

**Nomination of Joseph “Jody” Hunt to be Assistant Attorney General for the Civil Division
Questions for the Record
April 12, 2018**

FOLLOW-UP QUESTIONS FOR THE RECORD FROM SENATOR FEINSTEIN

1. In previous Questions for the Record submitted to you on March 14, I asked whether “[i]n your time as Attorney General Sessions’ Chief of Staff . . . you worked on or advised the Attorney General, anyone else at the Department of Justice (Department), or anyone at the White House on” a number of matters. I also asked you to describe the nature of the work and to whom you provided advice.

You responded to my questions by claiming the following: “As the Chief of Staff to the Attorney General, I was present for discussions and meetings with the Attorney General or other executive branch officials on a wide range of issues and matters. Whether legal or other advice has been provided on a specific matter and, if it has, the content of that advice, is generally treated as privileged and confidential, and thus it would not be appropriate for me to discuss the nature of any such work.” (Hunt Response to Feinstein QFR 1(a))

With respect to other matters about which I asked, you wrote, in addition to the above: “Additionally, it is my understanding that this issue is the subject of ongoing litigation. While I am not involved in that litigation, it is the longstanding policy of the Department of Justice to not comment on pending matters, and thus it would not be appropriate for me to comment on this matter.” (Hunt Response to Feinstein QFR 1(b))

However, you did in fact provide answers to whether you had worked on certain legal issues in your time as Senior Advisor in the Justice Department’s Office of Legal Policy (OLP), responding that you did not work on five different specific matters, including the Department’s request to add a question on citizenship to the 2020 Census. (Hunt Responses to Feinstein QFR 2)

A previous nominee — Greg Katsas, now on the D.C. Circuit Court of Appeals — answered similar questions about whether he had worked or advised on certain legal matters. Mr. Katsas answered, for instance, whether, while serving in the White House Counsel’s Office, he had “worked or advised on any matters related to the definition of torture under U.S. or international law,” and also answered whether he had “work[ed] or advise[d] on any issues related to the Justice Department’s decision to file a brief in” *Zarda v. Altitude Express*. (Katsas Responses to Feinstein QFRs 5(b), 13) I also asked you about your involvement in *Zarda*.

Another nominee, Joan Larsen — now a judge on the Sixth Circuit Court of Appeals — addressed more broadly the nature of nonpublic opinions on which she had worked while serving in the Justice Department’s Office of Legal Counsel (OLC), writing: “Much of the work of the Justice Department from [January 2002] until I left in May 2003 involved issues that might be broadly construed as relating to the War on Terror, even if they would not be so understood in a more conventional sense.” (Larsen Response to Feinstein QFR 3(c))

Given that these other nominees answered whether they had worked on certain issues — and given your own answers to questions about your work while at OLP — I want to ask you again whether you worked on the issues below. These questions simply ask if you worked on the issues below and do not ask about the provision or content of any legal advice.

In your time as Attorney General Sessions’ Chief of Staff, did you work on or advise the Attorney General, anyone else at the Department of Justice (Department), or anyone at the White House, on the following matters:

RESPONSE: As noted in my response to prior questions, as Attorney General Sessions’s Chief of Staff I was present for discussions and meetings on a wide range of issues and matters. In some instances my presence may only have been for the purpose of facilitating a meeting or to make sure various components with equities in the issue or matter were participants. In other instances I may have participated in the discussion on an issue or matter. With that explanation and with your clarification, which I appreciate, I respond as follows:

- a. Attorney General Session’s recommendation that the President fire former-FBI Director James Comey?**

RESPONSE: Yes.

- b. The September 5, 2017 decision to rescind the Deferred Action for Childhood Arrivals (DACA) program?**

RESPONSE: Yes.

- c. The Department policy, announced on May 10, 2017, requiring prosecutors to “charge and pursue the most serious, readily provable offense”?**

RESPONSE: Yes.

- d. The Department’s June 28, 2017 letter seeking information from 44 states covered by the National Voter Registration Act (NVRA) regarding those states’ “procedures for compliance with the [NVRA’s] statewide voter registration list maintenance procedures”?**

RESPONSE: I do not recall.

- e. The Department’s assessment of and/or defense of the executive order limiting entry of individuals from certain majority-Muslim nations?**

RESPONSE: Yes.

- f. **The Department's decision to withdraw Title IX guidance that had allowed transgender students to use the restroom that matched their gender identity?**

RESPONSE: Yes.

- g. **The Department's decision to withdraw claims that a Texas voter ID law, SB 14, was created with discriminatory intent?**

RESPONSE: I do not recall.

- h. **The Department's decision to file a merits stage amicus brief in the Supreme Court in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, in support of cake shop owners who refused service to a same-sex couple?**

RESPONSE: Yes.

- i. **The Department's decision to file an amicus brief in the Second Circuit in *Zarda v. Altitude Express*, arguing that Title VII does not extend to discrimination on the basis of sexual orientation?**

RESPONSE: I do not recall.

2. If you will not answer the questions above, please specify whether you are invoking privilege and, if so, which privilege and on what specific grounds you are invoking the privilege.

RESPONSE: Please see my responses to Question 1 above.

3. If you will not answer the questions above, please explain why you are differently situated than either Mr. Katsas or Ms. Larsen, who were both able to answer questions about whether they worked on certain issues while at the White House Counsel's Office and OLC, respectively.

RESPONSE: Please see my responses to Question 1 above.

4. Recent press reporting indicates that Ezra Cohen-Watnick, a former staffer on the National Security Council who was fired last fall from the White House, will soon join the Justice Department to advise the Attorney General on national security issues. The same reporting indicates that President Trump "personally ordered" the Justice Department to hire him. (*Trump Ordered DOJ to Hire Controversial Former Aide, Sources Say*, BLOOMBERG, April 11, 2018)

According to Mr. Cohen-Watnick's attorney, Mark Zaid, Attorney General Sessions had offered Mr. Cohen-Watnick a job in the Justice Department in September 2017. You served as Attorney General Sessions' Chief of Staff from February to October 2017.

- a. **Have you ever been aware that President Trump ever requested, directed, or discussed with anyone at the Justice Department the hiring of any individuals? If so, please indicate when the request, directive, or discussion took place, with whom, and about whom.**

RESPONSE: To my knowledge, the President made the decisions to appoint FBI Director Wray and other Presidentially-appointed individuals at the Department of Justice.

- b. **While you served as Attorney General Sessions' Chief of Staff, were you aware of the Attorney General or any other appointed official at the Justice Department offering Ezra Cohen-Watnick a position? If so, please indicate when that offer was made and to what position.**

RESPONSE: This question calls for information that relates to a personnel matter and thus that may be protected from disclosure under certain statutes and regulations, and therefore it would not be appropriate for me to comment.

- c. **While you served as Attorney General Sessions' Chief of Staff, did President Trump ever request, direct, or discuss with the Justice Department hiring Ezra Cohen-Watnick? If so, please indicate the nature of the President's request, directive, or discussion, and what actions the Attorney General, you, or any other Justice Department official took in response.**

RESPONSE: I have no knowledge of the President having ever requested, directed, or discussed with anyone at the Department of Justice the hiring of Mr. Cohen-Watnick.

5. As you testified at your nominations hearing, as Attorney General Sessions' Chief of Staff, you were "recused from anything with respect to the Russia investigation and the Special Counsel's work." You also noted in your responses to my previous Questions for the Record that the Attorney General's recusal announcement "made clear that the recusal applied to members of the Office of the Attorney General staff (including me)." (Hunt Response to Feinstein QFR 3(d))

- a. **During your time as Attorney General Sessions' Chief of Staff, did all members of the Office of the Attorney General staff indeed recuse themselves in matters related to the Russia investigation and the Special Counsel's investigation?**

RESPONSE: During my time as Attorney General Sessions's Chief of Staff, I have no knowledge of any officials in the Office of the Attorney General being briefed about or otherwise involved in any matters from which the Attorney General announced his recusal on March 2, 2017.

- b. Ezra Cohen-Watnick is reportedly set to join the Attorney General's team of direct

advisors. **Would the recusal, which you testified applies to all members of the Office of the Attorney General in matters related to the Russia investigation and the Special Counsel’s investigation, apply to Mr. Cohen-Watnick?**

RESPONSE: The recusal notice issued on March 2, 2017, directs relevant Department of Justice components “not to brief the Attorney General (or other officials in the Office of the Attorney General) about, or otherwise involve the Attorney General (or other officials in the Office of the Attorney General) in, any such matters.”