranchisement laws and voter ID laws that suppress the Black vote. When the Supreme Court gutted the single most effective provision of the Voting Rights Act, the most important statute in getting African Americans the right to vote in this country, Senator Sessions called that "a good day for the South."

On religious tolerance, he called Islam a "toxic ideology." It is, in fact, a religion practiced by millions of Americans. Imagine if he called Christianity a "toxic ideology." Now he says he opposes a Muslim ban on entrance to

the United States, but when Donald Trump proposed that, he stood up and opposed a resolution introduced here in the Senate to keep religion out of immigration decisions.

On women's rights, now he says that grabbing women's genitals is sexual assault. But when Donald Trump's tape recording bragging about his doing precisely that was made public, Senator Sessions said, and I quote, ``I don't characterize that as a sexual assault. That is a stretch.''

When he voted against extending the hate crimes law to crimes motivated by gender and sexual orientation, he said, and I quote: ``I am not sure women or people with different sexual orientations face that kind of discrimination. I just don't see it.' Well, if you do not see discrimination, you cannot very well enforce the laws against discrimination.

On torture, he now says that waterboarding is illegal, but he praised Michael Mukasey for not ruling out waterboarding. And he opposed Senator McCain's amendment which was designed to make it clear that waterboarding was illegal.

On criminal justice, he is an outlier, departing even with many of his Republican colleagues who seek to make the criminal justice system more fair and less harsh.

If someone applying to intern for one of your offices had as many questions in his record as Senator Sessions has, racist comments, unethical conduct, padding of his resume, you would not hire him absent the most thorough investigation and inquiry, if then.

Senator Sessions is not seeking to be an intern. He is nominated to be the most powerful law enforcement officer in the Nation. The Senate and, more importantly, the American people deserve satisfactory answers to these questions before Senator Sessions is confirmed.

Thank you very much.

[The prepared statement of Mr. Cole appears as a submission for the record.]

Chairman Grassley. Thank you, Mr. Cole.

Now, Mr. Thompson.

STATEMENT OF HON. LARRY THOMPSON, FORMER DEPUTY ATTORNEY
GENERAL, U.S. DEPARTMENT OF JUSTICE,
WASHINGTON, DC

Mr. Thompson. Chairman Grassley, Ranking Member Whitehouse, and other Members of this distinguished Committee, I appreciate the opportunity to appear before you today in support of the nomination of Senator Jeff Sessions to be Attorney General of the United States.

I want to add this morning a bit of a personal perspective on Senator Sessions. I have known Senator Sessions for over 30 years, and I am honored to consider him a good friend. Over the years, we have talked frequently, had dinners together, and enjoyed each other's counsel and support.

When I first met Senator Sessions, he was the United States Attorney in Mobile and I was the United States Attorney in Atlanta. In order to stretch our limited Government per diems on travel to Department of Justice conferences, we sometimes shared a room together. We were simply two young prosecutors trying to save money.

In 1982, when I was asked by Attorney General William French Smith to head the Southeastern Organized Crime Drug Enforcement Task Force simply because of the strategic location in Atlanta, where my office was, a delicate situation was presented. The task force consisted of 11 other United States Attorneys' Offices, but any potential problem was avoided because my friend, Senator Sessions, rallied the other United States Attorneys around our common cause and my leadership.

Senator Sessions had a lot to do with the success of the task force under my leadership.

Senator Sessions was highly thought of by his colleagues and served on the prestigious Attorney General's Advisory Committee. Membership to this committee is by invitation only. I have thought about this a lot and can identify for you without any equivocation whatsoever three themes by which the Senator will lead the Department of Justice.

First, Senator Sessions will vigorously but impartially enforce our laws. Senator Sessions has a strong record of bipartisan accomplishment on criminal justice matters. He also understands the importance of what former Attorney General Robert Jackson said about what constitutes a good prosecutor, that being one who displays a sensitivity to fair play and who appreciates his or her task with humility.

Next, Senator Sessions will continue to make certain that the traditional role of Federal law enforcement is carried out with vigor, effectiveness, and independence. The Department of Justice under his leadership will tackle such critical crime problems as complicated fraud schemes by individuals and organizations, civil rights violations, serious environmental violations, terrorism, and espionage.

Finally, Senator Sessions will seriously look at the role of Federal law enforcement to help our citizens achieve a greater sense of personal safety in their homes and neighborhoods. This will be especially important for some of our minority and low-income citizens against whom violent crime has a disproportionate impact. Of all our important civil rights, the right to be safe and secure in one's home and neighborhood is perhaps the most important.

We all know that Senator Sessions has strongly but honestly held political and policy views, but the Senator also has a record of bipartisan leadership in the Senate, especially on criminal justice issues. We talked yesterday, a great deal was presented to the Committee, on Senator Sessions' effort under the Fair Sentencing Act of 2010 and his work with Senator Durbin on that important legislation. It is interesting that, as the Deputy Attorney General of the United States in the Bush administration, I opposed this legislation. Senator Sessions was right and I was wrong.

A son of the South who has had up-close experiences with our great civil rights movement, Senator Sessions is not oblivious to the fact that we have more to do in the area of racial equality. He noted in a speech praising the foot soldiers of the civil rights movement that, "More needs to be done. We need to join closer hands."

So as a lawyer myself who has spent a fair amount of time during my 43-year legal career supporting diversity in our great profession and equal rights, this statement touched me greatly because it reflects the man I have known for over 30 years and who I am proud to call my friend. Senator Sessions deserves confirmation as our next Attorney General.

Thank you.

[The prepared statement of Mr. Thompson appears as a submission for the record.]

Chairman Grassley. Thank you.

We will have 7-minute rounds now and I am going to start with General Mukasey. Senator Sessions himself has noted the Attorney General is not the President's lawyer. In your opinion, would Senator Sessions have the independence, and of course the ability, to say "no" to the President, if they disagreed?

General Mukasey. Absolutely. And I think he made that both clear and explicit yesterday, saying that if necessary, the alternative was to resign.

Chairman Grassley. Also, we heard Senator Sessions testify about the appropriate scope of communication between the White House and the Department of Justice. He said he thought that there was merit in your December 2007 memo on that topic, so could you tell us what you believe the merits of your approach to be, which would be your explaining in further detail what Senator Sessions said yesterday?

General Mukasey. Okay. What is in the memo is that contact between the White House and the Justice Department is limited to the Attorney General and the Deputy Attorney General, with a couple of exceptions. Those exceptions are, pending legislation, which is the subject of communication between lower level people in the White House and people in the Office of Legal Policy and other routine budget matters. Other than that, there is to be no contact between anyone at the Justice Department and anyone in the White House and if anybody gets such a call, they are instructed that the polite response is, "Thank you very much, I will refer you to the person who can respond to you."

Chairman Grassley. Mr. Thompson, you have known Senator Sessions for 35 years and in that time you worked very closely with him, so you have already said something about your service together, but could you tell us about that service and might be more detailed than you did in your opening statement?

Mr. Thompson. Yes, Senator Grassley. I have known, as I have said, Senator Sessions for a number of years. He has a great deal of respect for the Department of Justice. He had been an Assistant United States Attorney when I had met him. He had already been promoted to become the United States Attorney. He is a fine lawyer, was a very effective prosecutor, and has great fidelity to the principles of fair prosecution and the traditions of the Department of Justice.

Chairman Grassley. And would you, knowing him as you do, would you say that he is going to be that independent head that we expect of the Department of Justice?

Mr. Thompson. Absolutely. I would expect Senator Sessions to understand and appreciate and to practice the traditional independent role of the Department of Justice and he would be an Attorney General, I think, that all the Senators on this Committee would be proud of.

Chairman Grassley. Further, since you know him, how do you think he would fare standing up to a strong-willed President who wants to take certain actions as Senator Sessions, in his capacity as Attorney General, would feel would be inappropriate?

Mr. Thompson. That is a good question. As I said, Senator Sessions is not only an experienced prosecutor, but he is a mighty fine lawyer. He would understand his role to counsel the President and to bring the President around to what position is appropriate, but he, at the end of the day, would be independent if the President insisted upon doing something that was inappropriate.

Chairman Grassley. Mr. Canterbury, of course you are no stranger to these sort of Attorney General hearings. You testified in support of Attorney General Eric Holder 8 years ago. Reflecting on the last 8 years of leadership, the Department of Justice from the perspective of arguably the largest law enforcement advocacy group, how did DOJ fare, and how might it be different if the person you are supporting today were Attorney General?

Mr. Canterbury. Senator, it is our position that we have to work with whoever is in that office, and we have historically worked with every Attorney General. Personally I have worked with every Attorney General since Janet Reno. And we believe that with Senator Sessions, the communications, the lines of

communications will be more direct than they have been. We have had good success with career employees at DOJ. They are very professional. We believe it is an outstanding organization, but we also believe with Senator Sessions, information and the knowledge that he has had from serving on this Committee, he will be able to serve us well in the area of criminal justice, with reform efforts and with training and equitable sharing and those type of things. We feel the communications will be excellent with Senator Sessions.

Chairman Grassley. Another question for you. The sheriff's association at the national level recently noted that in the past year this country has seen the highest number of law enforcement fatalities in 5 years, including 21 officers who were ambushed, shot and killed. If confirmed for the position of Attorney General, what steps do you think that Senator Sessions could take to reverse the trend?

Mr. Canterbury. First and foremost, we believe that Senator Sessions, as Attorney General, will not speak out on incidents that arise before a thorough and full investigation. And we believe that the anti-police rhetoric comes from people that make comments without knowledge of the situation prior to the facts being released to the media. And so we believe that there will be a much more positive tone about reconciliation. Nobody in this country wants our communities and police to reconcile more than my members, Senator.

Chairman Grassley. Mr. Kirsanow, Senator Sessions has received some criticism for his enforcement of voting rights while he was a Federal prosecutor and Alabama Attorney General. Would you evaluate Senator Sessions' record on voting rights? This will probably have to be my last question.

Mr. Kirsanow. Thank you, Mr. Chair, I would be happy to. I have heard testimony and I have heard media reports with respect to cases related to voting rights that Senator Sessions was prosecuting and if he had failed to prosecute the Perry County case, that would have been an extraordinary dereliction of duty. I would advise everybody who is interested in facts, as opposed to optics, to read the indictment, to read all the available pleadings, read all of the contemporaneous reporting and you will have wasted about 2 days doing so, as I did. The multi-count indictment, if you go through it, details in excruciating detail all of the violations here.

If you look at the facts of the case, what happened is, you had two separate factions of Black Democrats in Perry County, who were vying for seats. One faction went to the U.S. Attorney's Office and said, ``Wait a minute here, we believe there is rampant voter fraud going on here.'' And in fact, if you look at the FBI's affidavit related to this, they found 75 forged signatures on absentee ballots. There were multiple counts where individuals who were part of--who were candidates who were taking absentee ballots, changing them, altering them, or filling them out on behalf of individuals and then giving them to the elections board.

One family had a candidate, for whom they voted, who was their cousin. All six members testified that their ballot, nonetheless, was checked for the other person. And they said it was false. There was copious evidence that in fact there was voter fraud, in fact that it occurred.

Now, it is true, these people were acquitted, but we have seen this circumstance before. The person who literally wrote the book on voter fraud prosecutions, Craig Donsanto, who is the legendary former head of the Public Integrity Section of DOJ was the man who told Senator Sessions, ``Go forward with this.'' He surmised, as did many other contemporary witnesses, that this was a classic case of voter nullification. I think as he testified, or he indicated, that this is a matter in which

there was no way in the world a jury was going to convict these individuals who were, in fact, civil rights advocates. The facts of the case established that had a prosecutor not taken this and pursued this, there would have been some serious questions about his integrity.

Chairman Grassley. Senator Whitehouse.

Senator Whitehouse. Thank you, Chairman.

Mr. Canterbury, I was my State's Attorney General, and Rhode Island is one of the States where the Attorney General has full prosecutive authority, there are only three. So I worked very closely with my police department. I was also my State's United States Attorney and in that capacity I worked very, very closely with police chiefs. My experience was that a police chief in Providence, which is an urban good-sized city, and a police chief in small coastal Narragansett, Rhode Island, would have very different law enforcement priorities. And that it, in my view, is appropriate for a police chief to be able to pursue their own law enforcement priorities within their communities. Would you agree with that?

Mr. Canterbury. Yes, sir, Senator, the same thing with sheriffs, the Constitution-elected officers, they are going to police their communities as they think they need to be policed and set priorities that way.

Senator Whitehouse. And an important part of that, for a police chief, is to maintain the kind of community relations between the department and the community that support effective pursuit of those law enforcement priorities. Is that not the case also?

Mr. Canterbury. I do not think it is any different in a city with five police officers than it is in Providence. Wherever you are----

Senator Whitehouse. Community relations----

Mr. Canterbury. Community relations is the key to successfully performing our job.

Senator Whitehouse. And it is going to be different in different communities. The method is going to be different of effective community relations in different communities.

Mr. Canterbury. It can be, yes, sir.

Senator Whitehouse. And so, would you agree that for the Department of Justice to try to dictate what local law enforcement priorities should be, or how a police department should choose to deal with its community, could be a stretch too far?

Mr. Canterbury. In matters of law, no, but in matters of policy and procedure, yes, sir, I would agree.

Senator Whitehouse. And prioritization, as well, correct?

Mr. Canterbury. Absolutely.

Senator Whitehouse. Yes. The reason I ask that is that one of the concerns that I have heard from Rhode Island police chiefs has been that a relentless or unthinking pursuit of very low-level immigration violations could disrupt everything from orderly community relations with a Latino community to even ongoing significant gang investigation in which cooperators might lose their willingness to cooperate if somebody came in and decided to try to deport their mother. My point is not that one is right or the other is wrong. My point is that the decision at the community level as to priorities and to maintaining community relations is an important one, correct?

Mr. Canterbury. Yes, sir, it would be. But to cut more to the core of what I think you are asking, Sanctuary City decisions are usually made by politicians and not police chiefs. And very rarely----

Senator Whitehouse. ``Sanctuary City,' in fact, is not even a legal term, is it?

Mr. Canterbury. And very rarely should law enforcement

officers make those decisions. As you know, Senator, politicians pass the laws and we are charged with enforcing them, we do not necessarily have to agree----

Senator Whitehouse. And in doing so----

Mr. Canterbury. Or disagree with them.

Senator Whitehouse [continuing]. And in doing so, you do establish law enforcement priorities.

Mr. Canterbury. Yes, sir, we would.

Senator Whitehouse. You do not put people out on the street to do jaywalking, you go after murders first, you go after robberies first. That is standard law enforcement practice, correct?

Mr. Canterbury. Emergency protocol requires the highest level of crime first and down from there.

Senator Whitehouse. Down from there.

Mr. Thompson, Mr. Canterbury said earlier something that I agree very much with, which was to applaud the career employees of the Department of Justice and to say that right now the Department of Justice was an outstanding organization. You and I and others have served as United States Attorneys. What do you think about the career attorney core of the Department of Justice?

Mr. Thompson. Well the career attorneys at the Department of Justice, through my years of experience, Senator, like yours, these are very good lawyers. They are dedicated to law enforcement, they are dedicated to the work of the Department of Justice. I have had nothing but positive experiences in my years at the Department of Justice, and in dealing with the Department of Justice as a defense lawyer.

Senator Whitehouse. Should a career attorney in a new administration be punished for following properly the policy direction of a previous administration?

Mr. Thompson. I do not actually think a career attorney should be punished for anything other than not doing his or her work.

Senator Whitehouse. Clearly a career attorney should not be judged on whether they are secular or religious in their lives, correct?

Mr. Thompson. Absolutely not.

Senator Whitehouse. Mr. Brooks, the Sessions candidacy has achieved expressions of support from people like David Duke and from what has been described as a White supremacist neo-Nazi news site called The Daily Stormer, whose site founder wrote that the Sessions appointment was, ``like Christmas. Basically we're looking at a Daily Stormer Dream Team in the Trump Administration.'' Now you cannot fault a nominee for the people who choose to be enthusiastic about his candidacy. This is not obviously Senator Sessions' fault. But do you believe that he has distinguished himself away from whatever the causes are for that support so that you feel comfortable going forward that he has addressed that?

Mr. Brooks. Based on the record, I do not believe that the Senator has sufficiently described a Department of Justice fully committed to enforcing the Nation's civil rights laws. Where we have hate crime rising, most of which is perpetuated not in bars, not in streets, but in K through 12 schools. Speaking out against hate crimes, making it clear that you are going to prosecute hate crimes, making it clear that you are going to enforce the Nation's civil rights laws, the Voting Rights Act to the full measure in a full-throated way, I do not believe we have heard that. So, he is not responsible for who endorses him, but he is in fact responsible for what he endorses and his vision for the Department of Justice.

Senator Whitehouse. Thank you, Chairman, my time has expired.

Chairman Grassley. Thank you, Senator Whitehouse. Now Senator Hatch.

Senator Hatch. Well thank you, Mr. Chairman.

General Mukasey, welcome back to the Judiciary Committee. You became Attorney General after nearly two decades as a Federal District Court Judge. The current Attorney General had nearly two decades of experience as a Federal prosecutor. Jeff Sessions will become Attorney General after two decades as a U.S. Senator.

No matter where an Attorney General comes from, he or she has the duty described yesterday by one of my Democratic colleagues as enforcing the law fairly, evenly and without personal bias. You were here yesterday and heard, as I did, the repeated suggestion that Senator Sessions would not be able to enforce the law that he personally disagrees with. Do you agree that someone's political party, general ideological perspective, or personal opinions do not by themselves mean that he or she cannot be impartial and fair?

General Mukasey. I certainly agree that a person's political background does not disqualify that person from enforcing the law and does not disable that person from enforcing the law. And I think Senator Sessions made it entirely clear that he understood the difference between advocating a position on the one hand as a legislator and the oath that he takes to enforce the law on the other. He was very clear, very precise about that. And I think everybody who passes from one status to another, be it from a judge to Attorney General, be it from a lawyer to a judge, understands that they are changing their responsibilities. And he is not alone in that but he certainly is very much alive to it.

Senator Hatch. How comfortable are you that Senator Sessions, a conservative Republican Senator, would enforce the law fairly, evenly and without personal bias?

General Mukasey. Well, I think his statements yesterday make it entirely clear that he understands his responsibility to do that and I see no reason why he will not do it.

Senator Hatch. Mr. Kirsanow, in his written testimony, Mr. Brooks argued that Senator Sessions lacks the judgment and temperament to serve as Attorney General. Even more, he questioned whether Senator Sessions would actually prosecute hate crimes. I would welcome your response to that.

Mr. Kirsanow. I have not known Senator Sessions as long as Mr. Thompson has, but I have known him for more than 10 years. And what I can tell you is that I have worked with several Senators here who have been very concerned about issues related to civil rights, particularly with respect to one issue that is within my wheelhouse as a labor attorney, and that is the interests of Black and other workers and their employment prospects.

We had hearings at the Civil Rights Commission, several hearings at the Civil Rights Commission about a lot of deleterious policies to the prospects of Black employment. And these were rectifiable policies, but they had pronounced effects, negative effects on Black employment. We even had a hearing where every single witness that spanned the ideological spectrum from left to right agreed, for example, that massive illegal immigration has a decidedly negative impact on wage and employment levels.

I provided these reports to a number of Senators and other Congressmen. Many of the Senators here were alarmed by it and questioned me about it and we had interactions and other members of the Civil Rights Commission. I also provided it to Members of Congress, including Members of the Congressional Black Caucus. The one Senator who reached out, being very alarmed and pursuing this case with ultimate vigor was Senator

Sessions. He was very concerned about this. In a number of private conversations we talked about a number of the steps that could be taken aside from reforming immigration law, which we all know here is something that is a significant challenge. But what could we do to improve employment prospects of Black Americans? He was the only Senator to act in that fashion. I heard nothing whatsoever from the Congressional Black Caucus, despite copious detail about the negative impact of this.

I am ultimately convinced that Senator Sessions would take the appropriate actions to enforce the law as written, because that is what we were talking about, existing immigration law, and he was adamant in doing that. Without fear or favor and without bias.

Senator Hatch. Knowing him as well as I do, I agree with you.

Mr. Canterbury, I want to thank you so much for what you and thousands of officers who represent us each and every day have said here for Senator Sessions.

The Pew Research Center, today, released one of the largest polls of police officers ever conducted involving some 8,000 officers in departments across the country. As a result of the high-profile fatal encounters between officers and Blacks, three-quarters of officers are more reluctant to use force when it is appropriate, and 72 percent have become less willing to stop and question people who seem suspicious.

Now I believe this effect stems from what has become almost a presumption that police have done something wrong when such encounters occur. That is a pernicious and dangerous shift in the general attitude toward our police and it is totally without foundation. Now it seems to me that this change in attitude cannot only negatively affect officers and actually put police safety at risk, but also make much more difficult important efforts at community policing. Do you agree with me on that?

Mr. Canterbury. Absolutely agree with you. I think the case in Chicago of the young female officer that decided to take a beating rather than deploy a taser because she said it was not worth what she would put herself through to deploy a taser is a microcosm of what is happening in law enforcement where it is not worth what you may have to put yourself through.

Senator Hatch. Well that same poll found that 93 percent of officers had become more concerned about their own safety in this country. Yesterday, the Chairman noted that the number of police killed in the line of duty has significantly increased. You have made that point. Also yesterday, Senator Sessions noted that most police are local rather than Federal. The Fraternal Order of Police and other national law enforcement groups support his nomination. How do you think that a change in leadership of the Justice Department can concretely affect and improve things at the local level?

Mr. Canterbury. Well, first of all, the Byrne JAG Grant Program, the COPS program, the community-oriented policing teams, consent decrees, pattern-of-practice investigations, when you have open lines of communication, where rank-and-file management as well as citizen and activist groups can discuss those cases, I think you can get to a place where the communities will feel safer and the police officers will feel safer. And we have got to reduce the violence in this country. You know, Senator Hatch, we have been saying for a long time, systemic poverty is an issue that law enforcement is not charged with, nor has the ability to fix. But we are willing to be good partners and we believe, with Jeff Sessions as Attorney General, we will be able to work in all of those sections of the Justice Department, to try to improve.

Senator Hatch. We are pleased that you are here today and

we are pleased that you are willing to testify for and on his behalf.

Thank you, Mr. Chairman.

Chairman Grassley. Senator Durbin.

Senator Durbin. Thank you very much, Mr. Chairman.

I want to thank all of the members of the panel who are here today, and especially Oscar Vazquez, who came as my invitee, for telling his inspiring life story. Thank you. You have given a face to an issue which is near and dear to my heart and the hearts of millions of Americans, and thank you for serving our country.

General Mukasey, during the course of this hearing I sensed that there is an evolving context relative to Russia and the involvement of Russia in the election. Many of the questions we posed to Senator Sessions related to his values, his votes. And now, I think, there is a growing concern of a question that you have addressed yourself to him and I asked you to speak to again about his role if he becomes Attorney General, vis-a-vis the White House, the President.

We now have allegations, unconfirmed, relative to Russian activity related to the President-elect. As I said, alleged, unconfirmed. And Director Comey of the FBI saying that at this point he would not talk about whether there was an ongoing investigation relative to Russia's role in the election.

So can you give me some clarity? And I think you have addressed this, and forgive me if I am asking you to repeat. Could you give me some clarity: When you served as Attorney General, if you received a call from on high, from the White House, from any person in the White House, relative to an investigation, an ongoing investigation, or a prosecution, what do you believe was the appropriate response in that situation?

Mr. Mukasey. The appropriate response is that, whatever investigation it is, is going to be pursued to its logical conclusion, which is to say where the facts and the law lead. And I am glad that the question was in the hypothetical because I, in fact, did not get such a call, although I have gotten to get calls with respect to other matters. And my response was generally that the department would pursue its agenda as already set.

Senator Durbin. Is it your position the Attorney General is independent in this decisionmaking when it comes to other members of the executive branch?

Mr. Mukasey. Correct. The Attorney General is, obviously, is a member of an administration and pursues priorities that are set by an administration. But when you are talking about particular investigations and particular cases, that is something altogether different. And I think Senator Sessions made it clear he understood it was altogether different.

Senator Durbin. May I ask you another question related to that? Investigations undertaken by the Federal Bureau of Investigation: What authority does the Attorney General have over the commencement or the conclusion of those investigations?

Mr. Mukasey. Well, the Attorney General theoretically is-- the FBI director reports to the Attorney General. I say ``theoretically'' because occasionally one gets the idea that the FBI director is independent. If we had more time, I could tell you a story, but it will have to wait until an informal meeting.

The FBI director works for the Attorney General.

Senator Durbin. So I guess my question, repeatedly Senator Sessions has called for Attorneys General to recuse themselves rather than participate in investigations with political ramifications. Most recently, he called for Attorney General Lynch to appoint a special counsel for Hillary Clinton in an

op-ed that he wrote on November 5th of last year.

I am trying to work this through. I asked him pointedly whether he would recuse himself if there were any accusations against the President-elect, once he becomes President, or other people involved in the Trump campaign. And he basically answered me that he was going to take this on a case-by-case basis.

If--he has the authority and power to stop an investigation at the FBI, is that what you are telling me?

Mr. Mukasey. Yes.

Senator Durbin. So if there is an investigation underway, he could stop it if he wished.

Mr. Mukasey. Yes.

Senator Durbin. And when it comes to the appointment of a special counsel involving the conduct of the President, is it your feeling that the Attorney General should, as a general rule, consider special counsel?

Mr. Mukasey. No. It would depend on the case. A special counsel is to be appointed when there is a good reason why the department headed by the Attorney General cannot pursue that case. And I think what Senator Sessions had--I am not familiar with the op-ed that you mentioned, so I am speculating, but I think it sounds like what he had in mind was not simply the position of the Attorney General, but rather the tarmac conversation with President Clinton that put her in a difficult situation. I do not think that simply had to do with the fact that she was Attorney General appointed by the President.

Senator Durbin. I see, thank you.

Mr. Brooks, since the Shelby County decision, the Voting Rights Act is in a perilous situation. And I commended to my colleagues and I commend to you a book entitled "White Rage" by Carol Anderson, teaches at Emory. And she talks about the evolution of the issue of race since the Civil War.

It strikes me now that we are in dangerous territory about the future of the Voting Rights Act. If preclearance is not required and the Department of Justice is reacting after the fact, there could be some delay in justice here in an intervening election or no action taken.

I asked my staff to give me a listing of the cases initiated by the Department of Justice relative to the Voting Rights Act for the last several years, and it goes on for pages. Can you address this issue about your belief of the commitment of Senator Sessions to enforce the Voting Rights Act in principle, post-Shelby County?

Mr. Brooks. Certainly. So as you well know, Senator, the Voting Rights Act is regarded as the crown jewel of civil rights statutes. And Section 5 was regarded as the most effective provision of the most effective civil rights statute.

And so in the wake of the Shelby County v. Holder Supreme Court decision, which debilitated Section 5 via Section 4(b), we have seen nothing less than a Machiavellian frenzy of voter disenfranchisement from one end of the country to the other.

And so that means that the Department of Justice has taken on more responsibility and civil rights organizations have taken on more responsibility with fewer tools. It has meant the debilitation, literally, of our democracy where we have citizens who have to wait for the violation to occur, as we saw in North Carolina where the Fourth Circuit, the U.S. Court of Appeals for the Fourth Circuit, held that the State legislature engaged in intentional racial discrimination with respect to voter suppression, carried out with surgical precision.

It took an army of lawyers, an army of experts in order to vindicate the rights of the people, and a mass movement by the North Carolina State conference of the NAACP with so many others and so many other legal groups.

The point being here is the Department of Justice, not only is our democracy in a perilous place, but the Department of Justice is in a perilous place. It needs strong leadership. It needs resources. And we need a Voting Rights Advancement Act to fix the Voting Rights Act.

Senator Durbin. And post-Shelby County, if the Attorney General is not timely and aggressive in enforcing the Voting Rights Act, the damage will be done.

Mr. Brooks. The damage is absolutely done. And when we think about all of the many Members of this body that went to Selma, that commemorated the foot soldiers of the movement on the Edmund Pettus Bridge, all that they died for, all that they sacrificed for is hanging in the balance. So we need strong leadership there because literally, literally we can squander the fruit of their efforts and the civic sacrament of our democracy, namely the right to vote.

Senator Durbin. Thank you.

Thank you, Mr. Chairman.

Chairman Grassley. Thank you, Senator.

Senator Cornyn.

Senator Cornyn. Thank you, Mr. Chairman.

There is a lot to cover in 7 minutes, so let me try to be somewhat selective.

First of all, thanks to all of you for being here. I cannot help but believe that in spite of the fact that we have had a national election that the election is still ongoing, the campaign is still ongoing. I respect each one of your rights to express your point of view, but at the same time it is amazing to me that with the Senator having cast 6,000 votes in the United States Senate we are focused on a handful of policy differences and somehow people are saying that those are dispositive of the qualification of this person who we have served alongside of for 15 years, in my case, and 20 years in the case of others.

So I guess our job is sort of like the jury in a regular lawsuit. We have to give weight to the testimony and we have to figure out whose testimony is entitled to greater weight because, frankly, the descriptions we have heard today are so wildly disparate that I would imagine for people who did not know Senator Sessions and know his record as I do and those of us who have served with him, it would be hard to reconcile.

But I want to ask General Mukasey, Senator Hatch alluded to this, but this is really important to me and I just want to reiterate this.

You have had the distinction of serving in two branches of our three branches of government, as a Federal district judge with great distinction, then as Attorney General in the executive branch. I, at a much lower level, have had the chance to serve now in three branches myself as a State court judge and as an Attorney General of my State and now as a legislator here at the Federal level.

Each of those roles are different, are they not? And indeed, I think that is the point that Senator Sessions made eloquently yesterday. Even though he may have some policy differences or had cast a vote against a bill in the Senate, he would respect the Constitution and enforce the law. Is that not what you understood?

Mr. Mukasey. That is precisely what I understood. And he recognized the difference in the different roles that he plays as a legislator from what he would play as Attorney General.

Senator Cornyn. And I thought yesterday he did a magnificent job responding to the questions and acknowledging that policy differences do exist. That is just the way it is.

Mr. Canterbury, let me ask you a little bit about the role of the Federal Government and the Attorney General's office and

the Department of Justice in supporting local and State law enforcement.

I believe the figure is roughly \$2 billion a year that the Federal Government hands out or distributes in terms of grants to local and State law enforcement. I think in your testimony, you mentioned the active shooter training that we have tried to enhance through the Police Act which passed this Congress and was signed by President Obama, making sure that more officers got that training, which is even more relevant, sadly, today than perhaps even in the past.

I would just add to that the work that we did recently on mental health and its intersection with the criminal justice system. The Mental Health and Safe Communities Act that was part of the 21st Century Cures bill, again, recognizing that our jails and our streets and our emergency rooms have become the treatment centers by default for people with mental illness.

We need to do more to try to get people who need help the help they need, but not treat mental illness as a crime, per se.

We also need to make sure that we train our law enforcement officials because we know how dangerous, at least from the stories and the statistics that we see, how dangerous it can be when a police officer encounters a person with mental illness and they do not have the training they need in order to de-escalate the scene.

But could you talk a little bit about your experience and your organization's experience as law enforcement officials dealing with people with mental illness?

Mr. Canterbury. Well, I would say in the last 10 or 15 years the number of mentally ill individuals that law enforcement comes in contact with has exponentially gone up as mental health services at the State and local level have gone down.

And I have explained this recently to Vice President Biden when he asked about that same question, and my response was, in many of these situations, regardless of whether a police officer or a law enforcement professional realizes that there is a mental illness, the circumstances are dictated by the actions.

And so whether or not we can recognize the particular mental illness is not as important as recognizing that there is an issue. The problem is that there is very little assistance at that level anymore for street-level mental illness. And making sure that they are not a danger to themselves or others should not, cannot be the responsibility of a first-responding officer. We just will never have the training to be able to do it to that extent. So it is a huge issue for local and State officers. And I do not know what we are going to do to fix that. But the biggest thing is that the community-based mental health facilities are just not there anymore.

Senator Cornyn. Well, I think you will find a friend in Senator Sessions as Attorney General in recognizing the priorities for local and State law enforcement and making sure that the Mental Health and Safe Communities Act, which will provide priority for that kind of training and assistance for local and State law enforcement, is there.

Ms. Sepich, thank you for your outstanding work and arising out of a terrible tragedy you and your family experienced in your lives. But I know you are committed to making sure not only that that does not happen to other families, but also that through your work on DNA Saves that we are able to bring people responsible to justice. There has been so much work that we have done here, and Senator Sessions has been front and center, as you have noticed. Things like Senator Hatch's Rapid DNA

legislation act, the Paul Coverdell National Forensic Science Improvement Act, which was just renewed in the Justice for All Act that Senator Leahy and I cosponsored and was signed by President Obama.

But it is so important to make sure that we do provide all of these essential tools and good science to make sure that we do convict the guilty, but we also exonerate people who are innocent of crimes.

And would you--I just want to say thank you. I know the Chairman has got his gavel in his hand, he is getting ready to gavel me out of order here. But I just want to express my gratitude to you for your leadership on that issue.

But you are right, Senator Sessions has been front and center at all of those efforts to not only convict the guilty, but also exonerate the innocent.

Ms. Sepich. Thank you, Senator.

Senator Cornyn. Thank you, Mr. Chairman.

Chairman Grassley. And now Senator Leahy.

Senator Leahy. Thank you. I was not going to interrupt Senator Cornyn as long as you are praising the legislation you and I wrote together. I mention it only because, contrary to what people believe, Republicans and Democrats do work together on a lot of things here in the Congress.

Mr. Thompson, you and I have worked together on things, as you know.

And I just want to say something to Sergeant Vazquez. I watched some of your testimony earlier. It is so moving. And my wife did, too, and we both are so proud of you and thank you for what you have done in your service for the country. And as parents of one who served in the military, we, like all parents everywhere, you worry about those who serve and you worry about what they do, but you thank everybody, the fact that we have people who are willing to serve our country.

Are you concerned about what might happen under the new administration for young people registered under DACA?

Sergeant Vazquez. Definitely, Mr. Senator. There is a huge concern for those roughly 800,000 people that raised their hand and said they were undocumented, right? I think that the biggest point that that makes is that when there was a path, there was a way for us to come out of the shadows, right? Eight hundred thousand people raised their hand and said they were undocumented. Now, the fact of the matter is that there was no other way, right? Congress, the Senate has not passed any meaningful laws that could guarantee them a path to citizenship, to--to whatever you want to call it.

But unless there is a path, unless there is a way they can find a permanent solution, we are definitely concerned that the next administration is going to stop the DACA and that those students are going to have to go back into the shadows.

Senator Sessions stated yesterday that there is not enough financial support to deport 800,000 people, and at the same time he opposed every single legislation that would have given them a way to become legal. So what are the students to do? What are the young adults to do when they are faced with that position? So it is definitely concerning.

Senator Leahy. You must know an awful lot of people who are here under DACA. Is there a sense of concern about the rhetoric that we are hearing with the new administration?

Sergeant Vazquez. There is definitely a sense of concern. There is a lot of fear most of all. I know students, one of the other--my teammates that won the competition so many years ago, he is a father to two U.S. citizen children now and he will be facing--he is facing the unknown, given the next administration.

I mean, there has been statements saying that DACA is going

to be repealed, maybe there is not, so we are not sure what is going to happen in that scenario. There is a lot of fear out there.

Senator Leahy. Thank you.

Ms. Swadhin, I raised--nobody had, I thought I should raise the question yesterday at our hearing about comments that the President-elect had made regarding sexual assault and gave Mr. Sessions a chance to explain. His first response is that he seemed to be basically minimizing it and approving of what the President-elect had said. He expanded what he meant yesterday. And yesterday he was under oath. I will accept that.

But I think of my own daughter. I think of my three beautiful granddaughters. And I think about somebody in a Hollywood video when the President-elect jokes about what is sexual assault.

Mr. Sessions, now when he is asked further about it, admits that what President-elect Trump bragged about doing is sexual assault.

You have dedicated your life to helping others heal after sexual assault. You are a survivor yourself. So I have a two-part question: What kind of a message does it send when somebody, especially somebody in power, trivializes sexual assault, even jokes about it? I was a prosecutor, I prosecuted sexual assault cases. What does it do for a victim's willingness to come forth if they see people in power trivialize something that might be a lifelong trauma for them? And I yield to you.

Ms. Swadhin. Thank you for the question, Senator Leahy. You know, it is highly relevant on several levels that the impact that it has on survivors watching people in power, and in this case someone who, you know, has been elected to be the President of the United States, make these kind of jokes and brag about this kind of so-called "locker room behavior" about sexually assaulting women. I think it is important to go back to the point I made in my testimony that the majority of victims of violent crime are assailed by people who they know intimately. In cases of adult rape and sexual assault, it is 80 percent of survivors know their assailant. And in 90 percent of cases of child sexual abuse, the person sexually abusing a child is known and trusted and often loved by the person who is perpetrating the violence.

So it is already so hard for survivors to come forward because it means that we have to testify against the people that we put our trust in. My case, it was my father and that is not an uncommon story. It is someone very close to you. That is how these crimes happen. And so to be able to trust the State more than we fear our intimately known perpetrators, we have to see people in control of the State who take a hardline stance against sexual assault and who, you know, say publicly that they would support and believe survivors.

And unfortunately in this political climate, we are looking at an administration led by a man who not only does not seem to prioritize helping sexual assault survivors heal and come forward and be able to trust the State, but, you know, may have actually engaged in sexual assault himself, the things that he was bragging about, so it is incredibly concerning.

Add to that the fact that the violence that we live through has very traumatizing impacts. I, myself, live with complex PTSD, so your mental health on a day-to-day basis is already negatively impacted. So to be able to stay grounded enough to come forward and put your trust in a stranger, a social worker, a prosecutor, a police officer, in order to get the services, the healing, and the accountability that you deserve, it is incredibly difficult.

Senator Leahy. Thank you, because I remember on these

sexual assault cases with detectives in my office, the assistant prosecutors, and myself having to tell people you can trust us, we actually care about what you say, we do believe it is a crime.

And frankly, those who trivialize it and say it is not a crime are ignoring too many people in this country.

Thank you, Mr. Chairman.

Chairman Grassley. Thank you, Senator Leahy. Now Senator Cruz.

Senator Cruz. Thank you, Mr. Chairman. I want to thank all the members of this distinguished panel for being here today. And I want to take a special moment to thank Larry Thompson who was my boss at the Department of Justice, although I would note that you should not hold Larry accountable for my many missteps in the years that followed.

I want to start, Mr. Cole, by addressing your testimony. And I would note that the ACLU--I have worked alongside the ACLU on any number of issues here in the Senate, including we have worked alongside each other on issues of indefinite detention, we have worked on the same side concerning the USA Patriot Act, we have worked on the same side working to stop the efforts of Senate Democrats to amend the Constitution and to amend the free speech protections of the First Amendment. And so I am grateful for many of the good things the ACLU does. You are a professor at Georgetown. I would like to ask you, as a professor, how would you react to a student who submitted an exam with a one-sided and biased account of the facts that included only the facts supporting the student's views and omitting everything else?

Mr. Cole. Well, first of all, Senator Cruz, thank you for where you have worked with us and we hope to work with you in the future where our interests align. You know, what we did here with respect to Mr. Sessions was to---

Senator Cruz. I will get into the facts for a moment.

Mr. Cole. Yes, so I think----

Senator Cruz. If you will indulge me and answer the question.

Mr. Cole. Right. So I think it would depend. If the question were to the student, is grabbing a woman by the genitals sexual assault or not and they responded, yes, it is, I would say that is a correct answer. If they responded by saying, actually----

[Interruption from the audience.]

Mr. Cole. If they responded by saying, no, I would not characterize grabbing a woman by her genitals as sexual assault, I think that is a stretch, as Mr. Sessions did--

Senator Cruz. Mr. Cole, I----

Mr. Cole. Then I would say that is not a good answer. So it depends on the question.

Senator Cruz. We will get into the facts and substance in a moment.

I think I am on firm ground observing that if you had a student who presented a one-sided and biased answer you would grade them very poorly. I would also note you and I are both Supreme Court litigators. And any court would not look kindly at a litigant who omitted any facts or law that were to the contrary.

Would you agree with that? That if you file a Supreme Court brief or do an oral argument and the case law that is against you, the facts that are against you, you just stick your head in the sand and ignore, that does not tend to be looked on too kindly by the Supreme Court or by any court?

Mr. Cole. No, I think you have to address the questions that are presented by the case, as I think we did with respect to Senator Sessions.

Senator Cruz. Okay, good. Well, then let us get into the facts. You blasted--and I will note that your testimony--I have to say, your testimony both written and oral is disappointing to me. You characterized it as ``strictly nonpartisan,'' and yet you blasted Senator Sessions for prosecuting African-American civil rights leaders as a U.S. Attorney in the 1980s, insinuating that doing so somehow made him a racist.

And yet, you did not mention in your written or oral testimony the fact that the complaints asking him to do so were brought by African-American citizens who felt that their votes were being abused and stolen. And indeed, I would like to read a quote from LaVon Phillips, who is an African-American investigator for the Perry County District Attorney's Office, who said, ``There was an ongoing, Black-on-Black power struggle in Perry County. In 1982, the office received numerous complaints from incumbent Black candidates and Black voters that absentee ballot applications were being mailed to citizens' homes without their request. People were going to the polls trying to vote. They were told that they had already voted absentee when they did not. A grand jury, a majority of which was African American, asked in its official report for a Federal investigation of voter fraud in Perry County because it was becoming very abusive and the Black incumbent candidates at the time were rather terrified.'' That is the case Senator Sessions brought as U.S. Attorney.

And my question to you, Mr. Cole, is, in your written and oral testimony, why did you omit the fact that the complaint came from African-American citizens, from elected African-American incumbent politicians, and the indictment came from a grand jury that was a majority African-American? Why did you omit those facts?

Mr. Cole. Well, I do not think I intentionally omitted those facts, Senator Cruz. What I did was to express our concerns about several aspects of that case, namely that Senator Sessions, as the U.S. Attorney, investigated only counties, not just Perry County, but only counties where Black votes had gone up, not where White votes had gone up, but only where Black votes had gone up, number one.

Number two, that he had conducted the investigation in an extremely intrusive way, addressing Black voters at their homes, asking them how they voted, why they voted, et cetera.

Number three, that he took the position, the legal position that advising somebody on how to vote, on who to vote for, was a crime.

Now, you, Senator Cruz, when you were running for President, advised people on how to vote for yourself. That was not a crime.

Senator Cruz. Well, you also omitted the fact that the evidence in the case showed absentee ballots had been tampered with. And indeed, the defendant in the case admitted that he had changed absentee ballots. He argued it was with the voters' consent, but he admitted he had changed absentee ballots.

Mr. Cole. And if you are----

Senator Cruz. And my point is simple, Mr. Cole. This Committee can assess what occurred there. But any law student or any litigant who presented such a one-sided picture of the fact, conveniently omitting every single fact that is to the contrary, would not be treated as a credible witness and would not be treated, as you describe your testimony, as strictly nonpartisan.

Let me turn briefly to a second issue you brought up, which was the TIECO case. You said the TIECO case undermines Sessions' fitness for the job as Attorney General. And likewise, there are a number of facts that you just omitted from your discussion.

Number one, the basis of your complaints was submitted to the Alabama Ethics Commission. And on July 10th, 1996, the Ethics Commission unanimously dismissed the charges against Sessions for insufficient facts. Now, you briefly mention that in your written testimony, but you omitted it from your oral testimony.

Fact number two, the Alabama State Bar--one of TIECO's lawyers filed a complaint with the Alabama State Bar, based on the trial court's order that you quoted, alleging over 20 ethical violations. The Alabama State Bar adjudicated that matter and on February 16th, 2000, the State bar unanimously dismissed the complaint. Again, you omitted that fact from both your written and your oral testimony. That is nowhere to be found.

But third, most strikingly, the language you rely on as the basis for your testimony, the Federal Court of Appeals, the Eleventh Circuit, concluded that that precise language concerning prosecutorial misconduct was ``particularly unreliable and misleading.'' It reversed a civil verdict based on it. And the Eleventh Circuit concluded there was ``no evidence in the record to support a finding that TIECO's Federal constitutional rights were violated,'' and concluded that ``probable cause existed to prosecute TIECO.'' You omitted that fact that the Federal Court of Appeals profoundly repudiated that State court ruling you are relying on. And that, again, is not credible or impartial testimony.

Now, I would ask the Chairman for consent to introduce into the record the Federal court opinion, the ethics complaint dismissal, the State bar complaint dismissal, and related materials. And I would also like to introduce a memo from Professors Ronald Rotunda and William Hodges concluding that, ``The mere nonspecific allegations of a party uncritically adopted by a State court judge and rejected by the State agencies with jurisdiction over ethics complaints cannot possibly have any bearing on Senator Sessions' ethical standing today.''

Chairman Grassley. Without objection, so ordered.

[The information referred to appears as submissions for the record.]

Mr. Cole. Can I respond? No? Can I respond. Just briefly, and thank you.

First of all, I did not omit that the Ethics Commission concluded there was not an ethics violation, but that was a year before the case was dismissed for rampant prosecutorial misconduct.

Second, I did not omit the fact that the Eleventh Circuit reversed a lower court decision for introducing that trial court opinion. I addressed it and I explained that that Eleventh Circuit decision in no way questioned the factual validity of the trial court's findings that Senator Sessions' office engaged in the worst misconduct that he had ever witnessed.

What the court held was that, because it was hearsay, because it was hearsay and, therefore, the defendants were not able to cross-examine the information and because it was very prejudicial, it was improperly introduced. But the court did not have before it any facts that would allow it to assess whether the judge's findings based on the judge's record in the State trial court were right or wrong. And in fact----

Senator Cruz. So you say the Federal court did not question the reliability. The quote from the Eleventh Circuit is that the State court's opinion was, ``particularly unreliable and misleading.''

Mr. Cole. And what it meant was--but if you read the opinion, which I did, and, Senator Cruz, you are now presenting

misleading information, because if you read the opinion, the opinion makes it very clear that the decision is based on a rule of hearsay and its relation to prejudice. In the abstract it is a legal ruling, it is not a factual determination in any way, shape, or form.

And so you present one side, I present another side. I urge the Committee to look at the facts of this case where Senator Sessions worked on behalf, closely collaborated with people who were making campaign contributions to him, filed a 222-count indictment, every count was thrown out.

Senator Cruz. Mr. Cole, my time is expired, but I would simply note the Federal Court of Appeals said, and I quote, "The statement of facts was intended to exculpate TIECO and, thus, it was self-serving and unreliable." That is a verbatim quote from the Federal Court of Appeals and it is contrary to what you have just told this Committee.

Chairman Grassley. Senator Franken.

Senator Franken. Before my time starts, can I just note that Senator Cruz's time went over 4 minutes. And I want to respond to something Senator Cruz said.

Chairman Grassley. [Off microphone.]

Senator Franken. I know, but can I maybe have a couple of extra minutes because I want to respond to something that Senator Cruz said about omitting facts.

Chairman Grassley. [Off microphone.]

Senator Franken. Well, you are the Chairman. Yesterday I developed this line of questioning with Senator Sessions where he mischaracterized civil rights cases that he had been involved in.

He said that he had personally handled--among the 10 most important cases he personally handled, four of them were civil rights cases. And I put into evidence testimony from an op-ed article co-authored by Gerry Hebert.

Mr. Cruz, in following me, said that Mr. Hebert's testimony in '86 was discredited, that he recanted it and it was discredited. He did not recant his whole testimony. He recanted a small piece of his testimony. It was actually in the recanting of it--was Senator Sessions' favor. And he did it before--he did it in time so it was before the vote.

It was one little piece where he had misidentified. He said that Sessions had stopped him from pursuing, or not given him approval to do a civil rights case, and he had looked back at his records and got that wrong. Every other part of his testimony he did not recant, and he was not discredited.

So if the Senator is going after a witness for not being balanced, I would suggest that the Senator look at his own methods of making arguments.

Now, I want to know, does anybody here, anybody on this panel, have any evidence at all, any reason to believe that there were 3 million fraudulent votes cast in this election?

[Voice off microphone.]

Senator Franken. Yes.

Okay. Now, voting rights is a big deal. It is a really big deal. And so when we are going to be--we are talking about the Attorney General here, it is important that the Attorney General care about voting rights, because that is a part of his job.

Now, Mr. Brooks, North Carolina. When was that--that was thrown out by the Fourth Circuit. When was that enacted--was thrown out by the Fourth Circuit?

Mr. Brooks. I think 2 years ago.

Senator Franken. How many?

Mr. Brooks. I think 2 years ago, I am not sure.

Senator Franken. Yes, 2 years ago, right? So in the intervening time, there have been elections, right?

Mr. Brooks. Yes, sir.

Senator Franken. And what did the Fourth Circuit say about how this was targeted?

Mr. Brooks. The Court held that the voter suppression was intentional, racially intentional, and that it was carried out with surgical precision with respect to African-American voters.

Senator Franken. Okay. So in other words, the North Carolina State Legislature, with surgical precision, went after African-American voters to prevent them from being able to vote.

And because we did not have preclearance, there were elections allowed to happen in which votes were suppressed, right?

Mr. Brooks. Yes, Senator.

Senator Franken. Is that how our democracy is supposed to work?

Mr. Brooks. No, Senator. As you well know, that when the preclearance provision was in effect, for years and years on end, these kinds of changes were regularly rejected by the Department of Justice--at least 20 or so a year. And so in the wake of the Shelby decision, what we have now is a political landscape in which the violation has to occur, and then ordinary citizens have to find lawyers, have to find experts, they have to find organizers, have to reach out to the NAACP to right a wrong in their democracy, where resources that they do not have in communities often under siege, civically speaking, and this is expensive. And it imposes a cost not only on the litigants, one of whom I walked with from Selma to DC last year, at 90-some-odd years of age. So this is not merely a matter of legal costs, but also costs on our fellow citizens.

Senator Franken. Now, because we had Shelby, we did not have preclearance, and because of that, elections were held in which Black votes were suppressed. That we know. That we know is a fact.

Now, if we do not have preclearance, we have--and Senator Sessions said that this was targeted at the States--of course it was targeted at States like North Carolina and States that have a history of doing this. That is for a reason. And we can get a new formula, as Senator Coons has tried to get passed through here.

But in the meantime--and does anyone--can anyone guess why I asked about the evidence on 3 million suppressed votes, or supposedly fraudulent votes? I think you know why I brought it up. Because when you are saying that there are 3 million fraudulent votes, that is your excuse to suppress votes. There was no--none of the States, nobody came forth with evidence of any widespread fraud. Zero fraud mainly is what we heard.

And so what I want is--and I will just finish up with this sentence--I want an Attorney General who is going to protect people's right to vote. And I do not think, with Senator Sessions, we are going to have that.

Chairman Grassley. Senator Graham.

Senator Graham. Thank you very much.

Does anybody on the Committee doubt that there are cases of voter fraud in America? They all said they do not doubt it.

Do you doubt it? If you do, now is the time to speak up.

Mr. Brooks. Senator, various studies have indicated that when you compare the number of ballots cast in the hundreds of millions, the number of instances where voters are impersonating voters for the purpose of casting a ballot are a literal handful.

So if you look at the research of Ari Berman, any number of scholars will indicate that it is virtually zero. It is a relative handful, to hundreds of millions of ballots cast.

Senator Graham. So you are saying there really is no evidence of voter fraud. What happens if a county has more votes than there are people in the county?

That does not seem right to me. But anyway, the bottom line is I think you want to do two things, at least I do--make sure people can vote, and nobody votes illegally. Indiana has an approach; North Carolina has an approach. We will keep working on it.

Mr. Brooks, do you give a scorecard to Members of Congress?

Mr. Brooks. The NAACP does, indeed.

Senator Graham. Okay. Do you know what score was given to Senator Sessions in the 113th Congress?

Mr. Brooks. The Senator has received a low grade, as in a failing grade, for years on end.

Senator Graham. Okay. He got 11 percent. What did I get?

Mr. Brooks. Senator, I will have to consult the scorecard for you.

Senator Graham. I got 25 percent. Hatch got 25 percent. Grassley got 11 percent. Lee got 11 percent. Cruz got 11 percent. Sasse is yet to be determined. Flake, 29 percent. Crapo, 14 percent. Tillis, not rated. Kennedy, not rated.

What did the Democrats get on this Committee? Feinstein got 100 percent. Leahy got 100 percent. Durbin got 100 percent. Whitehouse got 100 percent. Klobuchar got 100 percent. Franken got 100 percent. Coons got 96.

[Laughter.]

Senator Graham. Blumenthal got 100 percent and Hirono got 100 percent.

Why do--would you say that there seems to be a difference in terms of the parties and how well they do with NAACP's legislative agenda?

Mr. Brooks. Yes. The new questions--the report cards are based on legislation, not party affiliation.

Senator Graham. Well, is it not kind of odd that one party gets 100 percent and nobody else does very well on our side?

Mr. Brooks. Senator, I do not think it is odd. It simply reflects the----

Senator Graham. I think it is really odd. I think it--well, it speaks for itself. Name one--it means that you are picking things that conservative Republicans do not agree with you on and liberal Democrats do. I hope that does not make us all racist and all of them perfect on the issue.

Can you name one person you think would be a good Attorney General on the Republican side?

Mr. Brooks. Senator, my purpose here, as you well know, as a witness, is to speak to the nominee's fitness to serve as Attorney General. And I might note, with respect to our report card, we have done that for the better part of a century, not based on----

Senator Graham. If I may, I think that the report card says volumes about how you view Republican conservatives, and all of us are in Jeff Sessions' boat when it comes to your organization. Maybe we are all wrong and maybe you are all right. I doubt if it is that way.

Mr. Mukasey, you have been Attorney General.

Mr. Mukasey. Yes.

Senator Graham. You know the job pretty well.

Mr. Mukasey. As well as you can learn it in the time that I was there.

Senator Graham. So what makes you believe that Jeff is capable of doing the job?

Mr. Mukasey. I think he has all the qualities of passing issues of competence and knowledge. He has all the qualities of mind and character that it takes to do the job, plus he has tremendous skill as a lawyer. He has also got an advantage that

I did not have, which is to say he had 20 years in this body, so he understands relationships with Congress. It does not have to be a learned skill for him, and has the dedication to the rule of law that is required to do the job properly.

I have no hesitation in supporting him.

Senator Graham. Thank you.

Mr. Canterbury, you are--do you work with Democrats and Republicans at the FOP?

Mr. Canterbury. Absolutely, Senator. Many good friends on both sides of the aisles.

Senator Graham. Have you found Jeff Sessions willing to work with the other side when he finds common ground?

Mr. Canterbury. Absolutely. And we have disagreed with Senator Sessions on issues, but always willing to listen to us.

Senator Graham. Have you found him--he will fight like a tiger for what he believes in?

Mr. Canterbury. Yes, sir.

Senator Graham. How do you say your name, Peter----

Mr. Kirsanow. Kirsanow.

Senator Graham. You have been a big supporter of Senator Sessions' immigration position, is that fair to say?

Mr. Kirsanow. That is correct.

Senator Graham. And I have been a big opponent of that.

Mr. Kirsanow. That is correct.

Senator Graham. Your observations about the man I agree with, substantively, on the issue, I disagree, but I appreciate you coming forward and speaking.

Mr. Vazquez--is that right?

Sergeant Vazquez. Yes, sir.

Senator Graham. If I have my way, then we will find a way to replace the Executive orders with legislation to protect the 800,000 people who have come out of the shadows. Look forward to working with you on that. Do you support deporting people who have committed felonies?

Sergeant Vazquez. I believe that the real spirit of immigration when coming to this country is to come here to pursue a better life. I can speak for the people I know, my parents, right? We came here to work. We came here to pursue a better life, and----

Senator Graham. My question is, do you support deporting people who have committed felonies?

Sergeant Vazquez. If you are going to come here to work and you are here to do other issues, then perhaps you are not representing us, and you should not be given the same opportunities.

Senator Graham. Thank you all.

Chairman Grassley. Senator Coons.

Senator Coons. Thank you, Mr. Chairman, and I would like to thank the witnesses of this panel today for their moving testimony and for sharing with us their experiences and their struggles, their work for public safety, for justice, for civil liberties, and civil rights.

The role of an Attorney General is not to be a bystander or a mere witness to the passing of time. Fundamentally, the top law enforcement officer of our country has an obligation to enforce the law. But that is too simplistic a framing. In a world of limited resources and competing demands, not every violation of law is enforced equally at all times in every situation.

The Attorney General of the United States has enormous power to shape the strategy of the Justice Department and deploy its resources of \$27 billion and 100,000 employees. And at times we heard yesterday a more moderate, more reflective Senator Sessions, who gave encouraging answers to a number of pointed questions. But I am very concerned that Senator

Sessions' 30-year record reflects many extreme positions far out of the mainstream, not just of our legislative work here, but out of the Republican Party.

More than that, I am concerned that Senator Sessions' record demonstrates that when there was an opportunity to stand up for the vulnerable, to promote civil rights or advance justice, he did not take action, or even actively opposed bipartisan work that would advance justice. So I have just a few quick questions.

First, I would like, Mr. Chairman, to introduce into the record a letter from Coretta Scott King that was sent to the Chairman and Ranking--at that point, Senator Biden--back in 1986 that was apparently omitted from the record, that I think ought to be made a part of the record.

[The letter appears as a submission for the record.]

Senator Coons. And I would like to first ask, if I might, Dr. Brooks about Senator Sessions' record. He has been criticized for actions he took ranging from the 1980s to the current day. And based on his record, many have expressed concern that, as Attorney General, he might not fully enforce a variety of civil rights laws and help advance them.

And after the Supreme Court's decision in Shelby County striking down preclearance--the most important piece, I would argue of the Voting Rights Act--a Voting Rights Act that was really forged in the crucible of the march in Selma.

A number of us worked to try and find a fix that addressed his concerns about the formula being outdated, that the formula was based on things that had happened decades ago. And despite diligent, disciplined work to try and find a bipartisan solution, we did not find a partnership with him.

Tell me, do you believe that Senator Sessions as Attorney General would not just be a witness to actions, but would act to advance justice?

Mr. Brooks. Based upon the record, we do not believe that. And the reason being here is that the Voting Rights Act has been debilitated in the wake of Shelby. We have seen these voter ID laws affecting at least 21 million Americans. We have seen these voter ID laws based upon the false predicate of voter fraud. We saw that in Alabama. We have not heard the Senator speak out on the voter suppression in his own State.

A voter ID law in that State, or similar to the one in Alabama, has been invalidated both in the Fourth Circuit and in the Fifth Circuit, North Carolina and Texas. The Senator has referred to the Voting Rights Act as--or I should say, the debilitation of it--as good for the South. He has referred to the Voting Rights Act as intrusive. He has not spoken in any way commendable, has not done anything to strengthen the Act in the wake of Shelby, has not recognized the voter suppression in his own State, has not spoken out in any way significantly in terms of the voter suppression that has occurred in the wake of Shelby. So we have no reason to be confident that as a chief law enforcement officer of the country, that he would do all that is necessary to protect the rights of Americans. In other words, being a prosecutor is not merely a binary matter; you do it or you do not. There is a matter of discretion, there is a matter of judgment, there is a matter of allocation of resources, and a matter of using the resources of the Department of Justice to bring about justice. We have no reason to be confident that he will do that.

Senator Coons. And to make it clear, Dr. Brooks, Senator Franken was just asking about this. The allegation that there were 3 million fraudulent votes in this last election was made by the President-elect, without any foundation. We have had hearings in this Committee. There have been hearings in other places and in other legislatures. There is no evidence of

widespread fraud to justify the voter ID statutes that have been enacted. And subsequent reviews, not just in North Carolina but in other places, have found them to be unconstitutional, yet the nominee for Attorney General has been silent about those issues and concerns. Is that your case?

Mr. Brooks. That is in fact the case. And let us note this. Let us just be very clear about this. Empirically speaking, one is as likely to see the tooth fairy standing next to Santa Claus at the ballot box as to encounter an actual instance of voter impersonation, voter fraud. Those are simply the facts. So for this kind of voter fraud to be a predicate for voter suppression is a shame in our democracy. There is no such case of voter fraud on the magnitude that has been described by the President-elect.

Senator Coons. Thank you, Dr. Brooks.

Mr. Cole, the ACLU has published a report outlining a number of concerns about Senator Sessions' nomination, ranging from voting rights to criminal justice to LGBT rights to torture to religious freedom.

I would like to note that in the audience today, I have marked, Mr. Khizr Khan is here with us. He has spoken passionately about his son's sacrifice for our Nation in combat in Iraq and has submitted a letter that I think is worth review by all Members. I would like to submit it for the record, if I might.

[The letter appears as a submission for the record.]

But Mr. Chairman, Mr. Khan, in his letter, spoke about his Muslim faith, about what it means to be an American and what it means to have real concerns about the Attorney General nominee and his commitment to the enforcement of religious liberty and protection of civil liberties.

Out of all the issues raised by the ACLU, what concerns you most?

Mr. Cole. Well, I think it is the pattern, the pattern of abuse when he exercised prosecutorial power, and the pattern while he was Senator of not just an ideological difference as some have put it, but of blindness at best and hostility at worst toward the interests and the rights that the Attorney General of the United States is--has a responsibility to protect.

So when you say--you can vote against the Hate Crimes Act, but when you say the reason I am voting against the Hate Crimes Act is because I do not think gays and lesbians and women are victims of discrimination, that is a blindness. When you say that Islam is a toxic ideology, that is hostility.

When you defend the President when he proposed--the President-elect, when he proposes a blatantly unconstitutional action using religion as a test for immigration, and you in the Senate are one of four people who defend that position and oppose a resolution that does no more than underscore what the Establishment Clause requires, which is that Government officials be neutral vis-a-vis religion, that gives us great pause.

So I think it is the entire record here. It is not an individual disagreement, it is about a failure to recognize discrimination and a hostility to some of the very rights that the Justice Department is designed to protect.

Senator Coons. Thank you both for your testimony. Thank you, Mr. Chairman.

Chairman Grassley. I want to put in the record the fact that there has been a lot of discussion of the Perry County case. It is worth noting that the Turner's son, Albert F. Turner, Jr., thinks Senator Sessions handled their case fairly. He said this in the letter, "My family and I have literally been on the front line of the fight for civil rights my whole

life, and while I respect the deeply held positions of other civil rights advocates who oppose Senator Sessions, I believe it's important for me to speak out with regard to Senator Sessions personally''--I appreciate Mr. Turner's attitude--``he was a Federal prosecutor at the Federal level with a job to do.'' So without objection, I will put the statement in the record and turn to Senator Blumenthal.

[The letter appears as a submission for the record.]

Chairman Grassley. Oh. Well, did you show up before I called on him?

Senator Blumenthal. I would be happy to yield, if the Chairman so wishes.

Chairman Grassley. Senator Tillis, go ahead. I am sorry. I did not see you come in when I called him.

Senator Tillis. Thank you, Senator Blumenthal. Actually, I have got to preside before too long, so this will be my last opportunity. So, thank you very much for the courtesy.

Mr. Vazquez, I want to thank you for your service and I want to thank you for coming up and speaking on behalf of folks, where I for one happen to be on the spectrum where I think some sort of immigration reform policy is something I hope we accomplish over the next couple of years. I look forward to working with other colleagues on this issue.

But now I want to go to Mr. Kirsanow. Am I pronouncing your name right, Mr.----

Mr. Kirsanow. Close enough.

Senator Tillis. Okay. Kirsanow. You sat on a panel that I referred to in general yesterday. I do not know if you recall the panel where it was primarily Senator Sessions and myself in a kind of a debate club in the Immigration Subcommittee, but I pointed to that as an example of his sense of fairness, because we came to that Committee with very different views about the immigration issue.

I do share many of the concerns--I am going to ask you a question in a moment about it--that you expressed. But what I was most struck by were the multiple rounds of discussions that we had and how quick he was to give me another round when he knew full well that what I was going to talk about was at odds with what he, as the Chair of that Committee, really wanted to have the discussion be about. So that, to me, is just another testament of the fair nature of Senator Sessions and I look forward to supporting his nomination.

Mr. Kirsanow, I actually hope--and this relates to a question that Senator or Chairman Grassley asked yesterday. I actually hope, and do you believe, that an Attorney General Sessions would likely prosecute examples of where visa programs are being abused and calling out the people who are abusing the work visa programs that we have today? Do you think he is going to do that?

Mr. Kirsanow. I am fairly certain he will, based on his public actions and the discussions we have had. He is concerned about enforcing the law as it exists, fairly, impartially. I think one of the frustrations that he has expressed, as many people have expressed, is that existing immigration laws and other laws simply are not being enforced. As General Mukasey has indicated, it is his job to enforce the law as an Attorney General as opposed to a legislator who makes the law.

Senator Tillis. And Mr. Vazquez, the reason why I like the answer to that question is that there are those of us who want to make progress on immigration reform need to get to the facts around where the abuses are occurring and how we eliminate them, because once we eliminate the abuses, then we can have the legitimate discussion about labor shortages and demographic trends that are probably going to get--have to get us to the right place on allowing legal immigration to occur.

But until we have a top law enforcement official who is willing to actually make sure that the law is followed today so that I can come back and say that there is a need for migrant workers, there may be a need for highly skilled workers, and we have an Attorney General who is actually enforcing the law to get rid of the abuses that take us further away from that result?

I think, interestingly enough, that an Attorney General Sessions may get us closer to a solution on immigration reform that both you and Mr. Kirsanow may find acceptable over time. Maybe idealistic, I have only been in this job for a couple of years, but having somebody who will get to the facts and who will actually get us to a point to where we can discuss the facts in this meeting about the reality of immigration reform and demographic trends is something I think that Mr. Sessions is going to help us do.

Mr. Thompson, you have spent a fair amount of personal time--if you roomed with Senator Sessions, then that means you spent a lot of personal time with him. Tell me a little bit about his experience as U.S. Attorney that you think make him highly qualified for the role of Attorney General, and also your personal observations with him when he was in the role as U.S. Attorney?

Mr. Thompson. So my response to your question, Senator, really will go to some of the questions that have been asked about Senator Sessions' ability and willingness to enforce the laws. Over the years, I have known, you know, some bad prosecutors and over the years I have known some good prosecutors.

I can assure you that Senator Sessions will be aggressive with respect to potential violations of the law. He will strike hard blows, he will not strike foul blows. And I do not think anyone here should have any concern about his willingness to enforce our laws fairly, impartially. He is a professional. He will be a complete professional in this job.

Senator Tillis. Mr. Canterbury, I thank you and all the men and women who serve in our communities keeping us safe. There is another element to, I think, an Attorney General Sessions that I believe will help us get through the variations that we have in illegal seizures. I know that the Chair has had some concerns with forfeitures and seizures.

I think a part of that has to do with the past execution of the current Department of Justice, and maybe the leadership in the past. I firmly believe that this is another issue to where maybe we can have a discussion about a proper execution of seizures and forfeitures that will make people in this Committee who are concerned with abuses less concerned with that. Would you agree with that statement?

Mr. Canterbury. Absolutely. I mean, we stand ready to work with the Committee as well to find a solution to the issues on the less-than-credible seizures. But the vast majority of the seizures, as Senator Sessions has commented many times, are crooks paying for law enforcement.

Senator Tillis. And I tend to agree with that. Because my time is limited and I want to stay under, particularly in deference to Senator Blumenthal, I just want to thank General Mukasey. I actually had a question for you, but I am not going to ask it so I will not go over, except to thank you because you may be the first attorney who has come before a panel in this Judiciary Committee who answers yes/no questions with either yes or no. So, thank you very much.

I yield back the balance of my time.

Chairman Grassley. Senator Blumenthal.

Senator Blumenthal. Thanks, Mr. Chairman. Thank you all for being here. This is a very distinguished panel and each of you

brings a perspective that is very valuable to our Committee.

Let me begin with Mr. Thompson, who has a wealth of experience, both as a private practitioner and as Deputy Attorney General.

Mr. Thompson. And you used to be my Senator.

Senator Blumenthal. That is correct. And we welcome you here. I am very concerned, as Senator Coons articulated so well, about a number of Senator Sessions' views on issues which seem to be out of the mainstream and hostile to basic civil rights and liberties, his views on immigration, his statements about Muslims, and his views on voting rights.

You served as Deputy Attorney General. You were responsible for enforcing the Voting Rights Act. I assume that you feel that it served a valid purpose. Do you agree that the Shelby County v. Holder decision was ``good news,' ' which is what Senator Sessions called it?

Mr. Thompson. I am not that familiar with that case, Senator, but let me respond this way, please.

Senator Blumenthal. Well, let me just tell you, you may not be familiar in depth with it but essentially it gutted the act's most important enforcement provisions and it lifted the obligation, which you were responsible for enforcing as Deputy Attorney General, on many States with a history of voting discrimination to clear voting changes with the Department of Justice.

Mr. Thompson. As I understand the decision and as I understand the voting rights laws, the decision did leave in place provisions that allowed the Department of Justice to deal with important areas of voting rights. I now live in the South and one of the things about the way we have administered and implemented voting rights is that--I can tell you, I have lived in your home State and I have lived in the South, and I can tell you there are problems in both States.

So for a lot of people who live in the South, the idea to be--the idea in this day and age to be subject to provisions that Connecticut, for example, is not subject to, or other northern States are not subject to, is something that is hard to swallow for a number of people.

Now, let me respond about Senator Sessions, what we are talking about in terms of his ability and willingness to----

Senator Blumenthal. Let me just----

Mr. Thompson. Enforce the law. I--we all go about choosing our friends in different ways. I have friends with all kinds of different political philosophies, all kinds of different beliefs, liberal friends, conservative friends. But when you go to the character of Senator Sessions, as someone who is going to be the Attorney General of the United States and his willingness to enforce all laws in an aggressive and fair and impartial manner, I have no problem with him.

I do not--I think he will be a very good Attorney General. You may not believe in that in terms of my own background, but I have practiced law for 43 years. I have spent a lot of time being concerned about diversity in our profession. I have spent a lot of time being concerned about equal rights. Jeff Sessions will be a very good Attorney General and I have no problem with his character as it relates to his willingness to enforce our laws.

Senator Blumenthal. Would you not agree that there is a continued need for enforcement of voting rights laws in the South, and other areas of the country? I am not singling out the South.

Mr. Thompson. Yes. Yes.

Senator Blumenthal. And would you not urge Senator Sessions that a decision that essentially guts one of the essential features of that law is not really good news for the South or

the country?

Mr. Thompson. I have never been a legislator, but that really will not be his concern as Attorney General. That will be the concern of this Committee in terms of dealing with legislation that might change and improve the voting rights laws.

Senator Blumenthal. Thank you.

Mr. Vazquez, have you submitted information to the Federal Government in connection with your status, and do you know of others who have as well who could be subject to enforcement actions as a result of information that they provided the Federal Government?

Sergeant Vazquez. I have--obviously I am now a U.S. citizen, but before--before this was the case I did submit a lot of information and I would have been subject to deportation before then. I know friends that have been--they have submitted all their information, there are beneficiaries on their DACA that are currently in that situation that could be--possibly be affected by a cessation of DACA.

Senator Blumenthal. Yesterday, I questioned Senator Sessions about the status of those individuals who have submitted information and they find that information, in effect, used against them, which I think would be drastically unfair.

And I asked him, as the Nation's legal conscience--not just the President's counsel, but he is the Nation's lawyer--to exercise some moral and legal oversight to assure that there is no unfairness against those individuals. They have, in fact, trusted the Government. They have entrusted the Government with that information. It is not a criminal double jeopardy issue, but my feeling is that many of them may be in a sense victims of their own honesty, coming forward to provide that information.

Have you found among your friends a feeling of uncertainty, apprehension, fear that that information could be used against them?

Sergeant Vazquez. The biggest sense that I get from my friends, it is the sense of fear, mostly due to the fact that we are not sure if DACA is going to continue. The fact that their names are out there, they raised their hands saying they are undocumented in the United States, and the fact that the top law enforcement of the country has voted against them every single time he has gotten a chance--their biggest issue is that he mentioned that he is not going to be able to deport 800,000 people, and the fact that that means that we are going to remain in the country. Then how is that going to give us confidence to report crimes against us and feel that that is going to be processed in a judge manner?

Senator Blumenthal. Thank you. Thanks. Thanks to you. Thank you, Mr. Thompson, both of you, for your very helpful answers. Thank you.

Chairman Grassley. Senator Kennedy.

Senator Kennedy. Thank you, Mr. Chairman.

I listened to your testimony this morning and it is clear to me you all are very, very smart people. If I struggle with your name, it is because I cannot see your name over here in my little corner, but I am going to try to be brief.

How many of you--you can just give me a show of hands--how many of you support Senator Sessions?

[A showing of hands]

Senator Kennedy. And how many of you oppose?

[A showing of hands]

Senator Kennedy. Does anybody know how many lawyers there are in the United States? Do you know, Professor? Any idea?

Mr. Cole. Some would say too many.

[Laughter.]

Senator Kennedy. Yes. I knew you were going to say that.

Mr. Cole. I do not know the precise number.

Senator Kennedy. Okay. A couple hundred thousand, at least.

I am a lawyer.

Mr. Cole. That is in DC alone.

Senator Kennedy. Yes, really. I do not know how many Democrats and how many Republicans there are, but is there anybody on this panel who doubts that if the President-elect had nominated an attorney to be Attorney General who happens to be a Republican, that the Democrat party could not produce witnesses to say that he would be a bad Attorney General? Does anybody doubt that in this environment?

[No response].

Senator Kennedy. Is there anybody here who doubts that if the President-elect had nominated a Democrat, an attorney who happens to be a Democrat, to be Attorney General of the United States, that the Republican Party could not or would not produce witnesses to say that he would be a bad Attorney General? Does anybody doubt that?

[No response].

Senator Kennedy. Thank you very much.

Chairman Grassley. Senator Hirono. Maybe I should say what our plans are. I believe that we have all the questioning done on our side, so when these two are done, it would be my idea to adjourn, and then at 1 o'clock, bring back the panel that is scheduled for the next one after this panel. So we have informed people that regardless of when we quit here, we will be back at 1 o'clock.

Go ahead, Senator from Hawaii.

Senator Hirono. Thank you, Mr. Chairman. I thank all of the panelists this morning. Dr. Brooks, I have some questions for you. Post-Shelby, the burden of going forward to show that a voter requirement law is discriminatory now rests with organizations, individuals such as the NAACP, correct?

Mr. Brooks. Yes, Senator.

Senator Hirono. And prior to Shelby, the preclearance really put the burden on States to show that whatever laws they were contemplating in this area, they have to show that this was not a discriminatory act on their part.

Mr. Brooks. States with a history of----

Senator Hirono. Yes, I realize.

Mr. Brooks. Yes.

Senator Hirono. So in this area of voting rights, there is no question in my mind that who bears the burden to go forward to prove something has a very high burden. At this point, that burden is really up to organizations like yours unless the Attorney General comes in, as they did in the North Carolina and Texas voting cases, to come in and weigh in and be a party.

So I asked Senator Sessions yesterday whether he would be just as vigorous in paying attention to these kinds of laws that have been enacted, by the way, by States, some 13 or 14 States now post-Shelby. So my question to you is, recognizing that the Attorney General has very broad prosecutorial discretion, the Attorney General cannot prosecute every violation of law. That is--even he admitted yesterday that that would be pretty hard, given the resources, so the Attorney General has to make some priority decisions.

So in your view, how high a priority was the enforcement of voting rights, such as the remaining Section 2 of the VRA, and civil rights laws under Jeff Sessions as Attorney General? How high a priority would those kinds of enforcement actions be?

Mr. Brooks. Senator, based upon the record, we have no reason to believe it would be a high priority. Where--in the two States that you noted, North Carolina and Texas, our State

conferences of the NAACP, with our lawyers, went to court. We are, in fact, in many ways partners with the Department of Justice.

That partnership presupposes that the Department of Justice, the leadership, the prosecutors are willing to see voter suppression. When I began my career at the Department of Justice in the Civil Rights Division, one of the things that I was advised by my supervisors, by my management, was the first thing you do when you conduct an investigation is reach out to the local branch of the NAACP. So we bear a heavy burden, but it is a burden that we would like to shoulder with a Department of Justice that is willing to see what we see.

Senator Hirono. Ms. Swadhin, would you have some concerns about how high a priority prosecution of hate crimes, crimes against the LGBT community would be under Jeff Sessions as Attorney General?

Ms. Swadhin. Absolutely, Senator Hirono. I think it is worth saying that the Violence Against Women Act is one of the pieces of legislation in this country that has always enjoyed strong bipartisan support. In fact, Senator Leahy was the sponsor of the 2013 version. But Senator Crapo on the Republican side co-authored the bill, and there were only 22 Senators who voted against it.

Senator Sessions was one of those, so he broke with the majority of the Republican Party to vote against that 2013 version. He argued yesterday that the reason he voted against that 2013 Violence Against Women Act was because he had concerns about fiscal mismanagement and wanted harsher penalties, but the fact is that the bill that passed did include provisions to include fiscal and reporting accounting to address the rape kit backlog, to strengthen the prosecution of sex crimes. The big difference between the bill that passed and the so-called alternative bill that he was trying to argue was, you know, the thing that he voted for, was the non-discrimination clause for LGBT survivors.

That--those discrimination--non-discrimination provisions were put into the bill that Senators Leahy and Crapo co-authored because national networks of victims' service advocates were hearing from people on the ground, domestic violence shelters, rape crisis centers, counselors, that LGBT survivors were being discriminated against.

So for Senator Sessions to go out on a limb, break with the majority of the Republican Party and vote against that legislation, to me, shows he has a strong bias against the LGBT community, which is also shown in his voting record against the Federal Hate Crimes Act that did also pass with a lot of bipartisan support, the Shepard-Byrd bill, and he of course also voted for a constitutional ban on same-sex marriage.

Senator Hirono. Thank you.

Mr. Vazquez, thank you for coming and testifying. As an immigrant myself, I certainly share your concerns about what would happen to the 800,000 DREAMers who have come out of the shadows if DACA is rescinded.

Now, the Department of Defense has a program whereby they will accept DREAMers, if they have come out to participate in DACA, to enlist. And, clearly, if DACA is rescinded, then the Department of Defense program will also end. So as someone who is serving in the military, what do you say to people who question DREAMers who want to put on a uniform, serve our country, defend our country?

Sergeant Vazquez. Thank you, Senator Hirono. I would say that having deployed and having seen combat, I care more than the person that was right next to me was willing to commit the same sacrifices that I was. And to question the reason why a lot of--why I would join the military, being that this country

raised me since I was a young child, I would--I would say that they definitely need to get to know one of us because that is not necessarily a fair statement, as to the reasons why we join the military. And I think that the mere fact that students are--young people that are benefited by DACA are willing to put their lives on the line to make that statement is something powerful to--to show.

Senator Hirono. Thank you. I am running out of time, but I had a very short question for, again, Dr. Brooks regarding consent decrees with police departments. How important are these consent decrees, that they remain in place?

Mr. Brooks. Critically important, when you cross the--criss-cross the country from Baltimore, to Ferguson, to Cleveland. The consent decrees provide a kind of bridge of accountability between police departments and the community that are enforceable. And bear in mind, this is not something that is imposed, but the parties agree to. And so they have legitimacy; they are an effective tool for the Department of Justice, and in a moment in which we have 2,100 Americans who lose their lives at the hands of the police over the course of the last 2 years, when a young Black man is 21 times more likely to lose his life at the hands of the police, and where you have predatory policing and these viralized videos of police-involved killings, consent decrees offer a measure of reassurance that someone is paying attention, a department is being held accountable, and that the community has a role to play that will be recognized by the courts. So, they are critically important.

Senator Hirono. And I want to note that the vast majority of police departments, 18,000 or so, they are doing the right thing. There are about 20 consent decrees that we are talking about.

Thank you very much, Mr. Chairman.

Chairman Grassley. Senator Klobuchar.

Senator Klobuchar. Thank you very much, Mr. Chairman.

I thought I would start with a kind of a different topic with you, Mr. Cole. It is about the Freedom of the Press. My dad is--was a long-time reporter with a Minneapolis paper, and it has been something that has been important to me my entire life. I actually asked Senator Sessions about this because he did not support the Free Flow of Information Act that we considered in this Committee.

And then I specifically asked about how, in 2015, the Attorney General had revised the Justice Department rules for when Federal prosecutors can subpoena journalists or their records, and also Attorney General Holder had committed to releasing an annual report on any subpoena issued or charges made against journalists and committed to not to put reporters in jail for doing their jobs.

I was not really able to get a straight answer. Senator Sessions said he would look back at the rules, and I will ask him on the record about it, so I do not have a concrete answer. But I just wondered if you could comment on the importance of the Freedom of the Press and some of these issues I raised in trying to keep these rules in place.

Mr. Cole. Well, thank you, Senator Klobuchar. The Freedom of the Press is one of the critical aspects of our constitutional order. It is--it serves a critically important checking function on government overreach and it performs that function, especially critically, in times when one party controls all the branches of the Federal Government.

So the Freedom of the Press is absolutely critical. You look back and you look at the role that the press played in Watergate, and you look forward and you imagine what kinds of investigations might need to be undertaken in light of some of

the allegations we have heard recently about Russia and the Trump campaign. I think it becomes very clear that our country's democracy depends upon protection of the Freedom of the Press.

Senator Klobuchar. Thank you very much.

Mr. Canterbury, thank you for being here. You have a number of members in our State and I enjoy working with them. I know we have worked together on a number of things.

I was not able to ask Senator Sessions yesterday, with our time limits, about the COPS program. As you know, in the House it has tended to be more bipartisan. I lead the bill in the Senate and I did get Senator Murkowski, the Republican of Alaska, who is doing it with me. But could you comment on the importance of that program, and maybe you will work with me in working with the Attorney General to get his support for this program.

Mr. Canterbury. It is a very important program. I think that with the sharp decrease in the staffing levels around the United States, that that bill is very important, especially in the major cities that have a rising crime rate. We will be glad to work with the Attorney General, and obviously with this Committee, to do anything to help move that program forward. We have a real problem with recruitment and retention of police officers.

Senator Klobuchar. Very good. I know that is an issue and we want to recruit police officers, get more diversity into our police, more women, and just in general, recruit more police officers. So, I appreciate that, as well as work on training issues. That is something I hope we will focus on in this Committee. So, thank you.

Mr. Brooks, I asked yesterday--my lead questions were about the Voting Rights Act. I know a lot of my colleagues have focused on those issues as well today, but I just wanted to go back--I came in--I had another hearing in the Commerce Committee for Elaine Chao. I heard Senator Graham, my friend who I just traveled with for a week in Ukraine and other places, talking about the voter fraud issues.

I used to prosecute these cases because I was the prosecutor for our biggest county in Minnesota, over a million people, and I know we would studiously, with an investigator, go through every report. In almost everything that was reported as a potential fraud, it was a father and son with the same name and it was not fraud at all. I think we had one guy that said to our investigator on the phone, over 5 years, that yes, he had voted twice because he felt he could not get his views expressed, and then of course we charged him with a crime.

Then we had another person--and this is over 8 years in the office--a husband and wife, where a school district line had split down the middle of their house and they decided that should allow them to vote twice. But these were the cases of fraud that we encountered. In fact, this is backed up by the numbers.

One study found just 31 cases of voter fraud out of 1 billion votes cast. I just think it is really important for people to understand how rare this is. And I know you know this, and why it is so important to look at the other side of the ledger, which is doing everything to make it easy for people to vote.

My State had the highest voter turnout in the Nation in the last election. Iowa was close. It does not necessarily mean you have a Democrat or Republican in office, as we know from our two States. Wisconsin is another State with high voter turnout. I just think it should be such a priority to get more people out to vote, and if you could talk about that.

Mr. Brooks. Certainly. The NAACP as an organization, we

believe that the right to vote is a civic sacrament. We honor it. We literally have members of our organization who have laid down their lives for the franchise. We dedicate tremendous resources to ensure that people vote.

In 2012, we led the Nation in terms of voter mobilization. These are grassroots volunteers. But when we talk about voter fraud, it suggests somehow that there are so many people who want to vote, they are willing to commit a crime to vote. That is not the case. We need more people to vote. The NAACP has focused on removing the barriers from voting, the obstacles to vote. We do so in a bipartisan--or I should say, excuse me, in a nonpartisan way--all across the country.

Senator Klobuchar. Thank you so much, Mr. Brooks. I appreciate that.

I had one last question of you, Mr. Mukasey. We worked well together when you were the Attorney General, and I know that another Senator had asked you about the importance of an independent Attorney General, but I wanted to just ask you a question about the U.S. Attorneys. I know when you came in, you made some changes across the country with some of the U.S. Attorneys and you came in, in part, because there were issues of political influence with regard to some of the U.S. Attorneys' Offices across the country. We certainly do not want to go back to that again. So could you talk about the importance of independent U.S. Attorneys and that they are insulated from politics?

Mr. Mukasey. The fact is that U.S. Attorneys, as you know, are political appointees. They are appointed by the President.

Senator Klobuchar. Right. Yes.

Mr. Mukasey. That said, once they are appointed, their charge is then to do essentially what the Attorney General's charge is to do, which is to enforce the law. And they have to recognize, and do recognize, that as soon as they take the oath, that is their charge. And they have to be supported in that by the Department, which is to say, the Department has to back them up when they are conducting investigations that have merit and not yield to political pressure, if there is any. It is a rarity, too, that you find somebody trying to lean on an investigation, but there has to be resistance to that and it has to be backed up by the Department. I think if there is that kind of relationship between the Department and the U.S. Attorneys, then there will be justified public faith in law enforcement. If there is not, there will not, and that is very damaging.

Senator Klobuchar. Thank you very much. I appreciate it. Thank you all.

Chairman Grassley. I thank all of you for your testimony. It has been very beneficial for both those opposed to and those in favor of Senator Sessions for Attorney General.

The hearing will stand in recess until 1 o'clock.

[Whereupon, at 12:36 p.m. the Committee was recessed.]

[Whereupon, at 1:12 p.m., the Committee reconvened.]

Chairman Grassley. Welcome to this panel. I have just got three or four sentences I want to read and then I will introduce the panel.

We have come back this afternoon for our third and final panel. We have done this--we have not done this when we have held hearings for the past several Attorneys General, but Ranking Member Feinstein called me last week and made a special request for this panel and I am doing my best to conduct this proceeding fairly.

We will hear from each witness for 5 minutes. We have agreed that we will not ask any questions of the witness, and we will adjourn when we have heard the last witness.

Now I would like to introduce the witnesses.

Mr. Leahy. I have about a 30-second----

Chairman Grassley. Go ahead right now then.

Mr. Leahy. Okay. Mr. Chairman, we know that the Attorney General is responsible for protecting the civil and human rights of Americans, and that is why many are worried, as you see in these hearings.

Senator Booker, Congressman Lewis, and Congressman Richmond bring to the discussion an important perspective about the basic rights enshrined in the Constitution that we try to form a more perfect union. That continues with every generation. Congressman Lewis has been a friend of mine for decades, we served together, and he nearly gave his life for that effort.

I invited Congressman Lewis to this Committee before for important conversations about marriage equality and voting rights, and the stakes are just as high. I am sorry we have broken with Committee tradition and made these Members in Congress wait till the very end of the hearing to speak. That is not the way I, as Chairman, would do, and other Chairmen have. But it is what we have.

But I commend Senator Booker and Representative Lewis and Representative Richmond for their courage. I am proud to serve with them. I thank them for being here.

Chairman Grassley. Thank you, Senator Leahy.

My colleague, Senator Booker, is from New Jersey. I know him well. We all know him and we appreciate your coming over to testify.

We will hear from Mr. Willie Huntley. Mr. Huntley is a former Assistant U.S. Attorney in the Southern District of Alabama who worked under Senator Sessions when he served as U.S. Attorney there, and he has known Senator Sessions for nearly 30 years.

Then we will hear from a well-known civil rights leader, Representative John Lewis, who represents Georgia's 5th District. Welcome back to the Committee, Congressman Lewis. It is always good to have you here.

After Representative Lewis, we will hear from the Honorable Jesse Seroyer, who served as U.S. Marshal for the Middle District of Alabama 2002 to 2011. He first got to know Senator Sessions in 1995 when he worked for him in the Alabama Attorney General's Office.

Next, we will hear from Representative Cedric Richmond, who serves the people of Louisiana's 2nd Congressional District, and is Chair of the Congressional Black Caucus. Welcome to the Committee, Congressman Richmond.

Finally, we will hear from Mr. William Smith. Mr. Smith worked for Senator Sessions as the first African-American General Counsel on the Senate Judiciary Committee. He has known Senator Sessions for 20 years, and we know him because of that service as a staff person here as well.

Welcome to all of you. We will start with Senator Booker.

STATEMENT OF HON. CORY A. BOOKER,
A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator Booker. Thank you, Chairman Grassley. I want to thank Senator Leahy as well, as well as the distinguished Members of this Committee. I know it is exceptional for a Senator to testify against another Senator nominated for a Cabinet position, and I appreciate the opportunity you have given me today.

I work closely with many of you on this panel on both sides of the dais on matters related to criminal justice reform, and you know just how deeply motivated I am by the many issues our next Attorney General will heavily influence, especially the crisis of mass incarceration.

I know that some of my many colleagues are unhappy that I am breaking with Senate tradition to testify on the nomination of one of my colleagues, but I believe, like perhaps all of my colleagues in the Senate, that in the choice between standing with Senate norms or standing up for what my conscience tells me is best for our country, I will always choose conscience and country.

While Senator Sessions and I have consistently disagreed on the issues, he and I have always exercised a collegiality and a mutual respect between us. Perhaps the best example of this is the legislation we co-sponsored to award the Congressional Gold Medal to those foot soldiers who marched at Selma. One of the foot soldiers is sitting next to me now.

This was a blessing and an honor to me because in 2015, a retired judge, who was White, told me that it was those brave marchers on the Edmund Pettus Bridge who inspired him as a young lawyer in the 1960s to seek justice for all in New Jersey and begin representing Black families looking to integrate in White neighborhoods, Black families who were turned away and denied housing.

One of those families was mine. I am literally sitting here because of people, marchers in Alabama and volunteer lawyers in New Jersey, who saw it as their affirmative duty to pursue justice, to fight discrimination, to stand up for those who are marginalized. But the march for justice in our country still continues, it is still urgent.

I know also, though, of the urgency for law and order. I imagine that no sitting Senator has lived in the last 20 years in higher crime neighborhoods than I have. I have seen unimaginable violence on American streets. I know the tremendous courage of law enforcement officers who put their lives on the line every single day to fight crime in America.

I want an Attorney General who is committed to supporting law enforcement and securing law and order, but that is not enough. America was founded, heralding not law and order, but justice for all. Critical to that is equal justice under the law. Law and order without justice is unobtainable. They are inextricably tied together. If there is no justice, there is no peace. The Alabama State troopers on the Edmund Pettus Bridge were seeking law and order. The marchers were seeking justice, and ultimately a greater peace.

One of the victories of the modern civil rights movement was the 1957 Civil Rights Act, which in effect made the Attorney General not only the chief law enforcement officer of the United States, but also vested in that office the responsibility to pursue civil rights and equal protection for all of America.

Senator Sessions has not demonstrated a commitment to a central requisite of the job: to aggressively pursue the congressional mandate of civil rights, equal rights, and justice for all of our citizens. In fact, at numerous times in his career he has demonstrated a hostility toward these convictions and has worked to frustrate attempts to advance these ideals.

If confirmed, Senator Sessions will be required to pursue justice for women, but his record indicates that he will not. He will be expected to defend the equal rights of gay and lesbian and transgender Americans, but his record indicates that he will not. He will be expected to defend voting rights, but his record indicates that he will not. He will be expected to defend the rights of immigrants and affirm their human dignity, but the record indicates that he will not.

His record indicates that as Attorney General he would object to the growing national bipartisan movement toward criminal justice reform. His record indicates that we cannot

count on him to support State and national efforts toward bringing justice to the justice system, and people on both sides of the aisle who readily admit that the justice system as it stands now is biased against the poor, against drug addicted, against mentally ill, and against people of color.

His record indicates that at a time that even the FBI director is speaking out against implicit racial bias and policing and the urgent need to address it, at a time when the last two Attorney Generals have taken steps to fix our broken criminal justice system, at a time when the Justice Department he would lead has uncovered systemic abuses in police departments all over the United States, including Ferguson, including Newark, Senator Sessions would not continue to lead this urgently needed change.

The next Attorney General must bring hope and healing to the country, and this demands a more courageous empathy than Senator Sessions' record demonstrates. It demands an understanding that patriotism is love of country, and love of country demands that we love all of our citizens, even the most marginalized, the most disadvantaged, the most degraded, and the most unfortunate.

Challenges of race in America cannot be addressed if we refuse to confront them. Persistent biases cannot be defended unless we combat them. The arc of the moral universe does not just naturally curve toward justice, we must bend it.

If one is to be Attorney General, they must be willing to continue the hallowed tradition in our country of fighting for justice for all, for equal justice, for civil rights. America needs an Attorney General who is resolute and determined to bend the arc. Senator Sessions' record does not speak to that desire, intention, or will. With all that is at stake in our Nation now, with the urgent need for healing and for love, I pray that my colleagues will join me in opposing his nomination.

Mr. Chairman, my time is over. I would like to submit the rest of my testimony to the record. I would like to again thank you for your opportunity to testify. Finally, I would like to acknowledge, which was not done, that sitting behind me are proud Members of the U.S. Congress and the Congressional Black Caucus.

Thank you, sir.

[The prepared statement of Senator Booker appears as a submission for the record.]

Chairman Grassley. And you should not have had to recognize them, I should have done that. I am sorry.

Senator Booker. Thank you, sir.

Chairman Grassley. Because I knew they were here.

Mr. Huntley.

STATEMENT OF WILLIE J. HUNTLEY, JR., FORMER ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF ALABAMA, MOBILE, ALABAMA

Mr. Huntley. Good afternoon. My name is Willie Huntley, and I am an attorney located in Mobile, Alabama. I am a solo practitioner and I have been practicing law for over 30 years.

I am a graduate of Auburn University, where I attended college on a football scholarship. I graduated from Auburn in 1980 and I attended Cumberland Law School after that. I finished Cumberland Law School in 1984. After I finished law school, I started a Federal clerkship with a Federal judge in Montgomery, Alabama.

After I completed that process, I began a tour with the--as an Assistant District Attorney in Macon County, Alabama. I was there from 1985 to 1987. Then my life changed. I got a phone call one day, and my secretary comes in the office and she says

Jeff Sessions is on the phone. And I am sitting there wondering, why is Jeff Sessions calling me? I was well aware of the allegations that had happened in his bid to become a Federal judge, which made me wonder why he was calling me. I answered the phone and then I find out that Jeff Sessions wants me to become an Assistant U.S. Attorney in the Southern District of Alabama.

This presented an ideal situation, so I decided to take advantage of that. The first time I actually met him was at a dinner in Montgomery. That dinner was supposed to last probably an hour, hour and a half. We ended up meeting for about 3 hours. During that time period, we discussed a number of topics: football, religion, politics, family. We talked about all those things.

During the course of that meeting with him, I got the feeling more and more and more that the allegations that had been spread through the press were not true. I also was contemplating whether I should make this move because I thought, if I go to Mobile, I do not know anybody there, I have no family there, and what if this man turns out to be exactly how he has been portrayed?

Fortunately, it did not turn out like that. I was at the U.S. Attorney's Office from 1987 to 1991. He assigned me the general criminal trial cases. He also assigned me to civil rights cases, and I would supervise all the civil rights cases that came through the office. During this time period, I can recall where we successfully prosecuted a police officer that was charged with excessive use of force.

Unfortunately, I made a decision to leave the U.S. Attorney's Office in 1991. That decision was not based on anything that had happened to me during my time period in the U.S. Attorney's Office. During that time period, Jeff gave me advice, counsel. He provided a great deal of support in everything that I did. One thing in particular that he did, was my second child was born and there was a knock on the door that morning, and through the door walks Jeff Sessions.

After I left the U.S. Attorney's Office, Jeff became the Attorney General of Alabama. He asked me to join his staff at that time, but I declined to join his staff. However, he made me a Special Assistant Attorney General and he put me in charge of handling defense cases for the State of Alabama.

Also during this time period, Jeff became charged with violating the State of Alabama Ethics Act. It involved a company by the name of TIECO. Jeff Sessions could have hired any lawyer he wanted to to represent him in that matter. Jeff decided to hire me in that particular case. We had that case and during the course of it, it was probably the longest hearing that had ever been held before the State Ethics Commission. At that point, Jeff was fully exonerated of all the charges involving the State Ethics Act.

One of the things that I can say about Jeff, is that he has always been the same person that I have known. He has always been available for me and always been there when I needed him. At no point in the time that I have known Jeff has he demonstrated any racial insensitivity. I see my time is rapidly winding down.

I would just like to say that in my opinion, Jeff Sessions will enforce and follow the laws of the United States evenhandedly, equally, and with justice for all. Jeff Sessions will adhere to the Justice Department motto, ``qui pro domina justitia sequitur.'' It means, ``for the Lady Justice.'' Jeff will protect and defend the rights of all people.

Thank you so much for this opportunity.

[The prepared statement of Mr. Huntley appears as a submission for the record.]

Chairman Grassley. Thank you.
Now we will hear from Congressman John Lewis.

STATEMENT OF HON. JOHN LEWIS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF GEORGIA

Representative Lewis. Chairman Grassley, Senator Leahy, and Members of the Committee, thank you for inviting me to testify today.

Millions of Americans are encouraged by our country's efforts to create a more inclusive democracy, during the last 50 years of what some of us call the beloved community, a community at peace with itself. They are not a minority. A clear majority of Americans say they want this to be a fair, just, and open Nation.

They are afraid that this country is headed in the wrong direction. They are concerned that some leaders reject decades of progress and want to return to the dark past when the power of law was used to deny the freedoms protected by the Constitution. The Bill of Rights and its Amendments--these are the voices I represent today.

We can pretend that the law is blind. We can pretend that it is evenhanded. But if we are honest with ourselves, we know that we are called upon daily by the people we represent to help them deal with unfairness in how the law is written and enforced.

Those who are committed to equal justice in our society wonder whether Senator Sessions calls for law and order, if it means today what it meant in Alabama when I was coming up back then. The rule of law was used to violate the human and civil rights of the poor, the dispossessed, people of color. I was born in rural Alabama, not very far from where Senator Sessions was raised.

There was no way to escape or deny the chokehold of discrimination and racial hate that surrounded us. I saw the signs that said "White Waiting," "Colored Waiting." I saw the signs that said "White Men," "Colored Men," "White Women," "Colored Women." I tasted the bitter fruits--the bitter fruits of segregation and racial discrimination.

Segregation was the law of the land, the order of society in the deep South. Any Black person who did not cross the street when a White person was walking down the same sidewalk, who did not move to the back of the bus, who drank from a "White" water fountain, who looked a White person directly in their eyes, could be arrested and taken to jail.

The forces of law and order in Alabama were so strong, that to take a stand against this injustice we had to be willing to sacrifice our lives for our cause. Often, the only way we could demonstrate that a law on the books violated a higher law was by challenging that law, by putting our bodies on the line and showing the world the unholy price we had to pay for dignity and respect.

It took massive, well-organized, non-violent dissent for the Voting Rights Act to become law. It required criticism of this great Nation and its laws to move toward a greater sense of equality in America. We had to sit in, we had to stand in, we had to march.

That is why, more than 50 years ago, a group of unarmed citizens, Black and White, gathered on March 7, 1965, in an orderly, peaceful, non-violent fashion to walk from Selma to Montgomery, Alabama, to dramatize to the Nation and to the world that we wanted to register to vote, wanted to become participants in a democratic process.

We were beaten, tear-gassed, left bloody, some of us unconscious, some of us had concussions, some of us almost died

on that bridge. But the Congress responded. President Lyndon Johnson responded and the Congress passed the Voting Rights Act and it was signed into law on August 6, 1965. We have come a distance, we have made progress, but we are not there yet. There are forces that want to take us back to another place. We do not want to go back, we want to go forward.

As the late A. Philip Randolph, the dean of the March on Washington in 1963, often said, "Maybe our forefathers and our foremothers all came to this great land in different ships, but we're all in the same boat now." It does not matter how Senator Sessions may smile, how friendly he may be, how he may speak to you.

But we need someone who can stand up, speak up, and speak out for the people that need help, for people who have been discriminated against. It does not matter whether they are Black or White, Latino, Asian American, or Native American, whether they are straight or gay, Muslim, Christian, Jews; we all live in the same house, the American house. We need someone as Attorney General who is going to look out for all of us and not just for some of us.

I ran out of time. Thank you for giving me a chance to testify.

[The prepared statement of Representative Lewis appears as a submission for the record.]

Chairman Grassley. Thank you, Congressman Lewis.

Now I go to Mr. Seroyer.

STATEMENT OF HON. JESSE SEROYER, JR., FORMER U.S.
MARSHAL, MIDDLE DISTRICT OF ALABAMA, MONTGOMERY, ALABAMA

Mr. Seroyer. Mr. Chairman and Members of the Committee, it is an honor for me to be here and I thank you for your time.

My name is Jesse Seroyer, Jr. I have been in law enforcement since 1976 to 2016. I have served in local police departments for 11 years, served in the United States Marshal Service for 8 1/2 years, served in the Attorney General's Office for 20 1/2 years. I first met Jeff Sessions when he was U.S. Attorney in the Middle District of Alabama--in the Southern District, I am sorry.

Jeff was prosecuting at that time a Klansman by the name of Henry Hayes. Jeff prosecuted that person for the abduction and murder of a Black teenager. Following Jeff's election as Attorney General, I had the privilege to serve with him in his administration as his chief investigator.

The beginning of Jeff's tenure as Attorney General presented Senator Sessions with challenges that included a budget crisis and a one-third reduction of staff. The things that Jeff did when we came to the budget crisis and the reduction of staff--there were several people in the office that had to seek other jobs elsewhere. There was a Black investigator in the office that came and had less than a year left before he was eligible to retire. Jeff Sessions allowed that to take place. He did not have to do that. He did not have to do that at all because of the situation that we were in.

Jeff Sessions retained me. He did not have to do that, but he did. Following the election, you know, we were charged with the responsibilities of a lot of crimes, and the expectations of the Attorney General was charged with the responsibilities of working various cases, which included white-collar crimes, public corruption, voter fraud, and criminal investigations.

As I reflect on our work, there was never a time when any of these cases was investigated with any political agenda or motive. The utmost respect and integrity was exercised for all individuals involved. Jeff Sessions' service and decisions as Attorney General earned him a reputation and respect among his

colleagues in appreciation for his willingness to do what was right.

When Jeff Sessions got to the U.S. Senate, as Attorney General he had argued to uphold a conviction and sentence of Klansman Henry Hayes for the murder of Michael Donald. When Jeff Sessions became a U.S. Senator, he helped me be appointed for the U.S. State Marshal for the Middle District of Alabama. He did not have to do that, but he did.

I have known Jeff Sessions for 20 years. He is a good and decent man. He believes in law and order for all the people--all the people in Alabama, because of his colleagues and all that surrounded him, the things that he has done for the law enforcement community and the citizens of Alabama, it is great. It is without any question as to whether or not he would be fit to serve this country as the U.S. Attorney General.

Now, I did not learn these things from a political press conference, any website where I read about him. I know Jeff Sessions as the man. The man that I know is a decent and honest and respectful man that will put all of his life into public service. He has done that.

When we talk about the criminal justice system, we enforce the laws and we do it because we have a love for the laws. Jeff Sessions loved the people that do the enforcement side of it. He respects the citizens, who deserve a good and honest person that is going to give all he has to make sure that everyone is treated equally and fairly under the law.

But his decency as a man and his honesty as a man speak for itself. He is the type of individual that I support for the United States Attorney General's Office because of my reputation and his history with me as a person and the things that I have seen over the years in Jeff Sessions. It is hard being a public servant.

I was in law--been in law enforcement for 40 years. It is a tough job. We do not violate the laws, we do not get out there and do things that would cause ourselves to be brought into the system. And I am not saying everybody is the same, but I believe that he will take hold of the justice system, the Justice Department, and he will be fair, he will be honest, and he will do the same thing for every person, with honesty and respect for all of us.

My time is up. Thank you for listening.

[The prepared statement of Mr. Seroyer appears as a submission for the record.]

Chairman Grassley. Thank you, Mr. Seroyer.

Now, Congressman Richmond.

[Disruption in the audience.]

Chairman Grassley. Wait just a minute, Congressman.

STATEMENT OF HON. CEDRIC L. RICHMOND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA, AND CHAIR, CONGRESSIONAL BLACK CAUCUS

Representative Richmond. Let me thank the Chairman and Ranking Member for allowing me to testify.

[Disruption in the audience.]

Chairman Grassley. I would ask you to hold. You will not lose any time.

Proceed, Congressman.

Representative Richmond. Let me thank the Chairman and Ranking Member for allowing me to testify. The Senate's duty to provide advice and consent to Presidential nominees is a fundamental component of American democracy. I know that you do not take this responsibility lightly.

Before I jump into my substantive testimony, I want to address two timely issues. First, I want to express my concerns

about being made to testify at the very end of the witness panels. To have a Senator, a House Member, and a living civil rights legend testify at the end of all of this is the equivalent of being made to go to the back of the bus. It is a petty strategy and the record should reflect my consternation at the unprecedented process that brought us here.

My record on equality speaks for itself, and I do not mind being last. But to have a living legend like John Lewis handled in such a fashion is beyond the pale, and the message sent by this process is duly noted by me and the 49 Members of the Congressional Black Caucus and the 78 million Americans we represent, and the over 17 million African Americans that we represent.

Further, on the issue of Senator Sessions' record of prosecuting the Marion Three, stemming from a complaint filed by African Americans, I say the following: History is replete with efforts by those in power to legitimize their acts of suppression and intimidation of Black voters by recruiting other Blacks to assist in bringing trumped up charges against law-abiding citizens who are engaged in perfectly legitimate voter education and empowerment activities.

Those tactics were effectively used against former Congressman Robert Smalls and hundreds, if not thousands, of Black office holders and land holders in our post-Reconstruction era. They were used several years ago against Mr. and Mrs. Alfred Turner, who were discussed by this Committee yesterday.

The Declaration of Independence set forth the idea of universal equality that rests at the heart of our democracy, but it is the 14th Amendment to our Constitution and its Equal Protection Clause that has helped bring us closer to fulfilling that foundational principle and bringing us closer to a more perfect union.

All Cabinet officials have a responsibility to protect the interests of all of the American people, but there is no office for which the duty to apply the law equally is greater than that of the Attorney General. In my capacity as Chairman of the Congressional Black Caucus, I urge you to reject Senator Sessions' nomination.

Throughout our Nation's history, Attorney Generals have used the resources of the Federal Government to vindicate the right of the most vulnerable in society. After the Civil War, the first Attorney General to lead the DOJ, Amos Akerman, prosecuted the KKK for its widespread use of violence aimed at suppressing the Black vote. This facilitated massive Black voting turnout in 1872. For the first time in our Nation's history, former slaves were afforded the opportunity to participate in the democratic process.

Simply put, Senator Sessions has advanced an agenda that will do great harm to African-American citizens and communities. For this reason, the CBC believes Senator Sessions should be disqualified. He has demonstrated a total disregard for the equal application of justice and protection of the law as it applies to African Americans, and falls short on so many issues.

Jeff Sessions supports a system of mass incarceration that has disproportionately targeted African-American citizens and devastated African-American communities. He opposed common-sense, bipartisan criminal justice reform, and Jeff Sessions cannot be relied upon to enforce the Voting Rights Act. In his decades-long career and public life, Senator Sessions has proven himself unfit to serve in the role as Attorney General.

I would not have the opportunity to testify today were it not for men like John Lewis, who was beaten within an inch of his life in his pursuit for the right to vote for African

Americans. It is a shame that he must sit here and re-litigate this 50 years later.

We sit here as the progeny of men and women who were bought, sold, enslaved, raped, tortured, beaten, and lynched. Black people were bought as chattel and considered three-fifths of a human being. However, we have been able to endure and largely overcome that history, thanks in part to brave men and women, both Democrat and Republican, who sat where you sit and cast often difficult votes for freedom and equality. These Senators fought public opinion and even their own party to do what was right. I come before you today asking you to do the same.

Now, you all must face a choice: Be courageous or be complicit. If you vote to confirm Senator Sessions, you take ownership of everything he may do or not do in office. He has no track record of fighting for justice for minorities, despite the characterizations that you have heard from others today.

He and his supporters have told you that he is a champion for civil rights and equality. Characterization and revisionist histories are not the same things as facts. He is on the record on numerous issues; I have provided just a few examples today.

Let us think about this logically. If he were in fact the champion for civil rights, would not the civil rights community support his nomination instead of speaking with one voice in near-unanimous opposition?

In closing, each and every Senator who casts a vote to confirm Senator Sessions will be permanently marked as a co-conspirator in an effort to move this country backward, toward a darker period in our shared history.

So I ask you all, where do you stand? It is clear from Senator Sessions' record where he stands. Will you stand with him and allow history to judge you for doing so? I implore you all to weigh these questions properly as you prepare to cast what will be one of the most consequential votes in your time as a United States Senator. ``Res ipsa loquitur'' is a legal term which means, ``the thing speaks for itself.'' Senator Sessions' record speaks for itself, and I would urge you not to confirm Senator Sessions as Attorney General of the United States.

Thank you, Mr. Chairman, for allowing me to go over.

[The prepared statement of Representative Richmond appears as a submission for the record.]

Chairman Grassley. Thank you, Congressman Richmond.

Now I call on Mr. Smith.

STATEMENT OF WILLIAM SMITH, FORMER CHIEF COUNSEL,
ADMINISTRATIVE OVERSIGHT AND THE COURTS SUBCOMMITTEE, SENATE
COMMITTEE ON THE JUDICIARY, WASHINGTON, DC

Mr. Smith. Chairman Grassley, Members of the Committee, I ask that my written statement be made a part of the record.

Chairman Grassley. It will be. And that is true of Senator Booker and anybody else that did not get their entire statement put in the record. It will be in the record, yes.

[The prepared statement of Mr. Smith appears as a submission for the record.]

Mr. Smith. It is an honor for me to be here today to support Senator Sessions to be the next Attorney General of the United States of America. He will do an outstanding job. The American people had an opportunity to witness yesterday, through his testimony, a brilliant legal mind, a man of the highest character and great integrity.

Let me briefly address this legal mind. As a staffer, your job is to always be more prepared than the Member. Senator Sessions made this difficult. I remember one hearing where I

was passing Senator Sessions note after note to make sure he was prepared. When he did not speak on the topic I handed him, I would hand him another note on another topic. Finally, he decided to speak. He did--as he did in his testimony yesterday, he crushed it.

Senator Sessions was not ignoring my notes, he was systematically thinking about how to put all the notes together in one speech. A number of my colleagues were amazed by his speech. They asked me afterwards, what did you say to him in those notes? I told them, I handed Senator Sessions a blank sheet of paper and told him to make me look good, and that is what he did.

Senator Sessions spent yesterday proving to the American people that he understands the law, will disperse it equally, and he made a bunch of staffers look good.

A lot has been said about Senator Sessions' character. We have seen people who have never met Senator Sessions claim to know him, know his heart. We have seen Members of this body and Members of the House of Representatives just now who have worked with Senator Sessions and praised him for his work, and now turn to attack him. This should not be.

The reason we did not see a lot of this yesterday during the hearing is because the Members of this Committee know Senator Sessions. You know he is a strong conservative, but you also know he is fair and honest. If you disagree with Senator Sessions because of his political views, let us have a conversation about that but let us do it on the facts, not on 30 years of old innuendos and allegations that have been disproven.

There is something very consistent about praising Senator Sessions for aiding African-American communities and working on crack and powder cocaine legislation, and then criticizing him because he takes a different political view on another matter like immigration.

Enforcing immigration laws is not out of the mainstream.

On the panel that testified before this one, there were personal attack, after personal attack, after personal attack. I doubt any one of those individuals attacking Senator Sessions, outside of yesterday, has spent 30 minutes in the same room with him. That is 30 minutes in the same room, not 30 minutes talking to him. I doubt any of them have spent 30 minutes, or 10 minutes, talking to Senator Sessions.

This process should not be about--this process should be about facts, not about political aspirations. Every allegation and witness from 30 years ago has been discredited. Members and the media should move on. Senator Sessions testified yesterday that he would enforce the laws whether he agreed with them or not.

That is the role of the Attorney General, not to embrace every point of view in the shifting political winds. If you come before Jeff Sessions you will get equal justice and you will respect the outcome, even if you lose.

How do I know this? I know it because I know Jeff Sessions. I am not testifying as someone who just met him yesterday. I know his family, I have dined at his house. We have eaten Johnny Rockets burgers together. I have traveled across the State of Alabama with Jeff Sessions. I have watched him order a Heath Blizzard at Dairy Queen, quote, ``heavy on the Heath.''

I have watched him prepare for hearings. I have debated him on legislative matters. I have written speeches for him. I have made speeches on his behalf. I have been in every political situation with him. Senator Sessions is unquestionably qualified for the job for which he has been nominated. He is a good Christian man and a good family man.

He is a man who has dedicated his life to public service,

and in the course of that he has actually fought for the disenfranchised. He fought for citizen reform, and not only did he fight for it, he accomplished it. He fought for civil rights. He prosecuted members of the Ku Klux Klan and, most importantly, he has fought for the liberty of all Americans, regardless of the color of their skin or their personal beliefs. This is the way it should be. After 20 years of knowing Senator Sessions, I have not seen the slightest evidence of racism because it does not exist. I know a racist when I see one, and I have seen more than one, but Jeff Sessions is not one.

Senator Sessions has served with distinction throughout his career as a U.S. Attorney, as Attorney General for Alabama, and as a Member of this body. The legal profession is better for his service, this body is better for his service, and this country, at the end of his term, will be better for his service.

In every season, Jeff Sessions has been measured, courteous, and kind. He has treated me and everyone respectfully and fairly, not showing favoritism at any point. This is the kind of Attorney General that our Nation needs. I applaud his selection. I look forward to his swift confirmation. Thank you and War Eagle.

Chairman Grassley. The record will stay open until Tuesday. I thank all of you for your testimony.

The hearing is adjourned.

[Whereupon, at 1:55 p.m., the Committee was adjourned.]

[Additional material submitted for the record for Day 1 and for Day 2 follows.]

A P P E N D I X

Additional Material Submitted for the Record

[GRAPHICS NOT AVAILABLE IN TIFF FORMAT]

[all]