

**Nomination of Jeff Sessions to be Attorney General of the United States
Questions for the Record
Submitted January 23, 2017**

QUESTIONS FROM SENATOR BLUMENTHAL

In my original questions for the record, I asked whether you would commit to recusing yourself from any investigation into whether or not your boss, President Trump, has violated the Domestic Emoluments Clause or the insider trading laws. I also asked whether you would recuse yourself from cases in which President Trump or his family have a financial or political interest. You responded that you are “not aware of a basis to recuse yourself” but would not say one way or the other whether you would recuse yourself.

- a. Are there circumstances under which you would consider it appropriate to handle an investigation of civil or criminal wrongdoing by your own boss? Please answer yes or no.**
- b. If you believe that such an investigation would not pose a conflict of interest, please explain why.**

RESPONSE to (a) – (b): Each case depends on facts and specific circumstances. It would not only be impossible, but unwise, for me to suggest that an Attorney General would or would not be presented with a conflict in every possible scenario that involves the President. In other words, I cannot offer an opinion that would fit in every instance. I can only reiterate that, if a specific matter arose where I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed.

- c. You have committed to “consult with [Justice] Department ethics officials” if your “impartiality might reasonably be questioned.” Will you commit to accepting the advice of career staff if they recommend that you recuse yourself from a particular investigation or case?**

RESPONSE: I would seek the recommendations of Justice Department ethics officials and value them in my decision-making on such a question.

- d. Can you give any examples of a situation where an Attorney General has investigated civil or criminal wrongdoing by the President who appointed him or her and where you consider the Attorney General’s conduct to have been appropriate?**

RESPONSE: I do not know whether such examples exist. Any past decision by an Attorney General to recuse or to proceed in a case involving the President should not be read to suggest that recusal or lack of recusal would be necessary or proper in every case. As I indicated above, a decision to recuse or to proceed should be based only on the facts and circumstances presented.

- e. **Have you discussed the Domestic Emoluments Clause, the Foreign Emoluments Clause, or the insider trading laws with President Trump, with any employee of President Trump, or with any agent for President Trump? If so, please discuss the content and depth of those conversations.**
- f. **Have you discussed whether or not President Trump, his family, or individuals who did paid or unpaid work for his campaign may face civil or criminal liability, under any statute or Constitutional provision, with President Trump or any of his agents or employees? If so, please discuss the content and depth of those conversations.**
- g. **Have you discussed with President Trump or any of his agents or employees the possibility that an ongoing or future investigation could embarrass the President or his Administration? If so, please discuss the content and depth of those conversations.**
- h. **Have you discussed Russian hacking with President Trump or any of his agents or employees? If so, please discuss the content and depth of those conversations.**

RESPONSE to (e) – (h): No.

In response to a question for the record from Senator Durbin, you indicated that you have not read the unclassified or classified version of the January 6 Intelligence Community Assessment “Assessing Russian Activities and Intentions in Recent US Elections.”

- a. **Have you read that assessment or any part of that assessment – for example, the 1.5 page “Key Judgments” section – since Senator Durbin asked about it?**
- b. **If so, how will this information inform your decisions regarding investigatory priorities should you become Attorney General? If not, why not?**
- c. **Have you discussed your decision to read or not read this intelligence assessment with President Trump or any of his agents or employees?**

RESPONSE to (a) – (c): No.

In my original questions for the record, I asked whether a member of President Trump’s family who relies on nonpublic information to make business decisions has violated the STOCK Act or other insider trading laws.” While you did not answer this question, you indicated that the answer hinges on whether the Trump family member is an “executive branch employee.”

- a. **If a Trump family member does not qualify as an “executive branch employee,” as that term is used in the STOCK Act, do you believe that such family member can use private information they learn through government service to make business decisions? Please provide a yes or no answer.**

RESPONSE: Such individuals would be subject to any applicable federal laws to the same extent as any other individual subject to the jurisdiction of federal law.

In response to my original questions for the record, you said that you “have not reviewed the details of whether a constitutional amendment would be required” to overturn the Fourteenth Amendment’s guarantee of citizenship to all children born on American soil. You expressed skepticism of birthright citizenship as far back as 2010, and more recently you indicated that you have been reading legal briefs on the subject. Now that you have had additional time to review the details of this issue, I would appreciate your answer on this important question.

- a. Would a constitutional amendment be required to overturn the Fourteenth Amendment’s guarantee of citizenship to all children born on American soil?**
- b. How would you determine which children are guaranteed American citizenship and which are not?**

RESPONSE to (a) – (b): I have been aware of this issue for many years. I am aware that scholars have differing views and I have not conducted the careful research needed to express an opinion on the subject.

In my original questions for the record, I asked you to detail the circumstances under which the executive branch could reinstate the bulk collection of Americans’ phone records without amending federal statutes. While you provided some additional information about your past statements, which I appreciate, you did not answer my question. To be clear, I am not asking about what you have said in the past. I want to know what you believe today.

- a. Under what circumstances could the executive branch reinstate the bulk collection of Americans’ phone records without working with Congress to amend federal statutes?**

RESPONSE: In your original question, you note my testimony wherein I agreed that the current state of the law appears to be that the executive branch cannot reinstate bulk collection without amending federal statutes. In addition, this sentence appears at the end of my original written response: “I . . . am not aware of any interpretation of the USA Freedom Act that would allow the bulk collection of telephone records under section 215, absent further amendments by Congress to the Foreign Intelligence Surveillance Act.”

In my original questions for the record, I asked whether you would “commit to not tracking Americans’ location in order to target and catalog individuals’ exercise of First Amendment activities, such as religious activities, protests, and political rallies.” You responded merely that you will “enforce the laws and will do so with unreserved fidelity to the Constitution.” While I appreciate your general willingness to follow the law as you interpret it, my question asked you to make a specific commitment. The American people should not have to wait until you are in office to find out whether you plan to track their First Amendment-protected activities.

- a. Will you commit not to track Americans' location in order to target and catalog individuals' First Amendment-protected activities, such as religious activities, protests, and political rallies?**

RESPONSE: I reiterate my commitment that, if I am fortunate enough to be confirmed as Attorney General, I will carry out my duty to enforce the laws and will do so with unreserved fidelity to the Constitution, including the First Amendment. If any such action was necessary to further a legitimate law enforcement or national security purpose, it should be conducted only within the parameters set by the Constitution.

In my original questions for the record, I asked you for two commitments regarding the appropriate use of stingray technology. In your response, you declined to comment on “what federal law or the Constitution allows in these circumstances.” With respect, I did not ask what federal law or the Constitution allows. I asked whether you would commit not to engage in the practices described. Please respond with a yes or no answer.

- a. Will you commit not to use stingrays to identify every American who has chosen to attend a particular political rally or worship service, unless you have probable cause to believe that a specific criminal or dangerous individual is in attendance?**
- b. If you do collect information on all of the attendees at a rally or worship service – for example, because you believed a criminal would attend – will you commit to purge the information of any innocent American whose information was captured inadvertently?**

RESPONSE to (a) – (b): It is my understanding that the Justice Department adopted a policy in 2015 that requires a warrant based on probable cause before stingray surveillance can be used, unless exceptional circumstances are present. If I am fortunate enough to be confirmed as Attorney General, I will evaluate this policy, as well as any relevant data, in order to ensure that our constitutional protections are upheld.